



BANKING GYANSAGAR

BANKING

CURRENCY

FOREIGN EXCHANGE

GOVERNMENT SECURITY MARKET

NBFCs

APPLICATION TRACKING SYSTEM

PAYMENT SYSTEM

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This Book is useful for candidate who prepares Bank PO and Clerical exam.

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BANKING

Sovereign Gold Bond Scheme 2015

1. What is Sovereign Gold Bond (SGB)? Who is the issuer?

SGBs are government securities denominated in grams of gold. They are substitutes for holding physical gold. Investors have to pay the issue price in cash and the bonds will be redeemed in cash on maturity. The Bond is issued by Reserve Bank on behalf of Government of India.

2. Why should I buy SGB rather than physical gold? What are the benefits?

The quantity of gold for which the investor pays is protected, since he receives the ongoing market price at the time of redemption/ premature redemption. The SGB offers a superior alternative to holding gold in physical form. The risks and costs of storage are eliminated. Investors are assured of the market value of gold at the time of maturity and periodical interest. SGB is free from issues like making charges and purity in the case of gold in jewellery form. The bonds are held in the books of the RBI or in demat form eliminating risk of loss of scrip etc.

3. Are there any risks in investing in SGBs?

There may be a risk of capital loss if the market price of gold declines. However, the investor does not lose in terms of the units of gold which he has paid for.

4. Who is eligible to invest in the SGBs?

Persons resident in India as defined under Foreign Exchange Management Act, 1999 are eligible to invest in SGB. Eligible investors include individuals, HUFs, trusts, universities, charitable institutions, etc.

5. Whether joint holding will be allowed?

Yes, joint holding is allowed.

6. Can a Minor invest in SGB?

Yes. The application on behalf of the minor has to be made by his/her guardian.

7. Where can investors get the application form?

The application form will be provided by the issuing banks/SHCIL offices/designated Post Offices/ National Stock Exchange of India Ltd. and Bombay Stock Exchange Ltd. /agents. It can also be downloaded from the RBI's website. Banks may also provide online application facility.

8. What are the Know-Your-Customer (KYC) norms?

Know-Your-Customer (KYC) norms will be the same as that for purchase of physical form of gold. Identification documents such as Aadhaar card/PAN or TAN /Passport / Voter ID card will be required. KYC will be done by the issuing banks/SHCIL offices/Post Offices/ National Stock Exchange of India Ltd. and Bombay Stock Exchange Ltd. /agents. No separate KYC will be needed for receiving bank's own customers.

9. What is the minimum and maximum limit for investment?

The Bonds are issued in denominations of one gram of gold and in multiples thereof. Minimum investment in the

Bond shall be one gram with a maximum buying limit of 500 grams per person per fiscal year (April – March). In case of joint holding, the limit applies to the first applicant.

10. Can I buy 500 grams in the name of each of my family members?

Yes, each family member can buy the bonds in his/her own name if they satisfy the eligibility criteria as defined at Q No.4.

11. Can I buy 500 grams worth of SGB every year?

Yes. One can buy 500 grams worth of gold every year as the ceiling has been fixed on a fiscal year (April-March) basis.

12. Is the limit of 500 grams of gold applicable if I buy on the Exchanges?

The limit of 500 grams per financial year is applicable even if the bond is bought on the exchanges.

13. What is the rate of interest and how will the interest be paid?

The Bonds bear interest at the rate of 2.75 per cent (fixed rate) per annum on the amount of initial investment. Interest will be credited semi-annually to the bank account of the investor and the last interest will be payable on maturity along with the principal.

14. Who are the authorized agencies selling the SGBs?

Bonds are sold through scheduled commercial banks (excluding RRBs), SHCIL offices ,designated Post Offices, National Stock Exchange of India Ltd. and Bombay Stock Exchange Ltd. either directly or through their agents.

15. If I apply, am I assured of allotment?

If the customer meets the eligibility criteria, produces a valid identification document and remits the application money on time, he/she will receive the allotment.

16. When will the customers be issued Holding Certificate?

The customers will be issued [Certificate of Holding](#) on the date of issuance of the SGB. Certificate of Holding can be collected from the issuing banks/SHCIL offices/Post Offices/ National Stock Exchange of India Ltd. and Bombay Stock Exchange Ltd. /agents or obtained directly from RBI on email, if email address is provided in the application form.

17. Can I apply online?

Yes. A customer can apply online through the website of the listed scheduled commercial banks.

18. At what price the bonds are sold?

Price of bond will be fixed in Indian Rupees on the basis of the previous week's (Monday – Friday) simple average price for gold of 999 purity published by the India Bullion and Jewellers' Association Ltd. (IBJA). The issue price will be disseminated by the Reserve Bank of India

19. Will RBI publish the rate of gold applicable every day?

The price of gold for the relevant tranche will be published on RBI website two days before the issue opens.

20. What will I get on redemption?

On maturity, the redemption proceeds will be equivalent to the prevailing market value of grams of gold originally invested in Indian Rupees. The redemption price will be based on the simple average of previous week's (Monday-Friday) closing gold price for 999 purity published by the IBJA.

21. How will I get the redemption amount?

Both interest and redemption proceeds will be credited to the bank account furnished by the customer at the time of buying the bond.

22. What are the procedures involved during redemption?

- The investor will be advised one month before maturity regarding the ensuing maturity of the bond.
- On the date of maturity, the maturity proceeds will be credited to the bank account as per the details on record.
- In case there are changes in any details, such as, account number, email ids, then the investor must intimate the bank/SHCIL/PO/Stock Exchange promptly.

23. Can I encash the bond anytime I want? Is premature redemption allowed?

Though the tenor of the bond is 8 years, early encashment/redemption of the bond is allowed after fifth year from the date of issue on coupon payment dates. The bond will be tradable on Exchanges, if held in demat form. It can also be transferred to any other eligible investor.

24. What do I have to do if I want to exit my investment?

In case of premature redemption, investors can approach the concerned bank/SHCIL offices/Post Office/National Stock Exchange of India Ltd./Bombay Stock Exchange Ltd./agent thirty days before the coupon payment date. Request for premature redemption can only be entertained if the investor approaches the concerned bank/post office/Stock Exchange at least one day before the coupon payment date. The proceeds will be credited to the customer's bank account provided at the time of applying for the bond.

25. Can I gift the bonds to a relative or friend on some occasion?

The bond can be gifted/transferable to a relative/friend/anybody who fulfills the eligibility criteria ([as mentioned at Q.no. 4](#)). The Bonds shall be transferable in accordance with the provisions of the Government Securities Act 2006 and the Government Securities Regulations 2007 before maturity by execution of an instrument of transfer which is available with the issuing agents.

26. Can I use these securities as collateral for loans?

Yes, these securities are eligible to be used as collateral for loans from banks, financial Institutions and Non-Banking Financial Companies (NBFC). The Loan to Value ratio will be the same as applicable to ordinary gold loan prescribed by RBI from time to time.

27. What are the tax implications on i) interest and ii) capital gain?

Interest on the Bonds will be taxable as per the provisions of the Income-tax Act, 1961 (43 of 1961). The capital gains tax arising on redemption of SGB to an individual has been exempted. The indexation benefits will be provided to long terms capital gains arising to any person on transfer of bond.

28. Is tax deducted at source (TDS) applicable on the bond?

TDS is not applicable on the bond. However, it is the responsibility of the bond holder to comply with the tax laws.

29. Who will provide other customer services to the investors after issuance of the bonds?

The issuing banks/SHCIL offices/Post Offices/Stock Exchanges/agents through which these securities have been purchased will provide other customer services such as change of address, early redemption, nomination, grievance redressal, transfer applications etc.

30. What are the payment options for investing in the Sovereign Gold Bonds?

Payment can be made through cash (upto Rs. 20000)/cheques/demand draft/electronic fund transfer.

31. Whether nomination facility is available for these investments?

Yes, nomination facility is available as per the provisions of the Government Securities Act 2006 and Government Securities Regulations, 2007. A nomination form is available along with [Application form](#).

32. Is the maximum limit of 500 gms applicable in case of joint holding?

The maximum limit will be applicable to the first applicant in case of a joint holding for that specific application.

33. Are institutions like banks allowed to invest in Sovereign Gold Bonds?

There is no bar on investment by banks in Sovereign Gold Bonds. These will qualify for SLR.

34. Can I get the bonds in demat form?

Yes. The bonds can be held in demat account. A specific request for the same must be made in the application form itself.

Till the process of dematerialization is completed, the bonds will be held in RBI's books. The facility for conversion to demat will also be available subsequent to allotment of the bond.

35. Can I trade these bonds?

The bonds are tradable from a date to be notified by RBI. (It may be noted that only bonds held in demat form with depositories can be traded in stock exchanges) The bonds can also be sold and transferred as per provisions of Government Securities Act, 2006

36. Can I get part repayment of these bonds at the time of exercising put option?

Yes, part holdings can be redeemed in multiples of one gm.

37. How do I contact RBI to address my queries regarding Sovereign Gold Bond ?

A dedicated [e-mail](#) has been created by the Reserve Bank of India to receive queries from members of public on Sovereign Gold Bonds. Investors can mail their queries to this e

Priority Sector Lending Certificates (PSLC)

(As on May 24, 2016)

1. What is the expiry date of Priority Sector Lending Certificates (PSLC)?

All PSLCs will be valid till March 31st and will expire on April 1st.

2. Whether PSLCs can be issued for a limited period i.e for one reporting quarter and multiples thereof?

The duration of the PSLCs will depend on the date of issue with all PSLCs being valid till March 31st and expiring on April 1st.

3. Whether service tax/ stamp duty/ transaction tax will be applicable while paying fee for PSLC?

PSLCs may be construed in the nature of 'goods', dealing in which has been notified as a permissible activity under section 6(1)(o) of BR Act vide Government of India Notification dated May 4, 2016. The tax implications on account of trading in PSLCs may be determined by the banks in accordance with the applicable tax laws. Further, as per the extant guidelines, no transaction charge/ fees is applicable on the participating banks payable to RBI for usage of the PSLC module on e-Kuber portal.

4. Whether PSLC – Weaker Sections or PSLC – Export Credit can be traded?

There are only four eligible categories of PSLCs i.e. PSLC General, PSLC Small and Marginal Farmer, PSLC Agriculture & PSLC Micro Enterprises.

5. Whether Export Credit may form a part of PSLC 'General' and whether banks surplus in Exports can sell them as PSLC 'General'?

'Export Credit' can form a part of underlying assets against the PSLC - General. However, any bank issuing PSLC-General against 'Export Credit' shall ensure that the underlying 'Export Credit' portfolio is also eligible for priority sector classification by domestic banks.

6. Where can the banks look for market information like prevailing prices, lot size, and historical transactions done by other market participants? Will this information be available in E-Kuber?

The trade summary of PSLC market will be made available to the participants on weekly basis through the e-Kuber portal shortly. The new functionality will be notified to the participants via 'News & Announcements' section under e-Kuber portal.

7. Is secondary market allowed for PSLCs i.e., Sale of surplus at a later point in time post purchase in anticipation of deficit at a prior point of time. Can the purchasing bank re-sell the PSLCs? Will only the net PSLC position be reckoned for ascertaining the underlying asset?

A bank can purchase and issue PSLCs as per its requirements. The net position of PSLCs sold and purchased has to be included while reporting the quarterly and annual priority sector returns. However, with regard to ascertaining the underlying assets, as on March 31st, the bank must have met the priority sector target by way of the sum of outstanding priority sector portfolio and net of PSLCs issued and purchased.

8. What happens if the RBI inspection team, at a later date, de-classifies a particular PSLC (which has been already traded by the bank as PSLC) ineligible?

The misclassifications, if any, will have to be reduced from the achievement of PSLC seller bank only. There will be no counterparty risk for the PSLC buyer, even if, the underlying asset of the traded PSLC gets misclassified.

9. While there is no transfer of assets, will there be any impact on the ANBC calculation?

The banks may refer to guidelines related to computation of ANBC for priority sector reporting as advised vide Master Circular on Priority Sector Lending – Targets and Classification dated July 1, 2015.

10. The buyer would pay a fee to the seller of the PSLC which will be market determined. Is there any standard/ minimum fee prescribed by the RBI, for purchase of any PSLC?

The premium will be completely market determined. No floor/ ceiling has been prescribed by RBI in this regard.

11. How the charges/commission shall be paid through E-Kuber portal or separate RTGS is required to be made?

There will be real time settlement of the matched premium and respective current accounts of the participating banks with RBI will be debited/ credited to the extent of matched premium accordingly.

12. Will there be automatic matching of trades or can the buyer/seller select the counterparty? Will partial matching also happen?

The order matching will be done on anonymous basis through the portal and the buyer/ seller can not select the counterparty. Partial matching will happen depending on the mat

Priority Sector Lending - Targets and Classification

(As on May 10, 2016)

1. What are the different categories under priority sector?

Priority Sector includes the following categories:

- | | | | | | |
|--------|--------|-------|-----------|--------|----------------|
| (i) | | | | | Agriculture |
| (ii) | Micro, | | | | Enterprises |
| (iii) | | Small | and | Medium | Credit |
| (iv) | | | Export | | Education |
| (v) | | | | | Housing |
| (vi) | | | Social | | Infrastructure |
| (vii) | | | Renewable | | Energy |
| (viii) | Others | | | | |

2. What are the Targets and Sub-targets for banks under priority sector?

The targets and sub-targets for banks under priority sector are as follows:

Categories	Domestic scheduled commercial banks and Foreign banks with 20 branches and above	Foreign banks with less than 20 branches
Total Priority Sector	40 percent of Adjusted Net Bank Credit or Credit Equivalent Amount of Off-Balance Sheet Exposure, whichever is higher.	40 percent of Adjusted Net Bank Credit or Credit Equivalent Amount of Off-Balance Sheet Exposure, whichever is higher; to be achieved in a phased

manner by 2020.

Agriculture # 18 percent of ANBC or Credit Equivalent Amount of Off-Balance Sheet Exposure, whichever is higher.

Within the 18 percent target for agriculture, a target of 8 percent of ANBC or Credit Equivalent Amount of Off-Balance Sheet Exposure, whichever is higher is prescribed for Small and Marginal Farmers, to be achieved in a phased manner i.e., 7 per cent by March 2016 and 8 per cent by March 2017.

Foreign banks with 20 branches and above have to achieve the Agriculture Target within a maximum period of five years starting from April 1, 2013 and ending on March 31, 2018 as per the action plans submitted by them and approved by RBI. The sub-target for Small and Marginal farmers would be made applicable post 2018 after a review in 2017.

Micro Enterprises 7.5 percent of ANBC or Credit Equivalent Amount of Off-Balance Sheet Exposure, whichever is higher to be achieved in a phased manner i.e. 7 per cent by March 2016 and 7.5 per cent by March 2017.

The sub-target for Micro Enterprises for foreign banks with 20 branches and above would be made applicable post 2018 after a review in 2017.

Advances to Weaker Sections 10 percent of ANBC or Credit Equivalent Amount of Off-Balance Sheet Exposure, whichever is higher.

Foreign banks with 20 branches and above have to achieve the Weaker Sections Target within a maximum period of five years starting from April 1, 2013 and ending on March 31, 2018 as per the action plans submitted by them and approved by RBI.

Domestic banks have been directed to ensure that their overall direct lending to non-corporate farmers does not fall below the system-wide average of the last three years achievement.

3. What are the categories under 'Agriculture'?

The activities covered under Agriculture are classified under three sub-categories viz. Farm credit, Agriculture infrastructure and Ancillary activities.

4. Whether limits are prescribed for loans sanctioned to Micro, Small and Medium Enterprises to be classified as priority sector?

For classification under priority sector, no limits are prescribed for bank loans sanctioned to Micro, Small and Medium Enterprises engaged in the manufacture or production of goods under any industry specified in the first schedule to the Industries (Development and Regulation) Act, 1951 and as notified by the Government from time to time. The manufacturing enterprises are defined in terms of investment in plant and machinery under MSMED Act, 2006.

Bank loans up to ₹ 5 crore per unit to Micro and Small Enterprises and ₹ 10 crore to Medium Enterprises engaged in providing or rendering of services and defined in terms of investment in equipment under MSMED Act, 2006 are eligible for classification under priority sector.

5. What is the applicable limit and purpose for social infrastructure loans under priority sector?

Bank loans up to a limit of ₹ 5 crore per borrower for building social infrastructure for activities namely schools, health care facilities, drinking water facilities and sanitation facilities (including loans for construction/ refurbishment of toilets and improvement in water facilities in the household) in Tier II to Tier VI centres are eligible for classification under priority sector.

Bank credit to Micro Finance Institutions (MFI) extended for on-lending to individuals/ members of SHGs/ JLGs for water and sanitation facilities is also eligible for classification as priority sector loans under 'Social Infrastructure' subject to certain criteria.

6. What is the applicable limit and purpose for loans for renewable energy under priority sector?

Bank loans up to a limit of ₹ 15 crore to borrowers for purposes like solar based power generators, biomass based power generators, wind mills, micro-hydel plants and for non-conventional energy based public utilities viz. street lighting systems, and remote village electrification are eligible to be classified under priority sector loans under 'Renewable Energy'. For individual households, the loan limit is ₹ 10 lakh per borrower.

7. What is the loan limit for education under priority sector?

Loans to individuals for educational purposes including vocational courses upto ₹ 10 lakh irrespective of the sanctioned amount are eligible for classification under priority sector.

8. What is the limit for housing loans under priority sector?

Loans to individuals up to ₹ 28 lakh in metropolitan centres (with population of ten lakh and above) and loans up to ₹ 20 lakh in other centres for purchase/construction of a dwelling unit per family, are eligible to be considered as priority sector provided the overall cost of the dwelling unit in the metropolitan centre and at other centres does not exceed ₹ 35 lakh and ₹ 25 lakh, respectively. Housing loans to banks' own employees are not eligible for classification under priority sector.

9. What is included under Weaker Sections under priority sector?

Priority sector loans to the following borrowers are eligible to be considered under Weaker Sections category:-

- | No. | Category |
|-----|--|
| 1. | Small and Marginal Farmers |
| 2. | Artisans, village and cottage industries where individual credit limits do not exceed ₹ 1 lakh |
| 3. | Beneficiaries under Government Sponsored Schemes such as National Rural Livelihoods Mission (NRLM), National Urban Livelihood Mission (NULM) and Self Employment Scheme for Rehabilitation of Manual Scavengers (SRMS) |
| 4. | Scheduled Castes and Scheduled Tribes |
| 5. | Beneficiaries of Differential Rate of Interest (DRI) scheme |
| 6. | Self Help Groups |
| 7. | Distressed farmers indebted to non-institutional lenders |
| 8. | Distressed persons other than farmers, with loan amount not exceeding ₹ 1 lakh per borrower to prepay their debt to non-institutional lenders |
| 9. | Individual women beneficiaries up to ₹ 1 lakh per borrower |
| 10. | Persons with disabilities |
| 11. | Overdrafts upto ₹ 5,000/- under Pradhan Mantri Jan-DhanYojana (PMJDY) accounts, provided the borrowers' household annual income does not exceed ₹ 100,000/- for rural areas and ₹ 1,60,000/- for non-rural areas |

12. Minority communities as may be notified by Government of India from time to time

In States, where one of the minority communities notified is, in fact, in majority, item (12) will cover only the other notified minorities. These States/ Union Territories are Jammu & Kashmir, Punjab, Meghalaya, Mizoram, Nagaland and Lakshadweep.

10. Is bank credit to Micro Finance Institutions (MFIs) treated as priority sector lending?

Bank credit to MFIs extended for on-lending to individuals and also to members of SHGs / JLGs is eligible for categorisation as priority sector advance under respective categories viz., Agriculture, Micro, Small and Medium Enterprises, Social Infrastructure and Others subject to the criteria laid down in para IX of the [Master Circular FIDD.CO.Plan.BC.04/04.09.01/2015-16 dated July 1, 2015](#) on Priority Sector Lending- Targets and Classification.

11. What are Priority Sector Lending Certificates (PSLCs)?

Priority Sector Lending Certificates (PSLCs) are a mechanism to enable banks to achieve the priority sector lending target and sub-targets by purchase of these instruments in the event of shortfall. This also incentivizes surplus banks as it allows them to sell their excess achievement over targets thereby enhancing lending to the categories under priority sector. Under the PSLC mechanism, the seller sells fulfilment of priority sector obligation and the buyer buys the obligation with no transfer of risk or loan assets.

12. What are the instructions to Banks with regard to acknowledgement of priority sector loan applications?

Banks should provide acknowledgement for loan applications received under priority sector loan. A time limit is required to be prescribed by the Bank Board within which the bank communicates its decision in writing to the applicants.

13. What is the rate of interest for loans under priority sector?

The rate of interest on bank loans will be as per directives issued by the Department of Banking Regulation of RBI, from time to time. Priority sector guidelines do not lay down any preferential rate of interest for priority sector loans.

14. Where are the latest instructions on Priority Sector Lending available?

The latest instructions on Priority Sector Lending –Targets and Classification have been issued vide [RBI Circular FIDD.CO.Plan.BC.04/04.09.01/2015-16](#)

Marginal Cost of Funds based Lending Rate (MCLR)

29 MARCH 2016

1. The guidelines specify that MCLR calculated using methodology prescribed shall correspond to the tenor of funds in the single largest maturity bucket provided it is more than 30% of the entire funds reckoned for determining the MCLR. But my bank does not have a single time bucket which has more than 30% share of the funds reckoned for MCLR. In such a case, the MCLR calculated as per the methodology indicated shall correspond to which tenor?

Let's assume a bank has following maturity profile of borrowings:

Sr. Original Maturity

Balance outstanding as aCumulative

No.		percentage of total fundsweightage (other than equity)
1	5 years & above	15.1%
2	3 years & above but less than 5 years	11.8%
3	2 years & above but less than 3 years	9.3%
4	1 year & above but less than 2 years	16.9%
5	6 months & above but less than 1 year	24.3%
6	91 days & above but less than 6 months	10.5%
7	Up to 90 days	12.1%
	Total	100%

In this case, the MCLR shall correspond to the weightage average of tenor of the first three time buckets.

2. Whether the tenor premium charged will be for contractual tenor or residual tenor?

Since floating rate loans are subject to periodic resets, the tenor premium will be the appropriate premium for the residual period up to the next reset date.

3. What will be the denominator used for arriving at the operating cost for computing MCLR?

Banks may calculate all operating costs as a percentage of marginal cost of funds for computing MCLR.

4. Clarify the definition of short term borrowings.

A short term borrowing means borrowing of tenor up to but less than one year.

5. Can components of spread be negative?

The components of the spread i.e. business strategy and Credit risk premium shall have either a positive value or be zero. In other words, the spread components cannot be negative.

6. Banks grant fixed rate loans to long term projects where initial debt facility consists of loan for a medium term say 5 to 7 years. These loans are then refinanced after the specified period. Will these types of loans be permitted under MCLR system?

Banks can grant fixed rate loans to long term projects wherein the interest rate are fixed till the loan is due for refinancing. The loan, at the time of refinancing, will be treated as a fresh fixed rate loan with a maturity period equal to the period upto the next date of refinancing. Such fixed rate loans will fall under the directions contained in Section 13(d)(v) of Reserve Bank of India (Interest Rate on Advances) Directions, 2016.

7. Will the interest rates on fixed rate loans (or fixed portion of hybrid loans) be based on the date of sanction or disbursement?

The interest charged on fixed rate loans as well as the fixed portion of hybrid loans will be the interest rate mentioned in the sanction letter.

Gold Monetisation Scheme, 2015

(Updated as on March 23, 2016)

1. Query: Are banks required to obtain RBI approval to participate in the Gold Monetisation Scheme, 2015?

Response: No. However, banks should submit to RBI the implementation details including names of the CPTCs and refiners with whom they have entered into tripartite agreement and the branches operating the scheme. Banks should also report the amount of gold mobilised under the scheme by all branches in a consolidated manner on a monthly basis in the prescribed format.

2. Query: Can a deposit under the Scheme be made for 4 years or 8 years?

Response: No. However, a short term deposit initially made for 3 years could be rolled over for another year. The roll over facility is not available for medium and long term deposits.

3. Query: Is it mandatory to complete the KYC for potential customers of GMS prior to depositing gold?

Response: Yes, unless the potential depositor is already a bank's KYC compliant customer.

4. Query: How will a Collection and Purity Testing Centre (CPTC) know that a depositor is already KYC compliant?

Response: Banks and the CPTCs may put in place a mutually acceptable procedure in this regard and notify that to the relevant CPTCs.

5. Query: Can a customer get back his jewellery if the purity determined by the CPTC is not acceptable to him/her and he/she does not want to invest in the GMS?

Response: The jewellery will be melted by the CPTC to conduct the fire assay and the customer can get back gold only in post-melted form. The jewellery can be taken back in original form before fire-assaying. Thus, the decision regarding taking back jewellery in original form has to be taken by the customer after XRF test and before giving consent for fire-assaying.

6. Query: Will the refined amount of gold deposited be credited only after receipt from the customer the Deposit Receipt issued by the CPTC? What if the customer produces the certificate at the bank but no intimation from the CPTC and Refinery has been received?

Response: No, regardless of the submission of the Deposit Receipt by the customer, the deposit taking bank will credit in the deposit account the amount of refined gold on receipt of intimation from the CPTC about the deposit, and from the Refiner regarding the refined gold being ready for use by the bank, but in any case not later than 30 days from the date of deposit at the CPTC. In cases where the Deposit Receipt is submitted by the customer before receipt of the relevant advice from the CPTC/Refinery, the bank should make enquiry with these entities and take further action based on the response.

7. Query: In what form will the depositor get back his gold at maturity?

Response: If the depositor opts for redemption in the form gold, he will get back physical gold at maturity in the form of bullion.

8. Query: Is the option of redeeming deposit in gold is available under both short term bank deposits and medium and long term bank deposits?

Response: No, the option of redemption of the deposit in the form of gold is available only under the Short Term Bank Deposits. The Medium and Long term deposits will be redeemed only in Indian Rupees (INR).

9. Query: Can a bank make repayment of the partial amount of gold (less than one gram) in INR in cases where

the redemption is in gold?

Response: Yes. In case the maturity amount comes to, say 302.86 grams of gold, and the customer has to be paid in gold, a bank can repay 302 grams in gold and 0.86 grams in equivalent amount of INR.

10. Query: Who determines the rate of interest on the Medium and Long Term Deposits?

Response: It will be determined by the Central Government and advised to banks by RBI.

11. Query: Will a designated bank get any commission for servicing the MLTGD product?

Response: Yes.

12. Query: Is it compulsory for banks to participate in the auction of gold collected under the Medium and Long Term Deposit schemes?

Response: No.

13. Query: Can a designated bank purchase/borrow gold from local banks and refiners to replenish the GMS gold at maturity.

Response: Yes.

14. Query: Can banks hedge their gold exposures arising from operation of GMS?

Response: Yes, in international markets.

15. Query: Whether banks are allowed to hedge the price risk of gold under Gold Monetization Scheme, 2015 in the local commodity exchanges?

Response: Yes. banks are allowed to hedge their exposure in local commodity exchanges under Gold Monetization Scheme.

16. Query: Whether rupee loan is allowed against collateral of GMS deposits?

Response: Yes. Rupee loans may be given against collateral of gold deposits under Gold Monetization Scheme.

17. Query: What is the periodicity of interest payment under MLTGD?

Response: The periodicity of interest payment in case of Medium and Long Term Government Deposit (MLTGD) is annual.

18. Query: Whether interbank lending of gold mobilized under GMS is allowed?

Response: Yes. Designated banks are allowed to lend gold mobilized under the Scheme to other designated banks for similar use as prescribed under the scheme.

Savings Bank Deposit Account (BSBDA) – FAQs (RRBs/StCBs/DCCBs)

1. Query

What is the definition of 'Basic Savings Bank Deposit Account' (BSBDA)?

Response

All the existing 'No-frills' accounts opened pursuant to guidelines issued vide [circular RPCD.RF.BC.54/07.38.01/2005-06 dated December 13, 2005](#) and [RPCD.CO.No.RRB.BC.58/ 03.05.33\(F\) / 2005-06 dated December 27, 2005](#) and converted into BSBDA in compliance with the guidelines issued in [circular RPCD.CO.RRB.RCB.BC.No.24/07.38.01/2012-13 dated August 22, 2012](#) as well as fresh accounts opened under the said circular should be treated as BSBDA. Accounts enjoying additional facilities under the reasonable pricing structure for value added services, exclusively for BSBDA customers should not be treated as BSBDA.

2. Query

Whether the guidelines issued on 'no-frills' account with 'nil' or very low minimum balances will continue even after the introduction of 'Basic Savings Bank Deposit Account'?

Response

No. In supersession of instructions contained in [circular RPCD.RF.BC.54/07.38.01/2005-06 dated December 13, 2005](#) and [RPCD.CO.No.RRB.BC.58/03.05.33\(F\)/2005-06 dated December 27, 2005](#) on No Frill accounts, banks have now been advised to offer a 'Basic Savings Bank Deposit Account' to all their customers vide [RPCD.CO.RRB.RCB.BC.No.24/07.38.01/2012-13 dated August 22, 2012](#) which will offer minimum common facilities as stated therein. Banks are required to convert the existing 'no-frills' accounts' into 'Basic Savings Bank Deposit Accounts'.

3. Query

Can an Individual have any number of 'Basic Savings Bank Deposit Account' in one bank?

Response

No. An individual is eligible to have only one 'Basic Savings Bank Deposit Account' in one bank.

4. Query

Whether a 'Basic Savings Bank Deposit Account' holder can have any other saving account in that bank ?

Response

Holders of 'Basic Savings Bank Deposit Account' will not be eligible for opening any other savings account in that bank. If a customer has any other existing savings account in that bank, he / she will be required to close it within 30 days from the date of opening a 'Basic Savings Bank Deposit Account'.

5. Query

Can an individual have other deposit accounts where one holds 'Basic Savings Bank Deposit Account'?

Response

Yes. One can have Term/Fixed Deposit, Recurring Deposit etc., accounts in the bank where one holds 'Basic Savings Bank Deposit Account'.

6. Query

Whether the 'Basic Savings Bank Deposit Account' can be opened by only certain types of individuals like poor and weaker sections of the population?

Response

No. The 'Basic Savings Bank Deposit Account' should be considered as a normal banking service available to all customers, through branches.

7. Query

Whether there are any restrictions like age, income, amount etc criteria for opening BSBDA by banks for individuals?

Response

No. Banks are advised not to impose restrictions like age and income criteria of the individual for opening BSBDA.

8. Query

Is the 'Basic Savings Bank Deposit Account' a part of the Financial Inclusion plans of banks?

Response

The aim of introducing 'Basic Savings Bank Deposit Account' is very much part of the efforts of RBI for furthering Financial Inclusion objectives. All the accounts opened earlier as 'no-frills' account vide RPCD Circular dated [RPCD.RF.BC.54/07.38.01/2005-06 dated December 13, 2005](#) and [RPCD.CO.No.RRB.BC.58/03.05.33\(F\)/2005-06 dated December 27, 2005](#) should be renamed as BSBDA as per the instructions contained in paragraph 2 of our [Circular RPCD.CO.RRB.RCB.BC.No.24/07.38.01/2012-13 dated August 22, 2012](#) and all the new accounts opened since the issue of our circular [RPCD.CO.RRB.RCB.BC.No.24 dated August 22, 2012](#) should be reported under the monthly report of the progress of Financial Inclusion plans submitted by banks to RPCD, CO.

9. Query

What are KYC norms applicable to BSBDA accounts? Are there any relaxations in KYC norms for BSBDA's?

Response

The 'Basic Savings Bank Deposit Account' would be subject to provisions of PML Act and Rules and RBI instructions on Know Your Customer (KYC) / Anti-Money Laundering (AML) for opening of bank accounts issued from time to time. BSBDA can also be opened with simplified KYC norms. However, if BSBDA is opened on the basis of Simplified KYC, the accounts would additionally be treated as "BSBDA-Small account" and would be subject to the conditions stipulated for such accounts as indicated in our [circulars RPCD.CO.RCB.AML.BC.No.63/07.40.00/2010-11 dated April 26, 2011](#) and [RPCD.CO.RRB.AML.BC.No.15/03.05.33\(E\)/2011-12 dated August 8, 2011](#).

10. Query

Can I have a 'Small Account' in ABC Bank as per the Government of India Notification No.14/2010/F.No.6/2/2007-E.S. dated December 16, 2010. Can I have additionally a 'Basic Savings Bank Deposit Account'?

Response

No, the BSBDA customer cannot have any other savings bank account in the same bank. If 'Basic Savings Bank Deposit Account' is opened on the basis of simplified KYC norms, the account would additionally be treated as a 'Small Account' and would be subject to conditions stipulated for such accounts as indicated in our [circulars](#) [RPCD.CO.RCB.AML.BC.No.63/07.40.00/2010-11 dated April 26, 2011](#) and [RPCD.CO.RRB.AML.BC.No.15/03.05.33\(E\)/2011-12 dated August 8, 2011](#) on 'Opening of Small Account.'

11. Query

What are the conditions stipulated for accounts which are additionally to be treated as 'BSBDA-Small Account'?

Response

As notified in terms of Govt. of India notification dated December 16, 2010, BSBDA-Small Accounts would be subject to the following conditions:

- i. Total credits in such accounts should not exceed one lakh rupees in a year.
- ii. Maximum balance in the account should not exceed fifty thousand rupees at any time
- iii. The total of debits by way of cash withdrawals and transfers will not exceed ten thousand rupees in a month
- iv. Foreign remittances cannot be credited to Small Accounts without completing normal KYC formalities
- v. Small accounts are valid for a period of 12 months initially which may be extended by another 12 months if the person provides proof of having applied for an Officially Valid Document.
- vi. Small Accounts can only be opened at CBS linked branches of banks or at such branches where it is possible to manually monitor the fulfillments of the conditions

12. Query

What kinds of services are available free in the 'Basic Savings Bank Deposit Account'?

Response

The services available free in the 'Basic Savings Bank Deposit Account' will include deposit and withdrawal of cash; receipt / credit of money through electronic payment channels or by means of deposit / collection of cheques at bank branches as well as ATMs.

13. Query

Is there requirement of any initial minimum deposit while opening a BSBDA as per the circular dated August 22, 2012?

Response

There is no requirement for any initial deposit for opening a BSBDA.

14. Query

Whether banks are free to offer more facilities than those prescribed for 'Basic Savings Bank Deposit Account'?

Response

Yes. However, the decision to allow services beyond the minimum prescribed has been left to the discretion of the banks who can either offer additional services free of charge or evolve requirements including pricing structure for additional value-added services on a reasonable and transparent basis to be applied in a non-discriminatory manner with prior intimation to the customers. Banks are required to put in place a reasonable pricing structure for value added services or prescribe minimum balance requirements which should be displayed prominently and also informed to the customers at the time of account opening. Offering such additional facilities should be non - discretionary, non-discriminatory and transparent to all 'Basic Savings Bank Deposit Account' customers. However such accounts enjoying additional facilities will not be treated as BSBDA.

15. Query

If BSBDA customers have more than 4 withdrawals and request for cheque book at additional cost, will it cease to be a BSBDA?

Response

Yes. Please refer to response to the above query (Query No.14). However, if the bank does not levy any additional charges and offers more facilities free than those prescribed under BSBDA a/cs without minimum balance then such accounts can be classified as BSBDA.

16. Query

Whether the existing facility available in a normal saving bank account of five free withdrawals in a month in other banks' ATMs as per IBA (DPSS) instructions will hold good for BSBDA?

Response

No. In BSBDA, banks are required to provide free of charge minimum four withdrawals, through ATMs and other mode including RTGS/NEFT/Clearing/Branch cash withdrawal/transfer/internet debits/standing instructions/EMI etc. It is left to the banks to either offer free or charge for additional withdrawal/s. However, in case the banks decide to charge for the additional withdrawal, the pricing structure may be put in place by banks on a reasonable, non-discriminatory and transparent manner by banks.

17. Query

Are the banks free to levy Annual ATM Debit Card charges?

Response

Banks should offer the ATM Debit Cards free of charge and no Annual fee should be levied on such Cards.

18. Query

Whether Balance enquiry in ATMs also should be counted within the four withdrawals permitted under BSBDA?

Response

Balance enquiry through ATMs should not be counted in the four withdrawals allowed free of charge at ATMs.

19. Query

If a customer of BSBDA agrees not to have ATM Debit card should the bank give ATM debit card by force?

Response

ATM debit cards may be offered at the time of opening BSBDA and issued if the customer requests for the same in writing. Banks need not force ATM debit cards on such customers.

20. Query

What about customers who are illiterate or old who may not be in a position to safe keep and use the ATM debit card and PIN associated with it?

Response

Banks while opening the BSBDA should educate such customers about the ATM Debit Card, ATM PIN and risk associated with it. However, if customer chooses not to have ATM Debit Card banks need not force ATM debit cards on such customers. If, however, customer opts to have an ATM Debit Card, banks should provide the same to BSBDA holders through safe delivery channels by adopting the same procedure which they have been adopting for delivery of ATM Debit Card and PIN to their other customers.

21. Query

Whether Passbooks are also to be offered free to BSBDA holders?

Response

Yes. BSBDA holders should be offered passbook facility free of charge in line with our instructions contained in [circulars RPCD.CO.RF.BC.28/07.40.06/2006-07 dated October 11, 2006 and RPCD.CO.RRB.BC.No.29/03.05.28-A/2006-07 dated October 13, 2006](#).

22. Query

If a customer opens a BSBDA but does not close his existing Savings Bank Account within 30 days, are banks then free to close such savings bank accounts?

Response

While opening the BSBDA customers' consent in writing be obtained that his existing non-BSBDA Savings Banks accounts will be closed after 30 days of opening BSBDA and banks are free to close such accounts after 30 days.

23. Query

In certain accounts like NREGA where disbursements are made weekly and if a month has five weeks, it may result in more than four withdrawals. In such cases can banks permit five withdrawals?

Response

In BSBDA, banks are required to provide free of charge minimum four withdrawals, including through ATM

and other mode. Beyond four withdrawals, it is left to discretion of the banks to either offer free or charge for additional withdrawal/s. However pricing structure may be put in place by banks on a reasonable, non-discretionary, non-discriminatory and transparent manner by banks.

24. Query

What is the prescribed rate of interest payable on balances in such 'Basic Savings Bank Deposit Account'?

Response

Our instructions contained in [circular RPCD.CO.RRB.BC.No.57/03.05.33/2011-12 dated January 30, 2012](#) on Deregulation of Savings Bank Deposit Interest Rate, are applicable to deposits held in 'Basic Savings Bank Deposit Account'.

25. Query

In terms of RBI [circular DPSS.CO.CHD.No.274/03.01.02/2012-13 dated August 10, 2012](#), if 'payable at par' / 'multi-city' cheques are issued to BSBDA customers based on their request, can banks prescribe minimum balance requirements?

Response

BSBDA does not envisage cheque book facility in the minimum facilities that it should provide to BSBDA customers. They are free to extend any additional facility including cheque book facility free of charge (in which case the account remains BSBDA) or charge for the additional facilities (in which case the account is not BSBDA).

26. Query

What is the time frame available to banks for converting 'No-Frills' Account as Basic Savings Bank Deposit Account? What is the time frame available to banks for issuing ATM Cards to all the existing Basic Savings Bank Deposit Account holders?

Response

All the existing 'No-Frill' accounts may be treated as BSBDA accounts from the date of the circular i.e., August 22, 2012 and banks may offer the prescribed facilities as per the circular such as issuing ATM card etc., to the existing 'No-Frill' account holders as and when the customer approaches the bank. However, for customers opening new accounts after the issue of our circular should be provided with the prescribed facilities immediately on opening of the account.

27. Query

Whether the normal saving bank account can be converted into BSBDA at the request of customer?

Response

Yes. Such customers should give their consent in writing and they should be informed of the features and extent of services available in BSBDA.

Savings Bank Deposit Account (BSBDA) – FAQs (RRBs/StCBs/DCCBs)

1. Query

What is the definition of 'Basic Savings Bank Deposit Account' (BSBDA)?

Response

All the existing 'No-frills' accounts opened pursuant to guidelines issued vide [circular RPCD.RF.BC.54/07.38.01/2005-06 dated December 13, 2005](#) and [RPCD.CO.No.RRB.BC.58/ 03.05.33\(F\) / 2005-06 dated December 27, 2005](#) and converted into BSBDA in compliance with the guidelines issued in [circular RPCD.CO.RRB.RCB.BC.No.24/07.38.01/2012-13 dated August 22, 2012](#) as well as fresh accounts opened under the said circular should be treated as BSBDA. Accounts enjoying additional facilities under the reasonable pricing structure for value added services, exclusively for BSBDA customers should not be treated as BSBDA.

2. Query

Whether the guidelines issued on 'no-frills' account with 'nil' or very low minimum balances will continue even after the introduction of 'Basic Savings Bank Deposit Account'?

Response

No. In supersession of instructions contained in [circular RPCD.RF.BC.54/07.38.01/2005-06 dated December 13, 2005](#) and [RPCD.CO.No.RRB.BC.58/03.05.33\(F\)/2005-06 dated December 27, 2005](#) on No Frill accounts, banks have now been advised to offer a 'Basic Savings Bank Deposit Account' to all their customers vide [RPCD.CO.RRB.RCB.BC.No.24/07.38.01/2012-13 dated August 22, 2012](#) which will offer minimum common facilities as stated therein. Banks are required to convert the existing 'no-frills' accounts' into 'Basic Savings Bank Deposit Accounts'.

3. Query

Can an Individual have any number of 'Basic Savings Bank Deposit Account' in one bank?

Response

No. An individual is eligible to have only one 'Basic Savings Bank Deposit Account' in one bank.

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Holders of 'Basic Savings Bank Deposit Account' will not be eligible for opening any other savings account in that bank. If a customer has any other existing savings account in that bank, he / she will be required to close it within 30 days from the date of opening a 'Basic Savings Bank Deposit Account'.

5. Query

Can an individual have other deposit accounts where one holds 'Basic Savings Bank Deposit Account'?

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Yes. One can have Term/Fixed Deposit, Recurring Deposit etc., accounts in the bank where one holds 'Basic Savings Bank Deposit Account'.

6. Query

Whether the 'Basic Savings Bank Deposit Account' can be opened by only certain types of individuals like poor and weaker sections of the population?

Response

No. The 'Basic Savings Bank Deposit Account' should be considered as a normal banking service available to all customers, through branches.

7. Query

Whether there are any restrictions like age, income, amount etc criteria for opening BSBDA by banks for individuals?

Response

No. Banks are advised not to impose restrictions like age and income criteria of the individual for opening BSBDA.

8. Query

Is the 'Basic Savings Bank Deposit Account' a part of the Financial Inclusion plans of banks?

Response

The aim of introducing 'Basic Savings Bank Deposit Account' is very much part of the efforts of RBI for furthering Financial Inclusion objectives. All the accounts opened earlier as 'no-frills' account vide RPCD Circular dated [RPCD.RF.BC.54/07.38.01/2005-06 dated December 13, 2005](#) and [RPCD.CO.No.RRB.BC.58/03.05.33\(F\)/2005-06 dated December 27, 2005](#) should be renamed as BSBDA as per the instructions contained in paragraph 2 of our [Circular RPCD.CO.RRB.RCB.BC.No.24/07.38.01/2012-13 dated August 22, 2012](#) and all the new accounts opened since the issue of our circular [RPCD.CO.RRB.RCB.BC.No.24 dated August 22, 2012](#) should be reported under the monthly report of the progress of Financial Inclusion plans submitted by banks to RPCD, CO.

9. Query

What are KYC norms applicable to BSBDA accounts? Are there any relaxations in KYC norms for BSBDA's?

Response

The 'Basic Savings Bank Deposit Account' would be subject to provisions of PML Act and Rules and RBI instructions on Know Your Customer (KYC) / Anti-Money Laundering (AML) for opening of bank accounts issued from time to time. BSBDA can also be opened with simplified KYC norms. However, if BSBDA is opened on the basis of Simplified KYC, the accounts would additionally be treated as "BSBDA-Small account" and would be subject to the conditions stipulated for such accounts as indicated in our [circulars RPCD.CO.RCB.AML.BC.No.63/07.40.00/2010-11 dated April 26, 2011](#) and [RPCD.CO.RRB.AML.BC.No.15/03.05.33\(E\)/2011-12 dated August 8, 2011](#).

10. Query

Can I have a 'Small Account' in ABC Bank as per the Government of India Notification No.14/2010/F.No.6/2/2007-E.S. dated December 16, 2010. Can I have additionally a 'Basic Savings Bank

Deposit Account’?

Response

No, the BSBDA customer cannot have any other savings bank account in the same bank. If 'Basic Savings Bank Deposit Account' is opened on the basis of simplified KYC norms, the account would additionally be treated as a 'Small Account' and would be subject to conditions stipulated for such accounts as indicated in our [circulars RPCD.CO.RCB.AML.BC.No.63/07.40.00/2010-11 dated April 26, 2011](#) and [RPCD.CO.RRB.AML.BC.No.15/03.05.33\(E\)/2011-12 dated August 8, 2011](#) on 'Opening of Small Account.'

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- i. Total credits in such accounts should not exceed one lakh rupees in a year.
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What kinds of services are available free in the 'Basic Savings Bank Deposit Account'?

Response

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Yes. However, the decision to allow services beyond the minimum prescribed has been left to the discretion of the banks who can either offer additional services free of charge or evolve requirements including pricing structure for additional value-added services on a reasonable and transparent basis to be applied in a non-discriminatory manner with prior intimation to the customers. Banks are required to put in place a reasonable pricing structure for value added services or prescribe minimum balance requirements which should be displayed prominently and also informed to the customers at the time of account opening. Offering such additional facilities should be non - discretionary, non-discriminatory and transparent to all 'Basic Savings Bank Deposit Account' customers. However such accounts enjoying additional facilities will not be treated as BSBDA.

15. Query

If BSBDA customers have more than 4 withdrawals and request for cheque book at additional cost, will it cease to be a BSBDA?

Response

Yes. Please refer to response to the above query (Query No.14). However, if the bank does not levy any additional charges and offers more facilities free than those prescribed under BSBDA a/cs without minimum balance then such accounts can be classified as BSBDA.

16. Query

Whether the existing facility available in a normal saving bank account of five free withdrawals in a month in other banks' ATMs as per IBA (DPSS) instructions will hold good for BSBDA?

Response

No. In BSBDA, banks are required to provide free of charge minimum four withdrawals, through ATMs and other mode including RTGS/NEFT/Clearing/Branch cash withdrawal/transfer/internet debits/standing instructions/EMI etc. It is left to the banks to either offer free or charge for additional withdrawal/s. However, in case the banks decide to charge for the additional withdrawal, the pricing structure may be put in place by banks on a reasonable, non-discriminatory and transparent manner by banks.

17. Query

Are the banks free to levy Annual ATM Debit Card charges?

Response

Banks should offer the ATM Debit Cards free of charge and no Annual fee should be levied on such Cards.

18. Query

Whether Balance enquiry in ATMs also should be counted within the four withdrawals permitted under BSBDA?

Response

Balance enquiry through ATMs should not be counted in the four withdrawals allowed free of charge at ATMs.

19. Query

If a customer of BSBDA agrees not to have ATM Debit card should the bank give ATM debit card by force?

Response

ATM debit cards may be offered at the time of opening BSBDA and issued if the customer requests for the same in writing. Banks need not force ATM debit cards on such customers.

20. Query

What about customers who are illiterate or old who may not be in a position to safe keep and use the ATM debit card and PIN associated with it?

Response

Banks while opening the BSBDA should educate such customers about the ATM Debit Card, ATM PIN and risk associated with it. However, if customer chooses not to have ATM Debit Card banks need not force ATM debit cards on such customers. If, however, customer opts to have an ATM Debit Card, banks should provide the same to BSBDA holders through safe delivery channels by adopting the same procedure which they have been adopting for delivery of ATM Debit Card and PIN to their other customers.

21. Query

Whether Passbooks are also to be offered free to BSBDA holders?

Response

Yes. BSBDA holders should be offered passbook facility free of charge in line with our instructions contained in [circulars RPCD.CO.RF.BC.28/07.40.06/2006-07 dated October 11, 2006](#) and [RPCD.CO.RRB.BC.No.29/03.05.28-A/2006-07 dated October 13, 2006](#).

22. Query

If a customer opens a BSBDA but does not close his existing Savings Bank Account within 30 days, are banks then free to close such savings bank accounts?

Response

While opening the BSBDA customers' consent in writing be obtained that his existing non-BSBDA Savings Banks accounts will be closed after 30 days of opening BSBDA and banks are free to close such accounts after 30 days.

23. Query

In certain accounts like NREGA where disbursements are made weekly and if a month has five weeks, it may result in more than four withdrawals. In such cases can banks permit five withdrawals?

Response

In BSBDA, banks are required to provide free of charge minimum four withdrawals, including through ATM and other mode. Beyond four withdrawals, it is left to discretion of the banks to either offer free or charge for additional withdrawal/s. However pricing structure may be put in place by banks on a reasonable, non-discretionary, non-discriminatory and transparent manner by banks.

24. Query

What is the prescribed rate of interest payable on balances in such 'Basic Savings Bank Deposit Account'?

Response

Our instructions contained in [circular RPCD.CO.RRB.BC.No.57/03.05.33/2011-12 dated January 30, 2012](#) on Deregulation of Savings Bank Deposit Interest Rate, are applicable to deposits held in 'Basic Savings Bank Deposit Account'.

25. Query

In terms of RBI [circular DPSS.CO.CHD.No.274/03.01.02/2012-13 dated August 10, 2012](#), if 'payable at par' / 'multi-city' cheques are issued to BSBDA customers based on their request, can banks prescribe minimum balance requirements?

Response

BSBDA does not envisage cheque book facility in the minimum facilities that it should provide to BSBDA customers. They are free to extend any additional facility including cheque book facility free of charge (in which case the account remains BSBDA) or charge for the additional facilities (in which case the account is not BSBDA).

26. Query

What is the time frame available to banks for converting 'No-Frills' Account as Basic Savings Bank Deposit Account? What is the time frame available to banks for issuing ATM Cards to all the existing Basic Savings Bank Deposit Account holders?

Response

All the existing 'No-Frill' accounts may be treated as BSBDA accounts from the date of the circular i.e., August 22, 2012 and banks may offer the prescribed facilities as per the circular such as issuing ATM card etc., to the existing 'No-Frill' account holders as and when the customer approaches the bank. However, for customers opening new accounts after the issue of our circular should be provided with the prescribed facilities immediately on opening of the account.

27. Query

Whether the normal saving bank account can be converted into BSBDA at the request of customer?

Response

Yes. Such customers should give their consent in writing and they should be informed of the features and extent of services available in BSBDA.

Payment of Pension to Government Pensioners

Scheme for Payment of Pension to Government Pensioners by Authorised Banks

The Reserve Bank of India (the Reserve Bank) oversees disbursement of pension by its agency banks in respect of all Central Government Departments and some State Governments. In the process, it receives queries/complaints from pensioners in regard to fixation, calculation and payment of pension including revision of pension/Dearness Relief, transfer of pension account from one bank branch to another, etc. The Reserve Bank has analysed the queries/complaints, and put them in the form of answers to Frequently Asked Questions here. It is hoped that these will cover most of the queries/ doubts in the minds of pensioners.

1. Can the pensioner draw his/ her pension through a bank branch?

Yes. Even the Government employees earlier drawing their pension from a treasury or from a post office have the option to draw their pension from the authorized bank's branches.

2. Who is the pension sanctioning authority?

The Ministry/ Department /Office where the Government servant last served is the pension sanctioning authority. The pension fixation is made by such authority for the first time and thereafter the refixation of pay, if any, is done by the pension paying bank based on the instructions from the concerned Central/ State Government authority.

3. Is it necessary for the pensioner to open a separate pension account for the purpose of crediting his/ her pension in authorized bank?

The pensioner is not required to open a separate pension account. The pension can be credited to his/her existing savings/ current account maintained with the branch selected by the pensioner.

4. Can a pensioner open a Joint Account with his/ her spouse?

Yes. All pensioners of the Central Government Pensioners and those State Governments which have accepted such arrangement can open Joint Account with their spouses.

5. Whether Joint Account of the pensioner with spouse can be operated either by "Former or Survivor" or "Either or Survivor".

The Joint Account of the pensioner with spouse can be operated either as "Former or Survivor" or "Either or Survivor".

6. Whether a Joint Account can be continued for family pension after death of a pensioner?

Yes, the banks should not insist on opening of a new account in case of Central Government pensioner if the spouse in whose favour an authorization for family pension exists in the Pension Payment Order (PPO) is the survivor and the family pension should be credited to the existing account without opening a new account by the family pensioner for this purpose.

7. What is the minimum balance required to be maintained in the pension account maintained with the banks?

RBI has not stipulated any minimum balance to be maintained in pension accounts by the pensioners. Individual banks have framed their own rules in this regard. However, some banks have also permitted zero balance in the pensioners' accounts.

8. Who sends the Pension Payment Orders (PPOs) to the authorized bank branch?

The concerned pension sanctioning authorities in the Ministries /Departments/ State Governments forward the PPOs to bank branches wherefrom the pensioner desires to draw his/her pension. However, on implementation of CPPCs, pension sanctioning authorities have gradually started sending PPOs to the CPPC of the bank instead of bank branch.

9. When is the pension credited to the pensioner's account by the paying branch?

The disbursement of pension by the paying branch is spread over the last four working days of the month depending on the convenience of the pension paying branch except for the month of March when the pension is credited on or after the first working day of April.

10. Can a pensioner transfer his/ her pension account from one branch to another branch of the same bank or to the branch of another bank?

(a) Pensioner can transfer his/ her pension account from one branch to another branch of the same bank within the same centre or at a different centre;

(b) He/ She can transfer his/ her account from one authorized bank to another within the same centre (such transfers to be allowed only once in a year);

(c) He/ She can also transfer his/ her account from one authorized bank to another authorized bank at a different centre.

11. What is the procedure for payment of pension in the case of the transfer of PPO to another branch or bank, as the case may be?

Pension will be paid for three months on the basis of the photocopy of the pensioner's PPO at the transferee (new) branch from the date of the last payment made at the transferor (old) branch. Both the branches (old and new) are required to ensure that all the required documents are received by the transferee branch within these three months.

12. Is it necessary for the pensioner to be present at the branch of the bank along with documents for the purpose of identification before commencement of pension?

Yes. Before the commencement of pension, a pensioner has to be present at the paying branch for the purpose of identification. The paying branch shall obtain the specimen signatures or the thumb/toe impression from the pensioner.

13. What is the procedure to be followed by the bank branch if the pensioner is handicapped /incapacitated and is not in a position to be present at the paying branch?

If the pensioner is physically handicapped/incapacitated and unable to be present at the branch, the requirement of personal appearance is waived. In such cases, the bank official visits the pensioner's residence/hospital for the purpose of identification and obtaining specimen signature or thumb/toe impression.

14. Has the pensioner got right to retain half portion of the PPO for record and to get it updated from paying branch whenever there is a change in the quantum of pension due to revision in basic pension, dearness relief, etc.?

Yes. The pensioner has right to retain half portion of the PPO for record and whenever there is a revision in the basic pension/Dearness Relief (DR), etc. the paying branch has to call for the pensioner's half of the PPO and record thereon the changes according to government orders/notifications and return the same to the pensioner.

15. Whether the paying branch has to maintain a detailed record of pension payments made by it in the prescribed form?

Yes. The pension paying branch is required to maintain a detailed record of pension payments made by it from time to time in the prescribed form duly authenticated by the authorized officer.

16. Can the pension paying bank recover the excess amount credited to the pensioner's account?

Yes. The paying branch before commencement of pension obtains an undertaking from the pensioner in the prescribed form for this purpose and, therefore, can recover the excess payment made to the pensioner's account due to delay in receipt of any material information or due to any bonafide error. The bank also has the right to recover the excess amount of pension credited to the deceased pensioner's account from his/her legal heirs/nominees.

17. Question: Is it compulsory for a pensioner to furnish a Life Certificate/Non-Employment Certificate or Employment Certificate to the bank in the month of November? If so, how can this requirement be complied with?

Answer: Yes. The pensioner is required to furnish a Life Certificate / Non – Employment Certificate or Employment Certificate to the bank in the prescribed format in the month of November every year to ensure continued receipt of pension without interruption. The pensioner can also present himself / herself at any branch of the pension paying bank for being identified for issue of life certificate. In case a pensioner is unable to obtain a Life Certificate on account of serious illness / incapacitation, bank official will visit his / her residence / hospital for the purpose of obtaining the life certificate.

There have been complaints that life certificates submitted over the counter of pension paying branches are misplaced causing delay in payment of monthly pensions. In order to alleviate the hardships faced by pensioners, agency banks were instructed to mandatorily issue duly signed acknowledgements. They were also requested to consider entering the receipt of life certificates in their CBS and issue a system generated acknowledgement which would serve the twin purpose of acknowledgement as well as real time updation of records.

A pensioner having Aadhar number can alternatively submit Jeevan Pramaan, a digital life certificate introduced by the Government of India. For obtaining this, he / she will have to enrol and biometrically authenticate himself / herself by downloading the application generating digital life certificate from the website jeevanpramaan.gov.in or other means described on the website. Once digital life certificates in the form of Jeevan Pramaan are fully implemented, pension paying branches will be able to obtain information about the digital life certificate of their pensioner customers by logging on to the website of Jeevan Pramaan and searching for the certificate or by downloading through their Core Banking Systems. Pensioners will also be able to forward to their bank branches by email/sms the relative link to their digital life certificate.

18. Can a pensioner be allowed to operate his/ her account by the holder of Power of Attorney?

The account is not allowed to be operated by a holder of Power of Attorney. However, the cheque book facility and acceptance of standing instructions for transfer of funds from the account is permissible.

19. Who is responsible for deduction of Income Tax at source from pension payment?

The pension paying bank is responsible for deduction of Income Tax from pension amount in accordance with the rates prescribed by the Income Tax authorities from time to time. While deducting such tax from the pension amount, the paying bank will also allow deductions on account of relief to the pensioner available under the Income Tax Act. The paying branch, in April each year, will also issue to the pensioner a certificate of tax deduction as per the prescribed form. If the pensioner is not liable to pay Income Tax, he should furnish to the

pension paying branch, a declaration to that effect in the prescribed form (15 H).

20. Can old, sick physically handicapped pensioner who is unable to sign, open pension account or withdraw his/ her pension from the pension account?

A pensioner, who is old, sick or lost both his/her hands and, therefore, cannot sign, can put any mark or thumb/ toe impression on the form for opening of pension account. While withdrawing the pension amount he/she can put thumb/toe impression on the cheque/withdrawal form and it should be identified by two independent witnesses known to the bank one of whom should be a bank official.

21. Can a pensioner withdraw pension from his/ her account when he/she is not able to sign or put thumb/toe impression or unable to be present in the bank?

In such cases, a pensioner can put any mark or impression on the cheque/ withdrawal form and may indicate to the bank as to who would withdraw pension amount from the bank on the basis of cheque/withdrawal form. Such a person should be identified by two independent witnesses. The person who is actually drawing the money from the bank should be asked to furnish his/her specimen signature to the bank.

22. When does the family pension commence?

The family pension commences after the death of the pensioner. The family pension is payable to the person indicated in the PPO on receipt of a death certificate and application from the nominee.

23. How the payment of Dearness Relief at revised rate is to be paid to the pensioners?

Whenever any additional relief on pension/family pension is sanctioned by the Government, the same is intimated to the agency banks for issuing suitable instructions to their pension paying branches for payment of relief at the revised rates to the pensioners without any delay. The orders issued by Government Departments are also hosted on their websites and banks have been advised to watch the latest instructions on the website and act accordingly without waiting for any further orders from RBI in this regard.

24. Can pensioners get pension slips?

Yes. As decided by the Central Government (Civil, Defence & Railways), pension paying banks have been advised to issue pension slips to the pensioners in prescribed form when the pension is paid for the first time and thereafter whenever there is a change in quantum of pension due to revision in basic pension or revision in Dearness Relief.

25. Which authority the pensioner should approach for redressal of his/ her grievances?

A pensioner can initially approach the concerned Branch Manager and, thereafter, the Head Office of the concerned bank for redressal of his/her complaint. They can also approach the Banking Ombudsman of the concerned State in terms of Banking Ombudsman Scheme 2006 of the Reserve Bank of India (details available at the Bank's website www.rbi.org.in) This is applicable only in respect of complaints relating to services rendered by banks. For other issues, the complainant will have to approach the respective pension sanctioning authority.

26. Where can a pensioner get information about the changes in the pension/Dearness Relief or any pension related issue?

The pensioner can visit the Official Website of the concerned Government Department as also Reserve Bank of India Website (www.rbi.org.in) to get the information about pension related issues.

27. Whether a pensioner is entitled for any compensation from the agency banks for delayed credit of pension/ arrears of pension?

Yes. A Pensioner is entitled for compensation for delayed credit of pension/arrears thereof at the fixed rate 8% and the same would be credited to the pensioner's account automatically by the bank on the same day when the bank affords delayed credit of such pension / arrears etc without any claim from the pensioner.

These FAQs are issued by the Reserve Bank of India (The Reserve Bank) for information and general guidance purposes only. The Reserve Bank will not be held responsible for actions taken and/or decisions made on the basis of the same. For clarifications or interpretations, if any, readers are requested to be guided by the relevant circulars and notifications issued from time to time by the Reserve Bank and the Government.

Senior Citizens Savings Scheme, 2004

1. What are the salient features of the Senior Citizens Savings Scheme, 2004?

The salient features of the Senior Citizens Savings Scheme, 2004 are given below.

Tenure of the deposit account	5 years, which can be extended by 3 years.
Rate of interest	9.3 per cent per annum
Frequency of computing interest	Quarterly
Taxability	Interest is fully taxable.
Whether TDS is applicable	Yes. Tax will be deducted at source.
Investment to be in multiples of	`1000/-
Maximum investment limit	` 15 lakh
Minimum eligible age for investment	60 years (55 years for those who have retired on superannuation or under a voluntary or special voluntary scheme). The retired personnel of Defence Services (excluding Civilian Defence Employees) will be eligible to invest irrespective of the age limits subject to the fulfillment of other specified conditions
Premature closure/withdrawal facility	Permitted after one year of opening the account but with penalty.
Transferability	Not transferable
Tradability	Not tradable
Nomination facility	Nomination facility is available.
Modes of holding	Accounts can be held both in single and joint holding modes. Joint holding is allowed only with spouse.
Application forms available with	Post Offices and designated branches of 24 Nationalised banks and one private sector bank
Applicability to NRI, PIO and HUFs	Non Resident Indians (NRIs), Persons of Indian Origin (PIO) and Hindu Undivided Family

	(HUF) are not eligible to open an account under the Scheme.
Transfer from one deposit office to another	Transfer of account from one deposit office to another is permitted.

2. Can a joint account be opened under the scheme with any person?

Joint account under the SCSS, 2004 can be opened only with the spouse. [Rule 3 (3)]

3. What should be the age of the spouse in case of a joint account?

In case of a joint account, the age of the first applicant / depositor is the only factor to decide the eligibility to invest under the scheme. There is no age bar/limit for the second applicant / joint holder (i.e. spouse). [Rule 3 (3)]

4. What will be the share of the joint account holder in the deposit in an account?

The whole amount of investment in an account under the scheme is attributed to the first applicant / depositor only. As such, the question of any share of the second applicant / joint account holder (i.e. spouse) in the deposit account does not arise. [Rule 3 (3)]

5. Whether both the spouses can open separate accounts in their individual capacity with separate limit of Rs.15 lakh for each of them?

Both the spouses can open individual and / or joint accounts with each other with the maximum deposits up to Rs.15 lakh each, provided both are individually eligible to invest under relevant provisions of the Rules governing the Scheme. (Rules 3 and 4)

6. Whether any income tax rebate / exemption is admissible?

No income tax / wealth tax rebate is admissible under the Scheme. The prevailing Income Tax provisions shall apply. (GOI letter F. No.2/8/2004/NS-II dated October 13, 2004)

7. Is TDS applicable to the scheme?

Yes, TDS is applicable to the Scheme as interest payments have not been exempted from deduction of tax at source. (GOI letter F. No.2/8/2004/NS-II dated March 28, 2006)

8. Whether any minimum limit has been prescribed for deduction of tax at source?

Tax is to be deducted at source as per the minimum limit prescribed by the Government.

9. What is the rate at which TDS is to be deducted from the account holder?

The rate for TDS for a financial year is specified in Part II of Schedule I of the Finance Act for that year. (GOI letter F. No.2/8/2004/NS-II dated June 06, 2006)

10. Whether TDS should also be recovered from the undrawn interest payable to the legal heirs of the deceased depositors?

Tax shall be deducted at source even from any interest paid / payable to the legal heir of the account holder. (GOI letter F. No.2/8/2004/NS-II dated June 06, 2006)

11. Whether TDS on interest payments will be applicable with retrospective effect or prospective basis?

TDS is applicable from the very first day when SCSS, 2004 was made operational regardless of the fact that the Central Government or Reserve Bank of India or any authority might have issued any Notification / circular / clarification at a later stage. (GOI letter F. No.2/8/2004/NS-II dated June 06, 2006)

12. Whether only one person or number of persons can be nominated in the accounts opened under the Scheme?

The depositor may, at the time of opening of the account, nominate a person or persons who, in the event of death of the depositor, will be entitled to payment due on the account. [Rule 6 (1)]

13. Can a nomination be made after the account has already been opened?

Yes, nomination may be made by the depositor at any time after opening of the account but before its closure, by an application in Form C accompanied by the Pass book to the deposit office. [Rule 6 (2)]

14. Can a nomination be cancelled or changed?

Yes, the nomination made by the depositor may be cancelled or varied by submitting a fresh nomination in Form C to the deposit office where the account is being maintained. [Rule 6 (3)]

15. Can nomination be made in joint account also?

Nomination can be made in joint account also. In such a case, the joint holder will be the first person entitled to receive the amount payable in the event of death of the depositor. The nominee's claim will arise only after the death of both the joint holders. [Rule 6 (4)]

16. Can a person holding a Power of Attorney sign for the nominee in the nomination form ?

No, a person holding a Power of Attorney cannot sign for the nominee in the nomination form. (GOI letter No. F.15/8/2005/NS-II dated March 02, 2006)

17. In case of a joint account, if the first holder / depositor expires before maturity, can the account be continued?

In case of a joint account, if the first holder / depositor expires before the maturity of the account, the spouse may continue the account on the same terms and conditions as specified under the SCSS Rules. However, if the second holder i.e. spouse has his / her own individual account, the aggregate of his/her individual account and the deposit amount in the joint account of the deceased spouse should not be more than the prescribed maximum limit. In case the maximum limit is breached, then the remaining amount shall be refunded, so that the aggregate of the individual account and deceased spouse's joint account is maintained at the maximum limit. [Rules 6 (4) and 8 (3)]

18. What happens to the accounts if both the spouses are maintaining individual accounts and not any joint account and one of them expires?

If both the spouses have opened separate accounts under the scheme and either of the spouses dies during the currency of the account(s), the account(s) standing in the name of the deceased depositor/spouse shall not be continued and such account(s) shall be closed. The account can be closed by making an application in Form 'F'. Annexures II & III to Form 'F' can be attested by the Oath Commissioner or Notary Public [Rule 8].

19. Whether any fee has been prescribed for nomination and / or change / cancellation of nomination?

No fee has been prescribed for nomination and / or change / cancellation of nomination(s) in the accounts under the SCSS, 2004. (GOI letter F. No.2/8/2004/NS-II dated October 13, 2004)

20. What is the age limit in the case of retired Defence Personnel for investment in the scheme?

The retired personnel of Defence Services (excluding Civilian Defence Employees) will be eligible to subscribe under the scheme irrespective of the age limit of 60 years subject to the fulfillment of other specified conditions. (The Senior Citizens Savings Scheme (Amendment) Rules, 2004 notified on October 27, 2004)

21. What is the meaning of 'retirement benefits' for the purpose of SCSS, 2004?

"Retirement benefits" for the purpose of SCSS Rules have been defined as 'any payment due to the depositor on account of retirement whether on superannuation or otherwise and includes Provident Fund dues, retirement / superannuation gratuity, commuted value of pension, cash equivalent of leave, savings element of Group Savings linked Insurance scheme payable by employer to the employee on retirement, retirement-cum-withdrawal benefit under the Employees' Family Pension Scheme and ex-gratia payments under a voluntary retirement scheme'. (Rule 2 (a) of the Senior Citizens Savings Scheme (Amendment) Rules, 2004 notified on October 27, 2004)

22. Can deposits under the SCSS scheme be made only from amounts received as retirements benefits?

In case an investor has attained the age of 60 years and above, the source of amount being invested is immaterial [Rule 2 (d)(i)]. However, if the investor is 55 years or above but below 60 years and has retired under a voluntary scheme or a special voluntary scheme or has retired from the Defence services, only the retirement benefits can be invested in the SCSS. [Rule 2(d) (ii)].

23. Is there a period prescribed for opening deposit account under the SCSS scheme, by the senior citizen, from the retirement benefits?

If the investor is 60 years and above, there is no time period prescribed for opening the SCSS account(s). However for those below 60 years, following time limits have been prescribed.

(a) the persons who have attained the age of 55 years or more but less than 60 years and who retired under a voluntary retirement scheme or a special voluntary retirement scheme on the date of opening of an account under these rules, subject to the condition that the account is opened by such individual **within three months of the date of retirement.**

(b) the persons who have retired at any time before the commencement of these rules and attained the age of 55 years or more on the date of opening of an account under these rules, will also be eligible to subscribe under the scheme **within a period of one month of the date of the notification of the SCSS, 2004 i.e. 27th October 2004,** subject to fulfillment of other conditions. [Rule 2 of the Senior Citizens Savings Scheme (Amendment) Rules, 2004]

(c) the retired personnel of Defence Services (excluding Civilian Defence Employees) will be eligible to subscribe under the scheme **irrespective of the above age limits** subject to the fulfillment of other specified conditions. [Rule 2 of the Senior Citizens Savings Scheme (Amendment) Rules, 2004]

24. Can an account holder obtain loan by pledging the deposit / account under the SCSS, 2004?

The facility of pledging the deposit / account under the SCSS, 2004 for obtaining loans, is not permitted since the account holder will not be able to withdraw the interest amount periodically, defeating the very purpose of the scheme. (GOI letter F. No.2/8/2004/NS-II dated May 31, 2005)

25. Is premature withdrawal of the deposits from the accounts under the SCSS, 2004 permitted?

Premature withdrawal / closure of the deposits from the accounts under the SCSS, 2004 has been permitted after completion of one year from the date of opening of the account after deducting the penalty amount as given below.

- (i) If the account is closed after one year but before expiry of two years from the date of opening of the account, an amount equal to one and half per cent of the deposit shall be deducted.
- (ii) If the account is closed on or after the expiry of two years from the date of opening of the account, an amount equal to one per cent of the deposit shall be deducted.

However, if the depositor is availing the facility of extension of account under Rule 4 (3), then he/she can withdraw the deposit and close the account at any time after the expiry of one year from the date of extension of the account without any deduction. [Rule 9 (1) (a) (b) and (2)]

26. Are Non-resident Indians, Persons of Indian Origin and Hindu Undivided Family eligible to invest in the SCSS, 2004?

Non resident Indians (NRIs), Persons of Indian Origin (PIO) and Hindu Undivided Family (HUF) are not eligible to invest in the accounts under the SCSS, 2004. If a depositor becomes a Non-resident Indian subsequent to his/her opening the account and during the currency of the account under the SCSS Rules, the account may be allowed to continue till maturity, on a non-repatriation basis and the account will be marked as a Non-Resident account. [Rule 13 and GOI letter F.No.2/8/2004/NS-II dated June 19, 2006]

27. Can an account be transferred from one deposit office to another?

A depositor may apply in Form G, enclosing the Pass Book thereto, for transfer of his account from one deposit office to another. If the deposit amount is rupees one lakh or above, a transfer fee of rupees five per lakh of deposit for the first transfer and rupees ten per lakh of deposit for the second and subsequent transfers shall be payable. [Rule 11 and GOI Notification GSR.(E) dated March 23, 2006]

28. Can an SCSS account be extended?

A depositor may extend the account for a further period of three years by making an application to the deposit office within a period of one year after maturity.

29. Does an account, which is not extended on maturity, earn any interest?

In case a depositor does not close the account on maturity and also does not extend the account, the account will be treated as matured and the depositor will be entitled to close the account at any time subject to the condition that the post maturity interest at the rate as applicable to the deposits under the Post office Savings Accounts from time to time will be payable on such matured deposits upto the end of the month preceding the month of the closure of the account.

30. What happens if an account is opened in contravention of the SCSS Rules?

If an account has been opened in contravention of the SCSS Rules, the account shall be closed immediately and the deposit in the account, after deduction of the interest, if any, paid on such deposit, shall be refunded to the depositor. (Rule 12)

31. Whether commission is payable to the agents under the Scheme?

Payment of commission on the Scheme has been discontinued w.e.f. December 1, 2011 (Government of India Notification dated November 25, 2011).

32. Which are the banks authorized to open an account under the SCSS, 2004?

At present, 24 Nationalized banks and one private sector bank, as per list below, are authorized to handle the SCSS, 2004. It may be noted that only designated branches of these banks have been authorized to handle SCSS, 2004.

1. State Bank of India
2. State Bank of Hyderabad
3. State Bank of Bikaner and Jaipur
4. State Bank of Patiala
5. State Bank of Mysore
6. State Bank of Travancore
7. Allahabad Bank
8. Andhra bank
9. Bank of Baroda
10. Bank of India
11. Bank of Maharashtra
12. Canara Bank
13. Central Bank of India
14. Corporation Bank
15. Dena Bank
16. Indian Bank
17. Indian Overseas Bank
18. Punjab National Bank
19. Syndicate Bank
20. UCO Bank
21. Union Bank of India
22. United Bank of India
23. Vijaya Bank
24. IDBI Bank
25. ICICI Bank Ltd.

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Micro, Small and Medium Enterprises

Updated as on March 16, 2015

Q.1. What is the definition of MSME?

A.1. The Government of India has enacted the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 in terms of which the definition of micro, small and medium enterprises is as under:

- (a) Enterprises engaged in the manufacture or production, processing or preservation of goods as specified

below:

- (i) A micro enterprise is an enterprise where investment in plant and machinery does not exceed Rs. 25 lakh;
- (ii) A small enterprise is an enterprise where the investment in plant and machinery is more than Rs. 25 lakh but does not exceed Rs. 5 crore; and
- (iii) A medium enterprise is an enterprise where the investment in plant and machinery is more than Rs.5 crore but does not exceed Rs.10 crore.

In case of the above enterprises, investment in plant and machinery is the original cost excluding land and building and the items specified by the Ministry of Small Scale Industries vide its notification [No.S.O.1722 \(E\) dated October 5, 2006](#).

(b) Enterprises engaged in providing or rendering of services and whose investment in equipment (original cost excluding land and building and furniture, fittings and other items not directly related to the service rendered or as may be notified under the MSMED Act, 2006 are specified below.

- (i) A micro enterprise is an enterprise where the investment in equipment does not exceed Rs. 10 lakh;
- (ii) A small enterprise is an enterprise where the investment in equipment is more than Rs.10 lakh but does not exceed Rs. 2 crore; and
- (iii) A medium enterprise is an enterprise where the investment in equipment is more than Rs. 2 crore but does not exceed Rs. 5 crore.

Q.2. What is the status of lending by banks to this sector?

A.2. Bank's lending to the Micro and Small enterprises engaged in the manufacture or production of goods specified in the first schedule to the Industries (Development and regulation) Act, 1951 and notified by the Government from time to time is reckoned for priority sector advances. However, bank loans up to Rs.5 crore per borrower / unit to Micro and Small Enterprises engaged in providing or rendering of services and defined in terms of investment in equipment under MSMED Act, 2006 are eligible to be reckoned for priority sector advances. Lending to Medium enterprises is not eligible to be included for the purpose of computation of priority sector lending. Detailed guidelines on lending to the Micro, Small and Medium enterprises sector are available in our [Master Circular no. RPCD.MSME & NFS.BC.No. 3/06.02.31/2014-15 dated July 1, 2014](#). The Master circulars issued by RBI, to banks, on various matters are available on our website [www.rbi.org.in](#) and updated in July each year.

Q.3. What is meant by Priority Sector Lending?

A.3. Priority sector lending include only those sectors as part of the priority sector, that impact large sections of the population, the weaker sections and the sectors which are employment-intensive such as agriculture, and Micro and Small enterprises. Detailed guidelines on Priority sector lending are available in our [Master Circular on Priority sector lending no. RPCD.CO.Plan.BC 10/04.09.01/2014-15 dated July 01, 2014](#). The Master circulars issued by RBI, to banks, on various matters are available on our website [www.rbi.org.in](#) and updated in July each year.

Q.4. Are there any targets prescribed for lending by banks to MSMEs?

A.4. As per extant policy, certain targets have been prescribed for banks for lending to the Micro and Small enterprise (MSE) sector. In terms of the recommendations of the Prime Minister's Task Force on MSMEs (Chairman: Shri T.K.A. Nair, Principal Secretary), banks have been advised to achieve a 20 per cent year-on-

year growth in credit to micro and small enterprises, a 10 per cent annual growth in the number of micro enterprise accounts and 60% of total lending to MSE sector as on preceding March 31st to Micro enterprises.

In order to ensure that sufficient credit is available to micro enterprises within the MSE sector, banks should ensure that:

- (a) 40 per cent of the total advances to MSE sector should go to micro (manufacturing) enterprises having investment in plant and machinery up to Rs. 10 lakh and micro (service) enterprises having investment in equipment up to Rs. 4 lakh ;
- (b) 20 per cent of the total advances to MSE sector should go to micro (manufacturing) enterprises with investment in plant and machinery above Rs. 10 lakh and up to Rs. 25 lakh, and micro (service) enterprises with investment in equipment above Rs. 4 lakh and up to Rs. 10 lakh. Thus, 60 per cent of MSE advances should go to the micro enterprises.

For details, the [Master Circular RPCD.MSME & NFS. BC. No. 3/06.02.31/2014-15 dated July 1, 2014](#) on 'Lending to Micro, Small and Medium Enterprises (MSME) Sector, may please be seen.

Q.5. Are there specialized bank branches for lending to the MSMEs?

A.5. Public sector banks have been advised to open at least one specialized branch in each district. The banks have been permitted to categorize their MSME general banking branches having 60% or more of their advances to MSME sector, as specialized MSME branches for providing better service to this sector as a whole. As per the policy package announced by the Government of India for stepping up credit to MSME sector, the public sector banks will ensure specialized MSME branches in identified clusters/centres with preponderance of small enterprises to enable the entrepreneurs to have easy access to the bank credit and to equip bank personnel to develop requisite expertise. Though their core competence will be utilized for extending finance and other services to MSME sector, they will have operational flexibility to extend finance/render other services to other sectors/borrowers.

Q.6. How many such specialized branches for lending to MSMEs are there?

A.6. As on March 2014 there are 2887 specialized MSME branches.

Q.7. How do banks assess the working capital requirements of borrowers?

A.7. The banks have been advised to put in place loan policies governing extension of credit facilities for the MSE sector duly approved by their Board of Directors (Refer circular [RPCD.SME & NFS.BC.No.102/06.04.01/2008-09 dated May 4, 2009](#)). Banks have, however, been advised to sanction limits after proper appraisal of the genuine working capital requirements of the borrowers keeping in mind their business cycle and short term credit requirement. As per Nayak Committee Report, working capital limits to SSI units is computed on the basis of minimum 20% of their estimated turnover up to credit limit of Rs.5crore. For more details paragraph 4.15.2 of the Master Circular on lending to the MSME sector dated July 1, 2014 may please be seen.

Q.8. Is there any provision for grant of composite loans by banks?

A.8.A composite loan limit of Rs.1crore can be sanctioned by banks to enable the MSME entrepreneurs to avail of their working capital and term loan requirement through Single Window in terms of our Master Circular on lending to the MSME sector dated July 1, 2014. All scheduled commercial banks were advised by our [circular RPCD.SME&NFS. BC.No.102/06.04.01/2008-09 on May 4, 2009](#) that the banks which have sanctioned term loan singly or jointly must also sanction working capital (WC) limit singly (or jointly, in the ratio of term loan) to avoid delay in commencement of commercial production thereby ensuring that there are no cases where term

loan has been sanctioned and working capital facilities are yet to be sanctioned. These instructions have been reiterated to scheduled commercial banks on March 11, 2010.

Q.9. What is Cluster financing?

A.9. Cluster based approach to lending is intended to provide a full-service approach to cater to the diverse needs of the MSE sector which may be achieved through extending banking services to recognized MSE clusters. A cluster based approach may be more beneficial (a) in dealing with well-defined and recognized groups (b) availability of appropriate information for risk assessment (c) monitoring by the lending institutions and (d) reduction in costs.

The banks have, therefore, been advised to treat it as a thrust area and increasingly adopt the same for SME financing. United Nations Industrial Development Organisation (UNIDO) has identified 388 clusters spread over 21 states in various parts of the country. The Ministry of Micro, Small and Medium Enterprises has also approved a list of clusters under the Scheme of Fund for Regeneration of Traditional Industries (SFURTI) and Micro and Small Enterprises Cluster Development Programme (MSE-CDP) located in 121 Minority Concentration Districts. Accordingly, banks have been advised to take appropriate measures to improve the credit flow to the identified clusters.

Banks have also been advised that they should open more MSE focussed branch offices at different MSE clusters which can also act as counselling centres for MSEs. Each lead bank of the district may adopt at least one cluster (Refer circular [RPCD.SME & NFS.No.BC.90/06.02.31/2009-10 dated June 29, 2010](#))

Q.10. What are the RBI guidelines on interest rates for loans disbursed by the commercial banks?

A.10. As part of the financial sector liberalisation, all credit related matters of banks including charging of interest have been deregulated by RBI and are governed by the banks' own lending policies. With a view to enhancing transparency in lending rates of banks and enabling better assessment of transmission of monetary policy, all scheduled commercial banks had been advised in terms of our circular [DBOD.No.Dir.BC.88/13.03.00/2009-10 on April 9, 2010](#) to introduce the Base Rate system w.e.f. July 1, 2010. Accordingly, the Base Rate System has replaced the BPLR system with effect from July 1, 2010. All categories of loans should henceforth be priced only with reference to the Base Rate.

Q.11. Can the MSE borrowers get collateral free loans from banks?

A.11. In terms of our circular [RPCD.SME&NFS.BC.No.79/06.02.31/2009-10 dated May 6, 2010](#), banks are mandated not to accept collateral security in the case of loans upto Rs 10 lakh extended to units in the MSE sector. Further, in terms of our circular [RPCD/PLNFS/BC.No.39/06.02.80/2002-04 dated November 3, 2003](#), banks may, on the basis of good track record and financial position of MSE units, increase the limit of dispensation of collateral requirement for loans up to Rs.25 lakh with the approval of the appropriate authority.

Q.12. What is the Credit Guarantee Fund Trust Scheme for MSEs?

A.12. The Ministry of MSME, Government of India and SIDBI set up the Credit Guarantee Fund Trust for Micro and Small Enterprises (CGTMSE) with a view to facilitate flow of credit to the MSE sector without the need for collaterals/ third party guarantees. The main objective of the scheme is that the lender should give importance to project viability and secure the credit facility purely on the primary security of the assets financed. The Credit Guarantee scheme (CGS) seeks to reassure the lender that, in the event of a MSE unit, which availed collateral- free credit facilities, fails to discharge its liabilities to the lender, the Guarantee Trust would make good the loss incurred by the lender up to 85 per cent of the outstanding amount in default.

The CGTMSE would provide cover for credit facility up to Rs. 100 lakh which have been extended by lending institutions without any collateral security and/or third party guarantees. A guarantee and annual service fee is

charged by the CGTMSE to avail of the guarantee cover. Presently the guarantee fee and annual service charges are to be borne by the borrower.

Q.13. Why is credit rating of the micro small borrowers necessary?

A.13. With a view to facilitating credit flow to the MSME sector and enhancing the comfort-level of the lending institutions, the credit rating of MSME units done by reputed credit rating agencies should be encouraged. Banks are advised to consider these ratings as per availability and wherever appropriate structure their rates of interest depending on the ratings assigned to the borrowing SME units.

Q.14. Is credit rating mandatory for the MSE borrowers?

A.14. Credit rating is not mandatory but it is in the interest of the MSE borrowers to get their credit rating done as it would help in credit pricing of the loans taken by them from banks.

Q.15. What are the guidelines for delayed payment of dues to the MSE borrowers?

A.15. With the enactment of the Micro, Small and Medium Enterprises Development (MSMED), Act 2006, for the goods and services supplied by the MSME units, payments have to be made by the buyers as under:

(i) The buyer is to make payment on or before the date agreed on between him and the supplier in writing or, in case of no agreement, before the appointed day. The agreement between seller and buyer shall not exceed more than 45 days.

(ii) If the buyer fails to make payment of the amount to the supplier, he shall be liable to pay compound interest with monthly rests to the supplier on the amount from the appointed day or, on the date agreed on, at three times of the Bank Rate notified by Reserve Bank.

(iii) For any goods supplied or services rendered by the supplier, the buyer shall be liable to pay the interest as advised at (ii) above.

(iv) In case of dispute with regard to any amount due, a reference shall be made to the Micro and Small Enterprises Facilitation Council, constituted by the respective State Government.

To take care of the payment obligations of large corporate borrowers to MSEs, banks have been advised that while sanctioning/renewing credit limits to their large corporate borrowers (i.e. borrowers enjoying working capital limits of Rs. 10 crore and above from the banking system), to fix separate sub-limits, within the overall limits, specifically for meeting payment obligations in respect of purchases from MSEs either on cash basis or on bill basis.

Banks were also advised to closely monitor the operations in the sub-limits, particularly with reference to their corporate borrowers' dues to MSE units by ascertaining periodically from their corporate borrowers, the extent of their dues to MSE suppliers and ensuring that the corporates pay off such dues before the 'appointed day' /agreed date by using the balance available in the sub-limit so created. In this regard the relevant circular is [circular IECDD/5/08.12.01/2000-01 dated October 16, 2000](#) (reiterated on May 30, 2003, vide [circular No. IECDD.No.20/08.12.01/2002-03](#)) available on our website.

Q.16. What is debt restructuring of advances?

A.16.A viable/potentially viable unit may apply for a debt restructuring if it shows early stage of sickness. In such cases the banks may consider to reschedule the debt for repayment, consider additional funds etc. A debt restructuring mechanism for units in MSME sector has been formulated and advised to all commercial banks .The detailed guidelines have been issued to ensure restructuring of debt of all eligible small and medium

enterprises. Prudential guidelines on restructuring of advances have also been issued which harmonises the prudential norms over all categories of debt restructuring mechanisms (other than those restructured on account of natural calamities). The relevant circulars in this regard are circular [DBOD.BP.BC.No.34/21.04.132/2005-06 dated September 8, 2005](#) and circular [DBOD.No.BP.BC.37/21.04.132/2008-09 dated August 27, 2008](#) which are available on our website www.rbi.org.in.

Q.17. What is the definition of a sick unit?

A.17. As per the extant guidelines, a Micro or Small Enterprise (as defined in the MSMED Act 2006) may be said to have become Sick, if

a. Any of the borrowal account of the enterprise remains NPA for three months or more

OR

b. There is erosion in the net worth due to accumulated losses to the extent of 50% of its net worth during the previous accounting year.

The criteria will enable banks to detect sickness at an early stage and facilitate corrective action for revival of the unit.

Q.18. Are all sick units put under rehabilitation by banks?

A.18. No. If a sick unit is found potentially viable it can be rehabilitated by the banks. The viability of the unit is decided by banks. A unit should be declared unviable only if such a status is evidenced by a viability study.

Q.19. Is there a time frame within which the banks are required to implement the rehabilitation package?

A.19. Viable / potentially viable MSE units/enterprises, which turn sick in spite of debt re-structuring would need to be rehabilitated and put under nursing. It will be for the banks/financial institutions to decide whether a sick MSE unit is potentially viable or not. The rehabilitation package should be fully implemented by banks within six months from the date the unit is declared as potentially viable/viable. During this six months period of identifying and implementing rehabilitation package banks/FIs are required to do "holding operation" which will allow the sick unit to draw funds from the cash credit account at least to the extent of deposit of sale proceeds. The relevant circular on rehabilitation of sick units is [RPCD.CO.MSME & NFS.BC.40/06.02.31/2012-2013 dated November 1, 2012](#) is available on our website.

Q.20. What is the procedure and time frame for conducting the viability study?

A.20. The decision on viability of the unit should be taken at the earliest but not later than 3 months of the unit becoming sick under any circumstances.

The following procedure should be adopted by the banks before declaring any unit as unviable:

a. A unit should be declared unviable only if the viability status is evidenced by a viability study. However, it may not be feasible to conduct viability study in very small units and will only increase paperwork. As such for micro (manufacturing) enterprises, having investment in plant and machinery up to Rs. 5 lakh and micro (service) enterprises having investment in equipment up to Rs. 2 lakh, the Branch Manager may take a decision on viability and record the same, along with the justification.

b. The declaration of the unit as unviable, as evidenced by the viability study, should have the approval of the next higher authority/ present sanctioning authority for both micro and small units. In case such a unit is declared unviable, an opportunity should be given to the unit to present the case before the next higher authority. The

modalities for presenting the case to the next higher authority may be worked out by the banks in terms of their Board approved policies in this regard.

c. The next higher authority should take such decision only after giving an opportunity to the promoters of the unit to present their case.

d. For sick units declared unviable, with credit facilities of Rs. 1 crore and above, a Committee approach may be adopted. A Committee comprising of senior officials of the bank may examine such proposals. This is expected to improve the quality of decisions as collective wisdom of the members shall be utilized, especially while taking decision on rehabilitation proposals.

e. The final decision should be communicated to the promoters in writing. The above process should be completed in a time bound manner and should not take more than 3 months.

Q. 21. What are the RBI guidelines on One Time Settlement Scheme (OTS) for MSEs for settlement of their NPAs?

A.21. Scheduled commercial banks have been advised in terms of our [circular RPCD.SME&NFS.BC.No.102/06.04.01/2008-09 dated May 4, 2009](#) to put in place a non -discretionary One Time Settlement scheme duly approved by their Boards. The banks have also been advised to give adequate publicity to their OTS policies. (Refer circular RPCD.SME&NFS. BC.No.102/06.04.01/2008-09 dated May 4, 2009)

Q.22. Apart from the loans and other banking facilities, do the banks provide any guidance to MSE entrepreneurs?

A.22. Yes. Banks provide following services to the MSE entrepreneurs:

(i) Rural Self Employment Training Institutes (RSETIs)

At the initiative of the Ministry of Rural Development (MoRD), Rural Self Employment Training Institutes (RSETIs) have been set up by various banks all over the country. These RSETIs are managed by banks with active co-operation from the Government of India and State Governments. RSETIs conduct various short duration (ranging preferably from 1 to 6 weeks) skill upgradation programmes to help the existing entrepreneurs compete in this ever-changing global market. RSETIs ensure that a list of candidates trained by them is sent to all bank branches of the area and co-ordinate with them for grant of financial assistance under any Govt. sponsored scheme or direct lending.

(ii) Financial Literacy and consultancy support:

Banks have been advised to either separately set up special cells at their branches, or vertically integrate this function in the Financial Literacy Centres (FLCs) set up by them, as per their comparative advantage. Through these FLCs, banks provide assistance to the MSE entrepreneurs in regard to financial literacy, operational skills, including accounting and finance, business planning etc. (Refer circular [RPCD.MSME & NFS.BC.No.20/06.02.31/2012-13 dated August 1, 2012](#))

Further, with a view to providing a guide for the new entrepreneurs in this sector, a booklet titled "Nurturing Dreams, Empowering Enterprises – Financing needs of Micro and Small Enterprises – A guide" has been launched on August 6, 2013 by the Reserve Bank. The booklet has been placed on our website www.rbi.org.in under the following path & URL:

RBI main page – Financial Education – Downloads – For Entrepreneurs (<http://rbi.org.in/financialeducation/FinancialEntrepreneur.aspx>)

Q.23. What is the role of Banking Codes and Standard Board of India (BCSBI) for MSEs?

A.23. The Banking Codes and Standard Board of India (BCSBI) constituted a Working Group comprising members from select banks, Indian Banks Association, Rural Planning & Credit Department (now renamed as Financial Inclusion and Development Department) of Reserve Bank of India to formulate a Banking Code for SME Customers. On the basis of discussions with Industry Associations, banks, SIDBI and Government agencies, the BCSBI has formulated a Code of Bank's Commitment to Micro and Small Enterprises. This is a voluntary Code, which sets minimum standards of banking practices for banks to follow when they are dealing with Micro and Small Enterprises (MSEs) as defined in the Micro Small and Medium Enterprises Development (MSMED) Act, 2006. The Code may be accessed on the website of BCSBI www.bcsbi.org

RESERVE BANK OF INDIA

Department of Banking Regulation

Clarifications to Queries on

Guidelines for Licensing of Small Finance Banks in the Private Sector

In providing the clarifications, an attempt has been made to assist potential applicants in understanding the terms of the guidelines. The clarifications are specific to the queries and must be read in the overall context of the guidelines.

1. Will a group having two NBFC licences, one of which is a non-operative holding company for the main non-banking financial business and the other being the main financial business itself, surrender both its licences or only the active non-banking financial business licence while converting into a bank?

A. The operating NBFC has to fold into the bank and the non-operative holding company would be allowed to continue.

2. What criteria may be used for determining an enterprise as a large business house? Whether a diversified financial services group will be considered as a large business house for the purposes of these Guidelines?

3. Will an existing group with the main activity being the NBFC business (80% profit share of whole group) and certain smaller businesses (20% of profits of the whole group) be considered an industrial and business group?

4. Please clarify the meaning of 'large industrial and business houses'.

5. It is stated that large business houses and the NBFCs formed by such promoters are not eligible to apply for the license. Can you please clarify the criteria for determining the size (like large business houses)?

6. What is the threshold condition for deciding large or not large industry or business house?

7. What constitutes large industrial house / business houses, is there a threshold prescribed for this on net worth, market cap etc.?

A.(2 to 7) For the purpose of these guidelines, a Group with assets of Rs 1000 crore with the non-financial business of the group accounting for 40 per cent or more in terms of total assets / in terms of total revenue (whichever is higher), will be treated as a large industrial / business group.

8. Can a promoter (individual) of large Business / Industrial House act as promoter himself to form a Small Bank?

A. No.

9. Whether NBFCs having substantial asset sizes will also fall in this negative list even though not formed by large industrial/ business houses?

A. An NBFC, which is not part of a large business/industrial house is eligible.

10. We would also appreciate if you could clarify the exact meaning of the term

"owned and controlled by residents" as contemplated in the SFB Guidelines.

11. The guidelines require that Companies, owned and controlled by residents, will be eligible. However the terms “owned” and “control” have not been defined.

Would the terms have the same meaning as defined in the FDI policy?

12. Kindly clarify the meaning/scope of ‘owned and controlled by residents’.

13. Please clarify the definition of “owned and controlled” and “resident”?

14. Whether such companies and societies are to be fully (100%) owned by residents? What is the definition of control? Does this mean that the board needs

to be fully residents? or the executive management needs to be fully residents? Does society mean only charity registered ones or whether co-operatives come under the definition?

15. Whether such NBFCs and MFIs etc. are to be fully (100%) owned by residents? What is the definition of control? Does this mean that the board needs to be fully residents? or the executive management needs to be fully residents?

16. Whether the “Owned” as referred in RBI guidelines shall mean to 26% equity share holding or more than 50% of equity shareholding in the Company?

17. Whether companies incorporated in India fully or partly owned by non-residents on non-repatriation basis will be eligible to apply?

18. Whether companies incorporated in India partly owned by non residents on repatriation basis (within the FDI norms) will be eligible to apply?

A.(10 to 18) The definition is as per the Government's FDI policy and the FEMA regulations as amended from time-to-time. As per the current FDI policy and FEMA regulations, a Company 'Owned by residents' shall be an Indian company if more than

50% of the equity interest in it is beneficially owned by resident Indian citizens and or Indian companies, which are ultimately owned and controlled by resident Indian citizens. A company shall be considered 'Controlled' by resident Indian citizens and Indian companies, if the resident Indian citizens and Indian companies, which are owned and controlled by resident Indian citizens, have the power to appoint a majority of its directors in that company.

19. Can 49% of the Indian owned and controlled promoter entity shareholding be with one FDI PE fund and remaining with residential Indian investors?

A. As regards ownership and control, the definition is as per the Government's FDI policy and the FEMA regulations as amended from time to time. It appears from the

query that the FDI PE fund has the control and therefore is not eligible to promote a bank.

20. Whether the qualification of ownership and control by resident applies only to Local Area Banks and not to NBFCs and MFIs?

A. The requirement of ownership and control by residents applies to all entities promoting / converting into a small finance bank, including NBFCs and MFIs.

21. The guidelines mention that a promoter of NBFC seeking to convert into a

Small Finance Bank cannot own other NBFCs. How will “ownership” be defined for this purpose? Will minority ownership with no influence on the management of an NBFC be excluded from the definition of ownership? For example, if the promoter entity has less than 25% stake in another NBFC with no representation on the board or management, will such an investment be allowed?

22. We seek your guidance on roadmap for our associate concerns. Our NBFC has 26% stake in an entity engaged in Insurance Broking Services. The insurance broking entity has the rest of the shareholding of 74% by individual promoters. The company is engaged in the business of offering Insurance Services as Direct Insurance Broker and is governed by IRDA and provides insurance cover on the assets being financed by the NBFC and for other customers.

23. Where a person / entity is acting as a promoter, for an NBFC/MFI/LAB as well as another entity which would be set-up as a SFB or converted into SFB, would it be correct to say that the NBFC/MFI/LAB and the SFB could co-exist within the same Promoter/ Promoter group?

24. Based on a combined reading of these guidelines under Para 10 and Para 4, where other entities of the promoter group which are currently engaged in non-risk sharing simple financial services activities (not requiring any commitment of own funds) such as distribution of mutual fund units, insurance products, etc., would it be correct to say that the promoter group need not mandatorily fold these activities (being undertaken by other entities) into the SFB?

25. Our NBFC has 38% stake in an entity engaged in micro finance. Can we continue the business outside the bank?

26. Where the promoter of a Small Finance Bank also currently owns an NBFC, would RBI insist on the promoter bringing all NBFC activities, to the extent can be undertaken by SFB, under the Small Finance Bank?

27. Can the NBFC having an NBFC MFI subsidiary make an application for a small bank through that subsidiary to convert MFI as a SMFB and whether the parent company can continue its NBFC business?

28. In the above scenario is it necessary for the NBFC to have a Non –operating holding company which will hold the stake in NBFC as well as the SMFB?

A. (21 to 28) The NBFC will be considered as belonging to the same promoter group if it falls within the definition of promoter group as indicated in the guidelines and as defined in the SEBI (Issue of Capital & Disclosure Requirements) Regulations, 2009. Further, any NBFC carrying lending activity cannot co-exist with SFB.

The guidelines indicate that on conversion into a small finance bank, the NBFC / MFI will cease to exist and all its business which a bank can undertake should fold into the bank and the activities which a bank cannot undertake be divested / disposed of. The other financial and non-financial services activities of the promoters should be kept distinctly ring-fenced and not comingled with the bank.

The guidelines indicate that if a promoter setting up a small finance bank desires to set up a Payments Bank, it should set up both types of banks under a Non-Operative Financial Holding Company

(NOFHC) structure. Otherwise, there is no requirement for the small finance banks to have holding company structure.

29. The guidelines prescribe that joint-ventures by different Promoter Groups would not be allowed. Would this restrict a Promoter to get new financial investors before making the application? If yes, are there any restrictions on such investments?

30. (i) What does joint ventures by different promoters group mean?

(ii) If the eligible promoter entity has a strategic investor or is formed by 2-3 different individuals/entities who are unrelated and who act as its shareholders, whether the said entity would be considered as joint venture by different promoters group?

(iii) Can there be multiple promoters, i.e. non-related individuals/corporate entities who would become shareholders of a company which will act as a promoter entity for setting up a Bank. Will the same be permissible?

(iv) Whether the individuals/professionals can set up an entity together with an existing NBFC/MFI/LAB to establish SFB?

A.(29 to 30) The guidelines indicate that joint ventures by different promoter groups for the purpose of setting up small finance banks would not be permitted. However, the promoter could get non-promoter investors in the bank subject to ceiling on such investments [para 13 (ii) of the guidelines] and subject to the respective sectoral regulators' guidelines requirement.

If the small finance bank is promoted by resident individuals / professionals, they should have 10 years of experience in banking and finance. If the small finance bank is promoted by Companies / Societies or existing Non-Banking Finance Companies (NBFCs), Micro Finance Institutions (MFIs), and LABs desire to convert into a small finance bank, they should have a successful track record of running their businesses for at least a period of five years.

31. Whether registered Indian charitable trust/ Private or Public trusts are allowed to promote a SFB?

32. In paragraph 3 of the Guidelines for setting up of Small Finance Bank the eligible promoters include resident individuals/ professionals, Companies and Societies owned and controlled by residents. Will Trusts be considered as eligible promoters? In particular, are NGO-MFIs run by Trusts considered as eligible promoters or eligible to convert?

33. In case of a Bank where shares (say 90% of paid up capital) are held by multiple trusts (say 9) having a common trustee, how would the restriction of 10% voting rights apply:

- a. Will the trustee have right to vote for 9 shareholders = 90% (i.e. individually); or
- b. The trustee can vote only once and his votes are restricted to 10%?

A. (31 to 33) The guidelines do not envisage Registered Indian charitable trusts / Private or Public trusts to promote an SFB.

34. Whether the applicants who had applied for a universal banking licence in the last round are eligible to apply for a SFB?

A. There is no restriction on any entity applying for small finance bank licence subject to the eligibility criteria mentioned in the guidelines, except large industrial / business houses.

35. While a company registered under the Companies Act, 2013 is eligible to apply for registration as an SFB, it may be clarified that the existing Non-Banking Financial Company (NBFC)/ Micro-Finance Institution (MFI)/ Local Area Bank (LAB) registered earlier under the Companies Act, 1956 would also be eligible for conversion to an SFB under Para 10 of the Guidelines.

A. Yes.

36. Where an entity (i.e non-individual) is going to be a promoter for the applicant, whether the experience of the applicant and promoter / promoter group (individually) in banking and finance would be relevant? If yes, please clarify the number of years of experience the applicant would be expected to have.

A. If the small finance bank is promoted by resident individuals / professionals, they should have 10 years of experience in banking and finance. If the small finance bank is promoted by Companies /

Societies or existing Non-Banking Finance Companies (NBFCs), Micro Finance Institutions (MFIs), and LABs desire to convert into a small finance bank, they should have a successful track record of running their businesses for at least a period of five years.

37. In case of an existing NBFC/ MFI/ LAB which proposes to convert into an SFB having individuals and entities as its shareholders, whether the individuals and the entity shareholders, together, can act as a promoter for the proposed SFB? If yes, whether the said individuals / entities would be falling under the same promoter group?

A. The definition of promoter / promoter group would be as defined in the SEBI (Issue of Capital & Disclosure Requirements) Regulations, 2009.

38. Where an existing NBFC/ MFI/ LAB has a majority shareholding from a multistate co-operative (which was earlier a federation) having a vintage of less than 5 years, whether the track record while the entity was a federation could be taken into account for determining the track record?

A. No. If existing NBFCs / MFIs / LABs desire to convert into a small finance bank, they should have a successful track record of running their businesses for at least a period of five years.

39. Where an NBFC/ MFI/ LAB is acquired by the present promoter/ promoter group within last 5 years, whether such NBFC/ MFI/ LAB would be eligible to convert itself into SFB and whether the experience of the applicant/ promoter/ promoter group prior to the acquisition (by the promoter/ promoter group) would be relevant?

A. Yes. If existing NBFCs / MFIs / LABs desire to convert into a small finance bank, they should have a successful track record of running their businesses for at least a period of five years. However, if there is an acquisition of the NBFC / MFI / LAB by the present promoter / promoter group, their track record for five years will be examined.

40. Whether co-operative bank is eligible as a promoter to set up small finance bank?

Further, whether co-operative bank can itself be converted into a small finance bank?

A. No. As for the second part, conversion is not allowed under the statute.

41. Our private limited company, has been working as Technology Service Provider (TSP) and National Business Correspondent (National BC) for a public sector bank (PSB) since January 2009 and November 2010. Since its incorporation, the company has been working on technology-led branchless banking models and processes. In addition to the PSB, the company also operates as a TSP to two private sector banks and a National BC to one of the banks. Whether the company is eligible to apply for “Small Finance Bank” licence as the Company as well as each of the two promoters have 7 years of experience in banking and finance but not 10 years of experience?

A. Yes, if the small finance bank is promoted by Companies / Societies or existing Non-Banking Finance Companies (NBFCs), Micro Finance Institutions (MFIs), and LABs, they should have a successful track record of running their businesses for at least a period of five years.

42. A private limited company currently has only 2 promoters who would hold 40% of the paid up equity capital. However, the two promoters will be entitled to exercise only 10% voting rights each. Accordingly, for the aforesaid purposes, the private limited company will have to issue equity shares with differential voting rights to the two promoters, which would require compliance with conditions prescribed under Section 43(a)(ii) of the Companies Act, 2013 read with Rule 4 of the Companies (Share Capital and Debentures) Rules, 2014. As per the said Rules, the shares with differential rights shall not exceed twenty-six per cent of the total post-issue paid up equity share capital of a company including equity shares with differential rights issued at any point of time. Please clarify as to how the private limited company will be required to structure its shareholding pattern and the voting rights to be exercised by the promoters keeping in view the requirements of the Rules as well as the small finance bank Guidelines.

43. Whether the promoter’s holding of 40% in the bank is entitled to only 10% voting rights?

A.(42 to 43) For the purpose of voting rights in respect of shares held in private sector banks, please be guided by the provisions of Section 12 (2) of the Banking Regulation Act, 1949. As regards shareholding pattern of the company, it is not under the purview of RBI.

44. Please clarify whether, an autonomous board set up under enactment of a State legislature, where all the members are residents, will be considered under the category Companies and Societies?

A. As per the current guidelines, it is not envisaged

51. What is the definition of word Promoter?

A. The definition of promoter / promoter group would be as defined in the SEBI (Issue of Capital & Disclosure Requirements) Regulations, 2009.

52. In case of an NBFC-MFI owned and controlled by resident Indians applying for SFB licence, does RBI permit any resident Indian investors be replaced with some other resident Indian investor(s)?

53. Is shareholding change allowed within the ‘Indian owned and controlled promoting entity’ of the small bank? Specifically – can Resident Indian investors be replaced with some other resident Indian investors?

54. If a promoter group is a corporate entity, will that be allowed to reconstitute the portfolio by replacing foreign holding with Indian one or allowing foreign holding to change hands, during the lock in period?

A.(52 to 54) Any proposed material change in the shareholding pattern in the promoter entity at the time of application and during the period between the application and in-

principle approval and even thereafter should be brought to the prior notice of Reserve Bank of India.

As regards shareholding in the bank, a person or entity belonging to the Promoter Group cannot be replaced during the lock-in-period.

55. Can a single Non Promoter FDI PE fund or single Non Promoter Resident Investor which already has greater than 10% shareholding in the proposed SFB, continue to have the same economic interest by having it's voting restricted to 10% by conversion of some of the existing equity shares to non voting equity shares or through a clauses in the Articles of Association.

56. Can single Non Promoter FDI PE fund or Single Non Promoter Resident investor have greater than 10% shareholding in the proposed Promoting Entity NoHC which owns 100% of the SFB (that is indirectly interest >10%), but have its voting rights restricted to 10% in the Promoting NoHC by conversion of some of the equity shares to non-voting equity shares or through clauses in the Articles of Association.

A.(55 to 56) No.

57. Further since PE funds represent multiple global investors, use SPVs to make investments for these investors, investments by PE funds beyond 10% in the Promoting NoHC would actually mean lesser than 10% by each of final investors. In assessing the applications will the Corporate veil of the Promoting NoHC and/ or SPVs that invest in the Promoting NoHC be lifted to measure the real test of <10% ownership. For example a PE Fund having 10 equal Global investors has 49% of the Promoting NOHC of the SFB which owns 100% of the SFB. Now in economic terms while 100% of SFB is with the Promoting entity, further 49% is with the PE SPA but the real global investors have only 4.9% each. Will this be the basis of determining final economic interest?

58. Where the Asset Management Company of a PE fund is the same for 2 sets of PE funding, wherein ultimate investors are different would this be aggregated for the single shareholder cap of 10% or be treated as separate. For example a PE Fund in its Fund IV has 5 investors (a,b,c...e) and invests 10% in a SFB or its NoHC. Then can the same PE Fund having the same AMC in its Fund V having 5 different investors (1,2,3...5) invest another 10% in the SFB or its NoHC?

A.(57 to 58) If the promoters desire to set up the Small Finance Bank under an NOFHC, the NOFHC would be required to be wholly owned by the promoter group and the lock-in period for the shareholding and the dilution schedule would be applied to the NOFHC shareholding in the bank. In case of the bank, the PE Fund is reckoned as a single investor. The shareholding cap of 10 per cent of the paid-up equity capital of the bank will be applied at the PE Fund and AMC level, but not additive.

59. Point No. (II) of Key features of Small Finance Bank Guideline states as

“Resident individuals/professional with 10 years of experience in banking and finance will be eligible to set up small finance banks.” For an example: If the application is made jointly by four individuals/professionals like A,B, C and D. Out of four applicants, two (B & C) are Non-resident in India and two others are (A&D) are resident in India. With this example, we have the following question, which requires your answer.

(a) If the applicant “B” and “C” files an affidavit along with the application and declare that they are ready to convert their status as resident individual, provided their application will be accepted and they will get an in-principle approval. In this scenario, will they (B & C) be treated as an eligible promoters and RBI would have no objection in granting the In-principle approval.

(b) Kindly confirm that the approval shall be granted in the joint name.

(c) Kindly confirm that at the time of application, the individual promoters need not incorporate a company, as they are filing the application as a group of promoters.

A. (a & c) Yes. At the time of making applications, the Promoters/Promoter Group will have to furnish a plan and methodologies they would adopt to comply with all the requirements of the guidelines. After the ‘in-principle approval’ is accorded by RBI for setting up of a bank, the Promoters/Promoter Group will have to comply with all the requirements within 18 months from the date of in-principle approval or as on the date of commencement of operations whichever is earlier.

(b) Yes, if the applicants / application are found suitable, the ‘in-principle approval’ will be granted in the names of the promoters as declared in the application.

60. What are the special approvals required prior to submitting the application? – is it from RBI/ROC or any government authorities? Whether the approvals are to be obtained before making the application or post receipt of in-principle approval for bank set up?

A. The approvals are to be submitted before licence is granted

61. Whereas Clause 3 of the Guidelines pertaining to eligible promoters prescribes the persons who are eligible to promote Small Finance Banks. It also states that joint venture by different promoter group is not permitted. Whether the Special Purpose Vehicle incorporated by two entities (1- MFI & other Co-operative Bank) for incorporating small banks, belonging to same promoter group is eligible.

A. This will be treated as a Joint Venture and hence not permitted.

62. Is there any specific RBI Guidelines or circular to determine fit and proper criteria for Promoter and Promoter Group w.r.t opening of SFB or does the RBI examine the same on case to case basis?

A. As stated in para 3 of the guidelines, RBI would assess the ‘fit and proper’ status of the applicants on the basis of their past record of sound credentials and integrity; financial soundness and successful track record of professional experience or of

running their businesses, etc. for at least a period of five years. RBI may, inter alia, seek feedback on applicant Groups on these or any other relevant aspects from other regulators, and enforcement and investigative agencies like Income Tax, CBI, Enforcement Directorate, etc. as deemed appropriate.

63. The ideal number of branches a SFB shall have to be eligible for the license.

A. There is no such stipulation.

64. Can an individual/professional who is a resident in India for FEMA purposes with requisite experience (over 10 years) in banking and finance will be eligible to promote a 'small finance bank', if he is not an Indian citizen but is an OCI card holder?

65. Erstwhile Indian residents' [as defined in Department of Industrial Policy and

Promotion (DIPP)] passport holders, who currently hold foreign passport, but are resident in India in terms of FEMA as well as Income Tax Act, would be considered eligible promoters of Small Finance Bank? Can such resident individual directly and /or indirectly hold more than 24% equity of the Small Finance Bank?

A. For the purpose of these guidelines, the eligible individual promoter will have to be an Indian citizen resident in India. As per para 13 (ii) of the guidelines, individuals (including relatives) and entities other than the promoters will not be permitted to have shareholding in excess of 10 per cent of the paid-up equity capital of the bank

66. Whether an Individual currently an NRI can apply subject to he/she deciding to return for good for setting up of the Bank?

A. Yes.

67. Whether the word "entities (other than promoter entities)" above in case of existing NBFCs converting into small finance bank includes the foreign private equity investors also, Since at present, one of our investor is a foreign shareholder which holds 25% stake in the company.

A. Yes. Such an entity will be deemed to be 'other than a promoter entity'. Such an entity cannot have more than 10 per cent of the paid-up capital of the bank.

68. Whether SFCs would be eligible for promoting a SFB?

A. No, SFCs are not eligible to promote small finance banks.

69. A subsidiary of a Development finance institution is registered as non deposit taking NBFC (Rs. 1000 crore company). Will the subsidiary be eligible to apply for Small Finance Bank?

A. No.

70. Can an NBFC divest the activities which the banks are not allowed to another NBFC of the group?

71. Whether the activities that cannot be undertaken as Bank but presently carried out by NBFC / MFI can be divested to promoter of bank or other promoters' group entity as following sub-para of Para 11.4 permits the other financial and non-financial services activities of the promoters, if any, to be kept distinctly ring-fenced and not comingled with the banking business?

A.(70 & 71) Lending activities must be conducted from inside the bank. Lending activities that are not permitted to a bank, but are not prohibited to NBFCs, such as promoter financing, loans for purchase of land, etc. would have to be wound up within a period of 18 months from the date of in-principle approval or as on the date of commencement of banking business, whichever is earlier. The other financial and non-

financial services activities of the promoters should be kept distinctly ring-fenced and not comingled with the bank.

72 Use of the word 'small finance bank' in the name of the bank: We were given to understand in the draft guideline stage, that the bank would be merely called a bank and not a small finance bank. In terms of raising deposits, these new banks would have the major challenge of brand awareness and brand equity compared to the existing banks and hence would take a long time to build up a good level of retail deposits. On top of this, if they are required to say 'small finance bank' in their name, the image created amongst depositors is that these are 'small' banks and hence by corollary, not as safe as the 'larger' banks. This would further hinder the efforts of these banks in mobilising deposits. Hence it is requested that the name not be required to contain 'small finance bank'.

A. No, the bank would be required to use "Small Finance Bank" in its name.

73. Currently banks are allowed to own housing finance companies (HFCs) regulated by the National Housing Bank. Will Small Finance Banks be allowed to own Housing Finance Companies?

If so, can the said Small Finance Bank through its subsidiaries take up Share Broking or any intermediary activity requiring SEBI Approval?

A. No, SFBs are not allowed to set up any subsidiaries.

74. Our area of operation is Kerala state. Since this is not an under banked state, can we apply? This is because the tone of the Guidelines is that initial licence will be only for under-banked states.

75. Would it be correct to read the provision to mean that requirement of at least

25 per cent of branches in unbanked rural areas is only relevant in the context of expansion plans (i.e. new branches which are proposed to be set-up over a period of 5 years by the SFB) and an existing NBFC/ MFI/ LAB already having a

wide network of branches which proposes to convert itself into SFB (pursuant to which all the branches of the existing entity shall be converted into bank branches), need not have 25 per cent of its existing branches in unbanked rural areas?

76. In clause 4 (para 2), it is stated that “The annual branch expansion plans should be in compliance with the requirement of opening at least 25 per cent of its branches in unbanked rural centres..”. Will this condition of 25% rural bank applicable at the time of formation itself or it applies only to further branch expansions?

A. (74 to 76) The guidelines do not bar such applicants. However, the business plan should include proposal for opening branches in unbanked rural centres as stipulated in the guidelines. The stipulation is for total branch network.

77. What is the standard definition of a branch as per the RBI guidelines? Would Satellite Offices, Mobile branches and Ultra Small formats be considered as branches under the requirement to have 25% of new branches in unbanked rural areas?

A. The definition of branch will be as per the provisions of Section 5(cc) of the Banking Regulation Act, 1949. Presently, other forms of presence such as satellite offices and mobile branches are not considered as full-fledged branches under the requirement to have 25 per cent branches in the unbanked rural centres. However, if the ultra-small formats are full-fledged branches, they would qualify under the requirement to have 25 per cent branches in the unbanked rural centres.

78. An existing NBFC/MFI may have a large number of branches in rural and unbanked areas. Will there be any ceiling on the number of such branches that would be converted into bank branches?

A. Please refer to para 10 of the guidelines.

79. Guidelines provide that the other financial and non-financial services activities of the Promoters, if any, should be kept distinctly ring fenced and not comingled with the banking business. Please explain what kind of management oversight, sharing of infrastructure, human capital etc., would be acceptable as being ring-fenced.

80. Where the promoters have separate board of directors, employees and an arm's length basis sharing of infrastructure/ technology, would other financial and non-financial services activities of the promoters be regarded as distinctly ring-fenced and not comingled with the banking business? If not, kindly explain the circumstances under which the activities would be regarded as distinctly ring-fenced.

81. What is the precise purport / meaning of the word “ring---fencing”? Does it mean even arm's length business transaction/association with related entities of promoter are not allowed?

82. Under the scope of activities i.e. Clause 4 of the Guidelines, it is stated that the other financial or non-financial services activities of the promoters, if any should be kept distinctly ring fenced and not comingled with banking business. Can it be inferred that Promoters previously carrying on other financial services or non-financial services should desist from carrying on such activities?

83. Will RBI consider separate Board and separate Management with no common Board member or Management functionary as adequate ring fencing of the Small Finance Bank from other financial sector businesses of the promoter?

A.(79 to 83) Ring fencing does not restrict arrangements for sharing of infrastructure of the parent promoter / promoter group entities, provided that there is an agreement / contract, etc.; if such arrangement is entered into on an arm's length basis, suitable

firewalls are built in, customer confidentiality maintained and risk mitigation measures are put in place. The business plan can clearly bring out these aspects.

84. Our private sector company is currently BC of two banks and has also received in-principle approval for PPI.

a) If the entity applying for the license is an existing BC of the Bank then whether the entity is required to discontinue its BC operations to be eligible to apply for a licence of small finance bank?

b) If the entity is a PPI licence holder whether, the same will have to be surrendered to be eligible to apply for a licence of small finance bank?

A. a) The guidelines stipulate that the small finance bank cannot be a Business Correspondent (BC). However, it can have its own BC network or the BC business can be transferred to a Group entity. .

b) If the entity is a PPI licence holder, this business should be folded into the bank.

85. Where an existing MFI (who proposes to convert itself into SFB) has a separately run BC business, does it need to divest its BC business? Where MFI is required to divest its BC business, could it divest the same within a period of eighteen months once in-principle approval is obtained? Please confirm.

A. If the MFI desires to retain BC business, the same can be transferred to a

Group entity.

86. Whether the Promoter entity can continue to carry its other business (other than which is to be carried out by bank for e.g. real estate, IT solutions, services, manufacturing etc.) in the promoter entity itself or does the said business has to be transferred to other entity by the promoter entity?

A. Promoter entity can continue to carry its other business (other than which is to be carried out by bank for e.g. IT solutions, services etc.) in the promoter group. The other

financial and non-financial services activities of the promoters should be kept distinctly ring-fenced and not comingled with banking business.

87. Net worth – Can an existing NBFC with less than Rs.100 crore net worth at the time of application and midway through a fund raising process (which will take the net worth well above Rs.100 crore) apply for Small Finance Bank?

88. At the time of applying for small bank is Rs.100 crore required or RBI will provide some time? What is the minimum capital requirement at the time of application?

A.(87 & 88) At the time of making applications, the Promoters/Promoter Group will have to furnish a plan and methodologies they would adopt to comply with all the requirements of the guidelines within 18 months from the date of in-principle approval or as on the date of commencement of operations whichever is earlier.

89. Whether the entity shall have minimum paid up capital of Rs. 100 crore as well as Net worth of Rs. 100 crore?

A. The minimum paid-up capital of Rs.100 crore is for newly set up bank and net worth of Rs.100 crore is for an NBFC/MFI/LAB converting into a bank.

90. If the promoter's contribution in an existing NBFC is Rs. 5 crore in equity capital which is equal to 30% of total paid up capital (Rs. 16.67 crore). If the net-worth is Rs. 200 crore, will this meet the eligibility requirement of promoter holding minimum 26% diluted capital of company and net-worth of Rs. 100 crore.

91. If Promoter holding is already less than 26% in NBFC/MFIs will the Promoters have to comply with minimum initial contribution of 40% / 26% for paid-up equity capital or 26% / 40% of net-worth if the net-worth is more than Rs. 100 crore.

92. Whether an applicant, where the existing promoters hold less than 26%, be eligible for making application for setting up of a new SFB or its conversion in a

SFB? Can the applicant will be given 18 months' time to operationalize (under

Para II. clause 16(iv) of the guidelines) i.e. commit that the identified promoter will have 26% before the bank becomes operational i.e. final approval from RBI.

93. For an existing entity, the promoters' shareholding could be diluted below 40 per cent but above 26 per cent for 'regulatory requirements or otherwise'. Would it be correct to read this provision to mean that in case of conversion to an SFB, the minimum promoters' contribution is 26% and not 40%.

94. If a promoter of a NBFC-MFI intending to convert into SFB has diluted paid-up capital below 26% and has a diversified ownership structure, then how does the minimum promoter's holding rule apply?

A. (90 to 94) If the promoter had reduced the contribution in the NBFC/MFI/LAB owing to regulatory requirement, then the required holding in the bank will be 26%. If otherwise, the promoter's minimum initial contribution to bank shall at least be 40 per cent of the paid-up capital of the small finance bank.

95. Applicability of SEBI guidelines for the NBFCs already having net worth in excess of Rs.500 crore: For those NBFCs that have net worth in excess of Rs 500 crore, post IPO, will the market regulator, SEBI's guidelines, govern requirement on promoter holdings?

A. Yes, if the SFB is listed, RBI guidelines with regard to minimum promoter holding and SEBI guidelines will apply.

96. Point No. (iv) of Key features of Small Finance Bank Guideline states as "the minimum paid up equity capital for small finance bank shall be Rs.100 crore. Point No. (v) of Key features of Small Finance Bank Guideline states as "The promoters minimum initial contribution to the paid up equity capital of such small

finance bank shall at least be 40 per cent and gradually brought down to 26 per cent within 12 years from the date of commencement of the business of the bank".

For an example: The promoters A, B, C and D are ready to bring the required capital at their own. However, they have the following constraints in arrangement of share capital:

(a) Promoters have parked their funds in movable and immovable properties;

(b) In the immovable properties their spouse are co-owner's; and

(c) Their spouses are ready to give their consent to sell the immovable property to arrange the required share capital.

Considering the above proposition and its constraints, we would like to seek your

confirmation/clarification on the following questions:

(a) Will the RBI consider both the movable and immovable property as part of Net Worth of Individual promoters?

(b) Is it necessary to give the name of shareholders and their creditworthiness apart from promoters to ensure the arrangement of share capital?

(c) In case at the time of application, the promoters undertake that they are in a position to arrange the requirement of minimum Paid up share capital of Rs. 100 crore at their own. However, after receipt of In-principle approval they find more investors who are willing to invest in the share capital, can the promoters accommodate the investors also, because in that case the total share capital in the SFB will be in excess of Rs.100 crore?

A. (a) The minimum paid-up capital of Rs.100 crore should be readily available at the time of obtaining banking licence.

(b) Yes. As indicated in the Annex to the guidelines, the applicants should furnish detailed information about the persons/entities, who would subscribe to 5 per cent or more of the paid-up equity capital (shareholding pattern) of the proposed bank, including foreign equity participation in the proposed bank and the sources of capital of the proposed investors.

(c) Any material change from the proposal made in the application should be brought to the notice of Reserve Bank of India during the period between the application and in-principle approval and even thereafter. Further, as indicated in the guidelines, as per Section 12B of the Banking Regulation Act,

1949, any acquisition of 5 per cent or more of the paid-up share capital in a private sector bank will require prior approval of RBI.

97. Will the SFB be allowed to raise 60% (after the promoters equity) by way of an IPO?

A. After setting up of the bank with the required minimum paid-up capital of Rs.100 crore, if the bank proposes to go for an IPO, prior approval of RBI is necessary.(DBOD circular dated April 20, 2010).

98. It appears that Para II. clause 6 of the SFB Guidelines requires that promoter should maintain minimum initial contribution of prescribed percentage in case promoter intends to set-up SFB. Please clarify as to whether existing Non-Banking Finance Companies (NBFCs), Microfinance Institutions (MFIs) and LABs which are planning to opt for conversion are also required to have minimum initial contribution in accordance with clause 6 of the guidelines.

A. Please refer to para 10 of the guidelines.

99. Whether the lock-in of shareholding requirement would apply at the Intermediate Holding Company level or at the Promoter/Investor level of the said intermediate holding company. In other words, can the shareholders of the intermediate holding company dilute his / its stake in the said company within 5 years / 10 years / 12 years thresholds.

A. The guidelines do not require setting up of a holding company to set up the SFB. If there is an intermediate company, it should be an NOFHC and conform to all

requirements relating to NOFHC stipulated in our guidelines on licensing of new banks in the private sector dated February 22, 2013.

100. Where part of the Holding in the Intermediate holding company is held by a Financial Investor / Private Equity Group, (as a Non-Promoter), whether there would be any lock in requirements for such investors of the intermediate holding company?

A. As the intermediate company has to be an NOFHC, it cannot have non-promoter holding.

101. Can a Promoter exit completely after lock in period of five years?

A. Whether a promoter ceases to be a promoter or could exit from the bank would depend on the RBI's regulatory and supervisory comfort / discomfort and SEBI regulations in this regard at that time.

102. If an existing entity who proposes to convert itself into an SFB, has already issued shares under Employee Stock Option Scheme (ESOP) to an individual promoter for the proposed SFB, whether the shares held by an ESOP trust for the said individual promoter be considered as promoter's contribution for the purpose of Para 6 of the Guidelines?

A. Until the ESOPs are exercised, the question does not arise.

103. Between the time period that exists after the submission of SFB application and In-principle approval – whether the promoter is required to maintain 26% of Shareholding even if fresh equity is infused?

A. Yes, incidentally any material change from the proposal made in the application should be brought to the notice of Reserve Bank of India during the period between the application and in-principle approval and even thereafter.

104. Whether promoter's holding of 40% paid-up equity capital would include only voting capital for the purposes of the initial capital requirement?

A. The initial minimum paid-up capital of Rs.100 crore would be voting equity.

105. SFB Guidelines, under Para II. Clause 7, prescribes the extent of foreign shareholding permissible in small finance bank. Does it mean that such foreign shareholding needs to be maintained only after setting-up or conversion of/ into small finance bank? Is an NBFC, which is complying with the restriction on permissible foreign shareholding as per SFB Guidelines and other requirement of SFB Guidelines, eligible to either promote or convert itself into small finance bank?

A. At the time of making applications, the Promoters/Promoter Group will have to furnish a plan and methodologies they would adopt to comply with all the requirements of the guidelines. After the 'in-principle approval' is accorded by RBI for setting up of a bank, the Promoters/Promoter Group will have to comply with all the requirements within 18 months from the date of in-principle approval or as on the date of commencement of operations whichever is earlier. In this context, it may be clarified that even if the NBFC is compliant with foreign shareholding norms as applicable to banks, any entity / individual shareholding of 5% or more would require prior approval of RBI.

106. While Para 3 of the Guidelines requires an existing entity proposed to be converted into SFB to be owned and controlled by residents, Para 7 of the Guidelines allows foreign shareholding in SFB upto 74%. We request you to clarify as to how an entity that is owned and controlled by residents can have foreign shareholding upto 74%?

A. The requirement of owned and controlled by residents is applicable to the promoter entity, whereas 74 per cent FDI/FII limit applies to the bank.

107. As per the present FDI Policy, the limit on NRI investment of 10% / 24% is applicable for investment under Portfolio Investment Schemes through stock exchanges (schedule 2, regulation 5(2) and not for investment under Foreign Direct Investment Scheme (Schedule I, regulation 5(1)). Accordingly, Para 7 (Foreign Shareholding) of Reserve Bank of India's Guidelines for Licensing of "Small Finance Banks" in the Private Sector vide Press Release dated November 27, 2014, on NRI investment of 10% / 24% is applicable for investment under Portfolio Investment Scheme through stock exchanges only. As such under Automatic route, NRIs and other eligible foreign investors in aggregate can invest to the extent of 49%. We would request your good self to kindly clarify the same.

A. Extant FEMA guidelines will be applicable.

108. Would paid-up equity capital include only voting capital and not non-voting equity shares/preference shares?

A. The minimum paid-up equity capital of Rs.100 crore shall include only voting capital.

109. Would 5% voting rights limit apply to promoter (as he may also be a shareholder) or does it apply to shareholders other than promoter/s?

A. As per Section 12 (2) of the Banking Regulation Act, 1949, any shareholder's voting rights in private sector banks are capped at 10 per cent. Therefore, the voting rights cap also applies to the promoters

110. In case of SFBs, does RBI envisage shares with differential voting rights? On one hand, 5% voting rights can be increased to 26% in a phased manner whereas there is a restriction of maximum of 10% holding which appears contradictory.

A. SFBs can issue differential voting rights, subject to minimum equity capital of Rs.100 crore being voting equity. As regards, second part there is no contradiction. As on date the voting rights are limited to 10 per cent per shareholder (Section 12(2) of the Banking

Regulation Act, 1949). The provision relating to 26 per cent voting rights is an enabling provision for the future.

111. What criteria would be considered by RBI for raising the voting rights to 26 per cent?

As on date the voting rights are limited to 10 per cent per shareholder (as per BR Act)?

A. The provision relating to 26 per cent voting right is an enabling provision for the future.

112. Where a Small Finance Bank is promoted by a company, would all transfers of shares of the promoter company require prior permission from the RBI? or prior permission will be required only for transfer of shares held by the promoter/ group entities?

A. As per Section 12B of the Banking Regulation Act, 1949, any acquisition of 5 per cent or more of the paid-up share capital in a private sector bank will require prior approval of RBI. As regards the

promoter entity, all transfers which will result in significant change in ownership and/or control will require prior approval of RBI.

113. Whether the shareholding in the intermediate holding company can change inter-se between Promoter group within the thresholds?

A. In case the promoters desire to set up the small finance bank under the NOFHC, the NOFHC would be required to be wholly owned by the promoter group and any change in shareholding within the promoter group of 5 per cent or more in the NOFHC should be with prior approval of RBI.

114. Will PSL criteria be applicable on the very first day of a new small bank or a timeline for compliance would be provided for the same?

115. In case of conversion of NBFC/MFI into bank, will the priority sector lending targets apply only to new loans issued after commencement of banking operations? Or will they also apply to existing portfolio? In such case, will they get a time window to meet the priority sector targets?

A.(114 & 115) Priority sector obligations will take effect with reference to the adjusted

net bank credit (ANBC) (OBSE) as on 31 March following the commencement of banking business. For example, if 'in-principle' approval is granted in June 2015, the bank has to commence banking business latest by December 2016. In that case, the bank has to maintain PSL by March 31, 2018 on the ANBC base as of March 31, 2017(the reference date). In such a scenario about 33 months would be available to the Promoters/Promoter Group to achieve the PSL target on the existing loan book carried over to the new bank.

116. Will CRR/SLR norms be applicable on the very first day of a new small bank or a time line for compliance would be provided for the same?

117. When an existing MFI is to be converted to the bank, the SLR/CRR requirements are to be met. If the MFI has a borrowing from banks of around Rs. 3000 crore on the date of conversion, it would be required to invest about Rs. 850 Crore in the Government Securities for SLR/CRR

purpose on the first date of conversion itself which would be a huge challenge. While SLR/CRR are a must and must be complied with, by all banks, in the safety of depositors, we would seek that some time be given to existing MFIs who are converting, to meet this requirement. The time can be in the range of about 1-2 years to achieve SLR/CRR on a graded basis on a quarterly basis.

A (116 to 117). No forbearance for maintenance of CRR and SLR will be granted by RBI, as these are statutory requirement for the banks.

118. PSL status of the Loans taken from Banks before conversion: On our books, these are loans taken from bank for on lending. These loans enjoy the PSL benefit on the books of the lender bank. Given that RBI has mentioned grandfathering of charge on the books of the NBFC; will RBI also grandfather these loans to enjoy the PSL status, post conversion of the NBFC into SFB, as any withdrawal of PSL benefit may result in banks recalling / repricing the loan to the NBFC/SFB?

A. Loans against the borrowings from other banks will cease to have PSL status for the lending banks once the new SFB commences its business.

119. Kindly clarify the meaning / scope of 'group obligor'.

A. Group obligor means group borrower and the group exposure would include loans, advances, investments, etc.

120. Whether the word 'exposure' covers providing loans and advances or also cover arm's length business relations (selling of product acting as agents, BCs etc)?

121. Is the word 'exposure' limited to providing loans and advances or does it also cover arm's length business relations (such as selling of product acting as agents, BCs etc.)?

A. (120 & 121) The guidelines indicate that, the maximum loan size and investment limit exposure to a single and group obligor would be restricted to 10 per cent and 15 per cent of its capital funds, respectively. For a complete coverage of the word "exposure", please see RBI Master Circular RBI/2014-15/66 DBOD.No.Dir.BC.12/13.03.00/2014-15 dated July 01, 2014 on Exposure Norms.

122. Can a SFB choose to allocate 40% of the PSL requirement to sub-sector suited to its comparative advantage or will it be required to lend to different sub-sectors that qualify towards PSL?

A. No. The guidelines clearly indicate that 40 per cent of the small finance bank's Adjusted Net Bank Credit (ANBC) should be allocated to different sub-sectors under PSL as per the extant PSL prescriptions of RBI. The balance 35 per cent can be allotted to any one or more sub-sectors where it has comparative advantages.

123. On the day 1 of the start of the SFB (after the 18 months transformation period) will CRR & SLR apply on the earlier term loans taken from banks which are allowed to be grandfathered? (capital charge)

A. Yes.

124. Will the new SFB be allowed to keep such grandfathered loans out of the computation of Inter Bank limits till the maturity of the loans?

A. Necessary guidelines will be issued in due course.

125. When a NBFC (Non-Deposit taking) converts into a Small Finance Bank, will it require maintaining CRR & SLR on its existing Borrowings which are secured and institutional and not in the nature of demand deposits?

A. Yes.

126. Will there be any restriction on the rate of interest for deposits and advances?

A. The small finance bank will be subject to all prudential norms and regulations of RBI as applicable to existing commercial banks(para 9 of the guidelines).

127. Will RBI consider allowing the small finance bank to take over and convert own existing NBFC branches into bank branches?

A. Please refer to para 10 of the guidelines

128. In case of grand-fathering of loans, there is a reference made to additional capital charge? Could you elaborate on the same?

129. Where floating charges are created by the NBFCs/ MFIs, the guideline says that RBI will provide for 'grandfathering'. Can you kindly explain the course of action intended in this case and the time line to substitute this charge by alternative sources? Can you also explain what kind of capital norms RBI is thinking of in those cases to provide the grandfathering?.

A.(128 & 129) The norms with regard to additional capital charge will be decided in due course.

130. Grandfathering of existing loans and interbank limits: Will the new SFB be allowed to keep such grandfathered loans out of the computation of inter bank limits till the maturity of the loans?

131. Most NBFCs rely on bank financing as a major source of funding. If an NBFC converts into a Small Finance Bank (SFB), it will have to comply with the current banking regulations which limit the net interbank borrowing for any bank to three times its net worth. Most NBFCs will not be able to comply with this regulation. This is because, currently, the average bank funding of NBFCs is not less than 4 to 5 times their net worth. The average bank funding is much higher in case of Housing Finance Companies. It will be difficult for the NBFCs to overnight convert their bank funding through alternative sources such as deposits. There may thus be a need to provide for grandfathering. The guidelines do outline grandfathering of floating charges against bank borrowings until these borrowings mature.

132. New Loans and Interbank Limits during the conversion period: Post conversion of NBFC into SFB, the new SFB will need 12-18 months to build up the deposit momentum. During this phase, will RBI permit the new SFB to continue to

tap into bank borrowing under the previous NBFC criteria and not limit the borrowing of SFB based on inter-bank limits?

A.(130 & 132) Necessary guidelines will be issued in due course.

133. The guidelines restrict the non-promoter's holding to 10 per cent. In this regard, kindly clarify whether the non-Promoter's holding in the Intermediate holding company (being owned and controlled by residents) promoting the proposed SFB would also be counted for this purpose?

A. In case the promoters desire to set up the Small Finance Bank under the NOFHC, the NOFHC would be required to be wholly owned by the promoter group and no non-promoter shareholding would be allowed in the NOFHC.

134. The guidelines prescribe that NBFCs / MFIs can also opt for conversion into SFBs. Please clarify whether an existing NBFC / MFI can set-up a SFB separately. In such an event, kindly clarify whether all financial services business which could be undertaken by SFB need to be folded into SFB?

A. An NBFC can set up a SFB. However, all lending activity should be folded into bank. The guidelines indicate that on conversion into a small finance bank, the NBFC / MFI will cease to exist and all its business which a bank can undertake should fold into the bank and the activities which a bank cannot undertake be divested / disposed of. The other financial and non-financial services activities of the promoters should be kept distinctly ring-fenced and not comingled with the bank

135. Whether an existing NBFC in the Promoter group can co-exist with the SFB where the business of the said NBFC is non-competing (i.e. the ticket size, target customer, etc. are different) with the business to be conducted by the proposed SFB?

A. No. All permitted lending activity should be folded into the bank and the activities which a bank cannot undertake be disposed of.

136. RBI may kindly clarify the dispensation available (on the lines of item ii Para 13) to the existing investors (mainly PE) in the existing NBFC-MFI regarding their maximum stakes that would be permitted in case the NBFC-MFI converts itself in a small finance bank.

A. Para 13(ii) applies to existing investors including PEs.

137. The guidelines provide that in case of existing NBFCs/ MFIs (opting to convert into a SFB) which have diluted the promoters' shareholding to below 40 per cent, but above 26 per cent, due to regulatory requirements or otherwise, RBI may not insist on the Promoters' minimum initial contribution of 40 percent. In this regard, kindly clarify the meaning of the term 'otherwise' or under which other scenarios, 26% Promoters' shareholding (as against the 40%) would be acceptable to RBI?

138. What is meant by 'dilution by regulatory requirement or otherwise' – if the shares of a MFI are issued to a strategic investor which has resulted into dilution of promoter's stake be regarded as falling within this?

A.(137 & 138) "Otherwise" can be interpreted in a general sense to mean as any other reason apart from regulatory requirements. The applicant should explain the circumstances.

139. Where an existing NBFC/ MFI/ LAB proposes to convert into a SFB, can the preference shares already issued be included in calculating the net worth of Rs 100 crore of the existing entity?

A. Currently, preference shares of the nature indicated in Master Circular RBI/2014-15/76

DBOD.No.BP.BC.4/21.01.002/2014-15 - Prudential Norms on Capital Adequacy - Basel I Framework dated July 1, 2014, only are eligible for inclusion in net worth.

140. Would any relief (or transition period exceeding 18 months) be available in relation to the requirement of additional infusion of capital to an existing NBFC/MFI/LAB, having a paid up share capital of Rs. 100 crores or more but having losses because of which its net worth is less than Rs. 100 crore?

A. No.

141. For existing NBFC-MFIs and transformation cases, apparently the promoter holding required is 26% and Foreign holding can be up to 74% as long as the same has been done under FDI & RBI guidelines? This may please be confirmed.

A. The presumption that the promoter's stake for all NBFCs is 26% is incorrect. The promoter holding of 26% will be allowed where the reduction has taken place due to regulatory requirement.

142. For existing NBFC-MFI transformation cases, existing plus additional paid-up capital should add to INR 100 Crore: does this mean that any share premium collected in this additional raise process will not be counted?

A. The share premium collected in raising additional paid-up capital will be counted for the purpose of net worth.

143. At the time of application, are experienced directors required?

A. The names of the Board of Directors of the small finance bank would be required to be furnished to the Reserve Bank after grant of in-principle approval.

144. Whether the Director / Individual Shareholder of an entity promoting a SFB could become the Chairman of such bank?

A. Yes, subject to prior approval of RBI as per section 35B of the Banking Regulation Act, 1949.

145. Whether the Promoter entity and the SFB can have common directors?

146. Where the promoter of the SFB already has independent directors, it may be clarified whether the said independent directors being nominated on the Board of the SFB will also qualify as independent directors for the SFB.

147. Can the Promoter entity and the Bank have common directors including managing director and common independent directors?

A.(145 to 147) There could be non-executive common directors in the promoter entity and the small finance bank. However, a director of the promoter entity being also a director on the Board of the bank will not be considered as independent director of the bank.

148. The requirement of majority being independent directors. Does such requirement exist for any kind of bank/financial institution already or is it only proposed for Small Finance Bank?

A. The requirement of independent Directors are already applicable to existing listed banks as per the Clause 49 requirements of SEBI.

149. Would a small finance bank be directly participating in clearing or it would need to go through some large bank?

A. The bank can decide upon the type of membership— direct or through sub-member route, depending upon the access criteria (eligibility norms) set for respective payment system.

150. A company may have > 10% non-promoter individual shareholding at the time of in-principle approval. Will the 3 year period of reduction to <= 10%, start from date of in-principle approval of license or commencement of banking operations?

A. The three year period will start from the date of in-principle approval.

151. Individuals (including relatives) and entities other than promoters will not be eligible to have a shareholding in excess of 10%. Does it mean that in case new investor who wants to invest in a new bank cannot hold/own in excess of 10% in such a bank?

152. In case of proposed demerger or transfer of permitted business by the Promoter/Promoter group entity to a new bank (as part of road map for meeting eligibility criteria's for bank set up), the existing shareholders including non-promoters would be issued shares in the bank. Does this need to be capped at 10% for non-promoters at the time of issue of shares itself by new bank or RBI would permit banks to issue shares in excess of 10% to non-promoters on such demerger/ transfer and subsequently the same can be diluted to 10% within 3 years from the date of issue of such shares.

A.(151 & 152)Yes. The holding will be capped at 10% for non-promoters at the time of issue of shares itself by the new bank. In case of existing NBFCs / MFIs / LABs converting into small finance banks, RBI may consider providing time upto 3 years from the date of in-principle approval for the shareholding to be brought down to 10 per cent, in case of holdings beyond 10%.

153. The guidelines mention that the SFBs will not be allowed to function as Business Correspondents (BCs) for another bank. Since this is the only exclusion expressly mentioned, will SFBs be allowed to carry out distribution of other non-bank financial products such as insurance or investment products?

A. Please refer to para 4 of the guidelines on SFB.

154. National Housing Bank (NHB) has a credit guarantee fund for small ticket housing loans. Such loans are an important component of financial inclusion and part of an important government agenda of affordable housing. Will this fund or similar funds be available to SFBs? This is particularly relevant to the (small ticket) housing loan portfolios of NBFCs (especially HFCs) converting into SFB.

A. Availability of credit guarantee fund or similar such funds to small finance banks will

depend on the respective regulators' stipulations.

155. Ours is a Nidhi Company as per Section 620A of Companies Act, 1956. As per the guidelines issued, only NBFCs, MFIs and LABs can apply for conversion to Banks. Whether Nidhi Companies, catering to the small and medium segment of the society can also apply for conversion especially because we work in a low-cost environment which can be continued for extending banking services to the lower section of the society and also because all our activities are as permissible to banks.

A. If Nidhi companies are registered under the Companies Act they would be eligible to apply for SFB licence.

156. If we cannot apply for conversion, our shareholders, which is wide-spread, are interested in applying for a banking licence. There is no promoter group, as such. The company is professionally managed. It may be difficult for us to meet the stipulation that promoters should contribute at least 40% of the capital, though the shareholders can easily mobilise the stipulated capital of Rs.100 crore. Please inform whether the minimum stipulation for promoters' contribution

will be applicable in such case or should we list all major shareholders as promoters.

A. Individuals are eligible as promoters of an SFB conforming to the requirements of para 3 of the guidelines.

157. Whether it is mandatory for a SFB to implement Core Banking Solution? Can the promoter/ promoter groups leverage their existing technology infrastructure and integrate current and new technology required for sound operation of the SFB?

A. Please refer to para 13(iv) of the guidelines in this regard.

158. Is it permissible for a set of promoters to shift their holding using the NOFHC vehicle? Also, how concerns of minority promoter and foreign investor could be addressed?

A. The NOFHC has to be wholly owned by the promoters. It is for the promoters to address the concerns of minority promoters and foreign investors.

159. When the promoter is a Company or any other body corporate planning to incorporate "SFB", whether the said Promoting Company has to be compulsorily (Non-Operative Financial Holding Company) NOFHC?

A. Not necessary.

160. Can a small finance bank also offer payment/remittance products as well as access to ATMs/ POS terminals?

A. Yes.

161. We seek your clarification that whether the shareholding of "entities other than the promoters" to be brought down to 10% within 3 years of the

commencement of operations as a Small Bank or from the date of grant of license.

A. The three year period will start from the date of in-principle approval.

162 Some of the NBFCs have recourse to Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) and the mechanism of Debt Recovery Tribunals (DRTs). On similar lines, will the legal provisions of SARFAESI and DRTs be available to SFBs?

163. Will the bank be allowed to DRT, SARFAESI etc. for recovery of loans? Will the SFB be on par in terms of power to recover money, as compared to universal banks?

A.(162 & 163). Yes. The legal provisions of SARFAESI Act and DRT mechanism will be available to the small finance banks also.

164. We are a private limited company incorporated under the Companies Act, 1956. Can the conversion to public limited company be completed after receiving in principle approval to form a Small Finance Bank?

A. The requirement of Public Limited Company is for the bank and not for the promoters.

165. Based on a combined reading of Para 10, Para 1 and Para 16(iv) of the guidelines, would it be correct to say that an existing NBFC/ MFI/ LAB who is a private limited company and who proposes to convert itself into an SFB, could convert itself into public company and infuse additional capital required within eighteen months of grant of in-principle approval and at this stage it would be required to submit a plan of how to achieve the same?

A. Yes. At the time of making applications, the Promoters/Promoter Group will have to furnish a plan and methodologies they would adopt to comply with all the requirements of the guidelines

166. Where can we obtain the prescribed format of Form III to make an application?

A. [Form III](#) is annexed to The Banking Regulation (Companies) Rules, 1949.

167. Please provide a timeline for the shortlisted as well as final list of applicants getting the Small Finance Bank license.

168. What is the time frame when RBI expects to issue the licences?

169. What is the timeline for granting in-principle approvals? Will all approvals be granted at one-go or over a period of time?

A.(167 to 169)The timelines will depend primarily on the number of applications received and the time taken for completion of the approval process.

170. Can RBI provide a range / estimate on the minimum and maximum number of licences that it is planning to issue?

A. Please refer to para 16 (vii) of the guidelines.

171. Kindly clarify the scope of 'the companies/entities with which the promoters are associated and the group in which they have interest'.

A. RBI will primarily look into the entities in the promoter group as defined by SEBI (Issue of Capital & Disclosure Requirements) Regulations, 2009.

172. Can we get some illustrations of 'additional criteria' from RBI perspective to determine the suitability of applications, in addition to the prescribed 'fit and proper' criteria?

A. The same will be as firmed up at the time of processing of the applications.

173. What should be the period for the business plan (3, 5 or 10 years) to be submitted as a part of the application?

A. The business plan should be realistic and viable. It should address how the bank proposes to achieve financial inclusion. It would be desirable to give business plan covering five years.

174. Whether details of relatives of the Promoters and Promoter group companies should also be furnished alongwith the application where those relatives do not hold any interest in the SFB or any of the Promoter group entities?

A. Information should be furnished as per the requirements mentioned in the guidelines and the Annex to the guidelines.

175. The annexure to the guidelines (refer Para I(1)(b) of the annexure) provide for providing the details of Promoter's direct and indirect interests in various entities/ companies/ industries, etc. Can the definition of the "Promoter" / "Promoter Groups" as per SEBI (Issue of Capital & Disclosure Requirements), Regulations 2009 be referred for the same

A. Yes. The guidelines indicate that the Promoter / Promoter Groups will be as defined in the SEBI (Issue of Capital & Disclosure Requirements) Regulations, 2009.

176. Where the promoter entity is a listed Indian company, is it sufficient to list all the entities named as shareholders of the listed company constituting the promoter group? Where promoter group constitutes "body corporates", details of all the shareholders of the body corporate need not be

provided. Please confirm.

A. The Annex to the guidelines indicates that a tabulation of names of all the individuals and entities in the promoter group (including financial, non-financial and overseas entities) with details mentioned should be provided with the application. For the purpose, promoter / promoter group will be as defined by SEBI (Issue of Capital & Disclosure Requirements) Regulations, 2009. As regards body corporates, details of shareholders having significant influence and control should be indicated.

Senior Citizens Savings Scheme, 2004

1. What are the salient features of the Senior Citizens Savings Scheme, 2004?

The salient features of the Senior Citizens Savings Scheme, 2004 are given below.

Tenure of the deposit account	5 years, which can be extended by 3 years.
Rate of interest	9.3 per cent per annum
Frequency of computing interest	Quarterly
Taxability	Interest is fully taxable.
Whether TDS is applicable	Yes. Tax will be deducted at source.
Investment to be in multiples of	₹1000/-

Maximum investment limit	₹ 15 lakh
Minimum eligible age for investment	60 years (55 years for those who have retired on superannuation or under a voluntary or special voluntary scheme). The retired personnel of Defence Services (excluding Civilian Defence Employees) will be eligible to invest irrespective of the age limits subject to the fulfillment of other specified conditions
Premature closure/withdrawal facility	Permitted after one year of opening the account but with penalty.
Transferability	Not transferable
Tradability	Not tradable
Nomination facility	Nomination facility is available.
Modes of holding	Accounts can be held both in single and joint holding modes. Joint holding is allowed only with spouse.
Application forms available with	Post Offices and designated branches of 24 Nationalised banks and one private sector bank
Applicability to NRI, PIO and HUFs	Non Resident Indians (NRIs), Persons of Indian Origin (PIO) and Hindu Undivided Family (HUF) are not eligible to open an account under the Scheme.
Transfer from one deposit office to another	Transfer of account from one deposit office to another is permitted.

2. Can a joint account be opened under the scheme with any person?

Joint account under the SCSS, 2004 can be opened only with the spouse. [Rule 3 (3)]

3. What should be the age of the spouse in case of a joint account?

In case of a joint account, the age of the first applicant / depositor is the only factor to decide the eligibility to invest under the scheme. There is no age bar/limit for the second applicant / joint holder (i.e. spouse). [Rule 3 (3)]

4. What will be the share of the joint account holder in the deposit in an account?

The whole amount of investment in an account under the scheme is attributed to the first applicant / depositor only. As such, the question of any share of the second applicant / joint account holder (i.e. spouse) in the deposit account does not arise. [Rule 3 (3)]

5. Whether both the spouses can open separate accounts in their individual capacity with separate limit of Rs.15 lakh for each of them?

Both the spouses can open individual and / or joint accounts with each other with the maximum deposits up to Rs.15 lakh each, provided both are individually eligible to invest under relevant provisions of the Rules governing the Scheme. (Rules 3 and 4)

6. Whether any income tax rebate / exemption is admissible?

No income tax / wealth tax rebate is admissible under the Scheme. The prevailing Income Tax provisions shall apply. (GOI letter F. No.2/8/2004/NS-II dated October 13, 2004)

7. Is TDS applicable to the scheme?

Yes, TDS is applicable to the Scheme as interest payments have not been exempted from deduction of tax at source. (GOI letter F. No.2/8/2004/NS-II dated March 28, 2006)

8. Whether any minimum limit has been prescribed for deduction of tax at source?

Tax is to be deducted at source as per the minimum limit prescribed by the Government.

9. What is the rate at which TDS is to be deducted from the account holder?

The rate for TDS for a financial year is specified in Part II of Schedule I of the Finance Act for that year. (GOI letter F. No.2/8/2004/NS-II dated June 06, 2006)

10. Whether TDS should also be recovered from the undrawn interest payable to the legal heirs of the deceased depositors?

Tax shall be deducted at source even from any interest paid / payable to the legal heir of the account holder. (GOI letter F. No.2/8/2004/NS-II dated June 06, 2006)

11. Whether TDS on interest payments will be applicable with retrospective effect or prospective basis?

TDS is applicable from the very first day when SCSS, 2004 was made operational regardless of the fact that the Central Government or Reserve Bank of India or any authority might have issued any Notification / circular / clarification at a later stage. (GOI letter F. No.2/8/2004/NS-II dated June 06, 2006)

12. Whether only one person or number of persons can be nominated in the accounts opened under the Scheme?

The depositor may, at the time of opening of the account, nominate a person or persons who, in the event of death of the depositor, will be entitled to payment due on the account. [Rule 6 (1)]

13. Can a nomination be made after the account has already been opened?

Yes, nomination may be made by the depositor at any time after opening of the account but before its closure, by an application in Form C accompanied by the Pass book to the deposit office. [Rule 6 (2)]

14. Can a nomination be cancelled or changed?

Yes, the nomination made by the depositor may be cancelled or varied by submitting a fresh nomination in Form C to the deposit office where the account is being maintained. [Rule 6 (3)]

15. Can nomination be made in joint account also?

Nomination can be made in joint account also. In such a case, the joint holder will be the first person entitled to receive the amount payable in the event of death of the depositor. The nominee's claim will arise only after the death of both the joint holders. [Rule 6 (4)]

16. Can a person holding a Power of Attorney sign for the nominee in the nomination form ?

No, a person holding a Power of Attorney cannot sign for the nominee in the nomination form. (GOI letter No. F.15/8/2005/NS-II dated March 02, 2006)

17. In case of a joint account, if the first holder / depositor expires before maturity, can the account be continued?

In case of a joint account, if the first holder / depositor expires before the maturity of the account, the spouse may continue the account on the same terms and conditions as specified under the SCSS Rules. However, if the second holder i.e. spouse has his / her own individual account, the aggregate of his/her individual account and the deposit amount in the joint account of the deceased spouse should not be more than the prescribed maximum limit. In case the maximum limit is breached, then the remaining amount shall be refunded, so that the aggregate of the individual account and deceased spouse's joint account is maintained at the maximum limit. [Rules 6 (4) and 8 (3)]

18. What happens to the accounts if both the spouses are maintaining individual accounts and not any joint account and one of them expires?

If both the spouses have opened separate accounts under the scheme and either of the spouses dies during the currency of the account(s), the account(s) standing in the name of the deceased depositor/spouse shall not be continued and such account(s) shall be closed. The account can be closed by making an application in Form 'F'. Annexures II & III to Form 'F' can be attested by the Oath Commissioner or Notary Public [Rule 8].

19. Whether any fee has been prescribed for nomination and / or change / cancellation of nomination?

No fee has been prescribed for nomination and / or change / cancellation of nomination(s) in the accounts under the SCSS, 2004. (GOI letter F. No.2/8/2004/NS-II dated October 13, 2004)

20. What is the age limit in the case of retired Defence Personnel for investment in the scheme?

The retired personnel of Defence Services (excluding Civilian Defence Employees) will be eligible to subscribe under the scheme irrespective of the age limit of 60 years subject to the fulfillment of other specified conditions. (The Senior Citizens Savings Scheme (Amendment) Rules, 2004 notified on October 27, 2004)

21. What is the meaning of 'retirement benefits' for the purpose of SCSS, 2004?

"Retirement benefits" for the purpose of SCSS Rules have been defined as 'any payment due to the depositor on account of retirement whether on superannuation or otherwise and includes Provident Fund dues, retirement / superannuation gratuity, commuted value of pension, cash equivalent of leave, savings element of Group Savings linked Insurance scheme payable by employer to the employee on retirement, retirement-cum-withdrawal benefit under the Employees' Family Pension Scheme and ex-gratia payments under a voluntary retirement scheme'. (Rule 2 (a) of the Senior Citizens Savings Scheme (Amendment) Rules, 2004 notified on October 27, 2004)

22. Can deposits under the SCSS scheme be made only from amounts received as retirements benefits?

In case an investor has attained the age of 60 years and above, the source of amount being invested is immaterial [Rule 2 (d)(i)]. However, if the investor is 55 years or above but below 60 years and has retired under a voluntary scheme or a special voluntary scheme or has retired from the Defence services, only the retirement benefits can be invested in the SCSS. [Rule 2(d) (ii)].

23. Is there a period prescribed for opening deposit account under the SCSS scheme, by the senior citizen, from the retirement benefits?

If the investor is 60 years and above, there is no time period prescribed for opening the SCSS account(s). However for those below 60 years, following time limits have been prescribed.

(a) the persons who have attained the age of 55 years or more but less than 60 years and who retired under a voluntary retirement scheme or a special voluntary retirement scheme on the date of opening of an account under these rules, subject to the condition that the account is opened by such individual **within three months of the date of retirement.**

(b) the persons who have retired at any time before the commencement of these rules and attained the age of 55 years or more on the date of opening of an account under these rules, will also be eligible to subscribe under the scheme **within a period of one month of the date of the notification of the SCSS, 2004 i.e. 27th October 2004**, subject to fulfillment of other conditions. [Rule 2 of the Senior Citizens Savings Scheme (Amendment) Rules, 2004]

(c) the retired personnel of Defence Services (excluding Civilian Defence Employees) will be eligible to subscribe under the scheme **irrespective of the above age limits** subject to the fulfillment of other specified conditions. [Rule 2 of the Senior Citizens Savings Scheme (Amendment) Rules, 2004]

24. Can an account holder obtain loan by pledging the deposit / account under the SCSS, 2004?

The facility of pledging the deposit / account under the SCSS, 2004 for obtaining loans, is not permitted since the account holder will not be able to withdraw the interest amount periodically, defeating the very purpose of the scheme. (GOI letter F. No.2/8/2004/NS-II dated May 31, 2005)

25. Is premature withdrawal of the deposits from the accounts under the SCSS, 2004 permitted?

Premature withdrawal / closure of the deposits from the accounts under the SCSS, 2004 has been permitted after completion of one year from the date of opening of the account after deducting the penalty amount as given below.

(i) If the account is closed after one year but before expiry of two years from the date of opening of the account, an amount equal to one and half per cent of the deposit shall be deducted.

(ii) If the account is closed on or after the expiry of two years from the date of opening of the account, an amount equal to one per cent of the deposit shall be deducted.

However, if the depositor is availing the facility of extension of account under Rule 4 (3), then he/she can withdraw the deposit and close the account at any time after the expiry of one year from the date of extension of the account without any deduction. [Rule 9 (1) (a) (b) and (2)]

26. Are Non-resident Indians, Persons of Indian Origin and Hindu Undivided Family eligible to invest in the SCSS, 2004?

Non resident Indians (NRIs), Persons of Indian Origin (PIO) and Hindu Undivided Family (HUF) are not eligible to invest in the accounts under the SCSS, 2004. If a depositor becomes a Non-resident Indian subsequent to his/her opening the account and during the currency of the account under the SCSS Rules, the account may be allowed to continue till maturity, on a non-repatriation basis and the account will be marked as a Non-Resident account. [Rule 13 and GOI letter F.No.2/8/2004/NS-II dated June 19, 2006]

27. Can an account be transferred from one deposit office to another?

A depositor may apply in Form G, enclosing the Pass Book thereto, for transfer of his account from one deposit office to another. If the deposit amount is rupees one lakh or above, a transfer fee of rupees five per lakh of

deposit for the first transfer and rupees ten per lakh of deposit for the second and subsequent transfers shall be payable. [Rule 11 and GOI Notification GSR.(E) dated March 23, 2006]

28. Can an SCSS account be extended?

A depositor may extend the account for a further period of three years by making an application to the deposit office within a period of one year after maturity.

29. Does an account, which is not extended on maturity, earn any interest?

In case a depositor does not close the account on maturity and also does not extend the account, the account will be treated as matured and the depositor will be entitled to close the account at any time subject to the condition that the post maturity interest at the rate as applicable to the deposits under the Post office Savings Accounts from time to time will be payable on such matured deposits upto the end of the month preceding the month of the closure of the account.

30. What happens if an account is opened in contravention of the SCSS Rules?

If an account has been opened in contravention of the SCSS Rules, the account shall be closed immediately and the deposit in the account, after deduction of the interest, if any, paid on such deposit, shall be refunded to the depositor. (Rule 12)

31. Whether commission is payable to the agents under the Scheme?

Payment of commission on the Scheme has been discontinued w.e.f. December 1, 2011 (Government of India Notification dated November 25, 2011).

32. Which are the banks authorized to open an account under the SCSS, 2004?

At present, 24 Nationalized banks and one private sector bank, as per list below, are authorized to handle the SCSS, 2004. It may be noted that only designated branches of these banks have been authorized to handle SCSS, 2004.

1. State Bank of India
2. State Bank of Hyderabad
3. State Bank of Bikaner and Jaipur
4. State Bank of Patiala
5. State Bank of Mysore
6. State Bank of Travancore
7. Allahabad Bank
8. Andhra bank
9. Bank of Baroda
10. Bank of India
11. Bank of Maharashtra
12. Canara Bank
13. Central Bank of India
14. Corporation Bank
15. Dena Bank
16. Indian Bank
17. Indian Overseas Bank
18. Punjab National Bank
19. Syndicate Bank
20. UCO Bank

21. Union Bank of India
22. United Bank of India
23. Vijaya Bank
24. IDBI Bank
25. ICICI Bank Ltd.

These FAQs are issued by the Reserve Bank of India for information and general guidance purposes only. The Bank will not be held responsible for actions taken and/or decisions made on the basis of the same. For clarifications or interpretations, if any, investors are requested to be guided by the relevant circulars and notifications issued from time to time by the Bank and the Government as well as the relevant provisions of the Senior Citizens S

Know Your Customer Guidelines

(updated up to December 22, 2014)

(This is a summarised and simplified version of the Reserve Bank of India's Know Your Customer guidelines. For further details, please refer to the links which are provided below.)

Q 1. What is KYC? Why is it required?

Response: KYC means "Know Your Customer". It is a process by which banks obtain information about the identity and address of the customers. This process helps to ensure that banks' services are not misused. The KYC procedure is to be completed by the banks while opening accounts and also periodically update the same.

Q 2. What are the KYC requirements for opening a bank account?

Response: To open a bank account, one needs to submit a 'proof of identity and proof of address' together with a recent photograph.

Q3. What are the documents to be given as 'proof of identity' and 'proof of address'?

Response: The Government of India has notified six documents as 'Officially Valid Documents (OVDs)' for the purpose of producing proof of identity. These six documents are Passport, Driving Licence, Voters' Identity Card, PAN Card, Aadhaar Card issued by UIDAI and NREGA Card. You need to submit any one of these documents as proof of identity. If these documents also contain your address details, then it would be accepted as as 'proof of address'. If the document submitted by you for proof of identity does not contain address details, then you will have to submit another officially valid document which contains address details.

http://rbidocs.rbi.org.in/rdocs/content/pdfs/PMLAME170714_A.pdf

<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/CA090614FCN.pdf>

Q 4. If I do not have any of the documents listed above to show my 'proof of identity', can I still open a bank account?

Response: Yes. You can still open a bank account known as 'Small Account' by submitting your recent photograph and putting your signature or thumb impression in the presence of the bank official.

Q 5. Is there any difference between such 'small accounts' and other accounts

Response: Yes. The 'Small Accounts' have certain limitations such as:

- balance in such accounts at any point of time should not exceed Rs.50,000
- total credits in one year should not exceed Rs.1,00,000
- total withdrawal and transfers should not exceed Rs.10,000 in a month.
- Foreign remittances cannot be credited to such accounts.

Such accounts remain operational initially for a period of twelve months and thereafter, for a further period of twelve months, if the holder of such an account provides evidence to the bank of having applied for any of the officially valid documents within twelve months of the opening of such account. The bank will review such account after twenty four months to see if it requires such relaxation.

<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/COSA270111.pdf>

Q 6. Would it be possible, if I do not have any of the officially valid documents, to have a bank account, which is not subjected to any limitations as in the case of 'small accounts'?

Response: A normal account can be opened by submitting a copy of any one of the following documents:

(i) Identity card with person's photograph issued by Central/State Government Departments, Statutory/Regulatory Authorities, Public Sector Undertakings, Scheduled Commercial Banks, and Public Financial Institutions;

or

(ii) letter issued by a gazetted officer, with a duly attested photograph of the person.

This, however, is not a general rule and it is left to the judgement of the banks to decide whether this simplified procedure can be adopted in respect of any customer.

http://rbidocs.rbi.org.in/rdocs/content/pdfs/PMLAME170714_A.pdf

Q 7. Are banks required to categorise their customers based on risk assessment?

Response: Yes, banks are required to classify the customers into 'low', 'medium' and 'high' categories depending on their AML risk assessment.

Q 8. Do banks inform customers about this risk categorisation?

Response: No

Q 9. If I refuse to provide requested documents for KYC to my bank for opening an account, what may be the result?

Response: If you do not provide the required documents for KYC, the bank may not be able to open your account.

http://www.rbi.org.in/scripts/BS_ViewMasCircularDetails.aspx?id=9031

Q 10. Can I open a bank account with only an Aadhaar card?

Response: Yes, Aadhaar card is now accepted as a proof of both, identity and address.

<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/KYC101212CFS.pdf>

Q 11. What is e-KYC? How does e-KYC work?

Response: e-KYC refers to electronic KYC.

e-KYC is possible only for those who have Aadhaar numbers. While using e-KYC service, you have to authorise the Unique Identification Authority of India (UIDAI), by explicit consent, to release your identity/address through biometric authentication to the bank branches/business correspondent (BC). The UIDAI then transfers your data comprising name, age, gender, and photograph of the individual, electronically to the bank/BC. Information thus provided through e-KYC process is permitted to be treated as an 'Officially Valid Document' under PML Rules and is a valid process for KYC verification.

(<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/CKUI0209013E.pdf>)

Q 12. Is introduction necessary while opening a bank account?

Response: No, introduction is not required.

(<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/KYC101212CFS.pdf>)

Q 13. If I am staying in Chennai but if my address proof shows my address of New Delhi, can I still open an account in Chennai?

Response: Yes. You can open a bank account in Chennai even if your permanent address is in New Delhi and you do not have a proof of address for your Chennai. In that case, you can submit an officially valid document (proof of address document) of your New Delhi address together with a declaration about your Chennai address, for communication purposes.

(<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/CA090614FCN.pdf>)

Q 14. Can I transfer my existing bank account from one place to another? Do I need to undergo full KYC again?

Response: Yes, it is possible to transfer an account from one branch to another branch of the same bank. There is no need for KYC exercise again to transfer a bank account from one branch to another branch of the same bank. However, if there is a change of address, then you would have to submit a declaration about the current address. If the address in the 'officially valid documents' / 'proof of address' is neither permanent nor current address, a new proof of address would be required within six months. In case of opening an account in another bank, however, you would have to undergo KYC exercise afresh.

(http://rbidocs.rbi.org.in/rdocs/notification/PDFs/KYCAML290113_F.pdf) and
(<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/CA090614FCN.pdf>)

Q 15. Do I have to furnish KYC documents for each account I open in a bank even though I have furnished the documents of proof of identity and address?

Response: No, if you have opened an account with a bank, which is KYC compliant, then for opening another account with the same bank, furnishing of documents is not necessary.

Q 16. For which banking transactions do I need to quote my PAN number?

Response: PAN number needs to be quoted for transactions, such as, account opening, transactions above Rs.50,000 (whether in cash or non-cash), etc. A full list of transaction where PAN number needs to be quoted can be accessed from website of Income Tax Department at the following URL:

http://law.incometaxindia.gov.in/DIT/File_opener.aspx?page=ITRU&schT=rul&csId=21533008-bbb4-4f86-b609-9296e8b5223e&rNo=114B&sch=&title=Taxmann%20-%20Direct%20Tax%20Laws

Q 17. Whether KYC is applicable for Credit/Debit/Smart/Gift cards?

Response: Yes. Full KYC exercise is necessary for Credit/Debit/Smart/for purchaser of Gift Cards and also in respect of add-on/ supplementary cards.

(http://www.rbi.org.in/scripts/BS_ViewMasCirculardetails.aspx?id=9031)

Q 18. I do not have a bank account. But I need to make a remittance. Is KYC applicable to me?

Response: Yes. KYC exercise needs to be done for all those who want to make domestic remittances of Rs. 50,000 and above and all foreign remittances.

(<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/KYC12072013F.pdf>)

Q 19. Can I purchase a Demand Draft/Payment Order/Travellers Cheque against cash without KYC?

Response: Demand Draft/Payment Order/Travellers Cheques for Rs.50,000/- and above can be issued only by way of debiting the customer's account or against cheques.

(<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/KYC12072013F.pdf>)

Q 20. Do I need to submit KYC documents to the bank while purchasing third party products (like insurance or mutual fund products) from banks?

Response: Yes, all customers who do not have accounts with the banks (known as walk-in customers) have to produce proof of identity and address while purchasing third party products from banks if the transaction is for Rs.50,000 and above. KYC exercise may not be necessary for bank's own customers for purchasing third party products. However, instructions to make payment by debit to customers' accounts or against cheques for remittance of funds/issue of travellers' cheques, sale of gold/silver/platinum and the requirement of quoting PAN number for transactions of Rs.50,000 and above would be applicable to purchase of third party products from banks by bank's customers as also to walk-in customers.

(<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/KYC12072013F.pdf>)

Q 21. My KYC was completed when I opened the account. Why does my bank insist on doing KYC again?

Response: Banks are required to periodically update KYC records. This is a part of their ongoing due diligence on bank accounts. The periodicity of such updation would vary from account to account or categories of accounts depending on the bank's perception of risk. Periodical updation of records also helps prevent frauds in customer accounts.

(<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/CPU230713FD.pdf>)

Q 22. What are the rules regarding periodical updation of KYC?

Response: Different periodicities have been prescribed for updation of KYC records depending on the risk perception of the bank. KYC is required to be done at least every two years for high risk customers, at least every eight years for medium risk customers and ten years for low risk customers. This exercise would involve all formalities normally taken at the time of opening the account.

If there is no change in status with respect to the identity (change in name, etc.) and/or address, such customers who are categorised as 'low risk' by the banks may now submit a self-certification to that effect at the time of periodic updation.

In case of change of address of such 'low risk' customers, they could merely forward a certified copy of the document (proof of address) by mail/post, etc. Physical presence of such low risk customer is not required at the time of periodic updation.

(<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/NT269FKYC1014.pdf>)

Customers who are minors have to submit fresh photograph on becoming major.

(<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/CPU230713FD.pdf>)

Q 23. What if I do not provide the KYC documents at the time of periodic updation?

Response: If you do not provide your KYC documents at the time of periodic updation bank has the option to close your account. Before closing the account, the bank may, however, impose 'partial freezing' (i.e. initially allowing all credits and disallowing all debits while giving an option to you to close the account and take your money back). Later even all credits also would not be allowed. The 'partial freezing' however, would be exercised by the bank after giving you due notice.

(<http://rbi.org.in/scripts/NotificationUser.aspx?Id=9289&Mode=0>)

Q 24. How is partial freezing imposed?

Response: Partial freezing is imposed in the following ways:

- While imposing 'partial freezing', banks have to give due notice of three months initially to the customers before exercising the option of 'partial freezing'.
- After that a reminder for further period of three months would be issued.
- Thereafter, banks may impose 'partial freezing' by allowing all credits and disallowing all debits with the freedom to close the accounts.
- If the accounts are still KYC non-compliant after six months of imposing initial 'partial freezing' banks may disallow all debits and credits from/to the accounts, rendering them inoperative.
- Thus, one year after the account is due for updation, if you do not provide the necessary documents/information, your account would become fully inoperative i.e. neither credits nor debits would be allowed in the account.

Meanwhile, the account holders can revive accounts by submitting the KYC documents.

(<http://rbidocs.rbi.org.in/rdocs/notification/PDFs/NT269FKYC1014.pdf>)

Basic Savings Bank Deposit Account (UCBs)

1. What is the definition of "Basic Savings Bank Deposit Account" (BSBDA)?

All the existing 'No-frills' accounts opened pursuant to guidelines issued vide [circular UBD.BPD.Cir.No.19/13.01.000/2005-06 dated November 24, 2005](#) and converted into BSBDA in compliance with the guidelines issued in [circular UBD.BPD.Cir.No.5/13.01.000/2012-13 dated August 17, 2012](#) as well as fresh accounts opened under the said circular should be treated as BSBDA.

2. Whether the guidelines issued on 'no-frills' account with 'nil' or very low minimum balances will continue even

after the introduction of 'Basic Savings Bank Deposit Account'?

No. In supersession of instructions contained in [circular UBD.BPD.Cir.No.19/13.01.000/2005-06 dated November 24, 2005](#) on No Frill accounts, banks have now been advised to offer a 'Basic Savings Bank Deposit Account' to all their customers vide [UBD.BPD.Cir.No.5/13.01.000/2012-13 dated August 17, 2012](#), which will offer minimum common facilities as stated therein. Banks are required to convert the existing 'no-frills' accounts' into 'Basic Savings Bank Deposit Accounts'.

3. Can an Individual have any number of 'Basic Savings Bank Deposit Account' in one bank?

No. An individual is eligible to have only one 'Basic Savings Bank Deposit Account' in one bank.

4. Whether a 'Basic Savings Bank Deposit Account' holder can have any other savings bank account in that bank ?

Holders of 'Basic Savings Bank Deposit Account' will not be eligible for opening any other savings bank account in that bank. If a customer has any other existing savings bank account in that bank, he / she will be required to close it within 30 days from the date of opening a 'Basic Savings Bank Deposit Account'.

5. Can an individual have other deposit accounts where one holds 'Basic Savings Bank Deposit Account'?

Yes. One can have Term/Fixed Deposit, Recurring Deposit etc., accounts in the bank where one holds 'Basic Savings Bank Deposit Account'.

6. Whether the 'Basic Savings Bank Deposit Account' can be opened by only certain types of individuals like poor and weaker sections of the population?

No. The 'Basic Savings Bank Deposit Account' should be considered as a normal banking service available to all customers, through branches.

7. Whether there are any restrictions like age, income, amount etc criteria for opening BSBDA by banks for individuals?

No. Banks are advised not to impose restrictions like age and income criteria of the individual for opening BSBDA.

8. Is the 'Basic Savings Bank Deposit Account' a part of furthering the Financial Inclusion objectives of banks?

The aim of introducing 'Basic Savings Bank Deposit Account' is very much part of the efforts of RBI for furthering Financial Inclusion objectives. All the accounts opened earlier as 'no-frills' account vide [UBD.BPD.Cir.No.19/13.01.000/2005-06 dated November 24, 2005](#) should be renamed as BSBDA as per instructions contained in paragraph 2 of our [Circular UBD.BPD.Cir.No.5/13.01.000/2012-13 dated August 17, 2012](#).

9. What are KYC norms applicable to BSBDA accounts? Are there any relaxations in KYC norms for BSBDA's?

The 'Basic Savings Bank Deposit Account' would be subject to provisions of PML Act and Rules and RBI instructions on Know Your Customer (KYC) / Anti-Money Laundering (AML) for opening of bank accounts issued from time to time. BSBDA can also be opened with simplified KYC norms. However, if BSBDA is opened on the basis of Simplified KYC, the accounts would additionally be treated as "BSBDA-Small Account" and would be subject to the conditions stipulated for such accounts as indicated in [para 2.6](#) (iii) of Master Circular No.UBD.BPD.(PCB).MC. No.16 /12.05.001/2012-13 dated July 1, 2013.

10. Can I have a 'Small Account' in ABC Bank as per the Government of India Notification No.14/2010/F.No.6/2/2007-E.S. dated December 16, 2010. Can I have additionally a 'Basic Savings Bank Deposit

Account’?

No, the BSBDA customer cannot have any other savings bank account in the same bank. If 'Basic Savings Bank Deposit Account' is opened on the basis of simplified KYC norms, the account would additionally be treated as a 'Small Account' and would be subject to conditions stipulated for such accounts as indicated in [para 2.6](#) (iii) of Master Circular No.UBD.BPD.(PCB).MC.No.16/12.05.001/2012-13 dated July 1, 2013 on 'KYC norms / AML Measures/ Combating of Financing of Terrorism (CFT) / Obligation of banks under PMLA, 2002'.

11. What are the conditions stipulated for accounts which are additionally to be treated as 'BSBDA-Small Account'?

As notified in Govt of India notification dated December 16, 2010, BSBDA-Small Accounts would be subject to the following conditions:

- i. Total credits in such accounts should not exceed one lakh rupees in a year.
- ii. Maximum balance in the account should not exceed fifty thousand rupees at any time
- iii. The total of debits by way of cash withdrawals and transfers will not exceed ten thousand rupees in a month
- iv. Remittances from abroad can not be credited to Small Accounts without completing normal KYC formalities
- v. Small accounts are valid for a period of 12 months initially which may be extended by another 12 months if the person provides proof of having applied for an Officially Valid Document.
- vi. Small Accounts can only be opened at CBS linked branches of banks or at such branches where it is possible to manually monitor the fulfilment of the conditions.

12. What kinds of services are available free in the 'Basic Savings Bank Deposit Account'?

The services available free in the 'Basic Savings Bank Deposit Account' will include deposit and withdrawal of cash; receipt / credit of money through electronic payment channels or by means of deposit / collection of cheques at bank branches as well as ATMs.

13. of any initial minimum deposit Is there requirement while opening a BSBDA as per the circular dated August 17, 2012?

There is no requirement for any initial deposit for opening a BSBDA.

14. Whether banks are free to offer more facilities than those prescribed for 'Basic Savings Bank Deposit Account'?

Yes. However, the decision to allow services beyond the minimum prescribed has been left to the discretion of the banks who can either offer additional services free of charge or evolve requirements including pricing structure for additional value-added services on a reasonable and transparent basis, to be applied in a non-discriminatory manner with prior intimation to the customers. Banks are required to put in place a reasonable pricing structure for value added services or prescribe minimum balance requirements which should be displayed prominently and also informed to the customers at the time of account opening. Offering such additional facilities should be non - discretionary, non-discriminatory and transparent to all 'Basic Savings Bank Deposit Account' customers. However, such accounts enjoying additional facilities will not be treated as BSBDA.

15. If BSBDA customers have more than 4 withdrawals and request for cheque book at additional cost, will it cease to be a BSBDA?

Yes. Please refer to response to the Query No. 14. However, if the bank does not levy any additional charges and offers more facilities free than those prescribed under BSBDA a/cs without minimum balance then such a/cs can be

classified as BSBDA.

16. Whether the existing facility available in a normal saving bank account of five free withdrawals in a month in other banks ATMs as per IBA (DPSS) instructions will hold good for BSBDA?

No. In BSBDA, banks are required to provide free of charge minimum four withdrawals, through ATMs and other mode including RTGS/NEFT/Clearing/Branch cash withdrawal/transfer/internet debits/standing instructions/EMI etc It is left to the banks to either offer free or charge for additional withdrawal/s. However, in case the banks decide to charge for the additional withdrawal, the pricing structure may be put in place by banks on a reasonable, non-discriminatory and transparent manner.

17. Are the banks free to levy Annual ATM Debit Card charges?

Banks should offer the ATM Debit Cards free of charge and no Annual fee should be levied on such Cards.

18. Whether Balance enquiry in ATMs also should be counted within the four withdrawals permitted under BSBDA?

Balance enquiry through ATMs should not be counted in the four withdrawals allowed free of charge at ATMs.

19. If a customer of BSBDA opts not to have ATM Debit card, should the bank compel the customer to accept the ATM debit card ?

ATM debit cards may be offered at the time of opening BSBDA and issued if the customer requests for the same in writing. Banks need not insist that a customer accepts ATM debit card.

20. What about customers who are illiterate or old who may not be in a position to safe keep and use the ATM debit card and PIN associated with it?

Banks while opening the BSBDA should educate such a customers about the ATM Debit Card, ATM PIN and risk associated with it. However, if a customer chooses not to have an ATM Debit Card, banks need not compel such customer to accept ATM Debit Card. If, however, customer opts to have an ATM Debit card, banks should provide the same to BSBDA holders through safe delivery channels by adopting the same procedure which they have been adopting for delivery of ATM Debit card and PIN to their other customers.

21. Whether Passbooks are also to be offered free to BSBDA holders?

Yes. BSBDA holders should be offered passbook facility free of charge in line with our instructions contained in [Circular UBD.CO.\(PCB\).Cir.No.15/09.39.000/2006-07 dated October 16, 2006](#).

22. If a customer opens a BSBDA but does not close his existing Savings Bank Account within 30 days, are banks then free to close such savings bank accounts?

While opening the BSBDA customers' consent in writing be obtained that his existing non-BSBDA Savings Banks accounts will be closed after 30 days of opening BSBDA and banks are free to close such accounts after 30 days.

23. In certain accounts to which disbursements under MGNREGA are made weekly, the number of withdrawals may be more than four in a month of five weeks. In such cases, can banks permit five withdrawals?

In BSBDA, banks are required to provide free of charge minimum four withdrawals, including through ATM and other mode. Beyond four withdrawals, it is left to discretion of the banks to either offer free or charge for additional withdrawal/s. However pricing structure may be put in place by banks on a reasonable, non-discretionary, non-

discriminatory and transparent manner.

24. What is the prescribed rate of interest payable on balances in such 'Basic Savings Bank Deposit Account'?

Our instructions contained in [circular UBD.BPD\(PCB\).Cir.No.18/13.01.000/2011-12 dated February 7, 2012](#) on Deregulation of Savings Bank Deposit Interest Rate, are applicable to deposits held in 'Basic Savings Bank Deposit Account'.

25. In terms of RBI circular [DPSS. CO.CHD. No. 274/03.01.02/2012-13 dated August 10, 2012](#), if "payable at par" / "multi-city" cheques are issued to BSBDA customers based on their request, can banks prescribe minimum balance requirements?

BSBDA does not envisage cheque book facility in the minimum facilities that should be provided to BSBDA customers. They are free to extend any additional facility including cheque book facility free of charge (in which case the account remains BSBDA) or charge for the additional facilities (in which case the account is not BSBDA).

26. What is the time frame available to banks for converting "No-Frills" Account as Basic Savings Bank Deposit Account? What is the time frame available to banks for issuing ATM Cards to all the existing Basic Savings Bank Deposit Account holders?

All the existing "No-Frill" accounts may be treated as BSBDA accounts from the date of the circular i.e., August 17, 2012 and banks may offer the prescribed facilities as per the circular such as issuing ATM card etc., to the existing 'No-Frill' account holders as and when the customer approaches the bank. However, customers opening new accounts after the issue of our circular should be provided prescribed facilities immediately on opening of the account.

27. Whether the normal saving bank account can be converted into BSBDA at the request of customer?

Yes. Such customers should give their consent in writing and they should be informed of the features and extent of services available in BSBDA.

Basic Savings Bank Deposit Account

1. Query

Whether the guidelines issued on 'no-frills' account with 'nil' or very low minimum balances will continue even after the introduction of 'Basic Savings Bank Deposit Account'?

Response

No. In supersession of instructions contained in circular [DBOD.No.Leg. BC.44/09.07.005/2005-06 dated November 11, 2005](#) on No Frill accounts, banks have now been advised to offer a 'Basic Savings Bank Deposit Account' to all their customers vide [DBOD.No.Leg.BC.35/09.07.005/2012-13 dated August 10, 2012](#), which will offer minimum common facilities as stated therein. Banks are required to convert the existing 'no-frills' accounts' into 'Basic Savings Bank Deposit Accounts'.

2. Query

Can an Individual have any number of 'Basic Savings Bank Deposit Account' in one bank?

Response

No. An individual is eligible to have only one 'Basic Savings Bank Deposit Account' in one bank.

3. Query

Whether a 'Basic Savings Bank Deposit Account' holder can have any other saving account in that bank ?

Response

Holders of 'Basic Savings Bank Deposit Account' will not be eligible for opening any other savings account in that bank. If a customer has any other existing savings account in that bank, he / she will be required to close it within 30 days from the date of opening a 'Basic Savings Bank Deposit Account'.

4. Query

Can an individual have other deposit accounts where one holds 'Basic Savings Bank Deposit Account'?

Response

Yes. One can have Term/Fixed Deposit, Recurring Deposit etc., accounts in the bank where one holds 'Basic Savings Bank Deposit Account'.

5. Query

Whether the 'Basic Savings Bank Deposit Account' can be opened by only certain types of individuals like poor and weaker sections of the population?

Response

No. The 'Basic Savings Bank Deposit Account' should be considered as a normal banking service available to all customers, through branches .

6. Query

Whether there are any restrictions like age, income, amount etc criteria for opening BSBDA by banks for individuals?

Response

No. Banks are advised not to impose restrictions like age and income criteria of the individual for opening BSBDA.

7. Query

Is the 'Basic Savings Bank Deposit Account' a part of the Financial Inclusion plans of banks?

Response

The aim of introducing 'Basic Savings Bank Deposit Account' is very much part of the efforts of RBI for furthering Financial Inclusion objectives. All the accounts opened earlier as 'no-frills' account vide DBOD Circular dated DBOD.No.Leg.BC.44/09.07.005/2005-06dated November 11, 2005 should be renamed as BSBDA as per the instructions contained in paragraph 2 of our Circular DBOD. No. Leg. BC. 35/09.07.005/2012-13 dated August 10, 2012 and all the new accounts opened since the issue of our circular DBOD.No.Leg.BC.35 dated August 10, 2012 should be reported under the monthly report of the progress of Financial Inclusion plans submitted by banks to RPSD, CO.

8. Query

What are KYC norms applicable to BSBDA accounts? Are there any relaxations in KYC norms for BSBDA's?

Response

The 'Basic Savings Bank Deposit Account' would be subject to provisions of PML Act and Rules and RBI instructions on Know Your Customer (KYC) / Anti-Money Laundering (AML) for opening of bank accounts issued from time to time. BSBDA can also be opened with simplified KYC norms. However, if BSBDA is opened on the basis of Simplified KYC, the accounts would additionally be treated as "BSBDA-SMALL account" and would be subject to the conditions stipulated for such accounts as indicated in [para 2.7](#) of Master Circular DBOD.AML.BC.No. 11/14.01.001/2012-13 dated July 2, 2012. .

9. Query

Can I have a 'Small Account' in ABC Bank as per the Government of India Notification No.14/2010/F.No.6/2/2007-E.S. dated December 16, 2010. Can I have additionally a 'Basic Savings Bank Deposit Account'?

Response

No, the BSBDA customer cannot have any other savings bank account in the same bank.. If 'Basic Savings Bank Deposit Account' is opened on the basis of simplified KYC norms, the account would additionally be treated as a 'Small Account' and would be subject to conditions stipulated for such accounts as indicated in paragraph 2.7 of Master Circular DBOD.AML.BC.No.11/14.01.001/2012-13 dated July 02, 2012 on 'KYC norms / AML standards / Combating of Financing of Terrorism (CFT) / Obligation of banks under PMLA, 2002'.

10. Query

What are the conditions stipulated for accounts which are additionally to be treated as 'BSBDA-Small Account'?

Response

As notified in terms of Govt of India notification dated December 16, 2010, BSBDA-Small Accounts would be subject to the following conditions:

- i. Total credits in such accounts should not exceed one lakh rupees in a year.
- ii. Maximum balance in the account should not exceed fifty thousand rupees at any time
- iii. The total of debits by way of cash withdrawals and transfers will not exceed ten thousand rupees in a month
- iv. Foreign remittances can not be credited to Small Accounts without completing normal KYC formalities
- v. Small accounts are valid for a period of 12 months initially which may be extended by another 12 months if the person provides proof of having applied for an Officially Valid Document.
- vi. Small Accounts can only be opened at CBS linked branches of banks or at such branches where it is possible to manually monitor the fulfilments of the conditions

11. Query

What kinds of services are available free in the 'Basic Savings Bank Deposit Account'?

Response

The services available free in the 'Basic Savings Bank Deposit Account' will include deposit and withdrawal of cash; receipt / credit of money through electronic payment channels or by means of deposit / collection of cheques at bank branches as well as ATMs.

12. Is there requirement of any initial minimum deposit while opening a BSBDA as per the circular dated August 10, 2012?

Response

There is no requirement for any initial deposit for opening a BSBDA.

13. Query

Whether banks are free to offer more facilities than those prescribed for 'Basic Savings Bank Deposit Account'?

Response

Yes. However, the decision to allow services beyond the minimum prescribed has been left to the discretion of the banks who can either offer additional services free of charge or evolve requirements including pricing structure for additional value-added services on a reasonable and transparent basis to be applied in a non-discriminatory manner with prior intimation to the customers. Banks are required to put in place a reasonable pricing structure for value added services or prescribe minimum balance requirements which should be displayed prominently and also informed to the customers at the time of account opening. Offering such additional facilities should be non - discretionary, non-discriminatory and transparent to all 'Basic Savings Bank Deposit Account' customers. However such accounts enjoying additional facilities will not be treated as BSBDA's.

14. Query

If BSBDA customers have more than 4 withdrawals and request for cheque book at additional cost, will it cease to be a BSBDA?

Response

Yes. Please refer to response to the above query (Query No.13). However, if the bank does not levy any additional charges and offers more facilities free than those prescribed under BSBDA a/cs without minimum balance then such a/cs can be classified as BSBDA.

15. Query

Whether the existing facility available in a normal saving bank account of Five free withdrawals in a month in other banks ATMs as per IBA (DPSS) instructions will hold good for BSBDA?

Response

No. In BSBDA, banks are required to provide free of charge minimum four withdrawals, through ATMs and other mode including RTGS/NEFT/Clearing/Branch cash withdrawal/transfer/internet debits/standing instructions/EMI etc It is left to the banks to either offer free or charge for additional withdrawal/s. However, in case the banks decide to charge for the additional withdrawal, the pricing structure may be put in place by banks on a reasonable,

non-discriminatory and transparent manner by banks.

16. Query

Are the banks free to levy Annual ATM Debit Card charges?

Response

Banks should offer the ATM Debit Cards free of charge and no Annual fee should be levied on such Cards.

17. Query

Whether Balance enquiry in ATMs also should be counted within the four withdrawals permitted under BSBDA?

Response

Balance enquiry through ATMs should not be counted in the four withdrawals allowed free of charge at ATMs.

18. Query

If a customer of BSBDA agrees not to have ATM Debit card should the bank give ATM debit card by force?

Response

ATM debit cards may be offered at the time of opening BSBDA and issued if the customer requests for the same in writing. Banks need not force ATM debit cards on such customers.

19. Query

What about customers who are illiterate or old who may not be in a position to safe keep and use the ATM debit card and PIN associated with it?

Response

Banks while opening the BSBDA should educate such customers about the ATM Debit Card, ATM PIN and risk associated with it. However, if customer chooses not to have ATM Debit Card banks need not force ATM debit cards on such customers. If, however, customer opts to have an ATM Debit card, banks should provide the same to BSBDA holders through safe delivery channels by adopting the same procedure which they have been adopting for delivery of ATM Debit card and PIN to their other customers.

20. Query

Whether Passbooks are also to be offered free to BSBDA holders?

Response

Yes. BSBDA holders should be offered passbook facility free of charge in line with our instructions contained in [Circular DBOD. No. Leg. BC.32 /09.07.005 /2006-07dated October 4, 2006](#).

21. Query

If a customer opens a BSBDA but does not close his existing Savings Bank Account within 30 days, are banks then

free to close such savings bank accounts?

Response

While opening the BSBDA customers' consent in writing be obtained that his existing non-BSBDA Savings Banks accounts will be closed after 30 days of opening BSBDA and banks are free to close such accounts after 30 days.

22. Query

In certain accounts like NREGA where disbursements are made weekly and if a month has five weeks, it may result in more than four withdrawals. In such cases can banks permit five withdrawals?

Response

In BSBDA, banks are required to provide free of charge minimum four withdrawals, including through ATM and other mode. Beyond four withdrawals, it is left to discretion of the banks to either offer free or charge for additional withdrawal/s. However pricing structure may be put in place by banks on a reasonable, non-discretionary, non-discriminatory and transparent manner by banks.

23. Query

What is the prescribed rate of interest payable on balances in such 'Basic Savings Bank Deposit Account'?

Response

Our instructions contained in circular [DBOD.Dir.BC.75/13.03.00/2011-12 dated January 25, 2012](#) on Deregulation of Savings Bank Deposit Interest Rate, are applicable to deposits held in 'Basic Savings Bank Deposit Account'.

24. Query

In terms of RBI circular [DPSS. CO.CHD. No. 274/03.01.02/2012-13 dated August 10, 2012](#), if "payable at par" / "multi-city" cheques are issued to BSBDA customers based on their request, can banks prescribe minimum balance requirements?

Response

BSBDA does not envisage cheque book facility in the minimum facilities that it should provide to BSBDA customers. They are free to extend any additional facility including cheque book facility free of charge (in which case the account remains BSBDA) or charge for the additional facilities (in which case the account is not BSBDA).

25. Query

What is the definition of "Basic Savings Bank Deposit Account"(BSBDA)?

Response

All the existing 'No-frills' accounts opened pursuant to guidelines issued vide circular DBOD. No. Leg. BC. 44/09.07.005/2005-06 dated November 11, 2005 and converted into BSBDA in compliance with the guidelines issued in circular DBOD.No.Leg.BC.35/09.07.005/20012-13 dated August 10, 2012 as well as fresh accounts opened under the said circular should be treated as BSBDA. Accounts enjoying additional facilities under the reasonable pricing structure for value added services, exclusively for BSBDA customers should not be treated as BSBDA's.

26. Query

What is the time frame available to banks for converting “No-Frills” Account as Basic Savings Bank Deposit Account? What is the time frame available to banks for issuing ATM Cards to all the existing Basic Savings Bank Deposit Account holders?

Response

All the existing “No-Frill” accounts may be treated as BSBDA accounts from the date of the circular i.e., August 10, 2012 and banks may offer the prescribed facilities as per the circular such as issuing ATM card etc., to the existing ‘No-Frill’ account holders as and when the customer approaches the bank. However, for customers opening new accounts after the issue of our circular should be provided with the prescribed facilities immediately on opening of the account.

27. Query

Whether the normal saving bank account can be converted into BSBDA at the request of customer?

Response

Yes. Such customers should give their consent in writing and they should be informed of the features and extent of services available in BSBDA.

28 Query

Whether Foreign Banks in India are also required to open BSBDA for customers? Whether Circular dated August 10, 2012 on BSBDA is applicable to Foreign Banks having branches in India?

Response

RBI instructions/guidelines contained in circular dated August 10, 2012 on BSBDA is applicable to all scheduled commercial banks in India including Foreign Banks havi

In providing the clarifications, an attempt has been made to assist potential applicants in understanding the terms of the guidelines. The clarifications are specific to the queries and must be read in the overall context of the guidelines.

Q.1. Is it compulsory for the NOFHC to have individuals as promoters?

Q.2. Where the promoter of NOFHC meets with condition of 2(C)(ii)(b), whether individual promoter/ his relatives / entities in which they hold more than 50 per cent shares must hold equity shares in NOFHC [refer 2(C)(ii)(a)].

Q.3. Where a promoter is an individual and his relatives and entities in which they hold more than 50% shares, is it necessary that the promoter, his relatives, entities in which they hold more than 50% shares must hold equity shares in NOFHC [refer 2(C)(ii)(a)]. In other words, is holding shares by individual promoters / their relatives / their entities a pre-requisite?

Q.4. Since this guideline mentions that capital structure of NOFHC shall consist of item (a) and item (b), would it be mandatory that a part of NOFHC equity (not exceeding 10%) must be held by any individual belonging to the Promoter Group, along with his relatives / entities in which he and / or his relatives hold not less than 50 per cent of the voting equity shares?

A.(1 to 4) It is not necessary that individual alongwith his related parties have shareholding in the NOFHC. However, if any individual belonging to the Promoter Group chooses to become a promoter of the NOFHC, he along with his relatives (as defined in Section 6 of the Companies Act 1956) and along with entities in which he and / or his relatives hold not less than 50 per cent of the voting equity shares can hold voting equity shares not exceeding 10 per cent of the total voting equity shares of the NOFHC. [para 2 (C) (ii) (a) of the guidelines]

Q.5. Is it possible that ten independent individuals holding voting equity shares not exceeding 10 per cent each of the total voting equity shares of the NOFHC, be the promoters and set up this NOFHC?

Q.6. Can 10 or more unrelated individuals act as promoters each holding not more than 10 per cent shares in NOFHC?

Q.7. Can 10 individual promoters holding not more than 10% shares each alone can also set up the NOFHC, as mentioned in 2C(ii)(b)?

A.(5 to 7) No. The requirement is that not less than 51 per cent of the voting equity shares of the NOFHC shall be held by companies in the Promoter Group, in which the public hold not less than 51 percent of the voting equity of such companies. If 10 independent individuals form a Group, then such a Group cannot satisfy the above criteria laid down for holding the NOFHC. Additionally, such newly formed Promoter Group would not be able to meet one of the ‘Fit and Proper’ criteria, which requires Promoters/Promoter Groups to have a successful track record of running their business for at least 10 years. Essentially, the intention is that existing groups should set up banks and not groups set up for this purpose. However, it is clarified that individuals belonging to the Promoter Group can participate in the voting equity shares of NOFHC. While any such individual along with his relatives (as defined in Section 6 of the Companies Act 1956) and along with entities in which he and / or his relatives hold not less than 50 per cent of the voting equity shares, can hold voting equity shares not exceeding 10 per cent of the total voting equity shares of the NOFHC, all such individuals (along with their relatives and companies as specified above) irrespective of their numbers, cannot hold more than 49 per cent of the voting equity shares of the NOFHC (since the companies forming part of the Promoter Group whereof companies in which the public hold not less than 51 per cent of the voting equity shares shall hold not less than 51 per cent of the total voting equity shares of the NOFHC).[para 2 (C) (ii) (a) and (b) of the guidelines]

Q.8. Is it compulsory for a public listed company to be a Promoter / Promoter Group of the NOFHC? Does it mean that such promoter group companies should be listed companies where public holds at least 51per cent of the voting shares?

Q.9. With reference to condition 2(C)(ii)(b), whether the companies which form part of promoters group where public holds not less than 51 per cent of voting capital, have to be listed companies at the time of application for banking license? Are these companies required to continue to remain listed?

Q.10. W.r.t. 2(C)(ii)(b), the companies which form part of promoters group where public holds not less than 51% of voting capital has to be a listed company?

Q.11. Is it mandatory to have a public company as a part of the Promoter Group?

Q.12. W.r.t. 2(C)(ii)(b), is it mandatory to have a public company which has more than 51% shareholding in the NOFHC as part of the promoter group?

Q.13. Please also clarify whether ‘public’ shareholding in an entity presupposes listing of equity shares of that entity

A.(8 to 13) The requirement is that the companies in the Promoter Group in which the public hold not less than 51 per cent of the voting equity shares shall hold not less than 51 per cent of the total voting equity shares of the NOFHC.[para 2 (C) (ii) (b) of the guidelines]

A company in which public holds 51 per cent need not necessarily be listed. For the purpose of these guidelines, 'public shareholding' implies that no person along with his relatives (as defined in Section 6 of the Companies Act, 1956) and entities in which he and / or his relatives hold not less than 50 per cent of the voting equity shares, by virtue of his shareholding or otherwise, exercises 'significant influence' or 'control' (as defined in Accounting Standard 23) over the company.

Q.14. Does this condition (51 per cent shareholdings by a listed company) only apply for entities / groups in the private sector that are 'owned and controlled by residents'?

A. Yes. The condition (not less than 51 per cent of the total voting equity shares of the NOFHC to be held by the companies in the Promoter Group, which have not less than 51 percent public shareholding) is applicable to the companies in the Promoter Groups in the private sector that are 'owned and controlled by residents'[as defined in Department of Industrial Policy and Promotion(DIPP) Press Note No.2, 3 and 4 of 2009/FEMA Regulations as amended from time to time].However, such a company need not necessarily be listed.[para 2 (A) and (C) (ii) of the guidelines]

Q.15. Since the Promoters / Promoter Groups with an existing NBFC will have to set up NOFHC, whether such NOFHC will also have to comply with 51 per cent public holding condition?

A. The NOFHC has to be wholly owned by the Promoters/Promoter Group. However, at least 51 per cent of the voting equity shares of the NOFHC have to be held by companies in the Promoter Group in which public hold not less than 51 per cent of the voting equity of those companies.[para 2 (C) (ii) (b) of the guidelines]

Q.16. If promoter group companies (where public holding is less than 51 per cent) wish to apply for banking license, whether any grace period will be given to such companies to increase public holding to over 51 per cent?

Q.17. Where the Promoter Group is required to make changes to its existing organization/ investment structure, would the RBI consider a transition period, during which regulations would be waived on a case by case basis so that the existing entity is afforded an easy transition without impacting the stakeholders and for ease of operations?

Q.18. (i) We understand that at the time of making applications for banking license, the applicants will need to submit the proposed structure which meets with RBI guidelines and requirements. The setting up of the NOFHC, Bank and realignment of businesses assets / portfolio into financial services, non-financial services etc. will be done after receiving in-principle approval from RBI and before the final approval of the RBI. RBI may please clarify our above understanding.

(ii) Whether formation of NOFHC is required prior to submission of Bank License application, because it requires RBI approval and thus it may not be possible to set up NOFHC prior to deadline, i.e. 01.07.2013.

Q.19. Is there a need to put the NOFHC structure in place at the time of filing of the application or is it enough if the promoter gives an undertaking to do so and completes the NOFHC setup after obtaining the in principle approval but before starting the Bank?

Q.20. Is there a need to increase the public shareholding in the company / companies promoting the NOFHC to 51 per cent at the time of filing of the application or is it enough if promoter gives an undertaking to do so and completes the disinvestment after getting in principle approval but before starting the bank?

Q.21. From a business transfer perspective, is it required that the businesses be transferred by the NBFC to the proposed bank immediately on obtaining an in principle approval or can this be done in stages as the bank is able to raise liabilities?

Q.22. Paragraph 2 (C) (iv) provides that the general principle is that no financial services entity held by the NOFHC would be allowed to engage in any activity that a bank is permitted to undertake departmentally. In the event a Promoter Group has more than one legal entity that undertakes business activities that can be departmentally undertaken by the bank, we request a clarification in relation to what is the quantum of time that will be afforded to fold these activities into the bank post commencement of business by the bank?

Q.23. In the application, the promoter / promoter group would provide a clear roadmap for formation of NOFHC and letters of approval of key stakeholders. Do we understand that the NOFHC could then be formed after the grant of in-principle approval, as a condition precedent to getting a certificate of commencement of business –unless specifically instructed otherwise?

Q.24. In order to comply with the NOFHC structuring requirements, existing applicants may need to undergo merger/ demerger. Whether there is any scope of giving exemption to applicants who have to restructure their assets portfolio to meet with new banking licence guidelines of RBI.

Q.25. When submitting the application for the banking license, is it required that the company envisaged to hold voting equity shares in the NOFHC satisfy conditions under clause 2C (ii) (b) above. Eg. If the promoter holding in the above company is currently greater than 49% would this holding have to be reduced when applying for the license or would a plan detailing out the process that will be used to reduce this holding suffice at application stage?

Q.26. Where the current group structure of a bank applicant group is not in compliance with the Guidelines, can they submit a proposed structure and plan of action for compliance with the Guidelines after in-principle approval but before commencement of the banking operations ?

Q.27. We understand that at the time of making applications for banking licence, the applicants will need to submit the proposed structure which meets with RBI guidelines and requirements. The setting up of the NOFHC, bank and realignment of businesses assets / portfolio into financial services, non-financial services etc. will be done after receiving in-principle approval from RBI and before the final approval of the RBI. The above understanding may be clarified.

Q.28. As per 2C (i) Promoter / Promoter Group will be permitted to set up a bank only through a wholly-owned Non-Operative Financial Holding Company (NOFHC).

Query:

Whether the formation of NOFHC is required prior to submission of bank license application form, because it requires RBI approval and thus it may not be possible to set up NOFHC prior to deadline i.e 1.7.2013?

Q.29. Where an existing company in which promoter in his individual capacity holds more than 10 percent is converted into NOFHC, will RBI allow any transition time for the promoter's shareholding to go below 10 per cent as per condition 2C(ii)(a)?

Q.30. If individual promoters hold more than 10% in NOFHC at the time of its creation, will RBI allow any transition time for the promoter's shareholding to go below 10%, as per guideline 2C(ii)(a)?

Q.31. We understand that at the time of making applications for banking license, the applicants will need to submit the proposed structure which meets with RBI guidelines and requirements. The setting up of the NOFHC, bank and realignment of businesses assets / portfolio into financial services, non-financial services etc. will be

done after receiving in-principle approval from RBI and before the final approval of the RBI. RBI may clarify our above understanding.

A. (16 to 31) At the time of making applications, the Promoters/Promoter Group will have to furnish a road map and methodologies they would adopt to comply with all the requirements of the corporate structure indicated in para 2 (C)(ii) and (iii) of the guidelines and realign the business between the entities to be held under the NOFHC [para 2(C)(iv) of the guidelines] within a period of 18 months. After the 'in-principle approval' is accorded by RBI for setting up of the bank, the actual setting up of NOFHC and the bank, re-organization of the Promoter Group entities to bring the regulated financial services entities under the NOFHC as well as realignment of business among the entities under the NOFHC have to be completed within a period of 18 months from the date of in-principle approval or before commencement of banking business, whichever is earlier.

Q.32. Where the promoter of an existing financial services company desires to promote a bank, can that financial services company act as a promoter?

Q.33. Where there are no promoters of an existing financial services company, can that financial services company act as a promoter?

Q.34. Can an existing financial services company be converted into NOFHC? In such a case, can the financial services business be divested to a company which will become bank?

Q.35. If the applicant is engaged only in financial services business and sets up a NOFHC, will it meet condition 2C (iii)? Will there be any relaxations for NBFCs? Does this mean that a financial services company will be required to set-up two layers of NOFHC which have holding-subsidiary relationship?

Q.36. Where the promoter of an existing financial services company desires to promote a bank, can that financial services company act as a promoter?

Q.37. If the applicant is engaged only in financial services business, will it meet 2C(iii) requirement? Will there be any relaxations for NBFCs? Does this mean that a financial services company will be required to set-up two layers of NOFHC which have holding-subsidiary relationship?

A.(32 to 37) All regulated financial services entities of the Promoters/Promoter Group in which the Promoters/Promoter Group has 'significant influence' or 'control' (as defined in Accounting Standard 23) have to be held by a NOFHC. Regarding financial groups setting up banks, the existing NBFC must transfer all regulated financial services business to a new company and shares in that new company must be held by the NOFHC. Conversion of the NBFC into a non operating holding company would enable meeting the requirement of para 2(C)(iii) of the guidelines provided the listed non operating holding company meets the requirement of para(C)(ii)(b) of the guidelines i.e. the public hold not less than 51 percent voting equity shares in the company.

Q.38. Whether under no circumstances promoters would be allowed to increase their holdings in such companies to beyond 49 per cent in future (after the commencement of the bank)?

A. Under all circumstances at least 51 per cent of the voting equity shares of the NOFHC shall be held by companies in the Promoter Group, in which public shareholding is not less than 51 percent.[para 2 (C) (ii) (b) of the guidelines]

Q.39. Given that capital structure guidelines talk about conditions only on voting equity shareholding, can promoter entities also have non-voting equity shareholding in NOFHC or bank? If yes, will such non-voting equity shareholding fall out of ambit of these guidelines?

A. Non-voting equity shares are not a part of the guidelines, but are subject to relevant laws/ SEBI guidelines. Non-voting capital will not be reckoned for the purpose of calculation of promoter shareholding in the NOFHC/ bank.

Q.40. Whether Memorandum and Articles of Association, latest financial statements for past ten years and IT returns for last three years are required in respect of all the entities in the Promoter Group or only in respect of Promoter entities which subscribe to the voting equity capital of the NOFHC.

Q.41. Whether the details required to be submitted with the project plan are applicable to only the promoter of the NOFHC or all the entities of the Promoter group.

A.(40 &41) The entities/individuals belonging to the Promoters/Promoter Group, which would participate in the voting equity shares of the NOFHC, would have to provide theMemorandum and Articles of Association, financial statements for past ten years and IT returns for last three years, as appropriate, at the time of submission of their application. The last available financial statements in respect of other Group entities, which do not participate in the voting equity shares of the NOFHC will also have to be furnished. The details of the Promoters' direct and indirect interest in various entities/companies/industries and details of credit/other facilities availed by the Promoters/Promoter Group would be required of all entities. [para 3 of Annex II to the guidelines]

Q.42. Can NOFHC have a promoter group consisting of separate groups of companies? Under the separate group of companies, 51% voting shares of the NOFHC will be held only by the company(s) in which the public holding is 51% and / or above to comply with the existing guidelines and the remaining 49% of the voting shares can be held other private / public companies within the group.

A. The NOFHC has to be wholly owned by a single Promoter/Promoter Group (as per the definition given in the Annex I to the guidelines) and the pattern of shareholding would be as per the provisions laid down at para 2 (C) (ii) & (iii) of the guidelines. Two or more separate Groups cannot combine together to set up a NOFHC.

Q.43. Whether a group which does not have any company with public shareholding cannot apply for banking licence? Also, even if the Group is having the same, whether it is necessarily required to include such a company in the NOFHC capital structure.

A. A Group which does not have any company or which will not be able to have a company with public shareholding of not less than 51 per cent cannot apply for banking licence, since at least 51 per cent of the voting equity shares of the NOFHC have to be held by companies in the Promoter Group, in which public hold not less than 51 per cent of the voting equity shares. If the Promoter Group has a company in which public holding is not less than 51 per cent, at least 51 per cent of the voting equity shares of the NOFHC is required to be held by that company. It is not necessary that all Group companies in which public shareholding is not less than 51% should be shareholders of the NOFHC [para 2 (C) (ii)(b) of the guidelines].

Q.44. Can a company as a single non- resident shareholder hold 49 per cent voting equity capital of the bank? If yes, will it be automatic or will the same be requiring approval from RBI.

A. No. No non-resident shareholder, directly or indirectly, individually or in group through subsidiary, associate or joint venture will be permitted to hold 5 per cent or more in the paid up voting equity capital of the bank for a period of 5 years from the commencement of the business of the bank. [para 2 (F) of the guidelines]

Q.45. In the case of an existing conglomerate, is it envisaged that all the "Promoter Group" companies have to set-up a wholly owned NOFHC?

A. No.It is not envisaged that all the companies in the Promoter Group have to set up the wholly owned NOFHC. As provided in para 2(C)(iii) of the guidelines, only the non-financial services companies/entities and non-

operative financial holding companies in the Promoter Group and individuals belonging to Promoter Group, conforming to the stipulation in para 2(C)(ii)(a) and (b), will be allowed to hold the shares of NOFHC. Further, para 2(C)(vii) requires that all the regulated financial services entities, in which the Promoter Group has 'significant influence' or 'control', (as defined in Accounting Standard 23) shall be held by the NOFHC, and that, such entities cannot hold shares in the NOFHC [para 2 (C) (iii) & (vii)].

Q.46. Could a bank be promoted by a sub-set of promoters group companies?

A. The Promoters/Promoter Group cannot set up a bank directly. They have to first set up a wholly owned NOFHC, which will hold the bank and other regulated financial services entities/companies in which the Promoter Group has 'significant influence' or 'control' (as defined in Accounting Standard-23). NOFHC could be set-up with equity participation by a sub-set of non-financial services companies/entities/individuals and non-operative financial holding companies in the Promoter Group provided the equity participation is in conformity with the stipulation at para 2 (C) (ii) of the guidelines.

Q.47. If companies in the Promoter Group have significant interest /control in regulated and / or unregulated financial services activities, but do not wish to participate in the set-up of a new bank, is this permissible or do they need to necessarily exit from their interests in the company/group of companies wishing to promote a new bank.

A. The Promoters/Promoter Group have to first set up a wholly owned NOFHC for holding the bank. They cannot set up a bank directly. In case, some entities/companies in the Promoter Group having 'significant influence' or 'control' (as defined in Accounting Standard-23) in regulated or unregulated financial services activities do not wish to participate in the voting equity of the NOFHC, they can do so. However, the regulated financial services entities, in which the companies in the Promoter Group have 'significant influence' or 'control' (as defined in Accounting Standard-23), have to come under the NOFHC. The unregulated financial services activities/entities of the Promoter Group cannot come under the NOFHC. [para 2 (C) (i), (ii), (iii) & (vii) of the guidelines]

Q.48. In the event the NOFHC/ bank being promoted by a sub-set of existing promoters (having regard to the definition of "Promoter/ Promoter Group"), would the regulated financial services entities of the remaining Promoter Group (not promoting the NOFHC/ bank), be required to become subsidiaries of the NOFHC?

A. Yes. All the regulated financial services entities in which the Promoter Group has 'significant influence' or 'control' (as defined in Accounting Standard 23) will have to be brought under the NOFHC as subsidiaries, or associates or joint ventures. [para 2 (C) (iii) & (vii) of the guidelines]

Q.49. Will 10 years of successful track record be limited to only financial services sector or to overall business activities? Does every entity forming part of the Promoter Group need to have a 10 year track record?

A. The overall track record of the Promoters/Promoter Group for at least 10 years will be seen in all its activities both financial and non-financial. If some, but not all, companies forming part of the Promoter Group have been in existence for less than 10 years, the track record of such companies will be seen for the period they are in existence. [para 2 (B) (b) of the guidelines]

Q.50. What could be some of the indicative criteria that the RBI would consider in determining if an entity/ group has/have "sound credentials and integrity"?

A. The requirement that Promoters / Promoter Group should have a past record of sound credentials and integrity as a part of 'Fit and Proper' criteria is a matter of overall judgment and no indicative criteria can be spelt out. [para 2 (B) of the guidelines]

Q.51. Could NOFHC itself be a listed entity?

A. No. NOFHC is to be wholly-owned by the Promoters/Promoter Group. Therefore, it cannot be a listed company. [para 2 (C) (i) of the guidelines]

Q.52. Could a non-corporate entity such as an LLP or Trust (public, private or charitable) be permitted as being a part of the Promoter/ Promoter Group for setting up the NOFHC?

Q.53. Where shares of a NOFHC are held by public trusts, whose trustee are the promoters, whether the same could be considered under 2(C)(ii)(b) category for considering 51% holding in NOFHC?

A. (52 & 53) The shares of NOFHC can be held by individuals, corporate entities and companies belonging to the Promoter Group. An LLP and trust do not fall under any of these categories. Therefore, an LLP or trust cannot hold voting equity shares directly in the NOFHC but can hold indirectly through a company in the Promoter Group which holds voting equity shares of the NOFHC.

Q.54. If a Core Investment Company (CIC), being the promoter, is newly incorporated for holding the NOFHC, would the track record of the Promoter/ Promoter Group in the CIC be considered?

A. The overall track record of the Promoters/Promoter Group for at least 10 years will be seen. If the Promoters/Promoter Group incorporates a new CIC for the purpose of holding shares in the NOFHC, the track record of the Promoters/Promoter Group setting up the CIC will be seen. [para 2 (B) (b) of the guidelines]

Q.55. Where the CIC is a listed entity (and meets the owned and controlled by residents test as per the extant DIPP guidelines), would the stated Promoter Group of the CIC for listing purposes be also treated as the Promoter Group for the new bank?

A. Promoter Group for the purpose of these guidelines will be as per the definition given in Annex I to the guidelines.

Q.56. Would any investor holding more than 10 per cent of the 'free float' in the listed CIC be also compulsorily viewed as being a Promoter by virtue of a more than 10 per cent ownership in the CIC even if such investor does not otherwise form part of the Promoter Group (the working assumption here being that the CIC will hold significant interests in non-financial services businesses as well as 100 per cent interest in an NOFHC).

A. Merely holding 10 per cent of the free float in the listed CIC would not make the investor a Promoter. If the investor does not form a part of the Promoters/Promoter Group as per the definition given in Annex I to the guidelines, he would not be considered as a Promoter.

Q.57. In respect of the capital structure of the NOFHC, having regard to the use of the word "and" are sub-clauses (a) and (b) of clause 2 (C)(ii), to be read as conditions to be fulfilled cumulatively?

A. It is essential that clause (b) of para 2(C)(ii) (i.e. not less than 51 per cent of the voting equity shares of the NOFHC to be held by companies in which the public hold not less than 51 per cent of the voting equity shares) is satisfied in all cases, whereas clause (a) of para 2(C) (ii) does not stipulate any minimum shareholding. Accordingly, it is not necessary that an individual, along with his relatives (as defined in Section 6 of the Companies Act, 1956) and along with entities in which he and/or his relatives hold not less than 50 per cent of the voting equity shares should hold shares in the NOFHC. [para 2 (C) (ii) of the guidelines]

Q.58. Having regard to clause 2 (C)(ii)(a), can a single individual investor hold 10 per cent directly in the NOFHC and also have significant holdings in other Promoter group companies in which the public holds not less than 51 per cent of voting equity shares?

A. Yes. It would be possible for an individual belonging to the Promoter Group, along with his relatives (as defined in Section 6 of the Companies Act, 1956) and along with entities in which he and/or his relatives hold

not less than 50 per cent of voting equity shares, to have significant holdings in other Promoter Group companies in which the public holds not less than 51 per cent of voting equity shares.

Q.59. Does 51 per cent holding by public in clause 2 (C)(ii)(b) mean a company has to be necessarily a listed entity or could be an entity where 51 per cent is held by other than Promoters?

Q.60. In the context of at least 51% of the total voting equity of the NOFHC to be held by companies of the Promoter group having at least 51% of the voting equity held by the public, please clarify whether the concept of public includes "Non-Promoter" shareholders in an unlisted entity. Also, we presume that the definition of Public companies would be in consonance with SEBI Guidelines. Please confirm.

A. (59&60) A company in which public holds 51 per cent need not necessarily be listed. For the purpose of these guidelines, 'public shareholding' implies that no person along with his relatives (as defined in Section 6 of the Companies Act, 1956) and entities in which he and / or his relatives hold not less than 50 per cent of the voting equity shares, by virtue of his shareholding or otherwise, exercises 'significant influence' or 'control' (as defined in Accounting Standard 23) over the company.[para 2 (C) (ii) of the guidelines]

Q.61. Subject to the Companies Act, 1956 / Companies Bill, 2012, could the NOFHC issue non-voting equity shares/ preference shares?

Q.62. The references in paragraph 2 (C) (ii) relate to holdings of voting equity capital. Would the NOFHC be permitted to issue non-voting equity capital or other classes of capital to persons other than promoter group entities?

A. (61 &62) Yes, to the extent permissible under the relevant laws. However, it will not be reckoned for the purpose of calculation of promoter shareholding in the NOFHC.

Q.63. Should the percentage holding in the NOFHC/ bank be computed with reference to the last audited balance sheet or as on the date of the proposed investment?

A. The percentage holding of the NOFHC/bank will be computed with reference to the date of the investment.

Q.64. We understand that the NOFHC does not need to wholly own the 'other regulated financial services entities' and that direct participation in such entities by non-Promoter group individuals/ companies is permitted. Additionally, we understand that FDI in such entities as per the extant DIPP guidelines is permitted.

A. As per Para 2 C (vii) of the guidelines, only the regulated financial sector entities in which a Promoter Group has 'significant influence' or 'control' (as defined in Accounting Standard 23) will be held under the NOFHC. Thus, the NOFHC does not need to wholly own the regulated financial services entities and direct participation in such entities by non-Promoter Group individuals/ companies is permitted. The pattern of shareholding and the capital requirements in the regulated financial services entities held by the NOFHC shall be as prescribed by the respective sectoral regulators. The FDI limits in such entities would be as per extant FDI policy of the Government of India/ Notifications issued under FEMA. As regards the bank, the foreign shareholding would be as per para 2 (F) of the guidelines.

Q.65. It is currently unclear as to whether any unregulated financial services business e.g. investment advisory services (not covered within the scope of the extant SEBI guidelines) are permitted to be undertaken and whether they need to fall within the NOFHC umbrella or outside the same and directly held by the Promoter Group entities, or would the Promoter Group mandatorily be required to divest its holdings?

A. The bank as well as the other financial services entities in which the Promoter Group has 'significant influence' or 'control' (as defined in Accounting Standard 23) and that are regulated by RBI or other financial sector regulators will have to be necessarily held under the NOFHC. If any financial service is not regulated by

RBI or any of the other financial sector regulators, any entity in the Promoter Group providing such service, cannot come under the NOFHC. The Promoter Group will not be required to divest its holdings in such entities. [para 2 (C) (iii) of the guidelines]

Q.66. Where a financial services company (Company A) under its current corporate structure has subsidiaries/ associates whose sole business is to undertake outsource activities which are wholly consumed by Company A (for example, a company carrying on back office/ sales operations for a insurance company or a mutual fund), then whether such outsource company would be regarded as a financial services company and be permitted to be held under the NOFHC? Will the answer change if the outsource company also undertakes some activities for other Group entities including non-financial services entities?

A. If a Promoter Group entity rendering outsourced services is regulated by any of the financial sector regulators, it would come under the NOFHC. If the said entity is not regulated by any of the financial sector regulators, it cannot come under the NOFHC. The position remains the same irrespective of whether the outsourced services are provided to the regulated financial services entities of the group or to other group entities, including non financial services entities or to non-group entities. [para 2 (C) (vii) of the guidelines]

Q.67. Companies within the Promoter Group that are registered with RBI as an NBFCs- Investment Companies are sought to be brought under the NOFHC pursuant to the requirement in the Guidelines to bring all regulated financial entities of the Promoter/ Promoter Group under the NOFHC. Since the activities undertaken by the aforementioned NBFC-Investment Companies are not permitted to be done departmentally by a bank, and no entity under the NOFHC can have equity/ debt exposure to a Promoter Group Company, they will need to liquidate entire investment holding (equity and / or debt) in the Promoter Group Companies. Post Liquidation of the investment holdings, these entities will retain cash or become a non-operative shell company which obviates the very need to bring such companies under the NOFHC in the first place. We would therefore suggest that listed/ unlisted investment companies and /or unlisted investment companies owned by listed companies of the Promoter / Promoter Group (insofar as they are not engaged in the financial services), where a significant portion of the assets are deployed in promoter group entities, be kept outside of the purview of consolidation under the NOFHC as these entities are already regulated by and under the direct supervision of RBI.

Q.68. There could be instances where a particular Group has non-operative NBFC/CICs (in addition to the NOFHC), which act solely as a holding companies for companies carrying on non-financial services businesses of the Group. In such situations, would it be correct to read the regulations in a manner that such NBFCs/ CICs would not be considered as companies engaged in financial services business? If yes, then would such NBFCs/CICs be permitted to be held outside of the purview of the NOFHC (since they hold non-financial services businesses of the Group)?

A. (67&68) Para 2(C)(iii) of the guidelines provide that only non-financial services companies/entities and non-operative financial holding company in the Group and individuals belonging to Promoter Group will be allowed to hold shares in the NOFHC. Accordingly, a non-operative financial holding company though regulated by RBI will remain outside NOFHC. NBFC (Investment Companies) which hold/deal in equity shares of Promoter Group Companies cannot be under the NOFHC because, in terms of para 2 (I) (IV) (a) of the Guidelines, the financial entities held by NOFHC shall not have any credit and investment (including investments in the equity/debt capital instruments) exposure to the Promoters/Promoter Group entities or individuals associated with the Promoter Group or the NOFHC. Therefore, NBFC (Investment Companies), which would include CICs and other non-operative holding companies, would remain outside NOFHC. However, if there are investments in voting equity shares of regulated financial sector entities in which the Group has significant influence or control, such entities will have to be brought under the NOFHC. 'Investment Company' as defined under para 2(I)(vi) of the Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Direction, 1998, means any company which is a financial institution carrying on, as its principal business, the acquisition of securities.

Q.69. Where it is not contemplated that the NOFHC be held by the non-financial services operating companies/ entities, does the NOFHC necessarily need to be held by a non-operating financial holding company i.e. a

company that undertakes no other activity other than holding the shares in the NOFHC? We understand that the NOFHC may be held by a CIC that also undertakes certain non-financial business.

Q.70. Promoters/Promoter Group will be permitted to set up a bank only through a wholly-owned NOFHC. Whether a Core Investment Company with an asset size of more than `100 crore (which would be registered and regulated by RBI can wholly own the NOFHC as per 2(c)(iii) of the guidelines states that non financial companies and non operative financial holding company belonging to the promoter group will be allowed to hold shares in the NOFHC but at the same time stipulates that the NOFHC shall hold the bank as well as all the other financial services entities of the Group regulated by RBI or other financial sector regulators.

A. (69 & 70) It is not necessary that a NOFHC should be held only by non-financial services companies/ entities. It can be held by a CIC or a non-operating holding company. The regulated financial business / entities of the holding company, if any, cannot remain with the holding company. It has to come under the NOFHC. [para 2 (C) (iii) & (vii) of the guidelines]

Q.71. (a) If a NBFC is desirous of setting up a bank/ converting itself into a bank, the guidelines require setting up a NOFHC which will hold the bank (paragraph 2L). However, paragraph 2(C)(iii) does not allow financial services companies (e.g. NBFCs) to have a stake in NOFHC. Hence, by implication, NBFCs are prevented from directly setting up NOFHC and setting up the bank.

RBI may clarify if there would be any relaxation for shareholding in NOFHC (promoted by NBFC) with regard to paragraph 2(C) (iii)? What about the applicants who are predominantly into the financial services, and whose parent company itself is finance company, and that too listed.

b) As per our interpretation, a widely held and publically listed NBFC can go for banking license by adopting the following structure:

a. Listed NBFC forms a NOFHC

b. NOFHC forms a bank

For a) above, the condition of paragraph 2(C)(ii)(b) would be met as more than 51 percent (in fact 100 percent) shares of NOFHC would be held by the listed NBFC (where public holds > 51 percent). Thereafter, listed NBFC will transfer all assets/ loan portfolio to a new company, thereby listed NBFC would become non-operative financial holding company. This will help meet the condition of paragraph 2(C) (iii). The NOFHC can then form a bank as per b) above. Can you please confirm that above ms with the condition of paragraph 2(C) (iii)?

A. a (i) There would be no relaxation for the pattern of shareholding in the NOFHC with regard to the provisions at the para 2 (C) (iii) of the guidelines

(ii) For the purpose of these guidelines, NBFC (Investment Companies) (which would include CIC and a non-operative holding company) would be held outside the purview of the NOFHC. [para 2 (C) (iii) of the guidelines]. The regulated financial business/entities of the holding company, if any, cannot remain with the holding company. It has to come under the NOFHC. [para 2 (C) (iii) & (vii) of the guidelines]

(iii) In the case of other NBFCs in which public holds more than 51 percent of voting equity shares, wishes to set up a bank or convert itself into a bank, it must transfer all its regulated financial services business to a separate company/companies and transfer the shareholding in such companies to the NOFHC. After it has transferred the regulated financial services business, it can set up a NOFHC, provided it meets the requirements of para 2 (C) (ii) and (iii) of the guidelines.

(b) As stated above, before the listed NBFC holds shares in the NOFHC, it must transfer all regulated financial services business to a new company and shares in that new company must be held by the NOFHC. Conversion

of the listed NBFC into a listed non operating holding company would enable meeting the requirement of para 2(C) (iii) of the guidelines provided the listed non operating holding company meets the requirement of para 2(C)(ii)(b) of the guidelines i.e. the public hold not less than 51 percent voting equity shares in the company.

Q.72. Whether an existing Non-operating listed Holding company, with more than 51 percent public shareholding, will be eligible to promote a Non-Operative Financial Holding Company (NOFHC)?

A. Yes. An existing non-operating listed holding company, with more than 51 percent public shareholding, will be eligible to promote a Non-Operative Financial Holding Company (NOFHC). [para 2 (C) (ii) (b) and 2 (C) (iii) of the guidelines]

Q.73. Will a Non-operating holding company, being a promoter of NOFHC and holding investments in unregulated financial sector entities and non-financial sector entities, would be required to be registered as a Core Investment Company with the RBI?

A. A non operating holding company being a promoter of NOFHC and holding investments in unregulated financial sector entities and non financial sector entities will be required to be registered as a CIC with RBI if it meets the criteria laid down in para 2 and 3 (h) of Notification No DNBS.PD. 219/CGM(US)-2011 dated January 05, 2011 regarding Regulatory Framework for Core Investment Companies.

Q.74. Can the NOFHC hold physical assets belonging to the Group and charge for them on an arm's length basis? Similarly, since unregulated activities cannot be held by the NOFHC, we assume that the holding company above the NOFHC can, through a subsidiary, hold related businesses such as technology services or banking correspondent services or distribution services. Is this correct?

A. NOFHC, being a non-operative financial holding company, cannot hold physical assets belonging to the Group and charge for them on an arm's length basis. A holding company of the Promoter Group, which holds the NOFHC can undertake related businesses such as technology services or banking correspondent services or distribution services on its own, or through a subsidiary. If the non-operative holding company is a CIC or NBFC, the relevant regulations will be applicable.

Q.75. Can an existing non-operating listed holding company, in which the public shareholding exceeds 51 percent and which is proposed to be registered as a CIC, be allowed to operate as the NOFHC?

A. No. An existing non-operating listed holding company, with more than 51 per cent public shareholding cannot operate as the NOFHC as the NOFHC has to be wholly-owned by the Promoter / Promoter Group. The above cited example does not meet this criteria as the non-operating listed holding company has equity shareholding from non-promoters/promoter group entities. However, this existing non-operative listed holding company in which public shareholding exceeds 51 per cent can promote a NOFHC.

A non operating holding company being a promoter of NOFHC will be required to be registered as a CIC with RBI if it meets the stipulated criteria.

If the non operating holding company does not meet the criteria for being defined as a Core Investment Company but is an NBFC (Investment Company) it will be required to be registered with RBI as NBFC(Investment Company).

Q.76. In many Industrial Groups, the Group investments in non financial Group companies are held through an investment company (SPV/CIC). Since NOFHC is not permitted to hold / invest in non financial entities belonging to the Group, we presume that the requirement of bringing such SPV/CIC below NOFHC would not be applicable. The presumption is made also because it is impractical / economically inefficient / strategically imprudent, for the Industrial Group to house all these Group investments in an Operating Company.

A. For the purpose of these guidelines, the investment company (SPV/CIC) that holds shares only in non-financial companies of the Promoter Group would not be considered as a financial services company and would be held outside the purview of the NOFHC. [para 2 (C) (iii) of the guidelines]

Q.77. Paragraph 2(C)(iii) also states that only non-financial services companies / entities and non-operative financial holding company in the Group and individuals belonging to the Promoter Group will be allowed to hold shares in the NOFHC. Could you clarify how and the circumstances in which a non-operative financial holding company could be a shareholder of a NOFHC?

A. A non-operative financial holding company is a company which has no operational activities and holds the non-financial sector companies of the Promoter Group and which has no subsidiaries, joint venture or associate or other controlled entities in the financial sector except investments in the NOFHC. Such company can hold voting equity shares in the NOFHC in accordance with Paragraph 2 (C) (ii) and (iii) of the guidelines. The said holding company can hold upto 100 per cent of the voting equity of the NOFHC, if it has public shareholding of not less than 51 per cent. [para 2 (C)(ii)(b) of the guidelines].

Q.78. Could an NOFHC undertake services in the nature of advisory services which are unregulated by any regulator; advisory services which are regulated by SEBI or any other financial services regulator and provide infrastructure (e.g. office space, amenities etc) and related services to entities held by it or otherwise, and receive considerations for the same? Is lending to or investing in entities that are held under the NOFHC the only financial activity that the NOFHC may undertake?

A. NOFHC cannot provide any advisory services to any entity both within the Group and outside the Group.

The NOFHC can make investment in bank deposits, money market instruments, government securities and actively traded bonds and debentures besides lending to or investing in entities that are held under it. [para 2(H)(i)(c) of the guidelines]

Q.79. (i) A promoter group that meets clause C (ii) (b) wherein 100% per cent of its voting equity shares are held by the public. It is important to clarify that the promoter group does not have any individual Promoter or relatives of Promoter at all and therefore is a completely public and FI owned corporate entity

(ii) A listed NOFHC held by the promoter (above stated publicly held corporate) and has direct public holding. The board of the NOFHC consists of 8 independent directors, 1 promoter nominee and ' employees. We believe this structure meets RBI's intent on the NOFHC which is effectively 100% owned by the public/FI (directly or indirectly), thereby creating the most transparently held NOFHC structure and a ring-fenced NOFHC with almost 80% independent directors on the Board ensuring governance of highest order.

A. (a) It is not necessary that there has to be an individual promoter. The company wherein 100% of voting equity shares are held by the public can set up the NOFHC and hold to the extent of 100% of the voting equity shares of the NOFHC if such a company is a non-financial services company or a non-operating financial holding company in the group. Further, the company itself will be deemed to be the Promoter and all the provisions of the guidelines applicable to the Promoter and the Promoter Group will apply to it.

(b) The listed company cannot be the NOFHC. It will need to form a NOFHC which is wholly owned by it. The number of independent Directors on the Board of the NOFHC should be in compliance with the provisions of paragraph 2 (G) (iv) of the guidelines.

Q.80. Certain core investment companies are set up or may be set up in the future, purely as investment vehicles in order to hold the promoter investments in other companies. While these are not financial services companies, they are regulated by the RBI. Would these companies be included under clause 2 C (iii) above?

A. For the purpose of these guidelines, a non-operative holding company that holds shares only in non-financial companies of the Promoter Group would not be considered as a financial services company and would be held outside the purview of the NOFHC.

Q.81. Please clarify that promoter group entities, which hold investments in group companies or investments in normal course of business, are not required to come under the NOFHC and that such promoter group entities can hold shares in the NOFHC

A. Promoter Group entities, which hold investments in group companies or investments in the normal course of business, are not required to come under the NOFHC. They can hold shares in the NOFHC, provided the conditions stipulated in para 2(C) (ii) & (iii) of the guidelines are met.

Q.82. If a financial services company is a listed company and the promoter holding therein is not more than 49 per cent, can this be regarded as compliance with condition at 2(C)(ii)(b)?

A. No. A financial services company of the Promoter Group cannot participate in the voting equity shares of the NOFHC.

If the Promoters/Promoter Group which has a financial services company, listed or otherwise, wishes to set up a bank, the said financial services company must transfer all its regulated financial services business to a separate company/companies and transfer the shareholding in such companies to the NOFHC. After it has transferred the regulated financial services business, it will cease to be a financial services company, and it can set up a NOFHC provided, the public shareholding in it is not less than 51 per cent. [Paragraph 2(C)(ii) and (iii) of the guidelines]

Q.83. What kind of non operative holding companies of a group are envisaged to be holding shares in the NOFHC? Would such companies be classified as CICs?

Q.84. Will a non-operating holding company, being a promoter of NOFHC and holding investments in unregulated financial sector entities and non-financial sector entities, would be required to be registered as a Core Investment Company with the RBI?

A. (83 & 84) A non operating holding company that holds investments in unregulated financial sector entities and non financial sector entities will be eligible to hold voting equity shares in the NOFHC. It will be required to be registered as a CIC or NBFC with RBI if it meets the stipulated criteria.

Q.85. In respect of activities that a bank could conduct either within the bank or through a separate entity (such as credit cards, primary dealers, leasing, hire purchase, factoring, etc), is such entity required to be a subsidiary / joint venture / associate of the bank or of the NOFHC?

A. Activities such as credit cards, primary dealer, leasing, hire purchase, factoring etc., can be conducted by a bank departmentally or through a separate entity or entities outside the bank. If such an activity is to be carried through a separate entity, then it should be carried on by a subsidiary, joint venture or associate of the NOFHC, and not of the bank, unless it is legally required or specifically permitted by RBI. [para 2 (C) (iv) of the guidelines].

Q.86. In respect of business that a bank is permitted to carry on through a separate entity, are the activities limited to credit cards, primary dealers, leasing, hire purchase, factoring or could it include any other ancillary activities at the discretion of the bank?

A. As per the extant instructions, prior permission of RBI is necessary for the banks to invest in the equity of subsidiaries and financial services entities. Accordingly, banks would require RBI's approval for setting up subsidiaries / joint ventures / associates for conducting activities permitted to banks under Section 6 of the BR Act, 1949. The general principle in this regard is that para-banking activities, such as credit cards, primary

dealer, leasing, hire purchase, factoring etc., can be conducted either inside the bank departmentally or outside the bank through subsidiary/ joint venture /associate. Activities such as insurance, stock broking, asset management, asset reconstruction, venture capital funding and infrastructure financing through Infrastructure Development Fund (IDF) sponsored by the bank can be undertaken only outside the bank. Lending activities must be conducted from inside the bank. However, other regulated financial services entities (excluding entities engaged in credit rating and commodity broking) in which the Promoter/Promoter Group has 'significant influence' or 'control' (as defined in Accounting Standard 23) have to be held under the NOFHC and not under the bank unless it is legally required or specifically permitted by RBI. [para 2 (C) (iv) of the guidelines].

Q.87. Is there any restriction on FDI in subsidiary/ies of banks as well?

A. In the normal course, a bank held under the NOFHC will not be permitted to have subsidiaries. A subsidiary of the bank can be set up only where it is legally required or specifically permitted by RBI [para 2(C) (vi) of the guidelines]. FDI investments in the subsidiary of the bank or in the financial services entities held under the NOFHC would be as per the DIPP guidelines of Government of India/Notifications issued under FEMA.

Q.88. Under clause 2 (C)(vi), the NOFHC is not permitted to set up any new financial services entity for at least 3 years from date of commencement of its business, what does "set-up" envisage? Could minority shareholding be regarded as "set-up"?

A. Setting-up would mean incorporating a new entity or acquiring shares in an existing entity in which the Promoter Group will have 'significant influence' or 'control' (as defined in Accounting Standard 23) and which carries on regulated financial services business whereby such entities would be required to be a subsidiary, joint venture or associate of the NOFHC. [para 2 (C) (vi) of the guidelines]

Q.89. Can the bank "set-up" new financial services business as subsidiaries/ joint ventures below it with RBI permission?

A. Normally the bank will not be permitted to set up a subsidiary / joint venture under it. However, a bank may be permitted to set-up a subsidiary / joint venture under it, where it is legally required or specifically permitted by RBI (For example, a banking subsidiary for carrying on the business of banking exclusively outside India). [para 2 (C) (vi) of the guidelines]

Q.90. If the intention to "set-up" new financial services business is mentioned in the application for banking licence made to the RBI, would this be considered / permitted?

A. Promoters/Promoter Groups will not be permitted to set up any new financial services entity within three years from the date of commencement of business of the NOFHC, even if such intention is mentioned in the applications. [para 2 (C) (vi) of the guidelines]

Q.91. Clause 2(C)(vii) provides that only those regulated financial sector entities in which a Promoter Group has significant influence or control will be held under the NOFHC. Could the Promoter Group continue to hold non-regulated financial services entities over which it has significant influence or control (or otherwise) outside of the NOFHC structure or would it mandatorily be required to divest its holdings?

A. Yes. The financial services entities of the Promoter Group which are not regulated by RBI or any other financial sector regulator cannot be brought under the NOFHC structure. [para 2 (C) (iii) of the guidelines]

Q.92. Clause 2D(iv) of the Guidelines envisages an increase in voting capital in first 5 years by way of public issue or private placements. Can funds be raised by way of rights issue?

A. Yes, subject to regulations relating to rights issues. The shareholding of the NOFHC will be a minimum of 40 per cent of the paid up voting equity capital of the bank which shall be locked in for a period of five years from

the date of commencement of the business of the bank. The shareholding in excess of 40 per cent of the total paid up voting equity capital should be brought down to 40 per cent within three years from the date of commencement of business of the bank. [para 2 (D) (ii) and (iii) of the guidelines]

Q.93. Are the bank and the NOFHC permitted to have common directors? Can they therefore also have some and/or all common independent directors? Similarly, can the NOFHC have some and/or all common independent directors as other regulated financial services entities held by the NOFHC?

A. There could be common directors in the NOFHC and the bank. [para 2(G)(i) of the guidelines]. A director of the NOFHC cannot be considered as independent director of the bank. The common directorship between the NOFHC and other regulated financial services entities would be as per the regulations of the sectoral regulators concerned. [para 2 G (iv) of the guidelines]

Q.94. Whether a bank is to be incorporated prior to making an application to the RBI for a licence? Is the bank to be incorporated as a public or private limited company?

A. No. The bank cannot be incorporated without obtaining 'in-principle approval' from the Reserve Bank. The bank will be incorporated as a public limited company.

Q.95. Is the banking company required to be incorporated before submitting the application? If not, how should form III, which seeks details of the date of incorporation etc. be completed ?

A. No. The bank cannot be incorporated without obtaining 'in-principle approval' from the Reserve Bank. In case in-principle approval is given by the Reserve Bank, the bank should be set up within a period of 18 months from the date of in-principle approval. The same may be mentioned in the Form III.

Q.96. For a listed NBFC (which has individual promoter holding more than 10 percent shares in individual capacity), that desires to form a bank - the ownership of listed NBFC needs to be moved to NOFHC as per paragraph 2(C) (iii).

This can be achieved by swap of shares in which NOFHC will acquire shares of listed NBFC from the existing shareholders and will in turn issue NOFHC shares to the shareholders. In such a scenario, the limit of 10 percent holding by individual promoter in NOFHC as mentioned in paragraph 2(C) (ii)(a) may not be met on the day one as the shareholding of NOFHC will be the mirror image of that of the listed NBFC. However, since NOFHC will have to bring its holding in the bank to 40 percent within three years, the individual promoter's holding will be automatically reduced to below 10 percent, although it may be more than 10 percent in NOFHC to begin with.

Will there be any dispensation / relaxation for condition of paragraph 2(C)(ii)(a)?

Will individual promoters be allowed to divest their holding over a period of time – say 2-3 years to get reduced to 10 percent?

A. This model is not possible for the following reasons:

(i) The NOFHC should be wholly owned by the Promoters/Promoter Group [para 2(A) of the guidelines].

(ii) If as a result of the share swap, any part of the shareholding of the NOFHC is held by the public, which holds shares in the listed NBFC, then the NOFHC cannot be wholly owned by the Promoters/Promoter Group.

The model to be followed in such cases is described in reply to Query at Sl.No.71 above.

Q.97. The capital structure of the wholly-owned NOFHC set up by Promoter / Promoter Groups in Private Sector shall consist of:

a) voting equity shares not exceeding 10 percent of the total voting equity shares of the NOFHC held by any individual belonging to the Promoter Group, along with his relatives (as defined in Section 6 of the Companies Act 1956) and along with entities in which he and / or his relatives hold not less than 50 percent of the voting equity shares, and

b) companies forming part of the Promoter Group whereof companies in which the public hold not less than 51 percent of the voting equity shares shall hold not less than 51 percent of the total voting equity shares of the NOFHC."

Our query is: -

"How to bring rest 90 percent voting equity shares in NOFHC to make it fully owned" assuming promoters do not have any listed company, in which public is substantially interested?

A. The requirement is that the NOFHC has to be wholly owned by the Promoters/Promoter Group. Further, at least 51 percent of the voting equity shares of the NOFHC have to be held by companies in the Promoter Group in which public hold not less than 51 percent of the voting equity of those companies. A company in which public holds 51 per cent need not necessarily be listed.[para 2 (C) (i) & (ii) of the guidelines]

Q.98. Whether a CIC listed on a Stock Exchange, either registered with RBI or not, can be a 100 percent promoter of an NOFHC to promote a bank?

A. Yes. A listed CIC in the Promoter Group can have a 100 percent shareholding in the NOFHC, provided the public hold not less than 51 percent of the voting equity shares in the CIC. [para 2 (C) (ii)(b) and 2 C (iii) of the guidelines]

Q.99. Are both conditions at paragraph 2 (c) 2 (a) and (b) necessary. Will a promoter group company where the public holding is greater than 51% allowed to hold 100% of the voting equity shares of the NOFHC.

A. A promoter group company where the public holding is greater than 51 per cent can have a 100 percent shareholding in the NOFHC. [para 2 (C) (ii) (a) and (b) of the guidelines]

Q.100. Whether a multi-layered, non-operative company i.e. Promoting company Holding only investments, while the one on top of it involved in Financial Sector, can be a 100 percent promoter of an NOFHC to promote a bank, if the promoter company meets public holding criteria of at least 51 percent ?

A. The guidelines require that:

- i. all regulated financial services entities of the Promoters/Promoter Group in which the Promoters/Promoter Group has 'significant influence' or 'control' (as defined in Accounting Standard 23) should be carried on only through entities held by the NOFHC.
- ii. no entity in which the NOFHC has a shareholding can hold shares in the NOFHC.

Therefore, there cannot be a company involved in the financial sector which is on top of the NOFHC and is a 100 percent promoter of the NOFHC.

Q.101. Will a Housing Finance Company (HFC) or Housing Finance Activities of the promoting company will necessarily have to be brought under NOFHC ? In case the HFC is substantially held by a Financial Sector Regulated entity will RBI insist on the investing company (financial sector entity) to come under NOFHC?

Q.102. If the Group presently provides housing finance through an entity established for this purpose, please could you clarify whether these activities could continue to be undertaken by the housing finance entity under the NOFHC? Alternately, could the bank hold the housing finance entity as its subsidiary, a structure which some other banks appear to have adopted ?

A. (101 & 102) Lending activities must be conducted from inside the bank. Therefore, the housing finance activity of the HFC should be transferred to the bank under the NOFHC. The financial sector regulated entity which holds the HFC substantially will have to come under the NOFHC.[para 2(C)(iii) of the guidelines]

Q.103. Can an entity incorporated under Companies Act which is listed on stock exchanges, regulated by one of the financial sector regulator and engaged primarily in retail mortgage lending, promote the NOFHC?

A. No. Such an entity cannot promote a NOFHC because lending activities must be conducted from inside the bank. Therefore, the retail mortgage lending activity of the entity should be transferred to the bank under the NOFHC. Further, all regulated financial services entities of the Group in which the Promoter Group has 'significant influence' or 'control' (as defined in Accounting Standard 23) have to be held by a NOFHC. [para 2 (C)(iii) and (vii) of the guidelines]

Q.104. Will the applicant be treated as a private sector entity if the total Government /Public Sector Undertaking / Government companies' shareholding in the applicant is less than 50 percent?

A. Entities, in which the Government / Public Sector Undertaking / Government Companies' shareholding is less than 50 percent, would be treated as private sector entities, provided there are no explicit or implicit agreements or arrangements through which Government can exercise control. [para 2 (A) (i) of the guidelines]

Q.105. If 40 percent of the applicant is held by a regulated public financial institution incorporated under an Act of Parliament and wholly owned by the Government of India, by virtue of the applicant's shareholding by a public financial institution incorporated under an Act of the Parliament, will such financial institution be treated as an entity not belonging to the Promoter Group ? Further, due to the proviso to Clause II of Annexure I of the guidelines, can it be interpreted that this financial institution will not be part of the Promoter Group?

Q.106. In the event of the FI floating a new bank under the NOFHC structure, which entities would be deemed as the promoter group for the purpose of the new bank licence guidelines? A reference is also invited to the clarification provided in Annexure to the RBI guidelines wherein it is stated that FIs and banks holding 10% or more equity in the corporate who promotes NOFHC, would not be treated as promoter group.

A. (105 & 106) Whether a public financial institution is part of the Promoter Group will depend upon whether it is in effective control of the NOFHC to the exclusion of any other person.

Q.107. Please clarify whether it is compulsory to transfer the existing mortgage lending business of the promoter Company to the new Bank and whether any dispensation would be given to permit the existing mortgage business to be continued within the existing company outside the bank ?

Q.108. NBFC-IFC framework was given shape to meet the increasing financing needs of the Infrastructure sector which could not be met by banks within the regulatory framework for banks. Now that the promoters/promoter entities are required to bring all their financial sector activities under the NOFHC promoting the bank, does RBI require that the Infrastructure lending activity currently being undertaken by the promoter be necessarily folded into the bank or it can be undertaken by a separate NBFC-IFC under the NOFHC?

Q.109. Can a Promoter Group having existing NBFC operations continue the NBFC operations (of loan business) even after setting up of the Bank especially since they finance to niche areas and also since the

financial investors of the NBFCs may be uncomfortable migrating to a-banking system - Para 2 C (iv) (b) seems to permit this.

Q.110. From the paragraph 2 (C) (iv) (b) of the guidelines, it is clear that hire purchase / leasing activities / factoring activities are permitted to be carried on. Hence, the objective appears to be, to allow activities which a Bank can operate concurrently with another entity / NBFC alongside. However, the term "loan business" has not been specifically mentioned. Whether the term "etc" can include loan companies also? There does not seem to be any rationale for exclusion only for loan companies while permitting hire purchase & leasing companies. It may be noted that all NBFC activities are essentially in the nature of hire purchase / leasing transactions and the nomenclature / migration to that of a loan agreement was done (about 5-6 years back) only due to the imposition of additional costs like service tax. For NBFCs, the hire purchase and lease is only a financing transaction and not an operating lease etc. The objective in all 3 transactions (Hire purchase, Lease and Loan) is only to lend money and recover the same with interest over a fixed period.

Can a Promoter Group having existing NBFC operations continue the NBFC operations (of loan business) even after setting-up of the Bank - Para 2 C (iv) (b) seems to permit this.

Q.111. Infrastructure Lending is perceived riskier than some other types of lending, within an Infrastructure Finance Company framework, the investors / debtors are well aware of the use of their funds. However under a bank set-up since the liabilities are fungible, the risk (of lending to infra projects) is passed on to the depositor. We therefore believe that the infra business should be allowed to be kept outside a new bank considering the risks and difficulties in initial integration, and therefore request the RBI to make an exception.

Q.112. We believe that Infrastructure Financing should be considered as a specialized activity to be conducted through a separate financial entity outside the bank but under the NOFHC. RBI has frequently expressed its concerns on the increasing share of bank lending to the Infrastructure sector, given its long term liability profile and higher weighted risks. Therefore, it is our submission that it would be better to allow Infrastructure Financing to be carried out in an IFC format, with its more stringent and appropriate regulatory compliances.

Q.113. Whenever an activity can be undertaken both by a bank and by an NBFC (e.g. Housing Finance) we understand that Promoter would be allowed to exercise either of the options, at his discretion. Please confirm.

A. (107 to 113) The general principle in this regard is that para-banking activities, such as credit cards, primary dealer, leasing, hire purchase, factoring etc., can be conducted either inside the bank departmentally or outside the bank through subsidiary/ joint venture /associate. Activities such as insurance, stock broking, asset reconstruction, venture capital funding and infrastructure financing through Infrastructure Development Fund (IDF) sponsored by the bank can be undertaken only outside the bank. Lending activities must be conducted from inside the bank. However, other regulated financial services entities (excluding entities engaged in credit rating and commodity broking) in which the Promoters/Promoter Group has 'significant influence' or 'control' (as defined in Accounting Standard 23) have to be held under the NOFHC and not under the bank unless it is legally required or specifically permitted by RBI. [para 2 (C) (iv) of the guidelines]

Q.114. (i) Is it possible to form a 'consortium' of business entities/groups that creates a NOFHC to promote a new bank?

(ii) Alternatively, if a strategic partner were to acquire a stake (below 26 percent) in one of the companies holding the NOFHC promoted by an existing group, would that partner also be construed as a promoter?

(iii) Would the strategic partner be required to bring its existing financial services businesses also under the NOFHC set-up by the promoters?

A. (i) No. The NOFHC has to be wholly owned by a single Promoter/Promoter Group (as per the definition given in Annex I to the guidelines) and the pattern of shareholding would be as per the provisions laid down at para 2(C)(ii) & (iii) of the guidelines. Two or more separate groups cannot combine together to set up a NOFHC.

(ii) & (iii) A strategic shareholder not being a part of the Promoter Group, can be a shareholder in a company belonging to the Promoter Group (as per definition in Annex I to the guidelines), which holds shares in the NOFHC. If the strategic partner is in control of the company and is not a resident, then the company cannot hold shares in the NOFHC, as NOFHC has to be owned and controlled by residents. The strategic partner cannot be considered as part of the public shareholding, if he, by virtue of his shareholding or otherwise, exercises significant influence and control over the company.

Q.115. Where a listed/ unlisted public company/ private company is a promoter, can a strategic investor of such listed/ unlisted public company / private company who is not a promoter/ promoter group, hold shares directly in the banking company?

A. Yes. However, no single entity or group of related entities, other than the NOFHC, shall have shareholding or control, directly or indirectly, in excess of 10 per cent of the paid-up voting equity capital of the bank and any acquisition of shares which will take the aggregate holding of an individual / entity / group to the equivalent of 5 per cent or more of the paid-up voting equity capital of the bank, will require prior approval of RBI. [para 2 (K)(ii)(iii) of the guidelines]

Q.116. Can an NOFHC be set up jointly by 2 different promoter groups each satisfying the conditions laid out in 2(A) of the guidelines?

A. No. The NOFHC has to be wholly owned by a single Promoter/Promoter Group (as per the definition given in Annex I to the guidelines) and the pattern of shareholding would be as per the provisions laid down at para 2(C)(ii) & (iii) of the guidelines. Two or more different promoter groups cannot combine together to set up an NOFHC.

Q.117. What would be construed as 'misaligned with the banking model?' Would pure agency business, though market-linked, be construed as speculative? (e.g. broking) If so, then if the overall contribution is less than 15 percent of the revenues and/or assets, then would it still be substantial enough to be construed as misaligned.

Q.118. Promoter / Promoter Groups' business model and business culture should not be misaligned with the banking model and their business should not potentially put the bank and the banking system at risk on account of group activities such as those which are speculative in nature or subject to high asset price volatility. Businesses / activities that are being considered as speculative or having high asset price volatility may be explicitly clarified.

Q.119. Please elaborate and provide parameters for / specific description / examples of :

a. business model and business culture considered by RBI to be misaligned with banking model

b. businesses / activities which RBI considers to be speculative in nature or subject to high asset price volatility.

These clarifications will be helpful in appreciating RBI's expectations and for planning future business.

A. (117 to 119) 'Misaligned with the banking model' would mean business model and business culture which potentially puts the bank and the banking system at risk on account of group activities such as those which are speculative in nature or subject to high asset price volatility [para (2) (B) (c) of the guidelines]. It is not possible to exactly define substantial contribution in terms of percentage, but it will be seen in the overall context of business activities.

Q.120. On ownership of the NOFHC, Can the company (with > 51 percent public holding) be a Core Investment Company?

A. If the core investment company belonging to the promoter group has more than 51 percent public holding, then it can set up the NOFHC, and have upto 100 percent voting equity shares of the NOFHC.

Q.121. Does public holding mean (i) Listing is necessary? (ii) Absence of any other large shareholders? (e.g. 2-3 others owning 5-10 percent each)

A. Public shareholding does not necessarily imply that the company is listed. What is required is that at least 51 percent of the shareholding is widely dispersed among shareholders other than the Promoters and none of such shareholder along with his relatives (as defined in Section 6 of the Companies Act, 1956) and entities in which he and / or his relatives hold not less than 50 percent of voting equity shares exercise 'significant influence' or 'control' (as defined in Accounting Standard 23) by virtue of his shareholding or otherwise.

Q.122. On holding structure, will the transfers of shares to NOFHC be tax exempt?

Q.123. Aligning the existing Group business and ownership structure to the form required by the Guidelines will require transfers of shareholdings and / or business activities within the Group. Such transfers may be liable to income tax, VAT and / or stamp duty. The Financial Holding Working Group Report released by the RBI had recommended amendments to taxation and stamp duty laws to minimise the transition cost of migrating to the Financial Holding Company Structure. This was also reiterated during the discussions in relation to the amendment to the Banking Regulation Act, 1949. Can any relief be expected in this regard ?

Q.124. There may be a one-time tax implication on the transfer of existing financial services entities from their current holding structure to the NOFHC, would the RBI recommend an exemption for such kind of transfers due to the fact that these have been done to comply with regulation?

Q.125. The applicants who go for new bank licence will have to make changes in their structure/ shareholding / asset portfolio. It is submitted that RBI may take up the matter with Ministry of Finance for giving one time dispensation from income tax by way of exemption to applicants who have to restructure their shareholding / assets / portfolio etc. to meet with New Banking licence guidelines.

Q.126. Whether exemption from tax or duties (stamp duty or otherwise) shall be available, which may arise pursuant to any restructuring, which shall be required to be undertaken for complying with the Banking guidelines.

Q.127. The Final Guidelines require Promoters to form an NOFHC and transfer all the regulated financial services activities of the Promoter group under the NOFHC. Also, activities that a bank can do departmentally need to be transferred from multiple regulated financial services entities to the Bank. Both these stipulations require significant restructuring of existing businesses with attendant material tax and stamp duty implications. For a successful and timely adherence to the prescribed guidelines, it would be critical if RBI and Government can provide a one time tax and stamp duty exemption for restructuring undertaken pursuant to these guidelines.

Q.128. Creation of NOFHC will add one more layer to the corporate Structure of a Promoter Group. Consequently, there will be a material additional incidence of Dividend Distribution Tax under the extant tax regulations. It would be critical for RBI and Government to provide pass through benefit of dividends declared and received by an NOFHC from financial services entities under it.

Q.129. Process of restructuring the existing financial entities (of Promoter group) to comply with guidelines involves substantial unintended costs including by way of stamp duty, income tax etc (e.g. MAT implication for NOFHC, as NOFHC would be non-operating entity having no offset available under MAT). Hence, appropriate

changes to various legislations would be required to avoid this burden. We request that appropriate transition period is provided till the relevant legislations are so amended.

Q.130. Conversion of an existing NBFC into Bank through transfer / divestment / sell of portfolio could be subjected to stamp duty. It is submitted that RBI may take up the matter with Central Government for giving exemption to applicants who have to restructure their assets portfolio to meet with New Banking license guidelines of RBI. Central Government may persuade the State Government to follow suit.

A. (122 to 130) Taxation will be as per the laws / rules of the tax authorities.

Q.131. (i) Is it necessary to name a CEO at the application stage?

(ii) Although Form III of the Banking Regulation (Companies Rule, 1949) requires applicants to provide the name of the CEO at the time of submission, applicants may find it difficult to attract the very best talent before getting clarity in the form of an in-principle approval. Hence it may not be desirable to have a particular CEO identified at the time of submission of the application itself. In view of the foregoing, and since the choice of the Bank CEO would in any case be subject to final approval by the RBI, our understanding is that we need to identify the particular candidate for the CEO's position after getting an in-principle approval for the bank license but before commencement of operations. Please confirm.

A. (i) & (ii) If a CEO is not identified at the application stage, names of management team including the CEO would be required to be furnished to the Reserve Bank after grant of in-principle approval.

Q.132. The prescribed Form III requires the Applicant to give the name of the proposed Chief Executive Officer, his qualifications, experience, age and the proposed remuneration.

Pending the in-principle approval from RBI for a bank license, many likely CEO candidates with existing engagements may not be able to accept a role with potential applicants.

It would be useful if RBI could clarify that pending the grant of a licence, a professional who is part of the Promoter Group can be appointed as an interim CEO and post the grant of an in-principle approval, the successful applicant can appoint a full time CEO with the prior approval of RBI.

A. Ownership and management shall be separate and distinct in the NOFHC, the bank and entities regulated by RBI. [Paragraph (G) (vii) of the guidelines]. If a CEO is not identified at the application stage, names of management team including the CEO would be required to be furnished to the Reserve Bank after grant of in-principle approval.

Q.133. Would RBI allow new banks to use their/group brand name or logo or taglines used by other entities in the promoter group?

A. Yes. The banks could use the promoter group's brand name / logo or taglines in so far they represent and convey the banking function.

Q.134. Will a promoter holding minority stakes (say 27 percent) in the entity holding 100 percent of the NOFHC promoting a bank, be restricted from increasing its stakes in the promoting entity? If yes, for what period?

A. The requirement as per the guidelines is that companies forming part of the Promoter Group whereof companies in which the public hold not less than 51 percent of the voting equity shares shall hold not less than 51 percent of the total voting equity shares of the NOFHC. As such, under no circumstances promoters would be allowed to increase their shareholdings in such companies beyond 49 percent in future in accordance with the requirement of para (2) (C) (ii) of the guidelines.

Q.135. Will RBI consider providing on its website, a list of unbanked centres with population less than 9,999?

A. List of unbanked centres with population less than 9,999 can be obtained from the concerned State Level Bankers Committees (SLBCs) and District Consultative Committees (DCCs) at the time of opening branches.

Q.136. (i) It is our understanding that a widely held, listed NBFC, with no operations, can be the NOFHC that holds a Bank. Please confirm.

(ii) It is also our understanding that a widely held listed NBFC, with no operations, and with no Promoter / Promoter Group, can be the NOFHC that holds a Bank. Please confirm.

(iii) Please confirm that it would be permissible for the Government of India to own more than 10 percent, but less than 26 percent, of a widely held, listed NOFHC, with no Promoter/Promoter Group, that holds the Bank.

(iv) Para 2K(iii) states that "No single entity or group of related entities, other than the NOFHC, shall have shareholding or control, directly or indirectly, in excess of 10 percent of the paid-up voting equity capital of the bank". Our understanding is that it would be permissible if the Government of India were to be the only entity that holds more than 10 percent, but less than 26 percent of the Bank.

A. (i) to (iii) The NOFHC must be wholly owned by the Promoters/Promoter Group. Therefore, it cannot be listed and accordingly a listed NBFC cannot be a NOFHC.

(iv) The 10 percent stipulation will also apply to the Government of India shareholding in the bank, as these banks would be private sector banks.

Q.137. Para 2A of the Guidelines state that "Entities / Groups in the private sector that are 'owned and controlled by residents' as defined in DIPP & FEMA regulations are eligible to promote NOFHC". It is our understanding that a listed company that is deemed today to be a "Foreign Owned Indian Company", can apply for a banking license and is eligible to become the NOFHC that holds the Bank, provided however it becomes an "Indian Company owned and controlled by residents" prior to the commencement of the operations of the Bank, i.e. it becomes compliant with the Guidelines within 12 months of the issuance of the in-principle license. Please confirm.

A. The NOFHC has to be wholly owned by the Promoters/Promoter Group. Therefore, a listed company cannot be a NOFHC.

At the time of making applications, the Promoters/Promoter Group will have to furnish a road map and methodologies they would adopt to comply with all the requirements of the corporate structure indicated in para 2 (A) and (C) of the guidelines. After the 'in-principle approval' is accorded by RBI for setting up of a bank, the Promoters/Promoter Group will have to comply with all the requirements and the proposed bank has to start operations within 18 months from the date of in-principle approval or the date of commencement of operations whichever is earlier.

Q.138. Para 2D(iii) of the Guidelines talks about the minimum voting equity capital requirements for banks and shareholding by NOFHC. It states that "the shareholding by the NOFHC in the bank in excess of 40 percent of the total paid-up voting equity capital shall be brought down to 40 percent within three years from the date of commencement of business of the bank". Keeping the principle of diversified ownership in mind, could you clarify the following two points in particular context of a widely held, listed NOFHC with no Promoter/Promoter Group and with no single entity owning more than 10 percent:

(i) Would such an NOFHC be required to dilute stake in the Bank to 40 percent?

(ii) Would the Bank held by such an NOFHC need to be listed?

A. The Promoters/Promoter Group have to set up a wholly owned NOFHC as per the corporate structure prescribed in para 2(C) of the guidelines. The NOFHC, therefore, cannot be a listed company. The wholly owned NOFHC has to bring down its shareholding in the bank in excess of 40 percent to 40 percent within three years from the date of commencement of the business of the bank. The bank shall get its shares listed in stock exchanges within three years of its commencement of the business.

Q.139. (i) Under DIPP guidelines, if the non-resident shareholding in a company is less than 50 percent, the 'see through' clause does not apply for downstream investments. As per Para 2F of the Guidelines for licensing of New Banks in the Private Sector, no non-resident can hold more than 5 percent in the Bank. In a situation where the total foreign shareholding in an NOFHC is less than 50 percent, could a non-resident individual shareholder continue to hold more than 5 percent but less than 10 percent in the NOFHC, since the "see through" clause does not apply? Please clarify.

(ii) In the same vein as the above point, in a situation where the NOFHC is holds >50 percent by Indian shareholders, does NOFHC holding qualify as Indian ownership considering no "see through". In this context, when the Bank has to be listed and its holding by the NOFHC dilutes 40 percent, can the Bank have up to 49 percent aggregate non-resident shareholding? Please clarify.

A. (i) The requirement is that the NOFHC has to be wholly owned and controlled by resident. Therefore, non-residents cannot hold shares in the NOFHC.

(ii) The NOFHC being wholly owned by the entities / Groups in the private sector that are 'owned and controlled by residents', its shareholdings in the bank would not be counted for non-resident shareholding, and the bank can have an aggregate foreign shareholding of 49 per cent of the paid up voting equity capital for the first five years from the date of licensing. [Paragraph 2 (F) of the guidelines]

Q.140. Para 2C(iii) of the Guidelines states that "The NOFHC shall hold the bank as well as all the other financial services entities of the Group ...". Notwithstanding this para, could the NOFHC hold a non-financial services company as a subsidiary, provided however, such a company is a Section 25 Company for the sole purpose of carrying out Corporate Social Responsibility activities? Please clarify.

A. No, unless permitted by RBI.

Q.141. (i) Whether a Multi-State Cooperative Society is eligible to promote a bank as per the NOFHC? This clarification is sought as "Private Sector" is not defined in the guidelines.

(ii) Whether entities registered under the Multi State Cooperative Societies Act wholly owned by Cooperatives with no GOI equity are eligible to be counted as being in Private Sector?

A: The guidelines do not bar a Multi-State Cooperative Society (MSCS) from being a Promoter. A MSCS can be a public sector entity or private sector entity depending upon the extent of Government control. These guidelines do not cover setting up of private sector banks by cooperative banks or conversion of cooperative banks into commercial banks in the private sector.

Q.142. The proposed guidelines require the Promoter / Promoter Group to set up a Bank only through a wholly owned Non-Operative Financial Holding Company (NOFHC). NOFHC is also required to hold all the other financial services entities of the Group regulated by RBI or other financial services regulators. We seek clarification on the applicability of this provision in the guidelines for joining of two different entities to form the Promoter Group.

Q.143. Can two or more unrelated listed entities act as promoters in NOFHC?

A.(142 & 143) The NOFHC has to be wholly owned by a single Promoter/Promoter Group (as per the definition given in Annex 1 to the guidelines) and the pattern of shareholding would be as per the provisions laid down at para 2(C)(ii) & (iii) of the guidelines. Two or more separate groups cannot combine together to set up a NOFHC.

Q.144. Can a Promoter / Promoter group which even though has an existing NBFC, choose to be classified under Para 2 A (i) (promote a bank through a wholly-owned Non-Operative Financial Holding Company (NOFHC)) instead of Para 2 A (ii) (promote a bank or convert the NBFC into bank and transfer permitted activities to the bank), such that there is no requirement of the conditions set out in Para 2 (L) which deals with migration of NBFC business into the bank?

A. Yes. Promoters/Promoter Group having an existing NBFC can choose to promote a bank through a wholly owned NOFHC. However, the existing business of the NBFC will have to be migrated into the bank in compliance with conditions laid down in para 2 (L) and 2 (C) (iv) of the guidelines.

Q.145. The Final Guidelines indicate that the RBI would come out with an overall policy discussion paper on banking structure in India within two months. Kindly clarify what this is and whether the existing guidelines will undergo a change due to this?

A. The policy discussion paper mentioned in the guidelines relates to the banking structure of the country. The policy discussion paper mentioned in the guidelines will relate to the banking structure in the country and will be applicable both to existing and new banks. The present policy guidelines for licensing of new banks in the private sector will not undergo any change due to the policy discussion paper on banking structure in India.

Q.146. Para 2 C deals with Corporate structure of the NOFHC. Para 2 C (i) states that the NOFHC should be wholly owned by the Promoter"/ Promoter G"o-p. We request you to clarify what is meant by the term "wholly owned" - To confirm that there is no problem for any minority foreign share h'lding in the promoter / promoter group entities that promote the NOFHC's. For Eg: If A promotes an NOFHC, there is no issue if another foreign entity / entities own a minority stake between 10 to 35 percent in A, as long as A is a Promoter entity and it is Indian owned and controlled. While the entity will be mainly owned and controlled by the Indian promoter, can there be some small minority foreign investors in the NOFHC who could either be financial investors or could be long term technology / operation partners.

A. The Promoters/Promoter Group entity setting up the NOFHC can have minority foreign shareholding provided these entities are 'owned and controlled by residents' as per para 2(A)(i) of the guidelines. The guidelines do not envisage any direct holding by non-promoters/promoter group entities including foreign investors in the NOFHC. Further, the promoters will have to comply with stipulations at para 2 (C) (i) and (ii) of the guidelines.

Q.147. Para 2 C (ii) (a) - mentions about a cap of 10 percent on ownership by individuals while Para 2 C (ii) (b) mentions about shares of the NOFHC being held to the extent of 51 percent by companies in which public hold "more than 51 percent". This seems to be contrary to the definition of a "wholly owned NOFHC". As this may result in a situation where companies which are not fully owned & controlled by the Promoters becoming shareholders of the NOFHC, this may please be clarified.

A. The guidelines provide that a NOFHC should be wholly owned by the Promoters/Promoter Group i.e., by individuals belonging to the promoter group and entities in the promoter group in which the Promoter/Promoter Group are in effective control. Within such shareholding, not less than 51 percent of the voting equity shareholding of the NOFHC must be held by companies in which the public hold not less than 51 percent of the voting equity shareholding. The remaining 49 per cent of voting equity shareholding in such publicly held companies [para 2(C)(ii)(b) of the guidelines] will be held by promoter group individuals/ entities who have 'significant influence' and 'control' (as defined in Accounting Standard 23) over such companies.

Q.148. Can there be a NOFHC only for the bank while the other financial entities are held by another NOFHC - Para 2 C (iii) and Para 2 C (viii). Here the Main NOFHC will hold all finance sector activities and also hold another NOFHC which holds the Bank. This would ensure all financial activities are ring fenced and regulated by RBI. The bank will also be ring fenced and controlled by a separate NOFHC. We presume that this will also be allowed as it has a stronger structure which meets the regulatory requirements also.

A. Two NOFHCs are not envisaged. Only one NOFHC shall hold the bank as well as all the other regulated financial services entities of the Group in which the Promoter Group has 'significant influence' or 'control' (as defined in Accounting Standard 23). [para 2 (C) (iii) & (vii) of the guidelines]

Q.149. Promoter holding in the Bank Clause 2 C (viii) indicates that the Promoter / Promoter Group should hold their investments in the bank and other financial entities only through the NOFHC. In our view, this only indicates that the NOFHC should be the holding vehicle for the Promoter / Promoter Group and there is no restriction on a financial entity under the NOFHC- say an NBFC, to hold shares in the Bank. As there does not appear to be any specific provision against such holding, this may be clarified.

A. No. Paragraph 2 (C) (viii) stipulates that the Promoter / Promoter Group entities / individuals associated with Promoter Group shall hold equity investment in the bank and other financial entities held by it, only through the NOFHC. Further, paragraph 2 (I) (iv) (b) of the guidelines indicate that the financial entities held by NOFHC shall not make investment in the equity / debt capital instruments amongst themselves. Therefore, an NBFC held by the NOFHC cannot hold shares in 'the bank'.

Q.150. Please confirm if paragraph 2(L) will apply only for 'banks to be promoted by existing NBFCs' and that the same will not apply to promoter / promoter group of NBFC's, which will in turn be the promoter / shareholders of the NOFHC.

A. Para 2 (L) of the guidelines will be applicable both to promoter converting the NBFC into a bank or promoting a bank.

Q.151. How does RBI propose to grant a level playing field between the new banks and the existing banks? Generally, a new entrant should be encouraged and given preference as the old players are already well entrenched and earning profits and have a branch network. However, a perusal of the Final Guidelines indicates that the requirements are more stringent for new entrants. To name a few like - (a) At least 25 percent of the Branches should be in Tier 3 to Tier 6 cities (b) Existing Banks are allowed upto 74 percent FDI, while the new entrants are allowed only upto 49 percent FDI (c) Existing Banks have floated within their group NBFCs and Housing finance companies while RBI seems to impose restrictions for the new banks. I- it possible that RBI will have uniform dispensation to all the banks - Existing and New, with some privileges and dispensations to the New entrants to meet the Regulations / directions over a period of time due to more difficult conditions, competition etc.

A. With a view to enhancing financial inclusion, the conditions relating to the branch network are specifically prescribed at 25 percent for unbanked rural centres. Further, this norm has been extended to the existing banks also and they are required to comply with this stipulation while opening new branches.

As regards the foreign investment, it is capped at 49 percent for the initial period of 5 years to ensure that domestic banks are established in the private sector. However, after expiry of 5 years, the aggregate foreign shareholding in the bank would be allowed as per the extant FDI policy of the Government.

The reason for not permitting the NOFHC to set up any new financial services entity for at least three years from the date of commencement of the NOFHC is on account of the fact that it is necessary that the newly set up bank gets on sound footing before the NOFHC diversifies into other financial sector business. The existing regulated financial sector business would, however, continue under the NOFHC.

Q.152. Will individuals in the promoter group who are not relatives, as defined in Section 6 of the Companies Act, 1956, be allowed to hold 10 per cent each in the NOFHC or will their aggregate shareholding be restricted 10 per cent?

Q.153. Where a Group has two or more otherwise unconnected individuals as its promoters, will each individual (along with relatives and entities connected to such individual) be permitted to hold up to 10 percent of the voting equity shares of the NOFHC or will the 10 percent limit apply in aggregate to the shares held by all individuals (and connected persons) forming part of the promoter group? This is in terms of the requirements set out in paragraph 2(C)(ii)(a)

A.(152&153) The limit of 10 per cent applies to an individual's own shareholding along with the shares held by his relatives (as defined in Section 6 of the Companies Act, 1956) and the entities in which he and / or his relatives hold not less than 50 per cent of voting equity shares [para 2 (C) (ii) (a) of the guidelines]. If there are two or more individuals who are part of the Promoter Group and are not relatives of each other, the limit would apply individually, and need not be aggregated. However, all such individuals cannot hold more than 49 per cent of the voting equity shares of the NOFHC.

Q.154. The present guidelines use the term 'voting equity', whereas the 2005 guidelines (February 28, 2005) on ownership and governance use 'equity capital' to determine ownership. One reason for this could be the possibility that the new banks will have 'indirect' ownership going up many levels and therefore equity other than 'voting equity' needs to be ignored to avoid confusion, particularly with regard to financial investors above the NOFHC. It would be good to clarify whether non-voting equity directly held in the NOFHC/bank, wherever defined will also be ignored for the purpose of ownership.

A. Only the voting equity share capital will be reckoned for the purpose of compliance with the guidelines on capital structure of the NOFHC, the minimum capital requirement for the new bank and shareholding by NOFHC in the new bank. The non-voting equity shares are out of the purview of these guidelines. [para 2 (C)(ii) and para 2 (D) (i) to (v) of the guidelines]

Q.155. The guidelines require that all regulated financial services entities of the Promoter Group, wherein effective controlling interest is held by the Promoter Group, will have been brought under the NOFHC. Are the terms Promoter/Promoter Group to be applied in exclusion? For example, if entity X (which is part of a large conglomerate but has no common controlling shareholding) applies for the licence and fulfils 100 per cent investment through NOFHC, does it still need to fulfill all conditions applicable to a Promoter Group (as defined in paragraph C(iii) to include entities having a common brand name under the NOFHC? To rephrase, even if the promoter company is an entity with no common controlling shareholding, would it still need to bring all financial services business held by entities with a common brand name under the NOFHC?

A. The Promoter Group includes a "Promoter" as per the definition of the Promoter Group given in Annex I to the guidelines and a Promoter is a "person" who satisfies the definition given in Annex I to the guidelines. As per para II(vi) of Annex I, Promoter Group includes entities sharing common brand names (please see this clause for details). All the regulated financial sector entities in which a Promoter Group has 'significant influence' or 'control' (as defined in Accounting Standard-23) will be held under the NOFHC. [para 2(C)(vii) of the guidelines]

Q.156. Does the term "public" refer to shareholding in a listed company; or does it also include shareholding by non-promoters in a widely held unlisted company?

Q.157. We understand that the term 'public' includes shareholding by all non-Promoter Group entities including Private Equity, FIIs and Domestic Institutional Investors in both listed and unlisted companies. Is this understanding correct?

Q.158. Please define the term 'public'.

A. (156to158) A company in which public holds 51 per cent of the total voting equity shares need not necessarily be listed. The term 'public' refers to all the shareholders other than those belonging to Promoter/Promoter Group (as defined in Annex I to the guidelines).

For the purpose of these guidelines, 'public shareholding' implies that no person along with his relatives (as defined in Section 6 of the Companies Act, 1956) and entities in which he and / or his relatives hold not less than 50 per cent of the voting equity shares, by virtue of his shareholding or otherwise, exercises 'significant influence' or 'control' (as defined in Accounting Standard 23) over the company. [para 2 (C) (ii) of the guidelines]

Q.159. Will the "public" shareholding threshold requirement of at least 51 per cent be considered only at the immediate level; or a pass-through/overflow basis i.e if a Promoter Group Company has 40 per cent public shareholding; and balance 60 percent shareholding by Promoter Company A, which in turn has 40 percent public shareholding.

A. The requirement of 51 per cent of public shareholding will apply to the companies in the Promoter Group, which are shareholders of NOFHC and such companies must collectively hold not less than 51 per cent of the voting equity shares of the NOFHC.

Q.160. Further, in case of a listed Promoter entity, which is Indian owned and controlled, is there (or will there be) any mechanism to control the shareholding on an ongoing basis. In absence of such a mechanism, since the shares of the listed entity are freely traded on the stock exchange, an FII or NRI could purchase shares of the listed Promoter entity and it may cease to be Indian owned.

A. Entities / groups in the private sector that are 'owned and controlled by residents' [as defined in Department of Industrial Policy and Promotion (DIPP) Press Note 2, 3 and 4 of 2009 / FEMA Regulations as amended from time to time] shall be eligible to promote a bank through a wholly-owned Non-Operative Financial Holding Company (NOFHC) [para 2(A) (i) of the guidelines]. Therefore, the NOFHC should be owned by individuals belonging to the Promoter Group and entities in the promoter group in which the promoter/promoter group are in effective control. The Promoters should ensure that ownership and effective control of the promoter entity remains with the persons resident in India /resident entities, at all times[para 2 (A)(i) of the guidelines]. There is a mechanism in place to monitor foreign shareholding in entities having sectoral caps for such holdings.

Q.161. Will the regulated financial services companies in the Group below the NOFHC be allowed to make overseas investments outside India in accordance with the FEMA guidelines; or can the overseas investments only be made by the NOFHC?

A. The regulated financial services entities in the promoter group held by the NOFHC will not be allowed to make overseas investment in entities whereby such entities would become a subsidiary, joint venture or associate of the regulated financial services entities, unless such investments are legally required or specifically permitted by RBI/ other financial sector regulators and are in accordance with FEMA guidelines. However, NOFHC can make overseas investments subject to FEMA guidelines.

Q.162. Banks in India are not allowed to hold commodity broking businesses. In case the applicant has a commodity broking business, will it be considered to be a regulated financial service to be held by the NOFHC or above the NOFHC?

Q.163. NOFHC shall hold bank as well as entities regulated by other financial regulators, whether the promoter group entity engaged in commodities broking business which is regulated by Forward Market Commission be also held by NOFHC.

A. (162 & 163) The commodity broking business is not considered to be regulated financial services for the purpose of these guidelines, and entities in the Promoter Group which are carrying on commodity broking business cannot be held under the NOFHC.

Q.164. What would be the status of activities that are permitted in the bank with restrictions, (such as loans against shares) or not permitted (such as promoter financing, loans for purchase of land)? Can such activities continue to be conducted in a group NBFC?

Q.165. (a) There are certain business activities that are not permissible or are restricted within banks, under the extant guidelines. For example, advances to promoters against shares/debentures/bonds are restricted to tenor of less than one year through clause 2.4.7 of the DBOD circular No.Dir.BC.3/13.03.00/2012-13 dated July 2, 2012. It is our understanding that such businesses as acquisition financing, promoter funding, etc. that have restrictions within a bank, can be run as a business through an NBFC, as a subsidiary of the NOFHC, separate from the Bank;

b. Infrastructure lending falls under para 2C(iv)(b), and hence is required to be run from within the Bank. However, in view of the importance of infrastructure lending to the national agenda, and given that separate guidelines for Infrastructure Finance Companies (IFCs) already exist, could the NOFHC be allowed to hold an NBFC-IFC as a subsidiary separate from the Bank? Please clarify.

Q.166. There are certain lending activities which are restricted for a bank but which an NBFC can conduct. For e.g.

a. Lending against shares / Margin Financing above ₹ 20 lakh to an individual / Promoters / other borrower;

b. Financing against the security of land or financing for the purpose of acquisition of land

Can such activities which cannot be carried out by a bank be carried out by an NBFC belonging to the promoter group under the NOFHC framework?

A. (164 to 166) The general principle for activities that have to be conducted from within the bank and by NBFCs in the group is that para-banking activities, such as credit cards, primary dealer, leasing, hire purchase, factoring, etc., can be conducted either inside the bank departmentally or outside the bank through subsidiary/joint venture /associate. Activities such as asset management, insurance, stock broking, asset reconstruction, venture capital funding and infrastructure financing through Infrastructure Development Fund (IDF) sponsored by the bank can be undertaken only outside the bank. Lending activities must be conducted from inside the bank. However, other regulated financial services entities (excluding entities engaged in credit rating and commodity broking) in which the Promoter/Promoter Group has 'significant influence' or 'control' (as defined in Accounting Standard 23) have to be held under the NOFHC and not under the bank unless it is legally required or specifically permitted by RBI. [para 2 (C) (iv) of the guidelines].

Within these principles, the activities that are permitted to be undertaken by the bank, such as loans against shares, have to be undertaken by the bank to the extent permitted, and lending activities that are not permitted to a bank, but are not prohibited to NBFCs, such as promoter financing, loans for purchase of land, etc. would have to be wound up within a period of 18 months from the date of in-principle approval or before commencement of banking business, whichever is earlier.

Q.167. Once the DIPP condition of 'resident owned and controlled' is met, are there additional requirements to be met at/above the promoter level as regards foreign shareholding? Specifically, can FIIs/Private Equity/Institutional investors hold up to the remaining 49 percent in the shareholder of the NOFHC; and in parallel, will foreign shareholding of 49 per cent also be allowed at the bank level?

A. The NOFHC shall be wholly owned by entities/groups in the private sector that are 'owned and controlled by residents' [as defined in Department of Industrial Policy and Promotion (DIPP) Press Note 2, 3 and 4 of 2009/FEMA Regulations as amended from time to time], and also subject to capital structure given at paragraph 2 (C) (ii) (a) and (b) of the guidelines. The level of foreign shareholding in these entities should be at such level that does not make them 'owned and/or controlled' by non-residents. FIIs/Foreign Private Equity/Foreign investors cannot hold any voting equity shares in the NOFHC as only companies/entities in the Promoter Group that are owned and controlled by residents in India are allowed to hold the voting equity shares of the NOFHC. [para 2 (A) (i) and para 2 (C) (i) of the guidelines]

The foreign shareholding allowed at the bank level should satisfy the requirements under paragraph 2 (F) of the guidelines.

Q.168. Furthermore, does the 5 percent 'direct or indirect' ceiling apply at the immediate bank level; or on a pass-through basis i.e. if a FII holds 10% shares in the promoter entity and the promoter holds 100 percent equity of the NOFHC, will the FII be deemed to hold 10 percent equity in the bank 'indirectly'? What if the same situation arises regarding a private equity investor in an unlisted promoter company? To take another example, if an NRI holds 5 percent investment in the promoter entity, which in turn holds 100 per cent investment in the NOFHC, can the same NRI hold any additional equity in the bank?

A. The 5 percent limit on shareholding by any non-resident shareholder would apply at the bank level. The indirect foreign investments through the Promoter Group companies [owned and controlled by residents – paragraph 2 (A) of the guidelines], which would hold the NOFHC, will not be counted for foreign investments in the bank.

Q.169. Would non-resident shareholding in any Promoter Group entity holding shares in NOFHC be treated as 'indirect' non-resident shareholding in the Bank?

Q.170. If yes, how would such 'indirect' non-resident shareholding in the Bank be calculated for the purpose of 5% and 49% limit?

A. (169&170) The indirect foreign investments through the Promoter Group companies [owned and controlled by residents – paragraph 2 (A) of the guidelines], which would hold the NOFHC, will not be counted for foreign investments in the bank, as only companies/entities in the Promoter Group that are owned and controlled by resident in India are allowed to hold the voting equity shares of NOFHC. [Paragraph 2 (F) of the guidelines]

Q.171. Will residents of India (as per FEMA), who have Overseas Citizenship of India ('OCI') be allowed to hold 10 per cent in the NOFHC if they are regarded as promoters?

A. The requirement is that the NOFHC has to be wholly owned by entities/ Groups in the private sector that are 'owned and controlled by residents' [as defined in Department of Industrial Policy and Promotion(DIPP) Press Note 2, 3, and 4 of 2009/FEMA Regulations as amended from time to time]. Therefore OCIs cannot hold shares in the NOFHC.

Q.172. Will residents of India (as per FEMA), who are Persons of Indian origin ('PIO'), not having an Indian passport, be allowed to hold 10 per cent in the NOFHC if they are regarded as promoters? Will residents of India, who are non-NRIs, non-PIOs, non-OCIs be allowed to hold 10 per cent in the NOFHC, if they are promoters; or in the bank, if they are non-promoters.

A. The requirement is that the NOFHC has to be wholly owned by entities/ Groups in the private sector that are 'owned and controlled by residents' [as defined in Department of Industrial Policy and Promotion(DIPP) Press Note 2, 3, and 4 of 2009/FEMA Regulations as amended from time to time]. Therefore PIOs cannot hold shares in the NOFHC.

No single entity or group of related entities, other than the NOFHC, shall have shareholding or control, directly or indirectly, in excess of 10 per cent of the paid-up voting equity capital of the bank [para 2 (K) (iii) of the guidelines].

Any acquisition of shares by persons resident in India or otherwise which will take the aggregate holding of an individual / entity / group to the equivalent of 5 per cent or more of the paid-up voting equity capital of the bank, will require prior approval of RBI [Para 2 (K) (ii) of the guidelines].

Q.173. Will OCIs / PIOs be allowed to become Chairman/CEO of the proposed bank?

A. OCIs/PIOs will be allowed to become Chairman/CEO of the proposed bank provided they are persons resident in India as per Foreign Exchange Management Act, 1999.

Q.174. We understand that the term 'major supplier and major customer' will have the same meaning throughout the guidelines i.e. as defined at endnote 4(including for the purposes of maintaining an arm's length relationship by the bank as required in paragraph K(iv) of the guidelines. Is this correct?

A. Yes. The term 'major supplier and major customer' will normally have the same meaning (as defined in footnote 4 at page 7 of the guidelines) throughout the guidelines.

Q.175. (I) Since the provisions at para 2 (L) of the guidelines mandate transfer of 'activities', does it mean that the existing book of assets may be retained in the transferor entity and future activity of similar nature needs to be conducted from the bank? For example, an NBFC holding a large asset book of home loans can start booking new home loans in the bank post- commencement, but does it also need to migrate the existing portfolio?

(ii) Since banks will be allowed to retain branches under the prescribed framework for banks, can NBFC branches be retained for the limited businesses not allowed /allowed with restrictions in the bank?

(iii) Furthermore, if migration of the existing portfolio is required, will net-worth of the demerged business (migrating business) be considered towards the ` 5 billion requirement?

A. (i) The general principle for activities that have to be conducted from within the bank and by NBFCs in the group is that para-banking activities, such as credit cards, primary dealer, leasing, hire purchase, factoring, etc., can be conducted either inside the bank departmentally or outside the bank through subsidiary/ joint venture /associate. Activities such as asset management, insurance, stock broking, asset reconstruction, venture capital funding and infrastructure financing through Infrastructure Development Fund (IDF) sponsored by the bank can be undertaken only outside the bank. Lending activities must be conducted from inside the bank. However, other regulated financial services entities (excluding entities engaged in credit rating and commodity broking) in which the Promoter/Promoter Group has 'significant influence' or 'control' (as defined in Accounting Standard 23) have to be held under the NOFHC and not under the bank unless it is legally required or specifically permitted by RBI. [para 2 (C) (iv) of the guidelines].

The existing business of NBFCs of the Promoter Group setting up/converting into a bank will have to be reorganized accordingly.

(ii) RBI may consider allowing the bank to take over and convert the existing NBFC branches into bank branches only in the Tier 2 to 6 centres. All NBFC branches in Tier 1 centres which would carry out banking business may be permitted to be converted into bank branches and the excess over the entitled number of Tier 1 branches would be adjusted against the future entitlements of the new bank within a maximum period of 3 years from the date of commencement of business by the bank. The branches of the bank and NBFC should be distinct and separate. Erstwhile branches of NBFC, retained and converted into bank branches, cannot conduct businesses of the NBFC.

(iii) The new bank should have a minimum voting equity capital of ` 5 billion. However, where an NBFC is permitted to convert into a bank, it should have a minimum networth of ` 5 billion at all times.[para 2 (L) (C) of the guidelines]

Q.176. Can RBI provide more clarity on the initial capital required for a bank? Is it net worth of ` 500 crore or the paid up equity capital of ` 500 crore as per paragraph 2D(i) and 2L(b)?

Q.177. We presume that the minimum paid up equity voting capital of ` 5 billion can also be complied by Net Worth of the entity and not entirely by paid-up voting equity capital.

A.(176 & 177) The new bank should have a minimum voting equity capital of ` 5 billion. However, where an NBFC is permitted to convert into a bank, it should have a minimum networth of ` 5 billion at all times.[para 2(L)(C) of the guidelines].

Q.178. What will be the financial criteria (e.g. networth, paid up capital, etc.) applicable to NOFHC?

A. The minimum capital required for the bank is ` 5 billion, and the NOFHC is initially required to have atleast 40% shareholding in the bank. The minimum capital of the NOFHC should be such as to meet the above requirements as well as the requirement of holding prescribed capital in other financial sector entities held by the NOFHC as per the norms laid down by the financial sector regulators.[Paragraph 2 (D) of the guidelines]

Q.179. Can an NBFC divest the activities which the banks are not allowed to do to another NBFC of the group?

Q.180. Section (2) (L) deals with conditions for converting NBFC into a bank. In such a case for activities that are not allowed to be undertaken by the bank, whether such activities can be transferred to another NBFC within the Group.

(ii) Further, for existing branches of the NBFC which are not allowed to be converted into a bank branch, can these branches be transferred to another NBFC within the Group.

Q.181. Section (2) (L) deals with conditions for converting NBFC into a bank. In such a case for activities that are not allowed to be undertaken by the bank, whether such activities can be transferred to another NBFC within the Group. Further, for existing branches of the NBFC which are not allowed to be converted into a bank branch, can these branches be transferred to another NBFC within the Group.

A. (179 to 181) The general principle for activities that have to be conducted from within the bank and by NBFCs in the group is that para-banking activities, such as credit cards, primary dealer, leasing, hire purchase, factoring, etc., can be conducted either inside the bank departmentally or outside the bank through subsidiary/ joint venture /associate. Activities such as asset management, insurance, stock broking, asset reconstruction, venture capital funding and infrastructure financing through Infrastructure Development Fund (IDF) sponsored by the bank can be undertaken only outside the bank. Lending activities must be conducted from inside the bank. However, other regulated financial services entities (excluding entities engaged in credit rating and commodity broking) in which the Promoter/Promoter Group has 'significant influence' or 'control' (as defined in Accounting Standard 23) have to be held under the NOFHC and not under the bank unless it is legally required or specifically permitted by RBI. [para 2 (C) (iv) of the guidelines].

Within these principles, the NBFC converting into the bank is required to divest the activities which the banks are not allowed to undertake departmentally and such activities can be migrated to and conducted from another NBFC/entity. However, lending activities that are not permitted to a bank, or are subject to restrictions, but are not prohibited to NBFCs, such as promoter financing, loans for purchase of land etc. would have to be wound up. This may be completed within a period of 18 months from the date of in-principle approval of before commencement of the banking business, whichever is earlier.

Q.182. For the purpose of furnishing information, we understand that the promoter entity(ies) have to furnish information only with regard to the entities of the group making investment in the NOFHC and their owner entities. If only one entity is used as a 'promoter', does information with regard to the Group (as defined) still need to be submitted beyond the organogram: or would the above information only be required for other group companies as well?

A. The entities/individuals belonging to the Promoters/Promoter Groups, which would participate in the voting equity shares of the NOFHC, would have to provide the Memorandum and Articles of Association, financial statements for past ten years and Income Tax returns for last three years, as appropriate, at the time of submission of their application. The last available financial statements in respect of other Group entities, which do not participate in the voting equity shares of the NOFHC will also have to be furnished. The details of the Promoters' direct and indirect interest in various entities/companies/industries and details of credit/other facilities availed by the Promoters/Promoter Group would be required of all entities. [para 3 of Annex II to the guidelines]

Q.183. If an existing NBFC in the Group provides loans against shares which while complying with prevailing NBFC regulations, which in instances exceed the maximum amount that may be advanced by a bank. In such a case, could such lending activities continue to be undertaken through the NBFC if it is ensured that the overall capital market exposure on a consolidated basis is at all times maintained to comply with the caps prescribed by the RBI in this regard?

A. The general principle for activities that have to be conducted from within the bank and by NBFCs in the group is that para-banking activities, such as credit cards, primary dealer, leasing, hire purchase, factoring, etc., can be conducted either inside the bank departmentally or outside the bank through subsidiary/ joint venture /associate. Activities such as asset management, insurance, stock broking, asset reconstruction, venture capital funding and infrastructure financing through Infrastructure Development Fund (IDF) sponsored by the bank can be undertaken only outside the bank. Lending activities must be conducted from inside the bank. However, other regulated financial services entities (excluding entities engaged in credit rating and commodity broking) in which the Promoter/Promoter Group has 'significant influence' or 'control' (as defined in Accounting Standard 23) have to be held under the NOFHC and not under the bank unless it is legally required or specifically permitted by RBI. [para 2 (C) (iv) of the guidelines].

Within these principles, the activities that are permitted to be undertaken by the bank, such as loans against shares, have to be undertaken by the bank to the extent permitted. Lending activities that are not permitted to a bank or subject to restrictions to a bank cannot be carried out through an NBFC.

Q.184. Where a Group holds an equity interest in one or more financial entities, and such financial services entities undertake activities that can be undertaken by a bank departmentally, the Group can transfer its equity holdings in such financial entities to the NOFHC, but cannot transfer the business to the bank since there are other external, unconnected shareholders holding equity interests in such financial entities. Please confirm that the requirements of the RBI's Licensing Guidelines will be regarded as fulfilled so long as the Group transfers its equity holdings in any such financial entities to the NOFHC.

A. The transfer of equity holdings by the Promoters/Promoter Group entities in such regulated financial sector entities to the NOFHC, without the transfer of these business of the financial entities to the bank i.e. activities which have to be undertaken by the bank only, will not be in compliance with the provisions at para 2(C) (iv) of the guidelines.

Q.185. Paragraph 2(I)(ii)(b) provides that the NOFHC's investments in capital instruments issued by unconsolidated financial and insurance entities within the Group should not exceed 10 percent of its consolidated capital funds. In this regard, please could you clarify:

(i) How is the term "consolidated capital funds" to be interpreted?

(ii) If the Group has relatively capital intensive financial service activities other than the bank e.g. insurance activities, to whom consolidation requirements do not apply, the 10 percent limit appears to be constraining given that the NOFHC structure is itself a construct imposed by the Guidelines. Is this RBI's intent?

Q.186. 2 (I) (ii) (b) provides that the NOFHC's investments in capital instruments issued by unconsolidated financial and insurance entities within the Group should not exceed 10 percent of its consolidated financials and insurance entities within the Group should not exceed 10 percent of its consolidated capital funds.

In this regard, please could you clarify how is the term "consolidated capital funds" to be interpreted?

A. (185 & 186) Consolidated capital funds means the Capital, Reserves and Surplus of the NOFHC determined on the consolidation of its subsidiaries, associates and joint ventures in accordance with the applicable Accounting Standards.

Consolidated capital funds for regulatory purpose means the consolidated regulatory capital of the NOFHC under the regulatory scope of consolidation. (Please refer to the 'scope of Application' under Section B of Annex 1 of circular DBOD.No.BP.BC.98 /21.06.201/2011-12 on guidelines on 'Implementation of Basel III Capital Regulations in India' dated May 2, 2012 for details on regulatory scope of consolidation. Please also refer to the guidelines for 'consolidated accounting and other quantitative methods to facilitate consolidated supervision' contained in circular DBOD.No.BP.BC.72 /21.04.018/2001-02 dated February 25, 2003 in terms of which the NOFHC will have to prepare consolidated financial statements and other consolidated prudential reports.)

This is a cross holding limit in the capital instruments on unconsolidated financial entities which applies on a consolidated basis. The limit ensures that the NOFHC has the continued ability to provide capital support to banking business.

However, since the investment of the NOFHC in the insurance subsidiary is fully deducted from its consolidated capital for prudential purposes such as consolidated capital adequacy, exposure norms etc., the investment of the NOFHC in the capital of its insurance subsidiary is not considered for the purpose of cross holding limit of 10 per cent.

Q.187. (i) An Indian company, listed on Indian stock exchange(s), has foreign investment of less than 50 per cent. Its public holding is 51 per cent and promoter group holds 49 per cent. Of the 49 percent of the promoter group's holding, 2/3rd is held by a 'non-resident promoter'. The 'non-resident promoter' does not have right to nominate director on Board. The company is 'controlled' by 'resident promoter group'. The said company, in terms of paragraph (C)(ii)(b) of the extant Guidelines (i.e., Corporate Structure of the NOFHC) is eligible to promote a NOFHC. The NOFHC, in turn, intends to hold 100 per cent of the new bank initially. In terms of the aforesaid foreign investment guidelines, would the RBI consider that the new bank does not have any indirect foreign investment?

ii) Though more than 50 percent shareholding of the promoter group is held by non-resident shareholder, would the RBI consider the Indian company as resident?

iii) Whether an unlisted company in which the non-promoter group shareholders hold more than 51 percent of the voting equity shares is eligible to promote a NOFHC?

A. (i & ii) If two third of the Promoter Group's holding in the Indian company is held by a "non-resident promoter", the company is not controlled by a resident. So long as the non-resident holds two third of the voting equity shares held by the Promoter Group, he controls the Promoter Group's investment in the Indian company and the fact that he does not have right to appoint a nominee director is irrelevant. The Indian company is therefore not eligible to promote a NOFHC.

(iii) It is essential that not less than 51 per cent of the voting equity shares of the NOFHC are to be held by Promoter Group companies in which the public hold not less than 51 per cent of the voting equity shares. A company in which public holds 51 per cent or more of the voting equity shares need not necessarily be listed. For the purpose of these guidelines, 'public shareholding' implies that no person along with his relatives (as defined in Section 6 of the Companies Act, 1956) and entities in which he and / or his relatives hold not less than 50 per cent of the voting equity shares, by virtue of his shareholding or otherwise, exercises 'significant influence' or 'control' (as defined in Accounting Standard 23) over the company. [para 2 (C) (ii) of the guidelines]

Q.188. Where a non-financial services company is a listed company and the promoter holding therein is not more than 49 per cent, can this be regarded as compliance with condition at 2(C)(ii)(b)?

A. It is essential that clause (b) of para 2(C)(ii) (i.e. not less than 51 per cent of the voting equity shares of the NOFHC to be held by companies in which the public hold not less than 51 per cent of the voting equity shares) is satisfied in all cases. For the purpose of these guidelines, 'public shareholding' implies that no person along with his relatives (as defined in Section 6 of the Companies Act, 1956) and entities in which he and / or his relatives hold not less than 50 per cent of the voting equity shares, by virtue of his shareholding or otherwise, exercises 'significant influence' or 'control' (as defined in Accounting Standard 23) over the company. If these conditions are satisfied, then the listed non financial services company would comply with the conditions at 2 (C) (ii)(b) of the guidelines.

Q.189. Is it mandatory to have a public company as a part of the Promoter Group?

Q.190. With reference to condition 2(C)(ii)(b), is it mandatory to have a public company which has more than 51 per cent shareholding in the NOFHC as part of the promoter group?

A.(189&190) Yes. It is essential that not less than 51 per cent of the voting equity shares of the NOFHC have to be held by companies in the Promoter Group in which the public hold not less than 51 per cent of the voting equity shares. [para 2(C)(ii)(b) of the guidelines]

Q.191. An existing NBFC has a joint venture ('JV') with a foreign partner on 50:50 basis. As per paragraph (C)(vii) of the extant guidelines, only those regulated financial sector entities in which a promoter group has significant influence or control are required to be held under the NOFHC. In such circumstances, would the RBI allow the promoters of the JV NBFC to continue its business on 'as is where is' basis because:

i) The promoters do not have controlling interest in the said JV though they have management rights in the said JV;

ii) The 50:50 JV is an Asset Finance Company ('AFC') and even though it does hypothecation loans / leases etc., it does not finance any consumable assets (like cars, trucks, etc.) but equipments (like mining machines, loader, cranes, dumpers, infrastructure construction equipment) supporting productive/ economic activity'?

A. (i & ii) The JV NBFC has to be brought under the NOFHC, as it is a regulated financial sector entity, and the Promoters of the NBFC through the 50 per cent equity holding by the NBFC in the JV NBFC have 50 percent ownership and management rights in the JV NBFC. Hence, the Promoters would be deemed to have 'significant influence' or 'control' (as defined in Accounting Standard-23) over the JV NBFC. [para 2(C)(iv) and (vii) of the guidelines]

Q.192. An existing NBFC is classified as Infrastructure Finance Company ('IFC') and has a Public Finance Institution ('PFI') status. In such circumstances, would the RBI allow the promoters of the 'IFC-PFI' to continue its business on 'as is where is' basis under the NOFHC?

A. Infrastructure financing through Infrastructure Development Fund (IDF) sponsored by the bank has to remain outside the bank, under the NOFHC. The infrastructure financing activities of the Promoters/Promoter Group through the IFC have to be conducted from within the new bank held by the NOFHC.

Q.193. Annex I of the Guidelines defines various terms used in the Guidelines and provides that the term 'promoter group' includes relatives of the promoter. The definition of the term 'relative' is as per Section 6 of the Companies Act, 1956. Annex II of the Guidelines requires submission of financial statements and credit information of promoters / promoter entities and promoters' direct and indirect interests in various entities / companies and industries.

i) Are the financial statements and credit information required to be submitted even in relation to a married daughter, her husband and relatives of married daughter's husband?

(ii) Whether promoters' direct and indirect interest in various entities / companies and industries would include investment made by promoters in venture capital / private equity fund/s. Further, whether information about the investment made by such venture capital / private equity funds also needs to be submitted?

A. (i) Yes. The relatives (as defined in Section 6 of the Companies Act, 1956) of the individuals (belonging to the Promoter Group) who would participate in the voting equity shares of the NOFHC, have to provide the financial statements for past ten years and Income Tax returns for last three years, as appropriate, at the time of submission of their application. The details of their direct and indirect interest in various entities/ companies/ industries and details of credit/other facilities availed by the Promoters/Promoter Group would be required of all entities. The last available financial statements in respect of other Group entities, which do not participate in the voting equity shares of the NOFHC will also have to be furnished.[para 3 of Annex II to the guidelines]

(ii) Yes. The details of the Promoter/ Promoter Group's direct and indirect interest in various entities/ companies/ industries and details of credit/other facilities availed by them would be required of all entities. While the details of investments made by the Promoters/Promoter Group in the venture capital/ private equity fund/funds need be submitted, information about the investment made by such venture capital / private equity funds need not be submitted.[para 3 of Annex II to the guidelines]

Q.194. In cases where there is transfer of ownership of promoters' company investments in other regulated entities such as insurance etc. to the NOFHC, will the promoter companies have to take up the issue of change in nominal ownership with the concerned regulators or will this be a deemed approval and it would suffice to keep the other regulators informed of the change in nominal ownership structure.

A. The Promoters/Promoter Group will have to obtain prior approval from the sectoral regulators, required under respective statutes/regulations.

Q.195. Company D, a subsidiary (51%) of a joint venture Company, is a composite insurance broker, licensed by the Insurance Regulatory Development Authority ("IRDA"), to act as a Direct Broker and a Reinsurance Broker in both the Life and Non Life Insurance sectors. As per banking guidelines, investment in Company D held by Company S, needs to be transferred to NOFHC. Further, in terms of banking license, RBI shall issue separate set of directions for governing NOFHC. NOFHC shall be a NBFC-CIC as NOFHC shall hold investments in group companies (i.e., regulated financial services entities of the group) more than 90% of its net assets. Whether NOFHC shall be allowed to hold investments in Company D?

A. Yes. Since all regulated financial sector entities in which a Promoter Group has 'significant influence' or 'control' will be held under the NOFHC, Company D in the example will be held under NOFHC, if it is a Group company of the Promoters. [Paragraph 2(C)(vii) of the guidelines]

Q.196. The guidelines require that Insurance Companies (General / Life) of the Group be brought under NOFHC. As IRDA does not permit a subsidiary to own Insurance Companies, this requirement would need to await appropriate modification from IRDA.

Q.197. Currently the IRDA does not allow a subsidiary of a company to hold stake in an insurance company. Since the NOFHC would be a subsidiary of the promoter group entity holding it, it (the NOFHC) would not qualify as a promoter of an insurance company. In such a case would an exception be made for insurance companies under clause 2 C (iii) above, or would a specific approval from the IRDA be available enabling the NOFHC to qualify as a promoter of an Insurance company?

Q.198. On holding structure, IRDA guidelines currently require the Insurance Company to be directly held by the Promoting entity, and also prohibits changes in shareholding for five years since the grant of license. Will the RBI enable the movement of insurance company under NOFHC?

Q.199. Under the extant Insurance law, the promoter is required to hold a stake in the insurance company directly. How will this converge/ align with the requirement that the NOFHC should hold all regulated financial services of the Group including the insurance companies? Exemptions from the provisions of guidelines can be considered depending upon the statutory prescriptions as well as the regulatory requirements of different sectoral regulators.

Q.200. The Insurance Regulatory and Development Authority (Registration of Indian Insurance Companies) Regulation 2000, state that an Indian Promoter of an Indian Insurance Company cannot be a subsidiary of another company. It is further stated in the Guidelines that each financial services entity will be governed by its respective regulator. Since NOFHC is permitted to be wholly owned by Promoter/ Promoter Group and it is mandatory to bring the insurance entities under the NOFHC. IRDA will have to issue suitable amendments to the aforementioned regulations to enable the consolidation of the insurance companies without breach of the aforementioned condition, unless the RBI is able to relax the requirement for consolidation under the NOFHC in the context of insurance companies.

A. (196 to 200) The general principle is that the regulated financial services sector entities in which a Promoter Group has 'significant influence' or 'control' (as defined in Accounting Standard 23) will be held under the NOFHC. While this is a preferred structure, these requirements are subject to the regulations of the respective regulators. The applicants may approach IRDA in this regard. The decision of IRDA will prevail.

Q.201. On holding structure, SEBI currently requires that an AMC be held by a SEBI registered entity; Will there be an exemption granted to move the AMC under the NOFHC?

A. The general principle is that the regulated financial services sector entities in which a Promoter Group has 'significant influence' or 'control' (as defined in Accounting Standard 23) will be held under the NOFHC. While this is a preferred structure, these requirements are subject to the regulations of the respective regulators. The matter has been examined in consultation with SEBI. The applicants may approach SEBI in this regard. The decision of SEBI will prevail.

Q.202. NOFHC shall not be permitted to set up any new financial services entity for at least three years from the date of commencement of business of the NOFHC. However, this would not preclude the bank from having a subsidiary or joint venture or associate, where it is legally required or specifically permitted by RBI. Will this mean that any restructuring of existing businesses held by NOFHC which may give rise to forming new entities or transfer of existing business to new entities by way of merger, demerger, internal restructuring etc. is also prevented for a period of 3 years from the commencement of business of NOFHC? If the sector regulator say, SEBI or IRDA, are to specify new norms regulating sector specific entities entailing setting up of new entities, will this require prior approval of RBI?

A. The stipulation that the NOFHC shall not be permitted to set up any new financial services entity for at least three years from the date of commencement of business of NOFHC means that the NOFHC cannot undertake a new financial service activity [para banking activities as defined in Master circular DBOD.No.FSD.BC.24/24.01.001/2012-13 dated July 2, 2012] and those financial services activities that must be undertaken from outside the bank (para 2 (C) (iv) (a)) and set up a new financial services entity for this purpose during the specified period. For the purpose of reorganization of existing business of the Promoter Group to bring all regulated financial services under the NOFHC and to carry out existing business through separate financial entities under the NOFHC as required under the guidelines, [Paragraph 2 (C) (iv) (a) & (b) of the guidelines], the NOFHC would be free to establish new financial services entity. In fact, this process will have to be completed within a period of 18 months from the date of in-principle approval or before the commencement of the banking business, whichever is earlier.

If the sectoral regulators viz. SEBI or IRDA, are to specify new norms, the applicants may approach SEBI/IRDA for their approval.

Q.203. Will the NOFHC be permitted to hold a stake greater than 50 per cent in the Insurance ventures of the Group.

A. The capital requirements for the regulated financial services entities held by the NOFHC shall be as prescribed by the respective sectoral regulators.

Q.204. In case the promoter company is a listed NBFC and the investments in regulated entities are transferred to the NOFHC, the businesses which can be done by the bank are transferred to the proposed bank; after such transfers, the NBFC will have investments and residual borrowings. Will the residual NBFC be classified as CIC and continue to have a certificate of registration from the RBI?

Q.205. Promoter group has an investment holding company "A". The said Company "A" is registered with RBI as a non-deposit taking systemically important NBFC (NBFC-ND-SI), Listed entity with majority public shareholding, has no public funds, holds equity investments in few promoter group companies, Has surplus funds (created out of ploughed back profits & out of dividend and investment income) meant for investment in group companies as and when required by them.

As the underlying group companies, at present do not require funds, in order to maximize the return for its stakeholders, the said surplus funds are invested in money market instruments, Government securities, mutual funds, listed debentures and equities as a temporary measure. The said investments are for long term and the company does not trade in its investments.

Other than the above said investments of its owned funds, Company A does not undertake any other activity and in essence a CIC with surplus funds.

Whether Company A can be held outside the NOFHC?

A. (204 & 205) A NBFC (Investment Company) will not be brought under the NOFHC. It has to be registered with Reserve Bank of India as a CIC or as a NBFC (Investment Company), as appropriate.

Q.206. (i) Can the liabilities like debentures and bank borrowings associated with these asset businesses be transferred wherever possible, to the new bank?

(ii) In cases where there is transfer of businesses from the promoter company, say an NBFC to the proposed bank; will the RBI give any separate guidelines for the methodology of valuing such businesses or the current provisions will be applicable?

A.(i) Yes. As transfer of assets and liabilities to the new bank would be a part of the re-organization of the business of the group entities to comply with the provision of our guidelines, more particularly to comply with the NOFHC structure, it will be permitted. However, while allowing grandfathering of term borrowings and other secured liabilities taken over from NBFCs, RBI will impose additional capital charge on the new bank, where it would allow creation/ continuation of floating charges on the assets of the new bank, in order to protect the interests of the depositors.

(ii) The assets and liabilities for the purpose of transfer from one entity to another under restructuring of the existing business may be valued as per the relevant provisions of the applicable laws/ regulations. No separate guidelines will be issued by RBI in this regard.

Q.207. Will the RBI consider permitting FDI investment from a single strategic investor (foreign bank / foreign development bank) who fulfils all “Fit and Proper” norms to hold greater than 4.99 per cent and less than 20 per cent in the proposed Bank.

A. No. No non-resident shareholder, directly or indirectly, individually or in groups, or through subsidiary, associate or joint venture will be permitted to hold 5 per cent or more of the paid-up voting equity capital of the bank for a period of 5 years from the date of commencement of business of the bank. After the expiry of 5 years from the date of commencement of business of the bank, the aggregate foreign shareholding would be as per the extant FDI policy.

Q.208. Will it be required to indicate the names of the Board members and key management personnel of the proposed Bank at the time of application or post obtaining the in principle approval?

Q.209. Are the applicants expected to state the details of the key managerial personnel of NOFHC as part of the application?

A.(208 & 209) If a CEO/Management Team has not been identified at the application stage, names of management team including the CEO would be required to be furnished to the Reserve Bank after grant of in-principle approval.

Q.210. Are the Applicants expected to list out the Board of Directors of NOFHC as part of the application?

A. The names of the Board of Directors of the NOFHC would be required to be furnished to the Reserve Bank after grant of in-principle approval. [Paragraph 2 (G) (vii) of the guidelines]

Q.211. (i) Is there a need to provide details of all the areas / centres (population, demographics, agriculture & mining activity, import, export etc) where branches will be opened by the bank at the time of the application?

(ii) Does the applicant need to provide a one year or a five year business plan as part of the application?

A. (i) & (ii)The period of business plan is left to the applicants. The business plan should be realistic and viable. It should address how the bank proposes to achieve financial inclusion. It would be desirable to give business plan covering three to five years.

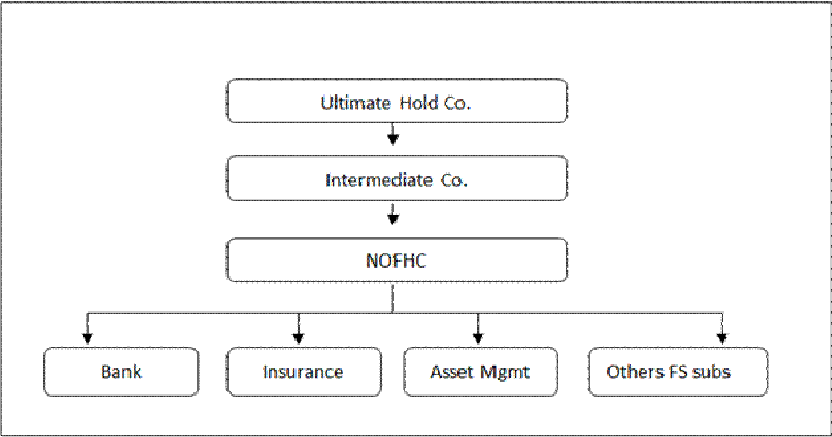
Q.212. Will the RBI take up with the Government to waive off tax related issues if any, arising from shifting of investments from promoter company to the NOFHC and from the NBFC to the bank?

A. Taxation will be as per the laws/rules of the tax authorities.

Q.213. Will the proposed new bank be a direct member of clearing from day one or will they have to act as sub members?

A. This would depend upon completion of certain formalities such as opening of current account with RBI, eligibility norms of the clearing houses, etc. for a member or a sub member.

Q.214. In case a multi-layered holding structure is implemented for the NOFHC (as set out in the illustration below), we believe the criteria of ‘Public’ holding would be complied if the shareholding pattern of the Ultimate Hold Co satisfies this condition. In the illustration below. Since the intermediate Co would be a company within the Promoter Group as well as a subsidiary of the Ultimate Hold Co., it is our understanding that it would not be necessary for the Intermediate Co. to also separately meet the condition of ‘Public’ holding. We request you to



defined in Accounting Standard 23) over the company. Such companies will hold not less than 51 per cent of the voting equity of the NOFHC. [para 2 (C) (ii) of the guidelines]

Q.216. Globally, automotive companies often have captive financial companies. Some of these financing companies operate as banks in geographies that permit them to operate as such. These entities are registered with and regulated by the RBI as NBFCs, and are required to comply with prudential norms prescribed by RBI on income recognition , asset classification, provisioning, capital adequacy, etc. As these entities are already under the direct supervision of RBI and these entities are critical and an integral part of the business operations

of the industrial enterprises (s) they support, we request RBI to clarify that captive financing company/(ies) which are unlisted subsidiary/(ies) of a listed (overseas and / or domestically) automotive company in which Promoter/ Promoter Group hold less than 49 per cent, is not required to be brought under the NOFHC. We would alternatively request RBI to include a provision for granting case by case relaxation based on specific fact pattern of the applicant.

A. All regulated financial sector entities, in which a Promoter has 'significant influence' or 'control' (as defined in Accounting Standard 23) will be held under the NOFHC[para 2(C)(vii) of the guidelines]. No exemption can be granted to auto-finance companies in the Promoter Group in this regard. Further, no financial services entity held by the NOFHC would be allowed to engage in any activity that a bank is permitted to undertake departmentally. The activities that could be carried outside the bank are as mentioned in paragraph 2 (C) (iv) of the guidelines.

Q.217. Paragraph 2 (k) (vi) of the Guidelines provided that the bank should 'build' its priority sector lending portfolio from the commencement of its operations. We request a clarification from RBI on whether the current practice applicable to banks will be applicable to new banks also i.e. Priority Sector targets being set based on closing balance of advances of the previous financial year. Consequently, if a new bank commences on or after April 1, 201X, the advances at the end of the previous financial year will be nil, and hence priority sector targets will be set based upon the advances at March 31, 201X + 1 and this will need to be achieved by March 31, 201X + 2.

A. The priority sector lending targets/achievements for a bank for the current year ending 31st March, will be based on the adjusted net bank credit (ANBC) outstanding as on 31st March of the previous year. The above example states the position correctly.

Q.218. Pursuant to paragraph 2 (I) (ii) (a), the consolidated NOFHC is required to adhere to all the exposure norms on the consolidated basis such as single and group borrower exposure limits, capital market exposure limit etc, as applicable to bank groups. Since NOFHC shall only hold investments in financial services entities in the group, it may breach single and group borrower exposure limits for such entities, the RBI therefore requested to clarify that these limits shall not be applicable to investment by the NOFHC in financial services entities that belong to the Promoter Group. Such consolidated monitoring should not be applicable to Policy Holder Funds of insurance companies and mutual funds held under the NOFHC.

A. The exposure norms stipulated at paragraph 2 (I) (ii) (a) of the guidelines refer to third party exposures and capital market exposures of the consolidated NOFHC as defined in circular DBOD.No. BP.BC.72/21.04.018/2001-02 dated February 25, 2003. As regards the stand alone NOFHC, its exposure to the entities held under it are not subject to single and group borrower exposure limits. The overarching exposure norms of the insurance companies and mutual funds under the NOFHC have been indicated in Paragraph 2 (I) (iv) (a) to (c). Their exposure norms would be as prescribed by IRDA and SEBI respectively.

Q.219. We also request a clarification that in the event of conversion of an NBFC to a bank, it would be possible to transfer the business of such NBFC (assuming such business cannot be undertaken by the bank) to another NBFC held by NOFHC, before such conversion.

A. All regulated financial sector entities in which a Promoter Group has 'significant influence' or 'control' (as defined in Accounting Standard 23) will be held under the NOFHC. If any activity is required to be carried on outside the bank, it is for the Promoters/Promoter Group to decide in which entity such activity would be carried on. The Promoters/Promoter Group may undertake transfer of business activities from one entity to another in the Group (after obtaining the approval of the concerned regulators and authorities, as required), for the purpose of compliance with the requirements of these guidelines only after obtaining 'in-principle' approval from the RBI for conversion of a NBFC into a bank or for setting up of a new bank. This may be completed within a period of 18 months from the date of in-principle approval of before commencement of the banking business, whichever is earlier.

Q.220. Paragraph 2 and 3 of Annexure II to the Guidelines provide that where the applicant belongs to an existing group, the details of ownership, management and corporate structure of all the entities in the group should be furnished, including an organogram showing shareholding and management and further Applications should also be supported by detailed information on the background of Promoters, their expertise, track record of business and financial worth, Memorandum and Articles of Association and latest financial statements of the Promoter entities for the past ten years, income tax returns for last three years, details of Promoters' direct and indirect interests in various entities/companies/industries, details of credit/other facilities availed by the Promoters/ Promoter entity(ies)/ other group entity(ies) along with details of the bank's/ financial institution's branches where such facilities were / are availed. For a large diversified Promoter Group that has many entities, it is voluminous and laborious task to collate the aforementioned data for all entities. In light of the above we request a clarification from the Reserve Bank of India on whether it would be sufficient to submit the above data for the top 5 companies in the Promoter Group (as is accepted by SEBI for the purpose of filling a prospectus).

A. The entities/individuals belonging to the Promoters/Promoter Groups, which would participate in the voting equity shares of the NOFHC, would have to provide the Memorandum and Articles of Association, financial statements for past ten years and IT returns for last three years, as appropriate, at the time of submission of their application. The last available financial statements in respect of other Group entities, which do not participate in the voting equity shares of the NOFHC will also have to be furnished. The details of the Promoters' direct and indirect interest in various entities/companies/industries and details of credit/other facilities availed by the Promoters/Promoter Group would be required of all entities. [para 3 of Annex II to the guidelines]

Q.221. In the application, the promoters / promoter group will show visibility into the investors who constitute the minimum Bank capitalization (Rs 5 billion) specified in the guidelines, and into investors that satisfy the minimum 40 per cent NOFHC shareholding requirements. We presume that this does not preclude the promoter / promoter group from presenting a business plan with higher than the minimum prescribed capitalization requirements, and that the investors (while fulfilling the 'fit and proper' criteria) who would contribute capital beyond the minimum threshold could be identified in future, unless specifically instructed otherwise?

A. (i) Yes. The business plan can provide for share capital which is beyond the minimum prescribed.

(ii) It is essential that at least 40 per cent of the initial voting equity capital of the bank is held by the NOFHC and the NOFHC continues to hold at least 40 per cent of the voting equity capital during the first five years from the commencement of the business of the bank.

(iii) No single entity or the group of the related entities, other than the NOFHC shall have the shareholding or control, directly or indirectly, in excess of 10 per cent of the paid up voting equity capital of the bank and any acquisition of shares which will take the aggregate holding of an individual/entity/group to the equivalent of 5 per cent or more of the paid up voting equity capital of the bank will require prior approval of RBI.

(iv) It is therefore essential that the full details to be furnished of all the individuals/ entities/ groups who will hold voting equity capital in the bank at its inception.

(v) The applicants should furnish the detailed information about the persons/entities who would subscribe to the voting equity capital of the proposed NOFHC and the bank including foreign equity participation in the proposed bank.

Q.222. The guidelines stipulate a 10 per cent maximum shareholding for promoter, his relatives and his majority-held companies in the NOFHC. Does the 10 per cent restriction also apply to non-promoter domestic investors (individuals / institutions) in the NOFHC?

A. The NOFHC has to be wholly owned by the Promoters/Promoter Groups. Therefore, no investor (domestic or foreign) not being part of the Promoter Group can hold voting equity shares in the NOFHC. At least 51 per cent

of the voting equity shares of the NOFHC have to be held by entity/entities in which public shareholding is not less than 51 per cent. A person along with his relatives as defined in Section 6 of the Companies Act, 1956 and entities in which he and/or his relatives hold not less than 50 per cent of the voting equity shares can hold shares in excess of 10 per cent provided by virtue of his shareholding or otherwise, is not in a position to exercise 'significant influence' or 'control' (as defined in Accounting Standard 23) over the company

Q.223. If the promoter / promoter group companies hold a minority (i.e. <49 per cent) stake in one or more entities that also have stakes in the NOFHC, do we understand that these indirect holdings will not count towards the 10 per cent limit stipulated above?

A. For the purpose of computing the 10 per cent limit for an individual belonging to the Promoter Group in the voting equity shares of the NOFHC, the voting equity shares to be held by his relatives (as defined in Section 6 of the Companies Act 1956) and entities in which he and / or his relatives hold not less than 50 per cent of the voting equity shares will be aggregated.[para 2 (C)(ii)(a) of the guidelines]

If an individual belonging to the Promoter Group holds a minority stake (i.e. <49 per cent) in one or more entities that also hold voting equity shares in the NOFHC, the shares holdings of those company/ies will not count towards the 10 per cent limit stipulated in terms of para 2C (ii)(a) of the guidelines.

The individual shareholding referred to in para 2(C)(ii)(a) and (b) of the guidelines are not correlated.

Q.224. (i) If there is an individual foreign shareholder with minority stake in the investment vehicles that own the NOFHC, do we understand that this indirect stake does not count towards the 5 per cent limit for an individual foreign shareholder in the bank?

(ii) In the total foreign shareholding of a bank (which needs to be below 49 per cent), do we presume foreign minority shareholding in investment vehicles that own the NOFHC will not be counted towards the 49 per cent limit?

A. (i) & (ii) The NOFHC is required to be wholly owned by entities 'owned and controlled' by residents and individuals belonging to the Promoter Group. Therefore, if the investment vehicles of the Promoter Groups are 'owned and controlled' by residents, the indirect foreign investment through these entities will not be counted as foreign investments in the bank. [para 2(A)(i) and para 2(F) of the guidelines]

Q.225. Commercial banks currently can have foreign ownership beyond 5 per cent (upto a maximum of 10 per cent) with prior approval from the RBI. We presume that a similar rule and process will be applied to the new banks?

A. No non-resident shareholder, directly or indirectly, individually or in groups, or through subsidiary, associate or joint venture will be permitted to hold 5 per cent or more of the paid-up voting equity capital of the bank for a period of 5 years from the date of commencement of business of the bank. After the expiry of 5 years from the date of commencement of business of the bank, the aggregate foreign shareholding would be as per the extant FDI policy. [para 2(F) of the guidelines]

Q.226. How will "voting equity shares" be specifically defined? Should we presume that all ownership restrictions specified in the guidelines apply only to voting equity shares?

A. The voting equity shares are those that confer voting rights to the shareholders. The ownership restrictions specified in the guidelines apply only to voting equity shares.

Q.227. Having ensured that paid-up equity voting capital of the bank is over ` 5 billion, will the bank be able to offer preferential, convertible or other classes of voting shares or Tier II capital (subordinated debt)?

A. The initial minimum paid-up voting equity capital for the bank is ` 5 billion. Depending upon the business plan, additional capital can be brought in. The bank will be able to issue preference shares permissible under the Banking Regulation Act, 1949, and other Tier I and Tier II capital instruments etc. as per RBI guidelines contained in circular DBOD.No.BP.BC.98/21.06.201/2012-13 dated May 2, 2012.

Q.228. i) We assume that all activities allowed currently for Feet-on-street (FOS) of commercial banks, will be permitted for the new banks as well; as we believe that the FOS model is a key pillar of achieving financial inclusion unless specifically advised otherwise.

(ii) Many existing commercial banks have feet-on-street employees on the rolls of wholly owned subsidiaries – we assume that the new banks could, if they wish, adopt a similar model, unless specifically advised otherwise.

(iii) Many existing commercial banks have Business Correspondents (BC) and hence we assume that the new banks will also be allowed to appoint BCs at the time of commencement of business, unless specifically advised otherwise.

A. (i) Yes. A new bank can adopt FOS model for the purpose of financial inclusion.

(ii) No. The bank cannot have a subsidiary under it.

(iii) Yes. The new bank can appoint Business Correspondents for the purpose of financial inclusion.

Q.229. As per Section 2 (F) of the guidelines, foreign shareholding in the bank shall not exceed 49% of the paid-up voting equity capital for the first 5 years from the date of licensing of the bank. No non-resident shareholder, directly or indirectly, individually or in groups, or through subsidiary, associate or joint venture will be permitted to hold 5 % or more of the paid up voting equity capital of the bank for a period of 5 years from the date of commencement of business of the bank. Whether FII shareholding forming part of the public shareholding at the listed promoter company level will also be considered for the purpose of arriving at 5% holding limit in the new bank?

A. No, the FII shareholding forming part of the public shareholding at the listed promoter company level will not be considered for the purpose of arriving at 5% holding limit in the new bank.

Q.230. In case an applicant, in order to comply with the NOFHC requirements, needs to convert a small public company into a listed one, will any relaxation be provided for the timelines to comply to the takeover code?

A. A public company need not necessarily be a listed company. At the time of making applications, the Promoters/Promoter Group will have to furnish a road map and methodologies they would adopt to comply with all the requirements of the corporate structure indicated in para 2 (C)(ii) and (iii) of the guidelines within a period of 18 months. After the 'in-principle approval' is accorded by RBI for setting up of a bank, the Promoters/Promoter Group will have to comply with all the requirements and the proposed bank has to start operations within this period.

Q.231. If there are existing Foreign Funding Institution / Indian Investment Institution as equity holder, how they may be accommodated as equity partners in the proposed NOFHC / and or the Bank.

A. The NOFHC has to be wholly owned by a Promoter/Promoter Group (as per the definition given in Annex I to the guidelines) and the pattern of shareholding would be as per the provisions laid down at paragraph 2(C)(ii) & (iii) of the guidelines. The existing foreign funding institution / Indian Investment Institution who hold shares in the promoting entity of the NOFHC, not being Promoter or belonging to the Promoter Group cannot hold shares in the NOFHC. As regards shareholding in the bank by foreign funding institutions, it should be in consonance with paragraph 2 (F) of the guidelines. Further, no single entity or group of related entities, other than the NOFHC, shall have shareholding or control, directly or indirectly, in excess of 10 percent of the paid-up

equity capital of the bank and any such acquisition of 5 per cent or more of the paid up equity capital of the bank will require prior approval of RBI. [Paragraph 2 (K) (ii) and (iii)]

Q.232. In case the promoter group company that is envisaged to hold voting equity shares of the NOFHC has issued GDRs or ADRs (i.e. equity instruments that do not have attached voting rights). How would the public holding in these companies be calculated? Would the GDRs / ADRs (and their underlying shares) be excluded or will the public holding be calculated notwithstanding the nature (voting / non-voting) of the shares issued.

A. Public shareholding would mean, at least 51 percent of the shareholding is widely dispersed among shareholders other than the Promoters and none of such shareholders along with his relatives (as defined in Section 6 of the Companies Act, 1956) and entities in which he and / or his relatives hold not less than 50 percent of voting equity shares exercise 'significant influence' or 'control' (as defined in Accounting Standard 23) by virtue of his shareholding or otherwise. Therefore, GDRs / ADRs and their underlying shares would be counted as public shareholding, provided that, by virtue of their shareholding, the holders or their custodians do not have 'significant influence' or 'control' (as defined in Accounting Standard 23) and there are no agreements or other arrangements whereby the GDR / ADR holders or their custodian have undertaken to exercise their voting rights in accordance with the Promoters/management.

Q.233. With reference to paragraph 2 (C) (vi), is the condition applicable for setting up new business lines even within existing businesses eg. Health Insurance (where a regulatory approval is required) as part of the existing Life insurance businesses

A. The stipulation that the NOFHC shall not be permitted to set up any new financial services entity for at least three years from the date of commencement of business of NOFHC means that the NOFHC cannot undertake a new financial service activity [para banking activities as defined in Master circular DBOD.No.FSD.BC.24/24.01.001/2012-13 dated July 2, 2012 and those financial services activities that must be undertaken from outside the bank [para 2 (C) (iv) (a) of the guidelines] and set up a new financial services entity for this purpose during the specified period.

However, adding a new business line within existing business line would be as per the rules and regulations laid down by the concerned financial sector regulator.

Q.234. Whether NOFHC, being NBFC-CIC, shall be allowed to sponsor Company C (a newly incorporated IDF-NBFC) in compliance with the Banking Guidelines?

A. Yes, but the NOFHC shall not be permitted to set up any new financial services entity for at least three years from the date of commencement of business of the NOFHC. [para 2 (C) (vi) of the guidelines].

Q.235. While the RBI has made an exception for bank's setting up subsidiaries where it is legally required, would the same be applicable for other businesses under the NOFHC where it is legally required for that business to set up a subsidiary / joint venture to undertake certain businesses.

A. Yes, subject to RBI approval and subject to the regulations / approvals of the concerned financial sector regulators.

Q.236. Can the NOFHC shareholding in the bank be brought down by a stake sale, dilution or a combination thereof.

A. Yes, the shareholding of the NOFHC in the bank can be brought down by a stake sale or dilution or a combination thereof subject to complying with the requirement at para 2(K)(ii) and (iii) of the guidelines.

Q.237. Would investments in debt mutual funds be covered under money market instruments for the purpose of the Clause 2 H (i) (c) of the guidelines?

A. No. Debt mutual funds are not covered under money market instruments. [Para 2(H)(i)(c) of the guidelines].

Q.238. In respect of exposure norms for financial entities held by the NOFHC, are investments made by these entities, that are permissible under extant regulations formed by their respective regulators under the ambit of these guidelines. Eg. Equity investments by AMCs and Life insurers.

A. Paragraph 2 (I) (iv) (a) and (b) of the guidelines lay down the overarching principles for the financial entities held by the NOFHC. These entities cannot have any credit and investments (including investments in the equity/debt capital instruments) exposure to the Promoters / Promoter Group entities or individuals associated with the Promoter Group or the NOFHC. These entities cannot make investments in the equity and debt Capital instruments amongst themselves. Apart from these, the exposure norms laid down by the other financial sector regulators will be applicable.

Q.239. What should be the duration covered by the business plan submitted by the applicant, i.e. how many years should be covered from the date of business commencement in the business plan?

Q.240. Applicants for new bank licenses will be required to furnish their business plans for the banks along with their applications. The business plan will have to address how the bank proposes to achieve financial inclusion. What should be the period for the business plan (3, 5 or 10 years) to be submitted as a part of the application?

Q.241. What should be the period for the business plan (3, 5 or 10 years) to be submitted as a part of the application?

A. (239 to 241) The period of business plan is left to the applicants. The business plan should be realistic and viable. It should address how the bank proposes to achieve financial inclusion. It would be desirable to give business plan covering three to five years.

Q.242. In the case of a single promoter group company investing in the NOFHC, would that company be reckoned as the promoter of the NOFHC or would the promoter group holding the investing company be reckoned as the promoter group for the basis of ultimate ownership of the NOFHC or the Bank

Q.243. Is it necessary for the promoter to be an individual or can a body corporate that belongs to the promoter group also be regarded as a promoter?

A (242&243).The Promoter Group would be as per the definition provided in the Annex I of the guidelines.

It is not necessary for all the individuals belonging to the promoter group and all group entities to participate in the voting equity shares of the NOFHC. The guidelines provide that a NOFHC should be wholly owned by the Promoters/Promoter Group i.e., by individuals belonging to the Promoter Group and entities in the Promoter Group in which the Promoter/Promoter Group are in effective control. Within such shareholding, not less than 51 percent of the voting equity shareholding of the NOFHC must be held by companies in which the public hold not less than 51 percent of the voting equity shareholding. The remaining 49 per cent of voting equity shareholding in such publicly held companies [para 2(C)(ii)(b) of the guidelines] will be held by promoter group individuals/entities who have 'significant influence' and 'control' (as defined in Accounting Standard 23) over such companies.

Q.244. In the case of entities under the promoter group that share a common brand name and a common logo. Whether sharing a brand name and common logo be covered under this definition?

A. Yes. Please refer to the Annex I to the Guidelines.

Q.245. Paragraph 2 (c)(iii) provides that “the NOFHC shall hold the bank as well as all the other financial services entities of the Group regulated by RBI or other financial sector regulators.” In this regard, please could you clarify the following :

(i) Where a financial services entity (say Company A) has one or more subsidiary entities (say Company B and Company C) which also undertake financial services activities, will the condition prescribed in paragraph 2 (C)(iii) be satisfied if the NOFHC holds the equity of Company A (and therefore indirectly holds the equity of Company B and Company C)? How should the requirement at paragraph 2 (I)(iv)(b) be interpreted in this regard ?

(ii) Annexure 1 of the Master Circular – Para Banking Activities dated July 2, 2012 contains a definition of “financial services companies”. This definition does not appear to include an entity which is a commodities broker registered with the Forward Markets Commission. Under the circumstances, would entities registered as brokers with the Forward Markets Commission be regarded as financial services entities regulated by a financial sector regulator, and therefore required to be held by the NOFHC ?

A. (i) The NOFHC shall directly hold the bank as well as all the other regulated financial services entities of the Group in which a Promoter Group has significant influence or control (As defined in Accounting Standard 23). [Paragraph 2 (C) (iii) & (vii) of the guidelines]. In the above cited example, all the three companies, i.e. Company A, Company B and Company C will have to directly come under the NOFHC and Company A, Company B and Company C cannot make investment in equity / debt capital instruments amongst themselves. [Paragraph 2 (I) (iv) (b) of the guidelines]. The guidelines also provide that while this is the requirement, banks would not be precluded from having a subsidiary or joint venture or Associate where it is legally required or specifically permitted by RBI [para 2 (C) (vi)]. As regards other financial sector entities held by the NOFHC, those would not be precluded, with RBI's approval, from setting up similar structures where it is legally required or specifically required by the concerned financial sector regulators.

(ii) For the purpose of these guidelines, entities registered as brokers with the Forward Markets Commission will not be treated as financial services entities regulated by a financial sector regulator, and therefore would not be required to be held by the NOFHC.

Q.246. Paragraph 2(C) (iv) states that “the general principle is that no financial services entity held by the NOFHC would be allowed to engage in any activity that a bank is permitted to undertake departmentally.” The paragraph clarifies that this general principle is subject to two exceptions summarized in sub-paragraphs (a) and (b). In this regard, please could you clarify the following :

- i. Will the activities in sub-paragraph (b) cover all (and only those) activities described in RBI's Maser Circular – Para Banking Activities date July 2, 2012? How should the specific scope of activities covered by sub-paragraph (b) be identified?*
- ii. The concluding sentence states “Accordingly, the activities at (a) above and activities at (b) above which are to be carried outside the bank will have to be carried out through separate financial entities under the NOFHC”. Activities at (b) above could be undertaken by a bank. Is it obligatory that such activities must necessarily be undertaken through a separate financial entity under the NOFHC or would it also be possible to undertake such activities through the bank at the Group's option ?*
- iii. Where the Group provides non-discretionary investment advisory services (which are regulated by SEBI but may be provided by a bank) as well as discretionary investment management services eg portfolio management services (which are also regulated by SEBI but cannot be provided by a bank), will it be obligatory to shift the non-discretionary investment advisory services to the bank ?*

A.(i) & (ii) The general principle in this regard is that para-banking activities, such as credit cards, primary dealer, leasing, hire purchase, factoring, etc., can be conducted either inside the bank departmentally or outside the bank through subsidiary/ joint venture /associate. Activities such as asset management, insurance, stock broking, asset reconstruction, venture capital funding and infrastructure financing through Infrastructure

Development Fund (IDF) sponsored by the bank can be undertaken only outside the bank. Lending activities must be conducted from inside the bank. However, other regulated financial services entities (excluding entities engaged in credit rating and commodity broking) in which the Promoter/Promoter Group has 'significant influence' or 'control' (as defined in Accounting Standard 23) have to be held under the NOFHC and not under the bank unless it is legally required or specifically permitted by RBI. [para 2 (C) (iv) of the guidelines].

(iii) Investment advisory services, could be conducted both from within the bank or outside the bank, by any financial services company in the group (which is held under the NOFHC) that is eligible to register with SEBI as an investment advisor. Regarding portfolio management services, these activities could be carried out by a bank departmentally subject to prior approval of RBI or by any financial services company (which is held under the NOFHC) eligible to provide PMS under SEBI PMS regulations.

Q.247. There are certain businesses, for e.g. merchant banking, which are regulated by other financial sector regulators and which can be carried on by a bank departmentally as well as through a separate entity. Can such businesses be carried out outside the bank but under the NOFHC framework?

A. The general principle is that para-banking activities, such as credit cards, primary dealer, leasing, hire purchase, factoring etc., can be conducted either inside the bank departmentally or outside the bank through subsidiary/ joint venture /associate. Activities such as insurance, stock broking, asset management, asset reconstruction, venture capital funding and infrastructure financing through Infrastructure Development Fund (IDF) sponsored by the bank can be undertaken only outside the bank. Lending activities must be conducted from inside the bank. However, other regulated financial services entities (excluding entities engaged in credit rating and commodity broking) in which the Promoter/Promoter Group has 'significant influence' or 'control' (as defined in Accounting Standard 23) have to be held under the NOFHC and not under the bank unless it is legally required or specifically permitted by RBI. [para 2 (C) (iv) of the guidelines].

The merchant banking activities can be conducted from within the bank or outside the bank under the NOFHC. [para 2 (C) (iv) of the guidelines].

Q.248. Where a group has one or more existing non-deposit taking NBFCs, can the non-deposit taking NBFCs continue to exist until their existing book of business has been wound down, or is it obligatory that all the activities of the non-deposit taking NBFC must necessarily be transferred immediately to the bank?

A. The NBFCs must transfer their existing business to the bank if the bank can undertake such activities [Paragraph 2 (C) (iv) of the guidelines] and retain with itself the activities which the bank cannot undertake from within. Both the bank and the NBFC, if required to retain with itself the activities which the bank cannot undertake, will have to come under the NOFHC. The reorganisation of business should be done within a period of 18 months from the date of in-principle approval or before commencement of the banking business, whichever is earlier.

Q.249. Paragraph 2 (C) (vi) states that “the NOFHC shall not be permitted to set up any new financial services entity for at least three years..” The paragraph further provides that “this would not preclude the bank from having a subsidiary or joint venture or associate, where it is legally required or specifically permitted by the RBI”. Paragraph 2 (C) (iv) suggests that activities of the kind referred to in paragraph 2 (C) (vi) should be conducted in entities under the NOFHC. If so, the requirements of paragraph 2 (C) (iv), which requires certain activities to be undertaken through separate financial entities established under the NOFHC, and paragraph 2 (C)(vi), which stipulates that an NOFHC cannot establish a new entity to undertake such activities for the first three years but the bank can, appear to be contradictory. Should the requirement of paragraph 2(C)(vi) therefore be interpreted to mean that an NOFHC cannot establish any new financial entity for a three year period, except where such an entity is required to be so set up by the RBI or is otherwise specifically approved by the RBI?

Q.250. With reference to paragraph 2 (C) (vi), is the condition applicable to demergers within existing businesses and acquisition of new businesses from third parties

A. (249& 250) The stipulation that the NOFHC shall not be permitted to set up any new financial services entity for at least three years from the date of commencement of business of NOFHC means that the NOFHC cannot undertake a new financial service activity [para banking activities as defined in Master circular DBOD.No.FSD.BC.24/24.01.001/2012-13 dated July 2, 2012 and those financial services activities that must be undertaken from outside the bank (para 2 (C) (iv) (a)] and set up a new financial services entity for this purpose during the specified period. For the purpose of reorganisation of existing business of the Promoter Group to bring all regulated financial services under the NOFHC and to carry out existing business through separate financial entities under the NOFHC as required under the guidelines, [Paragraph 2 (C) (iv) (a) & (b) of the guidelines], the NOFHC would be free to establish new financial services entities. In fact this process will have to be completed within a period of 18 month from the date of in-principle approval or before commencement of the banking business, whichever is earlier.

The stipulation at paragraph 2 (C) (vi) of the guidelines pertains to new financial services entities that are intended to be set up and these guidelines would be applicable to all acquisitions.

Q.251. Paragraph 2 (C) (ix) provides that “Shares of the NOFHC shall not be transferred to any entity outside the Promoter Group.” The paragraph also provides that any change in shareholding within the NOFHC as a result of which a shareholder acquires 5 per cent or more of the voting equity capital of the NOFHC shall require prior RBI approval. In this regard, please could you clarify the following :

- i. *Would it be possible to list the NOFHC at some stage ?*
- ii. *Would transfers of NOFHC shares between promoter group entities require prior RBI approval if the shareholding of an entity will, as a result of such transfer, reach 5 per cent or more of the NOFHC’s voting equity capital ?*

A. (i) & (ii) No. It would not be possible to list the NOFHC as it would have to be wholly owned by the Promoters / Promoter Group. Further, any change in shareholding (by the Promoter Group) within the NOFHC as a result of which a shareholder (within the Promoter Group) acquires 5 per cent or more of the voting equity capital of the NOFHC shall be with the prior approval of RBI. [paragraph 2 (C) (ix) of the guidelines]

Q.252. Can a promoter pledge its shares of NOFHC in any manner? If the pledge is invoked can the lender register the shares of NOFHC in its name without prior approval of RBI?

Q.253. Can the shares of NOFHC be transferred by transmission, Will or by operation of law to a non-promoter entity without prior approval of RBI? ?

A. (252&253) No. Shares of the NOFHC shall not be transferred to any entity outside the Promoter Group. Any change in shareholding (by the Promoter Group) with in the NOFHC as a result of which a shareholder acquires 5 per cent or more of the voting equity capital of the NOFHC shall be with the prior approval of RBI. [para 2(C)(ix) of the guidelines]

Q.254. If the Group has established one or more overseas subsidiaries which undertake financial services activities, do such subsidiaries need to be brought under the NOFHC?

A. Yes. The NOFHC shall hold the bank as well as all the other regulated financial services entities of the Group in which a Promoter Group has ‘significant influence’ or ‘control’ (as defined in Accounting Standard 23). [para 2(C)(iii) & (vii)]. However, this does not preclude the bank from having a subsidiary or joint venture or associate where it is legally required or specifically permitted by RBI [para 2(C)(vi) of the guidelines].

Q.255. Paragraph 2(G)(ii) suggests that an NOFHC may be managed by a person who is also a Director on a subsidiary of the NOFHC. Paragraph 2(G)(vii) provides that the ownership and management of the NOFHC, the bank and other financial entities regulated by the RBI will be separate and distinct. The position in paragraph 2 (G)(ii) appears to contradict that prescribed in paragraph 2 (G)(vii). In this regard, please could you clarify the following :

(i) *Can the NOFHC, the bank and other financial entities held by the NOFHC have any common independent directors ?*

A. There could be common directors in the NOFHC and the bank. [para 2(G)(i) of the guidelines]. A director of the NOFHC being also a director on the Board of the bank held by it cannot be considered as independent director of the bank. Whether the other financial entities held by the NOFHC have common independent directors with the NOFHC and the bank will depend upon the circumstances of each case and the rules / regulations of the concerned regulators.

(ii) *If the NOFHC is held by a listed, non-operating holding company which will be registered with the RBI as a CIC, would an individual who is the CEO, MD or Executive Director of such holding company also be permitted to serve as :*

- *A CEO, MD or Executive Director of the NOFHC?*
- *A CEO, MD or Executive Director of the bank?*
- *A CEO, MD or Executive Director of both (i.e. the NOFHC and the bank)?*
- *A director on the Board of the NOFHC?*
- *A director on the Board of the bank?*
- *A director on the Board of both (i.e. the NOFHC and the bank)?*

A. A full time executive of the non-operating holding company cannot be a CEO, MD or Executive Director of either the bank or the NOFHC. As per Section 10(1) (c) of the Banking Regulation Act, 1949, the CEO / MD of the bank has to be in full time employment of the bank. However, a full time executive of the non-operating holding company can be a director of both the NOFHC and the bank but such director will not be treated as an independent director of the bank or the NOFHC.

(iii) *If the NOFHC is held by a listed, non-operating holding company which will be registered with the RBI as a CIC, would an individual who is a non-executive, non-independent director on the Board of such holding company also be permitted to serve as :*

- a. *A CEO, MD or Executive Director of the NOFHC?*
- b. *A CEO, MD or Executive Director of the bank?*
- c. *A CEO, MD or Executive Director of both (i.e. the NOFHC and the bank)?*
- d. *A non-executive, non-independent director on the Board of the NOFHC?*
- e. *A non-executive, non-independent director on the Board of the bank?*
- f. *A non-executive, non-independent director on the Board of both (i.e. the NOFHC and the bank) ?*

A.

- a. No. [Paragraph 2 (G) (ii) of the guidelines].
- b. No. [Section 10(1) (c) of the Banking Regulation Act, 1949]
- c. No. [Please see (a) & (b) above]
- d. Yes.
- e. Yes. [Subject to compliance with Banking Regulation Act, 1949 provisions and RBI regulations].
- f. Yes. [Please see (e) above].

Q.256. Paragraph 2 (G) (iv) provides that 50 percent of the Directors of the NOFHC shall be totally independent of, inter alia, major customers and major suppliers of the promoter group entities. How should major customers and suppliers be determined in the context of a Group engaged predominantly in financial services activities?

A. The stipulation with regard to major customers / suppliers in paragraph 2(G)(iv) of the guidelines, as explained in the footnote therein, refers to 10 per cent or more of the annual purchases or sales of goods and services or both taken together.

Q.257. Paragraph 2 (A) clarifies that an eligible promoter must be an entity that is owned and controlled by residents as defined in Press Notes 2, 3 and 4 of 2009 issued by the DIPP. Will the same norms apply for computing the foreign shareholding in banks (which must be capped at 49 percent / 74 percent as per paragraph 2 (F))?

A. Foreign shareholding in the new banks, as far the FDI cap is concerned, should be in compliance with paragraph 2 (F) of the guidelines. The manner in which the foreign shareholding in the bank will be calculated would be as per the extant GOI guidelines indicated in the Press Notes and DIPP guidelines/ FEMA regulations, as and when issued.

Q.258. Paragraph 2 (H) (i) (d) provides that the NOFHC shall create a reserve fund by transferring not less than 25 percent of the NOFHC's annual profit to such reserve fund. As required under the Companies Act, the NOFHC will also need to transfer profits to reserves prior to distribution of dividends. Would the reserve in paragraph 2 (H) (i) (d) need to be created over and above the reserve that would be required to be created by the NOFHC under the Companies Act ?

A. The reserves created under the Companies Act can be considered as part of the 25 per cent of the NOFHC's annual profits transferred to the Reserve Fund. [Paragraph 2 (H)(i) (d) of the guidelines].

Q.259. Can the promoter group entities (other than the NOFHC of the financial entities held by the NOFHC), advance funds to the bank or place deposits with the bank? Can such entities advance funds to other financial entities held by the NOFHC ?

Q.260. Will the promoter/ promoter entities be entitled to own shares directly in the banking company on the listing of the bank?

A. (259 & 260) The Promoter / Promoter Group entities / individuals associated with Promoter Group shall hold equity investment in the bank and other financial entities held by it, only through the NOFHC [Paragraph 2 (C) viii of the guidelines]. However, there is no bar on the Promoter Group entities advancing funds (other than equity) to the bank. The Promoter Group entities would have to follow the guidelines / instructions of the respective regulators in order to advance funds to the financial entities held by the NOFHC.

As far as Promoter Group entities placing deposits with the bank or extending advances to it is concerned, the bank shall maintain arm's length relationship with Promoters / Promoter Group entities [Paragraph 2 (K) (iv) of the guidelines].

Q.261. Paragraph 2(I)(iv) (b) provides that a financial entity held by the NOFHC shall not make investments in equity / debt capital instruments issued by any other financial entity held by the same NOFHC. Can financial entities held by the NOFHC have credit exposure inter-se?

A. The bank's credit and investment (other than equity / debt capital instruments of the NOFHC and financial sector entities held under the NOFHC, on which exposure cannot be taken) exposure to financial entities under the NOFHC will be subject to intra group transactions and exposure (ITE) norms [para 2(I)(iii)(c) of the guidelines]. As regards exposure of entities regulated by other financial sector regulators, to the bank and other

entities held under NOFHC, such exposures would be in accordance with the rules/regulations of the respective sectoral regulators.

Q.262. Does an NOFHC have to be incorporated and capitalized at least to the extent of ` 2 Crore at the time of submission of the application for a banking licence ?

A. At the time of submission of application for the bank licence, the Promoters have to indicate the source of funds. After obtaining the in-principle approval from RBI, the NOFHC may be incorporated and the capital may be mobilised, as required within 18 months from the date of in principle approval and before the commencement of banking business, whichever is earlier.

Q.263. There is a need to specify:

a. the yardstick / criteria for assessing the 'financial soundness' of a promoter / promoter group.

b. the yardstick / criteria for assessing 'successful track record' of a promoter / promoter group.

Q.264. Promoters/ Promoter Groups should be financially sound and have a successful track record of running their business for at least 10 years. What are the yardsticks to measure 'financially sound' and 'successful track record'?

A (263 & 264) The assessment of the 'financial soundness' and 'successful track record' is a matter of judgment, and will have to be determined both on quantitative and qualitative basis; and no specific yardstick/criteria can be spelt out. In making this judgment, consideration will also have to be given to information obtained from the regulators, and enforcement and investigative agencies like Income Tax, CBI, Enforcement Directorate, etc. wherever considered appropriate. Further, the applications received will be subjected to a multi-layered evaluation process, including the High Level Advisory Committee (HLAC). [Paragraph 2(B) of the guidelines]

Q.265. For applying the yardstick / criteria of 'financial soundness' and 'successful track record', would RBI consider all the businesses / activities of Promoters / Promoter Group or only the ones which are linked to financial services or are likely to be part of entities within the NOFHC framework?

A. For applying the yardstick / criteria of 'financial soundness' and 'successful track record', RBI would consider all the businesses / activities of the Promoters / Promoter Group as considered appropriate. [Paragraph 2(B) of the guidelines]

Q.266. Would RBI consider a promoter group to be meeting 'fit and proper' criteria if such promoter group commits to reduce, below the threshold advised by RBI, the quantum of businesses / activities considered to be speculative in nature or subject to high asset price volatility?

A. The 'Fit and Proper criteria', as stipulated at paragraph 2(A) & (B) of the guidelines will be determined based upon the past record and the future plan. No threshold has been prescribed for business misaligned with the banking model.

Q.267. Is the requirement of NOFHC applicable only in cases of corporate with a mix of both non-financial and financial services businesses?

A. The requirement of the NOFHC is for both financial groups and for corporate groups having a mix of both non-financial and financial services businesses. [Paragraph 2 (C) of the guidelines]

Q.268. It appears that the provisions related to capital structure of NOFHC are not applicable to entities in the public sector. Please clarify if any other provisions related to NOFHC are also not applicable to public sector entities.

A. The provisions of para 2 (C) (ii) of the guidelines will not apply to entities in the public sector. All the other provisions of the guidelines will apply to the entities in the public sector that promote the NOFHC / bank.

Q.269. How would the provisions apply for a Bank promoted jointly by one public sector and one private sector entity?

A. Two or more different Promoter groups cannot jointly promote a bank. The NOFHC setting up a bank has to be wholly-owned by a single Promoter Group. Entities other than the Promoters / Promoter Group can hold voting shares in the bank subject to the limitations indicated in Paragraph 2 (K) (ii) and (iii) of the guidelines.

Q.270. Is it mandatory for promoter Groups engaged solely in the financial services business and already having a core investment company to have another NOFHC for promoting a bank?

Q.271. Is the Promoter required to 'set up' a new company to be classified as NOFHC or can a Promoter Group identify and reclassify one of its existing group companies as NOFHC?

A. (270&271) The corporate structure of the NOFHC as given in paragraphs 2 (C) (i), (ii) & (iii) will have to be fully met. The requirement is that the NOFHC has to be wholly owned by the Promoters/Promoter Group. Further, at least 51 percent of the voting equity shares of the NOFHC have to be held by companies in the Promoter Group in which public hold not less than 51 percent of the voting equity of those companies. [Paragraph 2 (C) (i) & (ii) of the guidelines]

If an existing Promoter Group company including a core investment company of the Group satisfies the above criteria, it can be the NOFHC.

Q.272. Please clarify which of the following types of shareholders would qualify as 'public' in an unlisted / listed entity:

- | | | | | |
|----|------------------------------------|-----------|---------------|-----------|
| a. | India | domiciled | institutional | investors |
| b. | | Employees | holding | ESOPs |
| c. | | Private | Equity | Funds |
| d. | | | | FII's |
| e. | Other non promoter group investors | | | |

A. All the shareholders mentioned above will be treated as 'public' shareholders in both unlisted and listed entities, provided that no individual shareholder along with his relatives (as defined in Section 6 of the Companies Act, 1956) and entities in which he and/or his relatives hold not less than 50 per cent of the voting equity shares, or acting in concert with other shareholders exercises 'significant influence' or 'control' (as defined in Accounting Standard 23) over the company. [Paragraph 2(C)(ii)(b) of the guidelines]

Q.273. Please confirm our understanding that (i) listed companies where public shareholding is atleast 51% or (ii) unlisted companies where 51% is held by investors, not being part of the Promoters/ Promoter Group, can both qualify as companies forming part of the Promoter Group allowed to hold not less than 51% of the total voting equity shares of the NOFHC.

A. Companies belonging to the Promoter Group in which the public shareholding is not less than 51 per cent must hold not less than 51 per cent of the voting equity shares of the NOFHC. These companies can be listed or unlisted, but in either case, 'public shareholding' requires that no person along with his relatives (as defined in Section 6 of the Companies Act, 1956) and entities in which he and/or his relatives hold not less than 50 per cent of the voting equity shares, or acting in concert with other shareholders exercises 'significant influence' or 'control' (as defined in Accounting Standard 23) over the company. [Paragraph 2(C)(ii)(b) of the guidelines]

Q.274. Can an entity (currently carrying out regulated financial services activity) which commits to discontinue its regulated financial services activities post receipt of banking licence, be kept outside the purview of NOFHC?

A. The requirement is that the NOFHC shall hold the bank as well as all the other existing regulated financial services entities of the Group in which the Promoter Group has 'significant influence' or 'control' (as defined in Accounting Standard 23). [Paragraph 2(C)(iii) & (vii) of the guidelines]. If the entity in the Promoter Group carrying out regulated financial services activity discontinues such activity it will have to be necessarily outside the purview of the NOFHC. However, it has to discontinue the regulated financial sector activity within a period of 18 months from the date of grant of in-principle approval to set up the bank or before the date of issue of licence, whichever is earlier.

Q.275. Please clarify that prohibition on NOFHC setting-up a new financial services entity does not include:

i) setting up a foreign subsidiary by a financial services entity already under the NOFHC framework, for carrying out its business activity in a foreign jurisdiction;

ii) the formation of a new entity under NOFHC as part of a group restructuring to comply with the RBI Banking Guidelines;

iii) the formation of any new financial services entity required to be established after the commencement of business of the NOFHC by a specific regulatory requirement.

A. (i) A foreign subsidiary can be set up by a financial services entity already under the NOFHC framework provided the setting up of such an entity is necessary under the regulation in that foreign jurisdiction.

(ii) The setting up of a new entity under the NOFHC as a part of the restructuring of the business of the Promoter group would be permitted subject to compliance with the guidelines at paragraph 2C (vii) of the guidelines.

(iii) A new financial services entity can be set up under the NOFHC if required by a specific regulatory requirement.

Prior permission of the RBI will be necessary for setting up of such new entities, under the NOFHC.

Q.276. Will RBI approval be required for gross acquisitions exceeding 5% voting equity of NOFHC or for net shareholding (net of dilutions / sales) crossing 5% of voting equity capital?

A. Shares of the NOFHC shall not be transferred to any entity outside the Promoter Group. Any change in shareholding (by the Promoter Group) within the NOFHC as a result of which a shareholder acquires 5 per cent or more of the voting equity capital of the NOFHC shall be with the prior approval of RBI. [Paragraph 2 (C) (ix) of the guidelines]

RBI approval will be required for any acquisitions / transfers of voting equity capital resulting in shareholding of 5 per cent or above by an individual / entity / group / Persons acting in concert.

Q.277. Would shareholding in any Promoter Group entity holding shares in NOFHC be treated as 'indirect' shareholding in the bank?

Q.278. If yes, how would such 'indirect' shareholding in the bank be calculated for the purpose of 10% limit?

A. (277&278) No. Shareholding in Promoter Group entity holding shares in NOFHC will not be treated as 'indirect' shareholding in the bank. It may be mentioned here that the Promoters / Promoter Group entities /

individuals associated with Promoter Group shall hold equity investment in the bank and other financial entities held by the NOFHC, only through the NOFHC [Paragraph 2 (C) (viii) of the guidelines]

Q.279. We presume that only domestic financial entities of the Group are required to be brought under NOFHC. Accordingly, overseas financial entities belonging to promoter group would be outside of NOFHC. Please confirm.

A. All regulated financial sector entities in which a Promoter Group has significant influence or control (as defined in Accounting Standard 23) will be held under the NOFHC, including the overseas financial entities. However, this would not preclude the bank or any other financial services entity held under the NOFHC from having a subsidiary or joint venture or associate where it is legally required or specifically permitted by RBI and other financial sector regulators. [Paragraph 2 (C) (iii) of the guidelines]

Q.280. In case of listed NBFC desiring to promote the bank, it would be economically disadvantageous to have the two layered structure of the listed NBFC taking stake in the Banking entity through a wholly owned NOFHC. Hence, please let us know whether the listed NBFC can itself be considered / converted as the NOFHC and hence be permitted to directly promote the banking entity. In such a case, due to the fact of the NBFC being a listed entity, there is a need to provide exemption to the NOFHC being a wholly owned entity.

A. The requirement is that the NOFHC has to be wholly owned by the Promoters/Promoter Group. [Paragraph 2 (C) (i) of the guidelines] Further, at least 51 percent of the voting equity shares of the NOFHC have to be held by companies in the Promoter Group in which public hold not less than 51 percent of the voting equity of those companies. [Paragraph 2(C)(i) & (ii) of the guidelines]

Therefore, the listed NBFC cannot be converted into an NOFHC and promote the bank. No exemption can be granted for the purpose.

Q.281. Most banks and NBFCs have a staffing subsidiary. The employees in this company perform transactional activities for the bank / NBFC. Since such staffing subsidiaries are integral in nature to the banking business we presume that the banks/NOFHC would be continued to be allowed to hold such subsidiaries. Please confirm.

A. The NOFHC will be required to hold only regulated financial services entities. The bank will be permitted to have a subsidiary or joint venture or associate, only where it is legally required or specifically permitted by RBI [Paragraph 2(C)(vi) of the guidelines]. Banks however, are not permitted to have staffing subsidiaries.

Q.282. A Financial Institution is set up under an Act of Parliament and its equity is held by public sector banks and insurance companies, owned or controlled by Government of India. Given this background, would it be a limiting factor for these promoters of the FI for carrying out their ongoing financial services?

A. The Promoters/ Promoter Group would be permitted to set up a bank only through a wholly owned NOFHC as per the corporate structure envisaged in paragraph 2(C) of the guidelines. The NOFHC shall hold the bank as well as all the other financial services entities of the Group regulated by RBI or other financial sector regulators in which the Promoters/ Promoter Group have 'significant influence' or 'control' (as defined in Accounting Standard 23) [Paragraph 2(C)(iii) of the guidelines]. Further, the general principle is that no financial services entity held by the NOFHC would be allowed to engage in any activity that a bank is permitted to undertake departmentally [Paragraph 2(C)(iv) of the guidelines]. It is clarified that all lending activities in the group must be conducted from inside the bank.

Q.283. Whether FI would be under the obligation to transfer its shareholdings in its associates, subsidiaries and joint ventures (rating company, venture capital company, asset reconstruction company, etc) to the NOFHC? It may be added that some of these subsidiaries amongst themselves have cross holdings with each other.

Q.284. Can the FI still continue to do refinance activity along with other developmental activities like cluster development programme, entrepreneurship development programme. It is submitted that these being specialized activities permitted by the statute to specified institutions, may not be construed as normal financial services activity for the purpose of the above definition.

Q.285. Can the venture capital company, presently a wholly owned subsidiary of the FI, be allowed as a separate arm under the NOFHC, in line with guidelines permitting infrastructure debt funds to be carried out by a separate subsidiary under NOFHC? Or can it be allowed to carry on the activity outside the NOFHC as wholly owned subsidiary of FI ?

Q.286. The FI is presently extending direct finance to eligible entities (which are in the priority sector category) as permitted by the statute, to supplement efforts of the banks by introducing new and innovating products for adoption by other lenders in due course. In addition, the FI also extends equity/quasi equity assistance to the eligible entities as permitted by the statute and supported by the Government through special dispensation, also approved by the regulator. These being permitted activities under statute, can the same be continued by the FI?

A (283 to 286). If the FI is a private sector entity, then it has to comply with the corporate structure prescribed at paragraph 2(C)(ii) of the guidelines. If the FI is a public sector entity, provisions of the paragraph 2(C)(ii) of the guidelines will not be applicable, though the entity has to set up a NOFHC for holding the bank. In either case, the activities that can be conducted by a bank have to be transferred to the bank and the regulated financial services activities which a bank cannot undertake have to be transferred to a separate subsidiary or subsidiaries under the NOFHC.[para 2 (C) (iii) of the guidelines]

Q.287. Where shares of a NOFHC are held by public charitable trusts, whose trustees are the promoters of financial services companies, whether the shareholding of such public charitable trusts be considered as meeting the condition 2(C)(ii)(b)?

Q.288. Where shares of a NOFHC are held by employee welfare trust, whether the shareholding of such trust be considered as meeting the condition 2(C)(ii)(b)?

Q.289. Will RBI consider employee welfare trusts as being held by public, in order to comply with NOFHC requirements for promoter group?

A. (287 to 289) The shares of NOFHC can be held by individuals, corporate entities and companies belonging to the Promoter Group. A trust does not fall under either of these categories. Therefore, a public charitable trust or an employee welfare trust cannot hold voting equity shares directly in the NOFHC but can hold indirectly through a company which holds equity shares of the NOFHC. If the Promoters have control over the trust, the trusts will not be treated as 'public' for the purpose of computing 'public shareholding' in companies which would hold not less than 51 per cent of the voting equity of the NOFHC. [Paragraph 2(C)(ii)(b) of the guidelines]

Q.290. Where a group is engaged in financial services sector and has investments in various companies / SPVs/ joint ventures through holding company which is typically Core Investment Company (CIC) or Systemically important non-deposit taking CICs (CIC-ND-SI), will they have to undergo the rigour of dismantling the CIC / CIC-ND-SI structure in view of new concept of NOFHC?

Q.291. Can the CIC registered with RBI be eligible to act as NOFHC?

A.(290& 291) A CIC of the Promoter Group will be eligible to hold the voting equity shares of NOFHC. Alternately, a CIC of the Promoter Group may also become a NOFHC. However, under both the options, the corporate structure of the NOFHC must comply with requirements at para 2 (C) of the guidelines, and the new bank and the regulated financial sector entities in which Promoter Groups have 'significant influence' and

‘control’ (as defined in Accounting Standard 23) have to be held under the NOFHC. [Paragraph 2(C)(iii) & (vii) of the guidelines]

Q.292. Post setting up the bank, if the promoters wish to enter into new financial businesses such as insurance, asset management, do they set up a new subsidiary under the NOFHC or under the bank?

A. Post setting up the bank, if the promoters wish to enter into new financial business such as insurance, asset management, they have to set up new subsidiaries under the NOFHC; not under the bank. This would not preclude the bank from setting up a subsidiary, if there is a legal requirement or requirement of the concerned financial sector regulator, subject to RBI approval. However, the NOFHC shall not be permitted to set up any new financial services entity for at least three years from the date of commencement of its business. [para 2(C)(vi) of the guidelines]

Q.293. Existing guidelines for Infrastructure Debt Funds (IDFs), cap the ownership stake of potential bank sponsors of an IDF (NBFC structure) to a maximum of 30 percent, and that of potential IFC-NBFC sponsor at 49 percent. Could the NOFHC holding the bank also have an ownership share of more than 49 percent in a separate IDF subsidiary?

A. The NOFHC shall hold the bank as well as other financial services entities of the Promoter Group regulated by RBI or other financial sector regulators [para 2(C)(iii) of the guidelines]. Accordingly, the NOFHC will replace bank/NBFC as sponsor of IDF and contribute a minimum equity of 30 percent and maximum equity of 49 percent of the IDF-NBFC. (Please refer RBI circulars DBOD.FSD BC No 57/24.01.006 dated November 21, 2011 and DNBS. PD. CC. No 249/03.02.089 dated November 21, 2011).

Q.294. Company A, a 50:50 Joint Venture between Company S & Company B (non resident), is an NBFC classified as an Asset Finance Company. Company A is engaged in the business of equipment financing. Investment in Company A (50%) is proposed (i) to be transferred to Non Operative Financial Holding Company (“NOFHC”) (a newly incorporated WOS of Company S) by Company S or (ii) to be transferred to NOFHC by Company S and then to Bank (a newly incorporated WOS of NOFHC) by NOFHC.

a) Whether investment in Company A (50%) can be held by bank?

b) If answer to the question (a) is negative, whether investment in Company A can be held by NOFHC?

A. (a & b) Since the NOFHC shall hold the bank as well as other financial services entities of the Promoter Group, regulated by RBI or other financial sector regulators [Paragraph 2 (C) (iii) of the guidelines], the bank held under NOFHC will not be permitted to hold the equity shares of an Asset Finance Company (AFC) held under the same NOFHC. Therefore, the bank cannot have 50 per cent equity investment in Company A, unless required by law or specially permitted by RBI and concerned financial sector regulator. Subject to the above, the investment in Company A has to be held by the NOFHC.

Q.295. Will it be mandatory to transfer any financial services activity which is currently not regulated but which will be regulated by the sectoral regulators in future, under the NOFHC?

A. Yes, all regulated financial services activities, in which a Promoter Group has ‘significant influence’ or ‘control’ (as defined in Accounting Standard 23), whether presently regulated or regulated in the future, will need to be under the NOFHC, when so regulated. [Paragraph 2(C)(vii) of the guidelines]

Q.296. If an existing NBFC is converted into a bank or an existing business is transferred to the bank to be carried out by it “departmentally”, then will the same be permitted to be valued at fair value for the purpose of issuance of voting capital?

A. The assets and liabilities for the purpose of transfer from one entity to another under restructuring of the existing business may be valued as per the relevant provisions of the applicable laws.

Q.297. Will this mean that any restructuring of existing businesses held by NOFHC which may give rise to forming new entities or transfer of existing business to new entities by way of merger, demerger, internal restructuring etc. is also prevented for a period of 3 years from the commencement of business of NOFHC? If the sector regulator says SEBI or IRDA are to specify new norms regulating sector specific entities entailing setting up of new entities, will this require prior approval of RBI?

A. No. The restriction on setting up of new financial services entity within the first three years would not apply to restructuring of the existing business / demergers or any other restructuring of existing business mandated by the sectoral regulators. This will have to be undertaken with RBI’s approval.

Q.298. Can the shareholders of a listed company (which is a promoter of NOFHC and the bank) become shareholders of the bank?

A. The public shareholders (i.e. other than the Promoters/Promoter Group entities/individuals associated with the Promoter Group) of the company promoting the NOFHC are permitted to hold equity investments in the bank and other financial entities held by the NOFHC directly. [Paragraph 2(C)(viii) of the guidelines]

Q.299. Please clarify whether % voting equity shares of NOFHC would be calculated on a fully diluted basis (i.e. including outstanding convertible instruments and warrants)

Q.300. Is the percentage shareholding to be computed on fully diluted basis (taking into account any issue of convertible instruments and assuming complete conversion)?

A. (299&300) For the purpose of ensuring that minimum 51 per cent voting equity shareholding in the NOFHC are held by the companies in which public hold not less than 51 per cent, any convertible instruments held by the promoters, whether compulsorily or optionally convertible into voting equity shares, will be considered as voting equity shares.

Q.301. How will Non-Voting Capital be treated in the context of shareholding pattern of NOFHC and Bank for the purpose of meeting prudential norms as well as for calculation of promoter shareholding?

A. Non-voting capital will not be reckoned for the purposes of calculation of promoter shareholding in the NOFHC. The non-voting capital in the NOFHC will be counted towards meeting prudential norms if it meets the eligibility criteria for inclusion in the regulatory capital as laid down in the guidelines on Basel III Capital Regulation issued vide circular DBOD.No.BP.BC.98/21/06.201/2011-12 dated May 2, 2012. [Paragraph 2 (D) of the guidelines]

Q.302. What is the minimum capital / networth required for NOFHC?

A. The minimum capital required for the bank is ` 5 billion, and the NOFHC is initially required to have atleast 40 per cent shareholding in the bank. The minimum capital of the NOFHC should be such as to meet the above requirements as well as the requirement of holding prescribed capital in other financial sector entities held by the NOFHC as per the norms laid down by the financial sector regulators.[Paragraph 2(D) of the guidelines]

Q.303. Can more funds be infused into the bank, over and above the business plan submitted to the RBI? Would any specific approval be required for this?

A. As stated in Paragraph 2 (D) (i), the initial minimum paid up voting equity capital for a bank shall be ` 5 billion. Any additional voting equity capital to be brought in will depend on the business plan of the Promoters. They can bring in any amount of capital over and above the minimum required to support the business plan and

the capital raising programmes would be subject to approvals as indicated in RBI circular dated April 20, 2010 on issue and pricing of shares by private sector banks. Further, the capital raising programmes should be in compliance with stipulations mentioned in Paragraphs 2 (D) (ii) to (v), 2 (F), 2 (K) (ii), (iii) and (x) of the guidelines.

Q.304. If the voting equity shares of the bank are issued at a premium, can the ` 500 crore threshold be achieved via Networth instead of paid up capital?

A. No. The initial minimum capitalization of the bank should be paid-up voting equity capital of ` 5 billion.

Q.305. Apart from public issue and private placement, would any other methodologies be available to the bank / NOFHC to effect dilution in the bank.

A. Yes, apart from public issue and private placement, other methodologies, such as sale of shares can also be resorted to for achieving dilution of shareholding in the bank. [Paragraph 2 (D) of the guidelines]

Q.306. Will the NOFHC require RBI permission for infusing funds / capital in any financial services entity which is regulated by other sectoral regulators and which is held by the NOFHC?

A. The capital requirements for the regulated financial services entities held by the NOFHC shall be as prescribed by the respective sectoral regulators. Prior permission from RBI would be required for the NOFHC to infuse funds/capital in any financial services entity held under it, which is regulated by any other financial sectoral regulator. The objective of such approval from RBI would be to ensure that all the entities including the bank on stand-alone basis as well as the consolidated bank meet the minimum capital adequacy requirement.

Q.307. Whether secondary sale of NOFHC shareholding in the bank will be permissible? If yes, would it require RBI permission?

A. Yes, subject to compliance with paragraph 2(D)(iii) and (iv) of the guidelines. However, sale of NOFHC shares in the bank resulting in the acquisition of shares at 5 per cent or more of the bank by any person directly or indirectly would require prior approval of RBI.

Q.308. Can shares of the bank be offered as ESOPs to employees of NOFHC?

A. Yes, provided the minimum shareholding by the NOFHC in the bank as prescribed is maintained at all times.

Q.309. To what extent ESOPs can be provided to the employees of the bank?

A. The bank may issue ESOPs to its employees as per its own policy and in compliance with guidelines issued by SEBI.

Q.310. In the context of listing, we understand that the capital market regulator has taken a stance that non-voting capital is not permissible but capital with differential voting right is permissible. Given this background, how will RBI's requirement be met in this regard?

Q.311. Is shareholding by way of non-voting equity shares in the bank envisaged or permitted?

A.(310&311) Non-voting shares are outside the purview of the guidelines, but subject to relevant laws and SEBI regulations wherever applicable.

Q.312. Please specify the timeline for issuance of separate directions for NOFHC.

Q.313. Please clarify whether such directions would also contain guidance on the exact structuring of the NOFHC (minimum capital, permissible capital (equity v/s preference) etc.)?

Q.314. The NOFHC will be registered as a non-banking financial company (NBFC) with the RBI and will be governed by a separate set of directions issued by RBI. What are the proposed financial criteria (e.g. networth, paid up capital, etc.) applicable to NOFHC?

Q.315. When are the guidelines for NOFHC likely to be issued by RBI?

Q.316. When the direction for NOFHC to be issued by RBI is expected?

Q.317. Since NOFHC will be governed by a separate set of directions to be issued by RBI, in order for us to understand the full implications, we would request that these guidelines be issued immediately.

A. (312&317) The NOFHC guidelines will be issued shortly.

Q.318. Please elaborate and clarify on the meaning of 'indirect' shareholding of a non-resident shareholder in the Bank.

A. Indirect shareholding would be as defined in Department of Industrial Policy and Promotion (DIPP) Press Note 2, 3 and 4 of 2009 / FEMA Regulations as amended from time to time. [Paragraph 2 (F) of the guidelines]

Q.319. Where an existing company in which non-resident shareholding is more than 50 per cent promotes a NOFHC, will RBI allow any transition time for the non-resident shareholding to go below 50 per cent to meet the condition 2(A) (i)?

A. At the time of making applications, the Promoters/Promoter Group will have to furnish a road map and methodologies they would adopt to comply with all the requirements of the corporate structure indicated in para 2 (A) (B) and (C) (iii) of the guidelines within a period of 18 months.

Q.320. Para 2 (F) limits the aggregate non-resident holding at 49%. We believe that only direct shareholding will be taken into consideration for computing the foreign shareholding. Please confirm.

A. The foreign shareholding in the bank will be calculated as per the Department of Industrial Policy and Promotion (DIPP) Press Notes 2, 3 and 4 of 2009 / FEMA Regulations as amended from time to time. Therefore, the indirect foreign shareholding will be calculated as per the methodology enumerated in DIPP Press Notes 2, 3 and 4 of 2009 / FEMA Regulations as amended from time to time. [Paragraph 2(F) of the guidelines]. As the Promoter Group companies that would set up the NOFHC would be 'owned and controlled by residents', their downstream investment in the NOFHC and further in the bank will not be counted towards foreign indirect investment.

Q.321. Whether any foreign company, which is controlled by foreign bank or foreign bank have significant influence in such company, shall be allowed to hold shares in the private Indian bank? Further, whether there would be any difference in opinion if such foreign bank also has its branches in India?

A. Yes. A foreign company, which is controlled by a foreign bank or a foreign bank having significant influence in such a company, can hold shares in a private Indian bank. Further, there would be no difference, if such foreign bank also has its branches in India. However, no non-resident shareholder, directly or indirectly, individually or in groups, or through subsidiary, associate or joint venture will be permitted to hold 5 per cent or more of the paid-up voting equity capital of the bank for a period of 5 years from the date of commencement of business of the bank (Paragraph 2(F) of the guidelines). The equity holding of the foreign bank in the new bank would also be subject to extant guidelines on cross-holding among banks.

Q.322. Under clause 2(F) of the guidelines, no non-resident shareholder directly or indirectly will be permitted to hold 5 percent or more of the paid up voting equity capital of bank. In computing the threshold of 5%, whether proportionate theory needs to be adopted (similar to the basis followed for insurance sector) or would it be governed by extant FDI policy?

A. No non-resident shareholder, directly or indirectly, individually or in groups, or through subsidiary, associate or joint venture will be permitted to hold 5 percent or more of the paid-up voting equity capital of the bank for a period of 5 years from the date of commencement of the business of the bank. For the purpose of computing this limit, proportionate theory will not be adopted. [Paragraph 2(F) of the guidelines]

Q.323. As per clause (A)(i) of the Guidelines, eligible promoters must be entities/ groups in the private sector that are owned and controlled by residents as per DIPP guidelines. As per the DIPP guidelines, once an entity is 'owned and controlled by a resident, any foreign holdings in such entity are not required to be counted for the purposes of computing FDI in an investee company. Further, as per clause (F) of the Guidelines, FDI in a banking company must be determined after considering both direct and indirect ownership. Would it be correct to read the above provisions to mean that the NOFHC's ownership in the new bank will be considered as being held by residents and any FDI/ FII investment in the Promoter Group entities (especially where such entities are listed entities) which meet with the owned and controlled test as per DIPP guidelines, will not be considered in computing the overall 49% FDI / FII limits for the new bank.

Q.324. We understand that since the Promoter Group entities would be 'owned and controlled by residents' as per DIPP guidelines, any FDI/ FII investment in the Promoter Group entities will not be considered in computing the overall 49 percent FDI/ FII limit for the new bank. Should our understanding be incorrect, would the indirect foreign investment in the bank, be counted on a proportionate basis mentioned above?

A. (323&324) As the NOFHC will be wholly owned by entities/Groups that are 'owned and controlled by residents' [as defined in the Department of Industrial Policy and Promotion (DIPP) Press Notes 2, 3 and 4 of 2009/FEMA Regulations as emended from time to time], the foreign investment through these companies would not be considered for computation of foreign investment in the bank held under the NOFHC. [Paragraph 2(F) of the guidelines]

Q.325. Is NRI investment under schedule 4 of FEMA 20 (on a non-repatriation basis) counted towards the 49 per cent cap?

A. Yes. NRI investment under schedule 4 of FEMA 20 (on a non-repatriation basis) is counted towards the 49 per cent cap.

Q.326. Can the NOFHC and bank Board consist of eligible individuals who are non resident Indians or foreign nationals?

A. There is no bar on having eligible individuals who are non resident Indians or foreign nationals on the Boards of the NOFHC and the bank. [Paragraph 2 (G) (vii) of the guidelines]

Q.327. Can NOFHC be managed by a person who is a director in any entity which is the Promoter / Shareholder of NOFHC?

Q.328. Please clarify whether this provision will be applicable to Promoter groups which are promoted by financial sector professionals and where such professionals are the owners as well as managers of various financial services entities by virtue of their past experience and expertise.

A. (327&328) The NOFHC has to be managed by a person who is in whole-time employment and he / she cannot be a director in any other company (other than the bank or a subsidiary of the NOFHC or a Section 25 company) and is not engaged in any other business or vocation. [Paragraph 2(G)(ii)(a) and (b) of the guidelines].

Ownership and management shall be separate and distinct in the NOFHC, the bank and entities regulated by RBI. [Paragraph 2(G) (vii) of the guidelines]

Q.329. Can the NOFHC and bank management (Chairman, Vice Chairman, MD/CEO, COO, CFO, CRO, etc.) be non resident Indians or foreign nationals?

A. There is no bar on having eligible individuals who are non resident Indians or foreign nationals as executives of the NOFHC and the bank. However, executives such as MD / CEO, COO, CFO & CRO, etc. who are full time employees will have to be resident in India. Appointment of Chairman and MD/CEO of the bank will have to be with the prior approval of RBI as per section 35B of the Banking Regulation Act, 1949. [Paragraph 2 (G) (vii) of the guidelines] and RBI Press Release 2005-2006/142 dated August 2, 2005.

Q.330. As per para 2(G) (ii), no NOFHC shall be managed by any person,

(a) who is a Director in any other company not being

- i. a subsidiary of the NOFHC or
- ii. a company registered under Section 25 of the Companies Act, 1956 (1 of 1956) or

(b) who is engaged in any other business or vocation.

Whether these restrictions would apply to Key Managerial Person (as defined in proposed Companies Bill 2012)?

Q.331. Para 2 (G) (ii) of the guidelines indicate that –

No NOFHC shall be managed by any person-

(a) who is a Director in any other company not being

- i. a subsidiary of the NOFHC or
- ii. a company registered under Section 25 of the Companies Act, 1956 (1 of 1956) or

(b) who is engaged in any other business or vocation

RBI may clarify that these restrictions would apply to Key Managerial Person (as proposed in the Companies Bill 2012).

A. (330 & 331) Person in this clause refers to a person who is the Chief Executive Officer or whatever name called, of the NOFHC, who manages the NOFHC on a whole time basis and is not a director in any other company (other than the bank or a subsidiary of the NOFHC or a Section 25 company) and is not engaged in any other business or vocation.

Q.332. Currently, various sectoral regulators have a simple formula for capital requirement. Is there a distinct formula / mechanism followed by RBI for computation of risk weighted assets in financial services entities regulated by other regulators?

A. NOFHC should maintain capital adequacy and other requirements on a consolidated basis based on the prudential guidelines on Capital Adequacy and Market Discipline – New Capital Adequacy Framework (NCAF) issued under Basel II framework and Guidelines on Implementation of Basel III Capital Regulations in India [Paragraph 2(H)(iii) (a) of the guidelines].

Q.333. Can the borrowings/ leverage of NOFHC be sourced from entities other than the promoter group?

A. Yes. Subject to a leverage of 1.25 times of paid up equity capital and free reserves, NOFHC can have borrowings from entities both within the Promoter Group and outside the Group [Paragraph 2(H)(i)(g) of the guidelines].

Q.334. What is the nature of the business plan submission (excel model / word file / any other format)?

A. The business plan can be submitted in any format. [Paragraph 2 (J) of the guidelines]

Q.335. Further, will the approval be required when a shareholder of NOFHC crosses 5% holding threshold for the first time or will it be required every time such shareholder crosses 5% threshold? This scenario could arise when a shareholder holding less than 5% acquires shares to cross 5% in 1st round, gets diluted to less than 5% in 2nd round of capitalisation and again acquires shares to cross 5% in 3rd round of capitalization.

A. RBI approval will be required for acquisitions / transfers every time the shareholding reaches 5 per cent threshold or above. [Paragraph 2 (K) (ii) of the guidelines]

Q.336. In clause 2(K)(ii) of the guidelines, would 'acquisition of shares' mean 'direct' acquisition of shares of Bank or does it also include acquisition of shares of any entity above the Bank which will effectively / indirectly result in acquisition of 5% or more of voting equity of the Bank?

Q.337. If yes, how would such 'indirect' acquisition of shareholding in the Bank be calculated for the purpose of 5% limit?

Q.338. Please elaborate and clarify on the meaning of 'indirect' shareholding of an entity in the Bank referred to in 2(K)(iii).

A. (336 to 338) No. For the purpose of paragraphs 2(K)(ii) and 2 (K)(iii) of the guidelines, both direct and indirect shareholding will be considered. The indirect shareholding would mean the shareholding in the bank through entities in which a person holds 'significant influence' or 'control' as defined in Accounting Standard 23.

Q.339. Please specify the information / details to be submitted for persons/entities who would subscribe to the voting equity of NOFHC and Bank.

Q.340. Please clarify whether the information prescribed in this clause needs to be provided for all entities in the Promoter Group or only those promoter group entities which would subscribe to the voting equity of NOFHC.

A. (339 & 340) The entities/individuals belonging to the Promoters/Promoter Groups, which would participate in the voting equity shares of the NOFHC, would have to provide the Memorandum and Articles of Association, financial statements for past ten years and Income Tax returns for last three years, as appropriate, at the time of submission of their application. The last available financial statements in respect of other Group entities, which do not participate in the voting equity shares of the NOFHC will also have to be furnished. The details of the Promoters' direct and indirect interest in various entities/companies/industries and details of credit/other facilities availed by the Promoters/Promoter Group would be required of all entities. [Paragraph 3 of Annex II to the guidelines]. Information as above would also be required to be furnished by an individual / entity / group proposing to acquire, in aggregate, 5 per cent or more of the paid-up voting equity capital of the bank, while seeking prior approval of RBI. [Paragraph 2 (K) (ii) of the guidelines]

Q.341. Please provide clarity on the criteria for maintaining 25% of branches in unbanked rural centres :

- Whether it is on the conversion of Tier 1 centre branches?
- Whether it is on the opening of new branches?

- Or whether it is on the entire NBFC branches that are sought to be converted?

A. The bank would be required to open at least 25 per cent of its branches in unbanked rural centres [Paragraph 2 (K) (vii) of the guidelines]. This would mean that out of the total number of branches, the bank opens in the first year of operation by setting up new branches and by converting the existing branches of NBFCs into bank branches as permitted by RBI [paragraph 2 (L) of the guidelines], 25 per cent of branches have to be in unbanked rural centres. This rule would apply in every subsequent year.

Q.342. No single entity or group of related entities, other than the NOFHC, shall have shareholding or control, directly or indirectly, in excess of 10 per cent of the paid-up voting equity capital of the bank. As per the Banking Laws (Amendment) Act 2012 passed by the Parliament, RBI has been empowered to increase ceiling of voting rights from 10 per cent to 26 per cent. In view of the legislation change, the 10 per cent ceiling for new banks may be enhanced to 26 per cent.

Q.343. As per the Banking Laws (Amendment) Act 2012 passed by the Parliament, RBI has been empowered to increase ceiling of voting rights from 10% to 26%. In view of the legislation change, the 10% ceiling for new banks may be enhanced to 26%.

A. (342 & 343) It is clarified that as per the extant policy no single entity or group of related entities, other than the NOFHC, shall have shareholding or control, directly or indirectly, in excess of 10 per cent of the paid-up voting equity capital of the bank. In the context of the amendments to the Banking Regulation Act, 1949, the issue of raising the voting rights from 10 per cent to 26 per cent in phases will be considered as and when necessary and will be notified separately. [Paragraph 2 (K) (iii) of the guidelines]

Q.344. Can a Business Correspondent (BC) model for delivery of banking services be carried out by the bank's own staff?

Q.345. Can the BC model for delivery of banking services be carried out by the Bank's own staff?

A. (344 & 345) No. The Business Correspondents (BCs) by definition are banks' agents, and not their employees.

Q.346. If an applicant wants to focus on door to door banking, will large scale door to door banking model be acceptable considering existing guidelines on BC issued by RBI?

Q.347. If a particular applicant wants to focus on door to door banking, will the RBI have an issue with a large scale door to door banking model being used by an applicant?

A. (346 & 347) The Promoters/Promoter Groups of banks may draw up their plan for financial inclusion, by adopting BC/ICT model, in addition to the branches. The new bank may undertake door step banking to the extent and in the manner provided in the guidelines issued vide RBI circulars DBOD. No.BL.BC.59/22/22.01.010/2006-207 dated February 21, 2007 and DBOD. No. BL. BC.99/22.01.010/2006-07 dated May 24, 2007.

Q.348. Will clauses applicable to Housing Finance Company (governed by NHB) be same as applicable for NBFC when applying for licence?

A. Yes. The Promoters/Promoter Group of a housing finance company(HFC) regulated by NHB desiring to promote a bank or convert the HFC into a bank will have to comply with the additional conditions stipulated at paragraph 2(L) of the guidelines.

Q.349. Where bank is formed by transfer of assets / loan portfolio etc. from NBFC, the consideration may be settled by issue of shares at premium. It may be clarified that securities premium would be considered for computing the capitalization of the bank.

Q.350. With regard to the initial capital requirement for a bank, is it net worth of ` 5 billion or the paid up equity capital of ` 5 billion as per condition 2D(i) and 2L(b)?

Q.351. Where bank is formed by transfer of assets / loan portfolio etc. from NBFC, the consideration would be settled by issue of shares, which could happen by issue of shares at premium. RBI may clarify that securities premium would be considered for computing the capitalization of the bank.

A.(349 to 351) The bank shall have initial voting equity shares of ` 5 billion. For this purpose, the amount in the share/securities premium account will not be counted. However, in case of conversion of an NBFC into a bank, the bank shall have at all times a minimum networth of ` 5 billion. [Paragraph 2(D)(i) and 2(L)(b)&(c) of the guidelines]

Q.352. Can RBI provide a range/estimate on the minimum and maximum number of licenses that it is planning to issue?

A. There is no predetermined number. RBI will be very selective while considering the applications for new bank licences. It will look for very high quality applications. It may, therefore, not be possible to issue licence to all the applicants meeting the eligibility criteria. [Paragraph 4(ii) of the guidelines]

Q.353. What is the timeline for granting in-principle approvals? Will all approvals be granted at one-go or over a period of time?

A. As indicated in the guidelines, applications for licences will be received upto July 1, 2013. Thereafter, a detailed due diligence process has to be undertaken, and after completion of all processes mentioned at paragraph 4(iii) to (v) of the guidelines, in-principle approvals will be granted. It will not be possible to indicate the timeline for grant of in-principle approvals at this stage.

Q.354. Whether bank is only required to be incorporated within 1 yr of granting in-principle approval or shall also be required to commence the banking business (i.e. accepting deposits, giving loans, etc), obtaining necessary registration & opens at least 25 per cent of its branches in unbanked rural centres?

A. After the in-principle approval is accorded by RBI for setting up of a bank, the Promoters/Promoter Group have to set up the NOFHC and the bank within 18 months from the date of in-principle approval and the bank has to commence banking business within this period after obtaining the banking licence from RBI under Section 22 of the Banking Regulation Act, and letter of authorization for opening branches, under Section 23 of the Act, *ibid*.

Q.355. Whether key managerial personnel of any entity of the Promoter Group will be treated as part of the Promoter Group?

A. The definition of Promoter / Promoter Group is given in Annex I to the guidelines. Accordingly, key managerial personnel of any entity of the Promoter Group will not be treated as part of the Promoter Group, unless they fit in the definition as at Annex 1 of the guidelines.

Q.356. The term 'individuals associated with Promoter Group' needs specific definition. Will people who are employees / directors / shareholders of the Promoter / Promoter Group entities be treated as 'individuals associated with Promoter Group'?

A. The definition of the term 'individuals associated with the Promoter Group' referred to in para 2(I)(iii) of the guidelines will be guided by the principles underlying the provisions of Section 20 of the Banking Regulation Act, 1949.

Q.357. Promoter means, the person who together with his relatives (as defined in Section 6 of the Companies Act, 1956), by virtue of his ownership of voting equity shares, is in effective control of the NOFHC, and includes, wherever applicable, all entities which form part of the Promoter Group. The term "effective control" may be clarified.

Q.358. The term "effective control" may please be clarified.

A. (357 & 358) The term 'effective control' means any arrangement whether in the form of shareholding or agreement or otherwise, which enables exercise of control.

Q.359. Request you to kindly elaborate the details required to be submitted to RBI for verification of source of funds.

A. The applicants should furnish detailed information about the persons/entities, who would subscribe to the voting equity capital (shareholding pattern) of the proposed NOFHC and the bank, including foreign equity participation in the proposed bank. Applications should be supported by detailed information on the background of Promoters, their expertise, track record of business and financial worth, Memorandum and Articles of Association and latest financial statements of the Promoter entities for the past ten years, income tax returns for last three years, details of Promoters' direct and indirect interests in various entities/companies/industries, details of credit/other facilities availed by the Promoters/ Promoter entity(ies)/ other group entity(ies) alongwith details of the bank's/ financial institution's branches where such facilities were / are availed. The Promoters may furnish any other relevant information and documents supporting the applications. Further, the RBI may call for any other additional information, as may be required, in due course. [Paragraph 2 to 4 of Annex II to the guidelines].

Queries relating to regulatory forbearance and transition issues
(Q No.360 to 422)

Q.360. The transfer of the large quantum of NBFC balance sheets to the banking sector in one go can create systemic risks for the new bank and financial services sector more broadly. The incremental capital requirement purely to allow for the New Bank to cover for the NBFC book related SLR differential and Priority Sector Lending Limit increases, can create a sizable credit challenge for the banking sector. As an illustration, assume ten of the leading NBFCs in India would convert to a bank, this would mean a book conversion of ` 2,50,000 crores. This would mean an additional SLR requirement of around ` 70,000 crore and a PSL requirement ranging between ` 70,000 to ` 80,000 crore (assuming some coverage PSL from the existing book). This would mean around ` 1,50,000 crore additional capital requirements, which would have significant systemic implications. Separately pre-mature termination of this loan book by NBFC to draw down the book size will come at a significant cost. This will put at a significant advantage, any NBFC wishing to apply for a New Bank. Additionally the capital resources available for the growth of the bank may suffer considerably.

Q.361. In order to avoid an immediate destabilizing effect of such an NBFC book transfer, we would recommend a two year period from the start of bank operations for a phased write down or transfer of assets and liabilities of the NBFC book. To ensure transparency, we recommend that this be applicable to only the original book of NBFC business pre-transfer and any new business would be booked in the books of the new bank.

Q.362. Process of restructuring the existing financial entities in Promoter Group to comply with guidelines involves substantial unintended costs including by way of stamp duty, income tax etc (e.g MAT implication for NOFHC as NOFHC would be non-operating entity having no offset available under MAT). Hence, appropriate changes to various legislations would be required to avoid this burden. We request that appropriate transition period is provided till the relevant legislations are so amended.

Q.363. If it is possible to convert only a few existing NBFC branches to a bank branch (based on the criteria of 25 per cent branches in unbanked rural centre), please clarify whether the other branches can carry on business until they convert to a bank branch? Transition period of 7-10 years be provided for conversion of 75 per cent branches of NBFCs to a bank branch. There should be co-existence of both NBFC and bank branches for a certain period. In this transition period, we request that the SLR and CRR requirement will apply only on the balance sheet of the bank.

Q.364. NBFC (with existing loan assets and borrowings) opting for conversion into bank may not be able to meet with Exposure Norms on Day 1 (of converting into bank). Phase wise implementation of the norms especially with regard to priority sector lending, CRR, SLR etc. may be specified. Alternatively, it may be specified that exposure norms be made applicable to new lending / borrowing / exposure of the bank

Q.365. In case of conversion of NBFC into bank, will the priority sector lending targets apply only to new loans issued after commencement of banking operations? Or will they also apply to existing portfolio? In such case, will they get a time window to meet the priority sector targets?

Q.366. If a new bank is formed by transferring to the existing business being undertaken by one or more financial entities in a Group, will the RBI provide some length of time for the new bank to comply with:

- | | | | | | | |
|-------|---------------------|--------|---------|----------|-----|--------------|
| (i) | Priority | sector | lending | targets | and | sub-targets? |
| (ii) | Capital | | market | exposure | | norms? |
| (iii) | Single | and | Group | borrower | | limits? |
| (iv) | Intra-Group | | | exposure | | limits? |
| (v) | CRR | and | | SLR | | requirements |
| (vi) | Provisioning norms? | | | | | |

Q.367. Large existing NBFCs applying for a banking license that, as per the Guidelines, will need to transfer their assets to the Bank will find it very difficult to meet PSL requirements immediately from the date of commencement of operations of the Bank. Could a bank that commences operations with a large asset book transferred from the sponsoring NBFC entity be granted forbearance for up to a period of say five years to be fully compliant with PSL requirements? Please clarify.

Q.368. NBFC applicants for a bank license that have large existing borrowings in the form of Bonds/ ECBs may not be compliant with extant banking guidelines. If such an NBFC were allowed to convert into a bank or transfer its assets and liabilities into a new Bank, could the legacy borrowings of the NBFC be grandfathered till maturity in the Bank? Please clarify.

Q.369. What would be the status of activities that are permitted in the bank with restrictions (such as loans against shares) or not permitted (such as promoter financing, loans for purchase of land)? Can such activities continue to be conducted in a group NBFC?

Q.370. Similarly for businesses likely to cause asset liability mismatches (infrastructure, large asset book), is there any exception? Will extra time be given for complying with CRR/SLR requirement? Will PSL be applied on the basis of existing book to be migrated from the NBFC or on the basis of the new assets?

Q.371. Since NOFHC shall only hold investments in financial services entities in the group, it may breach exposure limits for such entities. RBI may clarify that these limits shall not be applicable to investments by the NOFHC in financial services entities that belong to the Promoter Group.

Q.372. In case of the transfer of the existing activities (which can be undertaken departmentally by the bank) of the NBFC, will the RBI permit the conversion of all the existing Tier 1 branches / locations to bank branches. What will happen to the Tier 1 branches which are not allowed to be converted to bank branches?

Q.373. Is the new bank required to meet priority sector lending ('PSL') targets on its entire opening loan assets portfolio from the year of commencement of operations?

Q.374. Does the RBI intend to grant a time bound programme to adhere to PSL target on the stock of loan asset portfolio acquired by the bank from the NBFC?

Q.375. Would NOFHC get some time to comply with the capital adequacy norms at consolidated level?

Q.376. Would financial services entities held by the NOFHC get some time to comply with the capital adequacy norms, on a standalone basis?

Q.377. If the foreign shareholding in an operational NBFC currently exceeds 49 per cent within the currently allowed limit of 74 per cent, we would assume that it will be given a forbearance window for bringing this down below the stipulated 49 per cent?

Q.378. If there are functioning branches of the NBFC at the time of application and grant of in-principle license, and if the NBFC complies with the 25 per cent rural branches rule by the time it receives a certificate of commencement of business, can we presume all existing NBFC branches will get automatic approval for conversion to Bank branches?

Q.379. As a result of the current business model, if an NBFC has more lending to certain priority sector categories like low-cost housing, micro & small enterprises, educational loans and loans to economically weaker sections, do we presume that the RBI would consider forbearance on agricultural lending for a specified period (e.g. 3-5 years)?

Q.380. Certain NBFCs which are more specific to truck or small retail/MSME, have brought in similar interest and specific Private Equity investors. There could be issues in transforming the full current business model completely different from what they had envisaged and invested. The current volume is also very large, that it will not be commercially prudent to downsize these. Hence, current NBFCs should be allowed to continue alongside.

Q.381. Given the challenges of achieving financial inclusion, such as higher risk appetite, capital requirements etc, is there going to be any forbearance from RBI towards the new banks, to meet their financial inclusion requirements, (e.g technological support, longer timeframe for meeting 25 per cent branch requirement.

Q.382. As the Guidelines contemplate transfer / merger of existing businesses into the bank, there may be requirement of structuring involving more than one company. These will have potential tax and other regulatory implications. We would like to know if there would be a onetime dispensation / relaxation from such regulatory / taxation requirements as any such structuring would only be in line with the Guidelines and / or directions that may be issued.

Q.383. In case of NBFCs converting into bank, since RBI is going to insist on transferring all the existing assets and liabilities of the company on the balance sheet of the new bank, RBI should give a transition time to achieve the Priority sector lending (PSL), CRR, and SLR targets. Alternatively, if these targets are to be applied from the day one (as the guidelines propose), then such targets would be applicable to the fresh and incremental assets and deposits. In respect of the existing portfolio, there has to be sufficient transition time, as it will be impossible to meet these targets on the day one on the existing book. NBFC (with existing loan assets and borrowings) opting for conversion into bank may not be able to meet with Prudential Norms on Day 1 (of converting into bank).

RBI may kindly specify phase wise implementation of the norms especially with regard to priority sector lending, CRR, SLR etc. Alternatively, RBI may please specify that these norms will be made applicable to all new lending / borrowing / exposure of the bank.

Q.384. A listed company permitted to promote a bank may not find it possible to complete all restructuring required before promoting a bank, including permissions from regulators/government authorities, within one year of receipt of in-principle approval. Therefore, would RBI consider granting extension of time on a case-to-case basis for operationalising the bank?

Q.385. There be a time window to bring down the individual foreign shareholding to 5 per cent or less, in the event of conversion of an existing NBFC into the bank where there are currently foreign shareholders in line with the existing norms applicable to NBFCs?

Q.386. What is the time period to transfer the business that can be done departmentally to the bank, given that the bank may not be able to meet PSL norms ab initio given the size of existing NBFC book?

Q.387. What is the time period to transfer the business that cannot be done by the bank (e.g. capital market finance), out of the bank?

Q.388. What is time period given to bring down term borrowings from other banks (given wholesale funding nature of existing NBFC)?

Q.389. . Where the Promoter Group is required to make changes to its existing organization/ investment structure, would the RBI consider a transition period, during which regulations would be waived on a case by case basis so that the existing entity is afforded an easy transition without impacting the stakeholders and for ease of operations?

Q.390. Where the Promoter has to convert an existing NBFC into the bank, would the RBI consider a transition period, during which such regulations would be waived on a case by case basis so that the existing entity is afforded an easy transition without impacting the stakeholders and for ease of operations?

Q.391. Further, we understand that where an existing NBFC proposing to convert into a bank has branches in Tier 1 cities, a transition period would be provided to such NBFCs to wind down operations of such branches, should an approval for continuing such branches not be granted by the RBI. Please confirm/ clarify.

Q.392. If an NBFC converts into a bank, whether there would be any transition period given to them to comply with requirements of SLR, Priority sector and Exposure norms?

Q.393. Whether the prescribed priority sector advances prescription shall be applicable only in respect of fresh advances from the commencement of its operation as a bank?

Q.394. Whether the said NBFC upon conversion into a bank is eligible for complete dispensation in respect of its existing advances portfolio from priority sector advances prescriptions

Q.395. If not, whether the said NBFC upon conversion, will be provided a reasonable period of 5 to 10 year time frame to comply with the said requirements in respect of its existing advances portfolio at the time of conversion.

Q.396. Whether NBFCs converting themselves into banks will be given transition time in respect of CRR/SLR & PSL compliances for their existing portfolio to enable them to fold the existing NBFC book into the newly created bank.

Q.397. In case NBFCs convert into a bank, would RBI give some time to the new bank for meeting the capital market exposure norms as applicable to banks, on the existing capital market exposure of the NBFC.

Q.398. There are certain activities which have prudential limitations to a bank on a standalone basis but not on an NBFC. Will such an activity, loans against shares, be allowed to be carried through an existing NBFC under the NOFHC, subject to meeting the consolidated CME of 40 per cent of net worth?

Q.399. In case of conversion of NBFC into a bank, will the bank be allowed to take over the existing non-convertible debentures (NCDs) of the NBFC?

Q.400. In the case of an NBFC, especially one with a rural focus, there are instances of many of the branches located in Tier 1 centres, but serving substantially to a rural population / customers. Considering these branches as Tier 1 for the purpose of branch licensing would be detrimental to rural public / rural customers / employees of such branches. Hence, our request would be to consider these branches, serving substantially rural customers, for automatic conversion. In the alternative, to atleast provide transition period of 7-10 years for these branches to avoid unnecessary hardships to the rural customers and employees.

Q.401. The guideline states that no foreign shareholder will be permitted to hold more than 5 per cent of the paid up voting equity capital. In the case of conversion from a NBFC to a bank, we presume that in case if an existing shareholder has more 5 per cent equity stake, they will be permitted to continue. Please confirm.

Q.402. In case the FI's direct finance business [mainly in non-rural areas] is transferred to the newly floated bank, will the regulator allow some time for build-up of other priority sector lending activities, keeping in view the fact that the FI's branches would function as branches of the proposed new bank (mostly in urban and semi urban centres) and it may take some time to open new rural branches as one year is allowed to open the new rural branches.

Q.403. In the event the NBFCs are to be compulsorily converted / merged into banks, what will be the position if the shareholding of non-residents in the NBFC exceeds 49 per cent? Will such excess shareholding above 49 per cent be permitted to continue in the bank after such conversion? It may be noted that 100 per cent Foreign Holding is permitted in the automatic route for NBFCs carrying activities permitted in the regulations. Also, currently, 74 per cent FDI is allowed in existing private sector banks as per the present FDI policy.

Q.404. Para 2(I) (iii)(g) of the Guidelines states that investment in equity by the bank in the entities engaged in financial and non-financial activities, outside the Promoter Group would be subject to a limit of 10 per cent of investee entity's paid up share capital or 10 percent of the bank's paid-up share capital ... and the aggregate of all such investments We seek clarification on the treatment of existing equity investments held by NBFC entities applying for a bank license.

a) Could existing equity investments in which the sponsoring NBFC holds a stake of more than 10 percent but less than 30 percent of the investee company be transferred to the bank and grandfathered until exit from those investments? Please clarify.

b) Alternatively, could existing equity investments in which the sponsoring NBFC holds a stake of more than 10 per cent but less than 30 per cent of the investee company be held in an NBFC as a subsidiary of the NOFHC, separate from the bank? Please clarify.

Q.405. Where in an existing NBFC, a non-resident shareholder holds more than 5% equity, and such NBFC is converted into bank, will RBI allow any transition time for such non-resident shareholder to reduce to 5% as per condition 2F?

Q.406. In case of existing NBFCs, whether the applicability of this clause (CAR, NPA classification) would be operational from Day 1 or whether it can be complied gradually?

Q.407. The bank shall open at least 25 per cent of its branches in unbanked rural centres (population up to 9,999 as per the latest census) to avoid over concentration of their branches in metropolitan areas and cities which are already having adequate banking presence. What are the timelines for achieving the mandate of 25 per cent branches in rural areas? How many branch licences would be afforded at the time of inception?

Q.408. RBI will consider allowing the bank to take over and convert the existing NBFC branches into bank branches only in the Tier 2 to 6 centres. Existing branches of the NBFC in Tier 1 centres may be allowed to convert into bank branches only with the prior approval of RBI. For the branches of NBFC converted into bank, in Tier 1 cities which don't get approval, can they continue to operate and sell non-banking financial services products such as insurance, asset management etc?

Q.409. Will RBI allow existing branches of NBFC's in Tier 2-6 cities to convert into bank branches without approval? Will this also imply, existing branches of NBFC's in North Eastern states and Sikkim, can be converted directly into bank branch as there are no metropolitan areas in these regions?

Q.410. An existing NBFC may have a large number of branches in rural and unbanked areas. Will there be any ceiling on the number of such branches that would be converted into bank branches / ultra-small branches?

Q.411. In case of conversion of NBFC into a bank, will the bank be allowed to take over the existing non-convertible debentures (NCDs) of the NBFC?

Q.412. Company S is an Infrastructure Finance Joint venture Company registered with RBI. Amongst others, Company S is engaged in Project Finance business, which provides debt, equity & mezzanine capital for various infrastructure projects ("Transferable business"). Company S proposes to securitize the existing project finance business (i.e. loan assets) to SPV and would repay the existing debt. To exit completely from the project finance business, Company S would take substantial time (likely to be more than 1 year). In the meanwhile, any new business, which a bank can undertake, shall be undertaken by Bank only.

Clarification required

a) The proposed restructuring of Transferable Business is likely to take time (more than 1 year). Detailed application shall be filed along with the business plan with RBI for seeking banking license. Whether transfer of Transferable Business, through securitization, can be completed after filing application with RBI?

b) Further, is there any time frame, within which such business restructuring needs to be completed?

Q.413. Whether Business/Corporate Restructuring is required to be completed before making application for banking license with RBI or Application for banking license can be made with RBI with the proposal of such business/corporate restructuring. Further, if restructuring is allowed to be undertaken post filing of application with RBI, what would be the timelines within which such restructuring needs to be completed?

Q.414. Para 2L(a) of the Guidelines states that, ".....activities undertaken by the NBFC which banks are allowed to undertake departmentally, will have to be transferred to the new bank". Since in this context the transfer of assets from the sponsoring NBFC to the Bank would be undertaken to meet regulatory requirements, would such asset transfers be exempt from normally applicable stamp duty and other taxes? Please clarify.

Q.415. (a) Can the existing branches of NBFC's in North Eastern states and Sikkim be converted directly into bank branch as there are no metropolitan areas in these regions?

(b) Does the RBI have an upper limit on the number of branch licences it will be willing to issue to an existing NBFC, which is becoming a bank. An existing NBFC may have a large number of branches in rural and unbanked areas, which It would want to convert into bank branches, at the start of operations, either as full fledged branch or as ultra small branch – whether there is any upper limit in the number of USB, which can be opened at the time of conversion to a Bank.

(c) For the branches in Tier 1 which don't get approved, can they continue to operate and sell non-banking financial services products such as insurance, asset management etc.

Q.416. If allowed licence by RBI, XYZ in its present form has to be converted into a bank, requiring about a large number of branch licences at the very beginning, located mainly in rural and unbanked centres. The remaining branches will be converted to BC points / USBs. Whether applying for such large number of branch licenses will be acceptable to RBI?

Q.417. In case an applicant, in order to comply with the NOFHC requirements, needs to convert a small public company into a listed one, will any relaxation be provided for the timelines to comply to the takeover code?

Q.418. Broadly, we have assumed that the sequence to operationalize the bank will be as follows:

- a. Applications are presented to RBI by July 1, 2013
- b. RBI reviews the application and grants an 'in-principle' approval for license to a set of candidates. The 'in-principle' approval will also include a set of 'conditions-precedent' that the recipient of the license will have to fulfil within a year before actually commencing the banking operations.
- c. After assuring that all the conditions-precedent have been fulfilled, the RBI will issue a letter of 'commencement of banking operations' which shall specify the exact date from which the new bank will become operational.

Q.419. Where in an existing NBFC, a non-resident / multilateral agency shareholder holds more than 5% equity, and such NBFC is converted into Bank, will RBI allow any transition time for such non-resident shareholder to reduce to 5% as per condition 2F?

Q.420. Whether the applicability of this clause (CAR, NPA classification) would be operational from Day 1 or whether it can be complied gradually?

Q.421. NBFC (with existing loan assets and borrowings) opting for conversion into bank may not be able to meet with Exposure Norms on Day 1 (of converting into bank). Phase wise implementation of the norms especially with regard to priority sector lending, CRR, SLR etc. may be specified. Alternatively, it may be specified that exposure norms be made applicable to new lending / borrowing / exposure of the bank.

Q.422. What are the timelines for achieving the mandate of 25% branches in rural areas? How many branch licenses would be afforded at the time of inception?

Clarifications on queries relating to regulatory forbearance and transition issues (360-422)

a) CRR and SLR requirements

No forbearance for maintenance of CRR and SLR will be granted by RBI, as these are statutory requirement for the banks.

b) Priority Sector Lending (PSL)

As per the current guidelines, the PSL targets (40 per cent of adjusted net bank credit) for the current year (April-March) are computed based on the adjusted net bank credit (ANBC) or credit equivalent of off-balance sheet exposures (OBSE) of 31st March of the preceding year (April-March), whichever is higher, and the achievements under the targets are reckoned on the position as on 31st of the succeeding year.

The new banks have to comply with the PSL requirements- targets and sub-targets. For the new banks converted from NBFCs and for new banks that would acquire the loan book from the Group entities (NBFCs), the PSL targets and sub-targets and achievements thereunder would be counted on the entire portfolio after the commencement of business as per the existing instructions. The newly set up banks will have time from the date of grant of in-principle approval to achieve the PSL target. The amount of time would depend upon the date of commencement of their banking business.

For example, if 'in-principle' approval is granted in February 2014, the bank has to commence banking business latest by August, 2015. In that case, the bank has to maintain PSL by March 31, 2017 on the ANBC base as of March 31, 2016 (the reference date). In such a scenario about 37 months would be available to the Promoters/Promoter Groups to achieve the PSL target. In an alternate scenario, if 'in-principle' approval for setting up of a bank is granted sometime in April, 2014, the bank has to commence banking business latest by October 2015. If the bank commences banking business by October 2015, the ANBC base for computation of PSL targets gets shifted to March 31, 2016 (the reference date), and the bank has to achieve the targets by March 31, 2017 (i.e. 35 months from the date of issue of 'in-principle' approval). In a third scenario, if 'in-principle' approval is granted in June 2014, the bank has to commence banking business latest by December 2015. In that case, the bank has to maintain PSL by March 31, 2017 on the ANBC base as of March 31, 2016 (the reference date). In such a scenario about 33 months would be available to the Promoters/Promoter Groups to achieve the PSL target on the existing loan book carried over to the new banks.

c) Prudential/Exposure Norms

No regulatory forbearance would be granted to the new banks in respect of prudential/ exposure norms.

d) Branch Authorization Norms

The guidelines [para 2(L)] lay down the requirement very clearly.

The conversion of existing NBFC branches into bank branches would be automatically permitted for Tier 2 to 6 centres. The number of ultra small branches (USB) and number of branches in Tier 2 to 6 centres, would be as per the business plans of the Promoters/Promoter Group and requirement of the new bank. In the case of Tier 1 centres, conversion would only be allowed with the specific prior approval of the RBI and subject to the existing rules/ methodology applicable to domestic banks regarding opening of branches in these centres, and also subject to maintaining a minimum 25 per cent of the bank branches in unbanked rural centres (population up to 9,999 as per the latest census) required of all banks as specified in 2(K) of the guidelines. For this purpose, RBI would issue a letter of authorization under Section 23 of the Banking Regulation Act, 1949.

In cases of excess NBFC branches in Tier 1 centres, all such branches which would carry out banking business may, with prior RBI approval, be converted into bank branches. The excess over the entitled number of Tier 1 branches would be adjusted against the future entitlements of the new bank within a maximum period of 3 years from the date of commencement of business by the bank. The remaining Tier 1 branches will have to be closed down at the end of three years. The Promoters/Promoter Group have to provide a roadmap in this regard.

e) FDI in the new banks

The aggregate FDI limit of 49 per cent and individual non-resident shareholding of 5 per cent will be applicable for the first five years. The Promoters/Promoter Group have to comply with the requirement before the commencement of the banking business. No additional time will be given for compliance with the FDI limits applicable to the new banks.

f) Transfer of ECB and term borrowings/bonds from other entities to banks

As transfer of assets and liabilities would be a part of the re-organization of the business of the group entities to comply with the provision of our guidelines, more particularly to comply with the NOFHC structure, the new bank would be permitted to grandfather such liabilities till maturity, subject to the following conditions:

- i. The ECB/FCCB liabilities for the purpose of transfer to the new bank should be frozen as on the date of in-principle approval for setting up a new bank;
- ii. The liabilities under ECB/FCCB that would be transferred to the new bank together with other forex borrowing should not exceed 50 per cent of its Tier I capital;

- iii. In case these borrowings exceed the limit of 50 per cent of Tier I capital due to grandfathering of ECB/FCCB, no further borrowing would be permitted till the aggregate borrowings are brought within the regulatory limit.
- iv. In order to protect the interests of the depositors of the new bank, while allowing grandfathering of term borrowings and other secured liabilities taken over from NBFCs, RBI will impose additional capital charge on the new bank, where it would allow creation/ continuation of floating charges on the assets of the new bank.

g) Capital adequacy for the NOFHC

RBI would not provide any time window to comply with the capital requirement at the consolidated level. No regulatory forbearance would be granted in this regard.

h) Tax issues

The matter falls outside the purview of RBI. The tax laws as prescribed by the tax authorities would have to be adhered to.

i) Delay in grant of approvals

In genuine cases of delay in granting approval by regulators / Government, RBI may consider granting extension of time for operationalising the bank.

j) Reorganization of business and transfer of assets and liabilities to the new banks

The receipt of applications for the new bank licence will close on July 1, 2013. At the time of making applications, the Promoters/Promoter Groups will have to furnish a road map and methodologies they would adopt to comply with all the requirements of the corporate structure indicated in para 2 (C)(ii) and (iii) of the guidelines and realign the business between the entities to be held under the NOFHC (para 2(C)(iv) within a period of 18 months. After the 'in-principle approval' is accorded by RBI for setting up of a bank, the proposed bank has to start operations within this period. The actual setting up of NOFHC and the bank, re-organization of the Promoter Group entities to bring the regulated financial services entities under the NOFHC as well as realignment of business among the entities under the NOFHC have to be completed during this period. The Promoters/Promoter Group would be issued the banking licence under Section 22 of the Banking Regulation Act, 1949 for carrying out of banking business by the Reserve Bank of India upon compliance with the terms and conditions stipulated in the 'in-principle approval' for setting up of a bank and on completion of the process as mentioned above within the stipulated time frame of 18 months from the date of in-principle approval.

RBI as Banker to Government

1. What is RBI's role with regard to conduct of Government's banking transaction?

In terms of Section 20 of the RBI Act 1934, RBI has the obligation to undertake the receipts and payments of the Central Government and to carry out the exchange, remittance and other banking operations, including the management of the public debt of the Union. Further, as per Section 21 of the said Act, RBI has the right to transact Government business of the Union in India.

State Government transactions are carried out by RBI in terms of the agreement entered into with the State Governments in terms of section 21 A of the Act. As of now, such agreements exist between RBI and all the State Governments except Government of Sikkim.

2. How does Reserve Bank of India discharge its statutory obligation of being 'Banker to Government'?

Reserve Bank of India maintains the Principal Accounts of Central as well as State Governments at its Central Accounts Section, Nagpur. It has put in place a well structured arrangement for revenue collection as well as payments on behalf of Government across the country. A network comprising the Public Accounts Departments of RBI and branches of Agency Banks appointed under Section 45 of the RBI Act carry out the Govt. transactions. At present all the public sector banks and three private sector banks viz. ICICI Bank Ltd., HDFC Bank Ltd. and Axis Bank Ltd. act as RBI's agents. Only authorised branches of Agency banks can conduct Govt. business.

3. How payment into Government account is made?

All monies for credit to Government account like taxes or other remittances can be made by filling the prescribed challans of the Government/Department concerned. These challans along with the requisite amount (by way of cash, cheque or DD) are required to be tendered with the authorised bank branches.

4. When is the receipted challan for payment made into Government Account made available?

The receipted challans in case of cash tender are generally handed over to the remitter immediately across the counter. In case of payments made by cheque/DD, the receipted challan is issued only on realization of the instruments based on the clearing cycle of the local Clearing House. In all such cases, a paper token is issued to the depositor indicating the date on which the receipted challan will be ready for delivery. The receipted challan will have to be collected within 15 days from the date indicated on the paper token by surrendering the paper token.

5. What if the paper token is misplaced / lost?

In case of loss of original token, on a specific request and on payment of prescribed fees, the receipted challan is issued.

6. What if the Receipted Challan is misplaced?

No duplicate challan is issued under any circumstances. Instead, a 'Certificate of Credit' is issued on specific request with the requisite particulars and payment of prescribed fee.

7. What is the remedy if the cheque issued by Government is misplaced or lost in transit?

The payee of the cheque has to approach the cheque issuing authority and apply for a duplicate cheque explaining the circumstances under which the original cheque was lost or misplaced. After satisfying himself, the drawer may issue a letter to the payee bank requesting it to record STOP payment against the lost cheque. The bank thereafter checks whether the cheque is already paid. If not paid, it records 'STOP PAYMENT' order till the expiry of the validity of the cheque and issues a 'NON PAYMENT CERTIFICATE'.

8. Are Agency banks compensated for conduct of Central/State Government business?

The accredited banks are paid remuneration by RBI for conduct of State/Central Government transactions. Such remuneration is called Agency Commission. The rates of agency commission applicable at present (from July 1, 2012) are as under:

Sr. No.	Type of Transaction	Unit	Rate
1 (i)	Receipts – Physical mode	Per transaction	` 50
(ii)	Receipts – e-mode *	Per transaction	` 12
2	Pension Payments	Per transaction	` 65
3	Payments other than Pension	Per ` 100 turnover	5.5 paise

*In this context, it may please be noted that 'Receipts – e-mode' indicated against SI No. 1(ii) in the above table would refer to those transactions involving remittance of funds from the remitter's bank account through internet

banking as well as all such transactions which do not involve physical receipt of cash / instruments.

On-line Tax Accounting System (OLTAS) for Direct Taxes

9. What is OLTAS?

It is a system introduced in April, 2004 for collection, accounting and reporting of the receipts and payments of Direct Taxes on-line through a network of bank branches. The tax payers' data flow from banks directly to Tax Information Network (TIN) maintained by National Securities Depository Ltd.

10. What are the major changes envisaged?

Under OLTAS, only a Single Copy Challan is used with a tear off portion for the Tax Payer. The three new single copy challan in use are as under:

A common single copy Challan No. ITNS 280 for payment of Income Tax on Companies (Corporation Tax) and Income Tax (other than Companies).

Challan No. ITNS 281 for depositing Tax Deducted at Source/Tax collected at source (TDS/TCS). It has two major Heads i.e. (a) 0020 for company deductees and (b) 0021 for non-company deductees.

Challan No. ITNS 282 for payment of Hotel Receipts Tax, Gift-Tax, Estate Duty, Expenditure Tax, Wealth Tax, Securities Transaction Tax and Other miscellaneous direct taxes.

11. Does a tax-payer get his copy of the challan?

No. He only gets the tear-off portion from the challan from the bank after getting it duly stamped by the bank with a unique Challan Identification Number (CIN).

12. What is CIN?

It is Challan Identification Number. It is a unique number containing the following information:

(i) 7 digits BSR Code of the bank branch where tax is deposited

(ii) Date of presentation of the challan (DD/MM/YY)

(iii) Serial number of Challan in that branch on that day (5 digits)

The CIN has to be quoted in the Income Tax Return as a proof of payment. CIN is also to be quoted in any further enquiry.

13. How to obtain the new Challans?

The Challans are available on the website <http://www.incometaxindia.gov.in>. Challans are also available at the local Income Tax Offices and also with private vendors.

14. What would happen if the acknowledgement counterfoil is misplaced?

Approach the bank where tax was deposited. The branch will issue a certificate after following certain procedures which contains payment particulars including CIN.

15. Can the Tax payer pay Direct/Indirect taxes through internet?

Yes. Most of the banks are providing the facility to their customers.

16. Where can a tax-payer get the detailed procedure on OLTAS?

Please visit <http://www.incometaxindia.gov.in>.

17. What is the new procedure for payment of direct taxes at banks?

The authorised bank branches accept Direct Taxes by cash or cheque/demand draft drawn on the same branch or on other banks/branches with Single Challan. The bank immediately returns the tear off portion of the challan duly stamped with a unique Challan Identification Number (CIN) when the payment is made in cash. In the case of challans presented with cheque/demand draft drawn on other banks/branches, tear-off portion of the challan will be released to the tax-payer only after the realisation of the cheque/demand draft but tax shall be deemed to have been paid on the date of tender.

18. How does the new system benefit the taxpayer?

The new system is of immense benefit to the common taxpayer. Now a single copy simplified Challan has to be filled up replacing the earlier quadruplicate Challan. Secondly, it would be possible to obtain an acknowledgement for taxes paid at your own bank branch immediately. Further, the acknowledgement counterfoil with the rubber stamp containing the Challan Identification Number (CIN) assures that the payment is properly accounted for. The Tax payer can view the details of tax paid by him by logging on to <http://www.tin-nsdl.com> and typing the unique CIN given by the bank. (For more details please visit NSDL Home page www.nsdl.co.in). Tax-payer is no longer required to attach copies/acknowledgement of challan with the Return. He should only mention the CIN details in the Income-tax Returns.

19. Can the tax-payer still use the old forms?

No. Tax is accepted only with the new prescribed challan forms.

These FAQs are issued by the Reserve Bank of India for information and general guidance purposes only. The Bank will not be held responsible for actions taken and/or decisions made on the basis of the same. For clarifications or interpretations, if any, the readers are requested to be guided by the relevant circulars and notifications issued from time to time by the Bank and the Governme

Reserve Bank's Instructions on Banking matters

Department of Banking Operations and Development
Central Office

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I. DOMESTIC DEPOSITS

1. Whether banks can accept interest free deposits?

Banks cannot accept interest free deposits other than in current account.

2. What rate of Interest is paid by banks on savings bank accounts?

With effect from October 25, 2011, saving bank deposit interest rate stands deregulated. Accordingly, banks are free to determine their savings bank deposit interest rate, subject to the following two conditions:

(a) First, each bank will have to offer a uniform interest rate on savings bank deposits up to Rs.1 lakh, irrespective of the amount in the account within this limit.

(b) Second, for savings bank deposits over Rs.1 lakh, a bank may provide differential rates of interest, if it so chooses, subject to the condition that banks will not discriminate in the matter of interest paid on such deposits, between one deposit and another of similar amount, accepted on the same date, at any of its offices.

Further, Banks may ensure that interest rate is applied, as stated above, on the end-of-day balances of all domestic savings deposits accounts and no discrimination is made at any of its offices. Prior approval of the Board / Asset Liability Management Committee (if powers are delegated by the Board) may be obtained by a bank while fixing interest rates on such deposits.

3. Whether banks can pay interest on savings bank accounts quarterly?

Banks can pay interest on savings bank accounts at quarterly or longer rests.

4. How is the computation of interest on savings bank deposits done by banks?

With effect from April 1, 2010 payment of interest on savings bank accounts by scheduled commercial banks would be calculated on a daily product basis.

5. How banks can pay interest on term deposits repayable in less than three months or where the terminal quarter is incomplete?

In such cases interest should be paid proportionately for the actual number of days reckoning the year as 365 days. Some banks are adopting the method of reckoning the year at 366 days in a Leap year and 365 days in other years. While banks are free to adopt their methodology, they should provide information to their depositors about the manner of calculation of interest appropriately while accepting the deposits and display the same at their branches.

6. Whether banks can pay interest on term deposits monthly?

Interest on term deposits is payable at quarterly or longer rests.

7. Whether banks can pay differential rates of interest on term deposits aggregating Rs.15 lakh and above?

Differential rates of interest can be paid on single term deposits of Rs.15 lakh and above and not on the aggregate of individual deposits where the total exceeds Rs.15 lakh.

8. Whether banks can pay commission for mobilising deposits?

Banks are prohibited from employing/engaging any individual, firm, company, association, institution for collection

of deposits or selling of deposit linked products on payment of remuneration or fees or commission in any form or manner except commission paid to agents employed to collect door-to-door deposits under a special scheme. Banks have also been permitted to use the services of Non-Governmental Organisations(NGOs)/Self Help Groups(SHG)/ Micro Finance Institutions(MFIs and other Civil Society Organisations(CSOs) as intermediaries in providing financial and banking services including collection of deposits through the use of the Business Facilitator and Business Correspondent models and pay reasonable commission/fees.

9. Whether banks can prematurely repay term deposits on their own?

A term deposit is a contract between the bank and the customer for a definite term and it cannot be paid prematurely at the bank's option. However, a term deposit can be paid prematurely at the request of the customer subject to the terms of the contract, including penalty, if any.

10. Whether banks can refuse premature withdrawal of term deposits?

Banks may not normally refuse premature withdrawal of term deposits of individuals and Hindu Undivided Families (HUF), irrespective of the size of the deposit. However, banks at their discretion, may disallow premature withdrawal of large deposits held by entities other than individuals and Hindu Undivided Families. Banks should notify such depositors of their policy of disallowing premature withdrawals in advance, i.e. at the time of acceptance of deposits.

11. Whether banks can levy penalty for premature withdrawal?

Banks have the freedom to determine their own penal rates of interest for premature withdrawal of term deposits.

12. How and when are banks required to pay interest on the deposits maturing on holiday/ non-business working day/ Sunday?

Whenever the due dates fall on Saturday/Sunday/non-business working day/holidays, banks are permitted to pay interest on deposits at the originally contracted rate for the intervening period between the due date and date of payment so that no interest loss is suffered by the depositors.

13. Whether additional interest admissible to banks' staff can be paid on the compensation awarded by the court to a minor child and deposited in the joint names of minor child and parent?

No. As the money belongs to the minor child and not the banks' staff, additional interest cannot be paid.

14. Whether banks are permitted to offer differential rate of interest on other deposits?

Banks can formulate special fixed deposit schemes specifically for resident Indian senior citizens offering higher and fixed rates of interest as compared to normal deposits of any size.

15. At what rate is interest payable on a deposit standing in the name of a deceased depositor?

a. In the case of a term deposit standing in the name/s of a deceased individual depositor, or two or more joint depositors, where one of the depositors has died, the criterion for payment of interest on matured deposits in the event of death of the depositor in the above cases has been left to the discretion of individual banks subject to their Board laying down a transparent policy in this regard.

b. In the case of balances lying in current account standing in the name of a deceased individual depositor/ sole proprietorship concern, interest should be paid only from May 1, 1983 or from the date of death of the depositor, whichever is later, till the date of repayment to the claimant/s at the rate of interest applicable to savings deposits as on the date of payment. However, in the case of NRE deposits, if the claimants are residents, the deposit on

maturity is treated as a domestic rupee deposit and interest is paid for the subsequent period at the rate applicable to domestic deposits of similar maturity.

16. What are the guidelines for renewal of overdue deposits?

All aspects concerning renewal of overdue deposits may be decided by individual banks subject to their Board laying down a transparent policy in this regard and the customers being notified of the terms and conditions of renewal, including interest rate, at the time of acceptance of the deposit. The policy should be non-discretionary and non-discriminatory.

II. DEPOSITS OF NON-RESIDENTS INDIANS (NRIs)

17. Whether banks are permitted to offer differential rate of interest on NRE deposits?

Banks are permitted to offer differential rates of interest on NRE term deposits as in the case of domestic term deposits of Rs.15 lakh and above.

18. Whether concessional rate of interest is applicable when a loan against FCNR(B) deposit is repaid in foreign currency?

Banks have the freedom to fix the rate of interest chargeable on loans and advances against FCNR(B) deposits to the depositors with reference to their Base rate irrespective of whether repayment is made in Rupees or in Foreign Currency.

19. Whether banks can accept recurring deposits under the FCNR(B) Scheme?

No. Banks cannot accept recurring deposits under the FCNR(B) Scheme.

20. Whether banks are permitted to offer differential rate of interest on FCNR(B) deposits?

Banks are free to decide the currency-wise minimum quantum on which differential rate of interest may be offered subject to the overall ceiling prescribed.

21. Whether FCNR(B) deposits can be renewed with retrospective effect (i.e. from the maturity date)? If yes, what is the rate of interest payable?

A bank may, at its discretion, renew an overdue FCNR(B) deposit or a portion thereof provided the overdue period from the date of maturity till the date of renewal (both days inclusive), does not exceed 14 days and the rate of interest payable on the amount of the deposit so renewed shall be the appropriate rate of interest for the period of renewal as prevailing on the date of maturity or on the date when the depositor seeks renewal, whichever is lower. In the case of overdue deposits where the overdue period exceeds 14 days and if the depositor places the entire amount of overdue deposit or a portion thereof as a fresh FCNR(B) deposit, banks may fix their own interest rates for the overdue period on the amount so placed as a fresh term deposit. Banks are free to recover the interest so paid for the overdue period if the deposit is withdrawn after renewal before completion of the minimum stipulated period under the scheme.

22. Whether interest rate stipulations applicable to loans in rupees under FCNR(B) schemes are applicable to loans denominated in foreign currency?

No. Interest rate stipulations applicable to loans in rupees under FCNR(B) schemes are not applicable to loans denominated in foreign currency, which are governed by the instructions issued by the Foreign Exchange Department of RBI.

23. Under what circumstances additional interest over and above the declared rate of interest can be paid in case of NRE & FCNR(B) deposits?

Banks should not allow the benefit of additional interest rate on any type of deposits of non-residents. Accordingly, the discretion given to banks to allow the benefit of additional interest rate of one per cent per annum as available to bank's own staff on deposits under NRE and FCNR(B) accounts stands withdrawn with effect from July 18, 2012..

24. In the case of a deceased depositor's NRE/FCNR(B) deposit, in the event of legal heirs effecting premature withdrawal before completion of the minimum prescribed period, whether any interest is payable?

No. A deposit has to run for a minimum stipulated period, which is at present one year for both FCNR(B) and NRE deposits, to be eligible to earn interest..

25. Whether banks can pay interest on NRE and FCNR(B) deposits for the intervening Saturday, Sunday and holidays between the date of maturity and payment?

Yes. Whenever the due dates fall on Saturday/Sunday/non-business working day/holidays, banks are permitted to pay interest on NRE and FCNR(B) deposits at the originally contracted rate for the intervening period between the due date and date of payment so that no interest loss is suffered by the depositors.

III. ADVANCES

26. What is the Base Rate System?

- i. The Base Rate system has replaced the erstwhile Benchmark Prime Lending Rate system with effect from July 1, 2010. Base Rate shall include all those elements of the lending rates that are common across all categories of borrowers. Banks may choose any benchmark to arrive at the Base Rate for a specific tenor that may be disclosed transparently. Banks are free to use any methodology, as considered appropriate, provided it is consistent and is made available for supervisory review/scrutiny, as and when required.
- ii. Banks may determine their actual lending rates on loans and advances with reference to the Base Rate and by including such other customer specific charges as considered appropriate.
- iii. Banks are required to review the Base Rate at least once in a quarter with the approval of the Board or the Asset Liability Management Committees (ALCOs) as per the bank's practice. Since transparency in the pricing of lending products has been a key objective, banks are required to exhibit the information on their Base Rate at all branches and also on their websites. Changes in the Base Rate should also be conveyed to the general public from time to time through appropriate channels. Banks are required to provide information on the actual minimum and maximum lending rates to the Reserve Bank on a quarterly basis, as hitherto.

27. Are any exemptions available from the Base Rate Regime?

All categories of loans should henceforth be priced only with reference to the Base Rate. However, the following categories of loans could be priced without reference to the Base Rate: (a) DRI advances (b) loans to banks' own employees (c) loans to banks' depositors against their own deposits.

28. Can the Base Rate serve as a benchmark for floating loan product?

The Base Rate could also serve as the reference benchmark rate for floating rate loan products, apart from external market benchmark rates. The floating interest rate based on external benchmarks should, however, be equal to or above the Base Rate at the time of sanction or renewal.

29. Can banks extend loans/advances below Base Rate?

Since the Base Rate will be the minimum rate for all loans, banks are not permitted to resort to any lending below the Base Rate. Accordingly, the current stipulation of BPLR as the ceiling rate for loans up to Rs. 2 lakh stands withdrawn.

30. Whether the BPLR regime is still in operation.

From July 1, 2010 the Benchmark Prime Lending Rate system has been replaced by the Base Rate mechanism. However, for loans sanctioned prior to July 1, 2010 the BPLR regime is applicable. The renewal of such loans would however, be covered under the Base rate mechanism.

31. Whether banks can grant fixed rate loans for purposes other than project finance?

Banks have the freedom to offer all loans at fixed or floating rates subject to conformity to their Asset Liability Management (ALM) Guidelines. Banks should use only external or market-based rupee benchmark interest rates for pricing of their floating rate loan products.

32. What should be penal rate of interest?

With effect from October 10, 2000, banks have been given the freedom to formulate a transparent policy for charging penal interest with the approval of their Board of Directors. However, in the case of loans to borrowers under priority sector, no penal interest should be charged for loans up to Rs.25,000. Penal interest may be levied for reasons such as default in repayment, non-submission of financial statements, etc. However, the policy on penal interest should be governed by well-accepted principles of transparency, fairness, incentive to service the debt and genuine difficulties of customers.

33. Whether interest on loans and advances could be charged at varying periods ranging from monthly rests to yearly rests?

With effect from April 1, 2002 banks have been charging interest on loans and advances at monthly rests except in the case of agricultural advances (including short term loans and other allied activities) where the existing practice continues.

34. What rate of interest is chargeable on loans/ advances granted to Staff Members of the banks or Staff Members of Co-operative Credit Societies?

The interest rate directives on advances granted by banks will not be applicable to loans or advances or other financial accommodation made or provided or renewed by a scheduled bank, inter alia, to its own employees. Where the advances are provided by banks to co-operative credit societies formed by the banks' staff members for lending to constituents (i.e. staff of the bank), the interest rate directives of RBI will not apply in case of such advances.

35. Can banks charge foreclosure charges/pre-payment penalty on Floating rate Home Loans?

Banks are not permitted to levy foreclosure charges/pre-payment penalties on home loans on floating interest rate basis, with effect from June 5, 2012.

36. Can banks Levy fore-closure charges/pre-payment penalty in case of Special rate/Dual rate Home Loans

The benefit of waiver from payment of foreclosure charges/ prepayment penalty shall be available to the borrower from the date the loan becomes a floating rate loan.

IV. ADVANCES AGAINST SHARES AND DEBENTURES

37. Whether banks can sanction loans against the equity shares of the banking company to its directors?

No.

38. Whether any ceiling has been fixed on the bank's exposure to the capital market?

With effect from April 1, 2007 a bank's total exposure, including both fund based and non-fund based exposure, to the capital market in all forms covering its direct investment in equity shares, convertible bonds and debentures and units of equity oriented mutual funds; advances against shares to individuals for investment in equity shares (including IPOs), bonds and debentures, units of equity-oriented mutual funds and secured and unsecured advances to stockbrokers and guarantees issued on behalf of stockbrokers and market makers; all exposures to Venture Capital Funds (both registered and unregistered) should not exceed 40 per cent of its net worth, as on March 31 of the previous year. Within this overall ceiling, the bank's direct investment in shares, convertible bonds / debentures, units of equity-oriented mutual funds and all exposures to Venture Capital Funds (VCFs) [both registered and unregistered] should not exceed 20 per cent of its net worth. For computing the ceiling on exposure to capital market, the bank's direct investment in shares will be calculated at cost price of the shares.

The aggregate exposure of a consolidated bank to capital markets (both fund based and non-fund based) should not exceed 40 per cent of its consolidated net worth as on March 31 of the previous year. Within this overall ceiling, the aggregate direct exposure by way of the consolidated bank's investment in shares, convertible bonds / debentures, units of equity-oriented mutual funds and all exposures to Venture Capital Funds (VCFs) [both registered and unregistered] should not exceed 20 per cent of its consolidated net worth.

39. What is the definition of net worth of a bank?

Net worth would comprise of Paid-up capital plus Free Reserves including Share Premium but excluding Revaluation Reserves, plus Investment Fluctuation Reserve and credit balance in Profit & Loss account, less debit balance in Profit and Loss account, Accumulated Losses and Intangible Assets. No general or specific provisions should be included in computation of net worth. Infusion of capital through equity shares, either through domestic issues or overseas floats after the published balance sheet date, may also be taken into account for determining the ceiling on exposure to capital market.

40. What should be the method of valuation for advances against shares/ debentures/ bonds?

Shares/ debentures/ bonds accepted by banks as security for loans/ advances should be valued at the prevailing market prices.

41. Whether banks can sanction bridge loans to companies?

Yes. Banks can sanction bridge loans to companies for a period not exceeding one year against the expected equity flows/ issues as also the expected proceeds of non-convertible Debentures, External Commercial Borrowings, Global Depository Receipts and/ or funds in the nature of Foreign Direct Investments, provided the bank is satisfied that the borrowing company has made firm arrangements for raising the aforesaid resources/ funds. Bridge loans extended by a bank will be included within the ceiling of 40% of net worth prescribed for banks' aggregate exposure to the capital market.

42. What is the ceiling on the quantum of loans which can be sanctioned by banks to individuals against security of shares, debentures and PSU bonds, if held in physical form and in dematerialized form?

Loans/ advances granted to individuals against the security of shares, debentures and PSU bonds should not exceed Rs.10 lakh and Rs.20 lakh, if the securities are held in physical form and dematerialized form respectively. The

maximum amount of finance that can be granted to an individual for subscribing to IPOs is Rs.10 lakh. However, the bank should not provide finance to companies for their investment in IPOs of other companies. Banks can grant advances to employees for purchasing shares of their own companies under Employees Stock Option Plan (ESOP) to the extent of 90% of purchase price of shares or Rs.20 lakh whichever is lower. NBFCs should not be provided finance for on-lending to individuals for subscribing to IPOs. Loans/ advances granted by a bank for subscribing to IPOs should be reckoned as an exposure to capital market.

43. What is the margin stipulated for advances against shares held in physical form and dematerialised form?

A uniform margin of 50% has been stipulated for all advances against shares/ /financing of IPOs/issue of guarantees for capital market operations. Within this 50 percent margin, a minimum cash margin of 25 percent should be maintained in respect of guarantees issued by banks for capital market operations.

44. Is any margin stipulated for banks' exposure to commodity markets?

The minimum margin of 50% and minimum cash margin of 25% (within the margin of 50%), as stipulated in the case of banks' exposure to capital markets, will also apply to guarantees issued by banks on behalf of commodity brokers in favour of the national level commodity exchanges, viz, National Commodity & Derivatives Exchange (NCDEX), Multi Commodity Exchange of India Limited (MCX) and National Multi-Commodity Exchange of India Limited (NMCEIL) in lieu of margin requirements.

V. DONATIONS

45. Whether banks can make donations?

Yes. The profit making banks may make donations during a financial year, aggregating up to one percent of the published profit of the bank for the previous year. However, the contributions/ subscriptions made by banks to Prime Minister's Relief Fund and to professional bodies/ institutions like Indian Banks' Association, National Institute of Bank Management, Indian Institute of Banking and Finance, Institute of Banking Personnel Selection, Foreign Exchange Dealers Association of India, during a year will be exempted from the above ceiling. Unutilised amount of the permissible limit of a year should not be carried forward to the next year for the purpose of making donations.

46. Whether loss-making banks can make donations?

Yes, loss making banks can make donations up to Rs.5 lakh only in a financial year.

47. Whether overseas branches of the banks can make donations abroad?

Yes, the overseas branches of the banks can make donations abroad, provided the banks do not exceed the prescribed ceiling of one per cent of their published profit of the previous year.

VI. LOANS FOR PREMISES

48. What are the norms and procedure laid down by RBI for acquisition of accommodation on lease/ rental basis by commercial banks for their use, i.e. for office and residence of the staff?

i). All powers relating to hiring of premises, rentals, deposits/advances to premises owners, for acquisition of accommodation on lease/rental basis for their own use (i.e. for Office and Residence of Staff) have been delegated to banks.

ii) While acquiring premises for opening of a branch, banks should ensure that the location of the branch complies with the local norms/laws of Municipal Corporation/Nagar Palika/Town area authority/Village Panchayat or any

other competent authority.

iii). The Board of Directors of the banks should lay down the policy and formulate operational guidelines separately in respect of metropolitan, urban, semi-urban and rural areas covering all areas in respect of acquiring premises on lease/ rental basis for the banks' use. These guidelines should include also delegation of powers at various levels. The decision in regard to surrendering or shifting of premises other than at rural centers should be taken at the central office level by a committee of senior executives.

iv). The Board of Directors of the bank should lay down separate policy for granting of loans to landlords who provide them premises on lease/ rental basis. The banks' Boards may determine the rate of interest to be charged on such loans subject to Base Rate guidelines issued by RBI.

v). Banks should provide a suitable mechanism for redressing the genuine grievances of the landlord expeditiously.

vi). The details of negotiated contracts in respect of advances to landlords and rental (including taxes etc. and deposits of Rs.25 lakh and above) on premises taken on lease/ rental by the public sector banks, should be reported to the Central Bureau of Investigation (CBI) as per the extant Government instructions. This requirement will not be applicable to banks in the private sector.

VII. SERVICE CHARGES

49. Is there any ceiling on service charges to be levied by the banks?

Indian Banks' Association (IBA) has dispensed with the practice of prescribing service charges to be levied by banks for various services rendered by them. With effect from September, 1999, the Reserve Bank has granted freedom to banks to prescribe service charges with the approval of the respective Board of Directors.

As announced in the Annual Policy Statement for the year 2006-2007, in order to ensure fair practices in banking services, Reserve Bank of India (RBI) constituted a Working Group to formulate a scheme for ensuring reasonableness of bank charges, and to incorporate it in the Fair Practices Code, the compliance of which would be monitored by the Banking Codes and Standards Board of India (BCSBI). The Working Group, which examined various issues, such as basic banking/financial services to be rendered to individual customers, the methodology adopted by banks for fixing the charges and the reasonableness of such charges, has identified twenty-seven services related to deposit/loan accounts, remittance facilities and cheque collections, as an indicative list of basic banking services to be offered by banks. The recommendations of the Working Group have been accepted by RBI with certain modifications. Based on the recommendations of the Working Group, RBI has issued a circular DBOD. No. Dir. BC. 56/13.03.00/2006-07 dated February 2, 2007 to all scheduled commercial banks.

50. What are the parameters to be adopted for identifying basic banking services?

Banks have been advised to identify basic banking services on the basis of two parameters indicated by the Working Group, namely, (i) banking services that are ordinarily availed by individuals in the middle and lower segments and (ii) the value of transactions, namely, cheque collections and remittances up to Rs. 10,000 for each transaction and up to \$500 for forex transactions. The indicative list of banking services includes services relating to Deposit Accounts (cheque book facility, issue of pass book / statement, ATM Card, Debit Card, stop payment, balance enquiry, account closure, cheque return - inward, signature verification); Loan Accounts (no dues certificate); Remittance facilities (Demand Draft - issue/ cancellation/ revalidation, Payment Order - issue/ cancellation/ revalidation/ duplicate, Telegraphic Transfer - issue/ cancellation/ duplicate, Electronic Clearing Service (ECS), National Electronic Fund Transfer (NEFT) / Electronic Fund Transfer (EFT); Collection Facilities (collection of local /outstation cheques, cheque return- outward). Banks are required to implement the recommendations of the Working Group on making available the basic banking services at reasonable prices/ charges and towards this, delivering the basic services outside the scope of the bundled products.

51. What are the principles to be followed by banks in order to ensure reasonableness in fixing and communicating service charges?

Banks are required to follow the following principles for ensuring reasonableness in fixing and communicating the service charges-

(a) For basic services to individuals, banks should levy charges at rates that are lower than the rates applied when the same services are given to non-individuals.

(b) For basic services rendered to special category of individuals (such as individuals in rural areas, pensioners and senior citizens), banks should levy charges on more liberal terms than the terms on which the charges are levied to other individuals.

(c) For basic services rendered to individuals, banks should levy charges only if the charges are just and supported by reason.

(d) For basic services to individuals, banks should levy services charges ad-valorem only to cover any incremental cost and subject to a cap.

(e) Banks should provide to the individual customers upfront and in a timely manner, complete information on the charges applicable to all basic services.

(f) Banks should provide advance information to the individual customers about the proposed changes in the service charges.

(g) Banks should collect for services given to individuals only such charges which have been notified to the customer.

(h) Banks should inform the customers in an appropriate manner recovery of service charges from the account or the transaction.

52. What are the other steps to be taken by banks?

Banks are required to take steps to ensure that customers are made aware of the service charges upfront and changes in the service charges are implemented only with prior notice to the customers. Banks are also required to have a robust grievance redressal structure and processes, to ensure prompt in-house redressal of all their customer complaints. Further, full-fledged information on bank products and their implications should be disclosed to the customers, so that the customers can make an informed judgment about their choice

Commercial Paper

1. What is Commercial Paper (CP)?

Commercial Paper (CP) is an unsecured money market instrument issued in the form of a promissory note.

2. When it was introduced?

It was introduced in India in 1990.

3. Why it was introduced?

It was introduced in India in 1990 with a view to enabling highly rated corporate borrowers to diversify their sources of short-term borrowings and to provide an additional instrument to investors. Subsequently, primary dealers and all-India financial institutions were also permitted to issue CP to enable them to meet their short-term

funding requirements for their operations.

4. Who can issue CP?

Corporates, primary dealers (PDs) and the All-India Financial Institutions (FIs) are eligible to issue CP.

5. Whether all the corporates would automatically be eligible to issue CP?

No. A corporate would be eligible to issue CP provided –

- a. the tangible net worth of the company, as per the latest audited balance sheet, is not less than Rs. 4 crore
 - b. company has been sanctioned working capital limit by bank/s or all-India financial institution/s; and
 - c. the borrowal account of the company is classified as a Standard Asset by the financing bank/s/ institution/s.
- 6. Is there any rating requirement for issuance of CP? And if so, what is the rating requirement?**

Yes. All eligible participants shall obtain the credit rating for issuance of Commercial Paper either from Credit Rating Information Services of India Ltd. (CRISIL) or the Investment Information and Credit Rating Agency of India Ltd. (ICRA) or the Credit Analysis and Research Ltd. (CARE) or the FITCH Ratings India Pvt. Ltd. or such other credit rating agency (CRA) as may be specified by the Reserve Bank of India from time to time, for the purpose.

The minimum credit rating shall be A-2 [As per rating symbol and definition prescribed by Securities and Exchange Board of India (SEBI)].

The issuers shall ensure at the time of issuance of CP that the rating so obtained is current and has not fallen due for review.

7. What is the minimum and maximum period of maturity prescribed for CP?

CP can be issued for maturities between a minimum of 7 days and a maximum of up to one year from the date of issue. However, the maturity date of the CP should not go beyond the date up to which the credit rating of the issuer is valid.

8. What is the limit up to which a CP can be issued?

The aggregate amount of CP from an issuer shall be within the limit as approved by its Board of Directors or the quantum indicated by the Credit Rating Agency for the specified rating, whichever is lower.

As regards FIs, they can issue CP within the overall umbrella limit prescribed in the Master Circular on Resource Raising Norms for FIs, issued by DBOD and updated from time-to-time.

9. In what denominations a CP that can be issued?

CP can be issued in denominations of Rs.5 lakh or multiples thereof.

10. How long can the CP issue remain open?

The total amount of CP proposed to be issued should be raised within a period of two weeks from the date on which the issuer opens the issue for subscription.

11. Whether CP can be issued on different dates by the same issuer?

Yes. CP may be issued on a single date or in parts on different dates provided that in the latter case, each CP shall have the same maturity date. Further, every issue of CP, including renewal, shall be treated as a fresh issue.

12. Who can act as Issuing and Paying Agent (IPA)?

Only a scheduled bank can act as an IPA for issuance of CP.

13. Who can invest in CP?

Individuals, banking companies, other corporate bodies (registered or incorporated in India) and unincorporated bodies, Non-Resident Indians (NRIs) and Foreign Institutional Investors (FIIs) etc. can invest in CPs. However, investment by FIIs would be within the limits set for them by Securities and Exchange Board of India (SEBI) from time-to-time.

14. Whether CP can be held in dematerialised form?

Yes. CP can be issued either in the form of a promissory note (Schedule I given in the Master Circular-Guidelines for Issue of Commercial Paper dated July 1, 2011 and updated from time –to-time) or in a dematerialised form through any of the depositories approved by and registered with SEBI. Banks, FIs and PDs can hold CP only in dematerialised form.

15. Whether CP is always issued at a discount?

Yes. CP will be issued at a discount to face value as may be determined by the issuer.

16. Whether CP can be underwritten?

No issuer shall have the issue of Commercial Paper underwritten or co-accepted.

17. Whether CPs are traded in the secondary market?

Yes. CPs are actively traded in the OTC market. Such transactions, however, are to be reported on the FIMMDA reporting platform within 15 minutes of the trade for dissemination of trade information to market participation thereby ensuring market transparency.

18. What is the mode of redemption?

Initially the investor in CP is required to pay only the discounted value of the CP by means of a crossed account payee cheque to the account of the issuer through IPA. On maturity of CP,

(a) when the CP is held in physical form, the holder of the CP shall present the instrument for payment to the issuer through the IPA.

(b) when the CP is held in demat form, the holder of the CP will have to get it redeemed through the depository and receive payment from the IPA.

19. Whether Stand by facility is required to be provided by the bankers/FIs for CP issue?

CP being a 'stand alone' product, it would not be obligatory in any manner on the part of banks and FIs to provide stand-by facility to the issuers of CP.

However, Banks and FIs have the flexibility to provide for a CP issue, credit enhancement by way of stand-by assistance/credit backstop facility, etc., based on their commercial judgement and as per terms prescribed by them. This will be subjected to prudential norms as applicable and subject to specific approval of the Board.

20. Whether non-bank entities/corporates can provide guarantee for credit enhancement of the CP issue?

Yes. Non-bank entities including corporates can provide unconditional and irrevocable guarantee for credit enhancement for CP issue provided :

- a. the issuer fulfils the eligibility criteria prescribed for issuance of CP;
- b. the guarantor has a credit rating at least one notch higher than the issuer by an approved credit rating agency and
- c. the offer document for CP properly discloses: the networth of the guarantor company, the names of the companies to which the guarantor has issued similar guarantees, the extent of the guarantees offered by the guarantor company, and the conditions under which the guarantee will be invoked.

21. Role and responsibilities of the Issuer/Issuing and Paying Agent and Credit Rating Agency.

Issuer:

- a. Every issuer must appoint an IPA for issuance of CP.
- b. The issuer should disclose to the potential investors its financial position as per the standard market practice.
- c. After the exchange of deal confirmation between the investor and the issuer, issuing company shall issue physical certificates to the investor or arrange for crediting the CP to the investor's account with a depository.

Investors shall be given a copy of IPA certificate to the effect that the issuer has a valid agreement with the IPA and documents are in order (Schedule II given in the Master Circular-Guidelines for Issue of Commercial Paper dated July 1, 2011 and updated from time –to-time).

Issuing and Paying Agent

- a. IPA would ensure that issuer has the minimum credit rating as stipulated by the RBI and amount mobilised through issuance of CP is within the quantum indicated by CRA for the specified rating or as approved by its Board of Directors, whichever is lower.
- b. IPA has to verify all the documents submitted by the issuer viz., copy of board resolution, signatures of authorised executants (when CP in physical form) and issue a certificate that documents are in order. It should also certify that it has a valid agreement with the issuer (Schedule II given in the Master Circular-Guidelines for Issue of Commercial Paper dated July 1, 2011 and updated from time –to-time).
- c. Certified copies of original documents verified by the IPA should be held in the custody of IPA.

Credit Rating Agency

- a. Code of Conduct prescribed by the SEBI for CRAs for undertaking rating of capital market instruments shall be applicable to them (CRAs) for rating CP.
- b. Further, the credit rating agencies have the discretion to determine the validity period of the rating depending upon its perception about the strength of the issuer. Accordingly, CRA shall at the time of rating, clearly indicate

the date when the rating is due for review.

- c. While the CRAs can decide the validity period of credit rating, CRAs would have to closely monitor the rating assigned to issuers vis-a-vis their track record at regular intervals and would be required to make its revision in the ratings public through its publications and website

22. Is there any other formalities and reporting requirement with regard to CP issue?

Fixed Income Money Market and Derivatives Association of India (FIMMDA), may prescribe, in consultation with the RBI, any standardised procedure and documentation for operational flexibility and smooth functioning of CP market. Issuers / IPAs may refer to the detailed guidelines issued by FIMMDA on July 5, 2001 in this regard, and updated from time-to-time.

Every CP issue should be reported to the Chief General Manager, Reserve Bank of India, Financial Markets Department, Central Office, Fort, Mumbai through the Issuing and Paying Agent (IPA) within three days from the date of completion of the issue, incorporating details as per Schedule III given in the Master Circular-Guidelines for Issue of Commercial Paper dated July 1, 2011 and updated from time-to-time.

Automated Data Flow

Automated Data Flow (ADF) from banks to Reserve Bank of India

The Reserve Bank of India has placed on its website an Approach Paper describing the goals and objectives of Automated Data Flow (ADF) and advised the banks to implement Automated Data Flow. The approach paper can be accessed through the link Home >> Press Releases >> [November 11, 2010](#). Banks have been individually seeking clarification from RBI officials on ADF. Consolidated questions and responses are presented as FAQs on ADF.

Frequently Asked Questions (FAQs) on ADF

1. WHAT IS THE BACKGROUND FOR ADF?

In several of its functions, Reserve Bank of India relies on data submitted by banks and quality of data is of great importance. In order to meet the need for correct and consistent data, the Reserve Bank of India has initiated the project on Automated Data Flow (ADF).

2. WHAT IS THE OBJECTIVE OF ADF?

ADF seeks to ensure submission of correct and consistent data from the banks straight from their systems to Reserve Bank without any manual intervention.

3. WHY IS ADF THOUGHT OF NOW?

With CBS in banks, it is felt that time has come to utilize CBS system capabilities to meet requirements like MIS, ADF, etc, in addition to regular transactional activities.

4. WHETHER ANY SPECIFIC APPROACH HAS BEEN RECOMMENDED?

No specific approach has been recommended for achieving ADF due to the reason that various banks are at different levels of IT and Process maturity. However, the Approach Paper on ADF clearly articulates the common end state for achieving the objectives of ADF.

5. WHETHER ANY PARTICULAR TECHNOLOGY OR PROCESS HAS BEEN RECOMMENDED FOR

ADF?

No specific Technology, Vendor, Service Provider or Process has been recommended for achieving ADF and it has been left to the banks to decide on these issues on the basis of internal requirements.

6. HOW DO BANKS ASSESS THEIR LEVEL OF TECHNOLOGY AND PROCESS MATURITY TO IMPLEMENT ADF?

Banks can refer to the methodology given in the Approach Paper to assess People, Process and Technology maturity and place themselves in a specific cluster which in turn would help in determining the time lines for implementation of ADF.

7. WHAT IS THE MEANING OF ‘DIRECTLY FROM SOURCE SYSTEM WITHOUT ANY MANUAL INTERVENTION’ IN THE CONTEXT OF ADF?

‘Direct from the source system without any manual intervention’ implies that whatever data and information is available in CBS and other IT systems of the banks would be submitted to the regulator without any manual aggregation, conversion or filling of data. Activities like collecting or collating of data from diverse source systems and compiling them into RBI prescribed formats manually would fall within the meaning of manual intervention.

8. WHETHER ANY DATA DEFINITION, REPORTING FORMAT, RATIONALISATION OF RETURNS ETC. HAS BEEN PRESCRIBED UNDER ADF PROJECT?

No. It is clarified that requirement under ADF is restricted to ensuring that data as available in the banks’ source systems is submitted to Reserve Bank without any manual intervention. All returns, statement and reports prescribed by RBI to be submitted by banks fall under the ADF project.

9. WHETHER DATA WILL BE ‘PUSHED’ OR ‘PULLED’ UNDER ADF?

For the present, the priority under ADF is to ensure that the banks put in place a system which will ensure quality of data compiled from source systems of banks to be submitted to RBI. After a verifiable system has been put in place by all banks, it will be decided in due course as to what arrangements would be best suited for flow of data from banks.

10. WHETHER ADF IMPLEMENTATION WILL BE PIECE-MEAL OR HOLISTIC?

Banks are free to go ahead with a holistic plan by designing and implementing long-term solutions. However, the banks need to implement ADF for the returns committed under their roadmaps. Further, the returns identified by Reserve Bank for immediate implementation in a time bound manner also need to be brought under ADF.

11. WHETHER ANY TIMELINES HAVE BEEN RECOMMENDED FOR ADF?

The total time for complete implementation of ADF would depend on the cluster in which the bank places itself after making an assessment of Process and Technology maturity as per the methodology given in the Approach Paper. However, it is expected that the banks with advanced IT systems and experience of working in computerised environment would take the lead and implement ADF in shortest possible time, say, even 2-3 months. In general, banks should strive to meet the objectives within shortest possible timelines.

12. WHAT LEVEL OF ‘GRANULARITY’ IS DESIRABLE IN ADF

The granularity to be built in the system should be able to meet the current requirements of regulatory reporting as prescribed by various departments of Reserve Bank. However, over and above this, banks are free to determine and

have a finer granularity not only to meet ad- hoc requirements of RBI from time to time but also for internal MIS..

13. WHICH ALL RETURNS ARE APPLICABLE TO A BANK?

A list of returns generally applicable to the banks has been made available in the Approach Paper. However, every bank is required to work on all the RBI returns applicable to it.

14. IS A ‘ROADMAP’ ESSENTIAL PART OF ADF?

Yes. The Roadmap to be prepared as per the recommendations of the Approach Paper would enable the banks to set milestones for achieving ADF which in turn would also help in monitoring from time to time the progress made in implementation.

15. WHAT ABOUT RETURNS REQUIRING QUALITATIVE INPUTS?

Such returns which require qualitative or subjective inputs and narrations may be considered for classification as complex returns by the banks and may be taken up for imple

Housing Loans

1. For what purposes can I seek a first time home loan?

You can generally seek a first time home loan for buying a house or a flat, renovation, extension and repairs to your existing house. Most banks have a separate policy for those who are going for a second house. Please remember to seek specific clarifications on the above-mentioned issues from your commercial bank.

2. How will your bank decide your home loan eligibility?

Your bank will assess your repayment capacity while deciding the home loan eligibility. Repayment capacity is based on your monthly disposable / surplus income, (which in turn is based on factors such as total monthly income / surplus less monthly expenses) and other factors like spouse's income, assets, liabilities, stability of income etc. The main concern of the bank is to make sure that you comfortably repay the loan on time and ensure end use. The higher the monthly disposable income, higher will be the amount you will be eligible for loan. Typically a bank assumes that about 55-60 % of your monthly disposable / surplus income is available for repayment of loan. However, some banks calculate the income available for EMI payments based on an individual's gross income and not on his disposable income.

The amount of the loan depends on the tenure of the loan and the rate of interest also as these variables determine your monthly outgo / outflow which in turn depends on your disposable income. Banks generally fix an upper age limit for home loan applicants.

3. What is an EMI?

You repay the loan in Equated Monthly Installments (EMIs) comprising both principal and interest. Repayment by way of EMI starts from the month following the month in which you take full disbursement. (For understanding how EMI is calculated, please see annex).

4. What documents are generally sought for a loan approval?

In addition to all legal documents relating to the house being bought, banks will also ask you to submit Identity and Residence Proof, latest salary slip (authenticated by the employer and self attested for employees) and Form 16 (for business persons/ self-employed) and last 6 months bank statements / Balance Sheet, as applicable . You also need to submit the completed application form along with your photograph. Loan applications form would give a checklist of documents to be attached with the application.

Do not be in a hurry to seal the deal quickly.

Please do discuss and seek more information on any waivers in terms and conditions provided by the commercial bank in this regard. For example some banks insist on submission of Life Insurance Policies of the borrower / guarantor equal to the loan amount assigned in favour of the commercial bank. There are usually amount ceilings for this condition which can also be waived by appropriate authority. Please read the fine print of the bank's scheme carefully and seek clarifications.

5. What are the different interest rate options offered by banks?

Banks generally offer either of the following loan options: Floating Rate Home Loans and Fixed Rate Home Loans. For a Fixed Rate Loan, the rate of interest is fixed either for the entire tenure of the loan or a certain part of the tenure of the loan. In case of a pure fixed loan, the EMI due to the bank remains constant. If a bank offers a Loan which is fixed only for a certain period of the tenure of the loan, please try to elicit information from the bank whether the rates may be raised after the period (reset clause). You may try to negotiate a lock-in that should include the rate that you have agreed upon initially and the period the lock-in lasts.

Hence, the EMI of a fixed rate loan is known in advance. This is the cash outflow that can be planned for at the outset of the loan. If the inflation and the interest rate in the economy move up over the years, a fixed EMI is attractively stagnant and is easier to plan for. However, if you have fixed EMI, any reduction in interest rates in the market, will not benefit you.

Determinants of floating rate:

The EMI of a floating rate loan changes with changes in market interest rates. If market rates increase, your repayment increases. When rates fall, your dues also fall. The floating interest rate is made up of two parts: the index and the spread. The index is a measure of interest rates generally (based on say, government securities prices), and the spread is an extra amount that the banker adds to cover credit risk, profit mark-up etc. The amount of the spread may differ from one lender to another, but it is usually constant over the life of the loan. If the index rate moves up, so does your interest rate in most circumstances and you will have to pay a higher EMI. Conversely, if the interest rate moves down, your EMI amount should be lower.

Also, sometimes banks make some adjustments so that your EMI remains constant. In such cases, when a lender increases the floating interest rate, the tenure of the loan is increased (and EMI kept constant).

Some lenders also base their floating rates on their Benchmark Prime Lending Rates (BPLR). You should ask what index will be used for setting the floating rate, how it has generally fluctuated in the past, and where it is published/disclosed. However, the past fluctuation of any index is not a guarantee for its future behavior.

Flexibility in EMI:

Some banks also offer their customers flexible repayment options. Here the EMIs are unequal. In step-up loans, the EMI is low initially and increases as years roll by (balloon repayment). In step-down loans, EMI is high initially and decreases as years roll by.

Step-up option is convenient for borrowers who are in the beginning of their careers. Step-down loan option is useful for borrowers who are close to their retirement years and currently make good money.

6. What is monthly reducing balances method?

Borrowers benefit more from a loan that's calculated on a monthly reducing basis than on an annual basis. In case of monthly resets, interest is calculated on the outstanding principal balance for that month. The principal paid is deducted from the opening principal outstanding balance to arrive at the opening principal for the next month and

interest is computed on the new, reduced principal outstanding. In case of annual resets, principal paid is adjusted only at the end of the year. Hence, you continue to pay interest on a portion of the principal that has been paid back to the lender.

7. How does tenure affect cost of loan?

The longer the tenure of the loan, the lesser will be your monthly EMI outflow. Shorter tenures mean greater EMI burden, but your loan is repaid faster. If you have a short-term cash flow mismatch, your bank may increase the tenure of the loan, and your EMI burden comes down. But longer tenures mean payment of larger interest towards the loan and make it more expensive.

8. What is an amortization schedule?

This is a table that gives details of the periodic principal and interest payments on a loan and the amount outstanding at any point of time. It also shows the gradual decrease of the loan balance until it reaches zero. ([See annex](#))

9. What is pre-EMI interest?

Sometimes loan is disbursed in installments, depending on the stages of completion of the housing project. Pending final disbursement, you may be required to pay interest only on the portion of the loan disbursed. This interest called pre-EMI interest. Pre-EMI interest is payable every month from the date of each disbursement up to the date of commencement of EMI.

However, many banks offer a special facility whereby customers can choose the installments they wish to pay for under construction properties till the time the property is ready for possession. Anything paid over and above the interest by the customer goes towards Principal repayment. The customer benefits by starting EMI payment earlier and hence repays the loan faster. Please check with your banker whether this facility is available before availing of the loan.

10. What security will you have to provide?

The security for a housing loan is typically a first mortgage of the property, normally by way of deposit of title deeds. Banks also sometimes ask for other collateral security as may be necessary. Some banks insist on margin / down payment (borrowers contribution to the creation of an asset) to be maintained / made also.

Collateral security assigned to your bank could be life insurance policies, the surrender value of which is set at a certain percentage to the loan amount, guarantees from solvent guarantors, pledge of shares/ securities and investments like KVP/ NSC etc. that are acceptable to your banker. Banks would also require you to ensure that the title to the property is free from any encumbrance. (i.e., there should not be any existing mortgage, loan or litigation, which is likely to affect the title to the property adversely).

11. What precautions do you need to take if you are purchasing a property that is not a newly built one?

Ensure that the documents being provided to you are not colour photocopies. Check the internet for other modus operandi to fraud and ensure clear title to the asset. Seek advice only from authentic sources such as your bank.

Get the no encumbrance certificate to find the true title holder and if it is mortgaged to any financier. Obtain all tax papers to ensure that all documents are up to date.

12. What should be your strategy in dealing with the banks?

Give yourself comfortable time. Do not hurry your purchase or loan in any case. Shopping around for a home loan

will help you to get the best financing deal. Shopping, comparing, seeking clarification and negotiating with banks may save you thousands of rupees.

a) Obtain information from several banks

Home loans are available from mainly two types of lenders--commercial banks and housing finance companies. Different lenders may quote you different rates of interest and other terms and conditions, so you should contact several lenders to make sure you're getting the best value for money.

Find out how much of a down payment you are required to pay, and find out all the costs involved in the loan (including processing fees, administrative charges and prepayment charges levied by banks). Knowing just the amount of the EMI or the interest rate is not good enough. Similarly, ask for information on loan amount, loan term, and type of loan (fixed or floating) so that you can compare the information and take an informed decision.

The following is some important information that you will require.

i) Rates

Ask your lender about its current home loan interest rates and whether the rate is fixed or floating. Remember that when interest rates in the economy go up so does the floating rates and hence the monthly re-payment.

If the rate quoted is a floating rate, ask how your rate and loan payment will vary, including the extent to which your loan payment will be reduced when rates go down by a certain percentage. Ask your lender to what index your floating home loan is referenced / linked and the periodicity of updation of that index. Also ask your bank whether the index is internal or external and how and where it is published.

Ask about the loan's annual percentage rates (APR). The APR takes into account not only the interest rate but also fees and certain other charges that you may be required to pay, expressed as a yearly rate. Banks are obliged to reveal the APR if requested for by the customer.

ii) Reset Clause

Check the reset clause, especially in the case of fixed interest rate loan as the rates will not be fixed throughout the tenure of the loan.

iii) Spread/Mark up

Check if the margin in the case of the floating rate is fixed or variable. The rate of interest you have to pay will vary accordingly.

iv) Fees

A home loan often requires payment of various fees, such as loan origination or processing charges, administrative charges, documentation, late payment, changing the loan tenure, switching to different loan package during the loan tenure, restructuring of loan, changing from fixed to floating interest rate loan and vice versa, legal fee, technical inspection fee, recurring annual service fee, document retrieval charges and pre-payment charges, if you want to prepay the loan. Every lender should be able to give you an estimate of its fees. Many of these fees are negotiable / can be waived also.

Ask what each fee includes. Sometimes several components are lumped into one fee. Ask for an explanation of any fee you do not understand. Also, remember that most of these fees are perhaps negotiable! Do negotiate with your bank before agreeing to a particular fee. See how the all inclusive rate compares with the all inclusive rates offered by other banks. While planning your finances, don't forget to include the costs of stamp duty and registration.

v) Down Payments / Margin

Some lenders require 20/30 percent of the home's purchase price as a down payment from you. However, many lenders also offer loans that require less than 20/30 percent down payment, sometimes as little as 5 percent. Ask about the lender's requirements for a down payment and also negotiate with him to reduce the down payments.

b) Obtain the best deal

Once you know what each bank has to offer in terms of rates, fees and down payments, negotiate for the best deal. Ask the lender to write down all the costs associated with the loan. Then ask if the bank will waive or reduce one or more of its fees or agree to a lower rate. Do make sure that the bank is not agreeing to lower one fee while raising another or to lower the rate while raising the fees. Ask for clarification in case you do not understand any particular term. All banks are obliged to explain the most important terms and conditions of the home loan in detail.

Once you are satisfied with the terms you have negotiated, please do obtain a written offer letter from the lender and keep a copy with you. Read the offer letter carefully before signing.

13. Can you repay your loan ahead of schedule? Is pre-payment of loan allowed?

Yes, most banks allow you to repay the loan ahead of schedule by making lump sum payments. However, many banks charge early repayment penalties up to 2-3% of the principal amount outstanding. Prepayment penalty may vary according to the reasons and source of funds - if you obtain a loan from another bank for pre-payment the charges are usually higher than when you pay from your own sources. However, you may credit more than your EMI amount into your loan account on a periodic basis and bring down your interest burden as and when funds are available with you. Most banks do not charge a pre-payment penalty if you deposit more than your EMI payable on a periodic basis. Please check such stipulations while availing the loan.

14. What are Switch over charges/ balances transfer charges?

When other banks reduce the interest rate, you may prefer to close your account with the bank with whom you are banking, to avail of the loan from the bank offering reduced rates of interest. You have to pay pre-payment charges for doing so. In order to ensure that their customers do not approach other banks for availing reduced interest rates, banks allow customers to switch over from a higher interest loan to a lower interest loan by paying a switch over fees which is lesser than the pre-payment charges. Generally switchover fee is taken as percentage of the outstanding loan amount.

Keep up-dating yourself on various changes in the home loan market. Visit the branch, discuss with the officials to get the best out of any changes in the home loan scenario.

15. Do you get a tax benefit on the loan?

Yes. Resident Indians are eligible for certain tax benefits on both principal and interest components of a loan under the Income Tax Act, 1961. Under the current laws, you are entitled to an income tax rebate for interest repayment up to Rs. 1,50,000 /- per annum. Moreover, you can get added tax benefits under Section 80 C on repayment of principal amount up to Rs. 1,00,000 /- per annum.

16. What are the minimum standards that banks are required to follow when they sell you a home loan?

- At the time of sourcing the loan, banks are required to provide information about the interest rate applicable, the fees / charges and any other matter which affects your interest and the same are usually furnished in the product brochure of the banks. Complete transparency is mandatory.
- The banks will supply you authenticated copies of all the loan documents executed by you at their cost along with a copy each of all enclosures quoted in the loan document on request.

A bank cannot reject your loan application without furnishing valid reason(s) for the same.

17. What do you do if you have a grievance?

If you have a complaint against only scheduled bank on any of the above grounds, you can lodge a complaint with the bank concerned in writing in a specific complaint register provided at the branches as per the recommendation of the Goiporia Committee or on a sheet of paper. Ask for a receipt of your complaint. The details of the official receiving your complaint may be specifically sought. If the bank fails to respond within 30 days, you can lodge a complaint with the Banking Ombudsman. (Please note that complaints pending in any other judicial forum will not be entertained by the Banking Ombudsman). No fee is levied by the office of the Banking Ombudsman for resolving the customer's complaint. A unique complaint identification number will be given to you for tracking purpose. (A [list of the Banking Ombudsmen along with their contact details](#) is provided on the RBI website).

Complaints are to be addressed to the Banking Ombudsman within whose jurisdiction the branch or office of the bank complained against is located. Complaints can be lodged simply by writing on a plain paper or online at www.bankingombudsman.rbi.org.in or by sending an email to the Banking Ombudsman. Complaint forms are available at all bank branches also.

Complaint can also be lodged by your authorised representative (other than a lawyer) or by a consumer association / forum acting on your behalf.

If you are not happy with the decision of the Banking Ombudsman, you can appeal to the Appellate Authority in the Reserve Bank of India.

REVERSE MORTGAGE LOAN

18. What is reverse mortgage loan? What is my eligibility and how I will get back the title deeds?

The scheme of reverse mortgage has been introduced recently for the benefit of senior citizens owning a house but having inadequate income to meet their needs. Some important features of reverse mortgage are:

- A homeowner who is above 60 years of age is eligible for **reverse mortgage loan**. It allows him to **turn the equity in his home into one lump sum or periodic payments** mutually agreed by the borrower and the banker.
- The property should be clear from encumbrances and should have clear title of the borrower.
- **NO REPAYMENT** is required as long as the borrower lives, Borrower should pay all taxes relating to the house and maintain the property as his primary residence.
- The amount of loan is based on several factors: borrower's age, value of the property, current interest rates and the specific plan chosen. Generally speaking, the higher the age, higher the value of the home, the more money is available.
- The valuation of the residential property is done at periodic intervals and it shall be clearly specified to the borrowers upfront. The banks shall have the option to revise the periodic / lump sum amount at such frequency or intervals based on revaluation of property.
- Married couples will be eligible as joint borrowers for financial assistance. In such a case, the age criteria for the couple would be at the discretion of the lending institution, subject to at least one of them being above 60 years of age.
- The loan shall become due and payable only when the last surviving borrower dies or would like to sell the home, or permanently moves out.

- On death of the home owner, the legal heirs have the choice of keeping or selling the house. If they decide to sell the house, the proceeds of the sale would be used to repay the mortgage, with the remainder going to the heirs.
- As per the scheme formulated by National Housing Bank (NHB), the maximum period of the loan period is 15 years. The residual life of the property should be at least 20 years. Where the borrower lives longer than 15 years, periodic payments will not be made by lender. However, the borrower can continue to occupy.
- From FY 2008-09, the lump sum amount or periodic payments received on reverse mortgage loan will not attract income tax or capital gains tax.

Note- Reverse mortgage is a fixed interest discounted product in reverse. It does not take into account the changes in interest rates as yet.

Important – This part is fine printed to help you practice reading the fine print. The loan agreement documentation runs into nearly 50 pages and its language is complex. If you thought everyone signs the same agreements with the bank, where is the need to read? You are not taking an informed decision. If you thought somebody would have pointed this to me if there was any problem, then maybe they did but you could not read or listen to it. Think again! Borrowers' and lenders' rights may not be expressed clearly in a transparent manner in all the loan agreements. The home loan agreement may not be provided to you in advance so that this could be read and understood before you sign the agreement. Every method may be used to delay handing over a copy to the borrower in sufficient time. Some areas you may focus are a) check the "reset clause" incorporated by some banks in their home loan agreements that allows them to change the interest rate in the future, even on fixed rate loans. Banks may set their reset clauses for 3 or 2 year intervals. They say a lender cannot have an agreement that a fixed rate is set for the entire tenure of 15 to 20 years as this will cause an asset-liability mismatch. Talk to your bank. b) Please seek clarifications on the term "exceptional circumstances" (if stated in the loan agreement) under which loan rates can be unilaterally changed by your bank. c) A common person thinks that default ideally means non-payment of one or more loan installments. In some loan documentation it can include divorce and death (in individual case) and even involvement in civil litigation or criminal offence. d) Does the loan agreement say that disbursement of the loan may be made directly to the builder or developer and in the case of a ready-built property to the vendor thereof and/or in such other manner as may be decided solely by bank? It is the borrower whose original property papers are retained with the bank, so why disburse to the builder. Possession of property has been delayed in some cases when the cheque was issued in the name of the builder and the builder refused to pay delay penalty to the borrower e) Does the agreement enable assignment of your loan to a third party? You take into account reputation and credibility of the bank before entering into a loan agreement with it. Are you comfortable with third party takes over or should you also be allowed to move your home loan from one bank to another in that case? Look for ambiguous clauses and discuss with the banker. Some agreements say changes in employment etc. have to be informed well in advance without quantifying the term "well in advance". f) In one case the loan documentation says "issuance of pre-approval letter should not be construed as a commitment by the bank to grant the housing loan and processing fees is not re-fundable even if the home loan is not processed". This is never ending it seems. The above are only indicative instances of what has been observed / reported/ indicated by various sources. However, our main objective was to get you into the habit of reading the fine print. If you have read this, you would have understood the importance of reading fine print in any document and we have achieved our objective. I only wish I could have made the print smaller as in the real cases.

ANNEX

EXAMPLE OF EMI CALCULATION (PURE FIXED LOAN)

	Amount of Loan	1,000,000.00	
	Annual Interest Rate	15.00%	

	Number of Payments		120	
	Monthly Payment		16,133.50	
Number	Payment	Interest	Principal	Balance
0				1,000,000.00
1	16,133.50	12,500.00	3,633.50	996,366.50
2	16,133.50	12,454.58	3,678.91	992,687.59
3	16,133.50	12,408.59	3,724.90	988,962.69
4	16,133.50	12,362.03	3,771.46	985,191.23
5	16,133.50	12,314.89	3,818.61	981,372.62
6	16,133.50	12,267.16	3,866.34	977,506.28
7	16,133.50	12,218.83	3,914.67	973,591.62
8	16,133.50	12,169.90	3,963.60	969,628.02
9	16,133.50	12,120.35	4,013.15	965,614.87
10	16,133.50	12,070.19	4,063.31	961,551.56
11	16,133.50	12,019.39	4,114.10	957,437.46
12	16,133.50	11,967.97	4,165.53	953,271.93
13	16,133.50	11,915.90	4,217.60	949,054.34
14	16,133.50	11,863.18	4,270.32	944,784.02
15	16,133.50	11,809.80	4,323.70	940,460.32
16	16,133.50	11,755.75	4,377.74	936,082.58
17	16,133.50	11,701.03	4,432.46	931,650.12
18	16,133.50	11,645.63	4,487.87	927,162.25
19	16,133.50	11,589.53	4,543.97	922,618.28
20	16,133.50	11,532.73	4,600.77	918,017.51
21	16,133.50	11,475.22	4,658.28	913,359.24
22	16,133.50	11,416.99	4,716.51	908,642.73
23	16,133.50	11,358.03	4,775.46	903,867.27
24	16,133.50	11,298.34	4,835.15	899,032.12
25	16,133.50	11,237.90	4,895.59	894,136.52
26	16,133.50	11,176.71	4,956.79	889,179.73
27	16,133.50	11,114.75	5,018.75	884,160.98
28	16,133.50	11,052.01	5,081.48	879,079.50
29	16,133.50	10,988.49	5,145.00	873,934.50
30	16,133.50	10,924.18	5,209.31	868,725.18
31	16,133.50	10,859.06	5,274.43	863,450.75
32	16,133.50	10,793.13	5,340.36	858,110.39
33	16,133.50	10,726.38	5,407.12	852,703.28
34	16,133.50	10,658.79	5,474.70	847,228.57
35	16,133.50	10,590.36	5,543.14	841,685.43
36	16,133.50	10,521.07	5,612.43	836,073.00
37	16,133.50	10,450.91	5,682.58	830,390.42
38	16,133.50	10,379.88	5,753.62	824,636.81
39	16,133.50	10,307.96	5,825.54	818,811.27
40	16,133.50	10,235.14	5,898.35	812,912.92
41	16,133.50	10,161.41	5,972.08	806,940.83
42	16,133.50	10,086.76	6,046.74	800,894.10
43	16,133.50	10,011.18	6,122.32	794,771.78
44	16,133.50	9,934.65	6,198.85	788,572.93
45	16,133.50	9,857.16	6,276.33	782,296.59
46	16,133.50	9,778.71	6,354.79	775,941.81
47	16,133.50	9,699.27	6,434.22	769,507.58

48	16,133.50	9,618.84	6,514.65	762,992.93
49	16,133.50	9,537.41	6,596.08	756,396.85
50	16,133.50	9,454.96	6,678.54	749,718.31
51	16,133.50	9,371.48	6,762.02	742,956.30
52	16,133.50	9,286.95	6,846.54	736,109.75
53	16,133.50	9,201.37	6,932.12	729,177.63
54	16,133.50	9,114.72	7,018.78	722,158.85
55	16,133.50	9,026.99	7,106.51	715,052.34
56	16,133.50	8,938.15	7,195.34	707,857.00
57	16,133.50	8,848.21	7,285.28	700,571.72
58	16,133.50	8,757.15	7,376.35	693,195.37
59	16,133.50	8,664.94	7,468.55	685,726.82
60	16,133.50	8,571.59	7,561.91	678,164.91
61	16,133.50	8,477.06	7,656.43	670,508.47
62	16,133.50	8,381.36	7,752.14	662,756.33
63	16,133.50	8,284.45	7,849.04	654,907.29
64	16,133.50	8,186.34	7,947.15	646,960.14
65	16,133.50	8,087.00	8,046.49	638,913.64
66	16,133.50	7,986.42	8,147.08	630,766.57
67	16,133.50	7,884.58	8,248.91	622,517.65
68	16,133.50	7,781.47	8,352.03	614,165.63
69	16,133.50	7,677.07	8,456.43	605,709.20
70	16,133.50	7,571.37	8,562.13	597,147.07
71	16,133.50	7,464.34	8,669.16	588,477.91
72	16,133.50	7,355.97	8,777.52	579,700.39
73	16,133.50	7,246.25	8,887.24	570,813.15
74	16,133.50	7,135.16	8,998.33	561,814.82
75	16,133.50	7,022.69	9,110.81	552,704.01
76	16,133.50	6,908.80	9,224.70	543,479.31
77	16,133.50	6,793.49	9,340.00	534,139.31
78	16,133.50	6,676.74	9,456.75	524,682.56
79	16,133.50	6,558.53	9,574.96	515,107.59
80	16,133.50	6,438.84	9,694.65	505,412.94
81	16,133.50	6,317.66	9,815.83	495,597.11
82	16,133.50	6,194.96	9,938.53	485,658.58
83	16,133.50	6,070.73	10,062.76	475,595.81
84	16,133.50	5,944.95	10,188.55	465,407.26
85	16,133.50	5,817.59	10,315.90	455,091.36
86	16,133.50	5,688.64	10,444.85	444,646.51
87	16,133.50	5,558.08	10,575.41	434,071.09
88	16,133.50	5,425.89	10,707.61	423,363.48
89	16,133.50	5,292.04	10,841.45	412,522.03
90	16,133.50	5,156.53	10,976.97	401,545.06
91	16,133.50	5,019.31	11,114.18	390,430.88
92	16,133.50	4,880.39	11,253.11	379,177.77
93	16,133.50	4,739.72	11,393.77	367,784.00
94	16,133.50	4,597.30	11,536.20	356,247.80
95	16,133.50	4,453.10	11,680.40	344,567.40
96	16,133.50	4,307.09	11,826.40	332,741.00
97	16,133.50	4,159.26	11,974.23	320,766.77
98	16,133.50	4,009.58	12,123.91	308,642.85

99	16,133.50	3,858.04	12,275.46	296,367.39
100	16,133.50	3,704.59	12,428.90	283,938.49
101	16,133.50	3,549.23	12,584.26	271,354.23
102	16,133.50	3,391.93	12,741.57	258,612.66
103	16,133.50	3,232.66	12,900.84	245,711.82
104	16,133.50	3,071.40	13,062.10	232,649.72
105	16,133.50	2,908.12	13,225.37	219,424.35
106	16,133.50	2,742.80	13,390.69	206,033.66
107	16,133.50	2,575.42	13,558.07	192,475.58
108	16,133.50	2,405.94	13,727.55	178,748.03
109	16,133.50	2,234.35	13,899.15	164,848.89
110	16,133.50	2,060.61	14,072.88	150,776.00
111	16,133.50	1,884.70	14,248.80	136,527.21
112	16,133.50	1,706.59	14,426.91	122,100.30
113	16,133.50	1,526.25	14,607.24	107,493.06
114	16,133.50	1,343.66	14,789.83	92,703.23
115	16,133.50	1,158.79	14,974.71	77,728.52
116	16,133.50	971.61	15,161.89	62,566.63
117	16,133.50	782.08	15,351.41	47,215.22
118	16,133.50	590.19	15,543.31	31,671.91
119	16,133.50	395.90	15,737.60	15,934.32
120	16,133.50	199.18	15,934.32	0.00

$$\text{Loan amount} \times \text{rpm} \times \frac{1}{(1+pm)^n}$$

- rpm= interest per month (rate of interest per year/12)
- n= number of installments

NB: If you have a fixed budget towards EMI you can arrive at loan amount by changing the other variables such as by reducing the rate of interest or by increasing the tenure of loan. This can also be arrived at through [EMI calculator](#) by a trial-and-error approach.

Housing Loans

1. For what purposes can I seek a first time home loan?

You can generally seek a first time home loan for buying a house or a flat, renovation, extension and repairs to your existing house. Most banks have a separate policy for those who are going for a second house. Please remember to seek specific clarifications on the above-mentioned issues from your commercial bank.

2. How will your bank decide your home loan eligibility?

Your bank will assess your repayment capacity while deciding the home loan eligibility. Repayment capacity is based on your monthly disposable / surplus income, (which in turn is based on factors such as total monthly income / surplus less monthly expenses) and other factors like spouse's income, assets, liabilities, stability of income etc. The main concern of the bank is to make sure that you comfortably repay the loan on time and ensure end use. The higher the monthly disposable income, higher will be the amount you will be eligible for loan. Typically a bank assumes that about 55-60 % of your monthly disposable / surplus income is available for repayment of loan. However, some banks calculate the income available for EMI payments based on an individual's gross income and not on his disposable income.

The amount of the loan depends on the tenure of the loan and the rate of interest also as these variables determine your monthly outgo / outflow which in turn depends on your disposable income. Banks generally fix an upper age limit for home loan applicants.

3. What is an EMI?

You repay the loan in Equated Monthly Installments (EMIs) comprising both principal and interest. Repayment by way of EMI starts from the month following the month in which you take full disbursement. (For understanding how EMI is calculated, please see annex).

4. What documents are generally sought for a loan approval?

In addition to all legal documents relating to the house being bought, banks will also ask you to submit Identity and Residence Proof, latest salary slip (authenticated by the employer and self attested for employees) and Form 16 (for business persons/ self-employed) and last 6 months bank statements / Balance Sheet, as applicable . You also need to submit the completed application form along with your photograph. Loan applications form would give a checklist of documents to be attached with the application.

Do not be in a hurry to seal the deal quickly.

Please do discuss and seek more information on any waivers in terms and conditions provided by the commercial bank in this regard. For example some banks insist on submission of Life Insurance Policies of the borrower / guarantor equal to the loan amount assigned in favour of the commercial bank. There are usually amount ceilings for this condition which can also be waived by appropriate authority. Please read the fine print of the bank's scheme carefully and seek clarifications.

5. What are the different interest rate options offered by banks?

Banks generally offer either of the following loan options: Floating Rate Home Loans and Fixed Rate Home Loans. For a Fixed Rate Loan, the rate of interest is fixed either for the entire tenure of the loan or a certain part of the tenure of the loan. In case of a pure fixed loan, the EMI due to the bank remains constant. If a bank offers a Loan which is fixed only for a certain period of the tenure of the loan, please try to elicit information from the bank whether the rates may be raised after the period (reset clause). You may try to negotiate a lock-in that should include the rate that you have agreed upon initially and the period the lock-in lasts.

Hence, the EMI of a fixed rate loan is known in advance. This is the cash outflow that can be planned for at the outset of the loan. If the inflation and the interest rate in the economy move up over the years, a fixed EMI is attractively stagnant and is easier to plan for. However, if you have fixed EMI, any reduction in interest rates in the market, will not benefit you.

Determinants of floating rate:

The EMI of a floating rate loan changes with changes in market interest rates. If market rates increase, your repayment increases. When rates fall, your dues also fall. The floating interest rate is made up of two parts: the index and the spread. The index is a measure of interest rates generally (based on say, government securities prices), and the spread is an extra amount that the banker adds to cover credit risk, profit mark-up etc. The amount of the spread may differ from one lender to another, but it is usually constant over the life of the loan. If the index rate moves up, so does your interest rate in most circumstances and you will have to pay a higher EMI. Conversely, if the interest rate moves down, your EMI amount should be lower.

Also, sometimes banks make some adjustments so that your EMI remains constant. In such cases, when a lender increases the floating interest rate, the tenure of the loan is increased (and EMI kept constant).

Some lenders also base their floating rates on their Benchmark Prime Lending Rates (BPLR). You should ask what index will be used for setting the floating rate, how it has generally fluctuated in the past, and where it is published/disclosed. However, the past fluctuation of any index is not a guarantee for its future behavior.

Flexibility in EMI:

Some banks also offer their customers flexible repayment options. Here the EMIs are unequal. In step-up loans, the EMI is low initially and increases as years roll by (balloon repayment). In step-down loans, EMI is high initially and decreases as years roll by.

Step-up option is convenient for borrowers who are in the beginning of their careers. Step-down loan option is useful for borrowers who are close to their retirement years and currently make good money.

6. What is monthly reducing balances method?

Borrowers benefit more from a loan that's calculated on a monthly reducing basis than on an annual basis. In case of monthly resets, interest is calculated on the outstanding principal balance for that month. The principal paid is deducted from the opening principal outstanding balance to arrive at the opening principal for the next month and interest is computed on the new, reduced principal outstanding. In case of annual resets, principal paid is adjusted only at the end of the year. Hence, you continue to pay interest on a portion of the principal that has been paid back to the lender.

7. How does tenure affect cost of loan?

The longer the tenure of the loan, the lesser will be your monthly EMI outflow. Shorter tenures mean greater EMI burden, but your loan is repaid faster. If you have a short-term cash flow mismatch, your bank may increase the tenure of the loan, and your EMI burden comes down. But longer tenures mean payment of larger interest towards the loan and make it more expensive.

8. What is an amortization schedule?

This is a table that gives details of the periodic principal and interest payments on a loan and the amount outstanding at any point of time. It also shows the gradual decrease of the loan balance until it reaches zero. ([See annex](#))

9. What is pre-EMI interest?

Sometimes loan is disbursed in installments, depending on the stages of completion of the housing project. Pending final disbursement, you may be required to pay interest only on the portion of the loan disbursed. This interest called pre-EMI interest. Pre-EMI interest is payable every month from the date of each disbursement up to the date of commencement of EMI.

However, many banks offer a special facility whereby customers can choose the installments they wish to pay for under construction properties till the time the property is ready for possession. Anything paid over and above the interest by the customer goes towards Principal repayment. The customer benefits by starting EMI payment earlier and hence repays the loan faster. Please check with your banker whether this facility is available before availing of the loan.

10. What security will you have to provide?

The security for a housing loan is typically a first mortgage of the property, normally by way of deposit of title deeds. Banks also sometimes ask for other collateral security as may be necessary. Some banks insist on margin / down payment (borrowers contribution to the creation of an asset) to be maintained / made also.

Collateral security assigned to your bank could be life insurance policies, the surrender value of which is set at a certain percentage to the loan amount, guarantees from solvent guarantors, pledge of shares/ securities and investments like KVP/ NSC etc. that are acceptable to your banker. Banks would also require you to ensure that the title to the property is free from any encumbrance. (i.e., there should not be any existing mortgage, loan or litigation, which is likely to affect the title to the property adversely).

11. What precautions do you need to take if you are purchasing a property that is not a newly built one?

Ensure that the documents being provided to you are not colour photocopies. Check the internet for other modus operandi to fraud and ensure clear title to the asset. Seek advice only from authentic sources such as your bank.

Get the no encumbrance certificate to find the true title holder and if it is mortgaged to any financier. Obtain all tax papers to ensure that all documents are up to date.

12. What should be your strategy in dealing with the banks?

Give yourself comfortable time. Do not hurry your purchase or loan in any case. Shopping around for a home loan will help you to get the best financing deal. Shopping, comparing, seeking clarification and negotiating with banks may save you thousands of rupees.

a) Obtain information from several banks

Home loans are available from mainly two types of lenders--commercial banks and housing finance companies. Different lenders may quote you different rates of interest and other terms and conditions, so you should contact several lenders to make sure you're getting the best value for money.

Find out how much of a down payment you are required to pay, and find out all the costs involved in the loan (including processing fees, administrative charges and prepayment charges levied by banks). Knowing just the amount of the EMI or the interest rate is not good enough. Similarly, ask for information on loan amount, loan term, and type of loan (fixed or floating) so that you can compare the information and take an informed decision.

The following is some important information that you will require.

i) Rates

Ask your lender about its current home loan interest rates and whether the rate is fixed or floating. Remember that when interest rates in the economy go up so does the floating rates and hence the monthly re-payment.

If the rate quoted is a floating rate, ask how your rate and loan payment will vary, including the extent to which your loan payment will be reduced when rates go down by a certain percentage. Ask your lender to what index your floating home loan is referenced / linked and the periodicity of updation of that index. Also ask your bank whether the index is internal or external and how and where it is published.

Ask about the loan's annual percentage rates (APR). The APR takes into account not only the interest rate but also fees and certain other charges that you may be required to pay, expressed as a yearly rate. Banks are obliged to reveal the APR if requested for by the customer.

ii) Reset Clause

Check the reset clause, especially in the case of fixed interest rate loan as the rates will not be fixed throughout the tenure of the loan.

iii) Spread/Mark up

Check if the margin in the case of the floating rate is fixed or variable. The rate of interest you have to pay will vary accordingly.

iv) Fees

A home loan often requires payment of various fees, such as loan origination or processing charges, administrative charges, documentation, late payment, changing the loan tenure, switching to different loan package during the loan tenure, restructuring of loan, changing from fixed to floating interest rate loan and vice versa, legal fee, technical inspection fee, recurring annual service fee, document retrieval charges and pre-payment charges, if you want to prepay the loan. Every lender should be able to give you an estimate of its fees. Many of these fees are negotiable / can be waived also.

Ask what each fee includes. Sometimes several components are lumped into one fee. Ask for an explanation of any fee you do not understand. Also, remember that most of these fees are perhaps negotiable! Do negotiate with your bank before agreeing to a particular fee. See how the all inclusive rate compares with the all inclusive rates offered by other banks. While planning your finances, don't forget to include the costs of stamp duty and registration.

v) Down Payments / Margin

Some lenders require 20/30 percent of the home's purchase price as a down payment from you. However, many lenders also offer loans that require less than 20/30 percent down payment, sometimes as little as 5 percent. Ask about the lender's requirements for a down payment and also negotiate with him to reduce the down payments.

b) Obtain the best deal

Once you know what each bank has to offer in terms of rates, fees and down payments, negotiate for the best deal. Ask the lender to write down all the costs associated with the loan. Then ask if the bank will waive or reduce one or more of its fees or agree to a lower rate. Do make sure that the bank is not agreeing to lower one fee while raising another or to lower the rate while raising the fees. Ask for clarification in case you do not understand any particular term. All banks are obliged to explain the most important terms and conditions of the home loan in detail.

Once you are satisfied with the terms you have negotiated, please do obtain a written offer letter from the lender and keep a copy with you. Read the offer letter carefully before signing.

13. Can you repay your loan ahead of schedule? Is pre-payment of loan allowed?

Yes, most banks allow you to repay the loan ahead of schedule by making lump sum payments. However, many banks charge early repayment penalties up to 2-3% of the principal amount outstanding. Prepayment penalty may vary according to the reasons and source of funds - if you obtain a loan from another bank for pre-payment the charges are usually higher than when you pay from your own sources. However, you may credit more than your EMI amount into your loan account on a periodic basis and bring down your interest burden as and when funds are available with you. Most banks do not charge a pre-payment penalty if you deposit more than your EMI payable on a periodic basis. Please check such stipulations while availing the loan.

14. What are Switch over charges/ balances transfer charges?

When other banks reduce the interest rate, you may prefer to close your account with the bank with whom you are banking, to avail of the loan from the bank offering reduced rates of interest. You have to pay pre-payment charges for doing so. In order to ensure that their customers do not approach other banks for availing reduced interest rates, banks allow customers to switch over from a higher interest loan to a lower interest loan by paying a switch over fees which is lesser than the pre-payment charges. Generally switchover fee is taken as percentage of the outstanding loan amount.

Keep up-dating yourself on various changes in the home loan market. Visit the branch, discuss with the officials to get the best out of any changes in the home loan scenario.

15. Do you get a tax benefit on the loan?

Yes. Resident Indians are eligible for certain tax benefits on both principal and interest components of a loan under the Income Tax Act, 1961. Under the current laws, you are entitled to an income tax rebate for interest repayment up to Rs. 1,50,000 /- per annum. Moreover, you can get added tax benefits under Section 80 C on repayment of principal amount up to Rs. 1,00,000 /- per annum.

16. What are the minimum standards that banks are required to follow when they sell you a home loan?

- At the time of sourcing the loan, banks are required to provide information about the interest rate applicable, the fees / charges and any other matter which affects your interest and the same are usually furnished in the product brochure of the banks. Complete transparency is mandatory.
- The banks will supply you authenticated copies of all the loan documents executed by you at their cost along with a copy each of all enclosures quoted in the loan document on request.

A bank cannot reject your loan application without furnishing valid reason(s) for the same.

17. What do you do if you have a grievance?

If you have a complaint against only scheduled bank on any of the above grounds, you can lodge a complaint with the bank concerned in writing in a specific complaint register provided at the branches as per the recommendation of the Goiporia Committee or on a sheet of paper. Ask for a receipt of your complaint. The details of the official receiving your complaint may be specifically sought. If the bank fails to respond within 30 days, you can lodge a complaint with the Banking Ombudsman. (Please note that complaints pending in any other judicial forum will not be entertained by the Banking Ombudsman). No fee is levied by the office of the Banking Ombudsman for resolving the customer's complaint. A unique complaint identification number will be given to you for tracking purpose. (A [list of the Banking Ombudsmen along with their contact details](#) is provided on the RBI website).

Complaints are to be addressed to the Banking Ombudsman within whose jurisdiction the branch or office of the bank complained against is located. Complaints can be lodged simply by writing on a plain paper or online at www.bankingombudsman.rbi.org.in or by sending an email to the Banking Ombudsman. Complaint forms are available at all bank branches also.

Complaint can also be lodged by your authorised representative (other than a lawyer) or by a consumer association / forum acting on your behalf.

If you are not happy with the decision of the Banking Ombudsman, you can appeal to the Appellate Authority in the Reserve Bank of India.

REVERSE MORTGAGE LOAN

18. What is reverse mortgage loan? What is my eligibility and how I will get back the title deeds?

The scheme of reverse mortgage has been introduced recently for the benefit of senior citizens owning a house but having inadequate income to meet their needs. Some important features of reverse mortgage are:

- A homeowner who is above 60 years of age is eligible for **reverse mortgage loan**. It allows him to **turn the equity in his home into one lump sum or periodic payments** mutually agreed by the borrower and the banker.

- The property should be clear from encumbrances and should have clear title of the borrower.
- **NO REPAYMENT** is required as long as the borrower lives, Borrower should pay all taxes relating to the house and maintain the property as his primary residence.
- The amount of loan is based on several factors: borrower's age, value of the property, current interest rates and the specific plan chosen. Generally speaking, the higher the age, higher the value of the home, the more money is available.
- The valuation of the residential property is done at periodic intervals and it shall be clearly specified to the borrowers upfront. The banks shall have the option to revise the periodic / lump sum amount at such frequency or intervals based on revaluation of property.
- Married couples will be eligible as joint borrowers for financial assistance. In such a case, the age criteria for the couple would be at the discretion of the lending institution, subject to at least one of them being above 60 years of age.
- The loan shall become due and payable only when the last surviving borrower dies or would like to sell the home, or permanently moves out.
- On death of the home owner, the legal heirs have the choice of keeping or selling the house. If they decide to sell the house, the proceeds of the sale would be used to repay the mortgage, with the remainder going to the heirs.
- As per the scheme formulated by National Housing Bank (NHB), the maximum period of the loan period is 15 years. The residual life of the property should be at least 20 years. Where the borrower lives longer than 15 years, periodic payments will not be made by lender. However, the borrower can continue to occupy.
- From FY 2008-09, the lump sum amount or periodic payments received on reverse mortgage loan will not attract income tax or capital gains tax.

Note- Reverse mortgage is a fixed interest discounted product in reverse. It does not take into account the changes in interest rates as yet.

Important – This part is fine printed to help you practice reading the fine print. The loan agreement documentation runs into nearly 50 pages and its language is complex. If you thought everyone signs the same agreements with the bank, where is the need to read? You are not taking an informed decision. If you thought somebody would have pointed this to me if there was any problem, then maybe they did but you could not read or listen to it. Think again! Borrowers' and lenders' rights may not be expressed clearly in a transparent manner in all the loan agreements. The home loan agreement may not be provided to you in advance so that this could be read and understood before you sign the agreement. Every method may be used to delay handing over a copy to the borrower in sufficient time. Some areas you may focus are a) check the "reset clause" incorporated by some banks in their home loan agreements that allows them to change the interest rate in the future, even on fixed rate loans. Banks may set their reset clauses for 3 or 2 year intervals. They say a lender cannot have an agreement that a fixed rate is set for the entire tenure of 15 to 20 years as this will cause an asset-liability mismatch. Talk to your bank. b) Please seek clarifications on the term "exceptional circumstances" (if stated in the loan agreement) under which loan rates can be unilaterally changed by your bank. c) A common person thinks that default ideally means non-payment of one or more loan installments. In some loan documentation it can include divorce and death (in individual case) and even involvement in civil litigation or criminal offence. d) Does the loan agreement say that disbursement of the loan may be made directly to the builder or developer and in the case of a ready-built property to the vendor thereof and/or in such other manner as may be decided solely by bank? It is the borrower whose original property papers are retained with the bank, so why disburse to the builder. Possession of property has been delayed in some cases when the cheque was issued in the name of the builder and the builder refused to pay delay penalty to the borrower e) Does the agreement enable assignment of your loan to a third party? You take into account reputation and

credibility of the bank before entering into a loan agreement with it. Are you comfortable with third party takes over or should you also be allowed to move your home loan from one bank to another in that case? Look for ambiguous clauses and discuss with the banker. Some agreements say changes in employment etc. have to be informed well in advance without quantifying the term "well in advance". f) In one case the loan documentation says "issuance of pre-approval letter should not be construed as a commitment by the bank to grant the housing loan and processing fees is not re-fundable even if the home loan is not processed". This is never ending it seems. The above are only indicative instances of what has been observed / reported/ indicated by various sources. However, our main objective was to get you into the habit of reading the fine print. If you have read this, you would have understood the importance of reading fine print in any document and we have achieved our objective. I only wish I could have made the print smaller as in the real cases.

ANNEX

EXAMPLE OF EMI CALCULATION (PURE FIXED LOAN)

	Amount of Loan		1,000,000.00	
	Annual Interest Rate		15.00%	
	Number of Payments		120	
	Monthly Payment		16,133.50	
Number	Payment	Interest	Principal	Balance
0				1,000,000.00
1	16,133.50	12,500.00	3,633.50	996,366.50
2	16,133.50	12,454.58	3,678.91	992,687.59
3	16,133.50	12,408.59	3,724.90	988,962.69
4	16,133.50	12,362.03	3,771.46	985,191.23
5	16,133.50	12,314.89	3,818.61	981,372.62
6	16,133.50	12,267.16	3,866.34	977,506.28
7	16,133.50	12,218.83	3,914.67	973,591.62
8	16,133.50	12,169.90	3,963.60	969,628.02
9	16,133.50	12,120.35	4,013.15	965,614.87
10	16,133.50	12,070.19	4,063.31	961,551.56
11	16,133.50	12,019.39	4,114.10	957,437.46
12	16,133.50	11,967.97	4,165.53	953,271.93
13	16,133.50	11,915.90	4,217.60	949,054.34
14	16,133.50	11,863.18	4,270.32	944,784.02
15	16,133.50	11,809.80	4,323.70	940,460.32
16	16,133.50	11,755.75	4,377.74	936,082.58
17	16,133.50	11,701.03	4,432.46	931,650.12
18	16,133.50	11,645.63	4,487.87	927,162.25
19	16,133.50	11,589.53	4,543.97	922,618.28
20	16,133.50	11,532.73	4,600.77	918,017.51
21	16,133.50	11,475.22	4,658.28	913,359.24
22	16,133.50	11,416.99	4,716.51	908,642.73
23	16,133.50	11,358.03	4,775.46	903,867.27
24	16,133.50	11,298.34	4,835.15	899,032.12
25	16,133.50	11,237.90	4,895.59	894,136.52
26	16,133.50	11,176.71	4,956.79	889,179.73
27	16,133.50	11,114.75	5,018.75	884,160.98
28	16,133.50	11,052.01	5,081.48	879,079.50
29	16,133.50	10,988.49	5,145.00	873,934.50

30	16,133.50	10,924.18	5,209.31	868,725.18
31	16,133.50	10,859.06	5,274.43	863,450.75
32	16,133.50	10,793.13	5,340.36	858,110.39
33	16,133.50	10,726.38	5,407.12	852,703.28
34	16,133.50	10,658.79	5,474.70	847,228.57
35	16,133.50	10,590.36	5,543.14	841,685.43
36	16,133.50	10,521.07	5,612.43	836,073.00
37	16,133.50	10,450.91	5,682.58	830,390.42
38	16,133.50	10,379.88	5,753.62	824,636.81
39	16,133.50	10,307.96	5,825.54	818,811.27
40	16,133.50	10,235.14	5,898.35	812,912.92
41	16,133.50	10,161.41	5,972.08	806,940.83
42	16,133.50	10,086.76	6,046.74	800,894.10
43	16,133.50	10,011.18	6,122.32	794,771.78
44	16,133.50	9,934.65	6,198.85	788,572.93
45	16,133.50	9,857.16	6,276.33	782,296.59
46	16,133.50	9,778.71	6,354.79	775,941.81
47	16,133.50	9,699.27	6,434.22	769,507.58
48	16,133.50	9,618.84	6,514.65	762,992.93
49	16,133.50	9,537.41	6,596.08	756,396.85
50	16,133.50	9,454.96	6,678.54	749,718.31
51	16,133.50	9,371.48	6,762.02	742,956.30
52	16,133.50	9,286.95	6,846.54	736,109.75
53	16,133.50	9,201.37	6,932.12	729,177.63
54	16,133.50	9,114.72	7,018.78	722,158.85
55	16,133.50	9,026.99	7,106.51	715,052.34
56	16,133.50	8,938.15	7,195.34	707,857.00
57	16,133.50	8,848.21	7,285.28	700,571.72
58	16,133.50	8,757.15	7,376.35	693,195.37
59	16,133.50	8,664.94	7,468.55	685,726.82
60	16,133.50	8,571.59	7,561.91	678,164.91
61	16,133.50	8,477.06	7,656.43	670,508.47
62	16,133.50	8,381.36	7,752.14	662,756.33
63	16,133.50	8,284.45	7,849.04	654,907.29
64	16,133.50	8,186.34	7,947.15	646,960.14
65	16,133.50	8,087.00	8,046.49	638,913.64
66	16,133.50	7,986.42	8,147.08	630,766.57
67	16,133.50	7,884.58	8,248.91	622,517.65
68	16,133.50	7,781.47	8,352.03	614,165.63
69	16,133.50	7,677.07	8,456.43	605,709.20
70	16,133.50	7,571.37	8,562.13	597,147.07
71	16,133.50	7,464.34	8,669.16	588,477.91
72	16,133.50	7,355.97	8,777.52	579,700.39
73	16,133.50	7,246.25	8,887.24	570,813.15
74	16,133.50	7,135.16	8,998.33	561,814.82
75	16,133.50	7,022.69	9,110.81	552,704.01
76	16,133.50	6,908.80	9,224.70	543,479.31
77	16,133.50	6,793.49	9,340.00	534,139.31
78	16,133.50	6,676.74	9,456.75	524,682.56
79	16,133.50	6,558.53	9,574.96	515,107.59
80	16,133.50	6,438.84	9,694.65	505,412.94

81	16,133.50	6,317.66	9,815.83	495,597.11
82	16,133.50	6,194.96	9,938.53	485,658.58
83	16,133.50	6,070.73	10,062.76	475,595.81
84	16,133.50	5,944.95	10,188.55	465,407.26
85	16,133.50	5,817.59	10,315.90	455,091.36
86	16,133.50	5,688.64	10,444.85	444,646.51
87	16,133.50	5,558.08	10,575.41	434,071.09
88	16,133.50	5,425.89	10,707.61	423,363.48
89	16,133.50	5,292.04	10,841.45	412,522.03
90	16,133.50	5,156.53	10,976.97	401,545.06
91	16,133.50	5,019.31	11,114.18	390,430.88
92	16,133.50	4,880.39	11,253.11	379,177.77
93	16,133.50	4,739.72	11,393.77	367,784.00
94	16,133.50	4,597.30	11,536.20	356,247.80
95	16,133.50	4,453.10	11,680.40	344,567.40
96	16,133.50	4,307.09	11,826.40	332,741.00
97	16,133.50	4,159.26	11,974.23	320,766.77
98	16,133.50	4,009.58	12,123.91	308,642.85
99	16,133.50	3,858.04	12,275.46	296,367.39
100	16,133.50	3,704.59	12,428.90	283,938.49
101	16,133.50	3,549.23	12,584.26	271,354.23
102	16,133.50	3,391.93	12,741.57	258,612.66
103	16,133.50	3,232.66	12,900.84	245,711.82
104	16,133.50	3,071.40	13,062.10	232,649.72
105	16,133.50	2,908.12	13,225.37	219,424.35
106	16,133.50	2,742.80	13,390.69	206,033.66
107	16,133.50	2,575.42	13,558.07	192,475.58
108	16,133.50	2,405.94	13,727.55	178,748.03
109	16,133.50	2,234.35	13,899.15	164,848.89
110	16,133.50	2,060.61	14,072.88	150,776.00
111	16,133.50	1,884.70	14,248.80	136,527.21
112	16,133.50	1,706.59	14,426.91	122,100.30
113	16,133.50	1,526.25	14,607.24	107,493.06
114	16,133.50	1,343.66	14,789.83	92,703.23
115	16,133.50	1,158.79	14,974.71	77,728.52
116	16,133.50	971.61	15,161.89	62,566.63
117	16,133.50	782.08	15,351.41	47,215.22
118	16,133.50	590.19	15,543.31	31,671.91
119	16,133.50	395.90	15,737.60	15,934.32
120	16,133.50	199.18	15,934.32	0.00

Loan amount x rpm x (1+pm)

- rpm= interest per month (rate of interest per year/12)
- n= number of installments

NB: If you have a fixed budget towards EMI you can arrive at loan amount by changing the other variables such as by reducing the rate of interest or by increasing the tenure of loan. This can also be arrived at through [EMI calculator](#) by a trial-and-error approach.

Deposit Insurance

A Guide to the deposit insurance and credit guarantee corporation (DICGC)

Outline of the System and Q & A

Q1 Which banks are insured by the DICGC?

Commercial Banks: All commercial banks including branches of foreign banks functioning in India, local area banks and regional rural banks are insured by the DICGC.

Cooperative Banks: All State, Central and Primary cooperative banks, also called urban cooperative banks, functioning in States / Union Territories which have amended the local Cooperative Societies Act empowering the Reserve Bank of India (RBI) to order the Registrar of Cooperative Societies of the State / Union Territory to wind up a cooperative bank or to supersede its committee of management and requiring the Registrar not to take any action regarding winding up, amalgamation or reconstruction of a co-operative bank without prior sanction in writing from the Reserve Bank are covered under the Deposit Insurance System. At present all co-operative banks other than those from the States of Meghalaya, and the Union Territories of Chandigarh, Lakshadweep and Dadra and Nagar Haveli are covered under the deposit insurance system of DICGC.

Primary cooperative societies are not insured by the DICGC.

Q 2 What does the DICGC insure?

In the event of a bank failure, DICGC protects bank deposits that are payable in India. The DICGC insures all deposits such as savings, fixed, current, recurring, etc. except the following types of deposits.

- (i) Deposits of foreign Governments;
- (ii) Deposits of Central/State Governments;
- (iii) Inter-bank deposits;
- (iv) Deposits of the State Land Development Banks with the State co-operative bank;
- (v) Any amount due on account of any deposit received outside India
- (vi) Any amount, which has been specifically exempted by the corporation with the previous approval of Reserve Bank of India.

Q 3 What is the maximum deposit amount insured by the DICGC?

Each depositor in a bank is insured upto a maximum of Rs.1,00,000 (Rupees One Lakh) for both principal and interest amount held by him in the same capacity and same right as on the date of liquidation/cancellation of bank's licence or the date on which the scheme of amalgamation/merger/reconstruction comes into force.

Q 4 How will I know whether my bank is insured by the DICGC or not?

The DICGC while registering the banks as insured banks furnishes them with printed leaflets for display giving information relating to the protection afforded by the Corporation to the depositors of the insured banks. In case of doubt, depositor should make specific enquiry from the branch official in this regard.

Q 5 What is the ceiling on amount of Insured deposits kept by one person in different branches of a bank?

The deposits kept in different branches of a bank are aggregated for the purpose of insurance cover and a maximum amount upto Rupees one lakh is paid.

Q 6 Does the DICGC insure just the principal on an account or both principal and accrued interest?

The DICGC insures principal and interest upto a maximum amount of Rs. One lakh. For example, if an individual had an account with a principal amount of Rs.95,000 plus accrued interest of Rs.4,000, the total amount insured by the

DICGC would be Rs.99,000. If, however, the principal amount in that account was Rs. One lakh, the accrued interest would not be insured, not because it was interest but because that was the amount over the insurance limit.

Q 7 Can deposit insurance be increased by depositing funds into several different accounts all at the same bank?

All funds held in the same type of ownership at the same bank are added together before deposit insurance is determined. If the funds are in different types of ownership or are deposited into separate banks they would then be separately insured.

Q 8 What is a single ownership account?

A single (or individual) ownership account is an account owned by one person. Such accounts include those in the owner's name; those established for the benefit of the owner by agents, nominees, guardians, custodians, or conservators; and those established by a business that is a sole proprietorship.

Q 9 Are deposits in different banks separately insured?

Yes. If you have deposits with more than one bank, deposit insurance coverage limit is applied separately to the deposits in each bank.

Q 10 If I have my funds on deposit at two different banks, and those two banks are closed on the same day, are my funds added together, or insured separately?

Your funds from each bank would be insured separately, regardless of the date of closure.

Q 11 What is the meaning of deposits held in the same capacity and same right; and deposits held in different capacity and different right?

If an individual opens more than one deposit account in one or more branches of a bank, e.g. Shri S. K. Pandit opens one or more savings/current account and one or more fixed/recurring deposit accounts etc., all these are considered as accounts held in the same capacity and in the same right. Therefore, the balances in all these accounts are aggregated and maximum insurance cover is available upto rupees one lakh.

If Shri S. K. Pandit holds other deposit accounts in his capacity as a partner of a firm or guardian of a minor or director of a company or trustee of a Trust or a joint account, say with his wife Smt. S. K. Pandit, in one or more branches of the bank then such accounts are considered as held in different capacity and different right. Accordingly, such deposits accounts will also enjoy the insurance cover upto rupees one lakh separately.

It is further clarified that the deposit held in the name of the proprietary concern where a depositor is the sole proprietor and the deposit held in his individual capacity are aggregated and insurance cover is available upto rupees one lakh in maximum.

Illustrations

Deposits held in different capacities

	Savings A/C	Current A/C	FD A/C	Total Deposits	Deposits Insured
Shri S. K. Pandit (individual)	17,200	22,000	80,000	1,19,200	1,00,000
Shri S. K. Pandit (Partner of ABC & Co.)		75,000	50,000	1,25,000	1,00,000
Shri S. K. Pandit (Guardian for	7,800		80,000	87,800	87,800

Master Ajit)					
Shri S. K. Pandit (Director, J.K. Udyog Ltd.)		2,30,000	45,000	2,75,000	1,00,000
Shri S. K. Pandit	7,500	1,50,000	50,000	2,07,500	1,00,000
Jointly with Smt. K. A. Pandit					

Deposits held in joint accounts (revised w.e.f. April 26, 2007)

If more than one deposit accounts (Savings, Current, Recurring or Fixed deposit) are jointly held by individuals in one or more branches of a Bank say three individuals A, B & C hold more than one joint deposit accounts in which their names appear in the same order then all these accounts are considered as held in the same capacity and in the same right. Accordingly, balances held in all these accounts will be aggregated for the purpose of determining the insured amount within the limit of Rs.1 lakh.

However, if individuals open more than one joint accounts in which their names are not in the same order for example, A, B and C; C, B and A; C, A and B; A, C and B; or group of persons are different say A, B and C and A, B and D etc. then, the deposits held in this joint accounts are considered as held in the different capacity and different right. Accordingly, insurance cover will be available separately upto rupees one lakh to every such joint account where the names appear in different order or names are different.

Illustrations

Deposits held in joint accounts

Account (i) (Savings or Current A/C)	First a/c holder - "A" Second a/c holder - "B"	Maximum insured amount upto Rs.1 lakh
Account (ii)	First a/c holder - "A" Second a/c holder - "C"	Maximum insured amount upto Rs.1 lakh
Account (iii)	First a/c holder - "B" Second a/c holder - "A"	Maximum insured amount upto Rs.1 lakh
Account (iv) at Branch 'X' of the bank	First a/c holder - "A" Second a/c holder - "B" Third a/c holder - "C"	Maximum insured amount upto Rs.1 lakh
Account (v)	First a/c holder - "B" Second a/c holder - "C" Third a/c holder - "A"	Maximum insured amount upto Rs.1 lakh
Account (vi) or Recurring (Fixed deposit)	First a/c holder - "A" Second a/c holder - "B"	The account will be clubbed with the a/c at (i)
Account (vii)	First a/c holder -	The account will be clubbed with

at Branch 'Y' of the bank	"A" Second a/c holder - "B" Third a/c holder - "C"	the a/c at (iv)
Account (viii)	First a/c holder - "A" Second a/c holder - "B" Third a/c holder - "D"	Maximum insured amount upto Rs.1 lakh

Q 12 Can the bank deduct the amount of dues payable by the depositor?

Yes. Banks have the right to set off their dues from the amount of deposits. The deposit insurance is available after netting of such dues.

Q 13 Who pays the cost of deposit insurance?

Deposit insurance premium is borne entirely by the insured bank.

Q 14 When is the DICGC liable to pay?

If a bank goes into liquidation: The DICGC is liable to pay to each depositor through the liquidator, the amount of his deposit upto Rupees one lakh within two months from the date of receipt of claim list from the liquidator.

If a bank is reconstructed or amalgamated / merged with another bank: Where in respect of an insured bank a scheme of compromise or arrangement or of reconstruction or amalgamation has been sanctioned by any competent authority and the said scheme provides for each depositor being paid or credited with, on the date on which the scheme comes into force, an amount which is less than the original amount and also the specified amount, the Corporation shall be liable to pay to every such depositor in accordance with the provisions of section 18 of DICGC Act an amount equivalent to the difference between the amount so paid or credited and the original amount, or the difference between the amount so paid or credited and the specified amount, whichever is less:

Provided that where any such scheme also provides that any payment made to a depositor before the coming into force of the scheme shall be reckoned towards the payment due to him under that scheme, then the scheme shall be deemed to have provided for that payment being made on the date of its coming into force.

Q 15 Does the DICGC directly deal with the depositors of failed banks?

No. In the event of a bank's liquidation, the liquidator prepares depositor wise claim list and sends it to the DICGC. After scrutiny the DICGC pays the money to the liquidator who is liable to pay to the depositors. In the case of amalgamation / merger of banks, the amount due to each depositor is paid to the transferee bank.

Q 16 Can any insured bank withdraw from the DICGC coverage?

No. The deposit insurance scheme is compulsory and no bank can withdraw from it.

Q 17 Can the DICGC withdraw deposit insurance coverage from any bank?

The Corporation may cancel the registration of an insured bank if it fails to pay the premium for three consecutive half year periods. In the event of the DICGC withdrawing its coverage from any bank for default in the payment of premium the public will be notified through newspapers.

Registration of an insured bank stands cancelled if the bank is prohibited from receiving fresh deposits; or its licence is cancelled or a licence is refused to it by the RESERVE BANK; or it is wound up either voluntarily or compulsorily; or it ceases to be a banking company or a co-operative bank within the meaning of Section 36A(2) of the Banking Regulation Act, 1949; or it has transferred all its deposit liabilities to any other institution; or it is amalgamated with any other bank or a scheme of compromise or arrangement or of reconstruction has been sanctioned by a competent authority and the said scheme does not permit acceptance of fresh deposits. In the event of the cancellation of registration of a bank, deposits of the bank remain covered by the insurance till the date of the cancellation.

Q 18 What will be the Corporation's liability to the banks on de-registration.

The Corporation has deposit insurance liability on liquidation etc. of "Insured banks" i.e. banks which have been de-registered (a) on account of prohibition on receiving fresh deposits or (b) on cancellation of license or it is found that license can not be granted. The liability of the Corporation in these cases is limited to the extent of deposits as on the date of cancellation of registration of bank as an insured bank.

On liquidation etc. of other de-registered banks i.e. banks which have been de-registered on other grounds such as non payment of premium or their ceasing to be eligible co-operative banks under section 2(gg) of the DICGC Act, 1961, the Corporation will have no liability.

Banking Ombudsman Scheme, 2006

FAQs on the Banking Ombudsman Scheme

1. What is the Banking Ombudsman Scheme?

The Banking Ombudsman Scheme enables an expeditious and inexpensive forum to bank customers for resolution of complaints relating to certain services rendered by banks. The Banking Ombudsman Scheme is introduced under Section 35 A of the Banking Regulation Act, 1949 by RBI with effect from 1995.

2. Who is a Banking Ombudsman?

The Banking Ombudsman is a senior official appointed by the Reserve Bank of India to redress customer complaints against deficiency in certain banking services.

3. How many Banking Ombudsmen have been appointed and where are they located?

As on date, fifteen Banking Ombudsmen have been appointed with their offices located mostly in state capitals. The addresses and contact details of the Banking Ombudsman offices have been provided in the annex.

4. Which are the banks covered under the Banking Ombudsman Scheme, 2006?

All Scheduled Commercial Banks, Regional Rural Banks and Scheduled Primary Co-operative Banks are covered under the Scheme.

5. What are the grounds of complaints?

The Banking Ombudsman can receive and consider any complaint relating to the following deficiency in banking services (including internet banking):

- non-payment or inordinate delay in the payment or collection of cheques, drafts, bills etc.;
- non-acceptance, without sufficient cause, of small denomination notes tendered for any purpose, and for charging of commission in respect thereof;
- non-acceptance, without sufficient cause, of coins tendered and for charging of commission in respect

thereof;

- non-payment or delay in payment of inward remittances ;
- failure to issue or delay in issue of drafts, pay orders or bankers' cheques;
- non-adherence to prescribed working hours ;
- failure to provide or delay in providing a banking facility (other than loans and advances) promised in writing by a bank or its direct selling agents;
- delays, non-credit of proceeds to parties accounts, non-payment of deposit or non-observance of the Reserve Bank directives, if any, applicable to rate of interest on deposits in any savings,current or other account maintained with a bank ;
- complaints from Non-Resident Indians having accounts in India in relation to their remittances from abroad, deposits and other bank-related matters;
- refusal to open deposit accounts without any valid reason for refusal;
- levying of charges without adequate prior notice to the customer;
- non-adherence by the bank or its subsidiaries to the instructions of Reserve Bank on ATM/Debit card operations or credit card operations;
- non-disbursement or delay in disbursement of pension (to the extent the grievance can be attributed to the action on the part of the bank concerned, but not with regard to its employees);
- refusal to accept or delay in accepting payment towards taxes, as required by Reserve Bank/Government;
- refusal to issue or delay in issuing, or failure to service or delay in servicing or redemption of Government securities;
- forced closure of deposit accounts without due notice or without sufficient reason;
- refusal to close or delay in closing the accounts;
- non-adherence to the fair practices code as adopted by the bank or non-adherence to the provisions of the Code of Bank s Commitments to Customers issued by Banking Codes and Standards Board of India and as adopted by the bank ;
- non-observance of Reserve Bank guidelines on engagement of recovery agents by banks; and
- any other matter relating to the violation of the directives issued by the Reserve Bank in relation to banking or other services.

A customer can also lodge a complaint on the following grounds of deficiency in service with respect to loans and advances

- non-observance of Reserve Bank Directives on interest rates;
- delays in sanction, disbursement or non-observance of prescribed time schedule for disposal of loan applications;
- non-acceptance of application for loans without furnishing valid reasons to the applicant; and
- non-adherence to the provisions of the fair practices code for lenders as adopted by the bank or Code of Bank's Commitment to Customers, as the case may be;
- non-observance of any other direction or instruction of the Reserve Bank as may be specified by the Reserve Bank for this purpose from time to time.
- The Banking Ombudsman may also deal with such other matter as may be specified by the Reserve Bank from time to time.

6. When can one file a complaint?

One can file a complaint before the Banking Ombudsman if the reply is not received from the bank within a period of one month after the bank concerned has received one s representation, or the bank rejects the complaint, or if the complainant is not satisfied with the reply given by the bank.

7. When will one s complaint not be considered by the Ombudsman ?

One s complaint will not be considered if:

- a. One has not approached his bank for redressal of his grievance first.
- b. One has not made the complaint within one year from the date one has received the reply of the bank or if no reply is received if it is more than one year and one month from the date of representation to the bank.
- c. The subject matter of the complaint is pending for disposal / has already been dealt with at any other forum like court of law, consumer court etc.
- d. Frivolous or vexatious.
- e. The institution complained against is not covered under the scheme.
- f. The subject matter of the complaint is not within the ambit of the Banking Ombudsman.
- g. If the complaint is for the same subject matter that was settled through the office of the Banking Ombudsman in any previous proceedings.

8. What is the procedure for filing the complaint before the Banking Ombudsman?

One can file a complaint with the Banking Ombudsman simply by writing on a plain paper. One can also file it online (at “[click here to go to Banking Ombudsman scheme](#)” or by sending an [email](#) to the Banking Ombudsman. There is a [form](#) along with details of the scheme in our website. However, it is not necessary to use this format.

9. Where can one lodge his/her complaint?

One may lodge his/ her complaint at the office of the [Banking Ombudsman under whose jurisdiction](#), the bank branch complained against is situated. For complaints relating to credit cards and other types of services with centralized operations, complaints may be filed before the Banking Ombudsman within whose territorial jurisdiction the billing address of the customer is located.

Address and area of operation of the banking ombudsmen are provided in the annex.

10. Can a complaint be filed by one's authorized representative?

Yes. The complainant can be filed by one's authorized representative (other than an advocate).

11. Is there any cost involved in filing complaints with Banking Ombudsman?

No. The Banking Ombudsman does not charge any fee for filing and resolving customers' complaints.

12. Is there any limit on the amount of compensation as specified in an award?

The amount, if any, to be paid by the bank to the complainant by way of compensation for any loss suffered by the complainant is limited to the amount arising directly out of the act or omission of the bank or Rs 10 lakhs, whichever is lower.

13. Can compensation be claimed for mental agony and harassment?

The Banking Ombudsman may award compensation not exceeding Rs 1 lakh to the complainant only in the case of complaints relating to credit card operations for mental agony and harassment. The Banking Ombudsman will take into account the loss of the complainant's time, expenses incurred by the complainant, harassment and

mental anguish suffered by the complainant while passing such award.

14. What details are required in the application?

The complaint should have the name and address of the complainant, the name and address of the branch or office of the bank against which the complaint is made, facts giving rise to the complaint supported by documents, if any, the nature and extent of the loss caused to the complainant, the relief sought from the Banking Ombudsman and a declaration about the compliance of conditions which are required to be complied with by the complainant.

15. What happens after a complaint is received by the Banking Ombudsman?

The Banking Ombudsman endeavours to promote, through conciliation or mediation, a settlement of the complaint by agreement between the complaint and the bank named in the complaint. If the terms of settlement (offered by the bank) are acceptable to one in full and final settlement of one's complaint, the Banking Ombudsman will pass an order as per the terms of settlement which becomes binding on the bank and the complainant.

16. Can the Banking Ombudsman reject a complaint at any stage?

Yes. The Banking Ombudsman may reject a complaint at any stage if it appears to him that a complaint made to him is:

- not on the grounds of complaint referred to above
- compensation sought from the Banking Ombudsman is beyond Rs 10 lakh.
- requires consideration of elaborate documentary and oral evidence and the proceedings before the Banking Ombudsman are not appropriate for adjudication of such complaint
- without any sufficient cause
- that it is not pursued by the complainant with reasonable diligence
- in the opinion of the Banking Ombudsman there is no loss or damage or inconvenience caused to the complainant.

17. What happens if the complaint is not settled by agreement?

If a complaint is not settled by an agreement within a period of one month, the Banking Ombudsman proceeds further to pass an award. Before passing an award, the Banking Ombudsman provides reasonable opportunity to the complainant and the bank, to present their case. It is up to the complainant to accept the award in full and final settlement of your complaint or to reject it.

18. Is there any further recourse available if one rejects the Banking Ombudsman's decision?

If one is not satisfied with the decision passed by the Banking Ombudsman, one can approach the appellate authority against the Banking Ombudsmen's decision. Appellate Authority is vested with a Deputy Governor of the RBI. One can also explore any other recourse and/or remedies available to him/her as per the law. The bank also has the option to file an appeal before the appellate authority under the scheme.

19. Is there any time limit for filing an appeal?

If one is aggrieved by the decision, one may, within 30 days of the date of receipt of the award, appeal against the award before the appellate authority. The appellate authority may, if he/ she is satisfied that the applicant had sufficient cause for not making an application for appeal within time, also allow a further period not exceeding

30 days.

20. How does the appellate authority deal with the appeal?

The appellate authority may
i. dismiss the appeal; or
ii. allow the appeal and set aside the award; or
iii. send the matter to the Banking Ombudsman for fresh disposal in accordance with such directions as the appellate authority may consider necessary or proper; or
iv. modify the award and pass such directions as may be necessary to give effect to the modified award; or
v. pass any other order as it may deem fit.

CURRENCY

Currency Matters

Your Guide to Money Matters

For a common person, money simply means currency and coins. This is so because in India, the payment system, which includes credit cards and electronic cash, still revolves mainly around currency and coins, especially for retail transactions. Here is an attempt to answer some of the Frequently Asked Questions on Indian Currency.

A) Some Basics

I. Coins

Coins in India are presently being issued in denominations of 50 paise, one rupee, two rupees, five rupees and ten rupees. Coins up to 50 paise are called 'small coins' and coins of Rupee one and above are called 'Rupee Coins'. Coins in the denomination of 1 paise, 2 paise, 3 paise, 5 paise, 10 paise, 20 paise and 25 paise have been withdrawn from circulation with effect from June 30, 2011 and are, therefore, no more legal tender.

II. Currency:

Banknotes in India are currently being issued in the denomination of ₹ 10, ₹ 20, ₹ 50, ₹ 100 ₹ 500, and ₹ 1000. These notes are called banknotes as they are issued by the Reserve Bank of India (Reserve Bank). The printing of notes in the denominations of ₹ 2 and ₹ 5 has been discontinued as these denominations have been coined. However, such banknotes issued earlier can still be found in circulation and these banknotes continue to be legal tender. Re. 1 was also not being printed since long due to coinisation. However the Central Government has , recently reintroduced this note. Re. 1 notes issued in the past also continue to be legal tender for transactions.

What is the Indian currency called?

The Indian currency is called the Indian Rupee (INR) and the coins are called paise. One Rupee consists of 100 paise. The symbol of the Indian Rupee is ₹ . The design resembles both the Devanagari letter "र" (ra) and the Latin capital letter "R", with a double horizontal line at the top.

Can banknotes and coins be issued only in these denominations?

Not necessarily. The Reserve Bank can also issue banknotes in the denominations of five thousand rupees and ten thousand rupees, or any other denomination that the Central Government may specify. However, there cannot be banknotes in denominations higher than ten thousand rupees in terms of the current provisions of the Reserve

Bank of India Act, 1934. Coins can be issued up to the denomination of ₹ 1000 in terms of The Coinage Act, 2011.

Demonetization of higher denomination banknotes.

₹ 1000 and ₹ 10000 banknotes, which were then in circulation were demonetized in January 1946. The higher denomination banknotes in ₹ 1000, ₹ 5000 and ₹ 10000 were reintroduced in the year 1954, and these banknotes (₹ 1000, ₹ 5000 and ₹ 10000) were again demonetized in January 1978.

What is legal tender?

The coins issued under the authority of Section 6 of The Coinage Act, 2011, shall be legal tender in payment or on account i.e. provided that a coin has not been defaced and has not lost weight so as to be less than such weight as may be prescribed in its case: - (a) coin of any denomination not lower than one rupee shall be legal tender for any sum, (b) half rupee coin shall be legal tender for any sum not exceeding ten rupees,

Every banknote issued by Reserve Bank of India (₹ 2, ₹ 5, ₹ 10, ₹ 20, ₹ 50, ₹ 100, ₹ 500 and ₹ 1000) shall be legal tender at any place in India in payment or on account for the amount expressed therein, and shall be guaranteed by the Central Government, subject to provisions of sub-section (2) Section 26 of RBI Act, 1934.

What is the meaning of "I promise to pay" clause?

As per Section 26 of Reserve Bank of India Act, 1934, the Bank is liable to pay the value of banknote. This is payable on demand by RBI, being the issuer. The Bank's obligation to pay the value of banknote does not arise out of a contract but out of statutory provisions.

The promissory clause printed on the banknotes i.e., "I promise to pay the bearer the sum of Rupees ..." is a statement which means that the banknote is a legal tender for the specified amount. The obligation on the part of the Bank is to exchange a banknote with bank notes of lower value or other coins which are legal tender under the Indian Coinage Act, 2011, of an equivalent amount.

Why is One Rupee liability of the Government of India?

The One Rupee notes issued under the Currency Ordinance, 1940 are also legal tender and included in the expression Rupee coin for all the purposes of the Reserve Bank of India Act, 1934. Since the rupee coins issued by Government constitute the liabilities of the Government, one rupee is also liability of the Government of India.

B) Currency Management.

What is the role of the Reserve Bank of India in currency management?

The Reserve Bank derives its role in currency management from the Reserve Bank of India Act, 1934.The Reserve Bank manages currency in India. The Government, on the advice of the Reserve Bank, decides on various denominations of banknotes to be issued. The Reserve Bank also co-ordinates with the Government in the designing of banknotes, including the security features. The Reserve Bank estimates the quantity of banknotes that are likely to be needed denomination-wise and accordingly, places indent with the various printing presses. The aim of the Reserve Bank is to provide good quality notes to members of public. Towards this aim, the banknotes received back from circulation are examined and those fit for circulation are reissued and the others (soiled and mutilated) are destroyed so as to maintain the quality of banknotes in circulation.

What is the role of Government of India?

In terms of Section 25 of RBI Act, 1934 the design of banknotes is required to be approved by the Central Government on the recommendations of the Central Board of the Reserve Bank of India. The responsibility for coinage vests with the Government of India on the basis of the Coinage Act, 2011 as amended from time to time. The Government of India is also responsible for the designing and minting of coins in various denominations.

Who decides on the figure to be printed on a new note?

The Government of India in consultation with the Reserve Bank of India decides the design of banknotes.

What happens to the old design notes when a new design is introduced?

Both old and new design notes usually circulate together for a while. The old design notes are then gradually withdrawn from circulation when they become unfit to be re-issued.

Are old notes issued by the Reserve Bank of India worthless?

No. The Reserve Bank of India does not withdraw the legal tender character of notes issued in the past. All RBI notes retain their face value till any specific communication from RBI to the contrary. These notes can be exchanged at any bank branch. However, the above does not apply to the higher denomination banknotes of ₹ 1000, ₹ 5000 and ₹ 10000 that were demonetized in 1978.

What was the highest denomination note ever printed?

The highest denomination note ever printed by the Reserve Bank of India was the ₹ 10000 note in 1938 and again in 1954. These notes were demonetized in 1946 and again in 1978.

What is the role of RBI in issue of coins?

The role of RBI is limited to distribution of coins that are supplied by Government of India. The responsibility for coinage vests with the Government of India on the basis of the Coinage Act, 2011, as amended from time to time.

Who is responsible for changing the design of coins from time to time?

The Government of India is responsible for the designing and minting of coins in various denominations.

What is currency paper made of?

Currency paper is composed of cotton and cotton rag.

Who decides on the volume and value of banknotes to be printed and on what basis?

The Reserve Bank based on the demand requirement indicates the volume and value of banknotes to be printed each year to the Government of India which get finalized after mutual consultation. The quantum of banknotes to be printed, broadly depends on the requirement for meeting the demand for banknotes, GDP growth, replacement of soiled banknotes, reserve stock requirements, etc.

Who decides on the quantity of coins to be minted?

The Government of India decides on the quantity of coins to be minted on the basis of indents received from the Reserve Bank.

How does the Reserve Bank estimate the demand for banknotes?

The Reserve Bank estimates the demand for banknotes on the basis of the growth rate of the economy, inflation rate, the replacement demand and reserve stock requirements by using statistical models/techniques.

Where are notes and coins produced?

Notes are printed at four printing presses located at Nashik, Dewas, Mysore and Salboni. Coins are minted at the four mints at Mumbai, Noida, Kolkata and Hyderabad.

How does the Reserve Bank reach the currency to people?

The Reserve Bank presently manages the currency operations through its 19 Issue offices located at Ahmedabad, Bangalore, Belapur, Bhopal, Bhubaneswar, Chandigarh, Chennai, Guwahati, Hyderabad, Jaipur, Jammu, Kanpur, Kolkata, Lucknow, Mumbai, Nagpur, New Delhi, Patna, Thiruvananthapuram, a currency chest at Kochi and a wide network of currency chests. These offices receive fresh banknotes from the banknote printing presses. The Issue Offices of RBI send fresh banknote remittances to the designated branches of commercial banks.

The Reserve Bank offices located at Hyderabad, Kolkata, Mumbai and New Delhi (Mint linked Offices) initially receive the coins from the mints. These offices then send them to the other offices of the Reserve Bank who in turn send the same to currency chests and small coin depots. The banknotes and rupee coins are stocked at the currency chests and small coins at the small coin depots. The bank branches receive the banknotes and coins from the Currency Chests and Small Coin Depots for further distribution among the public.

What is a currency chest?

To facilitate the distribution of banknotes and rupee coins, the Reserve Bank has authorised select branches of scheduled banks to establish currency chests. These are actually storehouses where banknotes and rupee coins are stocked on behalf of the Reserve Bank. As on March 31, 2015, there were 4132 currency chests. The currency chest branches are expected to distribute banknotes and rupee coins to other bank branches in their area of operation.

What is a small coin depot?

Some bank branches are authorised to establish Small Coin Depots to stock small coins i.e. coins below Rupee one. The Small Coin Depots also distribute small coins to other bank branches in their area of operation. As on March 31, 2015, there were 3812 small coin depots.

What happens when the banknotes and coins return from circulation?

Banknotes returned from circulation are deposited at the Issue offices of the Reserve Bank. The Reserve Bank subjects these to processing, authenticates banknotes for their genuineness, segregates them into notes fit for reissue and those which are unfit, for cancellation. The banknotes which are fit for reissue are sent back in circulation and those which are unfit for reissue are destroyed by way of shredding after completion of examination process. Coins do not come back from circulation, except those which are withdrawn.

From where can the general public obtain banknotes and coins?

Presently, banknotes and coins can be obtained in exchange at RBI offices and all branches of banks. This function is being delegated by RBI to commercial banks.

C) Soiled and Mutilated Banknotes

What are soiled, mutilated and imperfect banknotes?

(i) "soiled note:" means a note which, has become dirty due to usage and also includes a two piece note pasted together wherein both the pieces presented belong to the same note, and form the entire note.

(ii) Mutilated banknote is a banknote, of which a portion is missing or which is composed of more than two pieces.

(iii) Imperfect banknote means any banknote, which is wholly or partially, obliterated, shrunk, washed, altered or indecipherable but does not include a mutilated banknote.

Can soiled and mutilated banknotes be exchanged for value?

Yes. Such banknotes can be exchanged for value.

Where are soiled/mutilated banknotes accepted for exchange?

All banks are authorized to accept soiled banknotes for full value. They are expected to extend the facility of exchange of soiled notes even to non-customers. All branches of commercial banks are authorised to adjudicate mutilated banknotes and pay value for these, in terms of the Reserve Bank of India (Note Refund) Rules, 2009

How much value would one get in exchange of soiled banknotes?

Soiled banknotes are exchanged for full value.

How much value would one get in exchange of mutilated banknotes?

A mutilated banknote can be exchanged for full value if,

(i) For denominations of ₹ 1, ₹ 2, ₹ 5, ₹ 10 and ₹ 20, the area of the single largest undivided piece of the note presented is more than 50 percent of the area of respective denomination, rounded off to the next complete square centimeter.

(ii) For denominations of ₹ 50, ₹ 100, ₹ 500 and ₹ 1000, the area of the single largest undivided piece of the note presented is more than 65 percent of the area of respective denomination, rounded off to the next complete square centimeter.

Banknotes in denominations of ₹ 1, ₹ 2, ₹ 5, ₹ 10 and ₹ 20, cannot be exchanged for half value.

A mutilated banknote in denominations of ₹ 50, ₹ 100, ₹ 500 or ₹ 1000, can be exchanged for half value if,

The undivided area of the single largest piece of the note presented is equal to or more than 40 percent and less than or equal to 65 percent of the area of respective denomination, rounded off to the next complete square centimeter.

How much value would one get in exchange of imperfect banknotes?

The value of an imperfect note may be paid for full value / half value under rules as specified for mutilated notes if,

(i) the matter, which is printed on the note has not become totally illegible, and

(ii) it can be established that it is a genuine note.

What types of banknotes are not eligible for payment under the Note Refund Rules?

The following banknotes are not payable under the Reserve Bank of India (Note Refund) Rules 2009.

A banknote for which:

- the area of single largest undivided piece of note presented is less than or equal to 50% of area of the note for denominations of ₹ 1, ₹ 2, ₹ 5, ₹ 10 and ₹ 20.
- the area of the single largest undivided piece of the note is less than 40 percent for denominations of ₹ 50, ₹ 100, ₹ 500 or ₹ 1000.

A banknote which:

- cannot be identified with certainty as a genuine note for which the Bank is liable under the Act,
 - has been made imperfect or mutilated, thereby causing the note to appear to be of a higher denomination, or has been deliberately cut, torn, defaced, altered or dealt with in any other manner, not necessarily by the claimants, enabling the use of the same for making of a false claim under these rules or otherwise to defraud the Bank or the public,
- carries any extrinsic words or visible representations intended to convey or capable of conveying any message of a political or religious character or furthering the interest of any person or entity,
- has been imported into India by the claimant from any place outside India in contravention of the provision of any law.

Is the serial number used when assessing the value of a damaged banknotes

The presence or absence of a serial number or other specific feature is not a determining factor when assessing damaged banknotes for value.

What if a banknote is found to be non-payable?

Non-payable banknotes are retained by the receiving banks and sent to the Reserve Bank where they are destroyed.

Can Indian banknotes be obtained with specific serial numbers?

Issuing banknotes with specific numbers may not be possible.

How many languages appear in the language panel of Indian banknotes?

There are fifteen languages appearing in the language panel of banknotes in addition to Hindi prominently displayed in the centre of the note and English on the reverse of the banknote.

D) Banknotes since Independence.

i. Ashoka Pillar Banknotes:

The first banknote issued by independent India was the one rupee note issued in 1949. While retaining the same

designs the new banknotes were issued with the symbol of Lion Capital of Ashoka Pillar at Sarnath in the watermark window in place of the portrait of King George.

The name of the issuer, the denomination and the guarantee clause were printed in Hindi on the new banknotes from the year 1951. The banknotes in the denomination of ₹ 1000, ₹ 5000 and ₹ 10000 were issued in the year 1954. Banknotes in Ashoka Pillar watermark Series, in ₹ 10 denomination were issued between 1967 and 1992, ₹ 20 denomination in 1972 and 1975, ₹ 50 in 1975 and 1981, and ₹ 100 between 1967-1979. The banknotes issued during the above period, contained the symbols representing science and technology, progress, orientation to Indian Art forms. In the year 1980, the legend "Satyameva Jayate", i.e., truth alone shall prevail was incorporated under the national emblem for the first time. In October 1987, ₹ 500, banknote was introduced in October 1987 with the portrait of Mahatma Gandhi and the Ashoka Pillar watermark.

ii. Mahatma Gandhi (MG) Series 1996

The banknotes in MG Series – 1996 were issued in the denominations of ₹ 5, (introduced in November 2001) ₹ 10 (June 1996), ₹ 20 (August 2001), ₹ 50 (March 1997), ₹ 100 (June 1996), ₹ 500 (October 1997) and ₹ 1000 (November 2000). All the banknotes of this series bear the portrait of Mahatma Gandhi on the obverse (front) side, in place of symbol of Lion Capital of Ashoka Pillar, which has also been retained and shifted to the left side next to the watermark window. This means that these banknotes contain Mahatma Gandhi watermark as well as Mahatma Gandhi's portrait.

iii MG series – 2005 banknotes

MG series 2005 banknotes are issued in the denomination of ₹ 10, ₹ 20, ₹ 50, ₹ 100, ₹ 500 and ₹ 1000 and contain some additional / new security features as compared to the 1996 MG series. The ₹ 50 and ₹ 100 banknotes were issued in August 2005, followed by ₹ 500 and ₹ 1000 denominations in October 2005 and ₹ 10 and ₹ 20 in April 2006 and August 2006, respectively.

The security features in MG Series 2005 banknotes are as under:

i. Security Thread: The silver coloured machine-readable security thread in ₹ 10, ₹ 20 and ₹ 50 denomination banknotes is windowed on front side and fully embedded on reverse side. The thread fluoresces in yellow on both sides under ultraviolet light. The thread appears as a continuous line from behind when held up against light. ₹ 100, ₹ 500 and ₹ 1000 denomination banknotes have machine-readable windowed security thread with colour shift from green to blue when viewed from different angles. It fluoresces in yellow on the reverse and the text will fluoresce on the obverse under ultraviolet light. Other than on ₹ 1000 banknotes, the security thread contains the words 'Bharat' in the Devanagari script and 'RBI' appearing alternately. The security thread of the ₹ 1000 banknote contains the inscription 'Bharat' in the Devanagari script, '1000' and 'RBI'.

ii. Intaglio Printing: The portrait of Mahatma Gandhi, Reserve Bank seal, Guarantee and promise clause, Ashoka Pillar emblem, RBI's Governor's signature and the identification mark for the visually impaired persons are printed in improved intaglio.

iii. See through register: On the left side of the note next to the watermark window, half the numeral of each denomination (10, 20, 50, 100, 500 and 1000) is printed on the obverse (front) and half on the reverse. The accurate back to back registration makes the numeral appear as one when viewed against light.

iv. Water Mark and electrotpe watermark: The banknotes contain the portrait of Mahatma Gandhi in the watermark window with a light and shade effect and multi-directional lines. An electrotpe mark showing the denominational numeral 10, 20, 50, 100, 500 and 1000 respectively in each denomination banknote also appear in the watermark widow and these can be viewed better when the banknote is held against light.

v. Optically Variable Ink (OVI): The numeral 500 & 1000 on the ₹ 500 and ₹ 1000 banknotes are printed in

Optically Variable Ink viz., a colour-shifting ink. The colour of these numerals appears green when the banknotes are held flat but would change to blue when the banknotes are held at an angle.

vi. Fluorescence: The number panels of the banknotes are printed in fluorescent ink. The banknotes also have dual coloured optical fibres. Both can be seen when the banknotes are exposed to ultra-violet lamp.

v. Latent Image: In the banknotes of ₹ 20 and above, the vertical band next to the (right side) Mahatma Gandhi's portrait contains a latent image, showing the denominational value 20, 50, 100, 500 or 1000 as the case may be. The value can be seen only when the banknote is held horizontally and light allowed to fall on it at 45°; otherwise this feature appears only as a vertical band.

viii. Micro letterings: This feature appears between the vertical band and Mahatma Gandhi portrait. It contains the word 'RBI' in ₹ 10. Notes of ₹ 20 and above also contain the denominational value of the banknotes. This feature can be seen better under a magnifying glass.

Additional Features introduced in MG Series 2005 for ₹ 100, ₹ 500 and ₹ 1000 denomination banknotes are as under:

i. New Numbering Pattern

The numbers in both the number panel will increase from left to right while the first three alpha-numeric characters (prefix) will remain constant in size.

ii. Angular Bleed Lines and Bigger identification marks

Angular Bleed Lines have been introduced in banknotes - 4 lines in 2 blocks in ₹ 100, 5 lines in 3 blocks in ₹ 500 and 6 lines in 4 blocks in ₹ 1000 denominations and the identification mark in these notes has been enlarged by 50%.

How can one distinguish the MG series-2005 banknotes?

In addition to the security features listed above, the MG series -2005 banknotes have the year of printing on the reverse of the banknotes which is not present in the pre-2005 series.

What is the need for printing different series of banknotes?

Central banks the world over change the design of their banknotes and introduce new security features primarily to make counterfeiting difficult and to stay ahead of counterfeiters. India also follows the same policy.

E) Current Issues

Why are ₹ 2, ₹ 5 banknotes not being printed?

Even though volume-wise, the share of such small denomination banknotes in the total banknotes in circulation was high, in value terms they constituted a very small percentage with average life of less than one year. The cost of printing and servicing these banknotes being not commensurate with their life, printing of these banknotes was discontinued and these denominations were coined. However, ₹ 5 banknotes were re-introduced in 2001 to bridge the gap between demand and supply of coins in this denomination. The printing of ₹ 5 banknotes has been discontinued from the year 2005.

Has Reserve Bank of India considered producing a plastic banknote?

The Reserve Bank, in consultation with Government of India, has decided to conduct a field trial with one billion

pieces of ₹ 10 banknotes on plastic substrate.

What is a "star series" banknote?

Fresh banknotes issued by Reserve Bank of India till August 2006 were serially numbered. Each of these banknote bears a distinctive serial number along with a prefix consisting of numerals and letter/s. The banknotes are issued in packets containing 100 pieces.

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What is a counterfeit note?

A suspected counterfeit note, forged note, or fake note is any note which does not possess the characteristics of genuine Indian currency note.

How to check whether a note is genuine or not?

A forged note can be identified on the basis of the features which are present in a genuine Indian currency note. These features are easily identifiable by seeing, touching and tilting the note. It is advisable not to rely on just one security feature as no counterfeit note can normally be expected to successfully copy all of the security features included in notes. To read about how to check banknotes see the (link) <https://paisaboltahai.rbi.org.in/> What are the legal provisions relating to printing and circulation of counterfeit notes?

Counterfeiting notes using as genuine, forged or counterfeit notes / possession of forged or counterfeit banknote / making or possessing instruments or materials for forging or counterfeiting banknotes making or using documents resembling banknotes are offences under Sections 489A to 489E of the Indian Penal Code and are punishable in the Courts of Law by fine or imprisonment ranging from seven years to life imprisonment or both, depending on the offence.

Does possession of a forged note attract the punishment of fine or imprisonment?

Mere possession of a counterfeit note does not attract punishment. Possession of a counterfeit note knowing to be such and intending to use the same as genuine or that it may be used as genuine, is punishable under Section 489C of Indian Penal Code, 1860.

What are the actions taken by the Reserve Bank of India to train general public to distinguish genuine banknotes from forged notes?

The Reserve Bank of India has been organizing training sessions on the authentication of banknotes security features for people handling significant amounts of cash like banks/consumer forums/merchant associations/educational institutions/police professionals. Apart from the training sessions, information on security features of banknotes is also available on the Bank's website <https://paisaboltahai.rbi.org.in/>.

Why has RBI decided to withdraw pre-2005 series banknotes?

Reserve Bank of India decided to withdraw from circulation all banknotes issued prior to 2005 as they have fewer security features as compared to banknotes printed after 2005. It is a standard international practice to withdraw old series notes. The RBI has already been withdrawing these banknotes in a routine manner through banks. It is estimated that the volume of such banknotes (pre-2005) in circulation is not significant enough to impact the general public in a large way and the members of public may exchange the pre-2005 series banknotes at bank branches. The Reserve Bank of India has extended the date for the public to exchange their pre-2005 banknotes till December 31, 2015.

G) Clean Note Policy:

Reserve Bank of India has been continuously making efforts to make good quality banknotes available to the members of public. To help RBI and banking system, the members of public are requested to ensure the following:

- Not to staple the banknotes
- Not to write / put rubber stamp or any other mark on the banknotes
- Not to use banknotes for making garlands/toys, decorating pandals and places of worship or for showering on personalities in social events, etc.

Pre-2005 Series Banknotes

1. What are the pre-2005 series banknotes?

The RBI issued Mahatma Gandhi series (MG series) 2005 banknotes in the denomination of ` 10, ` 20, ` 50, `

100, ` 500 and ` 1000. These notes contain some additional / new security features as compared to the 1996 MG series. All banknotes issued before the 2005 MG series are called as pre-2005 series banknotes.

2. How can one distinguish the pre-2005 series banknotes?

Apart from the additional security features, the 2005 MG series banknotes have the year of printing on the reverse of the notes in the lower middle portion. Banknotes printed before 2005 do not have the year of printing on the reverse side and hence can be easily distinguished.

3. Why has RBI decided to withdraw pre-2005 series banknotes?

Reserve Bank of India decided to withdraw from circulation all banknotes issued prior to 2005 as they have fewer security features as compared to banknotes printed after 2005. The withdrawal exercise is in conformity with the standard international practice of not having multiple series of notes in circulation at the same time. The RBI has already been withdrawing these banknotes in a routine manner through banks. It is estimated that the volume of such banknotes (pre-2005) in circulation is not significant enough to impact the general public in a large way and the members of public may exchange the pre-2005 series banknotes at bank branches at their convenience.

4. Do the pre-2005 series banknotes cease to be legal tender?

The notes issued before 2005 shall continue to be legal tender. The notes are only being withdrawn from circulation and this withdrawal exercise is in conformity with the standard international practice of not having multiple series of notes in circulation at the same time.

5. Can the pre-2005 series banknotes be used for normal transactions?

Members of the public can continue to freely use these notes for their transactions and can unhesitatingly receive these notes in payment, as all such notes continue to remain legal tender.

6. Is there any time limit for exchanging these notes?

These notes can be freely exchanged at any bank branch till December 31, 2015. The procedure to be followed after December 31, 2015, shall be communicated by RBI in due course.

7. How is RBI ensuring that these notes are withdrawn from circulation?

Banks have been advised to stop re-issue of the pre-2005 series notes over the counters/through ATMs and they have been instructed to forward them to the Reserve Bank of India.

8. Is there any restriction on the number of pieces that can be exchanged?

No. There is no such restriction. Banks have been advised to freely exchange these notes till December 31, 2015.

9. Is it necessary to be a customer of the bank to exchange the pre-2005 series notes from its branches?

No. Banks have been advised to freely provide this exchange facility to all members of public, whether customer or non-customer.

10. Is it necessary to get cash in exchange or the amount can be credited in one's account?

It is not necessary to get cash in exchange for the pre-2005 notes. If a person desires, he can get the amount

credited in his bank account.

11. Is there any fee to be paid for the exchange facility?

No. The exchange facility is to be provided free of cost.

FOREIGN EXCHANGE

Exchange Earner's Foreign Currency (EEFC) Account

Q 1. What is an EEFC Account and what are its benefits?

Ans. Exchange Earners' Foreign Currency Account (EEFC) is an account maintained in foreign currency with an Authorised Dealer Category - I bank i.e. a bank authorized to deal in foreign exchange. It is a facility provided to the foreign exchange earners, including exporters, to credit 100 per cent of their foreign exchange earnings to the account, so that the account holders do not have to convert foreign exchange into Rupees and vice versa, thereby minimizing the transaction costs.

Q 2. Who can open an EEFC account?

Ans. All categories of foreign exchange earners, such as individuals, companies, etc., who are resident in India, may open EEFC accounts.

Q 3. What are the different types of EEFC accounts? Can interest be paid on these accounts?

Ans. An EEFC account can be held only in the form of a current account. No interest is payable on EEFC accounts.

Q 4. How much of one's foreign exchange earnings can be credited into an EEFC account?

Ans. 100% foreign exchange earnings can be credited to the EEFC account subject to the condition that the sum total of the accruals in the account during a calendar month should be converted into Rupees on or before the last day of the succeeding calendar month after adjusting for utilization of the balances for approved purposes or forward commitments.

Q 5. Whether EEFC Account can be opened by Special Economic Zone (SEZ) Units?

Ans. No, SEZ Units cannot open EEFC Accounts. However, a unit located in a Special Economic Zone can open a Foreign Currency Account with an Authorised Dealer in India subject to conditions stipulated in Regulation 4 (D) of Foreign Exchange Management (Foreign Currency Accounts by a person Resident in India) Regulations dated January 21, 2016.

Q 6. Is there any Cheque facility available?

Ans. Yes, Cheque facility is available for operation of the EEFC account.

Q 7. What are the permissible credits into this account?

Ans. i) Inward remittance through normal banking channels, other than remittances received on account of foreign currency loan or investment received from abroad or received for meeting specific obligations by the account holder;

ii) Payments received in foreign exchange by a 100 per cent Export Oriented Unit or a unit in (a) Export Processing Zone or (b) Software Technology Park or (c) Electronic Hardware Technology Park for supply of goods to similar such units or to a unit in Domestic Tariff Area;

iii) Payments received in foreign exchange by a unit in the Domestic Tariff Area for supply of goods to a unit in the Special Economic Zone (SEZ);

iv) Payment received by an exporter from an account maintained with an authorised dealer for the purpose of counter trade. (Counter trade is an arrangement involving adjustment of value of goods imported into India against value of goods exported from India in terms of the Reserve Bank guidelines);

v) Advance remittance received by an exporter towards export of goods or services;

vi) Payment received for export of goods and services from India, out of funds representing repayment of State Credit in U.S. Dollar held in the account of Bank for Foreign Economic Affairs, Moscow, with an authorised dealer in India;

vii) Professional earnings including directors' fee, consultancy fee, lecture fee, honorarium and similar other earnings received by a professional by rendering services in his individual capacity;

viii) Re-credit of unutilised foreign currency earlier withdrawn from the account;

ix) Amount representing repayment by the account holder's importer customer in respect of trade related loan/advances granted by the exporter (subject to compliance with the extant guidelines) holding EEFC account; and

x) The disinvestment proceeds received by the resident account holder on conversion of shares held by him to ADRs/GDRs under the Sponsored ADR/GDR Scheme approved by the Foreign Investment Promotion Board of the Government of India.

Q 8. Can foreign exchange earnings received through an international credit card be credited to the EEFC account?

Ans. Yes, foreign exchange earnings received through an international credit card for which reimbursement has been made in foreign exchange may be regarded as remittance through normal banking channel and the same can be credited to the EEFC account.

Q 9. What are the permissible debits into this account?

Ans. i) Payment outside India towards a permissible current account transaction [in accordance with the provisions of the Foreign Exchange Management (Current Account Transactions) Rules, 2000] and permissible capital account transaction [in accordance with the Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2000].

ii) Payment in foreign exchange towards cost of goods purchased from a 100 percent Export Oriented Unit or a Unit in (a) Export Processing Zone or (b) Software Technology Park or (c) Electronic Hardware Technology

Park

iii) Payment of customs duty in accordance with the provisions of the Foreign Trade Policy of the Central Government for the time being in force.

iv) Trade related loans/advances, extended by an exporter holding such account to his importer customer outside India, subject to compliance with the Foreign Exchange Management (Borrowing and Lending in Foreign Exchange) Regulations, 2000.

v) Payment in foreign exchange to a person resident in India for supply of goods/services including payments for airfare and hotel expenditure.

Q 10. Is there any restriction on withdrawal in rupees of funds held in an EEFC account?

Ans. No, there is no restriction on withdrawal in Rupees of funds held in an EEFC account. However, the amount withdrawn in Rupees shall not be eligible for conversion into foreign currency and for re-credit to the account.

Q 11. Whether the EEFC balances can be covered against exchange risk?

Ans. Yes, the EEFC account balances can be hedged. The balances in the account sold forward by the account holders have to remain earmarked for delivery. However, the contracts can be rolled over.

Q 12. Whether EEFC Account is permitted to be held jointly with a resident relative?

Ans : Resident individuals are permitted to include resident relative(s) [as defined in section 2(77) of the Companies Act, 2013] as joint holder(s) in their EEFC account o

Overseas Direct Investments

(Updated upto June 10, 2016)

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58. Whether foreclosure / closure of an existing guarantee is to be reported to RBI by the AD bank / Indian party?
59. Whether the provisions of Regulation 4 (1) (iii) of Notification No. FEMA 3/2000-RB dated May 03, 2000 as amended, is applicable to the Authorised Dealer bank branch situated outside India for extending credit facilities in foreign currency to a wholly owned subsidiary abroad or a joint venture abroad of an Indian entity?
60. If the group company of an Indian Party is under investigation whether that Indian Party can undertake ODI transaction under automatic route?

1. Q Where are the guidelines pertaining to overseas direct investments available and how to get clarifications pertaining to the guidelines on overseas investment?

Ans The guidelines have been notified by the Reserve Bank of India vide [Notification No. FEMA 120/RB-2004 dated July 7, 2004](#), as amended from time to time, which can be accessed at the Reserve Bank's website <http://www.rbi.org.in/scripts/Fema.aspx>. A Master Direction titled 'Master Direction on Direct Investment by Residents in Joint Venture (JV) / Wholly Owned Subsidiary (WOS) Abroad'. The Master Directions consolidate instructions on rules and regulations framed by the Reserve Bank under various Acts including banking issues and foreign exchange transactions and is available at 'Notification' Section on RBI's website <https://www.rbi.org.in>.

Any further clarifications in respect of cases not covered by the instructions may be obtained, giving full details of the case, from the Central Office of the Reserve Bank at the following address:

The Chief General Manager

Reserve Bank of India
Foreign Exchange Department
Overseas Investment Division
Central Office, Amar Building, 5th Floor
Mumbai 400 001. or by e-mail

2. Q What is direct investment outside India?

Ans Direct investment outside India means investments, either under the Automatic Route or the Approval Route, by way of contribution to the capital or subscription to the Memorandum of a foreign entity or by way of purchase of existing shares of a foreign entity either by market purchase or private placement or through stock exchange, signifying a long-term interest in the foreign entity (JV or WOS).

This is different from portfolio investment which is explained in answer to Q. 44.

3. Q What are the general permissions available to persons (individual) resident in India for purchase / acquisition of securities abroad?

Ans General permission has been granted to persons (individual) resident in India for purchase / acquisition of securities as under:

- Out of funds held in the RFC account;
- As bonus shares on existing holding of foreign currency shares;
- When not permanently resident in India, from the foreign currency resources outside India.

General permission is also available to sell the shares so purchased or acquired.

A resident Indian can remit, up to the limit prescribed by the Reserve Bank from time to time, per financial year under the Liberalised Remittance Scheme (LRS), for permitted current and capital account transactions including purchase of securities and also setting up/acquisition of JV/WOS overseas with effect from August 5, 2013 (vide Notification No. 263).

4. Q Can overseas direct investment be made in any activity? What are the prohibited activities for overseas direct investment?

Ans An Indian Party can make overseas direct investment in any bonafide activity.

Real estate as defined in [Notification No. FEMA 120/RB-2004 dated July 7, 2004](#) and banking business are the prohibited sectors for overseas direct investment. Real estate business means buying and selling of real estate or trading in Transferable Development Rights (TDRs) but does not include development of townships, construction of residential/commercial premises, roads or bridges.

However, Indian banks operating in India can set up JVs/WOSs abroad provided they obtain clearance under the Banking Regulation Act, 1949, from the Department of Banking Regulation (DBR), CO, RBI.

An overseas JV / WOS, having direct or indirect equity participation by an Indian party, shall not offer financial products linked to Indian Rupee (e.g. non-deliverable trades involving foreign currency, rupee exchange rates, stock indices linked to Indian market, etc.) without the specific approval of the Reserve Bank. Any incidence of such product facilitation would be treated as a contravention of the extant FEMA regulations and would consequently attract action under the relevant provisions of FEMA, 1999.

It may be noted that, for undertaking activities in the financial services sector, certain additional conditions as specified in Regulation 7 of the Notification ibid should be adhered to. Please refer answer to Q.32.

5. Q What is JV and WOS?

Ans "Joint Venture (JV)" / "Wholly Owned Subsidiary (WOS)" means a foreign entity formed, registered or incorporated in accordance with the laws and regulations of the host country in which the Indian party makes a direct investment;

A foreign entity is termed as JV of the Indian Party when there are other foreign promoters holding the stake along with the Indian Party. In case of WOS entire capital is held by the one or more Indian Company

6. Q What is Automatic Route and Approval Route?

Ans Under the Automatic Route, an Indian Party does not require any prior approval from the Reserve Bank for making overseas direct investments in a JV/WOS abroad. The Indian Party should approach an Authorized Dealer Category – I bank with an application in Form ODI and the prescribed enclosures / documents for effecting the remittances towards such investments. However, in case of investment in the financial services sector, prior approval is required from the regulatory authority concerned, both in India and abroad.

Form ODI is available as an Annex to the Master Direction titled 'Master Direction on Reporting under Foreign Exchange Management Act'.

Proposals not covered by the conditions under the automatic route require prior approval of the Reserve Bank for which a specific application in Form ODI with the documents prescribed therein is required to be made through the Authorized Dealer Category – I banks.

7. Q How to forward the proposal for making Overseas Direct Investment (ODI) under approval route?

Ans The applicant should approach their designated Authorized Dealer (AD) with the proposal which shall be submitted to Reserve Bank after due scrutiny and with the specific recommendations of the designated AD bank along with supporting documents (as mentioned below) to the following address:

The Reserve Bank of India,
Chief Bank Exchange Department,
General of Investment Division,
Manager, India, Department, Division,
Sir P. M. 5th Floor,
Mumbai 400001. Road, Fort,

The designated AD before forwarding the proposal should submit the Form ODI in the on-line OID application under approval route and the transaction number generated by the application should be mentioned in the letter.

In case the proposal is approved, the AD bank should effect the remittance under advice to Reserve Bank so that the UIN is allotted.

For approval by Reserve Bank, following documents need to be submitted along with Section D and Section E of Form ODI - Part I by the designated Authorized Dealer:

a) A letter from the designated AD of the IP in a sealed cover mentioning the following details:

- Transaction number generated by the OID application.
- Brief details of the Indian entity.
- Brief details of the overseas entity.
- Background of the proposal, if any.
- Brief details of the transaction.
- Reason/s for seeking approval mentioning the extant FEMA provisions.
- Observations of the designated AD bank with respect to the following:
 - Prima facie viability of the JV/ WOS outside India;
 - Contribution to external trade and other benefits which will accrue to India through such investment;
 - Financial position and business track record of the IP and the foreign entity;

- Expertise and experience of the IP in the same or related line of activity of the JV/ WOS outside India.
- Recommendations of the designated AD bank.

b) A letter from the IP addressed to the designated AD bank.

c) Board resolution for the proposed transaction/s.

d) Diagrammatic representation of the organisational structure indicating all the subsidiaries of the IP horizontally and vertically with their stake (direct & indirect) and status (whether operating company or SPV).

e) Incorporation certificate and the valuation certificate for the overseas entity (if applicable).

f) Other relevant documents properly numbered, indexed and flagged.

8. Q What is the concept of a 'designated Authorised Dealer'? Can there be more than one 'designated Authorised Dealer' for the same JV/WOS in case the JV/WOS has more than one Indian promoter? What if one Indian promoter has more than one JV in either the same country or in different countries?

Ans The Indian party/ Resident Individual is required to route all transactions in respect of a particular overseas JV/WOS only through one branch of an Authorized Dealer. This branch would be the 'designated Authorised Dealer' in respect of that JV/WOS and all transactions and communications relating to the investment in that particular JV/WOS are to be reported only through this 'designated' branch of an Authorized Dealer. In case the JV/WOS is being set up abroad by two or more Indian promoters, then all Indian promoters collectively called the Indian party and the Resident Individual, would be required to route all transactions in respect of that JV/WOS only through one 'designated Authorised Dealer'. In case the Indian Party/ Resident Individual wants to switch over to another AD, an application by way of a letter may be made to the Reserve Bank after obtaining an NOC from the existing Authorized Dealer.

The Indian promoters are free to designate different branches of the same Authorised Dealer or branches of other Authorised Dealers for their separate JVs/WOSs. The only requirement is that regardless of the number of promoters, one JV/WOS will have only one 'designated Authorised Dealer' to route all its transactions.

9. Q What are the other ODI transactions that require RBI approval?

Ans Some of the proposals which require prior approval are:

i) Overseas Investments in the energy and natural resources sector exceeding the prescribed limit of the net worth of the Indian companies as on the date of the last audited balance sheet;

ii) Investments in Overseas Unincorporated entities in the oil sector by resident corporates exceeding the prescribed limit of their net worth as on the date of the last audited balance sheet, provided the proposal has been approved by the competent authority and is duly supported by a certified copy of the Board Resolution approving such investment. However, Navaratna Public Sector Undertakings, ONGC Videsh Ltd and Oil India Ltd are allowed to invest in overseas unincorporated / incorporated entities in oil sector (i.e. for exploration and drilling for oil and natural gas, etc.), which are duly approved by the Government of India, without any limits, under the automatic route;

iii) Overseas Investments by proprietorship concerns and unregistered partnership firms satisfying certain eligibility criteria;

iv) Investments by Registered Trusts / Societies (satisfying certain eligibility criteria) engaged in the manufacturing / educational / hospital sector in the same sector in a JV / WOS outside India;

v) Corporate guarantee by the Indian Party to second and subsequent level of Step Down Subsidiary (SDS);

vi) All other forms of guarantee which is offered by the Indian Party to its first and subsequent level of SDS;

vii) Restructuring of the balance sheet of JV/WOS involving write-off of capital and receivables in the books of listed/ unlisted Indian Company satisfying certain eligibility criteria mentioned under Regulation 16A of notification *ibid*;

viii) Capitalization of export proceeds remaining unrealized beyond the prescribed period of realization will require the prior approval of the Reserve Bank; and

ix) Proposals from the Indian party for undertaking financial commitment without equity contribution in JV / WOS may be considered by the Reserve Bank under the approval route based on the business requirement of the Indian Party and legal requirement of the host country in which JV/WOS is located.

10. Q Who are eligible to make overseas direct investment under the Automatic Route? Who is an "Indian Party"?

Ans An Indian Party is eligible to make overseas direct investment under the Automatic Route. An Indian Party is a company incorporated in India or a body created under an Act of Parliament or a partnership firm registered under the Indian Partnership Act 1932 or a Limited Liability Partnership (LLP) incorporated under the LLP Act, 2008 and any other entity in India as may be notified by the Reserve Bank. When more than one such company, body or entity makes investment in the foreign JV / WOS, such combination will also form an "Indian Party".

11. Q What are the limits and requirements for overseas direct investment to be made under the Automatic Route?

Ans The criteria for overseas direct investment under the Automatic Route is as under:

i. The Indian Party can invest up to the prescribed limit of its net worth (as per the last audited Balance Sheet) in JV / WOS for any bonafide activity permitted as per the law of the host country. The prescribed limit vis-a-vis the net worth will not be applicable where the investment is made out of balances held in the EEFC account of the Indian party or out of funds raised through ADRs/GDRs;

ii. The Indian Party is not on the Reserve Bank's exporters' caution list / list of defaulters to the banking system published/ circulated by the Credit Information Bureau of India Ltd. (CIBIL) /RBI or any other credit information company as approved by the Reserve Bank or under investigation by the Directorate of Enforcement or any investigative agency or regulatory authority; and

iii. The Indian Party routes all the transactions relating to the investment in a JV/WOS through only one branch of an authorised dealer to be designated by the Indian Party.

12. Q Are overseas investments freely allowed in all the countries and are there any restrictions regarding the currency of investment?

Ans Investment in Pakistan is allowed under the approval route. Investments in Nepal can be only in Indian Rupees. Investments in Bhutan are allowed in Indian Rupees and in freely convertible currencies.

13. Q What is the procedure to be followed by an Indian party to make overseas direct investment in a JV/WOS under the Automatic Route?

Ans The Indian Party intending to make overseas direct investment under the automatic route is required to fill up form ODI duly supported by the documents listed therein, i.e., certified copy of the Board Resolution, Statutory Auditors certificate and Valuation report (in case of acquisition of an existing company) as per the valuation norms listed in answer to [Q.31](#) and approach an Authorized Dealer (designated Authorized Dealer) for making the investment/remittance.

14. Q Is prior registration with the Reserve Bank necessary for direct investments under the Automatic Route?

Ans Per se no prior registration with the Reserve Bank is necessary for making direct investments under the automatic route. After the online report of the first remittance / investment in Form ODI for a JV / WOS in terms of [A.P. \(DIR Series\) Circular No.62 dated April 13, 2016](#), a Unique Identification Number (UIN) for that particular JV/WOS is generated automatically and instantaneously. Subsequent investments in the same JV / WOS can be made only after allotment of the UIN.

15.Q Where does one find the Form ODI?

Ans Form ODI is available as an Annex to the Master Direction titled 'Master Direction on Reporting under Foreign Exchange Management Act'.

With effect from April 13, 2016 Authorized Dealers Category – I banks have to file the revised ODI forms on-line in the Overseas Direct Investment Application with the Reserve Bank for allotment of UIN, reporting of subsequent remittances, filing of APRs, etc.. The revised procedure for submission of ODI forms has been issued vide [A.P. \(DIR Series\) Circular No.62 dated April 13, 2016](#).

AD Category –I banks would continue to receive the ODI forms as also documents related to the post investment changes in the physical form from the Indian Party. These should be preserved UIN wise, for submission to the Reserve Bank, if and when specifically required.

16.Q Does the allotment of UIN by the Reserve Bank for direct investments under the automatic route constitute an approval from the Reserve Bank?

Ans No, the allotment of UIN does not constitute an approval from the Reserve Bank for the investment made/to be made in the JV/WOS. The issue of UIN only signifies taking on record of the investment for maintaining the database. The onus of complying with the provisions of FEMA regulations rests with the AD bank and / or the Indian party.

Further, with effect from June 01, 2012 an auto generated e-mail, giving the details of UIN allotted to the JV / WOS under the automatic route, is forwarded to the AD / Indian party as confirmation of allotment of UIN, and no separate letter is issued by the Reserve Bank to the Indian party and AD Category - I bank confirming the allotment of UIN.

17.Q Does the definition of Overseas Direct Investment also mean that one can acquire an existing company either partially or wholly?

Ans An eligible Indian party is free to acquire either a partial stake (JV) or the entire stake (WOS) in an already existing entity overseas, provided the valuation is as per the laid down norms. Please also see [Q No. 31](#).

18.Q What is 'financial commitment'?

Ans Financial commitment means the amount of direct investments outside India by an Indian Party -

- i. by way of contribution to equity shares or CCPS of the JV / WOS abroad
- ii. contribution to the JV / WOS as preference shares (for reporting purpose to be treated as loan)
- iii. as loans to its the JV / WOS abroad
- iv. 100% of the amount of corporate guarantee issued on behalf of its overseas JV/WOS and
- v. 50% of the amount of performance guarantee issued on behalf of its overseas JV/WOS.
- vi. bank guarantee/standby letter of credit issued by a resident bank on behalf of an overseas JV / WOS of the Indian party, which is backed by a counter guarantee / collateral by the Indian party
- vii. amount of fund/ non fund based credit facility availed by creation of charge (pledge / mortgage / hypothecation) on the movable / immovable property or other financial assets of the Indian party / its

group companies

(Note: The amount and period of the guarantee should be specified upfront).

19.Q What are the permissible sources for funding overseas direct investment?

Ans Funding for overseas direct investment can be made by one or more of the following sources:

- i. Drawal of foreign exchange from an AD bank in India.
- ii. Swap of shares (refers to the acquisition of the shares of an overseas JV / WOS by way of exchange of the shares of the Indian party).
- iii. Capitalization of exports and other dues and entitlements.
- iv. Proceeds of External Commercial Borrowings / Foreign Currency Convertible Bonds.
- v. In exchange of ADRs / GDRs issued in accordance with the Scheme for issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 and the guidelines issued by Government of India in the matter.
- vi. Balances held in Exchange Earners Foreign Currency account of the Indian Party maintained with an Authorized Dealer.
- vii. Proceeds of foreign currency funds raised through ADR / GDR issues.

20.Q Can an Indian party issue performance guarantee in favour of overseas JV/WOS?

Ans Yes, the Indian party is permitted to issue performance guarantee and 50 per cent of the amount of the performance guarantees will be reckoned for the purpose of computing financial commitment to its JV/WOS overseas which should be within the limit prescribed by the Reserve Bank from time to time. Further, the time specified for the completion of the contract will be the validity period of the related performance guarantee. In cases where invocation of the performance guarantee breach the limit of the prescribed financial commitment, the Indian Party is required to seek prior approval of the Reserve Bank before remitting funds from India, on account of such invocation.

21.Q Can an Indian party issue corporate guarantee on behalf of its second generation subsidiary abroad?

Ans Under the Approval Route the Indian party is permitted, to issue corporate guarantee on behalf of second generation or subsequent level step down operating subsidiaries, provided the Indian Party indirectly holds 51 per cent or more stake in the overseas second level step down operating subsidiary for which such guarantee is intended to be issued.

22.Q Can individual indirect promoters of the Indian Party issue personal guarantee to an overseas lender on behalf of the JV/WOS under general permission?

Ans With effect from March 28, 2012, issuance of personal guarantee by the promoters of the Indian Party currently allowed under the General Permission has also been extended to the indirect resident individual promoters of the Indian Party with same stipulations as in the case of personal guarantee by the direct promoters.

23.Q Can open ended corporate guarantees be extended by an India party on behalf of its overseas subsidiary?

Ans As per [A.P. \(DIR Series\) Circular No. 29 dated March 27, 2006](#), no guarantee can be open ended.

24.Q Whether the rollover of guarantee, which has already been issued on behalf of the overseas JV / WOS / step down subsidiary, may be allowed under the automatic route wherein there is change in the end use of the facility or the overseas lender or the coupon (interest) rate or the amount?

Ans No, as on date, a guarantee, which has been issued on behalf of the overseas JV / WOS / step down subsidiary, may be allowed to be rolled over under the automatic route without subjecting the rollover to FEMA compliance afresh, provided only the validity period of the existing guarantee is undergoing change. Any change in the end use of guarantee or overseas lender or rate of interest or amount or any other terms and conditions of the guarantee shall subject the rollover of guarantee to the extant FEMA

compliance afresh.

25.Q Whether such rollover of guarantee is to be reported to RBI afresh or existing reporting will suffice?

Ans No, the rollover of existing guarantee is to be reported online afresh by the AD bank with the revised validity date.

26.Q What are the obligations of the Indian party, which has made direct investment outside India?

Ans An Indian Party will have to comply with the following: -

i. receive share certificates or any other documentary evidence of investment in the foreign JV / WOS as an evidence of investment and submit the same to the designated AD within 6 months;

ii. repatriate to India, all dues receivable from the foreign JV / WOS, like dividend, royalty, technical fees etc.;

iii. submit to the Reserve Bank through the designated Authorized Dealer, every year, an Annual Performance Report in Part III of Form ODI in respect of each JV or WOS outside India set up or acquired by the Indian party. Revised Instructions for APR filing has been issued vide [A.P. \(DIR Series\) Circular No.61 dated April 13, 2016](#).

iv. report the details of the decisions taken by a JV/WOS regarding diversification of its activities /setting up of step down subsidiaries/alteration in its share holding pattern within 30 days of the approval of those decisions by the competent authority concerned of such JV/WOS in terms of the local laws of the host country. These are also to be included in the relevant Annual Performance Report; and

v. in case of disinvestment, sale proceeds of shares/securities shall be repatriated to India immediately on receipt thereof and in any case not later than 90 days from the date of sale of the shares /securities and documentary evidence to this effect shall be submitted to the Reserve Bank through the designated Authorised Dealer.

27.Q Is it mandatory to furnish Annual Performance Reports (APR) of the overseas JV/WOS based on its audited financial statements?

Ans An Indian Party (IP) / Resident Individual (RI) which has made an Overseas Direct Investment (ODI) has to submit an Annual Performance Report (APR) in Form ODI Part III to the Reserve Bank by 30th of June every year in respect of each Joint Venture (JV) / Wholly Owned Subsidiary (WOS) outside India set up or acquired by the IP / RI as prescribed under Regulation 15 of FEMA Notification, *ibid*).

With effect from April 13, 2016, the AD bank, before undertaking / facilitating any ODI related transaction on behalf of the eligible applicant, should necessarily check with its nodal office to confirm that all APRs in respect of all the JV / WOS of the applicant have been submitted. Further, certification of APRs by the Statutory Auditor or Chartered Accountant may not be insisted upon in the case of Resident Individuals. Self-certification may be accepted.

With effect from April 13, 2016, where multiple IPs / RIs have invested in the same overseas JV / WOS, the obligation to submit APR shall lie with the IP / RI having maximum stake in the JV / WOS. Alternatively, the IPs / RIs holding stake in the overseas JV / WOS may mutually agree to assign the responsibility for APR submission to a designated entity which may acknowledge its obligation to submit the APR in terms of Regulation 15 (iii) of Notification, *ibid*, by furnishing an appropriate undertaking to the AD bank.

Where the law of the host country does not mandatorily require auditing of the books of accounts of JV / WOS, the Annual Performance Report (APR) may be submitted by the Indian party based on the un-audited annual accounts of the JV / WOS provided:

a) The Statutory Auditor of the Indian party certifies that 'The un-audited annual accounts of the JV /

WOS reflect the true and fair picture of the affairs of the JV / WOS' and

b) That the un-audited annual accounts of the JV / WOS has been adopted and ratified by the Board of the Indian party.

28.Q What are the penalties for non-submission of Annual Performance Reports (APRs)?

Ans Delayed submission/ non-submission of APRs entail penal measures, as prescribed under FEMA 1999, against the defaulting Indian Party.

29.Q Can one freely create a pledge/mortgage/hypothecation/charge on immovable/movable property or other financial assets of Indian party/group companies in favour of a non- resident?

Ans Creation of charge on domestic/ overseas assets in favor of overseas / domestic lender shall be undertaken as per [A.P. \(DIR Series\) Circular No.54 dated December 29, 2014](#).

30.Q Can the shares of a JV/WOS abroad be pledged for the purpose of financial assistance?

Ans The shares of a JV/WOS can be pledged by an Indian Party as a security for availing fund based or non-fund based facility for itself or for the JV/WOS, from an authorised dealer/ public financial institution in India or from an overseas lender, provided the overseas lender is regulated and supervised as a bank and the total financial commitments of the Indian party remains within the limit stipulated by the Reserve Bank for overseas investment from time to time.

31.Q What are the valuation norms referred to in Q. 17 and Q. 13?

Ans In case of partial / full acquisition of an existing foreign company where the investment is more than USD five million, share valuation of the company has to be done by a Category I Merchant Banker registered with the Securities and Exchange Board of India (SEBI) or an Investment Banker/ Merchant Banker outside India registered with the appropriate regulatory authority in the host country and in all other cases by a Chartered Accountant/ Certified Public Accountant.

However, in the case of investment by acquisition of shares where the consideration is to be paid fully or partly by issue of the Indian Party's shares (swap of shares), irrespective of the amount, the valuation will have to be done by a Category I Merchant Banker registered with SEBI or an Investment Banker/ Merchant Banker outside India registered with the appropriate regulatory authority in the host country.

In case of additional overseas direct investments by the Indian party in its JV / WOS, whether at premium or discount or face value, the concept of valuation, as indicated above, shall be applicable.

32.Q (a) Can any Indian company make investment in a JV/WOS abroad in the financial services sector?

Ans Only an Indian company engaged in financial services sector activities can make investment in a JV/WOS abroad in the financial services sector, provided it fulfills the following additional conditions:

i. has earned net profit during the preceding three financial years from the financial services activities;

ii. is registered with the appropriate regulatory authority in India for conducting financial services activities;

iii. has obtained approval for undertaking such activities from the regulatory authorities concerned both in India and abroad before venturing into such financial activity;

iv. has fulfilled the prudential norms relating to capital adequacy as prescribed by the regulatory authority concerned in India; and

Any additional investment by an existing JV / WOS or its step down subsidiary in the financial services sector is also required to comply with the above conditions.

b) Can an Indian company in the financial services sector make investment in a JV/WOS abroad in the non-financial services sector?

Regulated entities engaged in financial services sector activities in India making investment in non-financial services activities overseas are also required to comply with the additional conditions mentioned above.

c) Can an Indian company set up JV / WOS for trading in Overseas Commodities Exchanges?

Trading in Commodities Exchanges overseas and setting up of JV / WOS for trading in Overseas Commodities Exchanges will be reckoned as financial services activity and will require clearance from the Forward Markets Commission (FMC). The FMC has put in place guidelines for allowing FMC registered members of Commodity Exchanges to undertake commodity related activities abroad. Indian entities desirous of setting up of JV / WOS overseas for trading in overseas commodities exchanges may, therefore, approach the FMC for regulatory clearance.

33.Q Can an Indian Party utilise the net worth of its Indian subsidiary / holding company for investing in a JV/WOS abroad?

AnsAn Indian Party can utilize the network of its Indian subsidiary/holding company to the extent not availed of by the holding company or the subsidiary company independently subject to :

a) Holding company holds at least 51% direct stake in the Indian Party.

b) The Indian party holds at least 51% direct stake in its subsidiary company

c) The holding or subsidiary company furnishes a letter of disclaimer for the same in favour of the Indian Party.

This facility is not available to / from partnership firms.

34.Q Can an Indian Party capitalise the proceeds of the exports to its overseas JV / WOS?

AnsYes, an Indian Party is permitted to capitalise the payments due from the foreign JV / WOS towards exports, fees, royalties or any other dues from the foreign JV / WOS for supply of technical know-how, consultancy, managerial and other services within the ceilings applicable.

Capitalisation of export proceeds remaining unrealised beyond the prescribed period of realisation will require the prior approval of the Reserve Bank.

Indian software exporters are permitted to receive 25% of the value of their exports to an overseas software start-up company in the form of shares without entering into Joint venture Agreements, with the prior approval of the Reserve Bank.

35.Q Can an Indian Party extend loan or guarantee to an overseas entity without any equity participation in that entity?

AnsNo.

(i) Loan and guarantee can be extended to an overseas entity only if there is already an existing equity / CCPS participation by way of direct investment.

However, based on the business requirement of the Indian Party and legal requirement of the host country in which JV/WOS is located, proposals from the Indian party for undertaking financial commitment without equity contribution in JV / WOS may be considered by the Reserve Bank under the approval route.

In case, however, the overseas entity is a first level step down operating subsidiary of the Indian party, guarantee may be issued by the Indian party on behalf of such step down operating subsidiary provided such guarantee is reckoned for the purpose of computing the total financial commitment of the Indian party.

In case, the overseas entity is a second or subsequent level step down operating subsidiary of the Indian party, guarantee may be issued by the Indian party on behalf of such step down operating subsidiary with prior approval of the Reserve Bank provided such Indian party holds indirect stake of not less 51% in the step down operating subsidiary and guarantee is reckoned for the purpose of computing the financial commitment of the Indian party.

ii) Eligible Indian companies are allowed to participate in a consortium with other international operators to construct and maintain submarine cable systems on co-ownership basis under the automatic route.

36.Q How are Compulsorily Convertible Preference Shares (CCPS) to be treated for the purpose of Overseas Direct Investment?

AnsWith effect from March 28, 2012, Compulsorily Convertible Preference Shares (CCPS) are treated at par with equity shares and the Indian party is allowed to undertake financial commitment based on the exposure to JV by way of CCPS.

37.Q What is the requirement for direct investment in an overseas concern by way of share swap?

AnsDirect investment outside India in a JV/WOS can be made by way of share swap arrangement. The share swap should be undertaken as per the regulation prescribed under [FEMA Notification No 20 dated May 3, 2000](#).

38.Q What are the permitted activities that partnership firms can undertake through overseas direct investment route?

AnsPartnership firms registered under the Indian Partnership Act, 1932 can make overseas direct investments subject to the same terms and conditions as applicable to corporate entities.

39.Q Can the partners of a partnership firm hold shares of the overseas JV / WOS for and on behalf of the firm?

AnsIndividual partners can hold shares for and on behalf of the partnership firm in an overseas JV/WOS, where the entire funding for the investments has been done by the firm and further provided that the host country regulations or operational requirements warrant such holding.

40.Q Are there any restrictions for setting up of a second generation company? Can such step down subsidiaries be set up under the Automatic Route?

AnsThere are no restrictions on entities having JVs/WOSs abroad setting up second generation operating companies (step-down subsidiaries) within the overall limits applicable for investments under the Automatic Route. However, companies wishing to set up step-down operating subsidiaries to undertake financial sector activities will have to comply with the additional requirements for direct investment in the financial services sector as indicated in [Q 32](#).

41.Q Can an Indian Party have a JV/WOS through a Special Purpose Vehicle (SPV) under the Automatic Route?

AnsYes, direct investment through the medium of a SPV is permitted under the Automatic Route, for the sole purpose of investment in JV/WOS overseas.

42.Q Can an Indian Party directly fund such step- down subsidiaries?

AnsWhere the JV/WOS has been established through a SPV, all funding to the operating step down subsidiary should be routed through the SPV only. However, in the case of guarantees to be given on behalf of the first level step down operating subsidiary, these can be given directly by the Indian Party provided such exposures are within the permissible financial commitment of the Indian Party.

43.Q Can a resident individual in India acquire/sell foreign securities without prior approval of the Reserve Bank?

AnsPlease see answer to [Q.3](#) also.

Resident individuals can acquire/sell foreign securities without prior approval in the following cases: -

i. as a gift from a person resident outside India;

ii. by way of ESOPs issued by a company incorporated outside India under Cashless Employees Stock

Option Scheme which does not involve any remittance from India;

iii. by way of ESOPs issued to an employee or a director of Indian office or branch of a foreign company or of a subsidiary in India of a foreign company or of an Indian company irrespective of the percentage of the direct or indirect equity stake in the Indian company;

iv. as inheritance from a person whether resident in or outside India;

v. by purchase of foreign securities out of funds held in the Resident Foreign Currency Account maintained in accordance with the Foreign Exchange Management (Foreign Currency Account) Regulations, 2000; and

vi. by way of bonus/rights shares on the foreign securities already held by them.

44.Q Can Indian corporates invest overseas other than by way of direct investment?

Ans Yes, listed Indian companies can invest up to 50% of their net worth as on the date of the last audited Balance Sheet in overseas companies, listed on a recognized stock exchange, or in the rated debt securities issued by such companies.

45.Q Can a resident individual acquire shares of a foreign company in his capacity as Director?

Ans Yes, Reserve Bank has given General Permission to a resident individual to acquire foreign securities to the extent of the minimum number of qualification shares required to be held for holding the post of Director. Accordingly, resident individuals are permitted to remit funds under general permission for acquiring qualification shares for holding the post of a Director in the overseas company to the extent prescribed as per the law of the host country where the company is located and the limit of remittance for acquiring such qualification shares shall be within the overall ceiling prescribed for the resident individuals under the Liberalized Remittance Scheme (LRS) in force at the time of acquisition.

The qualification shares held by the resident director should be reported in the capital structure of the JV/ WOS. The type of the Indian entity should be selected as "other Indian entity".

46.Q Can resident individuals acquire shares of a foreign entity in lieu of the professional services rendered by them or in lieu of Director's remuneration under the General Permission?

Ans Resident individuals are allowed under General Permission to acquire shares of a foreign entity in part / full consideration of professional services rendered to the foreign entity or in lieu of Director's remuneration. The limit of acquiring such shares in terms of value shall be within the overall ceiling prescribed for the resident individuals under the Liberalized Remittance Scheme (LRS) in force at the time of acquisition.

47.Q Can a resident individual subscribe to the rights issue of shares held by him?

Ans Yes, a resident individual may acquire foreign securities by way of rights shares issued by a company incorporated outside India provided the existing shares were held in accordance with the provisions of FEMA.

48.Q Are there any relaxations for individual employees/Directors of an Indian company engaged in the field of software for acquisition of shares in their JV/WOS abroad?

Ans General permission is available for the individual employees/Directors of an Indian promoter company engaged in the field of software for acquisition of shares of a JV/WOS abroad provided:

i. the consideration for purchase does not exceed the ceiling as stipulated by RBI from time to time. The shares acquired by all the employees/directors do not exceed 5% of the paid-up capital of the Joint Venture or Wholly Owned Subsidiary outside India; and

ii. after allotment of such shares, the percentage of shares held by the Indian promoter company, together with shares allotted to its employees is not less than the percentage of shares held by the Indian promoter company prior to such allotment.

Resident employees of Indian companies in the knowledge based sectors including working directors may purchase foreign securities under the ADR/GDR linked stock option scheme provided that the consideration for purchase does not exceed the ceiling as stipulated by RBI from time to time.

49.Q What are the avenues available to Indian Mutual Funds for investment abroad?

Ans Indian Mutual Funds registered with SEBI are permitted to invest within the overall cap of USD 7 billion in:

a. ADRs / GDRs of the Indian and foreign companies;

b. equity of overseas companies listed on recognized overseas stock exchanges; initial and follow on public offerings for listing at recognized overseas stock exchanges;

c. foreign debt securities- short term as well as long term with rating not below investment grade - in the countries with fully convertible currencies;

d. money market investments not below investment grade; repos where the counter party is not below investment grade;

e. government securities where countries are not rated below investment grade;

f. derivatives traded on recognized stock exchanges overseas only for hedging and portfolio balancing with underlying as securities;

g. short term deposits with banks overseas where the issuer is rated not below investment grade; and

h. units / securities issued by overseas Mutual Funds or Unit Trusts registered with overseas regulators.

50.Q What are the investment opportunities for Domestic Venture Capital Funds?

Ans Domestic Venture Capital Funds registered with SEBI may invest in equity and equity linked instruments of off-shore VCFs subject to an overall limit of USD 500 million.

51.Q Is investment in agriculture permitted?

Ans Resident corporates and partnership firms registered under the Indian Partnership Act, 1932 may undertake agricultural operations including purchase of land incidental to such activity either directly or through their overseas offices, provided:

a) the Indian party is otherwise eligible to invest under Regulation 6 of the Notification ibid and such investment is within the overall specified limits, and

b) for the purpose of such investment by acquisition of land overseas the valuation of land is certified by a certified valuer registered with the appropriate valuation authority in the host country.

52.Q (a) What are the different modes of disinvestments from the JV / WOS abroad ?

Ans Disinvestment by the Indian party from its JV / WOS abroad may be by way of transfer / sale of equity shares to a non-resident / resident or by way of liquidation / merger / amalgamation of the JV / WOS abroad.

(b) Can an Indian Party disinvest from JV / WOS without write off?

Yes, the Indian Party may disinvest without write off under the automatic route subject to the following:

i. the sale is effected through a stock exchange where the shares of the overseas JV/ WOS are listed;

ii. if the shares are not listed on the stock exchange and the shares are disinvested by a private arrangement, the share price is not less than the value certified by a Chartered Accountant / Certified

Public Accountant as the fair value of the shares based on the latest audited financial statements of the JV / WOS;

iii. the Indian Party does not have any outstanding dues by way of dividend, technical know-how fees, royalty, consultancy, commission or other entitlements and / or export proceeds from the JV or WOS;

iv. the overseas concern has been in operation for at least one full year and the Annual Performance Report together with the audited accounts for that year has been submitted to the Reserve Bank;

v. the Indian party is not under investigation by CBI / DoE/ SEBI / IRDA or any other regulatory authority in India; and

vi. other terms and conditions prescribed under Regulation 16 of the Notification *ibid*.

(c) Can an Indian Party disinvest from JV / WOS involving write off?

Yes, an Indian Party may disinvest, under the automatic route, involving write off in the under noted cases:

a. where the JV / WOS is listed in the overseas stock exchange;

b. where the Indian Party is listed on a stock exchange in India and has a net worth of not less than Rs.100 crore;

c. where the Indian Party is an unlisted company and the investment in the overseas JV / WOS does not exceed USD 10 million; and

d. where the Indian Party is a listed company with net worth of less than Rs.100 crore but investment in an overseas JV/WOS does not exceed USD 10 million.

(d) Are there any additional pre-conditions/compliances subject to which such write off at the time of disinvestment is permitted?

Yes. Item (i) to (vi) under part (b) of this question.

53.Q Whether restructuring of the balance sheet of the JV / WOS abroad involving write-off of capital and receivables is allowed?

Ans Indian company which has set up WOS abroad or has at least 51% stake in an overseas JV may write off capital (equity / preference shares) or other receivables (such as loans, royalty, technical knowhow fees and management fees in respect of the JV /WOS) even while such JV / WOS continue to function subject to the following:

i. Listed Indian companies are permitted to write off capital and other receivables up to 25% of the equity investment in the JV /WOS under the Automatic Route; and

ii. Unlisted companies are permitted to write off capital and other receivables up to 25% of the equity investment in the JV /WOS with prior approval of the Reserve Bank.

The write-off / restructuring have to be reported to the Reserve Bank through the designated AD bank within 30 days of write-off / restructuring. The write-off / restructuring is subject to the condition that the Indian Party should submit the following documents for scrutiny along with the applications to the designated AD Category – I bank under the Automatic as well as the Approval Routes:

a. A certified copy of the balance sheet showing the loss in the overseas WOS/JV set up by the Indian

Party; and

b. Projections for the next five years indicating benefit accruing to the Indian company consequent to such write off / restructuring.

54.Q Can an Indian Party open/maintain an account in Foreign currency abroad?

Ans With effect from April 2, 2012, an Indian party is allowed to open, hold and maintain Foreign Currency Account (FCA) abroad for the purpose of overseas direct investments wherever the host country regulation stipulate the same subject to certain terms and conditions.

55.Q How the preference shares, other than the compulsorily convertible preference shares (CCPS), are to be treated for the purpose of ODI?

Ans All types of preference shares, other than CCPS, are to be treated as loan extended by the Indian party to its JV / WOS abroad and compliance to the provisions *inter alia* under Regulation 6(4) of the [Notification No. FEMA.120/RB-2004 dated July 07, 2004](#), as amended from time to time, is to be ensured. The AD banks shall report funded exposure like preference capital, debentures, notes, bonds, etc. under the head 'Loan' in terms of instructions issued for filling Form ODI vide [A.P. \(DIR Series\) Circular No.62 dated April 13, 2016](#).

56.Q Can a loan given to an overseas venture be converted into equity? If yes what are the reporting requirements?

Ans Yes, a loan may be converted into equity / CCPS under the automatic route and reported to RBI through the designated AD bank by way of a letter. Conversion of loan into preference shares (other than CCPS) need not be reported to RBI.

57.Q Whether equity exposures can be converted into loan or other forms of funded exposure like preference capital, debentures, etc.?

Ans In terms of the extant provisions under Regulation 16(2) of the [Notification No. FEMA.120/RB-2004 dated July 07, 2004](#), as amended from time to time, the disinvestment proceeds are to be repatriated to India within the prescribed time limit. Therefore, conversion of equity based exposure into loan or other form of funded exposures like preference capital, debenture, etc., without repatriating the disinvestment proceeds to India, shall require prior approval of RBI.

58.Q Whether foreclosure / closure of an existing guarantee is to be reported to RBI by the AD bank / Indian party?

Ans Yes, as per [A.P. \(DIR Series\) Circular No.62 dated April 13, 2016](#) reporting of the foreclosure / closure of an existing guarantee by an Indian party on behalf of its JV / WOS / step down subsidiary is to be reported. Further, any alteration in the amount and validity of an existing guarantee (issued on behalf of the JV / WOS / step down subsidiary in accordance with the extant FEMA provisions) may also be online accordingly.

59.Q Whether the provisions of Regulation 4 (1) (iii) of Notification No. FEMA 3/2000-RB dated May 03, 2000 as amended, is applicable to the Authorised Dealer bank branch situated outside India for extending credit facilities in foreign currency to a wholly owned subsidiary abroad or a joint venture abroad of an Indian entity?

Ans No, the provisions of Regulation 4 (1) (iii) of [Notification No. FEMA 3/2000-RB dated May 03, 2000](#) are applicable only to the credit facilities extended to a Wholly Owned Subsidiary abroad or a Joint Venture abroad of an Indian entity, by an Authorised Dealer bank in India. A branch outside India of an Authorised Dealer being a bank incorporated or constituted in India, may extend foreign currency loans in the normal course of its banking business outside India.

60.Q If the group company of an Indian Party is under investigation whether that Indian Party can undertake ODI transaction under automatic route?

Ans The Indian Party can undertake ODI under automatic route if they are in compliance with Regulation 6 of [Notification No FEMA 120 dated July 7, 2004](#) as amended from time to time and other applicable FEMA Regulation/guidelines. However, such investigation needs to be declared in

Compounding of Contraventions under FEMA, 1999

(As on June 03, 2016)

Q.1. What is meant by contravention and compounding of contravention?

Ans. Contravention is a breach of the provisions of the Foreign Exchange Management Act (FEMA), 1999 and rules/ regulations/ notification/ orders/ directions/ circulars issued there under. Compounding refers to the process of voluntarily admitting the contravention, pleading guilty and seeking redressal. The Reserve Bank is empowered to compound any contraventions as defined under section 13ⁱ of FEMA, 1999 except the contravention under section 3(a)ⁱⁱ *ibid*, for a specified sum after offering an opportunity of personal hearing to the contravener. It is a voluntary process in which an individual or a corporate seeks compounding of an admitted contravention. It provides comfort to any person who contravenes any provisions of FEMA, 1999 [except section 3(a) of the Act] by minimizing transaction costs. Willful, *malafide* and fraudulent transactions are, however, viewed seriously, which will not be compounded by the Reserve Bank.

Q.2. Who can apply for compounding?

Ans. Any person who contravenes any provision of the FEMA, 1999 [except section 3(a)] or contravenes any rule, regulation, notification, direction or order issued in exercise of the powers under this Act or contravenes any condition subject to which an authorization is issued by the Reserve Bank, can apply for compounding to the Reserve Bank. Applications seeking compounding of contraventions under section 3(a) of FEMA, 1999 may be submitted to the Directorate of Enforcement.

Q.3 When should one apply for compounding?

Ans. When a person is made aware of the contravention of the provisions of FEMA, 1999 by the Reserve Bank or the Foreign Investment Promotion Board (FIPB) or any other statutory authority or the auditors or by any other means, she/he may apply for compounding. One can also make an application for compounding, *suo moto*, on becoming aware of the contravention.

Q.4. What is the procedure for applying for compounding?

Ans. The reporting and other form requirements listed in the FED Master Direction No. 18/2015-16 titled '[Master Direction – Reporting under Foreign Exchange Management Act, 1999](#)' dated January 01, 2016 can be used for applying for compounding.

Q.5. Are any fees required to be paid for seeking compounding?

Ans. Yes, the application in the prescribed format along with necessary documents and a demand draft for Rs. 5000/- (Rupees five thousand only) drawn in favour of the "Reserve Bank of India" should be sent to the Reserve Bank of India while sending the request for compounding.

Q.6. What are the details required to be filled in the application form?

Ans. Along with the application in the prescribed format, the applicant may also furnish the details as per the [Annexes](#)- relating to Foreign Direct Investment, External Commercial Borrowings, Overseas Direct Investment and Branch Office / Liaison Office, as applicable, [annexes available in the FED Master Direction No. 18/2015-16 (Part XI)] along with an undertaking that they are not under investigation of any agency such as DOE, CBI, etc., a copy of the Memorandum of Association and latest audited balance sheet while applying for compounding of contraventions under FEMA, 1999.

Q.7. Where should one apply for compounding?

Ans. The powers to compound the following contraventions have been vested with the Regional Offices of

Foreign Exchange Department(FED), Reserve Bank:

Sr. No.	FEMA Regulation	Brief Description of Contravention
1	Paragraph 9(1)(A) of Schedule I to FEMA 20/2000-RB dated May 3, 2000	Delay in reporting inward remittance for issue of shares.
2	Paragraph 9(1)(B) of Schedule I to FEMA 20/2000-RB dated May 3, 2000	Delay in filing form FC(GPR) after issue of shares.
3	Paragraph 8 of Schedule I to FEMA 20/2000-RB dated May 3, 2000	Delay in issue of shares/refund of share application money beyond 180 days, mode of receipt of funds, etc.
4	Paragraph 5 of Schedule I to FEMA 20/2000-RB dated May 3, 2000	Violation of pricing guidelines for issue of shares.
5	Regulation 2(ii) read with Regulation 5(1) of FEMA 20/2000-RB dated May 3, 2000	Issue of ineligible instruments such as non-convertible debentures, partly paid shares, shares with optionality clause, etc.
6	Paragraph 2 or 3 of Schedule I to FEMA 20/2000-RB dated May 3, 2000	Issue of shares without approval of RBI or FIPB respectively, wherever required.
7	Regulation 10A (b)(i) read with paragraph 10 of Schedule I to FEMA 20/2000-RB dated May 3, 2000	Delay in submission of form FC-TRS on transfer of shares from Resident to Non-Resident.
8	Regulation 10B (2) read with paragraph 10 of Schedule I to FEMA 20/2000-RB dated May 3, 2000	Delay in submission of form FC-TRS on transfer of shares from Non-Resident to Resident.
9	Regulation 4 of FEMA 20/2000-RB dated May 3, 2000	Taking on record transfer of shares by investee company, in the absence of certified from FC-TRS.

The work of three divisions of Foreign Investment Division (FID) viz. Liaison/ Branch/ Project office(LO/ BO/ PO) division, Non Resident Foreign Account Division(NRFAD) and Immovable Property (IP) Division has been transferred to Foreign Exchange Department, Central Office Cell, Reserve Bank of India, 6, Sansad Marg, New Delhi – 110001 with effect from July 15, 2014. Accordingly the officers attached to the FED, CO, Cell at New Delhi office are now authorized to compound the contraventions as under:

Sr. No.	FEMA Notification	Brief Description of Contravention
1	FEMA 7/2000-RB, dated 3-5-2000	Contraventions relating to acquisition and transfer of immovable property outside India
2	FEMA 21/2000-RB, dated 3-5-2000	Contraventions relating to acquisition and transfer of immovable property in India
3	FEMA 22/2000-RB, dated 3-5-2000	Contraventions relating to establishment in India of Branch office, Liaison Office or project office
4	FEMA 5/2000-RB, dated 3-5-2000	Contraventions falling under Foreign Exchange Management (Deposit) Regulations, 2000

The above contraventions can be compounded by all Regional Offices of FED (except Kochi and Panaji) without any limit on the amount of contravention. Kochi and Panaji Regional offices can compound the above contraventions for amount of contravention below Rupees one hundred lakh (Rs.1,00,00,000/-). The contraventions of Rupees one hundred lakh (Rs.1,00,00,000/-) and above under the jurisdiction of Panaji and Kochi Regional Offices and all other contraventions of FEMA will be compounded at Cell for Effective Implementation of FEMA (CEFA), Mumbai, as hitherto. Accordingly, applications for compounding related to the above contraventions may be submitted by the concerned entities to the respective Regional Offices under whose jurisdiction they fall or to FED, CO Cell, New Delhi, as applicable. For all other contraventions,

applications may continue to be submitted to CEFA, Foreign Exchange Department, 5th floor, Amar Building, Sir P.M.Road, Fort, Mumbai 400001. The prescribed fee of Rs. 5000/- may be paid by way of a demand draft drawn in favour of "Reserve Bank of India" and payable at the Regional Office where the application is being submitted and at Mumbai if the application is submitted at CEFA, Mumbai.

Q.8. Can an application for compounding be sent to the Reserve Bank pending fulfillment of certain obligations?

Ans. No, all requisite approvals should be obtained and compliances should be completed before seeking compounding of contravention. Compounding can be done only after rectifying the records by way of obtaining post-facto approvals or unwinding the transactions in cases where such transactions are not permissible under FEMA, 1999. Copies of approvals and other compliances should be enclosed along with the application.

Q.9. What action is taken by the Reserve Bank on receipt of the application?

Ans. The Reserve Bank makes a scrutiny of the application to verify whether the required details and documents furnished by the applicant are prima-facie in order. Applications with incomplete details or where the contravention is not admitted will be returned to the applicant. On the admission of applications, the Reserve Bank will examine and decide if the contravention is technical, material or sensitive in nature. If technical, the applicant will be issued a cautionary advice. If the contravention is material, it will be compounded by imposing an amount after giving an opportunity to the contravener to appear before the compounding authority for a personal hearing. If the contravention is sensitive in nature requiring further investigations, the same would be referred to the Directorate of Enforcement (DoE) for further investigation/ action.

Q.10. What are sensitive contraventions?

Ans. The contraventions, prima facie, involving money laundering, national and security concerns involving serious infringement of the regulatory framework, etc., are sensitive contraventions.

Q.11. Who should classify the contravention as technical, material or sensitive?

Ans. Whether a contravention under the Foreign Exchange Management Act (FEMA) is to be treated as technical and/ or minor or serious would be decided by the Reserve Bank on the merits of the case. The application will be disposed of keeping in view the procedure notified in this regard. Persons who have contravened the provisions of FEMA should not take upon themselves suo moto, or on the basis of external advice to decide whether a particular contravention is technical or minor in nature and, hence, decide that no compounding application needs to be submitted to the Reserve Bank. If such applications for compounding are not made, the person concerned shall expose himself/herself to such action under the provisions of FEMA as the authorities may deem appropriate. The persons concerned should, therefore, in their own interest submit their applications for compounding of contravention under FEMA to the Reserve Bank at the earliest opportunity.

Q.12. When can a contravention be classified as technical?

Ans. It is clarified that whenever a contravention is identified by the Reserve Bank or brought to its notice by the entity involved in contravention by way of a reference other than through the prescribed application for compounding, the Bank will continue to decide (i) whether a contravention is technical and/or minor in nature and, as such, can be dealt with by way of an administrative/ cautionary advice; (ii) whether it is material and, hence, is required to be compounded for which the necessary compounding procedure has to be followed or (iii) whether the issues involved are sensitive / serious in nature and, therefore, need to be referred to the Directorate of Enforcement (DOE). However, once a compounding application is filed by the concerned entity suo moto, admitting the contravention, the same will not be considered as 'technical' or 'minor' in nature and the compounding process shall be initiated in terms of section 15 (1) of Foreign Exchange Management Act, 1999 read with Rule 9 of Foreign Exchange (Compounding Proceedings) Rules, 2000.

Q. 13. Is it mandatory to appear for the personal hearing?

Ans. [It is not mandatory to attend the personal hearing.](#) In case a person opts not to attend the personal hearing he may indicate his preference in writing. The application would be disposed of on the basis of documents submitted to the Compounding Authority. It may be noted that appearing for or opting out of the personal hearing does not have any bearing whatsoever on the amount imposed in the compounding order.

Q 14. Can the applicant authorise another person to attend the personal hearing?

Ans.

Yes

No

Both

None

Any

All

Some

None

Any

All

Some

None

Any

All

Some

None

Any

All

Some

None

Any

will be covered under Item 2 below), non-reporting/omission in reporting of acquisition/setup of subsidiaries/step down subsidiaries /changes in the shareholding pattern

D) Any other reporting contraventions (except those in Item 2 below)

E) Reporting contraventions by LO/BO/PO

As above, subject to ceiling of Rs.2 lakhs. In case of Project Office, the amount of

contravention shall be @10% of total project cost.
Rs.10000/- per AAC/APR/FCGPR (B) Return delayed.

2] AAC/ APR/ Share certificate delays

In case of non-submission/ delayed submission of APR/ share certificates (FEMA 120) or AAC (FEMA 22) or FCGPR (B) Returns (FEMA 20)

Delayed receipt of share certificate – Rs.10000/- per year, the total amount being subject to ceiling of 300% of the amount invested.

3]		Rs.30000/-	+	given	percentage:
A]	<u>Allotment/Refunds</u>	1st	year	:	0.30%
		1-2	years	:	0.35%
		2-3	years	:	0.40%
		3-4	years	:	0.45%
B]	<u>LO/BO/PO</u>	4-5	years	:	0.50%
(Other than reporting contraventions)		>5	years	:	0.75%

(For project offices the amount of contravention shall be deemed to be 10% of the cost of project).

<u>4] All other contraventions except Corporate Guarantees</u>	Rs.50000/-	+	given	percentage:
	1st	year	:	0.50%
	1-2	years	:	0.55%
	2-3	years	:	0.60%
	3-4	years	:	0.65%
	4-5	years	:	0.70%
	> 5 years : 0.75%			

<u>5] Issue of Corporate Guarantees</u> without UIN/ without permission wherever required /open ended guarantees or any other contravention related to issue of Corporate Guarantees.	Rs.500000/-	+	given	percentage:
	1st	year	:	0.050%
	1-2	years	:	0.055%
	2-3	years	:	0.060%
	3-4	years	:	0.065%
	4-5	years	:	0.070%
	>5 years : 0.075%			

In case the contravention includes issue of guarantees for raising loans which are invested back into India, the amount imposed may be trebled.

The above amounts are presently subject to the following provisos, viz.

(i) the amount imposed should not exceed 300% of the amount of contravention

(ii) In case the amount of contravention is less than Rs. One lakh, the total amount imposed should not be more than amount of simple interest @5% p.a. calculated on the amount of contravention and for the period of the contravention in case of reporting contraventions and @10% p.a. in respect of all other contraventions.

(iii) In case of paragraph 8 of Schedule I to FEMA 20/2000 RB contraventions, the amount imposed will be further graded as under:

- If the shares are allotted after 180 days without the prior approval of Reserve Bank, 1.25 times the amount calculated as per table above (subject to provisos at (i) & (ii) above).
- If the shares are not allotted and the amount is refunded after 180 days with the Bank's permission: 1.50

times the amount calculated as per table above (subject to provisos at (i) & (ii) above).

- If the shares are not allotted and the amount is refunded after 180 days without the Bank's permission: 1.75 times the amount calculated as per table above (subject to provisos at (i) & (ii) above).

(iv) In cases where it is established that the contravenor has made undue gains, the amount thereof may be neutralized to a reasonable extent by adding the same to the compounding amount calculated as per chart.

For calculating amount under para 1 above (Reporting contraventions) the period of contravention may be considered proportionately (approx. rounded off to next higher month / 12 X amount for 1 year). The total no. of days does not exclude Sundays/holidays.

It may, however, be noted that the guidance structure as above is only for the purpose of broadly standardizing the amount imposed by the compounding authorities across offices and the actual amount imposed may vary, depending on the circumstances of the case taking into account the factors given in paragraph 7.3 of Master Direction on Compounding of Contraventions under FEMA, 1999 (FED Master Direction No.4/2015-16 dated January 01, 2016).

Q.18. When should the amount indicated in the order be paid?

Ans. The amount should be paid within 15 days from the date of the order by way of a demand draft drawn on "Reserve Bank of India" and payable at the Regional office which has issued the compounding order and at Mumbai if the order is issued by CEFA, Mumbai.

Q. 19. How does the application for compounding finally get disposed of?

Ans. On realization of the sum for which contravention is compounded, a certificate shall be issued by the Reserve Bank indicating that the applicant has complied with the order passed by the Compounding Authority.

There cannot be a second adjudication by any authority on the contravention compounded. In terms of FEMA, 1999, where a contravention has been compounded, no proceeding or further proceeding, as the case may be, can be initiated or continued, as the case may be, against the person committing such contravention under that section, in respect of the contravention compounded.

Q.20. What happens if the amount is not paid within 15 days of the order?

Ans. In case of non-payment of the amount indicated in the compounding order within 15 days of the order, it will be treated as if the applicant has not made any compounding application to the Reserve Bank and the other provisions of FEMA, 1999 regarding contraventions will apply. Such cases will be referred to the Directorate of Enforcement for necessary action.

Q.21. Can there be an appeal against the order of the Compounding Authority?

Ans. As compounding is based on voluntary admissions and disclosures, there is no provision under the Compounding Rules for an appeal against the order of the Compounding Authority or for a request for reduction of amount compounded or extension of period for payment of the amount imposed.

Q.22. What is the timeframe for completing the compounding process?

Ans. The compounding process is completed within 180 days from the date of receipt of the application complete in all aspects, by the Reserve Bank.

Q.23. Where can one get more details about compounding?

Ans. One can visit the [Master Direction on Compounding of Contraventions under FEMA, 1999](#) available on Reserve Bank's website.

ⁱ Section 13 - Penalties.-(1) If any person contravenes any provision of this Act, or contravenes any rule, regulation, notification, direction or order issued in exercise of the powers under this Act, or contravenes any condition subject to which an authorization is issued by the Reserve Bank, he shall, upon adjudication, be liable to a penalty up to thrice the sum involved in such contravention where such amount is quantifiable, or up to two lakh rupees where the amount is not quantifiable, and where such contravention is a continuing one, further penalty which may extend to five thousand rupees for every day after the first day during which the contravention continues.

ⁱⁱ (2) Any Adjudicating Authority adjudging any contravention under sub-section (1), may, if he thinks fit in addition to any penalty which he may impose for such contravention direct that any currency, security or any other money or property in respect of which the contravention has taken place shall be confiscated to the Central Government and further direct that the foreign exchange holdings, if any, of the persons committing the contraventions or any part thereof, shall be brought back into India or shall be retained outside India in accordance with the directions made in this behalf.

Explanation.- For the purposes of this sub-section, "property" in respect of which contravention has taken place, shall include-

- (a) deposits in a bank, where the said property is converted into such deposits;
- (b) Indian currency, where the said property is converted into that currency; and
- (c) any other property which has resulted out of the conversion of that property.

2 Section 3 - Dealing in foreign exchange, etc.- Save as otherwise provided in this Act, rules or regulations made thereunder, or with the general or special permission of the Reserve Bank, no person shall- (a) deal in or transfer any foreign exchange or foreign security to any person not being an authorized person.

Issuance of Rupee denominated bonds overseas

1. Who can issue?

Any corporate (entity registered as a company under the Companies Act, 1956/ 2013) or body corporate (entity specially created out of a specific act of the Parliament) is eligible to issue Rupee denominated bonds overseas. Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs) coming under the regulatory jurisdiction of the Securities and Exchange Board of India (SEBI) are also eligible. Indian banks are, however, not permitted to issue such bonds. Other resident entities like Limited Liability Partnerships and Partnership firms, etc. are also not eligible to issue these bonds.

2. Where can these bonds be issued?

The Rupee denominated bonds can only be issued in a country and can only be subscribed by a resident of a country:

- that is a member of Financial Action Task Force (FATF) or a member of a FATF-Style Regional body; and
- whose securities market regulator is a signatory to the International Organization of Securities Commission's (IOSCO's) Multilateral Memorandum of Understanding (Appendix A Signatories) or a signatory to bilateral Memorandum of Understanding with the SEBI for information sharing arrangements; and

- should not be a country identified in the public statement of the FATF as:

(i) A jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or

(ii) A jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the Financial Action Task Force to address the deficiencies.

3. Who can subscribe or invest in such bonds?

The Rupee denominated bonds can be subscribed / invested by an investor who is a resident of a country satisfying criteria given at 2 above.

4. Can Indian banks participate in the process of issuance of these bonds?

Indian banks cannot have access to these bonds as an issuer or investor. They, however, can act as arrangers/underwriters. In such roles (arrangers / underwriters), the holding by an Indian bank, either at the outset or through any support operations, cannot be more than 5 percent of the issue size beyond 6 months from the date of issue. Further, such holding shall be subject to applicable prudential norms.

5. What would be the minimum maturity of such bonds?

The minimum maturity period for such bonds will be 3 years. In case the subscription to the bonds/ redemption of the bonds is in tranches, minimum average maturity period should be 3 years.

6. Whether the Rupee bonds can provide option for prepayment to the issuer?

The bonds cannot have any optionality clause for prepayment before completing applicable maturity.

7. Can bonds be placed privately?

Yes, the bonds can either be placed privately or listed on exchanges as per host country regulations.

8. Is there any ceiling on the all-in-cost of such bonds?

The all-in-cost of such borrowings should be commensurate with prevailing market conditions and should be comparable with the cost at which the borrowing company is able to raise funds domestically.

9. What would be the maximum amount that can be raised through issuance of Rupee denominated bonds under automatic route?

The maximum amount that any eligible borrower can raise through issuance of these bonds under automatic route is INR 50 billion or its equivalent during a financial year. This limit is over and above the amount permitted to be raised under the automatic route by an entity eligible to raise External Commercial Borrowings (ECB).

10. For what all purposes the proceeds of Rupee bonds can be used?

The proceeds can be used for all purposes except for the following:

- i. Real estate activities other than for development of integrated township / affordable housing projects;
- ii. Investing in capital market and using the proceeds for equity investment domestically;
- iii. Activities prohibited as per the Foreign Direct Investment (FDI) guidelines;

- iv. On-lending to other entities for any of the above objectives; and
- v. Purchase of land.

11. Are there any requirements in respect of end-uses not mentioned at 10 above?

End-uses should also be in compliance with other applicable laws and regulations and should be permitted by respective sectoral regulator.

12. Whether sale / transfer / pledge of bonds permitted?

Yes, sale / transfer / pledge of bonds overseas is freely permitted provided conditions at question Nos. 2 and 3 are satisfied.

13. What is the meaning of integrated township and affordable housing projects for the purpose of end-use of proceeds of the bonds?

The term Integrated township will mean township as defined in the extant FDI policy. Affordable housing projects will also be as defined in the extant FDI policy.

14. Can proceeds from issuance of Rupee bonds overseas be used for other real estate activities other than what is given at 10 above?

No.

15. Whether the non-resident investor will be eligible to hedge their exposure?

The non-resident investors will be eligible to hedge their exposure in Rupee denominated bonds through permitted derivative products with AD Category - I banks in India. The investors can also access the domestic market through branches / subsidiaries of Indian banks abroad or branches of foreign banks with Indian presence abroad on a back to back basis.

16. What will be the exchange rate for foreign currency-Rupee conversion for such bonds?

The foreign currency-Rupee conversion will be at the market rate on the date of settlement of transactions undertaken for issue and servicing of the bonds, including its redemption.

17. Whether ECB liability : equity ratio, as applicable for raising ECB from foreign equity holder, is applicable in case of Rupee denominated bonds?

No.

18. What are the reporting requirements in respect of such bonds?

The process of issuance/servicing of such bonds requires dual reporting by the issuer through its Authorised Dealer Category-I bank:

- i. Bonds can be issued only after obtaining Loan Registration Number (LRN) from the Reserve Bank. The reporting through ECB 2 Return will also be required.
- ii. In addition, actual inflows / outflows (principal only) should be reported on the date of transaction itself by [email](#) along with related LRN.

Remittances [Money Transfer Service Scheme (MTSS) and Rupee Drawing Arrangement (RDA)]

Remittances are an important source of family and national income and also are one of the largest sources of external financing. Beneficiaries in India can receive cross-border inward remittances through banking and postal channels. Banks have general permission to enter into a partnership with other banks for conducting remittance business. The International Financial System (IFS) platform of Universal Post Union (UPU) is generally used for the postal channel. Besides, there are two more channels for receiving inward remittances, viz. Rupee Drawing Arrangement (RDA) and Money Transfer Service Scheme (MTSS) which are the most common arrangements under which the remittances are received into the country.

These FAQs are mainly relating to the common queries relating to RDA and MTSS and may be referred to for general guidance. The Authorised Persons and their constituents may refer to respective circulars/ notifications for detailed information, if so needed.

Rupee Drawing Arrangement (RDA)

1. What is Rupee Drawing Arrangement (RDA)?

Rupee Drawing Arrangement (RDA) is a channel to receive cross-border remittances from overseas jurisdictions. Under this arrangement, the Authorised Category I banks enter into tie-ups with the non-resident Exchange Houses in the FATF compliant countries to open and maintain their Vostro Account.

2. Who are non-resident Exchange Houses?

These are companies and financial institutions which are licenced and regulated by the competent authority in the sending country for sourcing the funds from the remitters.

3. What are the permissions needed for entering into such arrangements?

Only for the first arrangement which the AD Category-I bank enters into with the non-resident Exchange Houses for RDA requires RBI permission. Subsequently, AD Category- I banks may enter into RDAs, subject to the prescribed guidelines and inform the Reserve Bank (immediately).

4. What are the types of remittances which can be sent under RDA?

The cross- border inward remittances into India under RDA is primarily on private account. The remitter and the beneficiary should be individuals barring a few exceptions. Remittances through Exchange Houses for financing of trade transactions are also permitted up to certain limit. This scheme is not used for cross-border outward remittances from India.

5. Is there any limit on the amount of money which can be sent under RDA?

There is no limit on the remittance amount as well as on the number of remittances. However, there is an upper cap of Rs.15.00 lakh for trade related transactions which can be relaxed by the AD Category I bank, subject to fulfilment of certain conditions.

6. Can cash payment be made to the beneficiary under RDA?

No cash disbursement of remittances is allowed under RDA. The remittances have to be credited to the bank account of the beneficiary.

7. Can the remittance be credited to the bank account of the beneficiary even if the bank does not have any tie-up with a non-resident Exchange House?

Yes, foreign inward remittances received by the AD Category-I Bank having RDA with a Non Resident Exchange House may be credited directly to the account of the beneficiary held with a bank other than the AD Category-I Bank through electronic mode, such as, NEFT, IMPS, etc.

Money Transfer Service Scheme (MTSS)

8. What is Money Transfer Service Scheme (MTSS)?

Money Transfer Service Scheme (MTSS) is a way of transferring personal remittances from abroad to beneficiaries in India. Only inward personal remittances into India such as remittances towards family maintenance and remittances favouring foreign tourists visiting India are permissible. Under the scheme there is a tie-up between reputed money transfer companies abroad known as Overseas Principals and agents in India known as Indian Agents who would disburse funds to beneficiaries in India at ongoing exchange rates.

9. Who is an Overseas Principal?

The Overseas Principal should be a registered entity, licenced by the Central Bank / Government or financial regulatory authority of the country concerned for carrying on Money Transfer Activities. The country of registration of the Overseas Principal should be AML compliant. The Overseas Principal should obtain necessary authorisation from the Department of Payment and Settlement Systems, Reserve Bank of India under the provisions of the Payment and Settlement Systems Act (PSS Act), 2007 to commence/ operate a payment system.

10. Who is an Indian Agent?

To become an Indian Agent, the applicant should be an Authorised Dealer Category-I bank or an Authorised Dealer Category-II or a Full Fledged Money Changer (FFMC) or the Department of Posts. Further, the Indian agents can also appoint sub-agents which can be retail outlets, commercial entities having a place of business, and whose bonafides are acceptable to the Indian Agent.

11. What are the permissions needed for carrying out MTSS?

Indian Agents need permission from the Regional Office concerned of the Foreign Exchange Department, Reserve Bank of India to operate under the MTSS framework. Further, the Overseas Principal also need to obtain necessary authorisation from the Department of Payment and Settlement Systems, Reserve Bank of India under the provisions of the Payment and Settlement Systems Act (PSS Act), 2007.

12. What are the types of remittances which can be received under the MTSS?

Only cross-border personal remittances, such as, remittances towards family maintenance and remittances favouring foreign tourists visiting India are allowed under this arrangement. Donations/contributions to charitable institutions/trusts, trade related remittances, remittance towards purchase of property, investments or credit to NRE Accounts are not allowed through this arrangement.

13. Is there any limit on the amount of money which can be sent under MTSS?

A cap of USD 2,500 has been placed on individual remittances under the scheme. In addition, thirty remittances can be received by a single individual beneficiary under the scheme during a calendar year.

14. Can cash payment be made to the beneficiary under MTSS?

Amounts up to INR 50,000/- may be paid in cash to a beneficiary in India. These can also be loaded on to a pre-paid card issued by banks. Any amount exceeding this limit shall be paid by means of account payee cheque/

demand draft/ payment order, etc., or credited directly to the beneficiary's bank account. However, in exceptional circumstances, where the beneficiary is a foreign tourist, higher amount

Forex Facilities including the Liberalised Remittance Scheme (LRS) for Residents

(updated as on July 17, 2015)

Introduction :

The legal framework for administration of foreign exchange transactions in India is provided by the Foreign Exchange Management Act, 1999. Under the Foreign Exchange Management Act, 1999 (FEMA), which came into force with effect from June 1, 2000, all transactions involving foreign exchange have been classified either as capital or current account transactions. All transactions undertaken by a resident that do not alter his / her assets or liabilities, including contingent liabilities, outside India are current account transactions.

In terms of Section 5 of the FEMA, persons resident in India¹ are free to buy or sell foreign exchange for any current account transaction except for those transactions for which drawal of foreign exchange has been prohibited by Central Government, such as remittance out of lottery winnings; remittance of income from racing/riding, etc., or any other hobby; remittance for purchase of lottery tickets, banned / proscribed magazines, football pools, sweepstakes, etc.; remittance of dividend by any company to which the requirement of dividend balancing is applicable; payment of commission on exports under Rupee State Credit Route, except commission up to 10% of invoice value of exports of tea and tobacco and payment related to "call back services" of telephones.

Foreign Exchange Management (Current Account Transactions) Rules, 2000 - Notification [GSR No.381(E)] dated May 3, 2000 and the revised Schedule III to the Rules as given in the Notification G.S.R. 426(E) dated May 26, 2015 is available in the Official Gazette as well as, as an Annex to our Master Circular on 'Miscellaneous Remittances from India-Facilities for Residents' available on our website www.mastercirculars.rbi.org.in.

These FAQs may be referred to for general guidance. The Authorised Persons and their constituents may refer to respective circulars/ notifications for detailed information, if so needed.

Q 1. Who is an Authorized Dealer?

Ans. An Authorised Dealer is any person specifically authorized by the Reserve Bank under Section 10(1) of FEMA, 1999, to deal in foreign exchange or foreign securities (the [list of ADs](#) is available on www.rbi.org.in) and normally includes banks.

Q 2. Who are authorized by the Reserve Bank to sell foreign exchange for travel purposes?

Ans. Foreign exchange can be purchased from any authorised person, such as [Authorised Dealer \(AD\) Category-I bank](#) and [AD Category II. Full-Fledged Money Changers \(FFMCs\)](#) are also permitted to release exchange for business and private visits.

Q.3. What is the Liberalised Remittance Scheme (LRS) of USD 2,50,000 ?

Ans. Under the Liberalised Remittance Scheme, all resident individuals, including minors, are allowed to freely remit up to USD 2,50,000 per financial year (April – March) for any permissible current or capital account transaction or a combination of both. Further, resident individuals can avail of foreign exchange facility for the purposes mentioned in Para 1 of Schedule III of FEM (CAT) Amendment Rules 2015, within the limit of USD 2,50,000 only. If an individual remits any amount under LRS in a financial year, then the applicable limit for

such individual would be reduced from USD 250,000 by the amount so remitted.

In case of remitter being a minor, the LRS declaration form must be countersigned by the minor's natural guardian.

Q. 4. Can a resident individual make a rupee loan to a NRI/PIO who is a close relative of resident individual, by of crossed cheque/ electronic transfer?

Ans. A resident individual is permitted to make a rupee loan to a NRI/PIO who is a close relative of the resident individual ('relative' as defined in section 6 of the Companies Act 1956) by way of crossed cheque/ electronic transfer subject to the following conditions:

(i) The loan is free of interest and the minimum maturity of the loan is one year.

(ii) The loan amount should be within the overall limit under the Liberalised Remittance Scheme of USD 2,50,000, per financial year, available to the resident individual. It would be the responsibility of the lender to ensure that the amount of loan is within the Liberalised Remittance Scheme limit of USD 2,50,000 during the financial year.

(iii) The loan shall be utilised for meeting the borrower's personal requirements or for his own business purposes in India.

(iv) The loan shall not be utilised, either singly or in association with other person, for any of the activities in which investment by persons resident outside India is prohibited, namely;

- a. the business of chit fund, or
- b. Nidhi Company, or
- c. agricultural or plantation activities or in real estate business, or construction of farmhouses, or
- d. trading in Transferable Development Rights (TDRs).

Explanation: For the purpose of item (c) above, real estate business shall not include development of townships, construction of residential / commercial premises, roads or bridges.

(v) The loan amount should be credited to the NRO a/c of the NRI /PIO. Credit of such loan amount may be treated as an eligible credit to NRO a/c.

(vi) The loan amount shall not be remitted outside India.

(vii) Repayment of loan shall be made by way of inward remittances through normal banking channels or by debit to the Non-resident Ordinary (NRO)/ Non-resident External (NRE) / Foreign Currency Non-resident (FCNR) account of the borrower or out of the sale proceeds of the shares or securities or immovable property against which such loan was granted.

Q. 5. Can a resident individual make a rupee gift to a NRI/PIO who is a close relative of resident individual, by of crossed cheque/ electronic transfer?

Ans. A resident individual can make a rupee gift to a NRI/PIO who is a close relative of the resident individual ['close relative' as defined in Section 6 of the Companies Act, 1956] by way of crossed cheque /electronic transfer. The amount should be credited to the Non-Resident (Ordinary) Rupee Account (NRO) a/c of the NRI / PIO and credit of such gift amount may be treated as an eligible credit to NRO a/c. The gift amount would be within the overall limit of USD 250,000 per financial year as permitted under the LRS for a resident individual. It would be the responsibility of the resident donor to ensure that the gift amount being remitted is under the LRS and all the remittances made by the donor during the financial year including the gift amount have not exceeded

the limit prescribed under the LRS.

Q. 6. Can the loans of Non-resident be repaid by resident close relatives?

Ans. Where an authorised dealer in India has granted loan to a non-resident Indian in accordance with Regulation 7 of the [Notification No. FEMA 4/2000-RB dated May 3, 2000](#), such loans may also be repaid by resident close relative ('relative' as defined in section 6 of the Companies Act, 1956) of the Non-Resident Indian by crediting the borrower's loan account through the bank account of such relative.

Q. 7. What are the prohibited items under the Scheme?

Ans. The remittance facility under the Scheme is not available for the following:

- i. Remittance for any purpose specifically prohibited under Schedule-I (like purchase of lottery tickets/sweep stakes, proscribed magazines, etc.) or any item restricted under Schedule II of Foreign Exchange Management (Current Account Transactions) Rules, 2000.
- ii. Remittance from India for margins or margin calls to overseas exchanges / overseas counterparty.
- iii. Remittances for purchase of FCCBs issued by Indian companies in the overseas secondary market.
- iv. Remittance for trading in foreign exchange abroad.
- v. Capital account remittances, directly or indirectly to countries identified by the Financial Action Task Force (FATF) as "non- cooperative countries and territories", from time to time.
- vi. Remittances directly or indirectly to those individuals and entities identified as posing significant risk of committing acts of terrorism as advised separately by the Reserve Bank to the banks.

Q. 8. Under LRS are resident individuals required to repatriate the accrued interest/dividend on deposits/investments abroad, over and above the principal amount?

Ans. The investor can retain and reinvest the income earned on investments made under the Scheme. At present, the residents are not required to repatriate the funds or income generated out of investments made under the Scheme.

However, a resident individual who has made overseas direct investment in the equity shares and compulsorily convertible preference shares of a Joint Venture or Wholly Owned Subsidiary outside India, within the LRS limit then he/she shall have to comply with the terms and conditions as prescribed by our overseas investment guidelines under [Notification No. 263/ RB-2013 dated August 5, 2013](#).

Q. 9. Can remittances under the LRS facility be consolidated in respect of family members?

Ans. Remittances under the facility can be consolidated in respect of close family members subject to the individual family members complying with the terms and conditions of the Scheme. However, clubbing is not permitted by other family members for capital account transactions such as opening a bank account/investment/purchase of property, if they are not the co-owners/co-partners of the investment/property/overseas bank account.

Q. 10. Can one use the LRS for purchase of objects of art (paintings, etc.) either directly or through auction house?

Ans. Remittances under the Scheme can be used for purchasing objects of art subject to the provisions of other applicable laws such as the extant Foreign Trade Policy of the Government of India.

Q.11. Is the AD required to check permissibility of remittances based on nature of transaction or allow the same based on remitters declaration?

Ans. AD will be guided by the nature of transaction as declared by the remitter in Form A2 and 'Application cum declaration for purchase of foreign exchange under LRS of USD 250,000' and will thereafter certify that the remittance is in conformity with the instructions issued by the Reserve Bank in this regard from time to time.

Q.12. Can an individual, who has availed of a loan abroad while as a non-resident Indian repay the same on return to India, under this Scheme as a resident?

Ans. Yes, this is permissible.

Q. 13. Is it mandatory for resident individuals to have PAN number for sending outward remittances under the Scheme?

Ans. Yes, it is mandatory to have PAN number to make remittances under the Scheme. However, PAN card need not be insisted upon for remittance made towards permissible current account transactions up to USD 25,000.

Q. 14. In case a resident individual requests for an outward remittance by way of issuance of a demand draft (either in his own name or in the name of the beneficiary with whom he intends putting through the permissible transactions) at the time of his private visit abroad, whether the remitter can effect such an outward remittance against self-declaration?

Ans. Such outward remittance in the form of a DD can be effected against the declaration by the resident individual in the format prescribed under the Scheme.

Q. 15. Are there any restrictions on the frequency of the remittance?

Ans. There are no restrictions on the frequency of remittances under LRS. However, the total amount of foreign exchange purchased from or remitted through, all sources in India during a financial year should be within the cumulative limit of USD 2,50,000.

Once a remittance is made for an amount up to USD 2,50,000 during the financial year, a resident individual would not be eligible to make any further remittances under this scheme, even if the proceeds of the investments have been brought back into the country.

Q. 16. Whether LRS facility is in addition to existing facilities detailed in para 1 of Schedule III of FEM (CAT) Amendment Rules, 2015?

Ans. No. The existing facilities detailed in Para 1 of Schedule III to FEM (CAT) Amendment Rules, 2015, have been subsumed under the limit of USD 2,50,000 available to resident individuals per financial year under the LRS scheme w.e.f. May 26, 2015. However, for emigration; expenses in connection with medical treatment abroad and studies abroad, individuals may avail of exchange facility for an amount in excess of the overall limit prescribed under the LRS, if it is so required by a country of emigration, medical institute offering treatment or the university respectively.

Q. 17. What are the purposes under FEM (CAT) Amendment Rules, 2015, under which a resident individual can avail of foreign exchange facility?

Ans. Individuals can avail of foreign exchange facility for the following purposes within the limit of USD 2,50,000 only on financial year basis.

- i. Private visits to any country (except Nepal and Bhutan)
- ii. Gift or donation.
- iii. Going abroad for employment
- iv. Emigration

- v. Maintenance of close relatives abroad
- vi. Travel for business, or attending a conference or specialised training or for meeting expenses for meeting medical expenses, or check-up abroad, or for accompanying as attendant to a patient going abroad for medical treatment/ check-up.
- vii. Expenses in connection with medical treatment abroad
- viii. Studies abroad
- ix. Any other current account transaction

Any additional remittance in excess of the said limit for the above mentioned purposes shall require prior approval of the Reserve Bank of India.

"Any other current account transaction" as given at (ix) above is to cover any other current account transactions which were available to individuals in the erstwhile Schedule III to FEM (CAT) Rules, 2000 dated May 3, 2000, and which do not appear above/ in Schedule III to FEM (CAT) Amendment Rules, 2015.

However, for purposes such as emigration; expenses in connection with medical treatment abroad and studies abroad, individuals may be permitted to avail of exchange facility for an amount in excess of the overall limit prescribed under the LRS, if it is so required by a country of emigration, medical institute offering treatment or the university respectively. (To be read along with Q 21, Q24 and Q25).

The AD bank may undertake the remittance transaction without RBI's permission for all residual current account transactions which are not prohibited/ restricted transactions under Schedule I, II or III of FEM (CAT) Rules, 2000, as amended from time to time. It is for the AD bank to satisfy themselves about the genuineness of the transaction, as hitherto.

The resident individual needs to fill up the Form A2 as well as the 'Application cum declaration for purchase of foreign exchange under LRS of USD 250,000'.

Q.18. How much foreign exchange can one buy when traveling abroad on private visits to a country outside India?

Ans. For private visits abroad, other than to Nepal and Bhutan, any resident can obtain foreign exchange up to an aggregate amount of USD 2,50,000, from an Authorised Dealer or FFMC, in any one financial year, irrespective of the number of visits undertaken during the year. This limit has been subsumed under the Liberalised Remittance Scheme w.e.f. May 26, 2015. If an individual has already remitted any amount under the Liberalised Remittance Scheme in a financial year, then the applicable limit for travelling purpose for such individual would be reduced from USD 250,000 by the amount so remitted.

The resident individuals shall have to fill Form A2 and 'Application cum declaration for purchase of foreign exchange under LRS of USD 250,000' while availing foreign exchange for travelling purposes from AD banks and FFMCs.

No foreign exchange is available for visit to Nepal and/or Bhutan for any purpose. A resident Indian is allowed to take INR of denomination of Rs.100 or lesser denomination, to Nepal and Bhutan, without any limits. For denominations of Rs 500 and Rs1,000, the limit is Rs 25,000.

Further, all tour related expenses including cost of rail/road/water transportation charges outside India and remittances relating towards cost of Euro Rail; passes/tickets, etc. for Indian travellers, and overseas hotel/flight charges have been subsumed under the new enhanced limit of USD 250,000. The tour operator can collect this amount either in INR or in FCY.

Q. 19. How much foreign exchange can a resident send as gift / donation to a person resident outside India?

Ans. Any resident individual/ entity (trust; company; partnership firm, etc.), may remit up-to USD 2,50,000 in one financial year as gift to a person residing outside India or as donation to an organization outside India. Remittances exceeding the limit of USD 2,50,000 will require prior permission from the Reserve Bank. It is clarified that a resident cannot gift to another resident, in foreign currency, for the credit of the latter's foreign currency account held abroad under LRS.

Further, general permission is available to persons other than individuals' to remit towards donations up-to one per cent of their foreign exchange earnings during the previous three financial years or USD 5,000,000, whichever is less, for (a) creation of Chairs in reputed educational institutes, (b) contribution to funds (not being an investment fund) promoted by educational institutes; and (c) contribution to a technical institution or body or association in the field of activity of the donor Company. Any additional remittance in excess of the same shall require prior approval of the Reserve Bank of India.

Q. 20. How much foreign exchange is available to a person going abroad on employment?

Ans. A person going abroad for employment can draw foreign exchange up to USD 2,50,000 per financial year from any Authorised Dealer in India on the basis of self-declaration in Form A2 and 'Application cum declaration for purchase of foreign exchange under LRS of USD 250,000'. This limit has been subsumed under the Liberalised Remittance Scheme w.e.f. May 26, 2015. If an individual remits any amount under the Liberalised Remittance Scheme in a financial year, then the applicable limit for such individual would be reduced from USD 250,000 by the amount so remitted.

Q. 21. How much foreign exchange is available to a person going abroad on emigration?

Ans. A person going abroad on emigration can draw foreign exchange from AD Category I bank and AD Category II up to the amount prescribed by the country of emigration or USD 250,000. This amount is only to meet the incidental expenses in the country of emigration. Further, this remittance is not for undertaking any capital account transactions such as overseas investment in government bonds; land; commercial enterprise; etc. No amount of foreign exchange can be remitted outside India to become eligible or for earning points or credits for immigration.

Q. 22. How much foreign exchange can a person resident in India remit towards maintenance of close relatives abroad?

Ans. A person resident in India can remit up-to USD 250,000 per financial year towards maintenance of close relative ('relative' as defined in section 6 of the Companies Act, 1956) abroad. . This limit has been subsumed under the Liberalised Remittance Scheme w.e.f. May 26, 2015. If an individual remits any amount under the Liberalised Remittance Scheme in a financial year, then the applicable limit for such individual would be reduced from USD 250,000 by the amount so remitted.

Q. 23. How much foreign exchange is available for a business trip?

Ans. For business trips to foreign countries, resident individuals/ individuals having proprietorship firms can avail of foreign exchange up to USD 2,50,000 in a financial year irrespective of the number of visits undertaken during the year. This limit has been subsumed under the Liberalised Remittance Scheme w.e.f. May 26, 2015.

Visits in connection with attending of an international conference, seminar, specialised training, apprentice training, etc., are treated as business visits. Release of foreign exchange exceeding USD 2,50,000 for business travel abroad, irrespective of the period of stay, by residents require prior permission from the Reserve Bank.

However, if an employee is being deputed by a company and the expenses are borne by the company, then such expenses shall be treated as residual current account transactions and may be permitted by the AD bank, without

any limit, subject to verifying the bonafides of the transaction.

Q. 24. How much foreign exchange can be drawn for medical treatment abroad?

Ans. [AD Category I banks](#) and [AD Category II](#), may release foreign exchange up to USD 2,50,000 or its equivalent to resident Indians for medical treatment abroad on self-declaration basis in Form A2 and 'Application cum declaration for purchase of foreign exchange under LRS of USD 250,000', without insisting on any estimate from a hospital/doctor in India/abroad. However, a person visiting abroad for medical treatment can obtain foreign exchange from AD banks exceeding the above limit, provided the request is supported by an estimate from a hospital/doctor in India/abroad.

In addition to the above, an amount up to USD 250,000 per FY is allowed to a person for accompanying as attendant to a patient going abroad for medical treatment/check-up.

Q. 25. What is meant by 'any other current account transaction' as given at item no. (ix) of para 1 of Schedule III to FEM (CAT) Amendment Rules, 2015?

Ans. "Any other current account transaction" as given at item no. (ix) of Rules ibid is to cover any other current account transactions which were available to individuals in the erstwhile Schedule III to FEM (CAT) Rules, 2000 dated May 3, 2000, and which do not appear in Para 1 to Schedule III to FEM (CAT) Amendment Rules, 2015.

Q. 26. Resident individuals (but not permanently resident in India) can remit up to net salary after deduction of taxes. However, if he has exhausted the limit of USD 2,50,000 as net salary remittance and desires to remit any other income under LRS is it permissible as the limit will be over and above USD 2,50,000?

Ans. A person who is resident but not permanently resident in India and

(a) is a citizen of a foreign State other than Pakistan; or

(b) is a citizen of India, who is on deputation to the office or branch of a foreign company or subsidiary or joint venture in India of such foreign company,

may make remittance up to his net salary (after deduction of taxes, contribution to provident fund and other deductions).

Explanation: For the purpose of this item, a person resident in India on account of his employment or deputation of a specified duration (irrespective of length thereof) or for a specific job or assignments, the duration of which does not exceed three years, is a resident but not permanently resident. It is clarified that salary includes earnings from stage shows and other earnings from modelling assignments and acting assignments etc.

Further, resident individuals (but not permanently resident in India) who have remitted their entire earnings and salary and wish to further remit 'other income' may approach RBI through their AD bank for consideration with documents.

Q. 27. Whether the limit of USD 2,50,000 per financial year as mentioned in Para 1 of Schedule III of FEM (CAT) Amendment Rules, 2015 is also applicable to person other than individuals?

Ans. Yes, the limit of USD 2, 50,000 is applicable to persons other than individuals (such as corporates, trusts; etc.) who wish to avail of facilities under Para 1 of Schedule III to FEM (CAT) Amendment Rules, 2015. Such entities will have to fill up the Form A2 while remitting foreign exchange.

However, all residual current account transactions undertaken by such entities are otherwise permissible without

any specified limit as hitherto. All such residual current account transactions, irrespective of the amount, are to be disposed off at the level of AD Category I bank, as hitherto. It is for the AD Category I bank to satisfy themselves about the genuineness of the transaction.

Q. 28. How much foreign currency can be carried in cash for travel abroad?

Ans. Travellers going to all countries other than (a) and (b) below are allowed to purchase foreign currency notes / coins only up to USD 3000 per visit. Balance amount can be carried in the form of travellers cheque or banker's draft. Exceptions to this are (a) travellers proceeding to Iraq and Libya who can draw foreign exchange in the form of foreign currency notes and coins not exceeding USD 5000 or its equivalent per visit; (b) travellers proceeding to the Islamic Republic of Iran, Russian Federation and other Republics of Commonwealth of Independent States who can draw entire foreign exchange (up-to USD 250, 000) in the form of foreign currency notes or coins.

For travellers proceeding for Haj/ Umrah pilgrimage, full amount of BTQ entitlement (USD 250, 000) in cash or up to the cash limit as specified by the Haj Committee of India, may be released by the ADs and FFCs.

Q 29. How much Indian currency can be brought in while coming into India?

Ans. A resident of India, who has gone out of India on a temporary visit may bring into India at the time of his return from any place outside India (other than Nepal and Bhutan), currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs.25,000. A person may bring into India from Nepal or Bhutan, currency notes of Government of India and Reserve Bank of India notes, in denomination not exceeding Rs.100. Any person resident outside India, not being a citizen of Pakistan and Bangladesh and also not a traveller coming from and going to Pakistan and Bangladesh, and visiting India may bring into India currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs. 25,000 while entering only through an airport.

Any person resident in India who had gone to Pakistan and/or Bangladesh on a temporary visit, may bring into India at the time of his return, currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding Rs. 10,000 per person.

Q. 30. How much foreign exchange can be brought in while visiting India?

Ans. A person coming into India from abroad can bring with him foreign exchange without any limit. However, if the aggregate value of the foreign exchange in the form of currency notes, bank notes or travellers cheques brought in exceeds USD 10,000 or its equivalent and/or the value of foreign currency alone exceeds USD 5,000 or its equivalent, it should be declared to the Customs Authorities at the Airport in the Currency Declaration Form (CDF), on arrival in India.

Q.31. How many days in advance one can buy foreign exchange for travel abroad?

Ans. Permissible foreign exchange can be drawn 60 days in advance. In case it is not possible to use the foreign exchange within the period of 60 days, it should be immediately surrendered to an authorised person. However, residents are free to retain foreign exchange up to USD 2,000, in the form of foreign currency notes or TCs for future use or credit to their Resident Foreign Currency (Domestic) [RFC (Domestic)] Accounts.

Q.32. Can one pay by cash full rupee equivalent of foreign exchange being purchased for travel abroad?

Ans. Foreign exchange for travel abroad can be purchased from an authorized person against rupee payment in cash below Rs.50,000/-. However, if the sale of foreign exchange is for the amount equivalent to Rs 50,000/- and above, the entire payment should be made by way of a crossed cheque/ banker's cheque/ pay order/ demand

draft/ debit card / credit card / prepaid card only.

Q.33. Is there any time-frame for a traveller who has returned to India to surrender foreign exchange?

Ans. On return from a foreign trip, travellers are required to surrender unspent foreign exchange held in the form of currency notes and travellers cheques within 180 days of return. However, they are free to retain foreign exchange up to USD 2,000, in the form of foreign currency notes or TCs for future use or credit to their Resident Foreign Currency (Domestic) [RFC (Domestic)] Accounts.

Q.34. Should foreign coins be surrendered to an Authorised Dealer on return from abroad?

Ans. The residents can hold foreign coins without any limit.

Q 35. What are the documents required for withdrawal/remittance of foreign exchange for purposes mentioned in para 1 of Schedule III to FEM (CAT) Amendment Rules, 2015?

Ans. RBI will not prescribe any documentation to be submitted to ADs except the 'Application cum Declaration for purchase of foreign exchange under LRS of USD 250,000' for purchase/ remittance of foreign exchange under the Liberalised Remittance Scheme and Form A2. All other documentation may be done as advised by the Authorised Dealer.

The different limits stipulated [as in Schedule III of FEM (CAT) Amendment Rules, 2015] for various current account transactions like travel; gift; maintenance of close relatives; etc. have been subsumed within the LRS limit of USD 250, 000. Individuals remitting under Schedule III to FEM (CAT) Amendment Rules, 2015 will have to fill up the Form A2 and 'Application cum Declaration for purchase of foreign exchange under the Liberalised Remittance Scheme of USD 250,000'.

Authorized dealers need not obtain any document, including Form A-2, except a simple letter from the applicant (containing the basic information, viz., names and the addresses of the applicant and the beneficiary, amount to be remitted and the purpose of remittance) as long as the foreign exchange is being purchased for a permissible current account transaction (not included in the Schedules I and II of Government Notification on Current Account Transactions), and the amount does not exceed USD 25000 or its equivalent and the payment is made by a cheque drawn on the applicant's bank account or by a Demand Draft. AD banks shall prepare dummy A-2 so as to enable them to provide purpose of remittance for statistical inputs for Balance of Payment.

AD bank shall have to necessarily collect declarations from each traveller (of a group or a customised tour package) relating to compliance with the extant LRS limit, before allowing remittances from the tour operator's INR or Special Foreign Currency account.

Q.36. Is there any category of visit which requires prior approval from the Reserve Bank or the Government of India?

Ans. Dance troupes, artistes, etc., who wish to undertake cultural tours abroad, should obtain prior approval from the Ministry of Human Resources Development (Department of Education and Culture), Government of India, New Delhi.

Q.37. Whether permission is required for receiving grant/donation from abroad under the Foreign Contribution Regulation Act, 1976?

Ans. The Foreign Contribution Regulation Act, 1976 is administered and monitored by the Ministry of Home Affairs whose address is given below:

No specific approval from the Reserve Bank is required in this regard

Q.38. Who is permitted to hold International Credit Card (ICC)/ATM/Debit card for undertaking foreign exchange transactions?

Ans. Banks authorised to deal in foreign exchange are permitted to issue International Debit Cards (IDCs) which can be used by a resident for drawing cash or making payment to a merchant establishment overseas during his visit abroad. IDCs can be used only for permissible current account transactions and the usage of IDCs shall be within the LRS limit.

AD banks can also issue Store Value Card/Charge Card/Smart Card to residents traveling on private/business visit abroad which can be used for making payments at overseas merchant establishments and also for drawing cash from ATM terminals. No prior permission from Reserve Bank is required for issue of such cards. However, the use of such cards is limited to permissible current account transactions and subject to the LRS limit.

Resident individuals maintaining a foreign currency account with an authorised dealer in India or a bank abroad, as permissible under extant Foreign Exchange Regulations, are free to obtain International Credit Cards (ICCs) issued by overseas banks and other reputed agencies. The charges incurred against the card either in India or abroad, can be met out of funds held in such foreign currency account/s of the card holder or through remittances, if any, from India only through a bank where the card-holder has a current or savings account. The remittance for this purpose, should also be made directly to the card-issuing agency abroad, and not to a third party. It is also clarified that the applicable credit limit will be the limit fixed by the card issuing banks. There is no monetary ceiling fixed by the RBI for remittances, if any, under this facility. The LRS limit shall not apply to the use of ICC for making payment by a person towards meeting expenses while such person is on a visit outside India.

Use of ICCs/ ATMs/ IDCs can be made for travel abroad in connection with various purposes and for making personal payments like subscription to foreign journals, internet subscription, etc. However, use of ICCs/ATMs/Debit Cards is NOT permitted for prohibited transactions indicated in Schedule -1 of FEM (CAT) Amendment Rules 2015 such as purchase of lottery tickets, banned magazines etc.

Use of these instruments for payment in foreign exchange in Nepal and Bhutan is not permitted.

Q.39. Is it required to follow complete export procedure when a gift is sent outside India?

Ans. A person resident in India is free to send outside India (export) any gift article, which may be free to be exported as per the extant Foreign Trade Policy, of value not exceeding Rs.5,00,000/- in value, subject to the exporter submitting a declaration that goods / gift are not more than Rs.5,00,000/- in value. Such gifts may be sent outside India without furnishing the declaration in Form EDF/ SOFTEX, as the case may be.

Q.40. How much jewellery can be carried while going abroad?

Ans. Taking personal jewellery out of India is as per the Baggage Rules, governed and administered by Customs Department, Government of India. While no approval of the Reserve Bank is required in this case, approvals, if any, required from Customs Authorities may be obtained.

Q.41. Can a resident extend local hospitality to a non-resident?

Ans. A person resident in India is free to make any payment in Indian Rupees towards meeting expenses, on account of boarding, lodging and services related thereto or travel to and from and within India, of a person

resident outside India, who is on a visit to India.

Q. 42. Can residents purchase air tickets in India for their travel not touching India?

Ans. Residents may book their tickets in India for their visit to any third country. For instance, residents can book their tickets for travel from London to New York, through domestic/foreign airlines in India. However, the same (air tickets) would be a part of the traveller's overall entitlement of USD 250,000

Q. 43. Can a resident open a foreign currency denominated account in India?

Ans. Persons resident in India are permitted to maintain foreign currency accounts in India under the following three Schemes:

a. Exchange Earners Foreign Currency Accounts:-

All categories of resident foreign exchange earners can credit up to 100 per cent of their foreign exchange earnings, as specified in the Schedule to Notification No. FEMA 10/2000-RB dated 3rd May, 2000 as amended from time to time, to their EEFC Account with an Authorised Dealer in India. The 100 per cent credit is however, subject to the condition that the sum total of the accruals in the account during a calendar month should be converted into Rupees on or before the last day of the succeeding calendar month after adjusting for utilization of the balances for approved purposes or forward commitments. Funds held in EEFC account can be utilised for all permissible current account transactions and also for approved capital account transactions as specified by the extant Rules/Regulations/ Notifications/ Directives issued by the Government/RBI from time to time. The account is maintained in the form of a non-interest bearing current account.

b. Diamond Dollar Account (DDA):-

Under the scheme of Government of India, firms and companies dealing in purchase / sale of rough or cut and polished diamonds / precious metal jewellery plain, minakari and / or studded with / without diamond and / or other stones, with a track record of at least 2 years in import / export of diamonds / coloured gemstones / diamond and coloured gemstones studded jewellery / plain gold jewellery and having an average annual turnover of Rs. 3 crores or above during the preceding three licensing years (licensing year is from April to March) are permitted to transact their business through Diamond Dollar Accounts. It may be noted that the sum total of the accruals in the account during a calendar month should be converted into Rupees on or before the last day of the succeeding calendar month after adjusting for utilization of the balances for approved purposes or forward commitments. Such firms and companies may be allowed to open not more than five Diamond Dollar Accounts with their banks.

c. Resident Foreign Currency Accounts : -

A person resident in India may open, hold and maintain with an Authorised Dealer in India a Resident Foreign Currency (RFC) Account to keep their foreign currency assets which were held outside India at the time of return can be credited to such accounts. The foreign exchange received as (i) pension of any other superannuation or other monetary benefits from the employer outside India; (ii) received or acquired as gift or inheritance from a person referred to sub-section (4) of section 6 of FEMA, 1999 or (iii) referred to in clause (c) of section 9 of the Act or acquired as gift or inheritance there from or (iv) received as the proceeds of life insurance policy claims/maturity/ surrender values settled in foreign currency from an insurance company in India permitted to undertake life insurance business by the Insurance Regulatory and Development Authority; may also be credited to this account.

RFC account can be maintained in the form of current or savings or term deposit accounts.

The funds in RFC account are free from all restrictions regarding utilisation of foreign currency balances

including any restriction on investment outside India.

d. Resident Foreign Currency (Domestic) Account:-

A resident Individual may open, hold and maintain with an Authorized Dealer in India, a Resident Foreign Currency (Domestic) Account, out of foreign exchange acquired in the form of currency notes, Bank notes and travellers cheques, from any of the sources like, payment for services rendered abroad, as honorarium, gift, services rendered or in settlement of any lawful obligation from any person not resident in India. The account may also be credited with/opened out of foreign exchange earned abroad like proceeds of export of goods and/or services, royalty, honorarium, etc., and/or gifts received from close relatives (as defined in section 6 of the Companies Act, 1956) and repatriated to India through normal banking channels. The account shall be maintained in the form of Current Account and shall not bear any interest. There is no ceiling on the balances in the account. The account may be debited for payments made towards permissible current and capital account transactions. It may be noted that the sum total of the accruals in the account during a calendar month should be converted into Rupees on or before the last day of the succeeding calendar month after adjusting for utilization of the balances for approved purposes or forward commitments.

Q.44. Can a person resident in India hold assets outside India?

Ans. In terms of sub-section 4, of Section (6) of the Foreign Exchange Management Act, 1999, a person resident in India is free to hold, own, transfer or invest in foreign currency, foreign security or any immovable property situated outside India if such currency, security or property was acquired, held or owned by such person when he was resident outside India or inherited from a person who was resident outside India.

Further, a resident individual can also acquire property and other assets overseas under the Liberalised Remittance Scheme.

Q.45. Para 5.4 of AP DIR Circular 106 dated June 01, 2015 states that the applicants should have maintained the bank account with the bank for a minimum period of one year prior to the remittance for capital account transactions. Whether this restriction applies to current account transactions?

Ans. No. The rationale is that remittance facility is up to the LRS limit of USD 250, 000 for current account transactions under Schedule III of FEM (CAT) Amendment Rules, 2015, such as for private and business visits which can also be provided by FFCs. As FFCs cannot maintain accounts of remitters the proviso (as mentioned in para 5.4 of the circular *ibid*) has been confined to capital account transactions. However, FFCs, are required to ensure that the "Know Your Customer" guidelines and the Anti-Money Laundering Rules in force have been complied with while allowing the current account transactions.

Q.46. Are there any restrictions towards remittances to Mauritius and Pakistan for permissible current account transactions?

Ans. No. However, capital account remittances for capital account transactions, directly or indirectly to countries identified by the Financial Action Task Force (FATF) as "non- cooperative countries and territories", from time to time; and remittances directly or indirectly to those individuals and entities identified as posing significant risk of committing acts of terrorism as advised separately by the Reserve Bank to the banks are not permissible.

Q.47. Can FFCs now provide remittance facilities to their customers?

Ans. FFCs cannot provide remittance facilities to their customers.

Q.48. What are the requirements to be complied with by the remitter?

Ans. The individual will have to designate a branch of an AD through which all the remittances under the

Scheme will be made. The applicants should have maintained the bank account with the bank for a minimum period of one year prior to the remittance for capital account transactions only. . For remittances pertaining to permissible current account transactions, if the applicant seeking to make the remittance is a new customer of the bank, Authorised Dealers should carry out due diligence on the opening, operation and maintenance of the account. Further, the AD should obtain bank statement for the previous year from the applicant to satisfy themselves regarding the source of funds. If such a bank statement is not available, copies of the latest Income Tax Assessment Order or Return filed by the applicant may be obtained. He has to furnish the 'application-cum-declaration for purchase of foreign exchange under the LRS of USD 250,000' in the specified format along with Form A-2 regarding the purpose of the remittance and declare that the funds belong to him and will not be used for purposes prohibited or regulated under the Scheme.

Q.49. Can remittances be made only in US Dollars?

Ans. The remittances can be made in any freely convertible foreign currency.

Q.50. Are intermediaries expected to seek specific approval for making overseas investments available to clients?

Ans. Banks including those not having operational presence in India are required to obtain prior approval from Reserve Bank for soliciting deposits for their foreign/overseas branches or for acting as agents for overseas mutual funds or any other foreign financial services company.

Q.51. Are there any restrictions on the kind/quality of debt or equity instruments an individual can invest in?

Ans. No ratings or guidelines have been prescribed under the Liberalised Remittance Scheme of USD 2,50,000 on the quality of the investment an individual can make. However, the individual investor is expected to exercise due diligence while taking a decision regarding the investments which he or she proposes to make.

Q.52. Whether credit facilities (fund or non-fund based) in Indian Rupees or foreign currency can be extended by AD banks to resident individuals?

Ans. No, LRS does not envisage extension of credit facility by the AD banks to their resident individual customers to facilitate remittances for capital account transactions under LRS.

However, AD banks may extend funded and non-funded facilities to resident individuals to facilitate current account remittances under the Scheme.

Q.53. Can bankers open foreign currency accounts in India for residents under LRS?

Ans. No, banks in India cannot open foreign currency accounts in India for residents under the Scheme.

Q.54. Can an Offshore Banking Unit (OBU) in India be treated on par with a branch of the bank outside India for the purpose of opening of foreign currency accounts by residents under the Scheme?

Ans. No, for the purpose of the Scheme, an OBU in India is not treated as an overseas branch of a bank in India.

Q.55. Are individuals resident in India permitted to include non-resident close relatives as joint holder(s) in their resident bank accounts?

Ans. Individuals resident in India are permitted to include non-resident close relative(s) ('relatives' as defined in section 6 of the Companies Act, 1956) as joint holder(s) in their resident bank accounts on 'former or survivor' basis. However, such non-resident Indian close relatives shall not be eligible to operate the account during the

life time of the resident account holder.

Q.56. Can a Non-Resident Indian (NRI) open NRE/FCNR (B) account with their resident close relative?

Ans. Non-Resident Indian (NRI), as defined in FEMA Notification No. 5/ 2000-RB dated May 3, 2000 may be permitted to open NRE/FCNR(B) account with their resident close relative ('relative' as defined in Section 6 of the Companies Act, 1956) on 'former or survivor' basis. The resident close relative shall be eligible to operate the account as a Power of Attorney holder in accordance with the extant instructions during the life time of the NRI/PIO account holder.

Q.57. Is meeting of medical expenses of a NRI close relative, in India, by Resident Individuals permitted?

Ans. Where the medical expenses in respect of NRI close relative ['relative' as defined in section 6 of the Companies Act, 1956) are paid by a resident individual, such a payment being in the nature of a resident to resident transaction may be covered under the term "services related thereto" under Regulation 2(i) of Notification No. FEMA16/ 2000-RB dated May 3, 2000.

Q.58. What is the reporting format to be complied with by the ADs?

Ans. AD banks have to report remittances under LRS on a monthly basis to External Payments Division, Foreign Exchange Department, Central office, Mumbai, in Online Returns Filing System (ORFS).

Q.59. Whether documents viz 15 CA, 15 CB have to be taken in all outward remittance cases including remittances for maintenance etc.?

Ans. In t/o A. P. (Dir Series) circular No. 151 dated June 30, 2014, Reserve Bank of India will not issue any instructions under the FEMA, regarding the procedure to be followed in respect of deduction of tax at source while allowing remittances to the non-residents. It shall be mandatory on the part of Authorised Dealers to comply with the requirement of the tax laws, as applicable.

General Information: For further details/guidance, please approach any bank authorised to deal in foreign exchange or contact Regional Offices of the Foreign Exchange Department of the Reserve Bank.

¹ A 'person resident in India' is defined in Section 2(v) of FEMA, 1999 as :

A person residing in India for more than one hundred and eighty-two days during the course of the preceding financial year but does not include

(A) a person who has gone out of India or who stays outside India, in either case -

for or on taking up employment outside India, or

for carrying on outside India a business or vocation outside India, or

for any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period;

(B) a person who has come to or stays in India, in either case, otherwise than

for or on taking up employment in India, or for carrying on in India a business or vocation in India, or

for any other purpose, in such circumstances as would indicate his intention to stay in India for an uncertain period any person or body corporate registered or incorporated in India,

an office, branch or agency in India owned or controlled by a person resident outside India,

an office, branch or age

Liaison / Branch / Project Offices of foreign entities in India

(Updated upto July 07, 2015)

Q.1. How can foreign companies open Liaison /Branch office in India?

Ans. As enlisted below:

A. Foreign companies/entities desirous of setting up of Liaison Office / Branch Office (LO/BO) are required to submit their application in [Form FNC](#) along with the documents mentioned therein to the General Manager, Foreign Exchange Department, Central Office Cell, Reserve Bank of India, New Delhi Regional Office, 6, Parliament Street, New Delhi-110 001, India through an Authorised Dealer bank. This form is available at www.rbi.org.in

B. The applications from such entities in Form FNC will be considered by the Reserve Bank under two routes:

- Reserve Bank Route - Where principal business of the foreign entity falls under sectors where 100 per cent Foreign Direct Investment (FDI) is permissible under the automatic route.

- Government Route - Where principal business of the foreign entity falls under the sectors where 100 per cent FDI is not permissible under the automatic route. Applications from entities falling under this category and those from Non - Government Organisations / Non - Profit Organisations / Government Bodies / Departments are considered by the Reserve Bank in consultation with the Ministry of Finance, Government of India.

C. The following additional criteria are also considered by the Reserve Bank while sanctioning Liaison/Branch Offices of foreign entities:

- Track Record

- For Branch Office — a profit making track record during the immediately preceding five financial years in the home country.
- For Liaison Office — a profit making track record during the immediately preceding three financial years in the home country.

- Net Worth [total of paid-up capital and free reserves, less intangible assets as per the latest Audited Balance Sheet or Account Statement certified by a Certified Public Accountant or any Registered Accounts Practitioner by whatever name].

- For Branch Office — not less than USD 100,000 or its equivalent.
- For Liaison Office — not less than USD 50,000 or its equivalent

D. Permission to set up Liaison offices is initially granted for a period of 3 years and this may be extended from time to time by the Authorised Dealer in whose jurisdiction the office is set up. The Branch / Liaison offices established with the Reserve Bank's approval will be allotted a Unique Identification Number (UIN) (www.rbi.org.in/scripts/Fema.aspx). The BOs / LOs shall also obtain Permanent Account Number (PAN) from

the Income Tax Authorities on setting up the offices in India.

E. Liaison/Branch offices have to file an Annual Activity Certificate (AACs) from the Auditors, as at end of March 31, along with the audited Balance Sheet on or before September 30 of that year, stating that the Liaison Office has undertaken only those activities permitted by Reserve Bank of India. In case the annual accounts of the LO/ BO are finalized with reference to a date other than March 31, the AAC along with the audited Balance Sheet may be submitted within six months from the due date of the Balance Sheet.

LOs/BOs are required to furnish copy of the Annual Activity Certificate (AAC) to Director General of Income Tax (International Taxation), Drum Shaped Building, I.P. Estate, New Delhi 110002. Copies of the AACs submitted to the DGIT (International Taxation) should be accompanied by audited financial statements including receipt and payment account.

Further, at the time of renewal of permission of LOs by AD banks, they may note to endorse a copy of each such renewal to the office of the DGIT (international Taxation).

Q.2. What are the permitted activities of Liaison Office/ Representative Office?

Ans. A Liaison Office (also known as Representative Office) can undertake only liaison activities, i.e. it can act as a channel of communication between Head Office abroad and parties in India. It is not allowed to undertake any business activity in India and cannot earn any income in India. Expenses of such offices are to be met entirely through inward remittances of foreign exchange from the Head Office outside India. The role of such offices is, therefore, limited to collecting information about possible market opportunities and providing information about the company and its products to the prospective Indian customers. A Liaison Office can undertake the following activities in India:

- i. Representing in India the parent company / group companies.
- ii. Promoting export / import from / to India.
- iii. Promoting technical/financial collaborations between parent/group companies and companies in India.
- iv. Acting as a communication channel between the parent company and Indian companies.

Q.3. Can Foreign Insurance Companies / Banks set up Liaison Office in India?

Ans. Foreign Insurance companies can establish Liaison Offices in India only after obtaining approval from the Insurance Regulatory and Development Authority (IRDA). Similarly, foreign banks can establish Liaison Offices in India only after obtaining approval from the Department of Banking Regulations (DBR), Reserve Bank of India.

Q. 4. What is the procedure for setting up Branch office?

Ans. Permission for setting up branch offices is granted by the Foreign Exchange Department, Central Office Cell, Reserve Bank of India, New Delhi Regional Office, 6, Parliament Street, New Delhi-110 001, India. Reserve Bank of India considers the track record of the applicant company, existing trade relations with India, the activity of the company proposing to set up office in India as well as the financial position of the company while scrutinising the application. The application in Form FNC should be submitted to the Reserve Bank through the Authorised Dealer bank.

Q.5. What are the permitted activities of Branch Office?

Ans. Companies incorporated outside India and engaged in manufacturing or trading activities are allowed to set up Branch Offices in India with specific approval of the Reserve Bank. Such Branch Offices are permitted to represent the parent / group companies and undertake the following activities in India:

- i. Export / Import of goods.
- ii. Rendering professional or consultancy services.
- iii. Carrying out research work, in areas in which the parent company is engaged.
- iv. Promoting technical or financial collaborations between Indian companies and parent or overseas group company.
- v. Representing the parent company in India and acting as buying / selling agent in India.
- vi. Rendering services in information technology and development of software in India.
- vii. Rendering technical support to the products supplied by parent/group companies.
- viii. Foreign airline / shipping company.

Normally, the Branch Office should be engaged in the activity in which the parent company is engaged.

Note:

- a. Retail trading activities of any nature is not allowed for a Branch Office in India.
- b. A Branch Office is not allowed to carry out manufacturing or processing activities in India, directly or indirectly.
- c. Profits earned by the Branch Offices are freely remittable from India, subject to payment of applicable taxes.

Q.6. Whether Branch Offices are permitted to remit profit outside India?

Ans. Branch Offices are permitted to remit outside India profit of the branch net of applicable Indian taxes, on production of the following documents to the satisfaction of the Authorised Dealer through whom the remittance is effected :

- a. A Certified copy of the audited Balance Sheet and Profit and Loss account for the relevant year;
- b. A Chartered Accountant's certificate certifying -
 - i. the manner of arriving at the remittable profit
 - ii. that the entire remittable profit has been earned by undertaking the permitted activities
 - iii. that the profit does not include any profit on revaluation of the assets of the branch.

Q.7 What are the documents to be submitted to the AD bank at the time of closure of the Liaison/ Branch Office?

Ans. At the time of winding up of Branch/Liaison offices, the company has to approach the designated AD Category - I bank with the following documents:

- a) Copy of the Reserve Bank's permission/ approval from the sectoral regulator(s) for establishing the BO / LO.
- b) Auditor's certificate - i) indicating the manner in which the remittable amount has been arrived at and supported by a statement of assets and liabilities of the applicant, and indicating the manner of disposal of assets;
 - ii) confirming that all liabilities in India including arrears of gratuity and other benefits to employees, etc., of the Office have been either fully met or adequately provided for; and
 - iii) confirming that no income accruing from sources outside India (including proceeds of exports) has remained un-repatriated to India.
- c) Confirmation from the applicant/parent company that no legal proceedings in any Court in India are pending

and there is no legal impediment to the remittance.

d) A report from the Registrar of Companies regarding compliance with the provisions of the Companies Act, 1956, in case of winding up of the Office in India.

e) Any other document/s, specified by the Reserve Bank while granting approval.

W.r.t the application made by a BO/LO for making remittance of its winding up proceeds, the designated AD Category –I bank may permit the remittances subject to the directions issued by the Reserve Bank of India in this regard from time to time and payment of applicable taxes in India, if any.

Q.8. What is the procedure for setting up Project Office?

Ans. The Reserve Bank has granted general permission to foreign companies to establish Project Offices in India, provided they have secured a contract from an Indian company to execute a project in India, and

- i. the project is funded directly by inward remittance from abroad; or
- ii. the project is funded by a bilateral or multilateral International Financing Agency; or
- iii. the project has been cleared by an appropriate authority; or
- iv. a company or entity in India awarding the contract has been granted Term Loan by a Public Financial Institution or a bank in India for the project.

However, if the above criteria are not met or if the parent entity is established in Pakistan, Bangladesh, Sri Lanka, Afghanistan, Iran, China, Hong Kong or Macau, such applications have to be forwarded to the General Manager, Foreign Exchange Department, Central Office Cell, Reserve Bank of India, New Delhi Regional Office, 6, Parliament Street, New Delhi-110 001, India for approval.

Q.9. What are the bank accounts permitted to a Project Office?

Ans. AD Category – I banks can open non-interest bearing Foreign Currency Account for Project Offices in India subject to the following:

- i. The Project Office has been established in India, with the general / specific permission of Reserve Bank, having the requisite approval from the concerned Project Sanctioning Authority concerned.
- ii. The contract, under which the project has been sanctioned, specifically provides for payment in foreign currency.
- iii. Each Project Office can open two Foreign Currency Accounts, usually one denominated in USD and other in home currency, provided both are maintained with the same AD category–I bank.
- iv. The permissible debits to the account shall be payment of project related expenditure and credits shall be foreign currency receipts from the Project Sanctioning Authority, and remittances from parent/ group company abroad or bilateral / multilateral international financing agency.
- v. The responsibility of ensuring that only the approved debits and credits are allowed in the Foreign Currency Account shall rest solely with the branch concerned of the AD. Further, the Accounts shall be subject to 100 per cent scrutiny by the Concurrent Auditor of the respective AD banks.
- vi. The Foreign Currency accounts have to be closed at the completion of the Project.

Q.10. What are the general conditions applicable to Liaison / Branch / Project Office of foreign entities in India?

Ans. The general conditions applicable to Liaison/Branch/Project Office of foreign entities in India are as under;

(i) Without prior permission of the Reserve Bank, no person being a citizen of/ registered in Pakistan, Bangladesh, Sri Lanka, Afghanistan, Iran, China, Hong Kong or Macau can establish in India, a Branch or a

Liaison Office or a Project Office or any other place of business.

(ii) Proprietary concerns set up abroad are not allowed to establish Branch /Liaison/Project Offices in India.

(iii) Entities from Nepal are allowed to establish only Liaison Offices in India.

(iv) Branch/Project Offices of a foreign entity, excluding a Liaison Office are permitted to acquire property for their own use and to carry out permitted/incidental activities but not for leasing or renting out the property. However, entities from Pakistan, Bangladesh, Sri Lanka, Afghanistan, Iran, Nepal, Bhutan, China, Hong Kong and Macau are not allowed to acquire immovable property in India even for a Branch Office. These entities are allowed to lease such property for a period not exceeding five years.

(v) Branch / Liaison / Project Offices are allowed to open non-interest bearing INR current accounts in India.

(vi) Powers relating to transfer of assets of Liaison / Branch Office/Project Office have been delegated to AD Category-1 Banks subject to compliance with certain stipulations as mentioned in [A.P.DIR \(Series Circular\) No. 142 dated June 12, 2014](#).

(vii) Authorised Dealers can allow term deposit account for a period not exceeding 6 months in favor of a branch/office of a person resident outside India provided the bank is satisfied that the term deposit is out of temporary surplus funds and the branch / office furnishes an undertaking that the maturity proceeds of the term deposit will be utilised for their business in India within 3 months of maturity. However, such facility may not be extended to shipping/airline companies.

(viii) Permission to establish offices, in India by foreign Non-Government Organisations/Non-Profit Organisations/Foreign Government Bodies/Departments, by whatever name called, are under the Government Route as specified in [A. P. \(DIR Series\) Circular No. 23 dated December 30, 2009](#). Such entities are required to apply to the Reserve Bank for prior permission to establish an office in India, whether Project Office or otherwise.

F. All the new entities setting up LO/BO/PO shall also:

- i. submit a report containing information as per Annex (given in [AP DIR.Circular.35 dated September 25, 2012](#)) within five working days of the LO/BO/PO becoming functional to the DGP of the state concerned in which LO/BO/PO has established its office; if there are more than one office of such a foreign entity, in such cases to each of the DGP concerned of the state where it has established office in India;
- ii. a copy of the report as per above mentioned Annex shall also be filed with the DGP concerned on annual basis along with a copy of the Annual Activity Certificate/Annual report required to be submitted by LO/BO/PO concerned, as the case may be.
- iii. A copy of report thus filed as above shall also be filed with AD by LO/BO/PO concerned.

G. The existing LO/BO/PO shall henceforth report the information as per above mentioned Annex along with the copy of Annual Activity Certificate/Annual report to

Scheme for Authorized Dealers Category I (AD) banks, Authorized Dealers Category-II and Full Fledged Money Changers Appointing Agents/Franchisees for Undertaking Restricted Money Changing
(Updated as on March 24, 2015)

1. Who are Authorised Money Changers?

Authorised Money Changers (AMCs) are entities, authorised by the Reserve Bank under Section 10 of the Foreign Exchange Management Act, 1999. An AMC is a Full Fledged Money Changer (FFMC) authorised by

the Reserve Bank to deal in foreign exchange for specified purposes.

2. The objective behind allowing Authorised Money Changers to do business?

To widen the access of foreign exchange facilities to residents and tourists while ensuring efficient customer service through competition.

3. What are the different types of AMCs?

The different types of AMCs are Authorised Dealer Category -I Banks (AD Category-I Banks), Authorised Dealers Category - II (ADs Category-II) and Full Fledged Money Changers (FFMCs).

4. Whether licence is mandatory for AMCs?

Yes. No person shall carry on or advertise that he carries on money changing business unless he is in possession of a valid money changer's licence issued by the Reserve Bank. Any person found undertaking money changing business without a valid licence is liable to be penalised.

5. Who can apply for FFMC licence?

The applicant has to be a company registered under the Companies Act, 1956. The minimum Net Owned Funds (NOF) required for consideration as FFMC is Rs.25 lakh for Single branch FFMC and Rs.50 lakh for Multiple branch FFMC.

6. Where one can submit the application (fresh/renewal) for FFMC licence?

[Application in the prescribed form](#), along with the required documents should be submitted to the respective Regional Office of the Foreign Exchange Department of the Reserve Bank under whose jurisdiction the registered office of the applicant falls

7. How to calculate Net Owned Funds?

The Net Owned Funds of applicants, other than banks, should be calculated as per the following:

- Owned Funds : (Paid-up Equity Capital + Free reserves + Credit balance in Profit & Loss A/c) minus (Accumulated balance of loss, Deferred revenue expenditure and Other intangible assets)
- Net Owned Funds: Owned funds minus the amount of investments in shares of its subsidiaries, companies in the same group, all (other) non-banking financial companies as also the book value of debentures, bonds, outstanding loans and advances made to and deposits with its subsidiaries and companies in the same group in excess of 10 per cent of the Owned funds.

8. Is NOF to be maintained on the ongoing basis?

AMCs are expected to maintain the minimum NOF on an ongoing basis.

9. Under what circumstances can Reserve Bank revoke the FFMC licence?

The Reserve Bank reserves the right to revoke the licence granted to an AMC at any time if the Reserve Bank is satisfied that:

- it is in public interest to do so or
- the AMC has failed to comply with any condition subject to which the authorisation is granted or has

contravened any of the provisions of the Foreign Exchange Management Act, 1999 or any rule, regulation, notification, direction or order made there-under.

Reserve Bank also reserves the right to revoke the authorization of any of the offices for infringement of any statutory or regulatory provision. The Reserve Bank may at any time vary or revoke any of the existing conditions of a money changer's licence or impose new conditions.

10. During what time frame a new FFMC should commence operations?

The FFMC should commence operations within a period of six months from the date of issuance of licence. A copy of the registration under Shops & Establishment Act or any other documentary evidence such as rent receipt, copy of lease agreement, etc. should be submitted to the Reserve Bank before commencement of business.

11. What are the Money Changing facilities presently available in India?

At present, the conversion of currency notes, coins or travellers' cheques designated in foreign currency into Indian Rupees and vice versa is possible through AD Category-I banks, ADs Category-II and Full Fledged Money Changers (FFMCs). Further, AD Category -I banks, ADs Category - II and FFMCs may appoint franchisees (also known as Agents) to undertake purchase of foreign currency.

12. What is the objective of the Scheme for appointing Franchisees by AD Category Banks, ADs Category-II and FFMCs for undertaking Restricted Money Changing Activities?

The objective of the Scheme is to provide easier foreign exchange conversion facilities for travellers and tourists, including Non Resident Indians (NRIs), by enlarging the network of money changing facilities in the country. It is expected that the facility of Franchisee arrangement will enable AD Category-I banks, ADs Category-II and FFMCs to provide such facilities at all tourist centers and major cities during extended hours and on holidays.

13. What are the salient features of Franchisee Agreement?

Under the Scheme, the Reserve Bank permits AD Category - I banks, ADs Category - II and FFMCs to enter into franchisee agreements at their option for the purpose of carrying on Restricted Money Changing business, i.e. conversion of foreign currency notes, coins or travelers' cheques into Rupees by the franchisees.

A franchisee can be any entity which has a place of business and a minimum Net Owned Funds of Rs. 10 lakhs. Franchisees can undertake only restricted money changing business.

AD Category - I banks, ADs Category - II and FFMCs as the Franchisers are free to decide on the tenor of the arrangement as also the commission or fee through mutual agreement with the franchisee. The Franchisee agreement to be entered into should include the following conditions:

- The franchisees should display the names of their franchisers, exchange rates and that they are authorized only to purchase foreign currency prominently in their offices. Exchange Rate for conversion of foreign currency into Rupees should be the same or close to the daily exchange rate charged by the AD Category - I Bank / AD Category - II / FFMC at its branches.
- The foreign currency purchased by the franchisee should be surrendered only to its franchiser within 7 working days from the date of purchase.
- The franchisee should maintain proper records of transactions.

(d) The on-site inspection of the franchisee by the franchiser should be conducted at least once a year.

14. What is the procedure for submission of application by AD Category – I bank/ AD Category - II/ FPMC to the Reserve Bank for appointment of franchisees?

An AD Category – I bank/ AD Category - II/ FPMC should apply to the respective Regional Office of the Reserve Bank, in [Form RMC-F](#) (Annex-IV of the [A.P. \(DIR Series\) Circular No. 57 \[A.P. \(FL/RL Series\) Circular No. 04\] dated March 9, 2009](#)) for appointment of franchisees under this Scheme. The application should be accompanied by a declaration that while selecting the franchisees, adequate due diligence has been carried out and that such entities have undertaken to comply with all the provisions of the franchising agreement and prevailing Reserve Bank regulations regarding money changing. Approval would be granted by the Reserve Bank for the first franchisee arrangement. Thereafter, as and when new franchisee agreements are entered into, these would have to be reported to the Reserve Bank in Form RMC-F (Annex-IV of the A.P. (DIR Series) Circular No. 57 [A.P. (FL/RL Series) Circular No. 04] dated March 9, 2009) on a post-facto basis, along with similar declaration as indicated above.

15. What are the checks to be ensured by AD Category-I banks/ADs Category-II/FFMCs while conducting due diligence of Franchisees before appointing them?

The AD Category – I banks / ADs Category – II / FFMCs should undertake the following minimum checks while conducting the due diligence of the franchisees:

- existing business activities of the franchisee and its position in the area.
- minimum Net Owned Funds of the franchisee.
- Shop & Establishment / other applicable municipal certification in favour of the franchisee.
- verification of physical existence of location of the franchisee, where restricted money changing activities will be conducted.
- conduct certificate of the franchisee from the local police authorities (certified copy of Memorandum and Articles of Association and Certificate of Incorporation in lieu of conduct certificate in respect of franchisees which are incorporated entities. Accordingly, Item No. 6 of the Form RMC-F in Annex-IV of the A.P. (DIR Series) Circular No. 57 [A.P. (FL/RL Series) Circular No. 04] dated March 9, 2009 may suitably be modified for corporate franchisees.) *[Note: - Obtaining of Conduct Certificate of the franchisee from the local police authorities is optional for the franchisers. However, the franchisers may take due care to avoid appointing individuals/ entities as franchisees who have cases / proceedings initiated / pending against them by any law enforcing agencies.]*
- declaration regarding past criminal cases, if any, and cases initiated / pending against the franchisee or its directors / partners by any law enforcing agency, if any.
- PAN Card of the franchisee and its directors / partners.
- photographs of the directors / partners and the key persons of franchisee.

The above checks should be done on a regular basis, at least once in a year. The AD Category – I banks / ADs Category – II / FFMCs should obtain from the franchisees proper documentary evidence confirming the location of the franchisees in addition to personal visits to the site. The AD Category – I Banks/ ADs Category – II / FFMCs should also obtain a Chartered Accountant's certificate confirming the maintenance of the Net Owned Funds of the franchisees, i.e. Rs. 10 lakh on an ongoing basis.

16. What are the criteria for selection of centres?

The AD Category – I banks / AD Category – II / FFMCs may appoint franchisees within a distance of 100 kms. from their controlling branches concerned.

However, this distance criterion is exempted in case of a recognised group/ chain of hotels appointed as franchisees, provided the headquarters of the group/ chain of hotels falls within a distance of 100 kms. of the

controlling branch of the AD Category – I banks / ADs Category – II / FFMCs (franchiser) concerned.

Further, in case of areas declared as hilly areas (as defined by the respective State Governments/Union Territories) and the North-Eastern States, the distance restriction given in point (i) above is not applicable.

17. What are the guidelines on provision for training of franchisees?

Franchisers are expected to impart training to the franchisees as regards operations and maintenance of records.

18. What are the guidelines in respect of Reporting, Audit and Inspection of franchisees?

The franchisers i.e. the AD Category – I banks / ADs Category – II / FFMCs are expected to ensure that franchisees put in place adequate arrangements for reporting of transactions by the franchisees to the franchisers on a regular basis (at least monthly). Regular spot audits of all locations of franchisees, at least once in six months, should be conducted by AD Category – I Banks / ADs Category – II / FFMCs. Such audits should involve a dedicated team and 'mystery customer' (Individuals acting as potential customers to experience and measure the extent up to which people and processes perform as they should) concept should be used to test the compliance level of the franchisees. A system of annual inspection of the books of the franchisees should also be put in place. The purpose of such inspection is to ensure that the money changing business is being carried out by the franchisees in conformity with the terms of the agreement and prevailing Reserve Bank guidelines and that necessary records are being maintained by the franchisees.

19. Does a franchisee need to adhere to KYC/AML/CFT Guidelines?

Franchisees are required to strictly adhere to the KYC/AML/CFT guidelines, as applicable to ADs Category – I / ADs Category – II / FFMCs.

Note:- No licence for appointment of franchisees will be issued to any FPMC / non-bank AD Category - II, against whom any major Directorate of Enforcement (DoE) / Directorate of Revenue Intelligence (DRI) / Central Bureau of Investigation (CBI) / Police case is pending. In case where any FPMC / non-bank AD Category - II has received one-time approval for appointing franchisees and subsequent to the date of approval, any DoE / DRI / CBI / Police case is filed, the FPMC / non-bank AD Category - II should not appoint any further franchisees and bring the matter to the notice of the Reserve Bank immediately. A decision will be taken by the Reserve Bank regarding allowing the FPMC / non-bank AD Category – II to appoint franchisees.

20. Can AMCs issue Forex prepaid cards?

Authorised Dealers Category-II can issue forex pre-paid cards to residents travelling on private/business visit abroad, subject to KYC/AML/CFT requirements. However, the settlement in respect of forex pre-paid cards has to be effected through AD Category-I banks.

21. Whether Forex Prepaid Cards can be used at Duty Free Shops located at International Airports in India?

Y

Foreign Investments in India

(Updated upto February 10, 2015)

Q. 1. What are the forms in which business can be conducted by a foreign company in India?

Ans. A foreign company planning to set up business operations in India may:

- Incorporate a company under the Companies Act, 1956, as a Joint Venture or a Wholly Owned Subsidiary.
- Set up a Liaison Office / Representative Office or a Project Office or a Branch Office of the foreign company which can undertake activities permitted under the Foreign Exchange Management (Establishment in India of Branch Office or Other Place of Business) Regulations, 2000.

Q.2. What is the procedure for receiving Foreign Direct Investment in an Indian company?

Ans. An Indian company may receive Foreign Direct Investment under the two routes as given under:

i. Automatic Route

FDI is allowed under the automatic route without prior approval either of the Government or the Reserve Bank of India in all activities/sectors as specified in the consolidated FDI Policy, issued by the Government of India from time to time.

ii. Government Route

FDI in activities not covered under the automatic route requires prior approval of the Government which are considered by the Foreign Investment Promotion Board (FIPB), Department of Economic Affairs, Ministry of Finance. Application can be made in Form FC-IL, which can be downloaded from <http://www.dipp.gov.in>. Plain paper applications carrying all relevant details are also accepted. No fee is payable.

The Indian company having received FDI either under the Automatic route or the Government route is required to comply with provisions of the FDI policy including reporting the FDI to the Reserve Bank as stated in Q 4.

Q.3. What are the instruments for receiving Foreign Direct Investment in an Indian company?

Ans. Foreign investment is reckoned as FDI only if the investment is made in equity shares, fully and mandatorily convertible preference shares and fully and mandatorily convertible debentures with the pricing being decided upfront as a figure or based on the formula that is decided upfront. Partly paid equity shares and warrants issued by an Indian company in accordance with the provision of the Companies Act, 2013 and the SEBI guidelines, as applicable, shall be treated as eligible FDI instruments w.e.f. July 8, 2014 subject to compliance with FDI scheme. The pricing and receipt of balance consideration shall be as stipulated in terms of [A.P.\(DIR Series\) Circular No.3 dated July 14, 2014](#) as modified from time to time.

Any foreign investment into an instrument issued by an Indian company which:

- gives an option to the investor to convert or not to convert it into equity or
- does not involve upfront pricing of the instrument as a date would be reckoned as ECB and would have to comply with the ECB guidelines.

The FDI policy provides that the price/ conversion formula of convertible capital instruments should be determined upfront at the time of issue of the instruments. The price at the time of conversion should not in any case be lower than the fair value worked out, at the time of issuance of such instruments, in accordance with the extant FEMA regulations [valuation as per any internationally accepted pricing methodology on arm's length basis for the unlisted companies and valuation in terms of SEBI (ICDR) Regulations, for the listed companies] without any assured return.

Q.4. What are the modes of payment allowed for receiving Foreign Direct Investment in an Indian company?

Ans. An Indian company issuing shares /convertible debentures under FDI Scheme to a person resident outside

India shall receive the amount of consideration required to be paid for such shares /convertible debentures by:

(i) inward remittance through normal banking channels.

(ii) debit to NRE / FCNR account of a person concerned maintained with an AD category I bank.

(iii) conversion of royalty / lump sum / technical know how fee due for payment or conversion of ECB, shall be treated as consideration for issue of shares.

(iv) conversion of import payables / pre incorporation expenses / share swap can be treated as consideration for issue of shares with the approval of FIPB.

(v) debit to non-interest bearing Escrow account in Indian Rupees in India which is opened with the approval from AD Category – I bank and is maintained with the AD Category I bank on behalf of residents and non-residents towards payment of share purchase consideration.

If the shares or convertible debentures are not issued within 180 days from the date of receipt of the inward remittance or date of debit to NRE / FCNR (B) / Escrow account, the amount shall be refunded. Further, Reserve Bank may on an application made to it and for sufficient reasons permit an Indian Company to refund / allot shares for the amount of consideration received towards issue of security if such amount is outstanding beyond the period of 180 days from the date of receipt.

Q.5. Which are the sectors where FDI is not allowed in India, both under the Automatic Route as well as under the Government Route?

Ans. FDI is prohibited under the Government Route as well as the Automatic Route in the following sectors:

i) Atomic Energy

ii) Lottery Business

iii) Gambling and Betting

iv) Business of Chit Fund

v) Nidhi Company

vi) Agricultural (excluding Floriculture, Horticulture, Development of seeds, Animal Husbandry, Pisciculture and cultivation of vegetables, mushrooms, etc. under controlled conditions and services related to agro and allied sectors) and Plantations activities (other than Tea Plantations) (c.f. [Notification No. FEMA 94/2003-RB dated June 18, 2003](#)).

vii) Housing and Real Estate business (except development of townships, construction of residential/commercial premises, roads or bridges to the extent specified in [Notification No. FEMA 136/2005-RB dated July 19, 2005](#)).

viii) Trading in Transferable Development Rights (TDRs).

ix) Manufacture of cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes.

(Please also see the website of Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce & Industry, Government of India at www.dipp.gov.in for details regarding sectors and investment limits therein allowed, under FDI)

Q.6. What is the procedure to be followed after investment is made under the Automatic Route or with Government approval?

Ans. A two-stage reporting procedure has to be followed :

On receipt of share application money:

Within 30 days of receipt of share application money/amount of consideration from the non-resident investor, the Indian company is required to report to the Foreign Exchange Department, Regional Office concerned of the Reserve Bank of India, under whose jurisdiction its Registered Office is located, the Advance Reporting Form, containing the following details :

Name and address of the foreign investor/s;

Date of receipt of funds and the Rupee equivalent;

Name and address of the authorised dealer through whom the funds have been received;

Details of the Government approval, if any; and

KYC report on the non-resident investor from the overseas bank remitting the amount of consideration.

The Indian company has to ensure that the shares are issued within 180 days from the date of inward remittance which otherwise would result in the contravention / violation of the FEMA regulations.

Upon issue of shares to non-resident investors:

Within 30 days from the date of issue of shares, a report in Form FC-GPR- PART A together with the following documents should be filed with the Foreign Exchange Department, Regional Office concerned of the Reserve Bank of India.

- Certificate from the Company Secretary of the company accepting investment from persons resident outside India certifying that:

The company has complied with the procedure for issue of shares as laid down under the FDI scheme as indicated in the [Notification No. FEMA 20/2000-RB dated 3rd May 2000](#), as amended from time to time.

- The investment is within the sectoral cap / statutory ceiling permissible under the Automatic Route of the Reserve Bank and it fulfills all the conditions laid down for investments under the Automatic Route,

- OR

- Shares have been issued in terms of SIA/FIPB approval No. ----- dated ----- (enclosing the FIPB approval copy)

- Certificate from Statutory Auditors/ SEBI registered Merchant Banker / Chartered Accountant indicating the manner of arriving at the price of the shares issued to the persons resident outside India.

Q.7. What are the guidelines for transfer of existing shares from non-residents to residents or residents to non-residents?

Ans. The term 'transfer' is defined under FEMA as including "sale, purchase, acquisition, mortgage, pledge, gift,

loan or any other form of transfer of right, possession or lien" {Section 2 (ze) of FEMA, 1999}.

The following share transfers are allowed without the prior approval of the Reserve Bank of India

A. Transfer of shares from a Non Resident to Resident under the FDI scheme where the pricing guidelines under FEMA, 1999 are not met provided that :-

i. The original and resultant investment are in line with the extant FDI policy and FEMA regulations in terms of sectoral caps, conditionalities (such as minimum capitalization, etc.), reporting requirements, documentation, etc.;

ii. The pricing for the transaction is compliant with the specific/explicit, extant and relevant SEBI regulations / guidelines (such as IPO, Book building, block deals, delisting, exit, open offer/ substantial acquisition / SEBI SAST, buy back); and

iii. Chartered Accountants Certificate to the effect that compliance with the relevant SEBI regulations / guidelines as indicated above is attached to the [form FC-TRS](#) to be filed with the AD bank.

B. Transfer of shares from Resident to Non Resident:

i) where the transfer of shares requires the prior approval of the FIPB as per the extant FDI policy provided that :

a) the requisite approval of the FIPB has been obtained; and

b) the transfer of share adheres with the pricing guidelines and documentation requirements as specified by the Reserve Bank of India from time to time.

ii) where SEBI (SAST) guidelines are attracted subject to the adherence with the pricing guidelines and documentation requirements as specified by Reserve Bank of India from time to time.

iii) where the pricing guidelines under the Foreign Exchange Management Act (FEMA), 1999 are not met provided that:-

The resultant FDI is in compliance with the extant FDI policy and FEMA regulations in terms of sectoral caps, conditionalities (such as minimum capitalization, etc.), reporting requirements, documentation etc.;

The pricing for the transaction is compliant with the specific/explicit, extant and relevant SEBI regulations / guidelines (such as IPO, Book building, block deals, delisting, exit, open offer/ substantial acquisition / SEBI SAST); and

Chartered Accountants Certificate to the effect that compliance with the relevant SEBI regulations / guidelines as indicated above is attached to the form FC-TRS to be filed with the AD bank

iv) where the investee company is in the financial sector provided that :

- The FDI policy and FEMA regulations in terms of entry route, sectoral caps, conditionalities (such as minimum capitalization, etc.), reporting requirements, documentation etc., are complied with.

Transfer of shares/ fully and mandatorily convertible debentures by way of Gift:

A person resident outside India can freely transfer shares/ fully and mandatorily convertible debentures by way of gift to a person resident in India as under:

Any person resident outside India, (not being a NRI or an erstwhile OCB), can transfer by way of gift the shares/ fully and mandatorily convertible debentures to any person resident outside India (including NRIs but excluding OCBs).

Note: Transfer of shares from or by erstwhile OCBs would require prior approval of the Reserve Bank of India.

a NRI may transfer by way of gift, the shares/convertible debentures held by him to another NRI only,

Any person resident outside India may transfer share/ fully and mandatorily convertible debentures to a person resident in India by way of gift.

Q.8. Can a person resident in India transfer security by way of gift to a person resident outside India?

Ans. A person resident in India who proposes to transfer security by way of gift to a person resident outside India [other than an erstwhile OCBs] shall make an application to the Central Office of the Foreign Exchange Department, Reserve Bank of India furnishing the following information, namely:

Name and address of the transferor and the proposed transferee

Relationship between the transferor and the proposed transferee

Reasons for making the gift.

In case of Government dated securities, treasury bills and bonds, a certificate issued by a Chartered Accountant on the market value of such securities.

In case of units of domestic mutual funds and units of Money Market Mutual Funds, a certificate from the issuer on the Net Asset Value of such security.

In case of shares/ fully and mandatorily convertible debentures, a certificate from a Chartered Accountant on the value of such securities according to the guidelines issued by the Securities & Exchange Board of India or the valuation as per any internationally accepted pricing methodology on arm's length basis with regard to listed companies and unlisted companies, respectively.

Certificate from the Indian company concerned certifying that the proposed transfer of shares/convertible debentures, by way of gift, from resident to the non-resident shall not breach the applicable sectoral cap/ FDI limit in the company and that the proposed number of shares/convertible debentures to be held by the non-resident transferee shall not exceed 5 per cent of the paid up capital of the company.

The transfer of security by way of gift may be permitted by the Reserve bank provided:

(i) The donee is eligible to hold such security under Schedules 1, 4 and 5 to [Notification No. FEMA 20/2000-RB dated May 3, 2000](#), as amended from time to time.

(ii) The gift does not exceed 5 per cent of the paid up capital of the Indian company/ each series of debentures/ each mutual fund scheme

(iii) The applicable sectoral cap/ foreign direct investment limit in the Indian company is not breached

(iv) The donor and the donee are relatives as defined in section 6 of the Companies Act, 1956.

(v) The value of security to be transferred by the donor together with any security transferred to any person

residing outside India as gift in the financial year does not exceed the rupee equivalent of USD 50000.

(vi) Such other conditions as considered necessary in public interest by the Reserve Bank.

Q.9. What if the transfer of shares from resident to non-resident does not fall under the above categories?

Ans.

Transfer of Shares by Resident which requires Government approval

The following instances of transfer of shares from residents to non-residents by way of sale or otherwise requires Government approval:

(i) Transfer of shares of companies engaged in sector falling under the Government Route.

(ii) Transfer of shares resulting in foreign investments in the Indian company, breaching the sectoral cap applicable.

Prior permission of the Reserve Bank in certain cases for acquisition / transfer of security

i) Transfer of shares or convertible debentures from residents to non-residents by way of sale requires prior approval of Reserve Bank in case where the non-resident acquirer proposes deferment of payment of the amount of consideration. Further, in case approval is granted for the transaction, the same should be reported in Form FC-TRS to the AD Category – I bank, within 60 days from the date of receipt of the full and final amount of consideration.

(ii) A person resident in India, who intends to transfer any security, by way of gift to a person resident outside India, has to obtain prior approval from the Reserve Bank.

Any other case not covered by General Permission.

Q 10. What are the reporting obligations in case of transfer of shares between resident and non-resident?

Ans. The transaction should be reported by submission of form FC-TRS to the AD Category – I bank, within 60 days from the date of receipt/remittance of the amount of consideration. The onus of submission of the form FC-TRS within the given timeframe would be on the resident in India, the transferor or transferee, as the case may be.

Q.11. What is the method of payment and remittance/credit of sale proceeds in case of transfer of shares between resident and non-resident?

Ans. The sale consideration in respect of the shares purchased by a person resident outside India shall be remitted to India through normal banking channels. In case the buyer is a Foreign Institutional Investor (FII), payment should be made by debit to its Special Non-Resident Rupee Account. In case the buyer is a NRI, the payment may be made by way of debit to his NRE/FCNR (B) accounts. However, if the shares are acquired on non-repatriation basis by NRI, the consideration shall be remitted to India through normal banking channel or paid out of funds held in NRE/FCNR (B)/NRO accounts.

The sale proceeds of shares (net of taxes) sold by a person resident outside India) may be remitted outside India. In case of FII the sale proceeds may be credited to its special Non-Resident Rupee Account. In case of NRI, if the shares sold were held on repatriation basis, the sale proceeds (net of taxes) may be credited to his NRE/FCNR(B) accounts and if the shares sold were held on non repatriation basis, the sale proceeds may be credited to his NRO account subject to payment of taxes. The sale proceeds of shares (net of taxes) sold by an

erstwhile OCB may be remitted outside India directly if the shares were held on repatriation basis and if the shares sold were held on non-repatriation basis, the sale proceeds may be credited to its NRO (Current) Account subject to payment of taxes, except in the case of erstwhile OCBs whose accounts have been blocked by Reserve Bank.

Q. 12. Are the investments and profits earned in India repatriable?

Ans. All foreign investments are freely repatriable (net of applicable taxes) except in cases where:

i) the foreign investment is in a sector like Construction and Development Projects and Defence wherein the foreign investment is subject to a lock-in-period; and

ii) NRIs choose to invest specifically under non-repatriable schemes.

Further, dividends (net of applicable taxes) declared on foreign investments can be remitted freely through an Authorised Dealer bank.

Q.13. What are the guidelines on issue and valuation of shares in case of existing companies?

Ans.

A. The price of shares issued to persons resident outside India under the FDI Scheme shall not be less than :

(i) the price worked out in accordance with the SEBI guidelines, as applicable, where the shares of the company is listed on any recognised stock exchange in India;

(ii) the fair valuation of shares done as per SEBI guidelines for listed companies or as per any internationally accepted pricing methodology on arm's length basis, for unlisted companies

B. The price of shares transferred from resident to a non-resident and vice versa should be determined as under:

i) Transfer of shares from a resident to a non-resident:

a) In case of listed shares, at a price which is not less than the price at which a preferential allotment of shares would be made under SEBI guidelines.

b) In case of unlisted shares at a price which is not less than the fair valuation as per any internationally accepted pricing methodology on arm's length basis to be determined by a SEBI registered Category-I- Merchant Banker/Chartered Accountant.

ii) Transfer of shares from a non-resident to a resident - The price should not be more than the minimum price at which the transfer of shares would have been made from a resident to a non-resident.

In any case, the price per share arrived at as per the above method should be certified by a SEBI registered Category-I-Merchant Banker / Chartered Accountant.

Q.14. What are the regulations pertaining to issue of ADRs/ GDRs by Indian companies?

Ans. i. In terms of Schedule 10 to [Notification No. FEMA.20/2000-RB dated May 3, 2000](#), a person will be eligible to issue or transfer eligible securities to a foreign depository, for the purpose of converting the securities so purchased into depository receipts in terms of Depository Receipts Scheme, 2014 and guidelines issued by the Government of India thereunder from time to time. Depository Receipts issued under the Issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 shall

be deemed to have been issued under the corresponding provisions of DR Scheme, 2014 and have to comply with the provisions laid out in Schedule 10 of Notification *ibid*.

ii. A company can issue DRs, if it is eligible to issue eligible instruments to person resident outside India under Schedules 1, 2, 2A, 3, 5 and 8 of Notification No. FEMA 20/2000-RB dated May 3, 2000, as amended from time to time.

iii. The aggregate of eligible securities which may be issued or transferred to foreign depositories, along with eligible securities already held by persons resident outside India, shall not exceed the limit on foreign holding of such eligible securities under the relevant regulations framed under FEMA, 1999.

iv. The eligible securities shall not be issued or transferred to a foreign depository for the purpose of issuing depository receipts at a price less than the price applicable to a corresponding mode of issue or transfer of such securities to domestic investors under the relevant regulations framed under FEMA, 1999.

v. The domestic custodian shall report the issue of depository receipts as per DR Scheme 2014 to the Reserve Bank as per the reporting guidelines for DR Scheme 2014.

Q.15. Can Indian companies issue Foreign Currency Convertible Bonds (FCCBs)?

Ans. FCCBs can be issued by Indian companies in the overseas market in accordance with the Scheme for Issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993.

The FCCB being a debt security, the issue needs to conform to the External Commercial Borrowing guidelines, issued by RBI vide [Notification No. FEMA 3/2000-RB dated May 3, 2000](#), as amended from time to time.

Q.16. Can a foreign investor invest in Preference Shares? What are the regulations applicable in case of such investments?

Ans. Yes. Foreign investment through preference shares is treated as foreign direct investment. However, the preference shares should be fully and mandatorily convertible into equity shares within a specified time to be reckoned as part of share capital under FDI. Investment in other forms of preference shares requires to comply with the ECB norms.

Q.17. Can a company issue debentures as part of FDI?

Ans. Yes. Debentures which are fully and mandatorily convertible into equity within a specified time would be reckoned as part of share capital under the FDI Policy.

Q.18. Can shares be issued against Lumpsum Fee, Royalty, ECB , Import of capital goods/ machineries / equipments (excluding second-hand machine) and Pre-operative/pre-incorporation expenses (including payments of rent)?

Ans. An Indian company eligible to issue shares under the FDI policy and subject to pricing guidelines as specified by the Reserve Bank from time to time, may issue shares to a person resident outside India :

- being a provider of technology / technical know-how, against Royalty / Lumpsum fees due for payment;
- against External Commercial Borrowing (ECB) (other than import dues deemed as ECB or Trade Credit as per RBI Guidelines).
- With prior approval from FIPB for against import of capital goods/ machineries / equipments and Pre-operative/pre-incorporation expenses subject to the compliance with the extant FEMA regulations and

Provided, that the foreign equity in the company, after such conversion, is within the sectoral cap.

Further, on a review in September 2014, it has been decided that an Indian investee company may issue equity shares against any other funds payable by them, remittance of which does not require prior permission of the Government of India or Reserve Bank of India under FEMA, 1999 or any rules/ regulations framed or directions issued thereunder, provided that:

- i. The equity shares shall be issued in accordance with the extant FDI guidelines on sectoral caps, pricing guidelines etc. as amended by Reserve bank of India, from time to time;

Explanation: Issue of shares/convertible debentures that require Government approval in terms of paragraph 3 of Schedule 1 of FEMA 20 or import dues deemed as ECB or trade credit or payable against import of second hand machinery shall continue to be dealt in accordance with extant guidelines;

- ii. the issue of equity shares under this provision shall be subject to tax laws as applicable to the funds payable and the conversion to equity should be net of applicable taxes.

Q.19. What are the other modes of issues of shares for which general permission is available under RBI [Notification No. FEMA 20 dated May 3, 2000](#)?

Ans.

- Issue of shares under ESOP by Indian companies to its employees or employees of its joint venture or wholly owned subsidiary abroad who are resident outside India directly or through a Trust up to 5% of the paid up capital of the company.
- Issue and acquisition of shares by non-residents after merger or de-merger or amalgamation of Indian companies.
- Issue shares or preference shares or convertible debentures on rights basis by an Indian company to a person resident outside India.

Q.20. Can a foreign investor invest in shares issued by an unlisted company in India?

Ans. Yes. As per the regulations/guidelines issued by the Reserve Bank of India/Government of India, investment can be made in shares issued by an unlisted Indian company subject to compliance with FEMA provisions such as pricing, reporting, etc.

Q.21. Can a foreigner set up a partnership/ proprietorship concern in India?

Ans. No. Only NRIs/PIOs are allowed to set up partnership/proprietorship concerns in India on non-repatriation basis.

Q.22. Can a foreign investor invest in Rights shares issued by an Indian company at a discount?

Ans. There are no restrictions under FEMA for investment in Rights shares issued at a discount by an Indian company, provided the rights shares so issued are being offered at the same price to residents and non-residents. The offer on right basis to the person's resident outside India shall be:

(a) in the case of shares of a company listed on a recognized stock exchange in India, at a price as determined by the company; and

(b) in the case of shares of a company not listed on a recognized stock exchange in India, at a price which is not

less than the price at which the offer on right basis is made to resident shareholders.

Q.23. Can an AD bank allow pledge of shares of an Indian company held by non-resident investor in favour of an Indian bank or an Overseas bank or NBFC?

Ans. Yes, the same has been allowed vide the instruction sand subject to compliance with the terms and conditions as mentioned in the [AP \(Dir. Series\) Circular No 57 dated May 2, 2011](#) and [A.P. \(DIR Series\) Circular No.141 dated June 6, 2014](#).

Q.24. What declaration/certificate needs to be obtained by the AD in respect of utilization of loan proceeds for the declared purpose, consequent to pledge of shares, to comply with para. 2 (i) (b) of the [A. P. \(DIR Series\) Circular No. 57 dated May 2, 2011](#)?

Ans. The AD may obtain a board resolution 'ex ante' passed by the Board of Directors of the investee company, that the loan proceeds received consequent to pledge of shares, will be utilised by the investee company for the declared purpose.

The AD may also obtain a certificate from the statutory auditor 'ex post' of the investee company, that the loan proceeds received consequent to pledge of shares, have been utilised by the investee company for the declared purpose.

Q.25. Is a non-resident permitted to acquire share on stock exchange under FDI scheme?

Ans: Prior to issuance of [A.P \(DIR Series\) Circular No. 38, dated September 6, 2013](#), no person resident outside India except a portfolio investor was allowed to acquire shares on stock exchange.

Portfolio Investors registered with SEBI namely FII and QFI were eligible to acquire shares on stock exchange in accordance with the requirements. Further, NRIs were also permitted to acquire shares on stock exchange, on repatriation and non-repatriation basis, in accordance with portfolio investment scheme for them.

With effect from August 5, 2013 (date of publication of relevant notification), a non-resident, other than portfolio investor, is eligible to acquire shares on stock exchange through a registered broker subject to the condition that the non-resident investor has already acquired and continues to hold the control in accordance with SEBI (Substantial Acquisition of Shares and Takeover) Regulations i.e. he has complied with the minimum stake requirement under SEBI Regulations.

Q.26. What will be the pricing norms for a non-resident permitted to acquire share on stock exchange under FDI scheme?

Ans: He shall acquire shares at the ruling market price.

Q.27. Whether the non-resident, permitted to acquire shares on stock exchange under FDI scheme, can sell those shares?

Ans: Non-Residents were already permitted to sell the shares on the recognised stock exchange in accordance with Regulation 9(2)(iii)(b) of Notification FEMA No. 20 dated May 3, 2000.

Yes, the non-resident shall be at liberty to sell those shares as applicable under FDI guidelines. The shares acquired under the present scheme shall be treated as acquisition under FDI scheme and as such all requirement namely, sectoral cap, entry route, pricing, reporting, documentation etc. would have to be complied with.

Thus, non-resident having acquired shares under the scheme can subsequently transfer shares under FDI scheme.

Q28. What will be mode of payment for the non-resident permitted to acquire share on stock exchange under FDI scheme?

Ans: The Non-Resident permitted to acquire shares under the scheme can use following mode for payment of shares:

- by way of inward remittance through normal banking channels, or
- by way of debit to the NRE/FCNR account of the person concerned maintained with an authorised dealer/bank;
- by debit to non-interest bearing Escrow account (in Indian Rupees) maintained in India with the AD bank in accordance with Foreign Exchange Management (Deposit) Regulations, 2000;
- the consideration amount may also be paid out of the dividend payable by Indian investee company, in which the said non-resident holds control, provided the right to receive dividend is established and the dividend amount has been credited to specially designated non-interest bearing rupee account for acquisition of shares on the floor of stock exchange.

Q.29. Can an escrow account be opened without RBI permission for the non-resident permitted to acquire share on stock exchange under FDI scheme?

Ans: Yes, an escrow account for the purpose can be opened under General Permission under Regulation 5(5) of Foreign Exchange Management (Deposit) Regulations. [c.f. FEMA Notification No. 280 dated July 10, 2013]

Q.30. What is the meaning of Indian company?

Ans: An Indian Company means a company registered under the Companies Act, 1956/2013.

Q.31. What is the concept of downstream investment?

Ans: In common understanding, downstream investment would mean investment by a company in another company by way of subscription or acquisition of shares or acquisition of control. The investment in another Indian company (downstream) by an Indian company already having foreign investment is called downstream investment subject to conditions of ownership and control. Thus, there will be two Indian Companies, a first level company which has accepted foreign investment and in turn has made investment in a second level company i.e. another Indian company. [c.f. [A.P. \(DIR Series\) Circular Numbers 1](#), 42 and [44](#) respectively dated July 4, 2013, September 13, 2013 and September 13, 2013].

Q.32. What will be the composition of 'direct foreign investment'?

Ans: The concept 'direct foreign investment' means foreign investment in any Indian company made directly in form of Foreign Direct Investment (FDI), Portfolio investment from Foreign Institutional Investment (FII), Non-Resident Indian, Qualified Foreign Investor (QFI), Registered Foreign Portfolio Investor and Foreign Venture Capital Investor i.e. under Schedule 1, 2, 2A, 3, 6 and 8 of the [Notification No. FEMA.20/2000-RB dated May 3, 2000](#), as amended from time to time. Thus, the investment in the above manner will be aggregated in first level Indian Company. Such first level Indian Company obviously cannot have indirect foreign investment.

Q.33. What about foreign investment in second level Indian Company?

Ans: The second level Indian Company can have 'direct foreign investment' as explained above and also have investment from another Indian company which is not 'resident owned and controlled' i.e. indirect foreign investment.

Further, the methodology for calculation of total foreign investment i.e. direct as well as indirect foreign investment would apply at every stage of investment in Indian companies and thus in each and every Indian

company.

Q.34. What is the meaning of 'resident owned' Indian Company?

Ans: An Indian company be treated as 'Owned by resident Indian citizens' if more than 50% of the capital in it is beneficially owned by resident Indian citizens and/or Indian companies, which are ultimately owned and controlled by resident Indian citizens. Thus, computation of such percentage would require ascertaining shareholding by 'resident Indian citizens' and if the shareholding of such company is held by another Indian companies each of such Indian companies are ultimately owned and controlled by resident Indian citizens. It is clarified that such Indian owners are not only resident within meaning of Section 2(v) of FEMA, 1999 but are also citizens of India. The shareholding of a foreign citizen who has become resident within meaning of Section 2(v) ibid will not be aggregated for the benchmark of 50% and above.

Further, for Information & Broadcasting and defence sector if a declaration is made by persons as per section 187C of the Indian Companies Act about a beneficial interest being held by a non-resident entity, then even though the investment may be made by a resident Indian citizen, the same shall be counted as foreign investment.

Q.35. What is meaning of 'control'?

Ans: 'Control' shall include the right to appoint a majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements. For ascertaining control by resident Indian citizens the above norms shall be applied.

Q.36. What will be the composition of 'indirect foreign investment'?

Ans: 'Indirect foreign investment' means entire investment in other Indian companies by an Indian company (IC), having foreign investment in it provided IC is not 'owned and controlled' by resident Indian citizens and/or Indian Companies which are owned and controlled by resident Indian citizens or where the IC is owned or controlled by non-residents. However, as an exception, the indirect foreign investment in the 100% owned subsidiaries of operating-cum-investing/investing companies will be limited to the foreign investment in the operating-cum-investing/ investing company. Thus, if an Indian company A has 60% FDI/ Portfolio investment/FCCB/FVCI/ Depository Receipts (issued under Schedule 10 of Notification No. FEMA.20/2000-RB dated May 3, 2000 with equity shares or compulsorily and mandatorily convertible preference shares or compulsory and mandatorily convertible debentures or warrant or any other security in which foreign direct investment can be made in terms of Schedule I of the Notification ibid, as underlying) in it, invests in 100% of the shareholding of another Indian company B, it will be taken as B has indirect foreign investment of 60%. But, foreign owned Indian company A, having foreign investment of more than 50% but less than 100%, invests in 20% of the shareholding of another Indian company B, it will be taken as B has indirect foreign investment of 20%.

Q.37. Are there any exception on application of downstream investment?

Ans: The downstream rule may not be applied in following cases:

Where the first level Indian company is owned and controlled by resident Indian citizens;

where for investment in sectors it is specified in a statute or a rule there under. The above methodology of determining direct and indirect foreign investment therefore does not apply to the insurance sector which will continue to be governed by the relevant Regulation;

Downstream investment/s made by a banking company, as defined in clause (c) of Section 5 of the Banking Regulation Act, 1949, incorporated in India, which is owned and/or controlled by non-residents/ a non-resident

entity/non-resident entities, under Corporate Debt Restructuring (CDR), or other loan restructuring mechanism, or in trading books, or for acquisition of shares due to defaults in loans, shall not count towards indirect foreign investment.

Q.38. What are implications of applicability of downstream rule:

Ans: While the norms of foreign investment for first level Indian company were already in place, the downstream investment in second level Indian companies would now have to be in accordance/ compliance with the relevant sectoral conditions on entry route, conditionalities and caps.

Such a company has to notify Secretariat for Industrial Assistance, DIPP and FIPB of its downstream investment in the form available at <http://www.fipbindia.com> within 30 days of such investment, even if capital instruments have not been allotted along with the modality of investment in new/existing ventures (with/without expansion programme).

The downstream investment by way of induction of foreign equity in an existing Indian Company to be duly supported by a resolution of its Board of Directors as also a Shareholders' Agreement, if any;

The issue/transfer/pricing/valuation of shares shall continue to be in accordance with extant SEBI/RBI guidelines;

For the purpose of downstream investment, the Indian companies making the downstream investments would have to bring in requisite funds from abroad and not use funds borrowed in the domestic market. This would, however, not preclude downstream operating companies, from raising debt in the domestic market. Downstream investments through internal accruals are permissible.

Q.39. As portfolio investment may undergo change quite frequently, it will be difficult to monitor downstream investment?

Ans: To facilitate such computation, for the purpose portfolio investments either by FIIs, NRIs or QFIs holding as on March 31 of the previous year would be taken into account. e.g. for monitoring foreign investment for the financial year 2011-12, portfolio investment as on March 31, 2011 would be taken into account.

Q.40. What is the procedure to ensure compliance with the downstream investment guidelines?

Ans: The FDI recipient Indian company at the first level which is responsible for ensuring compliance with the FDI conditionalities like no indirect foreign investment in prohibited sector, entry route, sectoral cap/conditionalities, etc. for the downstream investment made by in the subsidiary companies at second level and so on and so forth would obtain a certificate to this effect from its statutory auditor on an annual basis as regards status of compliance with the instructions on downstream investment and compliance with FEMA provisions. The fact that statutory auditor has certified that the company is in compliance with the regulations as regards downstream investment and other FEMA prescriptions will be duly mentioned in the Director's report in the Annual Report of the Indian company. In case statutory auditor has given a qualified report, the same shall be immediately brought to the notice of the Reserve Bank of India, Foreign Exchange Department (FED), Regional Office (RO) of the Reserve Bank in whose jurisdiction the Registered Office of the company is located.

Q.41. What will be the role of Regional Office of RBI?

Ans: Where the statutory auditor has given qualified report about the downstream investment, RO shall take action to ensure compliance in consultation with the Central Office.

Q.42. Since the instructions were issued by RBI in 2013 for the period commencing from February 13, 2009,

how to ensure compliance retrospectively?

Ans: As regards investments made between February 13, 2009 and the date of publication of the FEMA notification i.e. June 21, 2013, Indian companies shall be required to intimate, within 90 days from the date of this circular, through an AD Category I bank to the concerned Regional Office of the Reserve Bank, in whose jurisdiction the Registered Office of the company is located, detailed position where the issue/transfer of shares or downstream investment is not in conformity with the regulatory framework now being prescribed. Reserve Bank shall consider treating such cases as compliant with these guidelines within a period of six months or such extended time as considered appropriate by RBI in consultation with Government of India.

ROs shall forward such consolidated statement to the Central Office with their comments for ensuring compliance with the instructions.

Q.43. Is first level Indian investee company making downstream investment required to file FC-GPR?

Ans: No, it is not required. FC-GPR is not to be filed by the first level Indian Investee Company at the time of making downstream investment in second level Indian Investee Company. However, compliance has to be ensured as explained under Q 41.

Q.44. What are the extant pricing guidelines for FDI instruments?

Ans: In terms of extant FEMA regulations, foreign investment in an Indian investee company should be subject to pricing guidelines as stipulated by RBI/SEBI from time to time. Earlier, the pricing guidelines for FDI instruments with optionality clauses was decided in terms of [A.P.\(DIR Series\) Circular No. 86 dated January 9, 2014](#).

The extant pricing guidelines for FDI investment has since been reviewed vide [A. P. \(DIR Series\) Circular No. 4 dated July 15, 2014](#) as under:

(i) In case of listed companies the issue and transfer of shares including compulsorily convertible preference shares and compulsorily convertible debentures shall be as per the SEBI guidelines and for FDI instruments with optionality clauses shall continue to be in accordance with A.P. (DIR Series) Circular No. 86 dated January 9, 2014, i.e., the non-resident investor shall be eligible to exit at the market price prevailing on the recognised stock exchanges subject to lock-in period as stipulated, without any assured return.

(ii) In case of unlisted companies, the issue and transfer of shares including compulsorily convertible preference shares and compulsorily convertible debentures with or without optionality clauses shall be at a price worked out as per any internationally accepted pricing methodology on arm's length basis.

Q.45. The instructions prescribe that in case of a listed company, the non-resident investor shall be eligible to exit at the market price obtaining on recognised stock exchanges. Does it mean that all exit from investment in case of a listed company having FDI with optionality are to happen on the floor of stock exchange?

Ans: The optionality clause creates an obligation for the investee to buy the shares from the investor at the price prevailing on the stock market at the relevant time.

II. Foreign Technology Collaboration Agreement

Q.46. Whether the payment in terms of foreign technology collaboration agreement' can be made by an Authorised Dealer (AD) bank?

Ans. Yes, RBI has delegated the powers, to make payments for royalty, lumpsum fee for transfer of technology and payment for use of trademark/brand name in terms of the foreign technology collaboration agreement

entered by the Indian company with its foreign partners, to the AD banks subject to compliance with the provisions of Foreign Exchange Management (Current Account Transactions) Rules, 2000. Further, the requirement of registration of the agreement with the Regional Office of Reserve Bank of India has also been done away with.

III. Foreign Portfolio Investment

Q.1. What are the regulations regarding Portfolio Investments by registered Foreign Portfolio Investors (RFPIs)?

Ans. Investment by RFPI registered in accordance with SEBI guidelines including deemed RFPI (erstwhile FII, QFI) is permitted. RFPI may include Asset Management Companies, Pension Funds, Mutual Funds, and Investment Trusts as Nominee Companies, Incorporated / Institutional Portfolio Managers or their Power of Attorney holders, University Funds, Endowment Foundations, Charitable Trusts and Charitable Societies.

Investment by RFPIs cannot exceed 10 per cent of the paid up capital of the Indian company. All RFPI/FII/QFI taken together cannot acquire more than 24 per cent of the paid up capital of an Indian Company.

RFPI can invest in primary issues of Non-Convertible Debentures (NCDs)/ bonds only if listing of such bonds / NCDs is committed to be done within 15 days of such investment. In case the NCDs/bonds issued to the SEBI RFPI are not listed within 15 days of issuance, for any reason, then the RFPI shall immediately dispose of these bonds/NCDs either by way of sale to a third party or to the issuer and the terms of offer to RFPI should contain a clause that the issuer of such debt securities shall immediately redeem / buyback the said securities from the RFPI in such an eventuality.

Q.2. Is an Indian Investee Company eligible to raise the aggregate cap of 24% for RFPI?

Ans. An Indian company can raise the 24 per cent ceiling to the sectoral cap / statutory ceiling, as applicable, by passing a resolution by its Board of Directors followed by passing a Special Resolution to that effect by their General Body. Indian company raising the aggregate RFPI investment limit of 24 per cent to the sectoral cap/ statutory limit, as applicable to the respective Indian company, should necessarily intimate the same to the Reserve Bank of India, immediately, as hitherto, along with a Certificate from the Company Secretary stating that all the relevant provisions of the extant Foreign Exchange Management Act, 1999 regulations and the Foreign Direct Policy, as amended from time to time, have been complied with.

The Indian Company thus raising the aggregate cap for RFPI investment should inform Reserve Bank of India, Foreign Exchange Department, Central Office, Shahid Bhagat Singh Marg, Fort, and Mumbai 400001. The intimation should necessarily be accompanied by (a) a resolution passed by Board of Directors of the Company enhancing the FII aggregate cap, (b) A special Resolution to the effect passed by the shareholders of the Company (c) a certificate from the Company Secretary stating that all the relevant provisions of the extant Foreign Exchange Management Act, 1999 regulations and the Foreign Direct Policy, as amended from time to time, have been complied with, (d) a certificate from the Company Secretary stating that all the resident shareholders of the investee company are 'owned and controlled' by residents.

To avoid inconvenience to the RFPI investors/Indian company, such intimation should be well in advance else RBI shall caution list the company on FII investment in the company reaching 22% of paid up capital or paid up capital of each series of convertible debentures issued by the company.

Q.3. What are the regulations regarding Portfolio Investments by NRIs/PIOs?

Ans. Non- Resident Indian (NRIs) and Persons of Indian Origin (PIOs) can purchase or sell shares/ fully and mandatorily convertible debentures of Indian companies on the Stock Exchanges under the Portfolio Investment Scheme. For this purpose, the NRI/ PIO has to apply to a designated branch of a bank, which deals in Portfolio

Investment. All sale/ purchase transactions are to be routed through the designated branch.

An NRI or a PIO can purchase shares up to 5 per cent of the paid up capital of an Indian company. All NRIs/PIOs taken together cannot purchase more than 10 per cent of the paid up value of the company.

The sale proceeds of the repatriable investments can be credited to the NRE/ NRO, etc. accounts of the NRI/ PIO, whereas the sale proceeds of non-repatriable investment can be credited only to NRO accounts.

The sale of shares will be subject to payment of applicable taxes.

Q.4. Is Indian Investee Company eligible to raise the aggregate cap of 10% for Portfolio Investments by SEBI registered NRI/PIO?

Ans. This limit for investment by NRI/PIO under Portfolio investment scheme can be increased by the Indian company from 10 per cent to 24 per cent by passing a General Body resolution. Indian company raising the aggregate NRI investment limit of 10 per cent to 24 per cent, should necessarily intimate the same immediately to Reserve Bank of India, Foreign Exchange Department, Central Office, Shahid Bhagat Singh Marg, Fort, Mumbai 400001. The intimation should necessarily be accompanied by (a) a resolution passed by Board of Directors of the Company enhancing the FII aggregate cap, (b) A special Resolution to the effect passed by the shareholders of the Company (c) a certificate from the Company Secretary stating that all the relevant provisions of the extant Foreign Exchange Management Act, 1999 regulations and the Foreign Direct Policy, as amended from time to time, have been complied with, (d) a certificate from the Company Secretary stating that all the resident shareholders of the investee company are 'owned and controlled' by residents

To avoid inconvenience to the company such intimation should be well in advance else RBI shall caution list the company on FII investment in the company reaching 8% of paid up capital or paid up capital of each series of convertible debentures issued by the company.

Q.5. With Reference to instructions issued for NRI – PIS Scheme in Para. 2 (i) and (ii) of the A. P. (DIR Series) Circular No. 29 dated August 20, 2013 - whether RBI will allot separate / new Unique Code No. to the Link Office of the AD bank or will the Current Code No. allocated will continue to be the Unique Code No.?

Ans. If the AD bank's Link Office already has a Code No. allotted by RBI, it will continue to be the Unique Code Number for reporting the transactions of NRI-PIS to RBI and the bank need not apply for new code.

Q.6. Can an AD bank debit investment advisory fees, chartered accountant's fees for issue of 15CA/CB certificates to NRE/NRO – PIS account, as the permissible debit under the head - "Any charges on account of sale/purchase of shares or convertible debentures under PIS"?

Ans. The charges towards investment advisory fees, chartered accountant fees for issue of 15CA / CB certificates, etc. related to the transactions of sale/purchase of shares / debentures under PIS, may be debited to the NRE / NRO PIS accounts.

Q.7. Under FERA 1973, in terms of para. 2 of the A.D.(M.A. Series) Cir. No. 32 dated November 1, 1999, powers were delegated to the ADs, to grant permissions to the NRIs/OCBs who made portfolio investments through a designated branch of an AD, on repatriation or non-repatriation basis. The investment could be made in shares, debentures, Govt. securities (other than bearer securities), treasury bills, units of MFs, etc. Hence, the prescribed format for permission letter for investment on repatriation basis viz. 'RBI-RPC- on repatriation basis' [available at page nos. 37 to 40 of the A.P. (DIR Series) Circular No. 29, dated August 20, 2013 on RBI website] includes a reference to all such investments besides equity shares and convertible debentures. Whether the same format is applicable under FEMA also?

Ans. Under FEMA, the PIS includes investment only in equity shares and convertible debentures of Indian

companies, on repatriation or non-repatriation basis. Hence, while issuing the approval letter to their NRI clients for undertaking investments under PIS, the relevant paragraphs in the format of permission letter viz. 'RBI-RPC-on repatriation basis', will be required to be suitably modified by the ADs. In this connection, attention of the AD is also invited to para. 2(iii) of the [A.P. \(DIR Series\) Circular No. 29, dated August 20, 2013](#).

Q.8. Whether the transfer of funds from NRE - PIS and NRO – PIS accounts to NRE /NRO accounts of the NRI (opened under provisions of Notification No. FEMA. 5/2000-RB dated May 3, 2000 amended from time to time), is allowed on account of sale/maturity proceeds of equity shares and convertible debentures purchased and sold under Portfolio Investment Scheme (PIS) through NRE-PIS and NRO – PIS accounts?

Ans. It is clarified that NRE-PIS and NRO-PIS are essentially NRE and NRO accounts respectively and so designated to keep the portfolio investment related operations of the account holder segregated for facilitating identification and compliance. As such, there is no prohibition on transfer of any balances held in a NRE-PIS account to a NRE account or in a NRO-PIS account to a NRO account, subject of course to payment of taxes, if and as applicable.

Q. 9. Whether transfer of funds is allowed from NRE – PIS account of the NRI to his NRO account opened under the provisions of Notification No. FEMA. 5/2000-RB dated May 3, 2000, amended from time to time?

Ans. It is clarified that the transfer of funds on account of net sale / maturity proceeds of shares / debentures (net of all applicable taxes), may be allowed by the AD Bank from NRE – PIS account of a NRI to the said NRI's NRO account.

Q.10. Whether transfer of funds is allowed from NRO – PIS account of the NRI to his NRE account opened under the provisions of [Notification No. FEMA.5/2000-RB dated May 3, 2000](#), amended from time to time?

Ans. It is clarified that the transfer of funds on account of net sale / maturity proceeds (net of all applicable taxes), of shares / debentures may be allowed by the AD Bank from NRO – PIS account of a NRI to the said NRI's NRE account, subject to the following conditions :-

- such transfer of funds should be within the overall ceiling of USD one million per financial year;
- subject to payment of tax, as applicable (i.e. as applicable if funds were remitted abroad); and
- The AD should ensure the compliance with the limit of USD one million for transfer of funds by the NRI.

IV. Investment in other securities

Q.1. Can a Non-resident Indian (NRI) and SEBI registered Foreign Institutional Investor (FII) invest in Government Securities/ Treasury bills and Corporate debt?

Ans. Under the FEMA Regulations, only NRIs and SEBI registered FIIs are permitted to purchase Government Securities/Treasury bills and Corporate debt. The details are as under:

A. A Non-resident Indian can purchase without limit,

(1) on repatriation basis

- i) Dated Government securities (other than bearer securities) or treasury bills or units of domestic mutual funds;
- ii) Bonds issued by a public sector undertaking (PSU) in India; and
- iii) Shares in Public Sector Enterprises being disinvested by the Government of India.

(2) on non-repatriation basis

- i) Dated Government securities (other than bearer securities) or treasury bills or units of domestic mutual funds;
- ii) Units of Money Market Mutual Funds in India; and
- iii) National Plan/Savings Certificates.

B. A SEBI registered FII may purchase, on repatriation basis, dated Government securities/ treasury bills, listed non-convertible debentures/ bonds issued by an Indian company and units of domestic mutual funds either directly from the issuer of such securities or in any manner as per the prevalent/approved market practice.

Purchase of debt instruments including Upper Tier II instruments issued by banks in India and denominated in Indian Rupees by FIIs are subject to limits notified by SEBI and the Reserve Bank from time to time. The present limit for investment in Corporate Debt Instruments like non-convertible debentures / bonds by RFPI/FII/QFI and long term investors is USD 51 billion. FPIs shall not be allowed to make any further investment in CPs.

The present limit for investment by SEBI registered Foreign Institutional Investors (FIIs), SEBI registered Qualified Foreign Investors (QFIs) and long term investors registered with SEBI and Registered Foreign Portfolio Investor (RFPI) in Government Securities is USD 30 billion.

Q.2. Can a NRI and SEBI registered FII invest in Tier I and Tier II instruments issued by banks in India?

Ans. RFPI and NRIs have been permitted to subscribe to the Perpetual Debt instruments (eligible for inclusion as Tier I capital) and Debt Capital instruments (eligible for inclusion as upper Tier II capital), issued by banks in India and denominated in Indian Rupees, subject to the following conditions:

- Investment by all RFPI in Rupee denominated Perpetual Debt instruments (Tier I) should not exceed an aggregate ceiling of 49 per cent of each issue and investment by individual FII should not exceed the limit of 10 per cent of each issue.
- Investments by all NRIs in Rupee denominated Perpetual Debt instruments (Tier I) should not exceed an aggregate ceiling of 24 per cent of each issue and investments by a single NRI should not exceed 5 percent of each issue.
- Investment by RFPIs in Rupee denominated Debt Capital instruments (Tier II) shall be within the limits stipulated by SEBI for RFPI/FII/QFI investment in corporate debt instruments.
- Investment by NRIs in Rupee denominated Debt Capital instruments (Tier II) shall be in accordance with the extant policy for investment by NRIs in other debt instruments.
- Investment by RFPIs in Rupee denominated Upper Tier II Instruments raised in Indian Rupees will be within the limit prescribed by the SEBI for investment in corporate debt instruments.

The details of the secondary market sales / purchases by RFPIs and the NRIs in these instruments on the floor of the stock exchange are to be reported by the custodians and designated Authorised Dealer banks respectively, to the Reserve Bank through the soft copy of the Forms LEC (FII) and LEC (NRI).

Q.3. Can a NRI and RFPI invest in Indian Depository Receipts (IDRs)?

Ans. NRI and RFPIs have been permitted to invest, purchase, hold and transfer IDRs of eligible companies resident outside India and issued in the Indian capital market, subject to the following conditions:

- (i) The purchase, hold and transfer of IDRs is in accordance with 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.

A limited two way fungibility for IDRs subject to the following terms and conditions:

- The conversion of IDRs into underlying equity shares would be governed by the conditions mentioned in paras 6 and 7 of [A.P. \(DIR Series\) Circular No. 5 dated July 22, 2009](#).
- Fresh IDRs would continue to be issued in terms of the provisions of A.P. (DIR Series) Circular No. 5 dated July 22, 2009.
- The re-issuance of IDRs would be allowed only to the extent of IDRs that have been redeemed /converted into underlying shares and sold.
- There would be an overall cap of USD 5 billion for raising of capital by issuance of IDRs by eligible foreign companies in Indian markets. This cap would be akin to the caps imposed for FII investment in debt securities and would be monitored by SEBI.
- IDRs shall not be redeemable into underlying equity shares before the expiry of one year period from the date of issue of the IDRs.
- At the time of redemption / conversion of IDRs into the underlying shares, the Indian holders (persons resident in India) of IDRs shall comply with the provisions of the Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 notified vide [Notification No. FEMA 120 / RB-2004 dated July 7 2004](#), as amended from time to time.

The FEMA provisions shall not apply to the holding of the underlying shares, on redemption of IDRs by the FIIs including SEBI approved sub-accounts of the FIIs and NRIs. The issuance, redemption and fungibility of IDRs would also be subject to the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009, as amended from time to time as well as other relevant guidelines issued in this regard by the Government, the SEBI and the RBI from time to time.

Q.4. Can a person resident in India invest in Indian Depository Receipts (IDRs)? What is the procedure for redemption of IDRs held by persons resident in India?

Ans. A person resident in India may purchase, hold and transfer IDRs of eligible companies resident outside India and issued in the Indian capital market. The FEMA Regulations shall not be applicable to persons resident in India as defined under section 2(v) of FEMA, 1999, for investing in IDRs and subsequent transfer arising out of a transaction on a recognized Stock Exchange in India. However, at the time of redemption / conversion of IDRs into underlying shares, the Indian holders (persons resident in India) of IDRs shall comply with the provisions of the Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 notified vide Notification No. FEMA 120 / RB-2004 dated July 7 2004, as amended from time to time. The following guidelines shall be followed on redemption of IDRs by persons resident in India:

- i. Listed Indian companies may either sell or continue to hold the underlying shares subject to the terms and conditions as per Regulations 6B and 7 of Notification No. FEMA 120/RB-2004 dated July 7, 2004, as amended from time to time.
- ii. Indian Mutual Funds, registered with SEBI may either sell or continue to hold the underlying shares subject to the terms and conditions as per Regulation 6C of Notification No. FEMA 120/RB-2004 dated July 7, 2004, as amended from time to time.
- iii. Other persons resident in India including resident individuals are allowed to hold the underlying shares only for the purpose of sale within a period of 30 days from the date of conversion of the IDRs into underlying shares.

V. Foreign Venture Capital Investment

What are the regulations for Foreign Venture Capital Investment?

Ans.

A SEBI registered Foreign Venture Capital Investor has general permission from the Reserve Bank of India to invest in a Venture Capital Fund (VCF) or an Indian Venture Capital Undertaking (IVCU), in the manner and subject to the terms and conditions specified in Schedule 6 of RBI [Notification No. FEMA 20/2000-RB dated May 3, 2000](#), as amended from time to time. These investments by SEBI registered FVCI, would be subject to the SEBI regulation and sector specific caps of FDI.

FVCIs can purchase equity / equity linked instruments / debt / debt instruments, debentures of an IVCU or of a VCF through initial public offer or private placement in units of schemes / funds set up by a VCF. At the time of granting approval, the Reserve Bank permits the FVCI to open a Foreign Currency Account and/ or a Rupee Account with a designated branch of an AD Category – I bank.

FVCIs allowed to invest in the eligible securities (equity, equity linked instruments, debt, debt instruments, debentures of an IVCU or VCF, units of schemes / funds set up by a VCF) by way of private arrangement / purchase from a third party also. FVCIs are also allowed to invest in securities on a recognized stock exchange.

The purchase / sale of shares, debentures and units can be at a price that is mutually acceptable to the buyer and the seller.

AD Category – I banks can offer forward cover to FVCIs to the extent of total inward remittance. In case the FVCI has made any remittance by liquidating some investments, original cost of the investments has to be deducted from the eligible cover to arrive at the actual cover that can be offered.

VI. Investment by QFIs

Q.1. What are QFIs and what are the investments they can undertake?

Ans: QFIs mean a person who fulfils the following criteria:

- (a) Resident in a country that is a member of Financial Action task Force (FATF) or a member of a group which is a member of FATF; and
- (b) Resident in a country that is a signatory to IOSCO's MMoU (Appendix A Signatories) or a signatory of a bilateral MoU with SEBI

PROVIDED that the person is not resident in a country listed in the public statements issued by FATF from time to time on jurisdictions having a strategic AML/CFT deficiencies to which counter measures apply or that have not made sufficient progress in addressing the deficiencies or have not committed to an action plan developed with the FATF to address the deficiencies;

Further such person is not resident in India and is not registered with SEBI as a Foreign Institutional Investor (FII) or Sub-Account of an FII or Foreign Venture Capital Investor (FVCI).

Explanation:

“bilateral MoU with SEBI” shall mean a bilateral MoU between SEBI and the overseas regulator that, inter alia, provides for information sharing arrangements.

Member of FATF shall not mean an associate member of FATF.

Q.2. What are the investments QFIs can undertake and what are the applicable caps for such investment?

Ans: QFIs are now being treated as deemed RFPI and rules as applicable to RFPIs shall be applicable.

Q.3. What are the reporting requirements for acquisition/transfer of shares by non-residents under respective schedules to FEMA 20:

Ans: Following are the reporting requirements

(A) Reporting of FDI for fresh issuance of shares

(i) Reporting of inflow

(a) The actual inflows on account of such issuance of shares shall be reported by the AD branch in the R-returns in the normal course.

(b) An Indian company receiving investment from outside India for issuing shares / convertible debentures / preference shares under the FDI Scheme, should report the details of the amount of consideration to the Regional Office concerned of the Reserve Bank through its AD Category I bank, not later than 30 days from the date of receipt in the Advance Reporting Form enclosed in Annex - 6. Noncompliance with the above provision would be reckoned as a contravention under FEMA, 1999 and could attract penal provisions.

The Form can also be downloaded from the Reserve Bank's website

http://www.rbi.org.in/Scripts/BS_ViewFemaForms.aspx

(c) Indian companies are required to report the details of the receipt of the amount of consideration for issue of shares / convertible debentures, through an AD Category - I bank, together with a copy/ies of the FIRC/s evidencing the receipt of the remittance along with the KYC report on the non-resident investor from the overseas bank remitting the amount. The report would be acknowledged by the Regional Office concerned, which will allot a Unique Identification Number (UIN) for the amount reported.

(ii) Time frame within which shares have to be issued

The equity instruments should be issued within 180 days from the date of receipt of the inward remittance or by debit to the NRE/FCNR (B) /Escrow account of the non-resident investor. In case, the equity instruments are not issued within 180 days from the date of receipt of the inward remittance or date of debit to the NRE/FCNR (B) account, the amount of consideration so received should be refunded immediately to the non-resident investor by outward remittance through normal banking channels or by credit to the NRE/FCNR (B)/Escrow account, as the case may be. Non-compliance with the above provision would be reckoned as a contravention under FEMA and could attract penal provisions. In exceptional cases, refund / allotment of shares for the amount of consideration outstanding beyond a period of 180 days from the date of receipt may be considered by the Reserve Bank, on the merits of the case.

(iii) Reporting of issue of shares

(a) After issue of shares (including bonus and shares issued on rights basis and shares issued on conversion of stock option under ESOP scheme)/ convertible debentures / convertible preference shares, the Indian company has to file Form FC-GPR, through its AD Category I bank, not later than 30 days from the date of issue of shares. The Form can also be downloaded from the Reserve Bank's website http://www.rbi.org.in/Scripts/BS_ViewFemaForms.aspx

Non-compliance with the above provision would be reckoned as a contravention under FEMA and could attract penal provisions.

(b) Form FC-GPR has to be duly filled up and signed by Managing Director/Director/Secretary of the Company and submitted to the Authorised Dealer of the company, who will forward it to the concerned Regional Office of the Reserve Bank. The following documents have to be submitted along with Form FC-GPR:

(i) A certificate from the Company Secretary of the company certifying that :

a) all the requirements of the Companies Act, 1956 have been complied with;

b) terms and conditions of the Government's approval, if any, have been complied with;

c) the company is eligible to issue shares under these Regulations; and

d) the company has all original certificates issued by AD banks in India evidencing receipt of amount of consideration.

(ii) A certificate from SEBI registered Merchant Banker or Chartered Accountant indicating the manner of arriving at the price of the shares issued to the persons resident outside India.

(c) The report of receipt of consideration as well as Form FC-GPR have to be submitted by the AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the registered office of the company is situated.

d) Issue of bonus/rights shares or shares on conversion of stock options issued under ESOP to persons resident outside India directly or on amalgamation / merger with an existing Indian company, as well as issue of shares on conversion of ECB / royalty / lumpsum technical know-how fee / import of capital goods by units in SEZs has to be reported in Form FC-GPR.

B. Reporting of FDI for Transfer of shares route

(i) The actual inflows and outflows on account of such transfer of shares shall be reported by the AD branch in the R-returns in the normal course.

(ii) Reporting of transfer of shares between residents and non-residents and vice- versa is to be made in Form FC-TRS. The Form FC-TRS should be submitted to the AD Category – I bank, within 60 days from the date of receipt of the amount of consideration. The onus of submission of the Form FC-TRS within the given timeframe would be on the transferor / transferee, resident in India.

(iii) The sale consideration in respect of equity instruments purchased by a person resident outside India, remitted into India through normal banking channels, shall be subjected to a KYC check (Annex 9-ii) by the remittance receiving AD Category – I bank at the time of receipt of funds. In case, the remittance receiving AD Category – I bank is different from the AD Category - I bank handling the transfer transaction, the KYC check should be carried out by the remittance receiving bank and the KYC report be submitted by the customer to the AD Category – I bank carrying out the transaction along with the Form FC-TRS.

(iv) The AD bank should scrutinise the transactions and on being satisfied about the transactions should certify the form FC-TRS as being in order.

(v) The AD bank branch should submit two copies of the Form FC-TRS received from their constituents/customers together with the statement of inflows/outflows on account of remittances received/made in connection with transfer of shares, by way of sale, to IBD/FED/or the nodal office designated for the purpose by the bank in the proforma (which is to be prepared in MS-Excel format). The IBD/FED or the nodal office of the bank will consolidate reporting in respect of all the transactions reported by their branches into two statements inflow and outflow statement. These statements (inflow and outflow) should be forwarded on a

	more individuals provided the account holders are persons of Indian nationality or origin;	non-residentmore individuals provided the account holders are persons of Indian nationality or origin;	non-residentwith residents provided all individuals provided the account holders are persons of Indian nationality or origin;
	Resident close relative (relative as defined in Section 6 of the Companies Act, 1956) on 'former or survivor' basis. The resident close relative shall be eligible to operate the account as a Power of Attorney holder in accordance with extant instructions during the life time of the NRI/ PIO account holder.	Resident close relative (relative as defined in Section 6 of the Companies Act, 1956) on 'former or survivor' basis. The resident close relative shall be eligible to operate the account as a Power of Attorney holder in accordance with extant instructions during the life time of the NRI/ PIO account holder.	Resident close relative (relative as defined in Section 6 of the Companies Act, 1956) on 'former or survivor' basis. The resident close relative shall be eligible to operate the account as a Power of Attorney holder in accordance with extant instructions during the life time of the NRI/ PIO account holder.
Nomination	Permitted	Permitted	Permitted
Currency	Any permitted currency in which i.e. a foreign account is which is freely convertible	Indian Rupees	Indian Rupees
Repatriability	Repatriable	Repatriable	Not repatriable except for the following: i) all current income and ii) up to USD 1 (one) million per financial year (April-March), by A NRI/ PIO.
Type of Account	Term Deposit only	Savings, Recurring, Fixed Deposit	Current, Savings, Recurring, Fixed Deposit
Period for fixed deposits	For terms not less than 1 year and not more than 5 years.	From one to three years, As applicable to NRE deposits above three years from their Asset-Liability point of view	As applicable to resident accounts.
Rate of Interest	With effect from March 1, 2014 (i) deposits of 1 year to less than 3 year maturity, interest shall be paid within the ceiling rate of LIBOR/ SWAP rates	With effect from March 1, 2014, interest rates offered by banks on NRE deposits interest rates offered by them on Ordinary Non-Resident (NRO) rupee deposits. Accounts. However, interest rates offered by banks on NRO deposits cannot be higher than those	Banks are free to determine their interest rates on savings deposits under Ordinary Non-Resident (NRO) Accounts. However, interest rates offered by banks on NRO deposits cannot be higher than those

	plus 300 basis points		offered by them on comparable domestic rupee deposits.
	On floating rate deposits, interest shall be paid within the ceiling of SWAP rates for the respective currency /maturity plus 200 bps/ 300 bps as the case may be. For floating rate deposits, the interest reset period shall be six months.		
Operations by Power of Attorney in favour of resident account holder	Operations in the account in terms of Power of Attorney is restricted to withdrawals for permissible local payments or remittance through normal banking channels.	Operations in the account in terms of Power of Attorney is restricted to withdrawals for permissible local payments or remittance through normal banking channels.	Operations in the account in terms of Power of Attorney is restricted to withdrawals for permissible local payments or remittance through normal banking channels. income to the account holder outside India or remittance to the account holder himself through normal banking channels.
			Remittance to the NRI/ PIO account holder is subject to the ceiling of USD 1 (one) million per financial year.
Loans			
a. In India			
i) to Account holder	Permitted without any ceiling subject to margin requirements.	Permitted without any ceiling subject to margin requirements.	Permitted subject to the extant rules ³
ii) to Third Parties	Permitted without any ceiling subject to margin requirements.	Permitted without any ceiling subject to margin requirements.	Permitted, subject to conditions ⁴
b. Abroad			
i) to Account holder	Permitted without any ceiling subject to margin requirement	Permitted without any ceiling subject to margin requirement	Not Permitted
ii) to Third Parties	Permitted without any ceiling subject to margin requirements.	Permitted without any ceiling subject to margin requirements.	Not Permitted
c. Foreign Currency Loans in			

India			
i) to Account holder	the Permitted ceiling subject to margin requirements.	without any Permitted ceiling subject to margin requirements.	without any Not Permitted
ii) to Parties	Third Permitted ceiling subject to margin requirements	without any Permitted ceiling subject to margin requirements	without any Not Permitted
Purpose of Loan			
a. In India			
i) to Account holder	thei) Personal purposes or carrying on business activities *	fori) Personal purposes or carrying on business activities.*	Personal requirement and / or business purpose.*
	ii) Direct investment in India on non-repatriation basis by way of contribution to the capital of Indian firms / companies	ii) Direct investment in India on non-repatriation basis by way of contribution to the capital of Indian firms / companies	
	iii) Acquisition of flat / house in India for his own residential use. (Please refer to para 9 of Schedule 2 to FEMA 5).	iii) Acquisition of flat / house in India for his own residential use. (Please refer to para 6(a) of Schedule 1 to FEMA 5).	
ii) to Parties	Third Fund based and / or non-fund based facilities for personal purposes or carrying on business activities *. (Please refer to para 9 of Schedule 2 to FEMA 5).	Third Fund based and / or non-fund based facilities for personal purposes or carrying on business activities *. (Please refer to para 6(b) of Sch. 1 to FEMA 5).	Personal requirement and / or business purpose *
b. To account holder and Third Parties	Abroad Fund based and / or non-fund based facilities for bonafide purposes.	Abroad Fund based and / or non-fund based facilities for bonafide purposes.	Not permitted.
* The loans cannot be utilised for the purpose of on-lending or for carrying on agriculture or plantation activities or for investment in real estate business.			

Note :

a. When a person resident in India leaves India for Nepal and Bhutan for taking up employment or for carrying on business or vocation or for any other purpose indicating his intention to stay in Nepal and Bhutan for an uncertain period, his existing account will continue as a resident account. Such account should not be designated as Non-resident (Ordinary) Rupee Account.

b. Authorised Dealers (ADs) may open and maintain NRE / FCNR (B) Accounts of persons resident in Nepal and Bhutan who are citizens of India or of Indian origin, provided the funds for opening these accounts are remitted in free foreign exchange. Interest earned in NRE / FCNR (B) accounts can be remitted only in Indian rupees to NRIs and PIO resident in Nepal and Bhutan.

c. In terms of Regulation 4(4) of the [Notification No.FEMA.5/2000-RB dated May 3, 2000](#), ADs may open and maintain Rupee accounts for a person resident in Nepal and Bhutan.

d. The regulations relating to the various deposit schemes available to Non-Resident Indians have been notified vide Notification No.FEMA.5 dated 3rd May 2000, as amended from time to time. The relevant Notifications and A.P. (DIR Series) Circulars are available on our website [[www.rbi.org.in](#) → Sitemap → FEMA → Notifications / A.P.(DIR Series) Circulars]. The Master Circular on Non-Resident Ordinary Rupee (NRO) Account [[www.rbi.org.in](#) → Sitemap → Master Circulars] may also be referred to. The details of rate of interest on the various accounts, are available in the “Master Circular on Interest Rates on Rupee Deposits held in Domestic, Ordinary Non-Resident (NRO) and Non-Resident (External) (NRE) Accounts” and “Master Circular of instructions relating to deposits held in FCNR (B) Accounts” issued by our Department of Banking Operations and Development, available on our website [[www.rbi.org.in](#) → Sitemap → Master Circulars].

e. AD Category – I banks and authorized banks may credit the proceeds of account payee cheques/ demand drafts / bankers' cheques, issued against encashment of foreign currency to the NRE account of the NRI account holder where the instruments issued to the NRE account holder are supported by encashment certificate issued by AD Category-I / Category-II.

f. AD Category – I banks and authorised banks may permit remittance of the maturity proceeds of FCNR (B) deposits to third parties outside India, provided the transaction is specifically authorised by the account holder and the Authorised Dealer is satisfied about the bonafides of the transaction.

¹ NRI means a person resident outside India who is a citizen of India or is a person of Indian origin [Regulation 2 (vi) of [Notification FEMA 5/2000-RB dated May 3, 2000](#) viz. Foreign Exchange Management (Deposit) Regulations, 2000].

² In terms of [A.P.\(DIR Series\) Circular No. 82 dated February 11, 2013](#) Authorised banks are permitted to open NRO account of individual/s of Bangladesh nationality without the approval of the Reserve Bank subject to conditions.

³ Subject to usual norms as are applicable to resident accounts, for personal purposes or for carrying on business activities except for the purpose of relending or carrying on agricultural / plantation activity or for investment in real estate business.

⁴ Subject to conditions such as (i) the loans shall be utilised only for meeting borrower's personal requirements and/ or business purpose and not for carrying on agricultural/ plantation activities or real estate business, or for relending, (ii) Regulations relating to margin and rate of interest as stipulated by the Reserve Bank from time to time shall be complied with and (iii) The usual norms and considerations as applicable in the case of advances to trade/industry shall be applicable for such loans/ facilities.

⁵ Overseas Corporate Body (OCB) means a company, partnership firm, society and other corporate body owned directly or indirectly to the extent of at least sixty per cent by Non-Resident Indians and includes overseas trust in which not less than sixty percent beneficial interest is held by Non-resident Indians directly or indirectly but irrevocably, which was in existence as on September 16, 2003 and was eligible to undertake transactions pu

Features of various Deposit Schemes available to Non-Resident Indians (NRIs)

(Updated as on February 02, 2015)

Features of various Deposit Schemes available for Non-Resident Indians (NRIs)¹

Particulars	Foreign Currency (Non-Resident)	Non-Resident (External) Rupee Account Scheme [FCNR (B) Account]	Non-Resident (Ordinary) Rupee Account Scheme [NRE Account]	Non-Resident (Ordinary) Rupee Account Scheme [NRO Account]
(1)	(2)	(3)	(4)	(5)
Who can open account	NRI (individuals/entities of Bangladesh/Pakistan nationality require prior approval of RBI)	NRI (individuals/entities of Bangladesh/Pakistan nationality/ownership require prior approval of RBI)	Any person resident outside India (other than a person resident in Nepal and Bhutan). Individuals/entities of Pakistan nationality/ownership, entities of Bangladesh ² and erstwhile Overseas Corporate Bodies ³ require prior approval of the Reserve Bank.	
Joint account	In the names of two or more non-resident individuals provided all the account holders are persons of Indian nationality or origin;	In the names of two or more non-resident individuals provided all the account holders are persons of Indian nationality or origin;	May be held jointly with residents	
	Resident close relative (relative as defined in Section 6 of the Companies Act, 1956) on 'former or survivor' basis. The resident close relative shall be eligible to operate the account as a Power of Attorney holder in accordance with extant instructions during the life time of the NRI/ PIO account holder.	Resident close relative (relative as defined in Section 6 of the Companies Act, 1956) on 'former or survivor' basis. The resident close relative shall be eligible to operate the account as a Power of Attorney holder in accordance with extant instructions during the life time of the NRI/ PIO account holder.		
Nomination	Permitted	Permitted	Permitted	
Currency	Any permitted currency i.e. a foreign currency which is freely convertible	Indian Rupees	Indian Rupees	
Repatriability	Repatriable	Repatriable	Not repatriable except for the following: i) all current income and ii) up to USD 1 (one) million per financial year (April-March), by A NRI/	

Type of Account	Term Deposit only	Savings, Current, Recurring, Fixed Deposit	PIO. Current, Savings, Recurring, Fixed Deposit
Period for fixed deposits	For terms not less than 1 year and not more than 5 years.	From one to three years, However, banks are allowed to accept NRE deposits above three years from their Asset-Liability point of view	As applicable to resident accounts.
Rate of Interest	With effect from March 1, 2014 (i) deposits of 1 year to less than 3 years maturity, interest shall be paid within the ceiling rate of LIBOR/ SWAP rates plus 300 basis points On floating rate deposits, interest shall be paid within the ceiling of SWAP rates for the respective currency /maturity plus 200 bps/ 300 bps as the case may be. For floating rate deposits, the interest reset period shall be six months.	With effect from March 1, 2014, interest rates offered by banks on NRE deposits cannot be higher than savings deposits paid within the ceiling rate those offered by them on LIBOR/ SWAP rates comparable domestic rupee deposits. Accounts. However, interest rates offered by banks on NRO deposits cannot be higher than those offered by them on comparable domestic rupee deposits.	Banks are free to determine their interest rates on deposits under Ordinary Non-Resident (NRO) Accounts. However, interest rates offered by banks on NRO deposits cannot be higher than those offered by them on comparable domestic rupee deposits.
Operations by Power of Attorney in favour of resident account holder	Operations in terms of Power of Attorney is restricted to withdrawals for the non-resident the account holder himself through normal banking channels.	Operations in terms of Power of Attorney is restricted to withdrawals for the non-resident the account holder himself through normal banking channels.	Operations in terms of Power of Attorney is restricted to withdrawals for the non-resident the account holder himself through normal banking channels. Remittance to the NRI/ PIO account holder is subject to

the ceiling of USD 1
(one) million per
financial year.

Loans

a. In India

- i) to the Permitted without any Permitted without any Permitted subject to
Account ceiling subject to usual ceiling subject to usual the extant rules³
holder margin requirements. margin requirements
- ii) to Third Permitted without any Permitted without any Permitted, subject to
Parties ceiling subject to usual ceiling subject to usual conditions⁴
margin requirements. margin requirements.

b. Abroad

- i) to the Permitted without any Permitted without any Not Permitted
Account ceiling subject to usual ceiling subject to usual
holder margin requirement margin requirement
- ii) to Third Permitted without any Permitted without any Not Permitted
Parties ceiling subject to usual ceiling subject to usual
margin requirements. margin requirements.

c. Foreign Currency

Loans in India

- i) to the Permitted without any Permitted without any
Account ceiling subject to usual ceiling subject to usual Not Permitted
holder margin requirements. margin requirements.
- ii) to Third Permitted without any Permitted without any Not Permitted
Parties ceiling subject to usual ceiling subject to usual
margin requirements margin requirements

Purpose of Loan

a. In India

- i) to the i) Personal purposes or for i) Personal purposes or for Personal requirement
Account carrying on business carrying on business and / or business
holder activities * activities.* purpose.*

ii) Direct investment in ii) Direct investment in
India on non-repatriation India on non-repatriation
basis by way of basis by way of
contribution to the capital contribution to the capital
of Indian firms / of Indian firms /
companies companies.

iii) Acquisition of flat / iii) Acquisition of flat /
house in India for his own house in India for his own
residential use. (Please residential use. (Please
refer to para 9 of Schedule refer to para 6(a) of
2 to FEMA 5). Schedule I to FEMA 5).

- ii) to Third Fund based and / or non-Fund based and / or non-Personal requirement
Parties fund based facilities for fund based facilities for and / or business
personal purposes or for personal purposes or for purpose *
carrying on business carrying on business

activities *. (Please refer activities *. (Please refer
to para 9 of Schedule 2 to para 6(b) of Sch. 1 to
FEMA 5). FEMA 5)

- b. Abroad Fund based and / or non-Fund based and / or non-Not permitted.
To the fund based facilities for fund based facilities for
account bonafide purposes. bonafide purposes.
holder and
Third Parties

* The loans cannot be utilised for the purpose of on-lending or for carrying on agriculture
or plantation activities or for investment in real estate business.

Note :

a. When a person resident in India leaves India for Nepal and Bhutan for taking up employment or for carrying
on business or vocation or for any other purpose indicating his intention to stay in Nepal and Bhutan for an
uncertain period, his existing account will continue as a resident account. Such account should not be designated
as Non-resident (Ordinary) Rupee Account.

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and Bhutan who are citizens of India or of Indian origin, provided the funds for opening these accounts are
remitted in free foreign exchange. Interest earned in NRE / FCNR (B) accounts can be remitted only in Indian
rupees to NRIs and PIO resident in Nepal and Bhutan.

c. In terms of Regulation 4(4) of the [Notification No.FEMA.5/2000-RB dated May 3, 2000](#), ADs may open and
maintain Rupee accounts for a person resident in Nepal and Bhutan.

d. The regulations relating to the various deposit schemes available to Non-Resident Indians have been notified
vide Notification No.FEMA.5 dated 3rd May 2000, as amended from time to time. The relevant Notifications
and A.P. (DIR Series) Circulars are available on our website [[www.rbi.org.in](#) → Sitemap → FEMA →
Notifications / A.P.(DIR Series) Circulars]. The Master Circular on Non-Resident Ordinary Rupee (NRO)
Account [[www.rbi.org.in](#) → Sitemap → Master Circulars] may also be referred to. The details of rate of interest
on the various accounts, are available in the “Master Circular on Interest Rates on Rupee Deposits held in
Domestic, Ordinary Non-Resident (NRO) and Non-Resident (External) (NRE) Accounts” and “Master Circular
of instructions relating to deposits held in FCNR (B) Accounts” issued by our Department of Banking Operations
and Development, available on our website [[www.rbi.org.in](#) → Sitemap → Master Circulars].

e. AD Category – I banks and authorized banks may credit the proceeds of account payee cheques/ demand
drafts / bankers' cheques, issued against encashment of foreign currency to the NRE account of the NRI account
holder where the instruments issued to the NRE account holder are supported by encashment certificate issued
by AD Category-I / Category-II.

f. AD Category – I banks and authorised banks may permit remittance of the maturity proceeds of FCNR (B)
deposits to third parties outside India, provided the transaction is specifically authorised by the account holder
and the Authorised Dealer is satisfied about the bonafides of the transaction.

¹ NRI means a person resident outside India who is a citizen of India or is a person of Indian origin [Regulation 2
(vi) of [Notification FEMA 5/2000-RB dated May 3, 2000](#) viz. Foreign Exchange Management (Deposit)
Regulations, 2000].

² In terms of [A.P.\(DIR Series\) Circular No. 82 dated February 11, 2013](#) Authorised banks are permitted to open
NRO account of individual/s of Bangladesh nationality without the approval of the Reserve Bank subject to

conditions.

³ Subject to usual norms as are applicable to resident accounts, for personal purposes or for carrying on business activities except for the purpose of relending or carrying on agricultural / plantation activity or for investment in real estate business.

⁴ Subject to conditions such as (i) the loans shall be utilised only for meeting borrower's personal requirements and/ or business purpose and not for carrying on agricultural/ plantation activities or real estate business, or for relending, (ii) Regulations relating to margin and rate of interest as stipulated by the Reserve Bank from time to time shall be complied with and (iii) The usual norms and considerations as applicable in the case of advances to trade/industry shall be applicable for such loans/ facilities.

⁵ Overseas Corporate Body (OCB) means a company, partnership firm, society and other corporate body owned directly or indirectly to the extent of at least sixty per cent by Non-Resident Indians and includes overseas trust in which not less than sixty percent beneficial interest is held by Non-resident Indians directly or indirectly but irrevocably, which was in existence as on September 16, 2003 and was eligible to undertake transactions pursuant to the general permission granted under Foreign Exchange Management Regulations

Facilities for Non Resident Indians (NRIs) and Persons of Indian Origin (PIOs)

(Updated up to September 19, 2014)

In terms of the Foreign Exchange Management Act (FEMA), 1999 a person resident outside India means a person who is not resident in India.

What are the different types of accounts which can be maintained by an NRI¹/PIO² in India?

If a person is NRI or PIO, she/ he can, without the permission from the Reserve Bank, open, hold and maintain the different types of accounts given below with an Authorised Dealer in India, i.e. a bank authorised to deal in foreign exchange. NRO Savings accounts can also be maintained with the Post Offices in India.

Types of accounts which can be maintained by an NRI / PIO in India

A. Non-Resident Ordinary Rupee Account (NRO Account)

Any person resident outside India may open NRO account with an authorised dealer or an authorised bank for the purpose of putting through bona fide transaction in rupees.

Opening of accounts by individual/ entities of Pakistan and entities of Bangladesh require prior approval of Reserve Bank of India.

NRO accounts may be opened / maintained in the form of current, savings, recurring or fixed deposit accounts.

- *Savings Account* - Normally maintained for crediting legitimate dues /earnings / income such as dividends, interest etc. Banks are free to determine the interest rates.

- *Term Deposits* - Banks are free to determine the interest rates. Interest rates offered by banks on NRO deposits cannot be higher than those offered by them on comparable domestic rupee deposits.

- Account should be denominated in Indian Rupees.

- Permissible credits to NRO account are transfers from rupee accounts of non-resident banks, remittances received in permitted currency from outside India through normal banking channels, permitted currency tendered by account holder during his temporary visit to India, legitimate dues in India of the account holder like current income like rent, dividend, pension, interest, etc., sale proceeds of assets including immovable property acquired out of rupee/ foreign currency funds or by way of legacy/ inheritance.

- Eligible debits such as all local payments in rupees including payments for investments as specified by the Reserve Bank and remittance outside India of current income like rent, dividend, pension, interest, etc., net of applicable taxes, of the account holder.

- NRI/PIO may remit from the balances held in NRO account an amount not exceeding USD one million per financial year, subject to payment of applicable taxes.

- The limit of USD 1 million per financial year includes sale proceeds of immovable properties held by NRIs/ PIOs.

- Other than current income and the limit of USD 1 Mn per financial year applicable to NRIs/PIOs, balances in NRO accounts cannot be repatriated without the prior approval of RBI.

- The accounts may be held jointly with residents and / or with non-resident Indian.

- The NRO account holder may opt for nomination facility.

- NRO (current/savings) account can also be opened by a foreign national of non-Indian origin visiting India, with funds remitted from outside India through banking channel or by sale of foreign exchange brought by him to India. The details of this facility are given in the FAQs on "Accounts opened by Foreign Nationals and Foreign Tourists" available on the RBI website.

- Loans to non-resident account holders and to third parties may be granted in Rupees by Authorized Dealer / bank against the security of fixed deposits subject to certain terms and conditions.

B. Non-Resident (External) Rupee Account (NRE Account)

- NRE account may be in the form of savings, current, recurring or fixed deposit accounts (with maturity of minimum one year). Such accounts can be opened only by the NRI (as defined under Regulation 2(vi) of [Notification No. FEMA 5/2000-RB dated May 3, 2000](#)) himself and not through the holder of the power of attorney.

- NRIs may be permitted to open NRE account with their resident close relatives (relative as defined in Section 6 of the Companies Act, 1956) on 'former or survivor' basis. The resident close relative shall be eligible to operate the account as a Power of Attorney holder in accordance with the extant instructions during the life time of the NRI/PIO account holder.

- Account will be maintained in Indian Rupees.

- Balances held in the NRE account are freely repatriable.

- Accrued interest income and balances held in NRE accounts are exempt from Income tax and Wealth tax, respectively.

- Authorised dealers/authorised banks may at their discretion/commercial judgement allow for a period of not more than two weeks, overdrawings in NRE savings bank accounts, up to a limit of Rs.50,000 subject to the

condition that such overdrawings together with the interest payable thereon are cleared/repaid within a period of two weeks, out of inward remittances through normal banking channels or by transfer of funds from other NRE/FCNR accounts.

- *Savings* - Banks are free to determine the interest rates.
- *Term deposits* – Banks are free to determine the interest rates of term deposits of maturity of one year and above. Interest rates offered by banks on NRE deposits cannot be higher than those offered by them on comparable domestic rupee deposits.
- Permissible credits to NRE account are inward remittance to India in permitted currency, proceeds of account payee cheques, demand drafts / bankers' cheques, issued against encashment of foreign currency, where the instruments issued to the NRE account holder are supported by encashment certificate issued by AD Category-I / Category-II, transfers from other NRE / FCNR accounts, sale proceeds of FDI investments, interest accruing on the funds held in such accounts, interest on Government securities/dividends on units of mutual funds purchased by debit to the NRE/FCNR(B) account of the holder, certain types of refunds, etc.
- Eligible debits are local disbursements, transfer to other NRE / FCNR accounts of person eligible to open such accounts, remittance outside India, investments in shares / securities/commercial paper of an Indian company, etc.
- Loans can be extended against security of funds held in NRE Account either to the depositors or third parties without any ceiling subject to usual margin requirements.
- Such accounts can be operated through power of attorney in favour of residents for the limited purpose of withdrawal of local payments or remittances through normal banking channels to the account holder himself.

C. Foreign Currency Non Resident (Bank) Account – FCNR (B) Account

- NRIs are eligible to open and maintain these accounts.
- FCNR (B) accounts are only in the form of term deposits of 1 to 5 years
- All debits / credits permissible in respect of NRE accounts, including credit of sale proceeds of FDI investments, are permissible in FCNR (B) accounts also.
- Account can be held in any freely convertible currency.
- Loans can be extended against security of funds held in FCNR (B) deposit either to the depositors or third parties without any ceiling subject to usual margin requirements.
- The interest rates are stipulated by the Department of Banking Operations and Development, Reserve Bank of India. With effect from March 1, 2014, in respect of FCNR (B) deposits of maturities, 1 year to less than 3 years, interest shall be paid within the ceiling rate of LIBOR/ SWAP rates plus 200 basis points for the respective currency/ corresponding maturity. For FCNR(B) deposits with maturity of 3-5 years interest shall be paid within the ceiling rate of LIBOR/ SWAP rates plus 300 basis points. On floating rate deposits, interest shall be paid within the ceiling of SWAP rates for the respective currency/ maturity plus 200 bps/ 300 bps, as the case may be. For floating rate deposits, the interest reset period shall be six months.
- When an account holder becomes a person resident in India, deposits may be allowed to continue till maturity at the contracted rate of interest, if so desired by him.

- Terms and conditions as applicable to NRE accounts in respect of joint accounts, repatriation of funds, opening account during temporary visit, operation by power of attorney, loans/overdrafts against security of funds held in accounts, shall apply mutatis mutandis to FCNR (B). NRI can open joint account with a resident close relative (relative as defined in Section 6 of the Companies Act, 1956) on former or survivor basis. The resident close relative will be eligible to operate the account as a Power of Attorney holder in accordance with extant instructions during the life time of the NRI/ PIO account holder.

Is the permission of the Reserve Bank required for opening the various accounts, mentioned above, by Bangladesh / Pakistan individuals/entities?

Opening of accounts by individuals/entities of Pakistan and entities of Bangladesh nationality requires prior approval of the Reserve Bank.. All such requests may be referred to the General Manager, Foreign Exchange Department, Central Office Cell, Reserve Bank of India, 6 Sansad Marg, New Delhi - 110 001. However, individuals of Bangladesh nationality are permitted to open NRO accounts without the prior approval of Reserve Bank of India, subject to conditions.

Can an individual resident Indian borrow money from his close relatives outside India?

Yes, an individual resident Indian can borrow a sum not exceeding USD 250,000 or its equivalent from his close relatives³ staying outside India, subject to the conditions that:

- the minimum maturity period of the loan is one year;
- the loan is free of interest; and
- the amount of loan is received by inward remittance in free foreign exchange through normal banking channels or by debit to the NRE/FCNR(B) account of the NRI.

Can an individual resident lend money to his close relative NRI / PIO?

Yes, an individual resident can lend money by way of crossed cheque /electronic transfer within the overall limit prescribed under the Liberalised Remittance Scheme, to meet the borrower's personal or business requirements in India, subject to conditions. The loan should be interest free and have a maturity of minimum one year and cannot be remitted outside India.

Can an individual resident repay loans of close relative NRIs to banks in India?

Yes, where an authorised dealer in India has granted loan to a non-resident Indian such loans may also be repaid by resident close relative (relative as defined in Section 6 of the Companies Act, 1956), of the Non-Resident Indian by crediting the borrower's loan account through the bank account of such relative.

What are the other facilities available to NRIs/PIO?

A. Investment facilities for NRIs

NRI may, without limit, purchase on repatriation basis:

- Government dated securities / Treasury bills
- Units of domestic mutual funds;
- Bonds issued by a public sector undertaking (PSU) in India.

- Non-convertible debentures of a company incorporated in India.
- Perpetual debt instruments and debt capital instruments issued by banks in India.
- Shares in Public Sector Enterprises being dis-invested by the Government of India, provided the purchase is in accordance with the terms and conditions stipulated in the notice inviting bids.

• Shares and convertible debentures of Indian companies under the FDI scheme (including automatic route & FIPB), subject to the terms and conditions specified in Schedule 1 to the [FEMA Notification No. 20/2000- RB dated May 3, 2000](#), as amended from time to time.

• Shares and convertible debentures of Indian companies through stock exchange under Portfolio Investment Scheme, subject to the terms and conditions specified in Schedule 3 to the FEMA Notification No. 20/2000- RB dated May 3, 2000, as amended from time to time.

NRI may, without limit, purchase on non-repatriation basis :

- Government dated securities / Treasury bills
- Units of domestic mutual funds
- Units of Money Market Mutual Funds
- National Plan/Savings Certificates

• Non-convertible debentures of a company incorporated in India

• Shares and convertible debentures of Indian companies through stock exchange under Portfolio Investment Scheme, subject to the terms and conditions specified in Schedules 3 and 4 to the FEMA Notification No. 20/2000- RB dated May 3, 2000, as amended from time to time.

• Exchange traded derivative contracts approved by the SEBI, from time to time, out of INR funds held in India on non-repatriable basis, subject to the limits prescribed by the SEBI.

Note : NRIs are not permitted to invest in small savings or Public Provident Fund (PPF).

B. Investment in Immovable Property

• NRI⁵ / PIO⁴ may acquire/transfer immovable property in India other than agricultural land/ plantation property or a farm house out of repatriable and / or non-repatriable funds.

• Foreign national of non Indian origin resident outside India shall not acquire/transfer any immovable property in India other than on lease not exceeding five years, without prior approval of Reserve Bank of India.

• The payment of purchase price, if any, should be made out of

(i) funds received in India through normal banking channels by way of inward remittance from any place outside India or

(ii) funds held in any non-resident account maintained in accordance with the provisions of the Act and the regulations made by the Reserve Bank.

Note : No payment of purchase price for acquisition of immovable property shall be made either by traveller's cheque or by foreign currency notes or by other mode other than those specifically permitted as above.

• NRI may acquire any immovable property in India other than agricultural land / farm house plantation property, by way of gift from a person resident in India or from a person resident outside India who is a citizen of India or from a person of Indian origin resident outside India

• NRI may acquire any immovable property in India by way of inheritance from a person resident outside India who had acquired such property in accordance with the provisions of the foreign exchange law in force at the time of acquisition by him or the provisions of these Regulations or from a person resident in India

• An NRI may transfer any immovable property in India to a person resident in India.

• NRI may transfer any immovable property other than agricultural or plantation property or farm house to a person resident outside India who is a citizen of India or to a person of Indian origin resident outside India.

In respect of such investments, NRIs are eligible to repatriate:

• The sale proceeds of immovable property in India if the property was acquired out of foreign exchange sources i.e. remitted through normal banking channels / by debit to NRE / FCNR (B) account.

• The amount to be repatriated should not exceed the amount paid for the property in foreign exchange received through normal banking channel or by debit to NRE account (foreign currency equivalent, as on the date of payment) or debit to FCNR (B) account.

• In the event of sale of immovable property, other than agricultural land / farm house / plantation property in India, by a person resident outside India who is a citizen of India / PIO, the repatriation of sale proceeds is restricted to not more than two residential properties subject to certain conditions.

• If the property was acquired out of Rupee sources, NRI or PIO may remit an amount up to USD one million per financial year out of the balances held in the NRO account (inclusive of sale proceeds of assets acquired by way of inheritance or settlement), for all the bonafide purposes to the satisfaction of the Authorized Dealer bank and subject to tax compliance.

• Refund of (a) application / earnest money / purchase consideration made by house-building agencies/seller on account of non-allotment of flats / plots and (b) cancellation of booking/deals for purchase of residential/commercial properties, together with interest, net of taxes, provided original payment is made out of NRE/FCNR (B) account/inward remittances.

Repayment of Housing Loan of NRI / PIOs by close relatives of the borrower in India

Housing Loan in rupees availed of by NRIs/ PIOs from ADs / Housing Financial Institutions in India can be repaid by the close relatives in India of the borrower.

C. Facilities to returning NRIs/PIOs

• Returning NRIs/PIOs may continue to hold, own, transfer or invest in foreign currency, foreign security or any immovable property situated outside India, if such currency, security or property was acquired, held or owned when resident outside India

• The income and sale proceeds of assets held abroad need not be repatriated.

Foreign Currency Account

● A person resident in India who has gone abroad for studies or who is on a visit to a foreign country may open, hold and maintain a Foreign Currency Account with a bank outside India during his stay outside India, provided that on his return to India, the balance in the account is repatriated to India. However, short visits to India by the student who has gone abroad for studies, before completion of his studies, shall not be treated as his return to India.

● A person resident in India who has gone out of India to participate in an exhibition/trade fair outside India may open, hold and maintain a Foreign Currency Account with a bank outside India for crediting the sale proceeds of goods on display in the exhibition/trade fair. However, the balance in the account should be repatriated to India through normal banking channels within a period of one month from the date of closure of the exhibition/trade fair.

Resident Foreign Currency Account

● A person resident in India may open, hold and maintain with an authorised dealer in India a Resident Foreign Currency (RFC) Account.

● Proceeds of assets held outside India at the time of return can be credited to RFC account.

● The funds in RFC accounts are free from all restrictions regarding utilisation of foreign currency balances including any restriction on investment in any form outside India.

● RFC accounts can be maintained in the form of current or savings or term deposit accounts, where the account holder is an individual and in the form of current or term deposits in all other cases. RFC accounts are permitted to be held jointly with a resident close relative(s) as defined in the Companies Act, 1956 as joint holder (s) in their RFC bank account on 'former or survivor basis'. However, such resident Indian close relative, now being made eligible to become joint account holder shall not be eligible to operate the account during the life time of the resident account holder.

General facilities

Can Exchange Earners Foreign Currency (EEFC) accounts be held jointly with a -resident Indian?

Yes, EEFC account of a resident individual can be held jointly with a resident close relative on a 'former or survivor' basis.

However, such resident Indian close relative will not be eligible to operate the account during the life time of the resident account holder.

Can a resident individual holding a savings bank account include non-resident close relative as a joint account holder?

Yes, individuals resident in India are permitted to include non-resident close relative(s) as a joint holder(s) in their resident bank accounts on 'either or survivor' basis subject to conditions.

Can a resident individual gift shares/securities/convertible debentures etc to NRI close relative?

Yes, a resident individual is permitted to gift shares/securities/convertible debentures etc to NRI close relative up to USD 50,000 per financial year subject to certain conditions.

Can a resident individual give rupee gifts to his visiting NRI/PIO close relatives?

Yes, a resident individual can give rupee gifts to his visiting NRI/PIO close relatives by way of crossed cheque/electronic transfer within the overall limit prescribed under Liberalised Remittance Scheme for the resident individual and the gifted amount should be credited to the beneficiary's NRO account.

What types of services can be provided by a resident individual to his / her non-resident close relatives?

A resident may make payment in rupees towards meeting expenses on account of boarding, lodging and services related thereto or travel to and from and within India of a person resident outside India who is on a visit to India. Further, where the medical expenses in respect of NRI close relative are paid by a resident individual, such a payment being in the nature of a resident to resident transaction may also be covered under the term "services".

¹ A Non Resident Indian (NRI) is a person resident outside India, who is a citizen of India or is a person of Indian origin.

² A Person of Indian Origin (PIO) for this purpose is defined in Regulation 2 of FEMA Notification ibid as a citizen of any country other than Bangladesh or Pakistan, if (a) he at any time held Indian passport; or (b) he or either of his parents or any of his grandparents was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955 (57 of 1955); or (c) the person is a spouse of an Indian citizen or a person referred to in sub-clause (a) or (b).

³ 'Close relative' means relative as defined in Section 6 of the Companies Act, 1956.

⁴ 'A Person of Indian Origin' means an individual (not being a citizen of Pakistan or Bangladesh or Sri Lanka or Afghanistan or China or Iran or Nepal or Bhutan) who (i) at any time, held an Indian Passport or (ii) who or either of whose father or mother or whose grandfather or grandmother was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955 (57 of 1955).

⁵ For the purpose of acquisition and transfer of immovable property in India an NRI refers to an Indian Citizen resident outside India ([Notification No. FEMA 21/2000 RB dated May 3, 2000](#), as amended from time to time)

Account Opened by Foreign Nationals and Foreign Tourists

(Updated as on August 14, 2014)

Q.1. Can foreign tourists open a bank account in India during their short visit?

A. Yes. Foreign tourists during their short visit to India can open a Non-Resident (Ordinary) Rupee (NRO) account (Current / Savings) with any Authorised Dealer bank dealing in foreign exchange. Such account can be opened up to a maximum period of 6 months.

Q.2 What are the documents required for opening such accounts?

A. Passports and other valid identification proofs are required for opening the accounts. Authorised Dealer

banks are also required to follow the Know Your Customer norms while opening of the accounts.

Q.3. What credits can be made to such accounts?

A. Funds remitted from outside India through banking channel or those obtained by sale of foreign exchange brought by the tourists to India can be credited to the NRO account.

Q4. Can the NRO account be used for making local payments?

A. Yes. Tourists can freely make local payments through the NRO account. All payments to residents exceeding INR 50,000 can be made only by means of cheques / pay orders / demand drafts.

Q.5. Can foreign tourists repatriate the balance held in their NRO account at the time of departure from India?

A. Authorised Dealer banks have been allowed to convert the balance in the account for payment to the account holder at the time of departure from India into foreign currency, provided the account has been maintained for a period not exceeding six months and the account has not been credited with any local funds, other than interest accrued thereon.

Q.6. What can be done to repatriate the proceeds of an account that has been maintained for more than six months?

A. In such cases, applications for repatriation of balance may be made on plain paper to the Foreign Exchange Department of the Regional Office concerned of the Reserve Bank through the Authorised Dealer bank maintaining the account.

Q.7. Can foreign nationals resident in India open resident account?

A. Yes. Foreign nationals employed in India holding valid visas can open and maintain a resident Rupee account in India in terms of Notification No.5/2000-RB dated May 3, 2000 viz., Foreign Exchange Management (Deposit) Regulations, 2000, as amended from time to time.

Q.8. Can AD Category-I banks remit proceeds of such accounts on closure?

A. Yes. But AD Category-I banks should ensure that the funds to be repatriated outside India were either received from abroad or they are repatriable in nature or permissible in terms of RBI notification No. FEMA 13/2000 dated 3rd May 2000, as amended from time to time. The foreign nationals employed in India holding valid visas are eligible to maintain resident accounts with an Authorised Dealer Category - I (AD Category-I) bank in India. In order to facilitate such foreign nationals to collect their pending dues in India, AD Category-I banks may, permit foreign nationals to re-designate their resident account maintained in India as NRO account on leaving the country after their employment to enable them to receive their pending bonafide dues, subject to conditions.

Hedging of Price Risk in Commodities

As on July 04, 2014)

A person resident in India is permitted to enter into a contract in a commodity exchange or market outside India to hedge price risk in commodities imported / exported, domestic transactions, freight risk, etc., through the Authorised Dealer Category - I (AD Category – I)

banks. The role of Authorised Dealer banks here is

primarily to provide facilities for remitting foreign currency amounts towards margin requirements from time to time, subject to verification of the underlying exposure. There are two channels through which residents can undertake hedge i.e. 'Authorised Dealers' Delegated Route and Reserve Bank's Approval Route. With a view to achieving greater clarity on the rules / guidelines governing hedging of commodity price risk, clarifications on process and various operational issues relating to commodity hedging are given below:

A. Commodity Hedging

1. Who can hedge?

A person resident in India, who has a commodity exposure and faces risks due to volatile commodity prices, can hedge the price risk in the International Commodity Exchanges/ Markets, using hedging products such as, futures and options, which are exchange traded and Over the Counter (OTC) derivatives as permitted by the Reserve Bank from time to time. Prior approval from the Reserve Bank / an AD Category - I bank is required.

2. What are the hedging facilities available to oil companies?

The Reserve Bank, through the approval/delegated routes, has permitted following facilities for oil price hedging:

- a. Hedging of exposures arising from import of crude oil and export of petroleum products

based on underlying contracts.

- b. Hedging of exposures arising from import of crude oil **based on past performance** up to 50 per cent of the volume of actual imports during the previous year or 50 per cent of the average volume of imports during the previous three financial years, whichever is higher.
- c.
- d.

Hedging of inventory up to 50 per cent of the volumes in the quarter preceding the previous quarter.

Hedging of exposures arising from **domestic purchase of crude and sale of petro products** on the basis of underlying contracts.

- e. Hedging of exposures on import / export of jet fuel and **domestic purchase of jet fuel by users** i.e., domestic airline companies.
- f.

3. Which are the entities permitted to hedge oil price risk?

Domestic oil refining and marketing companies are permitted to hedge their price risk on crude oil and petroleum products on overseas exchanges/ markets to modulate the impact of adverse price fluctuations.

Domestic users of aviation turbine fuel (ATF) are also permitted to hedge their price risk on ATF in overseas exchanges / OTC markets.

4. What are the commodities, other than petroleum and petroleum products, which could be hedged in international exchanges?

- a. The Reserve Bank has permitted companies to hedge price risk on import/ export in respect
- b. of any commodity (except gold, silver, platinum) in the international commodity exchanges/
- c. markets under the delegated route. The eligible company interested in hedging price risk in
- d. respect of its import/ export may apply to any AD Category-I bank.
- e. The Reserve Bank has also permitted companies listed on a recognised Stock Exchange to
- f. hedge the price risk in respect of domestic purchases and sales of aluminium, copper, lead,
- g. nickel and zinc under the delegated route. The eligible company interested in hedging price
- h. risk in respect of above commodities may apply to any AD Category-I bank.

5. What are the hedging facilities permitted for entities in Special Economic Zones (SEZs)?

AD Category-I banks are permitted to allow entities in Special Economic Zones to undertake hedging transactions in the overseas commodity exchanges/markets to hedge their commodity price risk on import/export. Such transactions are permitted only when the unit in the SEZ is completely isolated from financial contacts with its parent or subsidiary in the mainland or within the SEZs as far as import/export transactions are concerned.

B. Freight Hedging

1 . What is a freight derivative?

A freight derivative is a financial instrument whose value is derived on the future levels of freight rates, such as "dry bulk" carrying rates and oil tanker rates. Freight derivatives are used mainly by end users such as ship owners and large ware houses, suppliers such as oil refining and marketing companies to manage risk and hedge against price volatility in the

supply chain.

2. Which are the entities permitted by RBI to hedge freight risk?

Oil refining and marketing companies, shipping companies and other companies which have substantial overheads on account of freight component, are permitted to hedge the freight risk in international exchanges/OTC markets on the basis of the underlying exposures. The oil and shipping companies are permitted to hedge through the delegated route i.e. through AD Category -I banks and other corporates having freight exposures are permitted to hedge after obtaining prior approval from the Reserve Bank.

Annual Return on Foreign Liabilities and Assets (FLA return) under FEMA 1999

Swap Window for attracting FCNR (B) Dollar funds

. What are the pre-conditions for the FCNR (B) deposits mobilised by a bank for being eligible to be swapped with RBI under the swap window?

Only fresh FCNR (B) deposits mobilized in any of the permitted currencies after September 6, 2013 with minimum three years maturity and having a lock in period of one year are permissible deposits under the swap window.

Banks are free to mobilise other types of permitted FCNR (B) deposits as specified in the RBI Master Circular on Interest Rates on FCNR (B) Deposits dated July 1, 2013 read with [Circular DBOD.Dir.BC. 38/13.03.00/2013-1 dated August 14, 2013](#). However, such deposits will not qualify as eligible deposit for the purpose of swap with RBI. Banks are advised to maintain separate ledgers for FCNR (B) deposits mobilised under both the scheme along with proper audit trail of transactions.

. What is the nature of swap offered by RBI?

The swap is in the nature of a simple buy/sell foreign exchange swap from the RBI side covering just the principal portion of the deposits and not the interest component.

. Can the maturing FCNR (B) deposits be renewed and construed as fresh deposits for the purpose of swap?

Yes. However, only such deposits which are renewed on maturity for a minimum tenor of three years and having lock in period of one year would qualify as eligible deposits for undertaking swap with RBI.

. How will the swap cost of 3.5 per cent be computed?

The swap cost of 3.5 per cent will be compounded semi-annually for the tenor of the swap.

. When can a bank approach RBI for the swap?

As and when the bank mobilizes USD one million or more of FCNR (B) deposits, it may approach RBI. Normally

banks may enter into swap transactions with RBI once in a week in consultation with the Financial Markets Department of RBI.

6. How will the tenor of the swap be arrived at?

The tenor of the swap will be for three years or more in line with the tenor of the underlying FCNR (B) deposits. Bank desirous of availing the swap window may approach RBI for the swap, indicating the tenor in number of days.

7. Is it necessary to pass on the benefit arising out of the swap to the depositor?

Banks would be free to price the deposit within the overall ceiling as per the extant guidelines issued by RBI (c.f. RBI Circular DBOD.Dir.BC. 38/13.03.00/2013-14 dated August 14, 2013).

8. In case of premature withdrawal of deposit, is it necessary for the bank to approach RBI for cancellation of the swap?

Yes, banks have to necessarily approach RBI for cancellation of the swap if the underlying FCNR (B) deposit has been prematurely withdrawn. For the sake of operational and mutual convenience of both RBI and the bank, the cancellation of the swap may be undertaken once a threshold amount of deposits have been prematurely withdrawn. The threshold amount will be decided by RBI and conveyed to the bank at the time of bank approaching the RBI for cancellation of swap.

9. How would the swap be re-priced once a bank approaches RBI for cancellation of the swap subsequent to premature withdrawal of the underlying FCNR (B) deposits?

The re-pricing of the swap would be done as given in the [illustration](#) at the end of the FAQ.

10. Can a bank approach RBI for termination of the swap even if the underlying FCNR (B) deposit(s) has not been prematurely withdrawn?

No.

11. How will the FCNR (B) deposits mobilised in currencies other than US Dollars be taken into account for the purpose of entering into swap with RBI?

For FCNR (B) deposits mobilized in permissible foreign currencies other than US Dollar, banks may arrive at the equivalent dollar amount eligible to be swapped by converting the same at the prevailing market rates on the day of the swap deal. Banks may follow a consistent policy as far as conversion is concerned and should maintain a proper documentation (audit trails) of the procedure followed for such conversions.

12. On premature withdrawal, banks will have a US Dollar outflow. Can banks meet these dollar demands using any other available source of foreign currency funding?

As stated earlier, banks have to necessarily approach RBI for unwinding of the swap in case of premature withdrawal of deposits. However, banks may arrange funds from other permitted sources pending unwinding of the swap with RBI.

13. Will the banks be required to enter into ISDA agreement with RBI for undertaking swaps?

Banks are not required to enter into any ISDA agreement with RBI.

14. Can a bank enter into a swap with RBI if the original tenor of the fresh FCNR (B) deposits mobilized is more than three years but at the time of availing of the swap facility with RBI, the residual maturity is less than three years?

Since the swap with RBI will be undertaken in multiples of USD one million, it is possible that a bank may have to wait before it mobilises a minimum amount of USD one million. In such a case, the banks will be allowed to undertake swaps for tenors of marginally less than three years provided they have mobilised fresh eligible FCNR (B) for minimum original tenor of three years with one year lock in period.

15. The swap with RBI will entail very large risk limit consumption (since it would be an off-market, in-the-money swap for banks). This will impact capital requirements substantially. Are such exposures on RBI exempted from capital adequacy requirements?

Yes.

16. Can a bank offer loan abroad to the account holder and can the lending institution mark lien on such deposits?

Please refer to the FAQ (updated as on September 13, 2013) on “Features of various Deposit Schemes available for Non-Resident Indians” available on the RBI website (link: <http://www.rbi.org.in/scripts/FAQView.aspx?Id=69>). Banks are permitted to extend loans to the FCNR (B) account holders and mark lien on such deposits.

Illustration

(Please refer to the answer to the Question No. 8 above)

A. At the time of entering into a sell/buy swap with RBI

A bank enters into a swap deal with RBI for a swap tenor for 1235 days on 19 September 2013.

Near/Spot leg	23 Sep 2013	
Far Leg (Spot leg plus tenor of 1235 days)	09 Feb 2017	
	Near leg (Buy for RBI)	Far Leg (Sell for RBI)
Value Dates	23 Sep 2013	09 Feb 2017
Swap Amount (Principal)	USD 1 million	USD 1 million
USD-INR Rates	62.6390	70.4419*

* Computed by compounding the near leg rate of 62.6390 at 3.5 per cent semi-annually for the tenor of the swap, i.e. 1235 days.

Transaction with RBI: On September 19, 2013, the bank will enter into a sell/buy swap with RBI for USD one million at 62.6390/70.4419. The sell leg is undertaken at that day’s RBI reference rate.

B. At the time of cancellation/ termination of the swap consequent upon premature withdrawal of the underlying FCNR (B) deposits

If the swap is terminated after 756 days, the residual tenor of the swap would stand at 479 days. The swap cost would be re-fixed as under:

Revised swap cost to be applied for the completed tenor of the swap (756 days) would be equal to 14.9 % (3.5%+4.0%+7.4%). It is assumed that the prevailing USDINR swap rate for residual tenor of 469 days at the time of cancellation is 7.4%.

The revised swap cost would be adjusted in the first leg of the new swap transaction (buy/sell) to be undertaken by the bank with RBI.

New Swap to be undertaken at the Near leg (Sell for RBI) Far Leg (Buy for RBI)

time of cancellation of existing swap

Value Dates 19 Oct 2015 09 Feb 2017

Rates 84.3561 70.4419

Transaction with RBI: On October 15, 2015, the bank will enter into a buy/sell swap with RBI for USD one million at 84.3561/70.4419.

Acquisition and Transfer of Immovable Property in India by a person resident outside India

updated as on July 2, 2012)

Introduction

Acquisition of immovable property in India by persons resident outside India (foreign national) is regulated in terms of section 6 (3) (i) of the Foreign Exchange Management Act (FEMA), 1999 as well as by the regulation contained in the [Notification No. FEMA 21/2000-RB dated May 3, 2000](#), as amended from time to time. Section 6(v) and Section 2 (w) of FEMA, 1999 defines 'person resident in India' and a 'person resident outside India' respectively. Person resident outside India is categorized as Non- Resident Indian (NRI) or a foreign national of Indian Origin (PIO) or a foreign national of non-Indian origin. The Reserve Bank does not determine the residential status. Under FEMA, residential status is determined by operation of law. The onus is on an individual to prove his/her residential status, if questioned by any authority.

[A person resident in India who is not a citizen of India is also covered by the relevant Notifications.](#)

In terms of the provisions of Section 6(5) of FEMA 1999, a person resident outside India can hold, own, transfer or invest in Indian currency, security or any immovable property situated in India if such currency, security or property was acquired, held or owned by such person when he was a resident in India or inherited from a person who was a resident in India.

The regulations under Notification No. FEMA 21/2000-RB dated May 3, 2000, as amended from time to time permit a NRI or a PIO to acquire immovable property in India, other than agricultural land or, plantation property or farm house. Further, foreign companies who have been permitted to open a Branch or Project Office in India are also allowed to acquire any immovable property in India, which is necessary for or incidental to carrying on such activity. Such dispensation is however not available to entities which are permitted to open liaison offices in India.

The restrictions on acquiring immovable property in India by a person resident outside India would not apply where the immovable property is proposed to be acquired by way of a lease for a period not exceeding 5 years or where a person is deemed to be resident in India.

In order to be deemed to be a person resident in India, from FEMA angle, the person would need to comply with the provisions of Section 2(v) of FEMA 1999. The Press Release dated February 1, 2009 issued by Government of India in this regard is enclosed as Annex.

Note: Citizens of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal or Bhutan cannot acquire or transfer immovable property in India, (other than on lease not exceeding five years) without the prior permission of the Reserve Bank.

NRI/ PIOs are allowed to repatriate an amount up to USD one million, per financial year (April-March), out of the balances held in the Non-Resident (Ordinary) Rupee (NRO) account, subject to compliance with applicable tax requirements. This amount includes sale proceeds of assets acquired by way of inheritance or settlement.

6. The FAQs cover the following topics :

A. Acquisition of Immovable Property in India by a person resident outside India, i.e., by a NRI / PIO / foreign national of non-Indian origin by way of purchase / gift / inheritance.

[B. Transfer of immovable property in India by a person resident outside India by way of](#)

- i) sale
- ii) gift
- iii) mortgage

[C. Mode of payment for purchase of immovable property in India.](#)

[D. Repatriation of sale proceeds of residential / commercial property, in India, outside India acquired by NRI / PIO by way of](#)

- i) purchased
- ii) gift
- iii) inheritance

[E. Provisions for Foreign Embassies / Diplomats / Consulates General](#)

[F. Other Aspects.](#)

A. Acquisition of Immovable Property in India through purchase / gift/ inheritance

Q.1. Who can purchase immovable property in India ?

Ans. Under the general permission available, the following categories can purchase immovable property in India:

- i) Non-Resident Indian (NRI)1[1][1]^[1]
- ii) Person of Indian Origin (PIO)2[2]^[2]

The general permission, however, covers only purchase of residential and commercial property and is not available for purchase of agricultural land / plantation property / farm house in India.

Q.2. Can NRI/PIO acquire agricultural land/ plantation property / farm house in India?

Ans. No.

Q.3. Are any documents required to be filed with the Reserve Bank after the purchase?

Ans. No. An NRI / PIO who has purchased residential / commercial property under general permission, is not required to file any documents/reports with the Reserve Bank.

Q.4. How many residential / commercial properties can NRI / PIO purchase under the general permission?

Ans. There are no restrictions on the number of residential / commercial properties that can be purchased.

Q.5. Can a foreign national of non-Indian origin be a second holder to immovable property purchased by NRI / PIO?

Ans. No.

Q.6. Can a foreign national of non-Indian origin resident outside India purchase immovable property in India?

Ans. No. A foreign national of non-Indian origin, resident outside India cannot purchase any immovable property in India unless such property is acquired by way of inheritance from a person who was resident in India. However, he / she can acquire or transfer immovable property in India, on lease, not exceeding five years. In such cases, there is no requirement of taking any permission of /or reporting to the Reserve Bank.

Q.7. Can a foreign national who is a person resident in India purchase immovable property in India?

Ans. Yes, a foreign national who is a 'person resident in India' within the meaning of Section 2(v) of FEMA, 1999 can purchase immovable property in India, but the person concerned would have to obtain the approvals and fulfil the requirements, if any, prescribed by other authorities, such as, the State Government concerned, etc. The onus to prove his/her residential status is on the individual as per the extant FEMA provisions, if required by any authority. However, a foreign national resident in India who is a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal and Bhutan would require prior approval of the Reserve Bank.

Q.8. Can the branch / liaison office of a foreign company purchase immovable property in India?

Ans. A foreign company which has established a Branch Office or other place of business in India, in accordance with the Foreign Exchange Management (Establishment in India of Branch or Office or other Place of Business) Regulations, 2000, can acquire any immovable property in India, which is necessary for or incidental to carrying on such activity. The payment for acquiring such a property should be made by way of foreign inward remittance through the proper banking channels. A declaration in form IPI should be filed with the Reserve Bank within ninety days from the date of acquiring the property. Such a property can also be mortgaged with an Authorised Dealer as a security for the purpose of borrowings. On winding up of the business, the sale proceeds of such property can be repatriated only with the prior approval of the Reserve Bank. Further, acquisition of immovable property by entities incorporated in Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal and Bhutan and who have set up Branch Offices in India and would require prior approval of the Reserve Bank.

However, if the foreign company has established a Liaison Office in India, it cannot acquire immovable property. In such cases, Liaison Offices can acquire property by way of lease not exceeding 5 years.

Q.9. Can a NRI/PIO acquire immovable property in India by way of gift? Can a foreign national acquire immovable property in India by way of gift?

Ans. (a) Yes, NRIs and PIOs can freely acquire immovable property by way of gift either from

- i) a person resident in India; or
- ii) an NRI; or
- iii) a PIO.

However, the property can only be commercial or residential in nature. Agricultural land / plantation property / farm house in India cannot be acquired by way of gift.

(b) A foreign national of non-Indian origin resident outside India cannot acquire any immovable property in India

by way of gift.

Q.10. Can a non-resident inherit immovable property in India?

Ans. Yes, a person resident outside India i.e. i) an NRI; ii) a PIO; and iii) a foreign national of non-Indian origin can inherit and hold immovable property in India from a person who was resident in India.

Q.11. From whom can a non-resident person inherit immovable property?

Ans. A person resident outside India (i.e. NRI or PIO or foreign national of non-Indian origin) can inherit immovable property from

- (a) a person resident in India
- (b) a person resident outside India

However, the person from whom the property is inherited should have acquired the same in accordance with the foreign exchange law in force or FEMA regulations, applicable at the time of acquisition of the property.

B. Transfer of immovable property in India

(i) *Transfer by way of sale*

Q.12. Can an NRI/ PIO/foreign national sell his residential / commercial property?

Ans. (a) NRI can sell property in India to

- i) a person resident in India; or
- ii) an NRI; or
- iii) a PIO.

(b) PIO can sell property in India to

- i) a person resident in India; or
- ii) an NRI; or
- iii) a PIO – with the prior approval of the Reserve Bank

(c) Foreign national of non-Indian origin including a citizen of Pakistan or Bangladesh or Sri Lanka or Afghanistan or China or Iran or Nepal or Bhutan can sell property in India with prior approval of the Reserve Bank to

- i) a person resident in India
- ii) an NRI
- iii) a PIO

Q.13. Can a non-resident owning / holding an agricultural land / a plantation property / a farm house in India sell the said property?

Ans. (a) NRI / PIO may sell agricultural land /plantation property/farm house to a person resident in India who is a citizen of India.

(b) Foreign national of non-Indian origin resident outside India would need prior approval of the Reserve Bank to sell agricultural land/plantation property/ farm house in India.

(ii) *Transfer by way of gift*

Q.14. Can a non-resident gift his residential / commercial property?

Ans. Yes.

(a) NRI / PIO may gift residential / commercial property to –

- (i) person resident in India or
(ii) an NRI or
(iii) PIO.

(b) A foreign national of non-Indian origin requires the prior approval of the Reserve Bank for gifting the residential / commercial property.

Q.15. Can an NRI / PIO / foreign national holding an agricultural land / a plantation property / a farm house in India, gift the same?

Ans. (a) NRI / PIO can gift an agricultural land / a plantation property / a farm house in India only to a person resident in India who is a citizen of India.

(b) A foreign national of non-Indian origin would require the prior approval of the Reserve Bank to gift an agricultural land / a plantation property / a farm house in India.

(iii) *Transfer through mortgage*

Q.16. Can residential / commercial property be mortgaged by NRI/ PIO?

Ans. i) NRI / PIO can mortgage a residential / commercial property to:

(a) an Authorised Dealer / the housing finance institution in India without the approval of Reserve Bank

(b) a bank abroad, with the prior approval of the Reserve Bank.

ii) A foreign national of non-Indian origin can mortgage a residential / commercial property only with prior approval of the Reserve Bank.

iii) A foreign company which has established a Branch Office or other place of business in accordance with FERA/FEMA regulations has general permission to mortgage the property with an Authorised Dealer in India.

C. Mode of payment for purchase of **immovable property in India.**

Q.17. How can an NRI / PIO make payment for purchase of residential / commercial property in India?

Ans. Payment can be made by NRI / PIO out of:

- (a) funds remitted to India through normal banking channels or
(b) funds held in NRE / FCNR (B) / NRO account maintained in India

No payment can be made either by traveller's cheque or by foreign currency notes or by other mode except those

specifically mentioned above.

Q.18 Is repatriation of application money for booking of flat / payment made to the builder by NRI/ PIO allowed when the flat or plot is not allotted or the booking / contract is cancelled?

Ans. The Authorised Dealers can allow NRIs / PIOs to credit refund of application/ earnest money/ purchase consideration made by the house building agencies/ seller on account of non-allotment of flat/ plot/ cancellation of bookings/ deals for purchase of residential, commercial property, together with interest, if any, net of income tax payable thereon, to NRE/FCNR account, provided, the original payment was made out of NRE/FCNR account of the account holder or remittance from outside India through normal banking channels and the Authorised Dealer is satisfied about the genuineness of the transaction.

Q.19. Can NRI / PIO avail of loan from an authorised dealer for acquiring flat / house in India for his own residential use against the security of funds held in his NRE Fixed Deposit account / FCNR (B) account? How the loan can be repaid?

Ans. Yes, such loans are permitted subject to the terms and conditions laid down in Schedules 1 and 2 to the Notification No. FEMA 5/2000-RB dated May 3, 2000 viz. Foreign Exchange Management (Deposit) Regulations, 2000, as amended from time to time. Banks cannot grant fresh loans or renew existing loans in excess of Rs. 100 lakhs against NRE and FCNR (B) deposits, either to the depositors or to third parties. The banks should also not undertake artificial slicing of the loan amount to circumvent the ceiling of Rs. 100 lakh.

Such loans can be repaid in the following manner:

- (a) by way of inward remittance through normal banking channel or
(b) by debit to the NRE / FCNR (B) / NRO account of the NRI/ PIO or
(c) out of rental income from such property
(d) by the borrower's close relatives, as defined in section 6 of the Companies Act, 1956, through their account in India by crediting the borrower's loan account.

Q.20. Can NRI / PIO, avail of housing loan in Rupees from an Authorised Dealer or a Housing Finance Institution in India approved by the National Housing Bank for purchase of residential accommodation or for the purpose of repairs / renovation / improvement of residential accommodation ? How can such loan be repaid?

Ans. Yes, NRI/PIO can avail of housing loan in Rupees from an Authorised Dealer or a Housing Finance Institution subject to certain terms and conditions laid down in Regulation 8 of Notification No. FEMA 4/2000-RB dated May 3, 2000 viz. Foreign Exchange Management (Borrowing and lending in rupees) Regulations, 2000, as amended from time to time. Authorised Dealers/ Housing Finance Institutions can also lend to the NRIs/ PIOs for the purpose of repairs/renovation/ improvement of residential accommodation owned by them in India. Such a loan can be repaid (a) by way of inward remittance through normal banking channel or (b) by debit to the NRE / FCNR (B) / NRO account of the NRI / PIO or (c) out of rental income from such property; or (d) by the borrower's close relatives, as defined in section 6 of the Companies Act, 1956, through their account in India by crediting the borrower's loan account.

Q.21. Can NRI/PIO avail of housing loan in Rupees from his employer in India?

Ans. Yes, subject to certain terms and conditions given in Regulation 8A of Notification No. FEMA 4/2000-RB dated May 3, 2000 and A.P. (DIR Series) Circular No.27 dated October 10, 2003, i.e.,

- (i) The loan shall be granted only for personal purposes including purchase of housing property in India;
- (ii) The loan shall be granted in accordance with the lender's Staff Welfare Scheme/Staff Housing Loan Scheme and subject to other terms and conditions applicable to its staff resident in India;
- (iii) The lender shall ensure that the loan amount is not used for the purposes specified in sub-clauses (i) to (iv) of clause (1) and in clause (2) of Regulation 6 of [Notification No.FEMA.4/2000-RB dated May 3, 2000](#).
- (iv) The lender shall credit the loan amount to the borrower's NRO account in India or shall ensure credit to such account by specific indication on the payment instrument;
- (v) The loan agreement shall specify that the repayment of loan shall be by way of remittance from outside India or by debit to NRE/NRO/FCNR Account of the borrower and the lender shall not accept repayment by any other means.

D. Repatriation of sale proceeds of residential / commercial property purchased by NRI / PIO

Q.22. Can NRI / PIO repatriate outside India the sale proceeds of immovable property held in India?

Ans.

(a) In the event of sale of immovable property other than agricultural land / farm house / plantation property in India by a NRI / PIO, the Authorised Dealer may allow repatriation of the sale proceeds outside India, provided the following conditions are satisfied, namely:

(i) the immovable property was acquired by the seller in accordance with the provisions of the foreign exchange law in force at the time of acquisition by him or the provisions of these Regulations;

(ii) the amount to be repatriated does not exceed:

- the amount paid for acquisition of the immovable property in foreign exchange received through normal banking channels, or
- the amount paid out of funds held in Foreign Currency Non-Resident Account, or
- the foreign currency equivalent (as on the date of payment) of the amount paid where such payment was made from the funds held in Non-Resident External account for acquisition of the property; and

(iii) in the case of residential property, the repatriation of sale proceeds is restricted to not more than two such properties.

For this purpose, repatriation outside India means the buying or drawing of foreign exchange from an authorised dealer in India and remitting it outside India through normal banking channels or crediting it to an account denominated in foreign currency or to an account in Indian currency maintained with an authorised dealer from which it can be converted in foreign currency.

(b) in case the property is acquired out of Rupee resources and/or the loan is repaid by close relatives in India (as defined in Section 6 of the Companies Act, 1956), the amount can be credited to the NRO account of the NRI/PIO. The amount of capital gains, if any, arising out of sale of the property can also be credited to the NRO account.

NRI/PIO are also allowed by the Authorised Dealers to repatriate an amount up to USD 1 million per financial year out of the balance in the NRO account / sale proceeds of assets by way of purchase / the assets in India acquired by

him by way of inheritance / legacy. This is subject to production of documentary evidence in support of acquisition, inheritance or legacy of assets by the remitter, and a tax clearance / no objection certificate from the Income Tax Authority for the remittance. Remittances exceeding US \$ 1,000,000 (US Dollar One million only) in any financial year requires prior permission of the Reserve Bank.

(c) A person referred to in sub-section (5) of Section 6 of the Foreign Exchange Management Act 3[3]^[3], or his successor shall not, except with the prior permission of the Reserve Bank, repatriate outside India the sale proceeds of any immovable property referred to in that sub-section.

Q.23. Can an NRI/PIO repatriate the proceeds in case the sale proceeds were deposited in the NRO account?

Ans. Please refer to the answer at Q.22 above. NRI/PIO may repatriate up to USD one million per financial year (April-March) from their NRO account which would also include the sale proceeds of immovable property. There is no lock in period for sale of immovable property and repatriation of sale proceeds outside India.

Q.24. If a Rupee loan was taken by the NRI/ PIO from an Authorised Dealer or a Housing Finance Institution for purchase of residential property can the NRI / PIO repatriate the sale proceeds of such property?

Ans. Yes, Authorised Dealers have been authorised to allow repatriation of sale proceeds of residential accommodation purchased by NRIs/ PIOs out of funds raised by them by way of loans from the authorised dealers/ housing finance institutions to the extent such loan/s repaid by them are out of the foreign inward remittances received through normal banking channel or by debit to their NRE/FCNR accounts. The balance amount, if any, can be credited to their NRO account and the NRI/PIO may repatriate up to USD one million per financial year (April-March) subject to payment of applicable taxes from their NRO account balances which would also include the sale proceeds of the immovable property.

Q.25. If the immovable property was acquired by way of gift by the NRI/PIO, can he repatriate abroad the funds from sale of such property?

Ans. The sale proceeds of immovable property acquired by way of gift should be credited to NRO account only. From the balance in the NRO account, NRI/PIO may remit up to USD one million, per financial year, subject to the satisfaction of Authorised Dealer and payment of applicable taxes.

Q.26. If the immovable property was received as inheritance by the NRI/PIO can he repatriate the sale proceeds?

Ans. Yes, general permission is available to the NRIs/PIO to repatriate the sale proceeds of the immovable property inherited from a person resident in India subject to the following conditions:

- (i) The amount should not exceed USD one million, per financial year (ii) This is subject to production of documentary evidence in support of acquisition / inheritance of assets and an undertaking by the remitter and certificate by a Chartered Accountant in the formats prescribed by the Central Board of Direct Taxes vide their Circular No.4/2009 dated June 29, 2009 (iii) In cases of deed of settlement made by either of his parents or a close relative (as defined in section 6 of the Companies Act, 1956) and the settlement taking effect on the death of the settler (iv) the original deed of settlement and a tax clearance / No Objection Certificate from the Income-Tax Authority should be produced for the remittance (v) Where the remittance as above is made in more than one installment, the remittance of all such installments shall be made through the same Authorised Dealer (vi) In case of a foreign national, sale proceeds can be repatriated if the property is inherited from a person resident outside India with the prior approval of the Reserve Bank. The foreign national has to approach the Reserve Bank with documentary evidence in support of inheritance of the immovable property and the undertaking and the C.A. Certificate mentioned above.

The general permission for repatriation of sale proceeds of immovable property is not available to a citizen of Pakistan, Bangladesh, Sri Lanka, China, Afghanistan and Iran and he has to seek specific approval of the Reserve

Bank.

As FEMA, 1999 specifically permits transactions only in Indian Rupees with citizens of Nepal and Bhutan. Therefore, the question of repatriation of the sale proceeds in foreign exchange to Nepal and Bhutan would not arise.

E. Provisions for Foreign Embassies / Diplomats / Consulates General

Q.27. Can Foreign Embassies / Diplomats / Consulates General purchase / sell immovable property in India?

Ans. In terms of Regulation 5A of the Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations 2000, Foreign Embassies/ Diplomats/ Consulates General, may purchase/ sell immovable property (other than agricultural land/ plantation property/ farm house) in India provided –

(i) Clearance from the Government of India, Ministry of External Affairs has been obtained for such purchase/sale; and

(ii) The consideration for acquisition of immovable property in India is paid out of funds remitted from abroad through the normal banking channels.

F. Other Aspects

Q.28. Can NRI / PIO rent out the residential / commercial property purchased out of foreign exchange / rupee funds?

Ans. Yes, NRI/PIO can rent out the property without the approval of the Reserve Bank. The rent received can be credited to NRO / NRE account or remitted abroad. Powers have been delegated to the Authorised Dealers to allow repatriation of current income like rent, dividend, pension, interest, etc. of NRIs/PIO who do not maintain an NRO account in India based on an appropriate certification by a Chartered Accountant, certifying that the amount proposed to be remitted is eligible for remittance and that applicable taxes have been paid/provided for.

Q.29. Can a person who had bought immovable property, when he was a resident, continue to hold such property even after becoming an NRI/PIO? In which account can the sale proceeds of such immovable property be credited?

Ans. Yes, a person who had bought the residential / commercial property / agricultural land/ plantation property / farm house in India when he was a resident, continue to hold the immovable property without the approval of the Reserve Bank even after becoming an NRI/PIO. The sale proceeds may be credited to NRO account of the NRI /PIO.

Q.30. Can the sale proceeds of the immovable property referred to in Q.No. 29 be remitted abroad ?

Ans. Yes, From the balance in the NRO account, NRI/PIO may remit up to USD one million, per financial year, subject to the satisfaction of Authorised Dealer and payment of applicable taxes.

Q.31. Can foreign nationals of non-Indian origin resident in India or outside India who had earlier acquired immovable property under FERA with specific approval of the Reserve Bank continue to hold the same? Can they transfer such property?

Ans. Yes, they may continue to hold the immovable property under holding license obtained from the Reserve Bank. However, they can transfer the property only with the prior approval of the Reserve Bank.

Q.32. Is a resident in India governed by the provisions of the Foreign Exchange Management (Acquisition and

transfer of immovable property in India) Regulations, 2000?

Ans. A person resident in India who is a citizen of Pakistan or Bangladesh or Sri Lanka or Afghanistan or China or Iran or Nepal or Bhutan is governed by the provisions of Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2000, as amended from time to time, i.e. she/he would require prior approval of the Reserve Bank for acquisition and transfer of immovable property in India even though she/he is resident in India. Such requests are considered by the Reserve Bank in consultation with the Government in India.

The citizens of countries other than those listed above can be PIOs who are covered under the general permission (please refer to Q.No.1). The provisions relating to foreign national of non-Indian origin are covered in detail in Q Nos. 6 and 7.

Note:

The relevant regulations covering the transactions in immovable property have been notified vide RBI [Notification No. FEMA 21/2000-RB dated May 3, 2000](#) and this basic notification has been subsequently amended by the notifications detailed below:

- | | | | | | | | |
|------|--|-------------------------|----------------------------|-----------------------|----------------------|---------------------|-----------------------|
| i) | Notification | No.FEMA | 64/2002-RB | dated | June | 29, | 2002; |
| ii) | Notification | No.FEMA | 65/2002-RB | dated | June | 29, | 2002; |
| iii) | Notification | No.FEMA | 93/2003-RB | dated | June | 9, | 2003; |
| iv) | Notification No. FEMA 146/2006-RB dated February 10, 2006 read with A.P.(DIR Series) Circular No. 5 dated 16.8.2006; | | | | | | |
| v) | Notification No. FEMA 200/2009-RB dated October 5, 2009 | | | | | | |

All the above notifications and A.P. (DIR Series) Circulars are available on the RBI website: www.fema.rbi.org.in. The Master Circular on Acquisition and Transfer of Immovable Property in India by NRIs/PIOs/Foreign Nationals of Non-Indian Origin is also available on the website under the link "www.rbi.org.in @ Sitemap @ Master Circulars".

¹ [1][1] Non-Resident Indian (NRI) is a citizen of India resident outside India.

² [2][2] A 'Person of Indian Origin' means an individual (not being a citizen of Pakistan or Bangladesh or Sri Lanka or Afghanistan or China or Iran or Nepal or Bhutan) who

- i. at any time, held an Indian Passport or
- ii. who or either of whose father or mother or whose grandfather or grandmother was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955 (57 of 1955).

³ [3][3] A person resident outside India may hold, own, transfer or invest in Indian currency, security or **immovable property** situated in India if such currency, security or property was acquired, held or owned by such person when he was resident in India or inherited from a person who was resident in India.

GOVERNMENT SECURITIES MARKET

Sl. No	Question
1	What is a Government security?
2	Why should one invest in Government securities?
3	How are the Government securities issued?
4	What are the different types of auctions used for issue of securities?
5	What are Open Market Operations (OMOs)?
6	What is Liquidity Adjustment Facility (LAF)?
7	How and in what form can Government securities be held?
8	How does the trading in Government securities take place?
9	Who are the major players in the Government securities market?
10	What are the Do's and Don'ts prescribed by RBI for the Co-operative banks dealing in Government securities?
11	How are the dealing transactions recorded by the dealing desk?
12	What are the important considerations while undertaking security transactions?
13	Why does the price of Government security change?
14	How does one get information about the price of a Government security?
15	How are the Government securities transactions reported?
16	How do the Government securities transactions settle?
17	What is shut period?
18	What is Delivery versus Payment (DvP) settlement?
19	What is the role of the Clearing Corporation of India Limited (CCIL)?
20	What is the 'When Issued' market?
21	What are the basic mathematical concepts one should know for calculations involved in bond prices and yields?
22	How is the Price of a bond calculated? What is the total consideration amount of a trade and what is accrued interest?
23	What is the relationship between yield and price of a bond?
24	How is the yield of a bond calculated?
25	What are the day count conventions used in calculating bond yields?
26	How is the yield of a Treasury Bill calculated?
27	What is Duration?
28	What are the important guidelines for valuation of securities?
29	What are the risks involved in holding Government securities? What are the techniques for mitigating such risks?
30	What is money market?
31	What is the role of FIMMDA?
32	What are the various websites that give information on Government securities?
Annex 1	Specimen of a Government security
Annex 2	List of Primary Dealers
Annex 3	Specimen of deal slip

Annex 4	Important Excel functions for bond related calculations
Annex 5	Glossary of important terms and commonly used market terminologies

Disclaimer

The contents of this primer are for general information and guidance purpose only. *The Reserve Bank will not be liable for actions and/or decisions taken based on this Primer.* Readers are advised to refer to the specific circulars issued by Reserve Bank of India from time to time. While every effort has been made to ensure that the information set out in this document is accurate, the Reserve Bank of India does not accept any liability for any action taken, or reliance placed on, any part, or all, of the information in this document or for any error in or omission from, this document.

PREFACE

The Government securities market has witnessed significant changes during the past decade. Introduction of an electronic screen based trading system, dematerialized holding, straight through processing, establishment of the Clearing Corporation of India Ltd. (CCIL) as the central counterparty (CCP) for guaranteed settlement, new instruments, and changes in the legal environment are some of the major aspects that have contributed to the rapid development of the market.

Major participants in the Government securities market historically have been large institutional investors. With the various measures for development, the market has also witnessed the entry of smaller entities such as co-operative banks, small pension and other funds etc. These entities are mandated to invest in Government securities through respective regulations. However, some of these new entrants have often found it difficult to understand and appreciate various aspects of the Government securities market. The Reserve Bank of India has, therefore, taken several initiatives to bring awareness about the Government securities market among small investors. These include workshops on the basic concepts relating to fixed income securities/ bonds like Government securities, existing trading and investment practices, the related regulatory aspects and the guidelines.

This primer is yet another initiative of the Reserve Bank to disseminate information relating to the Government securities market to the smaller institutional players as well as the public. An effort has been made in this primer to present a comprehensive account of the market and the various processes and operational aspects related to investing in Government securities in an easy-to-understand, question-answer format. The primer also has, as annexes, a list of primary dealers (PDs), useful excel functions and glossary of important market terminology. I hope the investors; particularly the smaller institutional investors will find the primer useful in taking decisions on investment in Government securities. Reserve Bank of India would welcome suggestions in making this primer more user-friendly.

SMT
Deputy Governor

S.

GOPINATH

1. What is a Government Security?

1.1 A Government security is a tradable instrument issued by the Central Government or the State Governments. It acknowledges the Government's debt obligation. Such securities are short term (usually called treasury bills, with original maturities of less than one year) or long term (usually called Government bonds or dated securities

with original maturity of one year or more). In India, the Central Government issues both, treasury bills and bonds or dated securities while the State Governments issue only bonds or dated securities, which are called the State Development Loans (SDLs). Government securities carry practically no risk of default and, hence, are called risk-free gilt-edged instruments. Government of India also issues savings instruments (Savings Bonds, National Saving Certificates (NSCs), etc.) or special securities (oil bonds, Food Corporation of India bonds, fertiliser bonds, power bonds, etc.). They are, usually not fully tradable and are, therefore, not eligible to be SLR securities.

a. Treasury Bills (T-bills)

1.2 Treasury bills or T-bills, which are money market instruments, are short term debt instruments issued by the Government of India and are presently issued in three tenors, namely, 91 day, 182 day and 364 day. Treasury bills are zero coupon securities and pay no interest. They are issued at a discount and redeemed at the face value at maturity. For example, a 91 day Treasury bill of Rs.100/- (face value) may be issued at say Rs. 98.20, that is, at a discount of say, Rs.1.80 and would be redeemed at the face value of Rs.100/-. The return to the investors is the difference between the maturity value or the face value (that is Rs.100) and the issue price (for calculation of yield on Treasury Bills please see answer to question no. 26). The Reserve Bank of India conducts auctions usually every Wednesday to issue T-bills. Payments for the T-bills purchased are made on the following Friday. The 91 day T-bills are auctioned on every Wednesday. The Treasury bills of 182 days and 364 days tenure are auctioned on alternate Wednesdays. T-bills of 364 days tenure are auctioned on the Wednesday preceding the reporting Friday while 182 T-bills are auctioned on the Wednesday prior to a non-reporting Fridays. The Reserve Bank releases an annual calendar of T-bill issuances for a financial year in the last week of March of the previous financial year. The Reserve Bank of India announces the issue details of T-bills through a press release every week.

b. Cash Management Bills (CMBs)

1.3 Government of India, in consultation with the Reserve Bank of India, has decided to issue a new short-term instrument, known as Cash Management Bills (CMBs), to meet the temporary mismatches in the cash flow of the Government. The CMBs have the generic character of T-bills but are issued for maturities less than 91 days. Like T-bills, they are also issued at a discount and redeemed at face value at maturity. The tenure, notified amount and date of issue of the CMBs depends upon the temporary cash requirement of the Government. The announcement of their auction is made by Reserve Bank of India through a Press Release which will be issued one day prior to the date of auction. The settlement of the auction is on T+1 basis. The non-competitive bidding scheme (referred to in paragraph number 4.3 and 4.4 under question No. 4) has not been extended to the CMBs. However, these instruments are tradable and qualify for ready forward facility. Investment in CMBs is also reckoned as an eligible investment in Government securities by banks for SLR purpose under Section 24 of the Banking Regulation Act, 1949. First set of CMBs were issued on May 12, 2010.

c. Dated Government Securities

1.4 Dated Government securities are long term securities and carry a fixed or floating coupon (interest rate) which is paid on the face value, payable at fixed time periods (usually half-yearly). The tenor of dated securities can be up to 30 years.

The Public Debt Office (PDO) of the Reserve Bank of India acts as the registry / depository of Government securities and deals with the issue, interest payment and repayment of principal at maturity. Most of the dated securities are fixed coupon securities.

The nomenclature of a typical dated fixed coupon Government security contains the following features - coupon, name of the issuer, maturity and face value. For example, 7.49% GS 2017 would mean:

Coupon : 7.49% paid on face value
Name of Issuer : Government of India
Date of Issue : April 16, 2007
Maturity : April 16, 2017
Coupon Payment Dates : Half-yearly (October 16 and April 16) every year
Minimum Amount of issue/ sale : Rs.10,000

In case there are two securities with the same coupon and are maturing in the same year, then one of the securities will have the month attached as suffix in the nomenclature. For example, 6.05% GS 2019 FEB, would mean that Government security having coupon 6.05 % that mature in February 2019 along with the other security with the same coupon, namely,, 6.05% 2019 which is maturing in June 2019.

If the coupon payment date falls on a Sunday or a holiday, the coupon payment is made on the next working day. However, if the maturity date falls on a Sunday or a holiday, the redemption proceeds are paid on the previous working day itself.

1.5 The details of all the dated securities issued by the Government of India are available on the RBI website at <http://www.rbi.org.in/Scripts/financialmarketwatch.aspx>. Just as in the case of Treasury Bills, dated securities of both, Government of India and State Governments, are issued by Reserve Bank through auctions. The Reserve Bank announces the auctions a week in advance through press releases. Government Security auctions are also announced through advertisements in major dailies. The investors, are thus, given adequate time to plan for the purchase of government securities through such auctions.

A specimen of a dated security in physical form is given at **Annex 1**.

1.6 Instruments:

- i. *Fixed Rate Bonds* – These are bonds on which the coupon rate is fixed for the entire life of the bond. Most Government bonds are issued as fixed rate bonds.

For example – 8.24%GS2018 was issued on April 22, 2008 for a tenor of 10 years maturing on April 22, 2018. Coupon on this security will be paid half-yearly at 4.12% (half yearly payment being the half of the annual coupon of 8.24%) of the face value on October 22 and April 22 of each year.

- ii. *Floating Rate Bonds* – Floating Rate Bonds are securities which do not have a fixed coupon rate. The coupon is re-set at pre-announced intervals (say, every six months or one year) by adding a spread over a base rate. In the case of most floating rate bonds issued by the Government of India so far,the base rate is the weighted average cut-off yield of the last three 364- day Treasury Bill auctions preceding the coupon re-set date and the spread is decided through the auction. Floating Rate Bonds were first issued in September 1995 in India.

For example, a Floating Rate Bond was issued on July 2, 2002 for a tenor of 15 years, thus maturing on July 2, 2017. The base rate on the bond for the coupon payments was fixed at 6.50% being the weighted average rate of implicit yield on 364-day Treasury Bills during the preceding six auctions. In the bond auction, a cut-off spread (markup over the benchmark rate) of 34 basis points (0.34%) was decided. Hence the coupon for the first six months was fixed at 6.84%.

- iii. *Zero Coupon Bonds* – Zero coupon bonds are bonds with no coupon payments. Like Treasury Bills, they are issued at a discount to the face value. The Government of India issued such securities in the nineties, It has not issued zero coupon bond after that.
- iv. *Capital Indexed Bonds* – These are bonds, the principal of which is linked to an accepted index of inflation with a view to protecting the holder from inflation. A capital indexed bond, with the principal hedged against inflation, was issued in December 1997. These bonds matured in 2002. The government is currently working on a fresh issuance of Inflation Indexed Bonds wherein payment of both, the coupon and the principal on the bonds, will be linked to an Inflation Index (Wholesale Price Index). In the

proposed structure, the principal will be indexed and the coupon will be calculated on the indexed principal. In order to provide the holders protection against actual inflation, the final WPI will be used for indexation.

- v. *Bonds with Call/ Put Options* – Bonds can also be issued with features of optionality wherein the issuer can have the option to buy-back (call option) or the investor can have the option to sell the bond (put option) to the issuer during the currency of the bond. 6.72%GS2012 was issued on July 18, 2002 for a maturity of 10 years maturing on July 18, 2012. The optionality on the bond could be exercised after completion of five years tenure from the date of issuance on any coupon date falling thereafter. The Government has the right to buyback the bond (call option) at par value (equal to the face value) while the investor has the right to sell the bond (put option) to the Government at par value at the time of any of the half-yearly coupon dates starting from July 18, 2007.
- vi. *Special Securities* - In addition to Treasury Bills and dated securities issued by the Government of India under the market borrowing programme, the Government of India also issues, from time to time, special securities to entities like Oil Marketing Companies, Fertilizer Companies, the Food Corporation of India, etc. as compensation to these companies in lieu of cash subsidies. These securities are usually long dated securities carrying coupon with a spread of about 20-25 basis points over the yield of the dated securities of comparable maturity. These securities are, however, not eligible SLR securities but are eligible as collateral for market repo transactions. The beneficiary oil marketing companies may divest these securities in the secondary market to banks, insurance companies / Primary Dealers, etc., for raising cash.
- vii. Steps are being taken to introduce new types of instruments like STRIPS (Separate Trading of Registered Interest and Principal of Securities). Accordingly, guidelines for stripping and reconstitution of Government securities have been issued. STRIPS are instruments wherein each cash flow of the fixed coupon security is converted into a separate tradable Zero Coupon Bond and traded. For example, when Rs.100 of the 8.24%GS2018 is stripped, each cash flow of coupon (Rs.4.12 each half year) will become coupon STRIP and the principal payment (Rs.100 at maturity) will become a principal STRIP. These cash flows are traded separately as independent securities in the secondary market. STRIPS in Government securities will ensure availability of sovereign zero coupon bonds, which will facilitate the development of a market determined zero coupon yield curve (ZCYC). STRIPS will also provide institutional investors with an additional instrument for their asset- liability management. Further, as STRIPS have zero reinvestment risk, being zero coupon bonds, they can be attractive to retail/non-institutional investors. The process of stripping/reconstitution of Government securities is carried out at RBI, Public Debt Office (PDO) in the PDO-NDS (Negotiated Dealing System) at the option of the holder at any time from the date of issuance of a Government security till its maturity. All dated Government securities, other than floating rate bonds, having coupon payment dates on 2nd January and 2nd July, irrespective of the year of maturity are eligible for Stripping/Reconstitution. Eligible Government securities held in the Subsidiary General Ledger (SGL)/Constituent Subsidiary General Ledger (CSGL) accounts maintained at the PDO, RBI, Mumbai. Physical securities shall not be eligible for stripping/reconstitution. Minimum amount of securities that needs to be submitted for stripping/reconstitution will be Rs. 1 crore (Face Value) and multiples thereof.

d. State Development Loans (SDLs)

1.7 State Governments also raise loans from the market. SDLs are dated securities issued through an auction similar to the auctions conducted for dated securities issued by the Central Government (see question 3 below). Interest is serviced at half-yearly intervals and the principal is repaid on the maturity date. Like dated securities issued by the Central Government, SDLs issued by the State Governments qualify for SLR. They are also eligible as collaterals for borrowing through market repo as well as borrowing by eligible entities from the RBI under the Liquidity Adjustment Facility (LAF).

1.8 Do SDLs carry any credit risk?

The SDLs do not carry any credit risk. In this regard, they are similar to securities issued by the Government of India (GoI). This can also be seen from the fact that the risk weights assigned to the investments in SDLs by the

commercial banks is zero for the calculation of CRAR under the Basel III (Refer para – 5.2.2 of [Master Circular – Basel III Capital Regulations dated July 1, 2014](#)) capital regulations as in the case of GoI securities.

2. Why should one invest in Government securities?

2.1 Holding of cash in excess of the day-to-day needs of a bank does not give any return to it. Investment in gold has attendant problems in regard to appraising its purity, valuation, safe custody, etc. Investing in Government securities has the following advantages:

- Besides providing a return in the form of coupons (interest), Government securities offer the maximum safety as they carry the Sovereign's commitment for payment of interest and repayment of principal.
- They can be held in book entry, i.e., dematerialized/ scripless form, thus, obviating the need for safekeeping.
- Government securities are available in a wide range of maturities from 91 days to as long as 30 years to suit the duration of a bank's liabilities.
- Government securities can be sold easily in the secondary market to meet cash requirements.
- Government securities can also be used as collateral to borrow funds in the repo market.
- The settlement system for trading in Government securities, which is based on Delivery versus Payment (DvP), is a very simple, safe and efficient system of settlement. The DvP mechanism ensures transfer of securities by the seller of securities simultaneously with transfer of funds from the buyer of the securities, thereby mitigating the settlement risk.
- Government security prices are readily available due to a liquid and active secondary market and a transparent price dissemination mechanism.
- Besides banks, insurance companies and other large investors, smaller investors like Co-operative banks, Regional Rural Banks, Provident Funds are also required to hold Government securities as indicated below:

A. Primary (Urban) Co-operative Banks

2.2 Section 24 of the Banking Regulation Act 1949, (as applicable to co-operative societies) provides that every primary (urban) cooperative bank shall maintain liquid assets, which at the close of business on any day, should not be less than 25 percent of its demand and time liabilities in India (in addition to the minimum cash reserve requirement). Such liquid assets shall be in the form of cash, gold or unencumbered Government and other approved securities. This is commonly referred to as the Statutory Liquidity Ratio (SLR) requirement.

2.3 All primary (urban) co-operative banks (UCBs) are presently required to invest a certain minimum level of their SLR holdings in the form of Government and other approved securities as indicated below:

- a. Scheduled UCBs have to hold 25 per cent of their SLR requirement in Government and other approved securities.
- b. Non-scheduled UCBs with Demand and Time Liabilities (DTL) more than Rs. 25 crore have to hold 15 per cent of their SLR requirement in Government and other approved securities.
- c. Non-scheduled UCBs with DTL less than Rs. 25 crore have to hold 10 per cent of their SLR requirements in Government and other approved securities.

B. Rural Co-operative Banks

2.4 As per Section 24 of the Banking Regulation Act 1949, the State Co-operative Banks (SCBs) and the District Central Co-operative Banks (DCCBs) are required to maintain in cash, gold or unencumbered approved securities, valued at a price not exceeding the current market price, an amount which shall not, at the close of business on any day, be less than 25 per cent of its demand and time liabilities as part of the SLR requirement. DCCBs are allowed to meet their SLR requirement by maintaining cash balances with their respective State Co-operative Bank.

C. Regional Rural Banks (RRBs)

2.5 Since April 2002, all the RRBs are required to maintain their entire Statutory Liquidity Ratio (SLR) holdings in Government and other approved securities. The current SLR requirement for the RRBs is 24 percent of their Demand and Time Liabilities (DTL).

2.6 Presently, RRBs have been exempted from the 'mark to market' norms in respect of their SLR-securities. Accordingly, RRBs have been given freedom to classify their entire investment portfolio of SLR-securities under 'Held to Maturity' and value them at book value.

D. Provident funds and other entities

2.7 The non-Government provident funds, superannuation funds and gratuity funds are required by the Central Government, effective from January 24, 2005, to invest 40 per cent of their incremental accretions in Central and State Government securities, and/or units of gilt funds regulated by the Securities and Exchange Board of India (SEBI) and any other negotiable security fully and unconditionally guaranteed by the Central/State Governments. The exposure of a trust to any individual gilt fund, however, should not exceed five per cent of its total portfolio at any point of time. The investment guidelines for non-government PFs have been recently revised in terms of which investments up to 55% of the investible funds are permitted in a basket of instruments consisting of Central Government securities, State Government securities and units of gilt funds, effective from April 2009.

3. How are the Government Securities issued?

3.1 Government securities are issued through auctions conducted by the RBI. Auctions are conducted on the electronic platform called the NDS – Auction platform. Commercial banks, scheduled urban co-operative banks, Primary Dealers (a list of Primary Dealers with their contact details is given in **Annex 2**), insurance companies and provident funds, who maintain funds account (current account) and securities accounts (SGL account) with RBI, are members of this electronic platform. All members of PDO-NDS can place their bids in the auction through this electronic platform. All non-NDS members including non-scheduled urban co-operative banks can participate in the primary auction through scheduled commercial banks or Primary Dealers. For this purpose, the urban co-operative banks need to open a securities account with a bank / Primary Dealer – such an account is called a Gilt Account. A Gilt Account is a dematerialized account maintained by a scheduled commercial bank or Primary Dealer for its constituent (e.g., a non-scheduled urban co-operative bank).

3.2 The RBI, in consultation with the Government of India, issues an indicative half-yearly auction calendar which contains information about the amount of borrowing, the tenor of security and the likely period during which auctions will be held. A Notification and a Press Communique giving exact particulars of the securities, viz., name, amount, type of issue and procedure of auction are issued by the Government of India about a week prior to the actual date of auction. RBI places the notification and a Press Release on its website (www.rbi.org.in) and also issues an advertisement in leading English and Hindi newspapers. Information about auctions is also available with the select branches of public and private sector banks and the Primary Dealers.

4. What are the different types of auctions used for issue of securities?

Prior to introduction of auctions as the method of issuance, the interest rates were administratively fixed by the Government. With the introduction of auctions, the rate of interest (coupon rate) gets fixed through a market based price discovery process.

4.1 An auction may either be yield based or price based.

- Yield Based Auction:** A yield based auction is generally conducted when a new Government security is issued. Investors bid in yield terms up to two decimal places (for example, 8.19 per cent, 8.20 per cent,

etc.). Bids are arranged in ascending order and the cut-off yield is arrived at the yield corresponding to the notified amount of the auction. The cut-off yield is taken as the coupon rate for the security. Successful bidders are those who have bid at or below the cut-off yield. Bids which are higher than the cut-off yield are rejected. An illustrative example of the yield based auction is given below:

Yield based auction of a new security

- Maturity Date: September 8, 2018
- Coupon: It is determined in the auction (8.22% as shown in the illustration below)
- Auction date: September 5, 2008
- Auction settlement date: September 8, 2008*
- Notified Amount: Rs.1000 crore

* September 6 and 7 being holidays, settlement is done on September 8, 2008 under T+1 cycle.

Details of bids received in the increasing order of bid yields

Bid No.	Bid Yield	Amount of bid (Rs. crore)	Cumulative amount (Rs.Cr)	Price* coupon 8.22%	with as
1	8.19%	300	300	100.19	
2	8.20%	200	500	100.14	
3	8.20%	250	750	100.13	
4	8.21%	150	900	100.09	
5	8.22%	100	1000	100	
6	8.22%	100	1100	100	
7	8.23%	150	1250	99.93	
8	8.24%	100	1350	99.87	

The issuer would get the notified amount by accepting bids up to 5. Since the bid number 6 also is at the same yield, bid numbers 5 and 6 would get allotment pro-rata so that the notified amount is not exceeded. In the above case each would get Rs. 50 crore. Bid numbers 7 and 8 are rejected as the yields are higher than the cut-off yield.

*Price corresponding to the yield is determined as per the relationship given under YTM calculation in question 24.

- Price Based Auction:** A price based auction is conducted when Government of India re-issues securities issued earlier. Bidders quote in terms of price per Rs.100 of face value of the security (e.g., Rs.102.00, Rs.101.00, Rs.100.00, Rs.99.00, etc., per Rs.100/-). Bids are arranged in descending order and the successful bidders are those who have bid at or above the cut-off price. Bids which are below the cut-off price are rejected. An illustrative example of price based auction is given below:

Price based auction of an existing security 8.24% GS 2018

- Maturity Date: April 22, 2018
- Coupon: 8.24%
- Auction date: September 5, 2008
- Auction settlement date: September 8, 2008*
- Notified Amount: Rs.1000 crore

* September 6 and 7 being holidays, settlement is done on September 8, 2008 under T+1 cycle.

Details of bids received in the decreasing order of bid price

Bid no.	Price of bid	Amount of bid	Implicit yield	Cumulative amount
1	100.31	300	8.1912%	300
2	100.26	200	8.1987%	500
3	100.25	250	8.2002%	750
4	100.21	150	8.2062%	900
5	100.20	100	8.2077%	1000
6	100.20	100	8.2077%	1100
7	100.16	150	8.2136%	1250
8	100.15	100	8.2151%	1350

The issuer would get the notified amount by accepting bids up to 5. Since the bid number 6 also is at the same price, bid numbers 5 and 6 would get allotment in proportion so that the notified amount is not exceeded. In the above case each would get Rs. 50 crore. Bid numbers 7 and 8 are rejected as the price quoted is less than the cut-off price.

4.2 Depending upon the method of allocation to successful bidders, auction could be classified as **Uniform Price** based and **Multiple Price** based. In a Uniform Price auction, all the successful bidders are required to pay for the allotted quantity of securities at the same rate, i.e., at the auction cut-off rate, irrespective of the rate quoted by them. On the other hand, in a Multiple Price auction, the successful bidders are required to pay for the allotted quantity of securities at the respective price / yield at which they have bid. In the example under (ii) above, if the auction was Uniform Price based, all bidders would get allotment at the cut-off price, i.e., Rs.100.20. On the other hand, if the auction was Multiple Price based, each bidder would get the allotment at the price he/ she has bid, i.e., bidder 1 at Rs.100.31, bidder 2 at Rs.100.26 and so on.

4.3 An investor may bid in an auction under either of the following categories:

i. **Competitive Bidding** : In a competitive bidding, an investor bids at a specific price / yield and is allotted securities if the price / yield quoted is within the cut-off price / yield. Competitive bids are made by well informed investors such as banks, financial institutions, primary dealers, mutual funds, and insurance companies. The minimum bid amount is Rs.10,000 and in multiples of Rs.10,000 thereafter. Multiple bidding is also allowed, i.e., an investor may put in several bids at various price/ yield levels.

ii. **Non-Competitive Bidding** : With a view to providing retail investors, who may lack skill and knowledge to participate in the auction directly, an opportunity to participate in the auction process, the scheme of non-competitive bidding in dated securities was introduced in January 2002. Non-competitive bidding is open to individuals, HUFs, RRBs, co-operative banks, firms, companies, corporate bodies, institutions, provident funds, and trusts. Under the scheme, eligible investors apply for a certain amount of securities in an auction without mentioning a specific price / yield. Such bidders are allotted securities at the weighted average price / yield of the auction. In the illustration given under 4.1 (ii) above, the notified amount being Rs.1000 crore, the amount reserved for non-competitive bidding will be Rs.50 crore (5 per cent of the notified amount as indicated below). Non-competitive bidders will be allotted at the weighted average price which is Rs.100.26 in the given illustration. The participants in non-competitive bidding are, however, required to hold a gilt account with a bank or PD. Regional Rural Banks and co-operative banks which hold SGL and Current Account with the RBI can also participate under the scheme of non-competitive bidding without holding a gilt account.

4.4 In every auction of dated securities, a maximum of 5 per cent of the notified amount is reserved for such non-competitive bids. In the case of auction for Treasury Bills, the amount accepted for non-competitive bids is over and above the notified amount and there is no limit placed. However, non-competitive bidding in Treasury Bills is available only to State Governments and other select entities and is not available to the co-operative banks.

Only one bid is allowed to be submitted by an investor either through a bank or Primary Dealer. For bidding under the scheme, an investor has to fill in an undertaking and send it along with the application for allotment of securities through a bank or a Primary Dealer. The minimum amount and the maximum amount for a single bid is Rs.10,000 and Rs.2 crore respectively in the case of an auction of dated securities. A bank or a Primary Dealer can charge an investor up to maximum of 6 paise per Rs.100 of application money as commission for rendering their services. In case the total applications received for non-competitive bids exceed the ceiling of 5 per cent of the notified amount of the auction for dated securities, the bidders are allotted securities on a pro-rata basis.

4.5 Non-competitive bidding scheme has been introduced in the State Government securities (SDLs) from August 2009. The aggregate amount reserved for the purpose in the case of SDLs is 10% of the notified amount (Rs.100 Crore for a notified amount of Rs.1000 Crore) and the maximum amount an investor can bid per auction is capped at 1% of the notified amount (as against Rs.2 Crore in Central Government securities). The bidding and allotment procedure is similar to that of Central Government securities.

5. What are the Open Market Operations (OMOs)?

OMOs are the market operations conducted by the Reserve Bank of India by way of sale/ purchase of Government securities to/ from the market with an objective to adjust the rupee liquidity conditions in the market on a durable basis. When the RBI feels there is excess liquidity in the market, it resorts to sale of securities thereby sucking out the rupee liquidity. Similarly, when the liquidity conditions are tight, the RBI will buy securities from the market, thereby releasing liquidity into the market.

5 (b) What is meant by buyback of Government securities?

Buyback of Government securities is a process whereby the Government of India and State Governments buy back their existing securities from the holders. The objectives of buyback can be reduction of cost (by buying back high coupon securities), reduction in the number of outstanding securities and improving liquidity in the Government securities market (by buying back illiquid securities) and infusion of liquidity in the system. Governments make provisions in their budget for buying back of existing securities. Buyback can be done through an auction process or through the secondary market route, i.e., NDS/NDS-OM.

6. What is Liquidity Adjustment Facility (LAF)?

LAF is a facility extended by the Reserve Bank of India to the scheduled commercial banks (excluding RRBs) and primary dealers to avail of liquidity in case of requirement or park excess funds with the RBI in case of excess liquidity on an overnight basis against the collateral of Government securities including State Government securities. Basically LAF enables liquidity management on a day to day basis. The operations of LAF are conducted by way of repurchase agreements (repos and reverse repos – please refer to paragraph numbers 30.4 to 30.8 under question no. 30 for details) with RBI being the counter-party to all the transactions. The interest rate in LAF is fixed by the RBI from time to time. Currently the rate of interest on repo under LAF (borrowing by the participants) is 6.25% and that of reverse repo (placing funds with RBI) is 5.25%. LAF is an important tool of monetary policy and enables RBI to transmit interest rate signals to the market.

7. How and in what form can Government Securities be held?

7.1 The Public Debt Office (PDO) of the Reserve Bank of India, Mumbai acts as the registry and central depository for the Government securities. Government securities may be held by investors either as physical stock or in dematerialized form. From May 20, 2002, it is mandatory for all the RBI regulated entities to hold and transact in Government securities only in dematerialized (SGL) form. Accordingly, UCBs are required to hold all Government securities in demat form.

- Physical form:** Government securities may be held in the form of stock certificates. A stock certificate is registered in the books of PDO. Ownership in stock certificates can not be transferred by way of

endorsement and delivery. They are transferred by executing a transfer form as the ownership and transfer details are recorded in the books of PDO. The transfer of a stock certificate is final and valid only when the same is registered in the books of PDO.

- b. **Demat form:** Holding government securities in the dematerialized or scripless form is the safest and the most convenient alternative as it eliminates the problems relating to custody, viz., loss of security. Besides, transfers and servicing are electronic and hassle free. The holders can maintain their securities in dematerialised form in either of the two ways:

- i. **SGL Account:** Reserve Bank of India offers Subsidiary General Ledger Account (SGL) facility to select entities who can maintain their securities in SGL accounts maintained with the Public Debt Offices of the Reserve Bank of India.
- ii. **Gilt Account:** As the eligibility to open and maintain an SGL account with the RBI is restricted, an investor has the option of opening a Gilt Account with a bank or a Primary Dealer which is eligible to open a Constituents' Subsidiary General Ledger Account (CSGL) with the RBI. Under this arrangement, the bank or the Primary Dealer, as a custodian of the Gilt Account holders, would maintain the holdings of its constituents in a CSGL account (which is also known as SGL II account) with the RBI. The servicing of securities held in the Gilt Accounts is done electronically, facilitating hassle free trading and maintenance of the securities. Receipt of maturity proceeds and periodic interest is also faster as the proceeds are credited to the current account of the custodian bank / PD with the RBI and the custodian (CSGL account holder) immediately passes on the credit to the Gilt Account Holders (GAH).

7.2 Investors also have the option of holding Government securities in a dematerialized account with a depository (NSDL / CDSL, etc.). This facilitates trading of Government securities on the stock exchanges.

8. How does the trading in Government securities take place?

8.1 There is an active secondary market in Government securities. The securities can be bought / sold in the secondary market either (i) Over the Counter (OTC) or (ii) through the Negotiated Dealing System (NDS) or (iii) the Negotiated Dealing System-Order Matching (NDS-OM).

i. Over the Counter (OTC)/ Telephone Market

8.2 In this market, a participant, who wants to buy or sell a government security, may contact a bank / Primary Dealer / financial institution either directly or through a broker registered with SEBI and negotiate for a certain amount of a particular security at a certain price. Such negotiations are usually done on telephone and a deal may be struck if both counterparties agree on the amount and rate. In the case of a buyer, like an urban co-operative bank wishing to buy a security, the bank's dealer (who is authorized by the bank to undertake transactions in Government Securities) may get in touch with other market participants over telephone and obtain quotes. Should a deal be struck, the bank should record the details of the trade in a deal slip (specimen given at **Annex 3**) and send a trade confirmation to the counterparty. The dealer must exercise due diligence with regard to the price quoted by verifying with available sources (See question number 14 for information on ascertaining the price of Government securities). All trades undertaken in OTC market are reported on the secondary market module of the NDS, the details of which are given under the question number 15.

ii. Negotiated Dealing System

8.3 The Negotiated Dealing System (NDS) for electronic dealing and reporting of transactions in government securities was introduced in February 2002. It facilitates the members to submit electronically, bids or applications for primary issuance of Government Securities when auctions are conducted. NDS also provides an interface to the Securities Settlement System (SSS) of the Public Debt Office, RBI, Mumbai thereby facilitating settlement of transactions in Government Securities (both outright and repos) conducted in the secondary market. Membership to the NDS is restricted to members holding SGL and/or Current Account with the RBI, Mumbai.

8.4 In August, 2005, RBI introduced an anonymous screen based order matching module on NDS, called NDS-OM. This is an order driven electronic system, where the participants can trade anonymously by placing their orders on the system or accepting the orders already placed by other participants. NDS-OM is operated by the Clearing Corporation of India Ltd. (CCIL) on behalf of the RBI (Please see answer to the question no.19 about CCIL). Direct access to the NDS-OM system is currently available only to select financial institutions like Commercial Banks, Primary Dealers, Insurance Companies, Mutual Funds, etc. Other participants can access this system through their custodians, i.e., with whom they maintain Gilt Accounts. The custodians place the orders on behalf of their customers like the urban co-operative banks. The advantages of NDS-OM are price transparency and better price discovery.

8.5 Gilt Account holders have been given indirect access to NDS through custodian institutions. A member (who has the direct access) can report on the NDS the transaction of a Gilt Account holder in government securities. Similarly, Gilt Account holders have also been given indirect access to NDS-OM through the custodians. However, currently two gilt account holders of the same custodian are not permitted to undertake repo transactions between themselves.

iii. Stock Exchanges

8.6 Facilities are also available for trading in Government securities on stock exchanges (NSE, BSE) which cater to the needs of retail investors.

9. Who are the major players in the Government Securities market?

Major players in the Government securities market include commercial banks and primary dealers besides institutional investors like insurance companies. Primary Dealers play an important role as market makers in Government securities market. Other participants include co-operative banks, regional rural banks, mutual funds, provident and pension funds. Foreign Institutional Investors (FIIs) are allowed to participate in the Government securities market within the quantitative limits prescribed from time to time. Corporates also buy/sell the government securities to manage their overall portfolio risk.

10. What are the Do's and Don'ts prescribed by RBI for the Co-operative banks dealing in Government securities?

While undertaking transactions in securities, urban co-operative banks should adhere to the instructions issued by the RBI. The guidelines on transactions in government securities by the UCBs have been codified in the master circular UBD.BPD. (PCB). MC.No 12/16.20.000/2010-11 dated July 1, 2010 which is updated from time to time. This circular can also be accessed from the RBI website under the Notifications – Master circulars section (http://rbi.org.in/scripts/BS_CircularIndexDisplay.aspx?Id=3686). The important guidelines to be kept in view by the UCBs relate to formulation of an investment policy duly approved by their Board of Directors, defining objectives of the policy, authorities and procedures to put through deals, dealings through brokers, preparing panel of brokers and review thereof at annual intervals, and adherence to the prudential ceilings fixed for transacting through each of the brokers, etc.

The important Do's & Don'ts are summarized in the **Box I** below.

BOX

Do's & Don'ts for Dealing in Government Securities

Do's

- Segregate dealing and back-up functions. Officials deciding about purchase and sale transactions should be separate from those responsible for settlement and accounting.
- Monitor all transactions to see that delivery takes place on settlement day. The funds account and

investment account should be reconciled on the same day before close of business.

- Keep a proper record of the SGL forms received/issued to facilitate counter-checking by their internal control systems/RBI inspectors/other auditors.
- Seek a Scheduled Commercial Bank (SCB), a Primary Dealer (PD) or a Financial Institution (FI) as counterparty for transactions.
- Give preference for direct deals with counter parties.
- Use CSGL/ Gilt Accounts for holding the securities and maintain such accounts in the same bank with whom the cash account is maintained.
- Insist on Delivery versus Payment for all transactions.
- Take advantage of the non-competitive bidding facility for acquiring Government of India securities in the primary auctions conducted by the Reserve Bank of India.
- Restrict the role of the broker to that of bringing the two parties to the deal together, if a deal is put through with the help of broker.
- Have a list of approved brokers. Utilize only brokers registered with NSE or BSE or OTCEI for acting as intermediary.
- Place a limit of 5% of total transactions (both purchases and sales) entered into by a bank during a year as the aggregate upper contract limit for each of the approved brokers. A disproportionate part of the business should not be transacted with or through one or a few brokers.
- Maintain and transact in Government securities only in dematerialized form in SGL Account or Gilt Account maintained with the CSGL Account holder.
- Open and maintain only one Gilt or dematerialized account.
- Open a funds account for securities transactions with the same Scheduled Commercial bank or the State Cooperative bank with whom the Gilt Account is maintained.
- Ensure availability of clear funds in the designated funds accounts for purchases and sufficient securities in the Gilt Account for sales before putting through the transactions.
- Observe prudential limits for investment in permitted non-SLR securities (bonds of nationalized banks, unlisted securities, unlisted shares of all-India Financial Institutions and privately placed debt securities).
- The Board of Directors to peruse all investment transactions at least once a month

Don'ts

- Do not undertake any purchase/sale transactions with broking firms or other intermediaries on principal to principal basis.
- Do not use brokers in the settlement process at all, i.e., both funds settlement and delivery of securities should be done with the counter-parties directly.
- Do not give power of attorney or any other authorisation under any circumstances to brokers/intermediaries to deal on your behalf in the money and securities markets.
- Do not undertake Government Securities transaction in the physical form with any broker.
- Do not routinely make investments in non-SLR securities (e.g., corporate bonds, etc) issued by companies or bodies other than in the co-operative sector.

11. How are the dealing transactions recorded by the dealing desk?

11.1 For every transaction entered into by the trading desk, a deal slip should be generated which should contain data relating to nature of the deal, name of the counter-party, whether it is a direct deal or through a broker (if it is through a broker, name of the broker), details of security, amount, price, contract date and time and settlement date. The deal slips should be serially numbered and verified separately to ensure that each deal slip has been properly accounted for. Once the deal is concluded, the deal slip should be immediately passed on to the back office (it should be separate and distinct from the front office) for recording and processing. For each deal, there must be a system of issue of confirmation to the counter-party. The timely receipt of requisite written confirmation from the counter-party, which must include all essential details of the contract, should be monitored by the back office. With the need for counterparty confirmation of deals matched on NDS-OM will not arise, as NDS-OM is an anonymous automated order matching system. However, in case of trades finalized in the OTC

market and reported on NDS, confirmations have to be submitted by the counterparties in the system i.e., NDS. Also, please see question no. 15.

11.2 Once a deal has been concluded through a broker, there should not be any substitution of the counter-party by the broker. Similarly, the security sold / purchased in a deal should not be substituted by another security under any circumstances. A maker-checker framework should be implemented to prevent any individual misdemeanor. It should be ensured that the same person is not carrying out the functions of maker (one who inputs the data) and checker (one who verifies and authorizes the data) on the system.

11.3 On the basis of vouchers passed by the back office (which should be done after verification of actual contract notes received from the broker / counter party and confirmation of the deal by the counter party), the books of account should be independently prepared.

12. What are the important considerations while undertaking security transactions?

The following steps should be followed in purchase of a security:

- Which security to invest in* – Typically this involves deciding on the maturity and coupon. Maturity is important because this determines the extent of risk an investor like an UCB is exposed to – higher the maturity, higher the interest rate risk or market risk. If the investment is largely to meet statutory requirements, it may be advisable to avoid taking undue market risk and buy securities with shorter maturity. Within the shorter maturity range (say 5-10 years) it would be safer to buy securities which are liquid, that is, securities which trade in relatively larger volumes in the market. The information about such securities can be obtained from the website of the CCIL (<http://www.ccilindia.com/OMMWCG.aspx>), which gives real-time secondary market trade data on NDS-OM. Since pricing is more transparent in liquid securities, prices for these securities are easily obtainable thereby reducing the chances of being misled/misinformed on the price in these cases. The coupon rate of the security is equally important for the investor as it affects the total return from the security. In order to determine which security to buy, the investor must look at the Yield to Maturity (YTM) of a security (please refer to Box III under para 24.4 for a detailed discussion on YTM). Thus, once the maturity and yield (YTM) is decided, the UCB may select a security by looking at the price/yield information of securities traded on NDS-OM or by negotiating with bank or PD or broker.
- Where and Whom to buy from* – In terms of transparent pricing, the NDS-OM is the safest because it is a live and anonymous platform where the trades are disseminated as they are struck and where counterparties to the trades are not revealed. In case the trades are conducted on the telephone market, it would be safe to trade directly with a bank or a PD. In case one uses a broker, care must be exercised to ensure that the broker is registered on NSE or BSE or OTC Exchange of India. Normally, the active debt market brokers may not be interested in deal sizes which are smaller than the market lot (usually Rs.5 crore). So it is better to deal directly with bank / PD or on NDS-OM, which also has a screen for odd-lots. Wherever a broker is used, the settlement should not happen through the broker. Trades should not be directly executed with any counterparties other than a bank, PD or a financial institution, to minimize the risk of getting adverse prices.
- How to ensure correct pricing* – Since investors like UCBs have very small requirements, they may get a quote/price, which is worse than the price for standard market lots. To be sure of prices, only liquid securities may be chosen for purchase. A safer alternative for investors with small requirements is to buy under the primary auctions conducted by RBI through the non-competitive route. Since there are bond auctions about twice every month, purchases can be considered to coincide with the auctions. Please see question 14 for details on ascertaining the prices of the Government securities.

13. Why does the price of Government security change?

The price of a Government security, like other financial instruments, keeps fluctuating in the secondary market. The price is determined by demand and supply of the securities. Specifically, the prices of Government securities

are influenced by the level and changes in interest rates in the economy and other macro-economic factors, such as, expected rate of inflation, liquidity in the market, etc. Developments in other markets like money, foreign exchange, credit and capital markets also affect the price of the Government securities. Further, developments in international bond markets, specifically the US Treasuries affect prices of Government securities in India. Policy actions by RBI (e.g., announcements regarding changes in policy interest rates like Repo Rate, Cash Reserve Ratio, Open Market Operations, etc.) can also affect the prices of Government securities.

14. How does one get information about the price of a Government security?

14.1 The return on a security is a combination of two elements (i) coupon income – that is, interest earned on the security and (ii) the gain / loss on the security due to price changes and reinvestment gains or losses.

14.2 Price information is vital to any investor intending to either buy or sell Government securities. Information on traded prices of securities is available on the RBI website <http://www.rbi.org.in> under the path Home → Financial Markets Watch → Government securities market → NDS. This will show a table containing the details of the latest trades undertaken in the market along with the prices. Additionally, trade information can also be seen on CCIL website <http://www.ccilindia.com/OMHome.aspx>. This page can also be accessed from the RBI website through the link provided. In this page, the list of securities and the summary of trades is displayed. The total traded amount (TTA) on that day is shown against each security. Typically liquid securities are those with the largest amount of TTA. Pricing in these securities is efficient and hence UCBs can choose these securities for their transactions. Since the prices are available on the screen they can invest in these securities at the current prices through their custodians. Participants can thus get real-time information on traded prices and make informed decision while buying / selling government securities. The screenshots of the above website pages are given below:

NDS Market



Reserve Bank of India - Microsoft Internet Explorer provided by Mpsa Limited

http://www.rbi.org.in/Scripts/MSB.js?list.aspx

Google

File Edit View Favorites Tools Help

Link EPrints Patar G. Peterson Institute for International Economics RESMA Bypass Negidatop General Laws Printer Project Syndicate Ajay Shah's blog FRBA ALPHA PLUS CCL

Reserve Bank of India

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Security Description	Trades	TTA	Open	High	Low	LTP	LTY
08.24 GS 2018	248	2030.00	96.8000	97.2200	96.4900	97.1200	G 0.6046
08.24 GS 2017	200	1280.00	87.7400	88.3500	87.4000	88.2500	G 9.6110
07.65 GS 2012	32	200.00	83.2800	84.1000	83.2800	84.0500	G 9.6709
08.48 GS 2009	3	30.00	97.2500	97.2500	97.2500	97.2500	G 9.1482
08.14 DTD 12/09/2008	4	15.00	9.0000	9.0000	9.0000	96.7545	G 9.0000
08.14 DTD 21/11/2008	1	15.00	8.9500	8.9500	8.9500	98.0761	G 8.9500
Total	577	3570.00					

The website of the Fixed Income, Money Market and Derivatives Association (FIMMDA), (www.fimmda.org) is also a source of price information, especially on securities that are not traded frequently.

15. How are the Government securities transactions reported?

15.1 Transactions undertaken between market participants in the OTC/telephone market are expected to be reported on the NDS platform within 15 minutes after the deal is put through over telephone. All OTC trades are required to be mandatorily reported on the secondary market module of the NDS for settlement. Reporting on NDS is a four stage process wherein the seller of the security has to initiate the reporting followed by confirmation by the buyer. This is further followed by issue of confirmation by the seller's back office on the system and reporting is complete with the last stage wherein the buyer's back office confirms the deal. The system architecture incorporates maker-checker model to preempt individual mistakes as well as misdemeanor.

15.2 Reporting on behalf of entities maintaining gilt accounts with the custodians is done by the respective custodians in the same manner as they do in case of their own trades i.e., proprietary trades. The securities leg of these trades settle in the CSGL account of the custodian. Once the reporting is complete, the NDS system accepts the trade. Information on all such successfully reported trades flow to the clearing house i.e., the CCIL.

15.3 In the case of NDS-OM, participants place orders (price and quantity) on the system. Participants can modify / cancel their orders. Order could be a bid for purchase or offer for sale of securities. The system, in turn will match the orders based on price and time priority. That is, it matches bids and offers of the same prices with time priority. The NDS-OM system has separate screen for the Central Government, State Government and Treasury bill trading. In addition, there is a screen for odd lot trading for facilitating trading by small participants in smaller lots of less than Rs. 5 crore (i.e., the standard market lot). The NDS-OM platform is an anonymous platform wherein the participants will not know the counterparty to the trade. Once an order is matched, the deal ticket gets generated automatically and the trade details flow to the CCIL. Due to anonymity offered by the system, the pricing is not influenced by the participants' size and standing.

16. How do the Government securities transactions settle?

Primary Market

16.1 Once the allotment process in the primary auction is finalized, the successful participants are advised of the consideration amounts that they need to pay to the Government on settlement day. The settlement cycle for dated security auction is T+1, whereas for that of Treasury bill auction is T+2. On the settlement date, the fund accounts of the participants are debited by their respective consideration amounts and their securities accounts (SGL accounts) are credited with the amount of securities that they were allotted.

Secondary Market

16.2 The transactions relating to Government securities are settled through the member's securities / current accounts maintained with the RBI, with delivery of securities and payment of funds being done on a net basis. The Clearing Corporation of India Limited (CCIL) guarantees settlement of trades on the settlement date by becoming a central counter-party to every trade through the process of novation, i.e., it becomes seller to the buyer and buyer to the seller.

16.3 All outright secondary market transactions in Government Securities are settled on T+1 basis. However, in case of repo transactions in Government securities, the market participants will have the choice of settling the first leg on either T+0 basis or T+1 basis as per their requirement.

17. What is shut period?

'Shut period' means the period for which the securities can not be delivered. During the period under shut, no settlements/ delivery of the security which is under shut will be allowed. The main purpose of having a shut period is to facilitate servicing of the securities viz., finalizing the payment of coupon and redemption proceeds and to avoid any change in ownership of securities during this process. Currently the shut period for the securities held in SGL accounts is one day. For example, the coupon payment dates for the security 6.49% CG 2015 are June 8 and December 8 of every year. The shut period will fall on June 7 and December 7 for this security and trading in this security for settlement on these two dates is not allowed.

18. What is Delivery versus Payment (DvP) Settlement?

Delivery versus Payment (DvP) is the mode of settlement of securities wherein the transfer of securities and funds happen simultaneously. This ensures that unless the funds are paid, the securities are not delivered and vice versa. DvP settlement eliminates the settlement risk in transactions. There are three types of DvP settlements, viz., DvP I, II and III which are explained below;

i. *DvP I* – The securities and funds legs of the transactions are settled on a gross basis, that is, the settlements occur transaction by transaction without netting the payables and receivables of the participant.

ii. *DvP II* – In this method, the securities are settled on gross basis whereas the funds are settled on a net basis, that is, the funds payable and receivable of all transactions of a party are netted to arrive at the final payable or receivable position which is settled.

iii. *DvP III* – In this method, both the securities and the funds legs are settled on a net basis and only the final net position of all transactions undertaken by a participant is settled.

Liquidity requirement in a gross mode is higher than that of a net mode since the payables and receivables are set off against each other in the net mode.

19. What is the role of the Clearing Corporation of India Limited (CCIL)?

The CCIL is the clearing agency for Government securities. It acts as a Central Counter Party (CCP) for all transactions in Government securities by interposing itself between two counterparties. In effect, during settlement, the CCP becomes the seller to the buyer and buyer to the seller of the actual transaction. All outright trades undertaken in the OTC market and on the NDS-OM platform are cleared through the CCIL. Once CCIL receives the trade information, it works out participant-wise net obligations on both the securities and the funds leg. The payable / receivable position of the constituents (gilt account holders) is reflected against their respective custodians. CCIL forwards the settlement file containing net position of participants to the RBI where settlement takes place by simultaneous transfer of funds and securities under the 'Delivery versus Payment' system. CCIL also guarantees settlement of all trades in Government securities. That means, during the settlement process, if any participant fails to provide funds/ securities, CCIL will make the same available from its own means. For this purpose, CCIL collects margins from all participants and maintains 'Settlement Guarantee Fund'.

20. What is the 'When Issued' market?

'When Issued', a short term of "when, as and if issued", indicates a conditional transaction in a security notified for issuance but not yet actually issued. All "When Issued" transactions are on an "if" basis, to be settled if and when the security is actually issued. 'When Issued' transactions in the Central Government securities have been permitted to all NDS-OM members and have to be undertaken only on the NDS-OM platform. 'When Issued' market helps in price discovery of the securities being auctioned as well as better distribution of the auction stock. For urban cooperative banks, detailed guidelines have been issued in the RBI master circular UBD.BPD. (PCB). MC.No /16.20.000/2009-10 dated July 01, 2009.

21. What are the basic mathematical concepts one should know for calculations involved in bond prices and yields?

The time value of money functions related to calculation of Present Value (PV), Future Value (FV), etc. are important mathematical concepts related to bond market. An outline of the same with illustrations is provided in the [Box II](#) below.

Box II

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$$PV = \frac{FV}{(1+i)^n}$$

The cumulative present value of future cash flows can be calculated by adding the contributions of FV_t , the value of cash flow at time=t

$$PV = \sum_{t=0}^n \frac{FV_t}{(1+i)^t}$$

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The discount factor for each year can be calculated as $1/(1+\text{interest rate})^{\text{no. of years}}$

The present value can then be worked out as Amount x discount factor

The PV of Rs.100 accruing after;

Year	Amount	discount factor	P.V.
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1	100	0.9091	90.91
2	100	0.8264	82.64
3	100	0.7513	75.13

The cumulative present value = 90.91+82.64+75.13 = Rs.248.69

Net Present Value (NPV)

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$$NPV = \sum_{t=0}^N \frac{C_t}{(1+r)^t}$$

Where
 t - the time of the cash flow
 N - the total time of the project
 r - the discount rate (the rate of return that could be earned on an investment in the financial markets with similar risk.)
 C_t - the net cash flow (the amount of cash) at time t (for educational purposes, C_0 is commonly placed to the left of the sum to emphasize its role as the initial investment.).

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For a trade of Rs.5 crore (face value) of security 6.49%2015 for settlement date August 26, 2009 at a price of Rs.96.95, the consideration amount payable to the seller of the security is worked out below;

Here the price quoted is called 'clean price' as the 'accrued interest' component is not added to it.

Accrued interest:

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The last coupon date being June 8, 2009, the number of days in broken period till August 25, 2009 (one day prior to settlement date) are 78.

The accrued interest on Rs.100 face value for 78 days = $6.49 \times (78/360)$
= Rs.1.4062

When we add the accrued interest component to the 'clean price', the resultant price is called the '**dirty price**'. In the instant case, it is $96.95 + 1.4062 = \text{Rs.}98.3562$

The total consideration amount = Face value of trade x dirty price
= $5,00,00,000 \times (98.3562/100)$
= Rs.4,91,78,083.33

23. What is the relationship between yield and price of a bond?

If interest rates or market yields rise, the price of a bond falls. Conversely, if interest rates or market yields decline, the price of the bond rises. In other words, the yield of a bond is inversely related to its price. The relationship between yield to maturity and coupon rate of bond may be stated as follows:

- When the market price of the bond is less than the face value, i.e., the bond sells at a discount, $YTM > \text{current yield} > \text{coupon yield}$.
- When the market price of the bond is more than its face value, i.e., the bond sells at a premium, $\text{coupon yield} > \text{current yield} > YTM$.
- When the market price of the bond is equal to its face value, i.e., the bond sells at par, $YTM = \text{current yield} = \text{coupon yield}$.

24. How is the yield of a bond calculated?

24.1 An investor who purchases a bond can expect to receive a return from one or more of the following sources:

- The coupon interest payments made by the issuer;
- Any capital gain (or capital loss) when the bond is sold; and
- Income from reinvestment of the interest payments that is interest-on-interest.

The three yield measures commonly used by investors to measure the potential return from investing in a bond are briefly described below:

i) Coupon Yield

24.2 The coupon yield is simply the coupon payment as a percentage of the face value. Coupon yield refers to nominal interest payable on a fixed income security like Government security. This is the fixed return the Government (i.e., the issuer) commits to pay to the investor. Coupon yield thus does not reflect the impact of interest rate movement and inflation on the nominal interest that the Government pays.

Coupon yield = $\text{Coupon Payment} / \text{Face Value}$

Illustration:

Coupon:		8.24
Face	Value:	Rs.100
Market	Value:	Rs.103.00
Coupon yield = $8.24/100 = 8.24\%$		

ii) Current Yield

24.3 The current yield is simply the coupon payment as a percentage of the bond's purchase price; in other words, it is the return a holder of the bond gets against its purchase price which may be more or less than the face value or the par value. The current yield does not take into account the reinvestment of the interest income received periodically.

Current yield = $(\text{Annual coupon rate} / \text{Purchase price}) \times 100$

Illustration:

The current yield for a 10 year 8.24% coupon bond selling for Rs.103.00 per Rs.100 par value is calculated below:

Annual coupon interest = 8.24% x Rs.100 = Rs.8.24
Current yield = $(8.24/\text{Rs.}103) \times 100 = 8.00\%$

The current yield considers only the coupon interest and ignores other sources of return that will affect an investor's return.

iii) Yield to Maturity

24.4 Yield to Maturity (YTM) is the expected rate of return on a bond if it is held until its maturity. The price of a bond is simply the sum of the present values of all its remaining cash flows. Present value is calculated by discounting each cash flow at a rate; this rate is the YTM. Thus YTM is the discount rate which equates the present value of the future cash flows from a bond to its current market price. In other words, it is the internal rate of return on the bond. The calculation of YTM involves a trial-and-error procedure. A calculator or software can be used to obtain a bond's yield-to-maturity easily (please see the [Box III](#)).

Box III

YTM Calculation

YTM could be calculated manually as well as using functions in any standard spread sheet like MS Excel.

Manual (Trial and Error) Method

Manual or trial and error method is complicated because Government securities have many cash flows running into future. This is explained by taking an example below.

Take a two year security bearing a coupon of 8% and a price of say Rs. 102 per face value of Rs. 100; the YTM could be calculated by solving for 'r' below. Typically it involves trial and error by taking a value for 'r' and solving the equation and if the right hand side is more than 102, take a higher value of 'r' and solve again. Linear interpolation technique may also be used to find out exact 'r' once we have two 'r' values so that the price value is more than 102 for one and less than 102 for the other value.

$102 = 4/(1+r/2)^1 + 4/(1+r/2)^2 + 4/(1+r/2)^3 + 104/(1+r/2)^4$

Spread Sheet Method using MS Excel

In the MS Excel programme, the following function could be used for calculating the yield of periodically coupon paying securities, given the price.

YIELD (settlement,maturity,rate,price,redemption,frequency,basis)

Wherein;

Settlement is the security's settlement date. The security settlement date is the date on which the security and funds are exchanged. Maturity is the security's maturity date. The maturity date is the date when the security expires.

Rate is the security's annual coupon rate.
Price is the security's price per Rs.100 face value.
Redemption is the security's redemption value per Rs.100 face value.
Frequency is the number of coupon payments per year (2 for Government bonds in India)

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$$\text{Yield} = \left(\frac{100 - P}{P} \right) \times \left(\frac{365}{D} \right) \times 100$$

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$$\text{Yield} = \frac{100 - 98.20}{98.20} \times \frac{365}{91} \times 100 = 7.3521\%$$

After say, 41 days, if the same Treasury bill is trading at a price of Rs. 99, the yield would then be

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$$\text{Yield} = \frac{100 - 99}{99} \times \frac{365}{50} \times 100 = 7.3737\%$$

Note that the remaining maturity of the treasury bill is 50 days (91-41).

27. What is Duration?

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- cash flows.
- b. The higher the coupon rate of a bond, the shorter the duration (if the term of the bond is kept constant).
 - c. Duration is always less than or equal to the overall life (to maturity) of the bond.
 - d. Only a zero coupon bond (a bond with no coupons) will have duration equal to its maturity.
 - e. the sensitivity of a bond's price to interest rate (i.e., yield) movements.

Duration is useful primarily as a measure of the sensitivity of a bond's market price to interest rate (i.e., yield)

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movements. It is approximately equal to the percentage change in price for a given change in yield. For example, for small interest rate changes, the duration is the approximate percentage by which the value of the bond will fall for a 1% per annum increase in market interest rate. So a 15-year bond with a duration of 7 years would fall approximately 7% in value if the interest rate increased by 1% per annum. In other words, duration is the elasticity of the bond's price with respect to interest rates.

What is Modified Duration?

MD = { Macaulay Duration / [1 + (YTM / No. of coupon periods in a year)] }

This is measured by a concept called convexity, which is the change in duration of a bond per unit change in the yield of the bond.

28. What are the important guidelines for valuation of securities?

28.1 For the Cooperative banks, investments classified under 'Held to Maturity' (HTM) category need not be marked to market and will be carried at acquisition cost unless it is more than the face value, in which case the

premium should be amortized over the period remaining to maturity. The individual scrip in the 'Available for Sale' (AFS) category in the books of the cooperative banks will be marked to market at the year-end or at more frequent intervals. The individual scrip in the 'Held for Trading' (HFT) category will be marked to market at monthly or at more frequent intervals. The book value of individual securities in AFS and HFT categories would not undergo any change after marking to market.

28.2 Central Government securities should be valued by taking the prices/ yields put out by the Fixed Income Money Market and Derivatives Association of India (FIMMDA) and the Primary Dealers Association of India (PDAI) jointly on the website of the FIMMDA. Prices of all Central Government securities are given out everyday while prices and yield curve for valuation are given at the end of every month. For example, the FIMMDA valuation of a Central Government security, 7.46%2017 as on March 31, 2009 was Rs.101.69. If a cooperative bank was holding the same security in AFS or HFT categories at a book value of Rs.102, the bank would be required to book a depreciation of Rs.0.31 per Rs.100 face value of holding. If the total holding was Rs. 1 crore, the total depreciation to be booked would be Rs.31,000/-.

28.3 State Government and other securities are to be valued by adding a spread on the Central Government security yield of the corresponding residual maturity. Currently, a spread of 25 basis points (0.25%) is added while valuing State Government securities, special securities (oil bonds, fertilizer bonds, SBI bonds, etc.) whereas for corporate bonds the spreads given by the FIMMDA need to be added. An illustration of valuation taking a State Government bond is given in the [Box V](#) below.

Box: V

Valuation of securities

Illustration	for	valuation	of	State	Government	Bonds
Security	-	-	7.32%		A.P.SDL	2014
Issue	date	-	-	December	10,	2004
Maturity	date	-	-	December	10,	2014
Coupon			-			7.32%
Date of valuation - March 31, 2008						

Procedure

Valuation of the above bond involves the following steps

- i. Find the residual maturity of the bond to be valued.
- ii. Find the Central Government security yield for the above residual maturity.
- iii. Add appropriate spread to the above yield to get the yield for the security
- iv. Calculate the price of the security using the derived yield above.

Step i.

Since valuation is being done on March 31, 2008, we need to find out the number of years from this date to the maturity date of the security, December 10, 2014 to get the residual maturity of the security. This could be done manually by counting the number of years and months and days. However, an easier method is to use MS. Excel function 'Yearfrac' wherein we specify the two dates and basis (please refer to Annex 4 on Excel functions for details). This gives us the residual maturity of 6.69 years for the security.

Step ii.

To find the Central Government yield for 6.69 years, we derive it by interpolating the yields between 6 years and 7 years, which are given out by FIMMDA. As on March 31, 2008, FIMMDA yields for 6 and 7 years are 7.73%

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29.1 **Market risk** – Market risk arises out of adverse movement of prices of the securities that are held by an investor due to changes in interest rates. This will result in booking losses on marking to market or realizing a loss if the securities are sold at the adverse prices. Small investors, to some extent, can mitigate market risk by

29.2 Reinvestment risk – Cash flows on a Government security includes fixed coupon every half year and repayment of principal at maturity. These cash flows need to be reinvested whenever they are paid. Hence there is a risk that the investor may not be able to reinvest these proceeds at profitable rates due to changes in interest rate scenario.

Risk Mitigation

Advanced risk management techniques involve use of derivatives like Interest Rate Swaps (IRS) through which the nature of cash flows could be altered. However, these are complex instruments requiring advanced level of expertise for proper understanding. Adequate caution, therefore, need to be observed for undertaking the derivatives transactions and such transactions should be undertaken only after having complete understanding of the associated risks and complexities.

30.1 While the Government securities market generally caters to the investors with a long term investment horizon, the money market provides investment avenues of short term tenor. Money market transactions are generally used for funding the transactions in other markets including Government securities market and meeting short term liquidity mismatches. By definition, money market is for a maximum tenor of up to one year. Within the one year, depending upon the tenors, money market is classified into:

- ### What are the different money market instruments?

Call money market

Repo market

30.4 Repo or ready forward contract is an instrument for borrowing funds by selling securities with an agreement to repurchase the said securities on a mutually agreed future date at an agreed price which includes interest for the funds borrowed.

30.5 The reverse of the repo transaction is called 'reverse repo' which is lending of funds against buying of securities with an agreement to resell the said securities on a mutually agreed future date at an agreed price which includes interest for the funds lent.

30.6 It can be seen from the definition above that there are two legs to the same transaction in a repo/ reverse repo. The duration between the two legs is called the 'repo period'. Predominantly, repos are undertaken on overnight basis, i.e., for one day period. Settlement of repo transactions happens along with the outright trades in government securities.

30.7 The consideration amount in the first leg of the repo transactions is the amount borrowed by the seller of the security. On this, interest at the agreed 'repo rate' is calculated and paid along with the consideration amount of the second leg of the transaction when the borrower buys back the security. The overall effect of the repo transaction would be borrowing of funds backed by the collateral of Government securities.

30.8 The money market is regulated by the Reserve Bank of India. All the above mentioned money market transactions should be reported on the electronic platform called the Negotiated Dealing System (NDS).

30.9 As part of the measures to develop the corporate debt market, RBI has permitted select entities (scheduled commercial banks excluding RRBs and LABs, PDs, all-India FIs, NBFCs, mutual funds, housing finance companies, insurance companies) to undertake repo in corporate debt securities. This is similar to repo in Government securities except that corporate debt securities are used as collateral for borrowing funds. Only listed corporate debt securities that are rated 'AA' or above by the rating agencies are eligible to be used for repo. Commercial paper, certificate of deposit, non-convertible debentures of original maturity less than one year are not eligible for the purpose. These transactions take place in the OTC market and are required to be reported on FIMMDA platform within 15 minutes of the trade for dissemination of information. They are also to be reported on the clearing house of any of the exchanges for the purpose of clearing and settlement.

Collateralised Borrowing and Lending Obligation (CBLO)

30.10 CBLO is another money market instrument operated by the Clearing Corporation of India Ltd. (CCIL), for the benefit of the entities who have either no access to the inter bank call money market or have restricted access in terms of ceiling on call borrowing and lending transactions. CBLO is a discounted instrument available in electronic book entry form for the maturity period ranging from one day to ninety days (up to one year as per RBI guidelines). In order to enable the market participants to borrow and lend funds, CCIL provides the Dealing System through Indian Financial Network (INFINET), a closed user group to the Members of the Negotiated Dealing System (NDS) who maintain Current account with RBI and through Internet for other entities who do not maintain Current account with RBI.

30.11 Membership to the CBLO segment is extended to entities who are RBI- NDS members, viz., Nationalized Banks, Private Banks, Foreign Banks, Co-operative Banks, Financial Institutions, Insurance Companies, Mutual Funds, Primary Dealers, etc. Associate Membership to CBLO segment is extended to entities who are not members of RBI- NDS, viz., Co-operative Banks, Mutual Funds, Insurance companies, NBFCs, Corporates, Provident/ Pension Funds, etc.

30.12 By participating in the CBLO market, CCIL members can borrow or lend funds against the collateral of eligible securities. Eligible securities are Central Government securities including Treasury Bills, and such other securities as specified by CCIL from time to time. Borrowers in CBLO have to deposit the required amount of eligible securities with the CCIL based on which CCIL fixes the borrowing limits. CCIL matches the borrowing and lending orders submitted by the members and notifies them. While the securities held as collateral are in

custody of the CCIL, the beneficial interest of the lender on the securities is recognized through proper documentation.

Commercial Paper (CP)

30.13 Commercial Paper (CP) is an unsecured money market instrument issued in the form of a promissory note. Corporates, primary dealers (PDs) and the all-India financial institutions (FIs) that have been permitted to raise short-term resources under the umbrella limit fixed by the Reserve Bank of India are eligible to issue CP. CP can be issued for maturities between a minimum of 7 days and a maximum up to one year from the date of issue.

Certificate of Deposit (CD)

30.14 Certificate of Deposit (CD) is a negotiable money market instrument and issued in dematerialised form or as a Usance Promissory Note, for funds deposited at a bank or other eligible financial institution for a specified time period. Banks can issue CDs for maturities from 7 days to one year whereas eligible FIs can issue for maturities 1 year to 3 years.

31. What are the role and functions of FIMMDA?

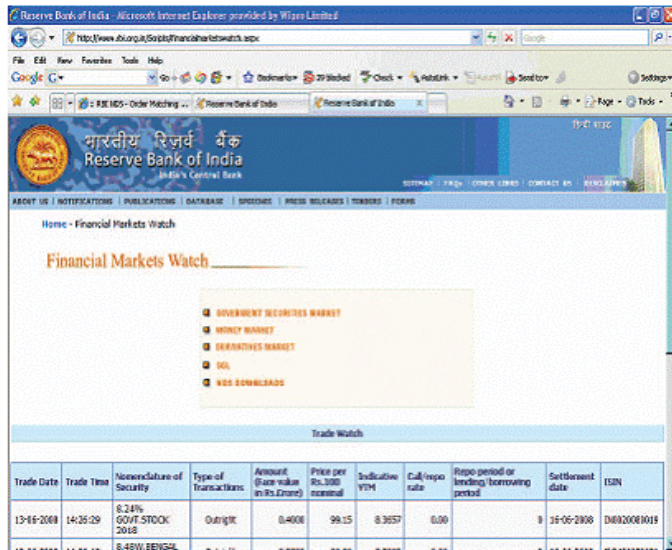
31.1 The Fixed Income Money Market and Derivatives Association of India (FIMMDA), an association of Scheduled Commercial Banks, Public Financial Institutions, Primary Dealers and Insurance Companies was incorporated as a Company under section 25 of the Companies Act, 1956 on June 3rd, 1998. FIMMDA is a voluntary market body for the bond, money and derivatives markets. FIMMDA has members representing all major institutional segments of the market. The membership includes Nationalized Banks such as State Bank of India, its associate banks and other nationalized banks; Private sector banks such as ICICI Bank, HDFC Bank, IDBI Bank; Foreign Banks such as Bank of America, ABN Amro, Citibank, Financial institutions such as IDFC, EXIM Bank, NABARD, Insurance Companies like Life Insurance Corporation of India (LIC), ICICI Prudential Life Insurance Company, Birla Sun Life Insurance Company and all Primary Dealers.

31.2 The FIMMDA represents market participants and aids the development of the bond, money and derivatives markets. It acts as an interface with the regulators on various issues that impact the functioning of these markets. It also undertakes developmental activities, such as, introduction of benchmark rates and new derivatives instruments, etc. FIMMDA releases rates of various Government securities that are used by market participants for valuation purposes. FIMMDA also plays a constructive role in the evolution of best market practices by its members so that the market as a whole operates transparently as well as efficiently.

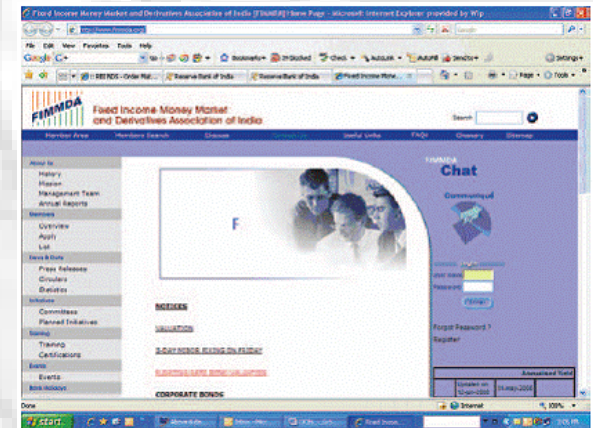
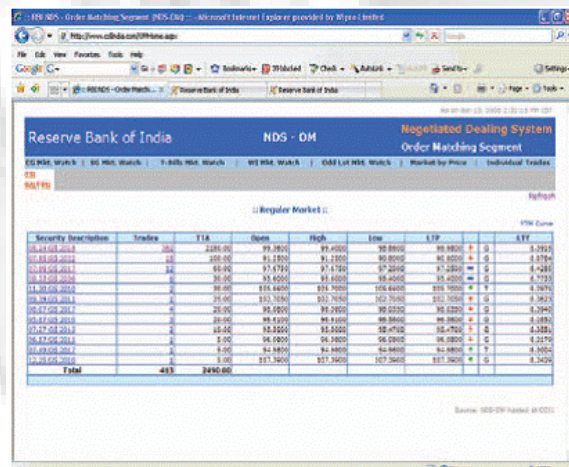
32. What are the various websites that give information on Government securities?

32.1. RBI financial market watch - <http://www.rbi.org.in/Scripts/financialmarketwatch.aspx>

This site provides links to information on prices of Government securities on NDS (OTC market), NDS-OM, money market and other information on Government securities like outstanding stock etc.



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Annex 1

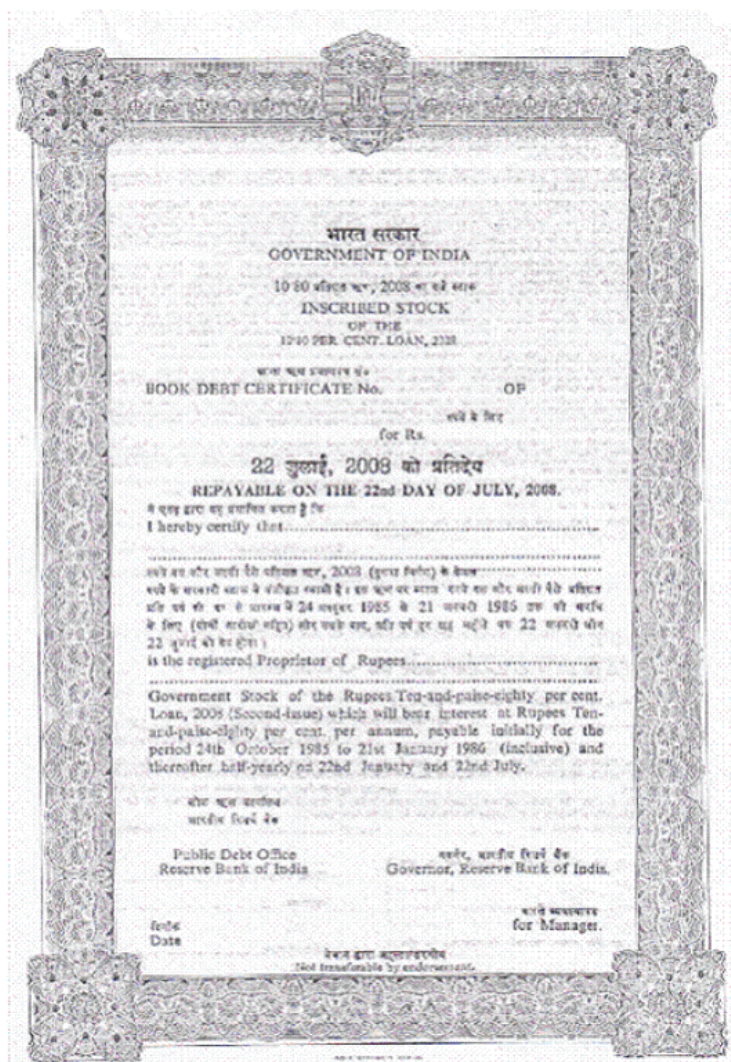
32.3. NDS market watch – <http://www.rbi.org.in/Scripts/NdsUserXsl.aspx>

This site provides information on prices of Government securities in OTC market. Facility is provided for searching the prices of particular securities in a date range.

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Specimen of a Government security – Stock Certificate



Annex 2

List of Primary Dealers

A Bank PDs

Contact no. in Mumbai

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- | | |
|--|----------------------------------|
| 1 Citibank N.A., Mumbai Branch | (022) 40015453/40015378 |
| 2 Standard Chartered Bank | (022) 622303/22652875/22683695 |
| 3 Bank of America N.A. | (022) 66323040/3140/3192 |
| 4 J P Morgan Chase Bank, N.A. | (022) 6639 3084/66392944 |
| 5 HSBC Bank | (022) 22623329/22681031/34/33 |
| 6 Bank of Baroda | (022) 66363682/83 |
| 7 Canara Bank | (022) 22800101-105/22661348 |
| 8 Kotak Mahindra Bank Ltd. | (022) 67836107 & 66596235/6454 |
| 9 Corporation Bank | (022) 22832429/22022796/22871054 |
| 10 HDFC Bank | (022) 66521372/9892975232 |
| 11 ABN AMRO Bank N.V. | (022) 66386132/128 |
| 12 Axis Bank | (022) 22181836/2765 |
| B Stand alone PDs | Contact no. in Mumbai |
| 1 IDBI Gilts | (022) 66177900/911 |
| 2 ICICI Sec P D Ltd. | (022) 66377421/22882460/70 |
| 3 PNB Gilts Ltd. | (022) 22693315/17 |
| 4 SBI DFHI Ltd | (022) 22610490/66364696 |
| 5 STCI PD Ltd | (022) 66202261/2200 |
| 6 Deutsche Securities (India) Pvt Ltd | (022) 67063068/3066/67063115 |
| 7 Morgan Stanley Primary Dealer Pvt. Ltd. | (022) 22096600 |
| 8 Nomura Fixed Income Securities Pvt. Ltd. | (022) 67855111/67855118 |

- * Bank PDs are those which take up PD business departmentally as part of the bank itself.
- ** Stand alone PDs are Non Banking Financial Companies (NBFCs) that exclusively take up PD business.

Update to the list of Primary dealers is available on the RBI website at <http://www.rbi.org.in/commonman/English/Scripts/PrimaryDealers.aspx>

Annex 3

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Specimen of Deal Slip

XYZ Urban Co-operative Bank Ltd	
Address	
Phone:	
E-mail :	
Deal slip No. :	
Deal Confirmation	
We agree to BUY / SELL :	
1. OUTRIGHT / REPO	
2. Transaction id	:
3. Transaction date	:
4. Value date	:
5. Reversal date (in case of repo)	:
6. Time of Transaction	:
7. Transaction mode	: Telephone / NDS-OM / Broker
8. Nomenclature of security	:
9. Last coupon date	:
10. Principal amount	:
11. Accrued Interest	:
12. Agreed price (per Rs.100)	:
13. Total amount	:
14. Name of Broker, if any	:
15. It is agreed to DEBIT / CREDIT our Current account with _____ Bank and CREDIT / DEBIT out SGL / Gilt Account / Demat account with _____ Bank on value date.	
Signed/-	Signed/-
Authorised Signatory	Authorised Signatory

Function **Syntax**
1. Present Value **PV (rate,nper,pmt,fv,type)**

This function is used to find the present value of a series of future payments given the discount rate. This forms the basis for pricing a bond

Rate is the interest rate per period.

Nper is the total number of payment periods in an annuity.

Pmt is the payment made each period and cannot change over the life of the annuity.

Fv is the future value, or a cash balance you want to attain after the last payment is made. If fv is omitted, it is assumed to be 0 (the future value of a loan, for example, is 0).

Type is the number 0 or 1 and indicates when payments are due.

Set type equal to	If payments are due
0 or omitted	At the end of the period
1	At the beginning of the period

Example: To calculate the present value of Rs.100 after every year for three years at an interest rate of 9%, the values would be;

Rate – 9% or 0.09; Nper – 3 (3 years); Pmt – 100; Fv – 0 as there is no balance left at the end of three years; Type – 0 (at the end of the period)

The answer would be **253.13**

2. Future Value FV(rate,nper,pmt,pv,type)

This function is used to calculate the future value of a series of investments made, given the interest rate.

Rate is the interest rate per period.
Nper is the total number of payment periods in an annuity.
Pmt is the payment made each period; it cannot change over the life of the annuity. Typically, pmt contains principal and interest but no other fees or taxes. If pmt is omitted, you must include the pv argument.
Pv is the present value, or the lump-sum amount that a series of future payments is worth right now. If pv is omitted, it is assumed to be 0 (zero), and you must include the pmt argument.

Type is the number 0 or 1 and indicates when payments are due. If type is omitted, it is assumed to be 0.

Example: To calculate the future value of Rs.100 paid every year for three years at an interest rate of 9%, the values would be;

Rate – 9% or 0.09; Nper – 3 (3 years); Pmt – 100; Pv – 0 as there is no lumpsum payment at the beginning; Type – 1 (at the beginning of the period)The answer would be **357.31**

3. Coupon days COUPDAYBS(settlement,maturity,frequency,basis)

This function is used to workout the number of days from the beginning to the end of the coupon period that contains the settlement date.

Settlement is the security's settlement date. The security settlement date is the date after the issue date when the security is traded to the buyer.

Maturity is the security's maturity date. The maturity date is the date when the security expires.

Frequency is the number of coupon payments per year. For annual payments, frequency = 1; for semiannual, frequency = 2; for quarterly, frequency = 4.

Basis is the type of day count basis to use. Appropriate code for the day count convention has to be provided as shown below;

Basis	Day count basis	Basis	Day count basis
0 or omitted	US (NASD) 30/360	3	Actual/365
1	Actual/actual	4	European 30/360
2	Actual/360		

Example: In the case of security maturing on February 2, 2019, and settlement date May 27, 2009, the values in the formula would be;

Maturity – 2/2/2019; settlement – 27/5/2009; frequency – 2 (half yearly coupon) and basis – 4 (day count convention 30/360)

The result would be **180** (number of coupon days in the coupon period)

4. Yearfrac **YEARFRAC(start_date,end_date,basis)** (to find residual maturity)

This function is used to find the residual maturity of a security in years.

Start_date is a date that represents the start date.

End_date is a date that represents the end date.

Basis is the type of day count basis to use.

Example: For a security maturing on February 6, 2019, the residual maturity in number of years as on May 27, 2009 can be calculated as;

Start date – May 27, 2009; End date – 2/2/2019, basis – 4

The result would be **9.68 years**

5. PRICE **PRICE(settlement,maturity,rate,yld,redemption,frequency,basis)**

This function is used to find the price of security that pays periodic interest.

Settlement is the security's settlement date. The security settlement date is the date on which the security and funds are exchanged.

Maturity is the security's maturity date. The maturity date is the date when the security expires.

Rate is the security's annual coupon rate.

Yld is the security's annual yield.

Redemption is the security's redemption value per Rs.100 face value.

Frequency is the number of coupon payments per year. For annual payments, frequency = 1; for semiannual, frequency = 2; for quarterly, frequency = 4.

Basis is the type of day count basis to use.

Example : 6.05%2019 security maturing on February 2, 2019. It is yielding 6.68% in secondary market on June 1, 2009. Settlement date is June 2, 2009. Values in the price formula would be;

Settlement – 2/6/2009; maturity – 2/2/2019; rate – 6.05%; Yield – 6.68%; Redemption – 100 (face value); frequency – 2 (half yearly coupon); basis – 4. The result would be **95.55**

6. YIELD **YIELD(settlement,maturity,rate,pr,redemption,frequency,basis)**

This function is used to find the Yield to Maturity of a security given the price of the security.

Settlement is the security's settlement date. The security settlement date is the date on which the security and funds are exchanged. Maturity is the security's maturity date. The maturity date is the date when the security expires.

Rate is the security's annual coupon rate.

Pr is the security's price per Rs.100 face value.

Redemption is the security's redemption value per Rs.100 face value.

Frequency is the number of coupon payments per year. For annual payments, frequency = 1; for semiannual, frequency = 2; for quarterly, frequency = 4.

Basis is the type of day count basis to use.

Taking the same example as above, and price at 95.55, the result for the yield would be **6.68%**.

7. DURATION **DURATION(settlement,maturity,coupon,yld,frequency,basis)**

This function is used to find the Duration of a security in number of years.

Settlement is the security's settlement date. The security settlement date is the date on which the security and funds are exchanged. Maturity is the security's maturity date. The maturity date is the date when the security expires.

Coupon is the security's annual coupon rate.

Yld is the security's annual yield.

Frequency is the number of coupon payments per year. For annual payments, frequency = 1; for semiannual, frequency = 2; for quarterly, frequency = 4.

Basis is the type of day count basis to use.

Example : 6.05%2019 security maturing on February 2, 2019. It is yielding 6.68% in secondary market on June

1, 2009. Settlement date is June 2, 2009. Values in the Duration formula would be;

Settlement – 2/6/2009; maturity – 2/2/2019; Coupon – 6.05%; Yield – 6.68%; frequency – 2 (half yearly coupon); basis – 4.

The result will be 7.25 years.

8. Modified Duration MDURATION(settlement,maturity,coupon,yld,frequency,basis)

This function is used to calculate the Modified Duration of a security.

Settlement is the security's settlement date. The security settlement date is the date on which the security and funds are exchanged. Maturity is the security's maturity date. The maturity date is the date when the security expires.

Coupon is the security's annual coupon rate.

Yld is the security's annual yield.

Frequency is the number of coupon payments per year. For annual payments, frequency = 1; for semiannual, frequency = 2; for quarterly, frequency = 4.

Basis is the type of day count basis to use.

Taking the same example given above for Duration and feeding the values in the excel function, the formula result will be 7.01

Annex 5

Glossary of Important Terms And Commonly Used Market Terminology

Accrued Interest

The accrued interest on a bond is the amount of interest accumulated on a bond since the last coupon payment. The interest has been earned, but because coupons are paid only on coupon dates, the investor has not gained the money yet. In India day count convention for G-Secs is 30/360.

Bid Price/ Yield

The price/yield being offered by a potential buyer for a security.

Big Figure

When the price is quoted as Rs.102.35, the portion other than decimals (102) is called the big figure.

Competitive

Bid

Competitive bid refers to the bid for the stock at the price stated by a bidder in an auction.

Coupon

The rate of interest paid on a debt security as calculated on the basis of the security's face value.

Coupon Frequency

Coupon payments are made at regular intervals throughout the life of a debt security and may be quarterly, semi-annual (twice a year) or annual payments.

Discount

When the price of a security is below the par value, it is said to be trading at discount. The value of the discount is the difference between the FV and the Price. For example, if a security is trading at Rs.99, the discount is Rs.1.

Duration(Macaulay Duration)

Duration of a bond is the number of years taken to recover the initial investment of a bond. It is calculated as the weighted average number of years to receive the cash flow wherein the present value of respective cash flows are multiplied with the time to that respective cash flows. The total of such values is divided by the price of the security to arrive at the duration. Refer to Box IV under question 27.

Face Value

Face value is the amount that is to be paid to an investor at the maturity date of the security. Debt securities can be issued at varying face values, however in India they typically have a face value of Rs.100. The face value is also known as the repayment amount. This amount is also referred as redemption value, principal value (or simply principal), maturity value or par value.

Floating-Rate Bond

Bonds whose coupon rate is re-set at predefined intervals and is based on a pre-specified market based interest rate.

Gilt/ Government Securities

Government securities are also known as gilts or gilt edged securities. "Government security" means a security created and issued by the Government for the purpose of raising a public loan or for any other purpose as may be notified by the Government in the Official Gazette and having one of the forms mentioned in The Government Securities Act, 2006.

Market Lot

Market lot refers to the standard value of the trades that happen in the market. The standard market lot size in the Government securities market is Rs. 5 crore in face value terms.

Maturity Date

The date when the principal (face value) is paid back. The final coupon and the face value of a debt security is repaid to the investor on the maturity date. The time to maturity can vary from short term (1 year) to long term (30 years).

Non-Competitive Bid

Non-competitive bidding means the bidder would be able to participate in the auctions of dated government

securities without having to quote the yield or price in the bid. The allotment to the non-competitive segment will be at the weighted average rate that will emerge in the auction on the basis of competitive bidding. It is an allocating facility wherein a part of total securities are allocated to bidders at a weighted average price of successful competitive bid. (Please also see paragraph no.4.3 under the question no.4).

Odd Lot

Transactions of any value other than the standard market lot size of Rs. 5 crore are referred to as odd lot. Generally the value is less than the Rs. 5 crore with a minimum of Rs.10,000/-. Odd lot transactions are generally done by the retail and small participants in the market.

Par

Par value is nothing but the face value of the security which is Rs. 100 for Government securities. When the price of a security is equal to face value, the security is said to be trading at par.

Premium

When the price of a security is above the par value, the security is said to be trading at premium. The value of the premium is the difference between the price and the face value. For example, if a security is trading at Rs.102, the premium is Rs.2.

Price

The price quoted is for per Rs. 100 of face value. The price of any financial instrument is equal to the present value of all the future cash flows. The price one pays for a debt security is based on a number of factors. Newly-issued debt securities usually sell at, or close to, their face value. In the secondary market, where already-issued debt securities are bought and sold between investors, the price one pays for a bond is based on a host of variables, including market interest rates, accrued interest, supply and demand, credit quality, maturity date, state of issuance, market events and the size of the transaction.

Primary Dealers

In order to accomplish the objective of meeting the government borrowing needs as cheaply and efficiently as possible, a group of highly qualified financial firms/ banks are appointed to play the role of specialist intermediaries in the government security market between the issuer on the one hand and the market on the other. Such entities are generally called Primary dealers or market makers. In return of a set of obligations, such as making continuous bids and offer price in the marketable government securities or submitting reasonable bids in the auctions, these firms receive a set of privileges in the primary/ secondary market.

Real Time Gross Settlement (RTGS) system

RTGS system is a funds transfer mechanism for transfer of money from one bank to another on a “real time” and on “gross” basis. This is the fastest possible money transfer system through the banking channel. Settlement in “real time” means payment transaction is not subjected to any waiting period. The transactions are settled as soon as they are processed. “Gross settlement” means the transaction is settled on one to one basis without bunching with any other transaction. Considering that money transfer takes place in the books of the Reserve Bank of India, the payment is taken as final and irrevocable.

Repo Rate

Repo rate is the return earned on a repo transaction expressed as an annual interest rate.

Repo/Reverse Repo

Repo means an instrument for borrowing funds by selling securities of the Central Government or a State Government or of such securities of a local authority as may be specified in this behalf by the Central Government or foreign securities, with an agreement to repurchase the said securities on a mutually agreed future date at an agreed price which includes interest for the fund borrowed.

Reverse Repo means an instrument for lending funds by purchasing securities of the Central Government or a State Government or of such securities of a local authority as may be specified in this behalf by the Central Government or foreign securities, with an agreement to resell the said securities on a mutually agreed future date at an agreed price which includes interest for the fund lent.

Residual Maturity

The remaining period until maturity date of a security is its residual maturity. For example, a security issued for an original term to maturity of 10 years, after 2 years, will have a residual maturity of 8 years.

Secondary Market

The market in which outstanding securities are traded. This market is different from the primary or initial market when securities are sold for the first time. Secondary market refers to the buying and selling that goes on after the initial public sale of the security.

Tap Sale

Under Tap sale, a certain amount of securities is created and made available for sale, generally with a minimum price, and is sold to the market as bids are made. These securities may be sold over a period of day or even weeks; and authorities may retain the flexibility to increase the (minimum) price if demand proves to be strong or to cut it if demand weakens. Tap and continuous sale are very similar, except that with Tap sale the debt manager tends to take a more pro-active role in determining the availability and indicative price for tap sales. Continuous sale are essentially at the initiative of the market.

Treasury Bills

Debt obligations of the government that have maturities of one year or less is normally called Treasury Bills or T-Bills. Treasury Bills are short-term obligations of the Treasury/Government. They are instruments issued at a discount to the face value and form an integral part of the money market.

Underwriting

The arrangement by which investment bankers undertake to acquire any unsubscribed portion of a primary issuance of a security.

Weighted Average Price/ Yield

It is the weighted average mean of the price/ yield where weight being the amount used at that price/ yield. The allotment to the non-competitive segment will be at the weighted average price/yield that will emerge in the auction on the basis of competitive bidding.

Yield

The annual percentage rate of return earned on a security. Yield is a function of a security’s purchase price and coupon interest rate. Yield fluctuates according to numerous factors including global markets and the economy.

Yield to Maturity (YTM)

Yield to maturity is the total return one would expect to receive if the security is being held until maturity. Yield to maturity is essentially the discount rate at which the present value of future payments (investment income and return of principal) equals the price of the security.

Yield Curve

The graphical relationship between yield and maturity among bonds of different maturities and the same credit quality. This line shows the term structure of interest rates. It also enables investors to compare debt securities with different maturities and coupons.

Inflation Indexed National Saving Securities - Cumulative (IINSS-C)

1. What is the inflation index to which inflation rate will be linked?

- Inflation rate will be based on the final combined Consumer Price Index [(CPI) base: 2010=100].
- The final combined CPI will be used as reference CPI with a lag of three months. For example, the final combined CPI for September 2013 will be used as reference CPI for whole of December 2013.

2. Who is eligible to invest in the Inflation Indexed National Saving Securities-Cumulative (IINSS-C)?

- Only retail investors would be eligible to invest in these securities. The retail investors would include individuals, Hindu Undivided Family (HUF), charitable institutions registered under section 25 of the Indian Companies Act and Universities incorporated by Central, State or Provincial Act or declared to be a university under section 3 of the University Grants Commission Act, 1956 (3 of 1956).

3. What is the interest rate on these securities?

- There will be two parts in the interest rate. One, fixed rate of 1.5% per annum and second, inflation rate.
- For example, if inflation rate during the six months is 5%, then interest rate for this six months would be 5.75% (i.e. fixed rate -0.75% and inflation rate -5%).

4. Is there any floor as inflation may turn into deflation at times?

- Yes, fixed rate of 1.5% would act as a floor, which means that 1.5% per annum interest rate is guaranteed if there is deflation.
- For example, if inflation rate is (-) 5%, then interest rate should be (-) 3.5% by simple calculation. But in such case, negative inflation will not be recognised and investors would get fixed rate of 1.5% (please see example 2 at 23).

5. When do I get interest?

- Interest will be accrued and compounded in the principal on half-yearly basis and paid along with principal at the time of redemption.

6. What will I get on redemption?

- On redemption, investors will get principal and compounded interest.

7. An example of cash flows/ compounding of principal for illustration purpose is as under:

Fixed rate 1.5% per annum

Issue/ maturity date	Coupon/ Fixed rate	CPI	Inflation *	Interest rate (Compounding rate)	Principal
I	II	III	IV	V=II+IV	VI=VI*V
25-Dec-13		150			5000
25-Jun-14	0.75	160	6.67	7.4	5371
25-Dec-14	0.75	166	3.75	4.5	5613
25-Jun-15	0.75	175	5.42	6.2	5959
25-Dec-15	0.75	185	5.71	6.5	6344
25-Jun-16	0.75	190	2.70	3.5	6563
25-Dec-16	0.75	200	5.26	6.0	6958
25-Jun-17	0.75	210	5.00	5.8	7358
25-Dec-17	0.75	218	3.81	4.6	7693
25-Jun-18	0.75	228	4.59	5.3	8104
25-Dec-18	0.75	235	3.07	3.8	8414
25-Jun-19	0.75	246	4.68	5.4	8870
25-Dec-19	0.75	255	3.66	4.4	9262
25-Jun-20	0.75	265	3.92	4.7	9694
25-Dec-20	0.75	280	5.66	6.4	10316
25-Jun-21	0.75	290	3.57	4.3	10761
25-Dec-21	0.75	305	5.17	5.9	11399
25-Jun-22	0.75	316	3.61	4.4	11895
25-Dec-22	0.75	330	4.43	5.2	12512
25-Jun-23	0.75	340	3.03	3.8	12985
25-Dec-23	0.75	355	4.41	5.2	13655

*Inflation rates are calculated on half yearly basis.

8. What will be the process of investing?

- Investors can invest through the authorised banks and Stock Holding Corporation of India (SHCIL).
- They will fill an application form and submit the same along with other documents and payment to the bank.
- On receipt of money, the bank will register the investor on the RBI's web-based platform (E-Kuber) and on validation, generate the Certificate of Holding.

9. What will be the form of these securities?

- These securities will be issued in the form of Bonds Ledger Account (BLA).
- The securities in the form of BLA will be issued and held with RBI and thus, RBI will act as central depository.
- A certificate of holding will be issued to the holder of securities in BLA.

10. Whether investor needs to open a BLA account with a bank for making an investing?

- Investor does not need to open a BLA with any bank for making investment.
- After receiving the money and registration of the investor on RBI's CBS (E-Kuber), the RBI will open a BLA for each investor and issue a "Certificate of Holding" indicating number of units of IINSS-C held by the investor.

11. Which are the authorised banks?

- The authorised banks are SBI & Associates, Nationalised Banks, HDFC Bank, ICICI Bank, and Axis Bank.

12. Should the customer apply through the bank in which he/she has an account?

- Customers can approach any of the authorised banks, including SHCIL for such investment irrespective of whether they hold an account or not with that bank.

13. Who will provide the other customer services to the investors after issuance of securities?

- The banks through which these securities have been purchased will provide other customer services.
- Investors can approach the banks for other services such as change of address, early redemption, nomination, lien marking, etc.

14. Whether joint holding will be allowed?

- Yes, joint holding will be allowed.

15. What is the minimum and maximum limit for investment?

- The minimum investment limit is Rs. 5,000/- (five thousand).
- The maximum limit is Rs. 10 lakh per annum for eligible individual investors and Rs. 25 lakh per annum for institutions such as HUFs, Charitable Trusts, Education Endowments and similar institutions which are not pro-profit in nature.

16. Whether premature redemption is allowed?

- Yes premature redemption is allowed.
- For senior citizens above 65 years, the premature redemption is allowed after one year. For others, it is allowed after 3 years.
- Penalty at the rate of half of the last payable coupon will be charged from the investors. For example, if last payable coupon is Rs. 1,000/-, then Rs. 500 would be charged as penalty..

17. How do I redeem these securities?

- In case of redemption prematurely before the maturity date, investors can approach the concerned bank few days before the coupon date and apply.
- In case of redemption on maturity, the investor will be advised one month before maturity regarding the ensuing maturity of the bond advising them to provide a Letter of Acquaintance, confirming the NEFT account details, etc.
- If everything is in order, the investor has to be paid immediately on the maturity date for payments through electronic mode and within maximum five days for any payment through physical instruments.

18. Whether these securities transferable?

- Transferability is allowed to the nominee(s) only for individual investors on death of holder.
- Transferability is not allowed for other investors

19. Can I use these securities as collateral for loans?

- Yes, these securities are eligible to be used as collateral for loans from banks, financial Institutions and Non Banking Financial Companies, (NBFC).

20. Banks will offer loans against the collateral of IINSS-C at what rate of interest?

- As per extant RBI's guidelines, banks will be free to decide interest rate on loans against these securities,

subject to the condition that such interest rate is to be at base rate or above.

21. What are the tax implications?

- Existing taxation applicable to Government of India securities issued as part of the market borrowing will be applicable to these securities.

22. Whether TDS will be applicable?

- Existing taxation applicable to Government of India securities will be applicable to these securities.
- Sub-section (iv) of the Section 193 of the Income Tax Act, 1961 stipulates that no tax shall be deducted from any interest payable on any security of the Central Government or a State Government, provided that nothing contained in this clause shall apply to the interest exceeding rupees ten thousand payable on 8% Savings (Taxable) Bonds, 2003 during the financial year.
- As per the above Section, TDS shall not be deducted from any interest payable on IINSS-C, until and unless notified by the Government of India otherwise.

23. Who will do the KYC?

- As customers will be owned by the banks, KYC will also be done by the banks.

24. When will customers be issued securities?

- The customers should be issued the securities after receiving clear money. After receiving clear money, banks should register the customer on CBS and generate Certificate of Holding.

25. Where can investors get the application form?

- The [application form](#) can be downloaded from the RBI's website. However, banks shall also get forms printed and made available to the investors.

1. How will the daily changes in the inflation adjusted principal be accounted for, regarding

- a. MTM
- b. Interest
- c. Book Value

Ans: The valuation criteria as specified for HTM, AFS and HFT would apply.

Valuation (para nos. given are from our MC on investments)

3.1 Held to Maturity

i) Investments classified under HTM need not be marked to market and will be carried at acquisition cost, unless it is more than the face value, in which case the premium should be amortised over the period remaining to maturity. The banks should reflect the amortised amount in 'Schedule 13 - Interest Earned: Item II - Income on Investments', as a deduction. However, the deduction need not be disclosed separately. The book value of the security should continue to be reduced to the extent of the amount amortised during the relevant accounting period.

In the case of IIBs, face value will mean the inflation adjusted principal.

3.2 Available for Sale

The individual scrips in the Available for Sale category will be marked to market at quarterly or at more frequent intervals. Domestic Securities under this category shall be valued scrip-wise and depreciation / appreciation shall be aggregated for each classification referred to in item 2(i) above and foreign investments under this category shall be valued scrip-wise and depreciation / appreciation shall be aggregated for five classifications (viz. Government securities (including local authorities), Shares, Debentures & Bonds, Subsidiaries and / or joint ventures abroad and Other investments (to be specified)). Further, the investment in a particular classification, both in domestic and foreign securities, may be aggregated for the purpose of arriving at net depreciation / appreciation of investments under that category. Net depreciation, if any, shall be provided for Net appreciation, if any, should be ignored. Net depreciation required to be provided for in any one classification should not be reduced on account of net appreciation in any other classification. The banks may continue to report the foreign securities under three categories (Government securities (including local authorities), Subsidiaries and / or joint ventures abroad and other investments (to be specified)) in the balance sheet. The book value of the individual securities would not undergo any change after the marking of market.

3.3 Held for Trading

The individual scrips in the Held for Trading category will be marked to market at monthly or at more frequent intervals and provided for as in the case of those in the Available for Sale category. Consequently, the book value of the individual securities in this category would also not undergo any change after marking to market.

FIMMDA has informed that the price quoted in the market will be the real price and consideration for purchase and sale of the bond will be ($\text{“Real Price} \times \text{Index Ratio”}$ which is clean price) + (Accrued Interest which is the *Broken Period Interest*). As per para 5.2 of the Master Circular on Classification, Valuation and Investment Portfolio by banks, broken period interest should not be capitalized but treated as an item of expenditure. In order to be consistent with present valuation norms, only clean price may be considered as acquisition cost.

As regards the mark to market value, in the case of IIBs it is the quoted clean price if available. If it is unquoted, FIMMDA's valuation methodology for arriving at the clean price as above should be followed.

However, regarding broken period interest, banks would have to be guided by what is indicated in para 5.2 of MC on investments:

5.2 Broken Period Interest

Banks should not capitalise the Broken Period Interest paid to seller as part of cost, but treat it as an item of expenditure under Profit and Loss Account in respect of investments in Government and other approved securities. It is to be noted that the above accounting treatment does not take into account taxation implications and hence the banks should comply with the requirements of Income Tax Authorities in the manner prescribed by them.

In case it falls under unquoted SLR security, FIMMDA's valuation methodology for arriving at the clean price should be followed.

2. RBI may please clarify the treatment of MTM appreciation /depreciation of the IIBs, whether this would form a separate classification or a part of the Government Securities 'classification' and the appreciation/depreciation netted out with other G.Secs under this classification.

Ans: IIBs are government securities and as such should be classified accordingly as indicated in para 2 (i) of Master circular on investments:

Classification

i) The entire investment portfolio of the banks (including SLR securities and non-SLR securities) should be classified under three categories

viz. 'Held to Maturity',

'Available for Sale' and 'Held for Trading'

* However, in the balance sheet, the investments will continue to be disclosed as per the existing six classifications:

viz. a) Government securities,

b) Other approved securities,

c) Shares,

d) Debentures & Bonds,

e) Subsidiaries / joint ventures and

f) Others (CP, Mutual Fund Units, etc.).

3. As the 'Principal' (Face Value) would change in the secondary market trades, the methodology for accounting the change in the 'Principal' (Face Value) due to Inflation Indexation needs to be clearly spelt out.

Ans: IIBs classified under AFS and HFT may be valued at clean price quoted in the market at the time of acquisition. At the time of subsequent mark to market, the clean price quoted in the market as available from trades/quotes or clean price provided by FIMMDA may be treated as market value. Once this market value has been determined, the standard accounting procedures as applicable to HFT/AFS may be applied.

4. A confirmation is required that the IIBs will be accounted for as lower of Cost or Market Value. The Market Value being the Principal after the Indexation as on date of the trade, and the price concluded between the Buyer and Seller based upon the "Real Yield".

Ans: As to what is market value, please refer to the answer given against Q1 and 3.

5. What would be the methodology for calculating the standardized market risk capital charge for Banks and PDs.

Ans: Presently market risk capital charge for Government Securities is calculated using Standardized Duration Method. This method is based on the price sensitivity with respect to nominal interest rates (modified duration). This methodology may be made applicable to IIBs also. Nominal interest rates are composed of two factors: real interest rates and inflation expectations. IIBs are exposed to the risk of changes in the real rates only. Therefore, price sensitivity calculated with respect to nominal yields will not provide the true risk of the IIBs. Hence in the case of IIBs, price sensitivity with respect to change in the real yields should be calculated for IIBs.

6. The principal for the IIBs is supposed to be indexed to the increase in the inflation as worked out by multiplication of the "Index Ratio" with the face value of the bond. Once the bond starts trading in the market after the auction, the index ratio will be changing daily and so also, the principal amount on which the fixed coupon will be accruing of the bond. Kindly clarify how to account for the principal and the interest for an IIB purchased in the secondary market.

Ans: Answers as given in Q 1 and Q 3.

7. What would be the SLR treatment for the mark-to-market appreciation in the IIB. Would an increased principal due to MTM be eligible for increase in SLR for the Bank holding the IIB.

Ans: Valuation methodology for IIBs has been explained above. Other than that no change is considered.

8. Kindly advise the accounting procedure for provisioning for MTM increase or decrease for the IIB acquired in the primary auction or the secondary market.

Ans: Valuation and accounting methodology as given in the answers to above questions.

These FAQs are also available on the Fixed Income Money Market and Derivatives Association of India website <http://www.fimmda.org/>.

Inflation Indexed Bonds (IIBs)

1. Inflation Indexed Bonds (IIBs) were issued in the name of Capital Indexed Bonds (CIBs) during 1997. How is the new product of IIBs different from earlier CIBs?

- The CIBs issued in 1997 provided inflation protection only to principal and not to interest payment.
- New product of IIBs will provide inflation protection to both principal and interest payments.

2. How will inflation protection be provided to both principal and interest rate? Whether inflation component will be paid along with interest?

- Inflation component on principal will not be paid with interest but the same would be adjusted in the principal by multiplying principal with index ratio (IR). At the time of redemption, adjusted principal or the face, whichever is higher, would be paid.
- Interest rate will be provided protection against inflation by paying fixed coupon rate on the principal adjusted against inflation.
- An example of cash flows on IIBs is furnished below.

Example 1 (For illustration purpose)

Year	Period	Real Coupon	Inflation Index	Index Ratio	Inflation adjusted principal	Coupon Payments	Principal Repayment
I	II	III	IV	V _{it} =(IV _{it} /IV _{t0})	VI=(FV*V)	VII=(VI*III)	VIII
0	28-May-13	1.50%	100	1.00	100.0		
1	28-May-14	1.50%	106	1.06	106.0	1.59	
2	28-May-15	1.50%	111.8	1.12	111.8	1.68	
3	28-May-16	1.50%	117.4	1.17	117.4	1.76	
4	28-May-17	1.50%	123.3	1.23	123.3	1.85	
5	28-May-18	1.50%	128.2	1.28	128.2	1.92	
6	28-May-19	1.50%	135	1.35	135.0	2.03	
7	28-May-20	1.50%	138.5	1.39	138.5	2.08	
8	28-May-21	1.50%	142.8	1.43	142.8	2.14	
9	28-May-22	1.50%	150.3	1.50	150.3	2.25	
10	28-May-23	1.50%	160.2	1.60	160.2	2.40	160.2

Example 2 (For illustration purpose)

0	28-May-13	1.50%	100.0	1.00	100	1.50
1	28-May-14	1.50%	106.0	1.06	106	1.59
2	28-May-15	1.50%	111.0	1.11	111	1.67

3	28-May-16	1.50%	104.0	1.04	104	1.56
4	28-May-17	1.50%	98.0	0.98	98	1.47
5	28-May-18	1.50%	99.0	0.99	99	1.49
6	28-May-19	1.50%	105.5	1.06	105.5	1.58
7	28-May-20	1.50%	110.2	1.10	110.2	1.65
8	28-May-21	1.50%	106.5	1.07	106.5	1.60
9	28-May-22	1.50%	104.2	1.04	104.2	1.56

3.

4.

5.

6.

$$Index\ Ratio_{Set\ Date} = \frac{Ref\ WPI_{Set\ Date}}{Ref\ WPI_{Issue\ Date}}$$

7. What is the formula for interpolation of daily reference WPI?

- For calculating the index ratio for a specific date, daily reference WPI values would be linearly interpolated using 'Ref WPI' for the first day of the calendar month and the first day of the following calendar month.
- The formula for computing the reference WPI for a particular day is as under:

$$Ref\ WPI_{Set\ Date} = Ref\ WPI_M + \frac{(t-1)}{D} \times (Ref\ WPI_{M+1} - Ref\ WPI_M)$$

[Ref WPI_M = Ref WPI for the first day of the calendar month in which Date falls, Ref WPI_{M+1} = Ref WPI for the first day of the calendar month following the settlement date, D = Number of days in month (e.g. 31 days in August), and t= settlement date (e.g. August 6)]

- An example of daily reference WPI computed through interpolation is furnished below.

8. If there is a revision in the base year of WPI series, how will the revised series be used for indexation?

- WPI series is being revised after every 10 or more years (e.g. base year revision in WPI series took place in 1981-82, 1993-94 and 2004-05).
- Any revision in the base year would be tackled by splicing the base years so that a consistent WPI series with the same base year is available for indexation purpose since the issue date of the bond.

9. What will be the tax treatment of interest payment and capital gains accrual due to inflation?

- Extant tax provisions will be applicable on interest payment and capital gains on IIBs.
- There will be no special tax treatment for these bonds.

10. What is non-competitive bidding and how will retail investors be able to participate in the same?

- A non-competitive scheme has been devised for participation of such investors in the auction. Under this scheme, investors are required to indicate the amount of their bids and not the price at which they want to subscribe. Allocation to such investors is made at the weighted average price emerged in the competitive bidding.
- Presently in auction, up to 5 per cent of the notified amount is reserved for non-competitive bidding, while up to 20 per cent of the notified amount will be earmarked for such bidding in case of IIBs to encourage retail participation.
- The retail investors will be able to participate in non-competitive bidding through primary dealers (PD) and banks. They can open a gilt account with PDs and banks or demat account for such participation.

11. Whether foreign institutional investors (FIIs) will be allowed to invest in IIBs?

- IIBs would be Government securities (G-Sec) and the different classes of investors eligible to invest in G-Secs would also be eligible to invest in IIBs.
- FIIs would be eligible to invest in the forthcoming IIBs but subject to the overall cap for their investment in G-Secs (currently USD 25 billion).

12. Whether IIBs will be traded in the secondary market?

- As IIBs are G-Sec, they can be tradable in the secondary market like other G-Secs. Investors will be able to trade them in NDS-OM, NDS-OM (web-based), OTC market, and stock exchanges.

13. Whether investors will be able to participate in the primary auction of IIBs through web-based platform?

- Not as of now.
- The work on web-based platform for primary auction is, however, underway and as and when the same is completed, investors will be able use the same for participating in the primary auction of G-Secs including IIBs.

14. Whether IIBs will be eligible for short-sale and repo transactions?

- IIBs would be a G-Sec and therefore, would be eligible for short-sale and repo transactions.

15. Whether IIBs will be eligible for statutory liquidity ratio (SLR)?

- IIBs would be a G-Sec and issued as part of the approved Government market borrowing programme.
- Therefore, IIBs would automatically get SLR status.

16. What will be the settlement cycle for IIBs?

- Settlement cycle of IIBs will be T+1, like fixed rate conventional bonds.

17. What will be the day count for IIBs?

- Like other G-Secs, the day count for IIBs would 30/360.

18. Whether issuance of this instrument will be within the Govt market borrowing programme?

- Yes, issuance of IIBs would be within the Govt market borrowing programme of about Rs. 579,000 crore for 2013-14.

19. What will be the maturity of IIBs?

- To begin with, IIBs will be issued for 10 years.
- As it is advisable to issue IIBs at various maturity points to have benchmarks and cater to diverse market demands, more maturity points may be explored subsequently.

20. What will be the frequency of coupon payment on IIBs?

- Like other G-Secs, coupon on IIBs would be paid on half yearly basis.
- Fixed coupon rate would be paid on the adjusted principal.

21. What will be the frequency of issuance of IIBs?

- As indicated in the press release issued by Reserve Bank of India on May 15, 2013, IIBs would be launched on June 4, 2013 and the same would be issued on the last Tuesday of each month during 2013-14. This would also include the last Tuesday of June 2013.

22. Auction of IIBs would be yield based or price based?

- As is the case with fixed rate conventional bonds, IIBs would be issued through yield based auction and subsequent reissues will be through price based auction.
- Investors would be required to bid for real yield in case of IIBs as against nominal yield in case of fixed rate G-Sec.

23. Whether IIBs will be underwritten by primary dealers (PDs)?

- Like fixed rate G-Secs, IIBs would be underwritten by the primary dealers.

24. What is going to be the issuance size of IIBs for each tranche?

- As indicated in our press release dated May 15, 2013, size of the each tranche would be Rs. 1,000-2,000 crore.

25. Will there be exclusive series of IIBs for retail investors?

- Exclusive series for retail investors would be launched in the second half of the current fiscal year (around October 2013).

26. Whether product structure of the retail series of IIBs would be same as series of IIBs of all investors?

- Product structure of the series of IIBs for retail investors is yet to be finalised. It will be finalised in the due course and accordingly, the same would put in the public domain.

27. What will be methodology for valuation of these bonds?

- Fixed Income Money Market and Derivatives Association of India (FIMMDA) will come out with valuation guidelines shortly.

NDS-OM web

1. What is NDS-OM?

NDS-OM is a screen based electronic anonymous order matching system for secondary market trading in Government securities owned by RBI. Presently the membership of the system is open to entities like Banks, Primary Dealers, Insurance Companies, Mutual Funds etc. i.e entities who maintain SGL accounts with RBI. These are Primary Members (PM) of NDS and are permitted by RBI to become members of NDS-OM. Gilt Account Holders which have gilt account with the PMs are permitted to have indirect access to the NDS-OM system i.e they can request their Primary Members to place orders on their behalf on the NDS-OM system.

2. What is NDS-OM Web Module?

To further enhance the access of such Gilt Account Holders (herein after referred to as GAHs) to NDS-OM, an internet based web application is provided to such clients who can now have direct access to NDS –OM, the system owned by RBI. The internet based utility permits GAH to directly trade (buying and selling) in Government Securities (G-Sec) in the secondary market. The access is however, subject to controls by respective Primary Member (PM) with whom GAHs have gilt account and current account.

3. Why are the benefits to the GAH over the existing NDS-OM system?

The GAH will have access to the same order book of NDS-OM as the Primary Members. GAH will be in a better position to control their orders (place/modify/cancel/hold/release) and will have access to real time live quotes in the market. Since notifications of orders executed as well as various queries are available online to the GAH, they are better placed to manage their positions. Web based interface that leverages on the gilt accounts already maintained with the custodian Banks/PDs therefore provides an operationally efficient system to retail participant.

4. Which are the entities permitted to access the NDS-OM Web Module?

The potential users of the NDS-OM Web Module are GAHs permitted by RBI to access the NDS OM Web Based Module. So far, GAHs have only the indirect access through CSDL route for placing their order/bid feed into NDS-OM. Now in addition to the indirect access, permitted GAHs can directly deal on the NDS-OM Web system, subject to controls set by PM. The access to the GAH to the NDS-OM Web Based Module is granted on a request made on his behalf by its Primary Member.

5. What is the procedure for access to NDS-OM Web Module by GAH?

On behalf of GAH, PM needs to submit an access request form to CCIL. The Request would be formally addressed to RBI. However, CCIL has been authorized to directly receive and process Access Request Form from PM for operational convenience. A detailed operation flow is contained in [Annexure I](#).

6. What are the guidelines governing access to NDS OM Web Module?

NDS-OM Web Module is only an electronic front end for accessing the main NDS-OM system. All instructions/notifications/circulars/press releases issued by RBI, both current and future, relating to CSDL trades would be binding and applicable. Dealing on NDS-OM Web would also be subject to RBI's NDS-OM Guiding Principles.

7. Does RBI have any relationship with GAHs?

While RBI will facilitate the trading platform for buying and selling of G-Secs, RBI shall not have any relationship, direct or otherwise, with any of the GAH granted access to NDS-OM Web. Further, the RBI has no role in any

possible disputes between GAH and PM.

8 What is the role of Primary Member?

PM remains responsible, as the case at present, of all the actions of his GAHs. PM will be responsible for the margin maintenance and settlement of the trades of their GAHs also. Prior to commencement of trade on NDS-OM Web by an eligible authorized GAH user, the PM shall ensure that the various Operational Risk Control Parameters (ORCP) values have been set on NDS-OM Web. For the purpose, PM needs to install an application for its GAHs Management, Risk Management and Bid Management policies and practices. NDS-OM Administrator (CCIL) would create an authorized super-user (Client Head) for the PM for attending to the management activities.

9: How will the Gilt Account Holder access the NDS-OM Web Module?

GAH accesses the trading platform through URL, '<https://www.ndsind.com>'. This is common URL for web based NDS-OM as well as for web based Auction. Users of GAH need to select NDS-OM in the option after logging on to the URL. PM will need to arrange for login/password from the CCIL and Digital Certificates from any Government Recognized Certifying Authority designated by RBI, on behalf of GAH. For added security, the digital certificates need to be installed in an e-token as per specifications approved. Without the digital certificate, e-token and the password, the GAH cannot log in to the NDS OM web based module. The Primary member will be responsible for obtaining/renewal and intimating revocation to RBI/CCIL of the Digital Certificate for such GAH users.

10. If the internet connectivity is down, how the client can place the order?

PM will not be able to place orders on behalf of the client in the web based system. However the PM can continue placing orders for the client in the existing system. But these orders will not be subject to the various risk validations that are available in the Web system.

11. What are the charges for this application?

The system is owned by RBI. There are no charges for use of this application by clients. However, since all trades are to be guaranteed and settled by CCIL, PMs will have to pay settlement charges and also continue to deposit adequate margin on behalf of their clients to CCIL.

12. What is the infrastructure requirement at the GAH end?

All NDS OM-Web GAH users would need to use Digital Certificates issued by the designated Certifying Authority obtained by the respective PM, embedded into e-tokens (of the prescribed configuration) supplied to them by their PM. A safe, reliable, stable internet connection with suitable bandwidth is necessary for efficient operations. A modern PC with contemporary configuration, minimum 1 GB RAM, Operating System - Windows XP and above will be required. Only IE Browser - 7 and above can be used for accessing OM-Web.

13. What does GAHs User Management by PM involve?

GAHs Management involves PM's actions like - create 'transactional' users (employees of GAH who can place bids) and 'view only' users (employees of GAH who can only view the bid related queries), modify users, suspend/unlock users, log-off users, obtain and set/reset the login passwords of users, set risk limits, take action on bids submitted by GAHs etc.

14. Who creates Users for the GAH?

Once the GAH is granted access to the NDS-OM Web Module, the Primary Member can create Users under the GAH, who can log into the system. The users once created by the Primary Member have to be approved by the

NDS-OM Web Admin at CCIL.

15. What are the different types of Users of the GAH?

There are two types of GAH users (i) Transactional Users - users who can do order management-place/modify/cancel/hold/release and trade. (ii) View Users- who can only view orders/traded placed by various transactional users under the same GAH.

16. Can there be more than one user under one GAH?

Yes. Under one GAH, a PM can create as many users as they wish. The users created by the PM will have to be approved by the NDS OM Web Admin at CCIL.

17. Why are digital certificate and a e-token required for login to the NDS-OM Web Module?

GAH will be accessing the NDS OM Web Based Module over the internet. To prevent unauthorized access and to ensure non-repudiation, RBI has stipulated that a digital certificate has to be obtained for each GAH User from IDRT. The digital certificate has to be installed in an e-token which provides the second layer of security. Before a GAH User is created by the PM, the PM has to ensure that the digital certificate and the e-token have been procured for the GAH User.

18. Why the Operational Risk Control Parameters?

Before a GAH User can start dealing on the NDS-OM Web Module, the PM has to set certain operational risk controls as well as limits for each GAH/GAH User, since PM will continue to be responsible for the settlement of trades done by such GAHs. Accordingly PMs have the facility to set operational risk controls in respect of their GAHs who would be given access to NDS-OM Web so as to mitigate risk arising out of their GAH trades. Every order inputted by GAH on NDS-OM Web would be subject to validations against each risk control set by PM before being passed on to the common order book of NDS-OM. Risk Management involves PM's setting risk limits for GAHs before the GAHs can start trading.

19. What are the Operational Risk Control Parameters?

The risk parameters include 'single order limit', 'price/yield range limits' against the last traded price/yield of the security, activity controls (assigning buy/sell privileges to users), 'security stock balance', 'turnover limits (trading limit in terms of gross amount in face value of all [buy + sell] orders of GAH) and 'funding limits' (net aggregate settlement consideration up to which GAH can accumulate net long fund position). Orders beyond the set limits will be rejected.

20. How are the various Operational Risk Control Parameters (ORCP) managed?

All OPRC values are modifiable intra-day, subject to relative modifications being applicable only on a prospective basis i.e., they will not impact in any manner trades already concluded prior to such modification request being received by NDS-OM Web. Every order input by any authorized GAH user shall be validated against each of the OPRC values on funding/trading limits given to individual GAH user set by the PM before routing orders to the NDS-OM. Any order that violates the values prescribed for the concerned GAH and/or individual GAH user would be rejected by NDS-OM Web. Orders that successfully pass through OPRC validations set for a GAH by its PM would travel to the NDS-OM system and would be eligible for being traded in the same manner as any other order on the NDS-OM system following requisite order matching rules, conventions and processes. As GAHs remain the constituents of the PM, the trades will seamlessly settle through the existing settlement infrastructure.

21. Whether pre-funding is required?

The Web based facility is only a front end platform for placing GAH's buy and sell orders. PM continues to be responsible for all actions undertaken by their respective GAHs including the settlement of their securities and funds obligations. In other words, the settlement of the successful orders of GAHs will continue to happen as usual as at present. Though the PM needs to set the funding limits as part of his risk control measure in the system, no separate pre-funding requirements are set. The Funding Limit is a functionality that enables the PM to put a cap on the total value (net consideration) of orders that a GAH may place on the basis of the terms and conditions mentioned in their mutual agreements.

22. What are the securities that can be traded on NDS-OM Web Module?

All central government securities, state government securities and treasury bills are tradable on the NDS-OM Web Module. The complete list of securities is available on the NDS-OM Web Module.

23. What is minimum order Size? What are the markets available on NDS-OM Web Module?

Since the orders placed on present application merges with main NDS-OM, the trade segment are as same as normal NDS-OM i.e. Standard market and Odd Lot Market. The Lot size for the Standard Market is minimum Rs.5 crore and in multiples of Rs. 5 crore. In the Odd Lot segment the minimum lot size is Rs.10,000 for Central and State Government Securities and Rs.25,000 for Treasury Bills. Presently GAH are not permitted to participate in the When Issued Market. GAH are also not permitted to short sale in government securities market.

24. What the order management functionalities available to the GAH?

On the NDS OM Web Module, the GAH has the functionality to directly place bids and offers. The GAH can modify or cancel his/her outstanding orders. Outstanding orders can also be put on Hold and Released, if required by the GAH. The complete control over his outstanding orders is available to the GAH. The GAH gets real time update about the status of his orders through notifications and pop-ups.

25. What are the various quantity and time conditions available to the GAH?

The various quantity conditions available are as under:

- Normal: By default the amount type will be Normal. A Normal order can get partly traded.
- Disclosed: Disclosed Amount is the part of order amount (In Rs. Crore) which the User is willing to disclose to the market. This is an optional field.
- All or None (AON): By selecting this option, a User specifies that all of the order should be traded in full i.e. no partial trades, should be allowed. This is an optional field.

The various time conditions available are as under:

- Day: Under this time condition, order would remain valid throughout the validity of the trading session. It will be available for trade till session close. By default Time Condition - Day is selected.
- IOC (Immediate or Cancel): If a User wishes his order to be traded immediately, then he could select IOC. Under this condition, when an IOC order is placed, the order would seek for an immediate match, if found it results into a trade; else the IOC order would get cancelled.
- GTT (Good Till Time): Here while placing an order, the User could mention the time up to which the order would be valid and available for trade. Once the User specified order expiry time has been reached the order would get cancelled.

26. What are the Order Matching rules of the NDS-OM system?

CG and SG match on a price- time priority basis and T Bills Match on a yield-time priority basis. For a bid in CG/SG to match with an offer, the bid price has to be equal to or greater than the offer price. For an offer in CG/SG

to match with a bid, the offer price has to be equal to or less than the offer price. In case of T Bills, the bid yield has to be equal to or less than the offer yield and vice versa for offers. At the same price/yield, the order which has come first to the system will get priority.

27. Will the orders placed by a GAH match with orders placed by its Primary Member?

The NDS-OM system ensures that orders place by a GAH will not match with its Primary Member. Similarly orders placed by two GAH of the same Primary Member will not match.

28. What are the various Order Management rights available to the Primary Member?

The Primary Member has the right to cancel/hold or release any outstanding order of the GAH. For instance, in case of any connectivity issues at the GAH end, the GAH can request the Primary Member to either cancel or hold his orders. Orders held by the Primary Member can only be released by the Primary Member. Orders placed by the GAH cannot be modified by the Primary Member. Trades once concluded on the NDS OM Web Module cannot be cancelled.

29. Will the orders placed by clients be visible to PM?

The Primary Member being responsible for the settlement of the trades done by the GAH on the NDS OM Web Based Module, will have a view of the Orders placed by the GAH as well as the trades done by the GAH.

30. What are the various Market Queries available to the GAH?

On the NDS-OM Web Module, the GAH has access to real time quotes on various securities as available on the main NDS-OM system. The GAH is able to view the best bid/offer (Market Watch) in various securities as well as the best 10 bid and offers (Market By Price / Market By Order). The GAH also has access to the total Trade information (Trade Watch) as well as half hourly movement of each security. (Market Movement). Further details are available in the User Manual.

31. What are the various Dealer/Member Queries available to the GAH?

The GAH has an online view of the various orders placed by him which are outstanding, the orders which got executed, the net funds position as well an activity log which provides an audit trail of each order placed by the GAH. The transactional user will be able to view his own orders/trades whereas the View User will be able to view orders/trades done by various transactional users under the same client.

32. How does settlement of trades concluded by GAH on the NDS-OM Web Module take place?

There is no change in the settlement current settlement procedure. The trades concluded by GAH on the NDS-OM Web Module will flow directly in an STP manner to CCIL for settlement. The Primary Member will continue to be responsible for the settlement of such trades as well as maintenance of adequate margins with CCIL in respect of such trades.

33. Does a trade concluded on NDS-OM need to be reported again on PDO-NDS?

A trade concluded on the NDS-OM Web Module need not be reported again on the PDO-NDS Module.

NDS-OM web

1. What is NDS-OM?

NDS-OM is a screen based electronic anonymous order matching system for secondary market trading in Government securities owned by RBI. Presently the membership of the system is open to entities like Banks, Primary Dealers, Insurance Companies, Mutual Funds etc. i.e entities who maintain SGL accounts with RBI. These are Primary Members (PM) of NDS and are permitted by RBI to become members of NDS-OM. Gilt Account Holders which have gilt account with the PMs are permitted to have indirect access to the NDS-OM system i.e they can request their Primary Members to place orders on their behalf on the NDS-OM system.

2. What is NDS-OM Web Module?

To further enhance the access of such Gilt Account Holders (herein after referred to as GAHs) to NDS-OM, an internet based web application is provided to such clients who can now have direct access to NDS –OM, the system owned by RBI. The internet based utility permits GAH to directly trade (buying and selling) in Government Securities (G-Sec) in the secondary market. The access is however, subject to controls by respective Primary Member (PM) with whom GAHs have gilt account and current account.

3. Why are the benefits to the GAH over the existing NDS-OM system?

The GAH will have access to the same order book of NDS-OM as the Primary Members. GAH will be in a better position to control their orders (place/modify/cancel/hold/release) and will have access to real time live quotes in the market. Since notifications of orders executed as well as various queries are available online to the GAH, they are better placed to manage their positions. Web based interface that leverages on the gilt accounts already maintained with the custodian Banks/PDs therefore provides an operationally efficient system to retail participant.

4. Which are the entities permitted to access the NDS-OM Web Module?

The potential users of the NDS-OM Web Module are GAHs permitted by RBI to access the NDS OM Web Based Module. So far, GAHs have only the indirect access through CSDL route for placing their order/bid feed into NDS-OM. Now in addition to the indirect access, permitted GAHs can directly deal on the NDS-OM Web system, subject to controls set by PM. The access to the GAH to the NDS-OM Web Based Module is granted on a request made on his behalf by its Primary Member.

5. What is the procedure for access to NDS-OM Web Module by GAH?

On behalf of GAH, PM needs to submit an access request form to CCIL. The Request would be formally addressed to RBI. However, CCIL has been authorized to directly receive and process Access Request Form from PM for operational convenience. A detailed operation flow is contained in [Annexure I](#).

6. What are the guidelines governing access to NDS OM Web Module?

NDS-OM Web Module is only an electronic front end for accessing the main NDS-OM system. All instructions/notifications/circulars/press releases issued by RBI, both current and future, relating to CSDL trades would be binding and applicable. Dealing on NDS-OM Web would also be subject to RBI's NDS-OM Guiding Principles.

7. Does RBI have any relationship with GAHs?

While RBI will facilitate the trading platform for buying and selling of G-Secs, RBI shall not have any relationship, direct or otherwise, with any of the GAH granted access to NDS-OM Web. Further, the RBI has no role in any possible disputes between GAH and PM.

8 What is the role of Primary Member?

PM remains responsible, as the case at present, of all the actions of his GAHs. PM will be responsible for the margin maintenance and settlement of the trades of their GAHs also. Prior to commencement of trade on NDS-OM Web by an eligible authorized GAH user, the PM shall ensure that the various Operational Risk Control Parameters (ORCP) values have been set on NDS-OM Web. For the purpose, PM needs to install an application for its GAHs Management, Risk Management and Bid Management policies and practices. NDS-OM Administrator (CCIL) would create an authorized super-user (Client Head) for the PM for attending to the management activities.

9: How will the Gilt Account Holder access the NDS-OM Web Module?

GAH accesses the trading platform through URL, '<https://www.ndsind.com>'. This is common URL for web based NDS-OM as well as for web based Auction. Users of GAH need to select NDS-OM in the option after logging on to the URL. PM will need to arrange for login/password from the CCIL and Digital Certificates from any Government Recognized Certifying Authority designated by RBI, on behalf of GAH. For added security, the digital certificates need to be installed in an e-token as per specifications approved. Without the digital certificate, e-token and the password, the GAH cannot log in to the NDS OM web based module. The Primary member will be responsible for obtaining/renewal and intimating revocation to RBI/CCIL of the Digital Certificate for such GAH users.

10. If the internet connectivity is down, how the client can place the order?

PM will not be able to place orders on behalf of the client in the web based system. However the PM can continue placing orders for the client in the existing system. But these orders will not be subject to the various risk validations that are available in the Web system.

11. What are the charges for this application?

The system is owned by RBI. There are no charges for use of this application by clients. However, since all trades are to be guaranteed and settled by CCIL, PMs will have to pay settlement charges and also continue to deposit adequate margin on behalf of their clients to CCIL.

12. What is the infrastructure requirement at the GAH end?

All NDS OM-Web GAH users would need to use Digital Certificates issued by the designated Certifying Authority obtained by the respective PM, embedded into e-tokens (of the prescribed configuration) supplied to them by their PM. A safe, reliable, stable internet connection with suitable bandwidth is necessary for efficient operations. A modern PC with contemporary configuration, minimum 1 GB RAM, Operating System - Windows XP and above will be required. Only IE Browser - 7 and above can be used for accessing OM-Web.

13. What does GAHs User Management by PM involve?

GAHs Management involves PM's actions like - create 'transactional' users (employees of GAH who can place bids) and 'view only' users (employees of GAH who can only view the bid related queries), modify users, suspend/unlock users, log-off users, obtain and set/reset the login passwords of users, set risk limits, take action on bids submitted by GAHs etc.

14. Who creates Users for the GAH?

Once the GAH is granted access to the NDS-OM Web Module, the Primary Member can create Users under the GAH, who can log into the system. The users once created by the Primary Member have to be approved by the NDS-OM Web Admin at CCIL.

15. What are the different types of Users of the GAH?

There are two types of GAH users (i) Transactional Users - users who can do order management-place/modify/cancel/hold/release and trade. (ii) View Users- who can only view orders/traded placed by various transactional users under the same GAH.

16. Can there be more than one user under one GAH?

Yes. Under one GAH, a PM can create as many users as they wish. The users created by the PM will have to be approved by the NDS OM Web Admin at CCIL.

17. Why are digital certificate and a e-token required for login to the NDS-OM Web Module?

GAH will be accessing the NDS OM Web Based Module over the internet. To prevent unauthorized access and to ensure non-repudiation, RBI has stipulated that a digital certificate has to be obtained for each GAH User from IDRBT. The digital certificate has to be installed in an e-token which provides the second layer of security. Before a GAH User is created by the PM, the PM has to ensure that the digital certificate and the e-token have been procured for the GAH User.

18. Why the Operational Risk Control Parameters?

Before a GAH User can start dealing on the NDS-OM Web Module, the PM has to set certain operational risk controls as well as limits for each GAH/GAH User, since PM will continue to be responsible for the settlement of trades done by such GAHs. Accordingly PMs have the facility to set operational risk controls in respect of their GAHs who would be given access to NDS-OM Web so as to mitigate risk arising out of their GAH trades. Every order inputted by GAH on NDS-OM Web would be subject to validations against each risk control set by PM before being passed on to the common order book of NDS-OM. Risk Management involves PM's setting risk limits for GAHs before the GAHs can start trading.

19. What are the Operational Risk Control Parameters?

The risk parameters include 'single order limit', 'price/yield range limits' against the last traded price/yield of the security, activity controls (assigning buy/sell privileges to users), 'security stock balance', 'turnover limits (trading limit in terms of gross amount in face value of all [buy + sell] orders of GAH) and 'funding limits' (net aggregate settlement consideration up to which GAH can accumulate net long fund position). Orders beyond the set limits will be rejected.

20. How are the various Operational Risk Control Parameters (ORCP) managed?

All OPRC values are modifiable intra-day, subject to relative modifications being applicable only on a prospective basis i.e., they will not impact in any manner trades already concluded prior to such modification request being received by NDS-OM Web. Every order input by any authorized GAH user shall be validated against each of the OPRC values on funding/trading limits given to individual GAH user set by the PM before routing orders to the NDS-OM. Any order that violates the values prescribed for the concerned GAH and/or individual GAH user would be rejected by NDS-OM Web. Orders that successfully pass through OPRC validations set for a GAH by its PM would travel to the NDS-OM system and would be eligible for being traded in the same manner as any other order on the NDS-OM system following requisite order matching rules, conventions and processes. As GAHs remain the constituents of the PM, the trades will seamlessly settle through the existing settlement infrastructure.

21. Whether pre-funding is required?

The Web based facility is only a front end platform for placing GAH's buy and sell orders. PM continues to be responsible for all actions undertaken by their respective GAHs including the settlement of their securities and

funds obligations. In other words, the settlement of the successful orders of GAHs will continue to happen as usual as at present. Though the PM needs to set the funding limits as part of his risk control measure in the system, no separate pre-funding requirements are set. The Funding Limit is a functionality that enables the PM to put a cap on the total value (net consideration) of orders that a GAH may place on the basis of the terms and conditions mentioned in their mutual agreements.

22. What are the securities that can be traded on NDS-OM Web Module?

All central government securities, state government securities and treasury bills are tradable on the NDS-OM Web Module. The complete list of securities is available on the NDS-OM Web Module.

23. What is minimum order Size? What are the markets available on NDS-OM Web Module?

Since the orders placed on present application merges with main NDS-OM, the trade segment are as same as normal NDS-OM i.e. Standard market and Odd Lot Market. The Lot size for the Standard Market is minimum Rs.5 crore and in multiples of Rs. 5 crore. In the Odd Lot segment the minimum lot size is Rs.10,000 for Central and State Government Securities and Rs.25,000 for Treasury Bills. Presently GAH are not permitted to participate in the When Issued Market. GAH are also not permitted to short sale in government securities market.

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There is no change in the settlement current settlement procedure. The trades concluded by GAH on the NDS-OM Web Module will flow directly in an STP manner to CCIL for settlement. The Primary Member will continue to be responsible for the settlement of such trades as well as maintenance of adequate margins with CCIL in respect of such trades.

33. Does a trade concluded on NDS-OM need to be reported again on PDO-NDS?

A trade concluded on the NDS-OM Web Module need not be reported again on the PDO-NDS Module.

The Government Securities Act, 2006 and The Government Securities Regulations, 2007

Government securities offer the benefit of safety, liquidity and attractive returns to investors. With the enactment of the Government Securities Act, 2006 Government securities, including the Relief/Savings Bonds issued by the Government of India, have become more investor friendly. Investors of such bonds will particularly benefit from

such changes in the Act. To create public awareness in this regard and as a customer friendly measure, the following Frequently Asked Questions (FAQs) along with the answers have been released by the Reserve Bank of India (RBI).

1. What does one mean by Government security?

Government security (G-Sec) means a security created and issued by the Government for the purpose of raising a public loan or any other purpose as notified by the Government in the Official Gazette and having one of the following forms.

- i. a Government Promissory Note (GPN) payable to or to the order of a certain person; or
- ii. a bearer bond payable to a bearer; or
- iii. a stock; or
- iv. a bond held in a Bond Ledger Account (BLA).

2. What is the Government Securities Act, 2006?

The Government Securities Act, 2006 (G S Act) is an Act to consolidate and amend the laws relating to Government securities and its management by the RBI and for matters connected therewith.

3. What are the Government Securities Regulations, 2007?

Government Securities Regulations, 2007 (G S Regulations) have been framed by the RBI to carry out the purposes of the G S Act.

4. When did the G S Act and the G S Regulations come into force and to which Government securities do they apply?

The G S Act and the G S Regulations came into force with effect from December 1, 2007. The G S Act applies to Government securities created and issued by the Central Government or a State Government, whether before or after the commencement of this Act. The G S Act will apply to all Government securities created and issued even prior to December 1, 2007.

5. What about the applicability of the Public Debt Act, 1944 and the Indian Securities Act, 1920 to the Government securities?

The Public Debt Act, 1944 shall cease to apply to the Government securities to which the G S Act applies, while the Indian Securities Act, 1920 has been repealed.

6. Are Relief/Savings Bonds also Government securities? Does the G S Act and the G S Regulations apply to them as well?

Yes. Relief/Savings Bonds are also Government securities. They are issued in the form of Stock Certificate and BLA by the RBI and in the form of BLA by the Agency Banks. All the provisions of the G S Act and the G S Regulations apply to them as well. However, Relief/Savings Bonds may have certain features of their own as per the specific Government Loan Notification announcing their issue. For example, Savings Bonds are not transferable except as explained at Question No. 46 below.

7. Are all the above forms of Government securities issued by RBI as well as Agency banks?

Government securities in the form of GPN, bearer bond, stock and BLA are issued by RBI, while the Agency Banks are presently eligible to issue Relief/Savings Bonds in the form of BLA only.

8. Who are eligible to invest in Government securities?

The G S Act and the G S Regulations do not specify the eligibility criteria for investment in a G-Sec. The eligibility criteria are specified in the respective Government Notifications. Usually any person is eligible to invest in Government securities.

9. What does one mean by Government security in the form of Stock?

Stock means a Government security registered in the books of RBI for which a Stock Certificate (SC) is issued or which are held at the credit of the holder in the Subsidiary General Ledger (SGL) account maintained in the books of RBI and transferable by registration in the books of RBI.

10. What does one mean by the CSGL account?

CSGL, i.e. Constituents' Subsidiary General Ledger account, means an SGL account opened and maintained with RBI by an agent on behalf of the constituents of such agent, i.e. a second SGL account opened by an agent with the RBI to hold the securities on behalf of their constituents. The constituents are known as the Gilt Account Holders (GAHs). Additional CSGL and / or Gilt Account can be opened only with the prior / specific permission of the Bank.

11. Who is deemed to be the holder of the Government securities in CSGL account?

A CSGL account holder shall be deemed to be the holder of the securities held in the respective account with RBI, however, the constituents i.e. GAHs, as the beneficial owners of the Government security held therein, shall be entitled to claim from the CSGL account holder all the benefits and be subjected to all the liabilities in respect of the Government securities held in the CSGL account.

12. What does one mean by BLA?

A BLA or Bond Ledger Account means an account with RBI or an agency bank in which the Government securities are held in a dematerialized form to the credit of the holder. The investor in this case receives a Certificate of Holding or Certificate of Investment from RBI/Agency Banks.

13. Are the National Saving Certificates/Postal Saving Certificates also covered under the G S Act?

No. They are not covered under the G S Act or the G S Regulations.

14. How can a Government security be transferred?

Government security held in the form of GPN is transferable by endorsement and delivery, while a bearer bond is transferable by delivery and the person in possession of the bond shall be deemed to be the holder of the bond. Government securities held in the form of SC, SGL/CSGL and BLA are transferable, before maturity, by execution of forms - III, IV and V respectively, appended to the G S Regulations, provided that the same are eligible for transfer as per the specific Government Loan Notification. Further, these transfer forms may also be executed in electronic form under digital signature.

15. How does a person who is unable to write, execute or endorse a document?

In such cases, he/she may apply to the Executive Magistrate to execute the document or make endorsement on his/her behalf after producing sufficient documentary evidence about his/her identity and satisfying the Executive Magistrate that he/she has understood the implications of such execution or endorsement.

16. Whether there has been any simplification in the process/documentation for recognition of title to

Government security of deceased sole holder or joint holders?

Yes. The title to Government security can now be recognised not only on the basis of a Succession Certificate issued under Part X of the Indian Succession Act, 1925 but also on the basis of a decree, order or direction passed by a competent court or on the basis of a certificate issued or order passed by any other authority who might have been empowered under any statute to confer on any such person a title to the Government security. Further, the title to Government security of deceased sole or joint holders may also be recognized by the RBI/Agency Banks on the basis of any one of the following six documents as prescribed in the G S Regulations.

- a "Will" executed by the deceased holder of the Government security bequeathing thereby the security in favour of the person claiming title thereto, provided the probate issued in respect of such Will has been submitted to the Bank by the claimant; or
- a registered deed of family settlement, wherein the Government security claimed has been included and given to the claimant; or
- a gift deed executed in accordance with the law relating thereto, in respect of the Government security claimed; or
- a deed of relinquishment executed by other legal heir or successor of the deceased in accordance with law in favour of the claimant in respect of the Government security claimed; or
- a decree passed by a foreign court in respect of the Government security claimed, the execution whereof is permissible in accordance with the provisions of Section 44A of the Civil Procedure Code, 1908 (5 of 1908); or
- a deed of partition executed and acted upon in accordance with law, wherein the Government security claimed has been included and given to the share allotted to the claimant.

17. Whether the G S Act provides for nomination facility?

Yes. The G S Act provides for nomination facility for a Government security other than in the form of GPN and bearer bond. The sole holder or all the joint holders of such a Government security may nominate one or more persons, who in the event of death of the sole holder or the death of all the joint holders, would become entitled to the Government security and payment thereon.

18. What happens if one of the joint nominees to a Government security dies?

In such cases where a nomination in respect of a Government security has been made in favour of two or more persons and either or any of the nominees is dead, the surviving nominee or nominees will be entitled to the Government security and payment thereon.

19. Whether a minor can be a nominee?

Yes. A minor can be a nominee. However, the sole holder or all the joint holders of a Government security may appoint another individual, not being a minor, to receive the proceeds of the Government security on behalf of the nominee in the event of the death of the sole holder or all the joint holders during the minority of the nominee.

20. Does conversion, sub-division, renewal or issue of duplicate Government security affect the rights of the nominee(s)?

No. The nominee(s) will continue to have the same rights and will be the nominees in respect of each new security issued in lieu of such Government security.

21. Can a Government securities holder nominate an individual other than blood relation as a nominee?

Yes. A Government securities holder may nominate any one as a nominee provided that the nominee, as an individual or institution, should be eligible to invest in the particular loan as per the specific Government Loan

Notification.

22. Can a Government securities holder choose to nominate and donate the proceeds of investment to institutions, trusts, etc.?

Yes. One can donate the proceeds of his/her investments in Government securities to institution/trust by naming such institution/trust as their nominee subject to the condition that such institution/trust shall be eligible to invest in the particular loan as per the specific Government Loan Notification.

23. Can the payment of a Government security be made to minor or insane person?

No. If a Government security is held on behalf of a minor, the payment for the same may be made to the father or mother of such minor and in case neither parent is alive then the payment is made to a person entitled, as per law, to take care of the property of the minor. However, if a Government security, whose principal value does not exceed Rupees One lakh, belongs to a minor or person who is insane and incapable of managing his affairs, RBI may make a vesting order in terms of Regulation 17 of the GS Regulations in favour of a person to represent the minor or insane person.

24. Whether duplicate Government security can be issued in lieu of a Government security that has been lost, stolen or destroyed, or has been defaced or mutilated?

Yes. A duplicate Government security may be issued if the holding was in the form of SC and GPN. However, no duplicate Government security will be issued for Bearer Bonds/Prize Bonds. Further, no duplicate Government security will be issued in case of matured loans and the redemption proceeds will be paid to the investor after following the procedure for issuing duplicate Government security.

25. What is the procedure to be followed for issue of duplicate Government security?

When a Government security is lost, stolen, destroyed, mutilated or defaced, then the investor(s) may apply to RBI for issue of a duplicate GPN or SC in terms of Regulations 11 and 13, respectively, of GS Regulations.

26. Whether Government securities are eligible for conversion, consolidation, sub-division, renewal?

Yes. Government securities are eligible for conversion from one form of holding to another as well as consolidation, sub-division and renewal as per the terms and conditions prescribed in the G S Regulations.

27. Are Government securities eligible for stripping or reconstitution?

Yes. Government securities, as per eligibility, can be stripped separately for interest and principal and reconstituted as well.

28. What is STRIPS? What is the benefit of stripping Government securities?

STRIPS is the acronym for 'Separate Trading of Registered Interest and Principal of Securities'. These are basically "zero-coupon" securities where the investor receives a payment at maturity only. STRIPS allow investors to hold and trade the individual interest and principal components of eligible Government securities as separate securities of varying tenure. They are popular with investors who want to receive a known payment on a specific future date and want to hold securities of desired maturity.

29. Are there any fees to be paid for conversion, consolidation, sub-division, renewal and issue of duplicate Government securities?

Yes. A fee of Rupees twenty is payable for renewal, conversion or sub-division of Government security and a fee of Rupees One hundred is payable for issue of a duplicate Government security. However, no fee is payable for conversion of GPN into SC and SGL/CSGL or SC into SGL/CSGL, consolidation of Government securities and renewals due to filling up of interest cages at the back of the GPN or filling up of transfer endorsement cages at the back of the SC.

30. Is there any period of limitation of Government's liability in respect of interest due on Government security?

Yes. The liability of the Government in respect of any interest payment due on a Government security shall terminate on the expiry of six years from the date on which the amount due by way of interest became payable, i.e., investors are expected to claim interest on their Government security within six years from the date it becomes payable and Government may refuse to pay such unclaimed interest payment after six years. However, Government may allow a bonafide claim for payment of interest even after the expiry of the limitation period of six years.

31. Is there any provision for tax to be deducted at source for interest paid in respect of Government securities?

As per clause (iv) of Section 193 of the Income Tax Act, 1961, no tax shall be deducted from any interest payable on any security of the Central Government or a State Government effective from June 1, 1997. However, as per Finance Act, 2007 and Government of India Notification No. F.4(10)-W&M/2003 dated May 31, 2007, tax has to be deducted at source on the interest exceeding Rupees ten thousand payable during a financial year on 8% Savings (Taxable) Bonds, 2003 with effect from June 1, 2007.

32. Whether application for grant of information or inspection relating to a Government security is allowed?

Yes. RBI or its agent may permit grant of information or inspection of document relating to Government security on being satisfied that the security in question has stood in the name of the applicant or of a person in whom the applicant has a representative/bonafide interest.

33. Are Government securities eligible for creation of pledge, hypothecation or lien?

Yes. Pledge, hypothecation or lien may be created in respect of Government securities held in the form of SC, BLA, SGL/CSGL and the holder of Government securities in such forms may avail of loan facility by keeping such securities as collateral towards loan, subject to the stipulation mentioned in Question No. 34. However, Government securities issued in the form of GPN and bearer bonds are not eligible for creation of pledge, hypothecation or lien.

34. Is the facility to create pledge, hypothecation or lien against Government securities available across all the loans?

No. The facility to create pledge, hypothecation or lien against Government securities is not available for those loans which, as per the specific Government Loan Notification, are non-transferable or not eligible for collateral to avail of loan facility.

35. Who will create/note pledge in respect of Government securities?

Pledge towards Government securities will be created/noted by RBI or its agent, as the case may be, maintaining the account in respect of such security, i.e., in case of SC, BLA & SGL for which the records and accounts are maintained by RBI, the pledge will be noted in the books of RBI while in case of BLAs issued by Agency Banks or securities held in a CSGL account, the pledge will be noted by the concerned Agency Bank or CSGL Account holder respectively.

36. What is the automatic redemption facility for Government securities?

An investor in Government securities, held in the form of SC, BLA and SGL/CSGL, can avail of the facility of automatic redemption, i.e., the maturity proceeds along with the interest accruing thereon will be credited to the investor's bank account on due date and the investor need not submit physical discharge in respect of such securities provided the investor has furnished his/her bank account details to the RBI or its agent (*A model format is given at the end of these FAQs*). However, in case, the investor does not submit his/her bank details to the RBI or the Agency Bank, he/she would be required to submit physical discharge towards the Government securities to receive the redemption proceeds.

37. Are there any other requirements for availing the facility of automatic redemption?

Yes. In case the maturity proceeds of a Government security exceeds Rupees One lakh, the investor(s) should furnish the PAN details in advance so as to avail the facility of automatic redemption and receive the maturity proceeds along with the accruing interest thereon in his/her account on due date.

38. What are the powers of RBI for carrying out the purposes of the G S Act?

RBI may call for information from any agent or SGL/CSGL account holder and cause an inspection or scrutiny to be made of any agent or SGL/CSGL account holder. Further, RBI may issue directions to the SGL/CSGL account holders, agents and to any other person dealing with the Government securities.

39. What are the penalties for contravention of the G S Act?

If any person, for the purpose of obtaining for himself or any other person any title to a Government security, makes false statement then he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both. Further, RBI may impose on any person who contravenes any provision of the G S Act, or contravenes any regulation, notification or direction issued under the G S Act, or violates the terms and conditions for opening and maintenance of SGL/CSGL account a penalty not exceeding five lakh rupees and where such contravention is a continuing one, further penalty, which may extend to five thousand rupees for every day after first day during which the contravention continues.

FAQs in respect of Relief/Savings Bonds

As mentioned above, Relief/Savings Bonds are Government securities and they are issued in the form of Stock and BLA by RBI and in the form of BLA by the Agency banks. The provisions of the G S Act and the G S Regulations also apply to them. For the convenience of the Relief/Savings Bonds holders, certain specific aspects have been elaborated here.

40. Are nomination facilities available for Relief/Savings Bonds?

Yes. As Relief/Savings Bonds are Government securities, nomination facility is available for these as explained at Question Nos. 17, 18, 19, 20, 21 & 22 above.

41. Is the facility of automatic redemption available to the Relief/Savings Bonds holder?

Yes. The facility of automatic redemption, i.e., the facility to receive maturity proceeds along with interest accruing thereon on due date without the hassle of visiting the RBI/Agency Bank and submitting physical discharge in respect of the maturing Relief/Savings Bonds is available to all the Relief/Savings Bond investors as explained at Question Nos. 36 & 37 above.

42. How the interest is paid in case of Relief/Savings Bonds?

Relief/Savings Bonds provide the investors to opt for cumulative/non-cumulative interest payment. In case of cumulative bonds, the interest is payable along with the principal at the time of redemption. However, in case of non-cumulative bonds, the same is paid at half-yearly intervals. If an investor requires regular income flow then it is suggested that he/she should opt for non-cumulative mode of interest payment. Interest can be paid through interest warrants delivered through registered post or can be credited to the investor's bank account on due date, in case the investor has submitted the bank details as per the ECS Mandate form available in the offices of RBI and the Agency Banks. (*A [model format](#) is given at the end of these FAQs*).

43. Is there any TDS towards interest payment in respect of Relief/Savings Bonds?

As explained at Question No. 31, with effect from June 1, 1997, there is no TDS upon interest payable on Government Security. However, as per Finance Act, 2007 and Government of India Notification No. F.4(10)-W&M/2003 dated May 31, 2007, tax has to be deducted at source on the interest exceeding Rupees ten thousand payable during a financial year on 8% Savings Bonds, 2003 (Taxable) with effect from June 1, 2007. Accordingly, there is no TDS upon interest payment in respect of Relief/Savings Bonds other than 8% Savings Bonds, 2003 (Taxable).

44. Is the facility to create pledge, hypothecation or lien against Relief/Savings Bonds available to the investors for availing loan against the Relief/Savings Bonds as collateral?

Yes. The facility to create pledge, hypothecation or lien against Relief/Savings Bonds is available as in case of other Government securities as explained at Question Nos. 33 & 34. The Government of India has amended the notifications relating to 7% Savings Bonds, 2002, 6.5% Savings Bonds, 2003 (Non-Taxable) and 8% Savings Bonds (Taxable) 2003 schemes allowing for pledge or hypothecation or lien of these bonds as collateral for obtaining loans from the scheduled banks with effect from August 19, 2008. However, such collateral facility is available only for the loans to be availed by the holders of the bonds and **not** in respect of the loans availed by third parties.

45. What is the procedure/documentation for recognition of title to Relief/Savings Bonds of deceased sole holder or joint holders?

The title to Relief/Savings Bonds of a deceased sole holder or joint holder may be recognised as per the simplified procedure explained at Question No. 16.

46. Whether Relief/Savings Bonds can be transferred?

Yes. Relief/Savings Bonds, like other Government securities, can be transferred by execution of transfer forms as explained at Question No. 14. However, the specific Government loan notifications issued for the 7% Savings Bonds, 2002, 6.5% Savings Bonds, 2003 (Non taxable) and 8% Savings Bonds, 2003 (Taxable) have prescribed the specific conditions subject to which such transfers may take place. While all the three Savings Bonds are transferable to the nominee in case of death of the holder, the 7% Savings Bonds, 2002 and 6.5% Savings Bonds, 2003 (Non taxable) are also transferable by way of gift to a "relative" as defined in section 6 of the Indian Companies Act, 1956. Section 6 of the Indian Companies Act, 1956 defines "relative" as under:

A person shall be deemed to be a relative of another if and only if,

- a) they are members of a Hindu undivided family; or
- b) they are husband and wife; or
- c) the one is related to the other in the manner indicated in Schedule 1A of the Indian Companies Act, 1956.

Apart from the above, the three Savings Bonds shall also be transferable in favour of the pledgee/creditor, if the pledgee/creditor invokes the pledge, hypothecation or lien as per Regulation 21 (3) of the G S Regulations.

47. Whether an investor is entitled for any compensation for the late receipt/ delayed credit of interest warrants/maturity value of investments, etc.?

The bank shall compensate the investors for the above mentioned financial loss at a fixed rate of 8% per annum (with effect from April 10, 2012).

Electronic Clearing Service (Credit Clearing) Mandate Form

(Investor (s)'s option to receive redemption proceeds and interest payments through Credit Clearing Mechanism)

- 1. Investor(s) Name and Address :
- 2. a. Member ID No./BLA No. :
b. PAN/GIR No.* :
c. Telephone No./Mobile No./E-mail ID :
- 3. Particulars of Bank account
 - a. Name of the Bank :
 - b. Name of the branch :
 - 1. Address :
 - 2. Telephone No. :
 - c. 9-Digit MICR code number of the bank: and branch appearing on the MICR cheque issued by the bank
 - d. Type of the account (Savings, Current or Cash Credit) with codes -: 10/11/13
 - e. Ledger and Ledger folio number :
 - f. Account number (as appearing on the: cheque book)

(In lieu of the bank certificate to be obtained as under, please attach a blank cancelled cheque or photocopy of a cheque or front page of your savings bank passbook issued by your bank for verification of the above particulars)

4. Date of effect :

I/We hereby declare that the particulars given above are correct and complete. If the transaction is delayed or not effected at all for reasons of incomplete or incorrect information, I/We would not hold the user institution responsible. I/We have read the option invitation letter and agree to discharge the responsibility expected of us as a participant under the scheme.

Date:

(.....)
Signature(s) of the Investor(s)

(In case of joint holdings, all the investors, whose signatures are registered with PDOs, should sign here)

Certified that the particulars furnished above are correct as per our records.

Bank's Stamp:

Date:

(.....)
Signature of the authorised official of the Bank

* Compulsory for investors due to receive maturity proceeds exceeding Rs. One lakh

These FAQs are issued by the Reserve Bank of India for information and general guidance purposes only. The Bank will not be held responsible for actions taken and/or decisions made on the basis of the same. For clarifications or interpretations, if any, investors are requested to be guided by the relevant circulars and notifications issued from time to time by the Bank and the Government as well as the relevant provisions of the Government Securities Act, 2006 and the Government Securities Regulations, 2007.

Non-competitive Bidding Facility
for Dated Government Securities

To enable medium and small investors to participate in the auction process without taking the price risk in auctions, the Reserve Bank of India has introduced a facility of non-competitive bidding in dated government securities auctions for select set of investors. Non-competitive bidding means that a person would be able to participate in the auctions of dated government securities without having to quote the yield or price in the bid. Thus, he will not have to worry about whether his bid will be on or off-the-mark; as long as he bids in accordance with the scheme, he will be allotted securities fully or partially.

1. Who can participate in the Scheme?

Participation in the Scheme of non-competitive bidding is open to any person including firms, companies, corporate bodies, institutions, provident funds, trusts and any other entity as prescribed by RBI. As the focus is on the small investors lacking market expertise, the Scheme will be open to those who **do not** have current account (CA) or Subsidiary General Ledger (SGL) account with the Reserve Bank of India. As an exception, Regional Rural Banks (RRBs) and Urban Cooperative Banks (UCBs) can also apply under this Scheme in view of their statutory obligations.

2. What are the advantages of the non-competitive bidding facility?

- 1. The non competitive bidding facility will encourage wider participation and retail holding of government securities.
- 2. It will enable individuals, firms and other mid segment investors who do not have the expertise to participate in the auctions.
- 3. Such investors will have a fair chance of assured allotments at the rate which emerges in the auction.

3. Will non-competitive bidding be allowed in all dated securities auctions?

Generally, it is available in all auctions of dated securities. The availability of non-competitive bidding facility in an auction will be announced along with the respective press release and the information is made available on Reserve Bank's website.

4. Is the Scheme available for auctions of Treasury Bills?

This Scheme is not applicable to auctions of Treasury Bills. However, even in the case of Treasury bills, a different type of non-competitive bidding is permitted, only for State Governments, eligible provident funds, select foreign central banks and the custodian of Enemy Property.

5. Is the Scheme available in the auctions of State Government Securities?

Yes, this scheme is available in the auctions of State Government Securities with effect from August 25, 2009. In the case of State Government securities, maintaining a gilt account is not compulsory for participation of non-competitive bidding

6. What would be the amount offered for non-competitive bidding?

In the specified auctions of Government of India dated securities, non-competitive bids up to 5 per cent of the notified amount will be allowed within the notified amount. That is, if the notified amount is Rs.1,000 crore, the amount reserved for non-competitive bidders would be Rs.50 crore and the remaining Rs.950 crore will be put up for competitive auctions in case of Central Government Securities. In case of specified auctions of State Government Securities, non-competitive bids up to 10 per cent of the notified amount will be allowed within the notified amount. That is, if the notified amount is Rs.1,000 crore, the amount reserved for non-competitive bidders would be Rs.100 crore and the remaining Rs.900 crore will be put up for competitive auctions

7. How can the eligible investors participate in the auctions?

Eligible investors cannot participate directly. They have to necessarily come through a bank or Primary Dealer (PD) for auction. Each bank or PD will, on the basis of firm orders, submit a single bid for the aggregate amount of non-competitive bids on the day of the auction. The bank or PD will furnish details of individual customers, viz., name, amount, etc. along with the application.

8. What is the minimum/ maximum bidding amount?

The minimum amount for bidding will be Rs.10,000 (face value) and in multiples in Rs.10,000. The maximum amount for a single non-competitive bid should not exceed Rs.2,00,00,000 (face value) in the auctions of GOI dated securities and not more than 1% of the notified amount in the auctions of State Government securities.

9. How many bids can an investor make under this scheme?

An investor can make only a single bid through a bank or PD under this scheme in each specified auction. The bank or PD through whom the investor bids will obtain and keep on record an undertaking to the effect that the investor is not making a bid through any other bank or PD.

10. Is there an application form?

Yes. This is available on the RBI website. The bank/PD through whom the application is made will assist the investor to obtain the form.

11. At what rate will the non-competitive bidders get the allotment?

The allotment to the non-competitive segment will be at the weighted average rate of all allotments to competitive bidders.

12. How will the RBI allot the bids to non-competitive bidder?

The RBI will allot the bids under the non-competitive segment to the bank or PD which, in turn, will allocate to the bidders.

13. If non-competitive bidding amount is more than the amount reserved, how will the RBI allot the non-competitive bids?

In case the aggregate amount bid is more than the reserved amount through non-competitive bidding, allotment would be made on a pro rata basis.

Example:

Suppose, the amount reserved for allotment in non competitive basis is 10 crore. The total amount of bids for Non competitive segment is 12 crore. The partial allotment percentage is $=10/12=83.33\%$. That is, each bank or PD who has submitted non-competitive bids received from eligible investors will get 83.33% of the total amount submitted by him. It may be noted that the actual allotment may vary slightly at times from the partial allotment ratio due to rounding off with a view to ensuring that the allotted amounts are in multiples of 10,000/-.

14. And if the amount bid through non-competitive bidding is less than the reserved amount?

In case the aggregate amount bid is less than the reserved amount all the applicants will be allotted in full and the shortfall amount will be added to the amount available for competitive auction.

15. How will the bank or PD make partial allotment?

It will be responsibility of the bank or PD to appropriately allocate securities to their clients in a transparent manner.

16. How much does the investor pay for taking possession of the security?

The investor pays the weighted average price of all accepted competitive bids. In case of a yield based auction, the weighted average yield in the auction will be used to arrive at the allotment price for non-competitive bids.

17. What if the payment for the securities is made to the bank/PD after the date of issue of the security ?

Since the bank/PD has to make payment on the date of issue itself, in case payment is made by the client after date of issue of the security, the consideration amount payable by the client to the bank or the PD would include accrued interest. For example, if for security 7.59% GOI 2016, the payment is made three days after the date of issue, the accrued interest component will amount to $(7.59/100) \times (3/360) = \text{Rs.}0.0632$ per Rs.100 face value.

For example, if the weighted average price is Rs.100.21, the total amount payable by the investor for acquiring securities worth Rs.10,000 after three days will be $\text{Rs. } 10,021 + \text{Rs. } 6.32 = \text{Rs.}10,027.32$ (if not rounded off) .

18. What will be position in respect of price based auctions?

The non competitive bidders will pay the weighted average price which will emerge in the auction. In addition, they have to pay interest accrued from the last coupon payment date to the date of issue of the security.

19. In how many days will the investor receive the security?

The transfer of securities to the clients should be completed within five working days from the date of the auction. This is the responsibility of the bank/PD.

20. How will the securities be issued?

RBI will issue securities only in demat (SGL) form. It will credit the securities to the CSGl account of the bank/PD. The bank/PD will in turn credit the securities to the dematerialised securities account of the investor.

21. How will the investor make payment for the security?

The non-competitive bidder will make payment to the bank or the PD through which he has put the bid and receive his securities from them.

22. Will the bank or the PD charge for this service?

The bank or the PD can recover upto six paise per Rs.100 as commission for rendering this service to their clients. The bank or the PD can build this cost into the sale price or it can recover separately from the clients. In case of State Government securities, such costs may be recovered and accounted for separately from the clients and should not be built into the price. The bank or the PD is not permitted to build any other cost, such as funding cost, into the price.

23. How will the non-competitive bidder know the modalities of payment?

Modalities for obtaining payment from clients towards the cost of securities, accrued interest, wherever applicable and commission will have to be worked out by the bank or the PD and clearly stated in the contract made for the purpose with the client.

Government Securities - Investment Opportunities for Provident Funds

FAQs: Investment Opportunities for Provident Funds

Why G-secs?

Provident funds, by their very nature, need to invest in risk free securities that also provide them a reasonable return. Government securities, also called the gilt edged securities or G-secs, are not only free from default risk but also provide reasonable returns and, therefore, offer the most suitable investment opportunity to provident funds.

What are G-secs?

The Government securities comprise dated securities issued by the Government of India and state governments as also, treasury bills issued by the Government of India. Reserve Bank of India manages and services these securities through its public debt offices located in various places as an agent of the Government.

Treasury Bills

Types

Treasury bills (T-bills) offer short-term investment opportunities, generally up to one year. They are thus useful in managing short-term liquidity. At present, the Government of India issues three types of treasury bills through auctions, namely, 91-day, 182-day and 364-day. There are no treasury bills issued by State Governments.

Amount

Treasury bills are available for a minimum amount of Rs.25,000 and in multiples of Rs. 25,000. Treasury bills are

issued at a discount and are redeemed at par. Treasury bills are also issued under the Market Stabilization Scheme (MSS).

Auctions

While 91-day T-bills are auctioned every week on Wednesdays, 182-day and 364-day T-bills are auctioned every alternate week on Wednesdays. The Reserve Bank of India issues a quarterly calendar of T-bill auctions which is available at the Banks' website. ([URL:http://www.rbi.org.in](http://www.rbi.org.in)). It also announces the exact dates of auction, the amount to be auctioned and payment dates by issuing press releases prior to every auction.

Type of	Day of	Day of
T-bills	Auction	Payment*
91-day	Wednesday	Following Friday
182-day	Wednesday of non-reporting week	Following Friday
364-day	Wednesday of reporting week	Following Friday

* If the day of payment falls on a holiday, the payment is made on the day after the holiday.

Payment

Payment by allottees at the auction is required to be made by debit to their/ custodian's current account.

Participation

Provident funds can participate in all T-bill auctions either as competitive bidders or as non-competitive bidders. Participation as non-competitive bidders would mean that provident funds need not quote the price at which they desire to buy these bills. The Reserve Bank allots bids to the non-competitive bidders at the weighted average price of the competitive bids accepted in the auction. Allocations to non-competitive bidders are in addition to the amount notified for sale. In other words, provident funds do not face any uncertainty in purchasing the desired amount of T-bills from the auctions.

Where to purchase from?

T-bills auctions are held on *the Negotiated Dealing System (NDS)* and the members electronically submit their bids on the system. Non-competitive bids are routed through the respective custodians or any bank or PD which is an NDS member.

Dated Securities

Government paper with tenor beyond one year is known as dated security. At present, there are Central Government dated securities with a tenor up to 30 years in the market.

Auction/Sale

Dated securities are sold through auctions. Fixed coupon securities are sometimes also sold on tap that is kept open for a few days. Of late, the issuance of Central/state Government dated securities are being done through auctions.

Announcement

A half yearly calendar is issued in case of Central Government dated securities, indicating the amounts, the period within which the auction will be held and the tenor of the security, which is made available on Reserve Bank's

website. The Government of India and the Reserve Bank also issue a press release to announce the sale, a few days (normally a week) before the auction. The press release is widely reported in the print media and wire agencies. The government of India also issues an advertisement in the leading financial newspapers. The announcement of auctions/sales and their results are published on the Reserve Bank website ([URL:http://www.rbi.org.in](http://www.rbi.org.in))

Amount

Subscriptions can be for a minimum amount of Rs.10,000 and in multiples of Rs.10,000.

Where are the sales held?

Auctions are conducted electronically on PDO-NDS system. The bids are submitted by the members on PDO-NDS system both on their own behalf as well as on behalf of their clients. Provident funds can submit their bids competitive/non-competitive to their respective custodian or to any bank/PD who is an NDS member.

Payment

The payment by successful bidders is made on the issue date, as specified in the auction notification, usually the working day following the auction day.

State Government Securities

These are securities issued by the state governments and are also known as State Development Loans (SDLs). The issues are also managed and serviced by the Reserve Bank of India.

The tenor of state government securities is normally ten years. State government securities are available for a minimum amount of Rs.10,000 and in multiples of Rs.10,000. These are available at a fixed coupon rate. The auctions for State Government securities are held electronically on PDO-NDS module.

Availability of G-secs

Apart from purchasing government securities in the primary issuance, i.e. through auctions/sales, all types of government paper can also be purchased from the secondary market. [Primary Dealers](#) also purchase and sell securities. Provident Funds can bid under Non-competitive bidding facility in primary auction of G-Secs under which they can place a single bid of up to Rs. two crore (face value) (minimum Rs. 10,000/-) through their custodian (bank/PD). The allotment is made at the weighted average cut-off yield/price of the competitive bids accepted in the auction.

Government Securities - Gilt Funds

Gilt Funds

Gilt funds, as they are conveniently called, are mutual fund schemes floated by asset management companies with exclusive investments in government securities. The schemes are also referred to as mutual funds dedicated exclusively to investments in government securities. Government securities mean and include central government dated securities, state government securities and treasury bills. The gilt funds provide to the investors the safety of investments made in government

securities and better returns than direct investments in these securities through investing in a variety of government securities yielding varying rate of returns gilt funds, however, do run the risk.. The first gilt fund in India was set up in December 1998.

Facilities from Reserve Bank of India

The Reserve Bank provides liquidity support and other facilities, such as, SGL and current accounts, transfer of funds through the Reserve Bank's Remittance Facility Scheme and access to call money market to dedicated gilt funds. These facilities are provided to encourage gilt funds to create a wider investor base for government securities market. The facilities provided to gilt funds include:

- i. *Liquidity support:* The objective of extending liquidity support to dedicated gilt funds is to support short-term liquidity requirements of such mutual funds. The Reserve Bank of India provides liquidity support to gilt funds by way of reverse repurchase agreements (reverse repos). Reverse repos are done in government of India dated securities eligible for repo transactions and treasury bills of all maturities. The quantum of liquidity support on any day is up to 20 per cent of the outstanding stock of government securities, including treasury bills, held by the gilt funds as at the end of the previous working day.
- ii. *SGL and current accounts:* The Reserve Bank opens one subsidiary general ledger (SGL) account and one current account for gilt funds' own transactions at all centers of the Reserve Bank wherever desired by the gilt funds.
- iii. *Funds transfer facility:* The gilt funds are given the facility of transfer of funds from one center to another under the Remittance Facility Scheme of the Reserve Bank. The gilt funds are also given the facility of clearing of cheques arising out of government securities transactions, tendered at the Reserve Bank counters.
- iv. *Access to call market:* Gilt funds can access the call money market as lenders.
- v. *Ready forwards:* The Reserve Bank of India will also recommend to the Government of India to permit the gilt funds to undertake ready forward transactions in Government securities market.

Liquidity Support

Eligibility

All gilt funds - public and private sector, open-ended or close-ended - are eligible to avail liquidity support and other facilities from the Reserve Bank of India. The gilt funds schemes should, however, have the approval of the Securities and Exchange Board of India. It would be prudent for the gilt funds to submit an advance copy of the draft offer document to the Reserve Bank of India for preliminary scrutiny at the time of submitting the draft offer document to the Securities and Exchange Board of India. This is to enable the Reserve Bank to satisfy itself that the scheme proposed to be floated by the gilt funds is in conformity with the Reserve Bank's guidelines for availing liquidity support from the Reserve Bank of India.

Conditions

The Reserve Bank of India provides liquidity support by way of reverse repos subject to the following terms and conditions:

- i. Re-purchase agreements (reverse repos) with the Reserve Bank are in eligible central government dated securities and treasury bills of all maturities.
- ii. The prices of the securities for reverse repo transactions are determined by the Reserve Bank of India, at its discretion.
- iii. The securities tendered by the gilt funds for reverse repos by the Reserve Bank are in multiples of Rs. 10 lakh (face value).
- iv. Gilt funds can avail the reverse repo facility for a maximum period of 14 days at a time.
- v. The repo rate is the Bank Rate.

- vi. Liquidity support is made available at Mumbai only. The gilt funds, however, are free to transmit the funds to other centers of the Reserve Bank under its Remittance Facility Scheme.
- vii. The gilt funds cannot use the funds raised through the reverse repos facility for on-lending in the call/notice money market.
- viii. The Reserve Bank reserves the right to partially accept or reject any application for liquidity support without assigning any reason.
- ix. The Reserve Bank can call for all relevant information from gilt funds in regard to their operations and the gilt funds are required to provide it.

Drawal

For drawing the liquidity support from the Reserve Bank, gilt funds are required to:

- i. make an application to the Chief General Manager, Internal Debt Management Cell, Reserve Bank of India, Central Office, Mumbai.
- ii. submit the filled up form to the Internal Debt Management Cell before noon on the day the liquidity support is desired to be availed.
- iii. return the duplicate copy of the acceptance-cum-deal confirmation advice issued by the Reserve Bank duly signed in token of having accepted the deal and also arrange to lodge the SGL transfer form with the Securities Department of the Reserve Bank, Mumbai Office.
- iv. authorise the Reserve Bank of India to debit its current account on the expiry of the repo period, by the amount indicated in the acceptance-cum-deal confirmation advice; and
- v. arrange to lodge SGL transfer form for repurchase of securities.
- vi. receive, the amount of liquidity support as direct credit to its current account maintained at the Reserve Bank, Mumbai, on the day of the drawal.

NON-BANKING FINANCIAL COMPNIES

Core Investment Companies

FOREWORD

The Reserve Bank of India is entrusted with the responsibility of regulating and supervising the Non-Banking Financial Companies by virtue of powers vested in Chapter III B of the Reserve Bank of India Act, 1934. The regulatory and supervisory objective, is to:

- a) ensure healthy growth of the financial companies;
- b) ensure that these companies function as a part of the financial system within the policy framework, in such a manner that their existence and functioning do not lead to systemic aberrations; and that
- c) the quality of surveillance and supervision exercised by the Bank over the NBFCs is sustained by keeping pace with the developments that take place in this sector of the financial system.

Over last some years, RBI has carved out some specialized NBFCs like Core Investment Companies (CICs), NBFC- Infrastructure Finance Companies (IFCs), Infrastructure Debt Fund- NBFCs, NBFC-MFIs and NBFC-Factors being the most recent one.

It has been felt necessary to explain the rationale underlying the regulatory changes and provide clarification on certain operational matters for the benefit of the NBFCs, members of public, rating agencies, Chartered Accountants etc. To meet this need, the clarifications in the form of questions and answers, is being brought out by the Reserve Bank of India (Department of Non-Banking Supervision) on Specialized NBFCs with the hope that it will provide better understanding of the regulatory framework.

The information given in the FAQ on Systemically Important Core Investment Companies (CICs-ND-SI) is of general nature for the benefit of the public and the clarifications given do not substitute the extant regulatory directions/instructions issued by the Bank to the specialized NBFCs.

Core Investment Companies (CICs)

1. What is a Systemically Important Core Investment Company (CIC-ND-SI)?

Ans. A CIC-ND-SI is a Non-Banking Financial Company

(i) with asset size of Rs 100 crore and above

(ii) carrying on the business of acquisition of shares and securities and which satisfies the following conditions as on the date of the last audited balance sheet :-

(iii) it holds not less than 90% of its net assets in the form of investment in equity shares, preference shares, bonds, debentures, debt or loans in group companies;

(iv) its investments in the equity shares (including instruments compulsorily convertible into equity shares within a period not exceeding 10 years from the date of issue) in group companies constitutes not less than 60% of its net assets as mentioned in clause (iii) above;

(v) it does not trade in its investments in shares, bonds, debentures, debt or loans in group companies except through block sale for the purpose of dilution or disinvestment;

(vi) it does not carry on any other financial activity referred to in Section 45I(c) and 45I(f) of the RBI act, 1934 except investment in bank deposits, money market instruments, government securities, loans to and investments in debt issuances of group companies or guarantees issued on behalf of group companies.

(vii) it accepts public funds

2. Will existing Core Investment Companies (CICs) which had previously been exempted from registration and whose asset size is less than Rs. 100 crore again be required to submit application for exemption?

Ans: Existing CICs which were exempted from registration in the past and have an asset size of less than Rs 100 crore are exempted from registration in terms of section 45NC of the RBI Act 1934, as stated in [Notification No. DNBS.\(PD\) 220/CGM\(US\)-2011 dated January 5, 2011](#), and as such are not required to submit any application for exemption.

3. Would existing CICs which had previously been exempted from registration and whose asset size is less than Rs. 100 crore be required to submit Statutory Auditor's Certificate with reference to position as on March 31 of each year to the effect that the company continues to comply with the earlier norms based on which it was

treated as a 'Core Investment Company'.

Ans: No, Existing CICs which have been exempted from registration in the past and have an asset size of less than Rs 100 crore are exempted from registration as stated in Notification No. DNBS.(PD) 220/CGM(US)-2011 dated January 5, 2011. As such they are not required to submit any auditor's certificate that they comply with the requirements of the Notification.

4. A single group is having under its fold four to five prospective Core Investment Companies with an aggregate asset size of more than Rs. 100 crore. In such a situation, which company among the group companies is required to seek registration as CIC with the Bank.

Ans: All companies in the group that are CICs would be regarded as CICs-ND-SI (provided they have accessed public fund) and would be required to obtain a Certificate of Registration from the Bank.

5. A single group is having under its fold various prospective Core Investment Companies with an aggregate asset size of more than Rs. 100 crore. One of the entities has raised / holds public funds (one of the pre requisites for qualifying as a CIC-ND-SI). In such a situation, whether every CIC within the group or only the parent CIC or the specific entity that has raised/ holds public funds would be regarded as CIC-ND-SI, and thus would be required to seek registration as CIC-ND-SI with the Bank.

For Example: HCo is the parent group CIC holding 100 per cent equity capital of A, B and C, all of which are also CICs. In case C has accessed public funds, whether HCo as well as A, B and C must seek registration as CIC-ND-SI or will just C need registration?

Ans: In such a case only C will be registered, provided C is not funding any of the other CICs either directly or indirectly.

6. Whether the investment of a company in its subsidiary's subsidiary (step down subsidiary) will be taken into account for determining not less than ninety percent of its net assets.

Ans: All direct investments in group companies, as appearing in the CICs balance sheet will be taken into account for this purpose. Investments made by subsidiaries in step down subsidiaries or other entities will not be taken into account for computing 90 percent of net assets.

7. Would Current Liabilities also form part of Outside Liabilities? What will be the treatment of DTL, Advance Tax Due and Provision for Income Tax? Will they be Outside Liabilities?

Ans: Anything that has to be repaid will be an outside liability.

8. In case an existing NBFC-ND-SI is converted into a CIC-ND-SI after fulfilling the stipulated criteria, will the existing CoR continue or will a fresh application need to be made?

Ans: As there would be a separate application form for CICs-ND-SI, they would have to apply afresh.

9. What items are included in the 10% of Net assets which CIC's/CIC's-ND-SI can hold outside the group?

Ans: These would include real estate or other fixed assets which are required for effective functioning of a company, but should not include other financial investments/loans in non group companies.

10. Is there an enabling provision for use of statutory accounts based on some date other than 31st March, such as December 31st?

Ans: While such accounts could be taken into account in view of the fact that developments after balance sheet

date are also taken into account, all NBFCs including CICs-ND-SI would mandatorily have to finalise their accounts as on March 31 of the year, and submit annual auditors certificate based on this figure.

11. Whether investments in a group entity other than a Company, say partnership firms, LLPs, Trusts, Association of Persons, etc by CICs-ND-SI could be regarded as investments in Group Companies for the purpose of calculating 90% investment in Group Companies.

Ans: No, only investments in companies registered under Section 3 of the Companies Act 1956 would be regarded as investments in Group companies for the purpose of calculating 90% investment in Group companies. Moreover, CICs are prohibited from contributing capital to any partnership firm or to be partners in partnership firms including Limited Liability Partnerships (LLPs) or any association of person similar in nature to partnership firms.

12. Are CICs-ND-SI exempt from the Systemically Important Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015?

Ans: No, they are only exempt from norms regarding submission of Statutory Auditor Certificate regarding continuance of business as NBFC, capital adequacy and concentration of credit / investments norms.

13. Would CICs-ND-SI require NOC in terms of Regulation 7 of FEMA (Transfer or Issue of Any Foreign Security) Amendment Regulations Act 2004 in case they want to invest abroad?

Ans: Yes, as they are regulated by RBI, they would require NOC from Department of Non-Banking Supervision (DNBS) for making investments in the financial sector. However, a registered CIC making investments in the non-financial sector need not obtain prior approval from the Department of Non-Banking Supervision (DNBS), RBI. It will only need to report such investments to the Department within 30 days of such investment.

14. Do CICs which are exempt from registration, and investing overseas need NOC from DNBS?

Ans: Exempted CICs desirous of making overseas investment in financial sector shall first need to hold a Certificate of Registration (CoR) from Reserve Bank of India (the Bank) and will have to comply with all the regulations applicable to registered CIC-ND-SI. However, they need not obtain NOC from the Bank if their investments overseas are in the non-financial sector.

15. Whether NBFCs already registered with the Bank as category "B" company whose asset size is below Rs. 100 crore, but fulfilling the CIC criteria, can seek voluntary deregistration (as such companies are not otherwise required to get registered with the Bank under the new norms)? If so, which source should be relied upon viz certificate from Statutory auditor or audited balance sheet for one year or more?

Ans: Yes, CICs presently registered with the Bank but fulfilling the criteria for exemption under Notification No 220 dated January 05, 2010 can seek voluntary deregistration. Both audited balance sheet and auditors certificate are required to be submitted for the purpose.

16. Whether CICs having asset size below Rs. 100 crore are regulated by the Reserve Bank?

Ans: CICs having asset size of below Rs 100 crore are exempted from registration and regulation from the Reserve Bank, except if they wish to make overseas investments in the financial sector.

17. As per the definition of CIC, only investment/loans/debt in group companies is eligible for computing 90% exposure? What treatment is to be given to company's investment in group's partnership concerns?

Ans: CICs are prohibited from contributing capital to any partnership firm or to be partners in partnership firms including Limited Liability Partnerships (LLPs) or any association of person similar in nature to partnership

firms.

18. If a company is unlisted, would the terms of block deals apply? What is the minimum number/value of shares transferred for it to be defined as a block deal/block sale?

Ans: The term used in the CIC circulars is block sale and not block deal which has been defined by SEBI. In the context of the circular, a block sale would be a long term or strategic sale made for purposes of disinvestment or investment and not for short term trading. Unlike a block deal, there is no minimum number/value defined for the purpose.

19. Can CICs/CICs-ND-SI accept deposits?

Ans: No, CICs/ CICs-ND-SI cannot accept deposits. That is one of the eligibility criteria.

20. What does the term public funds include? Is it the same as public deposits?

Ans: Public funds are not the same as public deposits. Public funds include public deposits, inter-corporate deposits, bank finance and all funds received whether directly or indirectly from outside sources such as funds raised by issue of Commercial Papers, debentures etc. However, even though public funds include public deposits in the general course, it may be noted that CICs/CICs-ND-SI cannot accept public deposits.

21. In the definition of public funds, what do the term “indirect receipt of public funds” mean?

Ans: Indirect receipt of public funds means funds received not directly but through associates and group entities which have access to public funds.

22. Can CICs issue guarantees and will this be considered part of definition of public funds?

Ans: Yes, CICs may be required to issue guarantees or take on other contingent liabilities on behalf of their group entities. Guarantees per se do not fall under the definition of public funds. However, it is possible that CICs which do not accept public funds take recourse to public funds if and when the guarantee devolves. Hence, before doing so, CICs must ensure that they can meet the obligation there under, as and when they arise. In particular, CICs which are exempt from registration requirement must be in a position to do so without recourse to public funds in the event the liability devolves. If unregistered CICs with asset size above Rs. 100 crore access public funds without obtaining a Certificate of Registration (CoR) from RBI, they will be seen as violating Core Investment Companies (Reserve Bank) Directions, 2011 dated January 05, 2011.

23. What is a Group company?

Ans: For the purposes of determining whether a company is a CIC/CIC-ND-SI, ‘companies in the group’ have been exhaustively defined in para 3(1) b of [Notification No. DNBS. \(PD\) 219/CGM\(US\)-2011 dated January 5, 2011](#) as “an arrangement involving two or more entities related to each other through any of the following relationships, viz., Subsidiary – parent (defined in terms of AS 21), Joint venture (defined in terms of AS 27), Associate (defined in terms of AS 23), Promoter-promotee [as provided in the SEBI (Acquisition of Shares and Takeover) Regulations, 1997] for listed companies, a related party (defined in terms of AS 18) Common brand name, and investment in equity shares of 20% and above).”

24. How can a company register as a CIC-ND-SI?

Ans: The application form for CICs-ND-SI available on the Bank’s website can be downloaded and filled in and submitted to the Regional Office of the DNBS in whose jurisdiction the Company is registered along with necessary supporting documents mentioned in the application form.

25. A CIC-ND-SI should have 90% investment within the group, and in terms of current exposure norms, NBFCs-ND-SI are permitted only 40% of both lending and investment within any group. Therefore, no NBFC as it stands, would be able to become a CIC without breaching the NOF, CRAR or Concentration Norms, since its entire business is in a subsidiary. However, an NBFC may voluntarily seek to become a CIC-ND-SI since it brings clarity to the holding structure in their organization. How would this issue be resolved? Could NBFCs-ND-SI be provided exemption from Capital adequacy/exposure norms during the transition period, just as unregistered CICs-ND-SI are given 6 months time.

Ans: The NBFC would have to apply to RBI with full details of the plan and exemptions could be considered on a selective basis on the merits of the case.

26. A company has investments in Group companies but does not meet the criteria of principal business as defined in terms of asset-income criteria to be as an NBFC. Can the company still be registered as a CIC or does it need to first register as an NBFC?

Ans: CICs need not meet the principal business criteria for NBFCs.

27. If a company is a CIC but does not exactly meet the criteria specified, does the company need to register as an NBFC?

Ans: A holding company not meeting the criteria for a CIC laid down in para 2 of Notification No DNBS. (PD) 219/CGM(US)-2011 dated January 5, 2011 would require to register as an NBFC. However, if such company wishes to register as CIC-ND-SI/ be exempted as CIC, it would have to apply to RBI with an action plan achievable within the specific period to reorganize its business as CIC. If it is not able to do so, it would need to comply with NBFC requirements and prudential norms.

28. Whether a Holding Company which is not able to comply with the CIC criteria (all four conditions), would still need to comply with NBFC requirements and prudential norms even in the event that it is not satisfying the asset-income criteria. (For example: the holding company owns 60 per cent equity in another group company and is not meeting other three conditions Therefore, it does not qualify as a CIC. Further, the income from financial assets is also less than 50 per cent of total income. Whether such a company would require compliance with NBFC norms).

Ans: No, since the Company is not fulfilling the Principal Business Criteria (asset-income pattern) of an NBFC i.e. more than 50 % of its total assets should be financial assets and the income derived from these assets should be more than 50% of the gross income, it is not required to register as an NBFC under Section 45 IA of the RBI Act, 1934. However it should register itself as an NBFC as soon as it fulfills the criteria of an NBFC and comply with the NBFC norms.

29. A group would like to set up a CIC-ND-SI in the group to rationalize the set up. However, no company can commence the business of NBFI without COR from RBI. Therefore the proposed company would have to apply for COR before transferring shares from different companies to the CIC-ND-SI. But at that time the company would not be eligible in terms of the requirements, as it would not have 90% of net assets as investment in group companies. What should the company do?

Ans: The company would have to apply for COR to RBI, giving a business plan within a prescribed time period of one year in which it would achieve CIC-ND-SI status. In case the company is unable to do so, the exemptions would not apply and the company would have to comply with NBFC capital adequacy and exposure norms.

30. Whether CICs that are exempt from registration either because they have an asset size of less than Rs 100 crore or are not accessing public funds are required to register as NBFCs?

Ans: CICs that (a) have an asset size of less than Rs.100 crore irrespective of whether they are accessing public

funds or not and (b) have an asset size of Rs. 100 crore and above and are not accessing public funds have been exempt from registration with the Bank under Section 45IA of the RBI Act, 1934 in terms of [notification No. DNBS.PD.221/CGM\(US\) 2011 dated January 5, 2011](#). Thus, they are not required to register with the Bank at all. As this is an exemption given under Section 45NC of the RBI Act, 1934, they are not required to approach the Bank at all.

31. Would a similar benefit apply to NBFCs i.e. would NBFCs with an asset size of less than Rs 100 crore and not accessing public funds be exempted from registration with the Bank?

Ans: No, this exemption is specifically given to CICs only. NBFCs other than CICs are not covered by this or any other aspect of the CIC Directions and would have to register with the Bank and comply with all applicable Directions of the Bank as issued from time to time.

32. Should Net assets include operating assets?

Ans: Net assets have been defined in Notification No. DNBS.(PD) 219/CGM(US)-2011 dated January 05, 2011 (para3(1)e) specifically for the purpose of defining a CIC. As such they will only include the items specifically mentioned therein, irrespective of whether any of these qualify as operating assets or not.

33. Definition of Group Companies should include LLPs and Partnerships in the Group?

Ans: Neither LLPs nor Partnerships are companies and hence have been deliberately excluded from the definition of Group Company. Further, in view of the loose structure and regulatory framework for these entities, it is felt that they should not be included in the definition.

34. While instruments that are compulsorily convertible into equity shares within a period not exceeding 10 years from the date of issue are excluded from Outside Liabilities, in terms of the Companies Act such instruments are excluded from the definition of 'public deposit' if they are convertible with a period of 20 years?

Ans: The period of 10 years was specified as a prudential measure not necessarily in alignment with a provision of the Companies Act. Moreover, the issue here is not public deposits but Outside Liabilities.

35. Unlike other NBFCs, CICs ND-SI can no longer make overseas investment or raise ECB under automatic route or obtain bank finance for acquisition of shares?

Ans: The Directions on CIC-ND-SIs have not restricted them from making overseas investment or raising ECBs on the lines of other NBFCs. Regarding the issue of bank finance, currently bank finance is not allowed for investments in equity which is however only 60% of net assets of a CIC. (and would therefore be a lesser percentage of total assets). CICs-ND-SI may have access to bank finance to the extent it is not used for investment in shares.

36. If one of the small CICs in a group does not access public funds why should it register based on the condition of aggregate asset size?

Ans: As already clarified in the FAQs, a CIC that does not access public funds is exempt from registration irrespective of having other CICs in the Group that access public funds. Illustratively, if A is a CIC and B and C are also CICs and Group Companies of A provided A does not access any form of public funds including any funds from any Group Company including B and C, it would not require to register as a CIC. If A, B and C do not access public funds in any form none of them would be required to register as a CIC.

37. Will adjusted net worth of all the CICs in the Group also be aggregated for compliance purposes ?

Ans: Adjusted net worth (ANW) is a concept akin to capital requirement wherein the ANW should not be less

than 30% of the risk weighted assets (RWA). In cases where asset size is aggregated, all the CICs within the group will be registered as CIC-ND-SI ANW will be applicable individually.

38. There is an apparent anomaly in the definition of 'public funds' as the moment public deposits is included in the definition of 'public funds' and CICs will be deemed to have raised public deposits and will therefore become an NBFC subject to exposure norms?

Ans: Even though public funds include public deposits in the general course, it may be noted that CICs cannot accept public deposits. It may further be reiterated that no NBFC can accept public deposits without specific permission of the Bank even if it holds a CoR from the Bank.

39. Would para 7 of the revised regulatory framework for NBFCs issued vide CC [DNBR \(PD\) CC.No. 002/03.10.001/ 2014-15 dated November 10, 2014](#) on multiple NBFCs in a group also apply to Core Investment Companies (CICs) in the group?

Ans: No. CICs in a group would not be considered for aggregating the assets of multiple NBFCs in a group under the circular. Instructions contained in the Core Investment Companies (Reserve Bank) Directions, 2011 dated January 5, 2011 shall be applicable to CICs in this regard.

40. What are the asset classification norms applicable to CICs?

Ans: Registered CICs with assets < Rs.500 crore shall follow the asset classification norm as specified in the Non-Systemically Important Non-Banking Financial (Non-Deposit accepting or holding) Companies Prudential Norms (Reserve Bank) Directions, 2015 and those with assets >= Rs.500 crore shall follow the asset classification norm applicable to NBFCs with assets >= Rs. 500 crore as specified in the Systemically Important Non-Banking Financial (Non-Deposit accepting or holding) Companies Prudential Norms (Reserve Bank) Directions, 2015.

41. What are the standard asset provisioning norms applicable to CICs?

Ans: Registered CICs with assets < Rs. 500 crore shall maintain standard asset provisioning of 0.25% as specified in the Non-Systemically Important Non-Banking Financial (Non-Deposit accepting or holding) Companies Prudential Norms (Reserve Bank) Directions, 2015 and those with assets >= Rs.500 crore shall maintain standard asset provisioning of 0.40% which would be applicable as specified in the Systemically Important Non-Banking Financial (Non-Deposit accepting or holding) Companies Prudential Norms (Reserve Bank) Directions, 2015.

42. Are Core Investment Companies (CICs) permitted to invest in Liquid Fund Schemes (Mutual Funds) with maturity of less than 91 days?

Ans: Yes. As per the present directions for CICs, they are permitted to make investments in money market instruments, including money market mutual funds. Since Liquid Funds are also mutual funds with the underlying being money market instruments; CICs are permitted to invest their surplus funds in Liquid Fund Schemes also.

43. CICs which presently have an asset size of less than Rs. 100 crore are required to apply to the Bank within three months of the date of achieving a balance sheet size of Rs. 100 crore. Would the date of achieving balance sheet size of Rs. 100 crore be the date of the last audited balance sheet ?

Ans: Yes, company which is a CIC and has achieved the balance sheet size of Rs.100 crore as per its last audited annual financial statement is required to apply to the Bank for registration as a CIC-SI, subject to its meeting the other conditions for being identified as systemically important CIC.

All you wanted to know about NBFCs

(Updated as on March 11, 2016)

A. Definitions

1. What is a Non-Banking Financial Company (NBFC)?

A Non-Banking Financial Company (NBFC) is a company registered under the Companies Act, 1956 engaged in the business of loans and advances, acquisition of shares/stocks/bonds/debentures/securities issued by Government or local authority or other marketable securities of a like nature, leasing, hire-purchase, insurance business, chit business but does not include any institution whose principal business is that of agriculture activity, industrial activity, purchase or sale of any goods (other than securities) or providing any services and sale/purchase/construction of immovable property. A non-banking institution which is a company and has principal business of receiving deposits under any scheme or arrangement in one lump sum or in installments by way of contributions or in any other manner, is also a non-banking financial company (Residuary non-banking company).

2. What does conducting financial activity as “principal business” mean?

Financial activity as principal business is when a company's financial assets constitute more than 50 per cent of the total assets and income from financial assets constitute more than 50 per cent of the gross income. A company which fulfils both these criteria will be registered as NBFC by RBI. The term 'principal business' is not defined by the Reserve Bank of India Act. The Reserve Bank has defined it so as to ensure that only companies predominantly engaged in financial activity get registered with it and are regulated and supervised by it. Hence if there are companies engaged in agricultural operations, industrial activity, purchase and sale of goods, providing services or purchase, sale or construction of immovable property as their principal business and are doing some financial business in a small way, they will not be regulated by the Reserve Bank. Interestingly, this test is popularly known as 50-50 test and is applied to determine whether or not a company is into financial business.

3. NBFCs are doing functions similar to banks. What is difference between banks & NBFCs?

NBFCs lend and make investments and hence their activities are akin to that of banks; however there are a few differences as given below:

- i. NBFC cannot accept demand deposits;
- ii. NBFCs do not form part of the payment and settlement system and cannot issue cheques drawn on itself;
- iii. deposit insurance facility of Deposit Insurance and Credit Guarantee Corporation is not available to depositors of NBFCs, unlike in case of banks.

4. Is it necessary that every NBFC should be registered with RBI?

In terms of Section 45-IA of the RBI Act, 1934, no Non-banking Financial company can commence or carry on business of a non-banking financial institution without a) obtaining a certificate of registration from the Bank and without having a Net Owned Funds of ₹ 25 lakhs (₹ Two crore since April 1999). However, in terms of the powers given to the Bank, to obviate dual regulation, certain categories of NBFCs which are regulated by other regulators are exempted from the requirement of registration with RBI viz. Venture Capital Fund/Merchant Banking companies/Stock broking companies registered with SEBI, Insurance Company holding a valid Certificate of Registration issued by IRDA, Nidhi companies as notified under Section 620A of the Companies Act, 1956, Chit companies as defined in clause (b) of Section 2 of the Chit Funds Act, 1982, Housing Finance

Companies regulated by National Housing Bank, Stock Exchange or a Mutual Benefit company.

5. What are the requirements for registration with RBI?

A company incorporated under the Companies Act, 1956 and desirous of commencing business of non-banking financial institution as defined under Section 45 I(a) of the RBI Act, 1934 should comply with the following:

- i. it should be a company registered under Section 3 of the companies Act, 1956
- ii. It should have a minimum net owned fund of ₹ 200 lakh. (The minimum net owned fund (NOF) required for specialized NBFCs like NBFC-MFIs, NBFC-Factors, CICs is indicated separately in the FAQs on specialized NBFCs)

6. What is the procedure for application to the Reserve Bank for Registration?

The applicant company is required to apply online and submit a physical copy of the application along with the necessary documents to the Regional Office of the Reserve Bank of India. The application can be submitted online by accessing RBI's secured website <https://cosmos.rbi.org.in>. At this stage, the applicant company will not need to log on to the COSMOS application and hence user ids are not required. The company can click on “CLICK” for Company Registration on the login page of the COSMOS Application. A window showing the Excel application form available for download would be displayed. The company can then download suitable application form (i.e. NBFC or SC/RC) from the above website, key in the data and upload the application form. The company may note to indicate the correct name of the Regional Office in the field “C-8” of the “Annex-I identification Particulars” in the Excel application form. The company would then get a Company Application Reference Number for the CoR application filed on-line. Thereafter, the company has to submit the hard copy of the application form (indicating the online Company Application Reference Number, along with the supporting documents, to the concerned Regional Office. The company can then check the status of the application from the above mentioned secure address, by keying in the acknowledgement number.

7. What are the essential documents required to be submitted along with the application form to the Regional Office of the Reserve Bank?

The application form and an indicative checklist of the documents required to be submitted along with the application is available at www.rbi.org.in → Site Map → NBFC List → [Forms/ Returns](#).

8. What are systemically important NBFCs?

NBFCs whose asset size is of ₹ 500 cr or more as per last audited balance sheet are considered as systemically important NBFCs. The rationale for such classification is that the activities of such NBFCs will have a bearing on the financial stability of the overall economy.

B. Entities Regulated by RBI and applicable regulations

9. Does the Reserve Bank regulate all financial companies?

No. Housing Finance Companies, Merchant Banking Companies, Stock Exchanges, Companies engaged in the business of stock-broking/sub-broking, Venture Capital Fund Companies, Nidhi Companies, Insurance companies and Chit Fund Companies are NBFCs but they have been exempted from the requirement of registration under Section 45-IA of the RBI Act, 1934 subject to certain conditions.

Housing Finance Companies are regulated by National Housing Bank, Merchant Banker/Venture Capital Fund Company/stock-exchanges/stock brokers/sub-brokers are regulated by Securities and Exchange Board of India, and Insurance companies are regulated by Insurance Regulatory and Development Authority. Similarly, Chit

Fund Companies are regulated by the respective State Governments and Nidhi Companies are regulated by Ministry of Corporate Affairs, Government of India. Companies that do financial business but are regulated by other regulators are given specific exemption by the Reserve Bank from its regulatory requirements for avoiding duality of regulation.

It may also be mentioned that Mortgage Guarantee Companies have been notified as Non-Banking Financial Companies under Section 45 I(f)(iii) of the RBI Act, 1934. Core Investment Companies with asset size of less than ₹ 100 crore, and those with asset size of ₹ 100 crore and above but not accessing public funds are exempted from registration with the RBI.

10. What are the different types/categories of NBFCs registered with RBI?

NBFCs are categorized a) in terms of the type of liabilities into Deposit and Non-Deposit accepting NBFCs, b) non deposit taking NBFCs by their size into systemically important and other non-deposit holding companies (NBFC-NDSI and NBFC-ND) and c) by the kind of activity they conduct. Within this broad categorization the different types of NBFCs are as follows:

I. Asset Finance Company (AFC) : An AFC is a company which is a financial institution carrying on as its principal business the financing of physical assets supporting productive/economic activity, such as automobiles, tractors, lathe machines, generator sets, earth moving and material handling equipments, moving on own power and general purpose industrial machines. Principal business for this purpose is defined as aggregate of financing real/physical assets supporting economic activity and income arising therefrom is not less than 60% of its total assets and total income respectively.

II. Investment Company (IC) : IC means any company which is a financial institution carrying on as its principal business the acquisition of securities,

III. Loan Company (LC): LC means any company which is a financial institution carrying on as its principal business the providing of finance whether by making loans or advances or otherwise for any activity other than its own but does not include an Asset Finance Company.

IV. Infrastructure Finance Company (IFC): IFC is a non-banking finance company a) which deploys at least 75 per cent of its total assets in infrastructure loans, b) has a minimum Net Owned Funds of ₹ 300 crore, c) has a minimum credit rating of 'A' or equivalent d) and a CRAR of 15%.

V. Systemically Important Core Investment Company (CIC-ND-SI): CIC-ND-SI is an NBFC carrying on the business of acquisition of shares and securities which satisfies the following conditions:-

(a) it holds not less than 90% of its Total Assets in the form of investment in equity shares, preference shares, debt or loans in group companies;

(b) its investments in the equity shares (including instruments compulsorily convertible into equity shares within a period not exceeding 10 years from the date of issue) in group companies constitutes not less than 60% of its Total Assets;

(c) it does not trade in its investments in shares, debt or loans in group companies except through block sale for the purpose of dilution or disinvestment;

(d) it does not carry on any other financial activity referred to in Section 45I(c) and 45I(f) of the RBI act, 1934 except investment in bank deposits, money market instruments, government securities, loans to and investments in debt issuances of group companies or guarantees issued on behalf of group companies.

(e) Its asset size is ₹ 100 crore or above and

(f) It accepts public funds

VI. Infrastructure Debt Fund: Non- Banking Financial Company (IDF-NBFC) : IDF-NBFC is a company registered as NBFC to facilitate the flow of long term debt into infrastructure projects. IDF-NBFC raise resources through issue of Rupee or Dollar denominated bonds of minimum 5 year maturity. Only Infrastructure Finance Companies (IFC) can sponsor IDF-NBFCs.

VII. Non-Banking Financial Company - Micro Finance Institution (NBFC-MFI): NBFC-MFI is a non-deposit taking NBFC having not less than 85% of its assets in the nature of qualifying assets which satisfy the following criteria:

a. loan disbursed by an NBFC-MFI to a borrower with a rural household annual income not exceeding ₹ 1,00,000 or urban and semi-urban household income not exceeding ₹ 1,60,000;

b. loan amount does not exceed ₹ 50,000 in the first cycle and ₹ 1,00,000 in subsequent cycles;

c. total indebtedness of the borrower does not exceed ₹ 1,00,000;

d. tenure of the loan not to be less than 24 months for loan amount in excess of ₹ 15,000 with prepayment without penalty;

e. loan to be extended without collateral;

f. aggregate amount of loans, given for income generation, is not less than 50 per cent of the total loans given by the MFIs;

g. loan is repayable on weekly, fortnightly or monthly instalments at the choice of the borrower

VIII. Non-Banking Financial Company – Factors (NBFC-Factors): NBFC-Factor is a non-deposit taking NBFC engaged in the principal business of factoring. The financial assets in the factoring business should constitute at least 50 percent of its total assets and its income derived from factoring business should not be less than 50 percent of its gross income.

IX. Mortgage Guarantee Companies (MGC) - MGC are financial institutions for which at least 90% of the business turnover is mortgage guarantee business or at least 90% of the gross income is from mortgage guarantee business and net owned fund is ₹ 100 crore.

X. NBFC- Non-Operative Financial Holding Company (NOFHC) is financial institution through which promoter / promoter groups will be permitted to set up a new bank .It's a wholly-owned Non-Operative Financial Holding Company (NOFHC) which will hold the bank as well as all other financial services companies regulated by RBI or other financial sector regulators, to the extent permissible under the applicable regulatory prescriptions.

11. What are the powers of the Reserve Bank with regard to 'Non-Bank Financial Companies', that is, companies that meet the 50-50 Principal Business Criteria?

The Reserve Bank has been given the powers under the RBI Act 1934 to register, lay down policy, issue directions, inspect, regulate, supervise and exercise surveillance over NBFCs that meet the 50-50 criteria of principal business. The Reserve Bank can penalize NBFCs for violating the provisions of the RBI Act or the directions or orders issued by RBI under RBI Act. The penal action can also result in RBI cancelling the Certificate of Registration issued to the NBFC, or prohibiting them from accepting deposits and alienating their assets or filing a winding up petition.

12. What action can be taken against persons/financial companies making false claim of being regulated by the

Reserve Bank?

It is illegal for any financial entity or unincorporated body to make a false claim of being regulated by the Reserve Bank to mislead the public to collect deposits and is liable for penal action under the Indian Penal Code. Information in this regard may be forwarded to the nearest office of the Reserve Bank and the Police.

13. What action is taken if financial companies which are lending or making investments as their principal business do not obtain a Certificate of Registration from the Reserve Bank?

If companies that are required to be registered with the Reserve Bank as NBFCs, are found to be conducting non-banking financial activity, such as, lending, investment or deposit acceptance as their principal business, without seeking registration, the Reserve Bank can impose penalty or fine on them or can even prosecute them in a court of law. If members of public come across any entity which does non-banking financial activity but does not figure in the list of authorized NBFC on RBI website, they should inform the nearest Regional Office of the Reserve Bank, for appropriate action to be taken for contravention of the provisions of the RBI Act, 1934.

14. Where can one find list of Registered NBFCs and instructions issued to NBFCs?

The list of registered NBFCs is available on the web site of Reserve Bank of India and can be viewed at www.rbi.org.in → Sitemap → [NBFC List](#). The instructions issued to NBFCs from time to time are also hosted at www.rbi.org.in → Notifications → Master Circulars → [Non-banking](#), besides, being issued through Official Gazette notifications and press releases.

15. What are the regulations applicable on non-deposit accepting NBFCs with asset size of less than ₹ 500 crore?

The regulation on non-deposit accepting NBFCs with asset size of less than ₹ 500 crore would be as under:

(i) They shall not be subjected to any regulation either prudential or conduct of business regulations viz., Fair Practices Code (FPC), KYC, etc., if they have not accessed any public funds and do not have a customer interface.

(ii) Those having customer interface will be subjected only to conduct of business regulations including FPC, KYC etc., if they are not accessing public funds.

(iii) Those accepting public funds will be subjected to limited prudential regulations but not conduct of business regulations if they have no customer interface.

(iv) Where both public funds are accepted and customer interface exist, such companies will be subjected both to limited prudential regulations and conduct of business regulations.

16. What does the term public funds include? Is it the same as public deposits?

Public funds are not the same as public deposits. Public funds include public deposits, inter-corporate deposits, bank finance and all funds received whether directly or indirectly from outside sources such as funds raised by issue of Commercial Papers, debentures etc. However, even though public funds include public deposits in the general course, it may be noted that CICs/CICs-ND-SI cannot accept public deposits.

Further, indirect receipt of public funds means funds received not directly but through associates and group entities which have access to public funds.

17. What are the various prudential regulations applicable to NBFCs?

The Bank has issued detailed directions on prudential norms, vide Non-Banking Financial (Deposit Accepting or

Holding) Companies Prudential Norms (Reserve Bank) Directions, 2007, Non-Systemically Important Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015 and Systemically Important Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015. Applicable regulations vary based on the deposit acceptance or systemic importance of the NBFC.

The directions inter alia, prescribe guidelines on income recognition, asset classification and provisioning requirements applicable to NBFCs, exposure norms, disclosures in the balance sheet, requirement of capital adequacy, restrictions on investments in land and building and unquoted shares, loan to value (LTV) ratio for NBFCs predominantly engaged in business of lending against gold jewellery, besides others. Deposit accepting NBFCs have also to comply with the statutory liquidity requirements. Details of the prudential regulations applicable to NBFCs holding deposits and those not holding deposits is available in the section 'Regulation – Non-Banking – Notifications - [Master Circulars](#)' in the RBI website.

18. Please explain the terms 'owned fund' and 'net owned fund' in relation to NBFCs?

'Owned Fund' means aggregate of the paid-up equity capital, preference shares which are compulsorily convertible into equity, free reserves, balance in share premium account and capital reserves representing surplus arising out of sale proceeds of asset, excluding reserves created by revaluation of asset, after deducting therefrom accumulated balance of loss, deferred revenue expenditure and other intangible assets. 'Net Owned Fund' is the amount as arrived at above, minus the amount of investments of such company in shares of its subsidiaries, companies in the same group and all other NBFCs and the book value of debentures, bonds, outstanding loans and advances including hire purchase and lease finance made to and deposits with subsidiaries and companies in the same group, to the extent it exceeds 10% of the owned fund.

19. What are the responsibilities of the NBFCs registered with Reserve Bank, with regard to submission on compliances and other information?

A. Returns to be submitted by deposit taking NBFCs

1. NBS-1 Quarterly Returns on deposits in First Schedule.
2. NBS-2 Quarterly return on Prudential Norms is required to be submitted by NBFC accepting public deposits.
3. NBS-3 Quarterly return on Liquid Assets by deposit taking NBFC.
4. NBS-4 Annual return of critical parameters by a rejected company holding public deposits. (NBS-5 stands withdrawn as submission of NBS 1 has been made quarterly.)
5. NBS-6 Monthly return on exposure to capital market by deposit taking NBFC with total assets of ₹ 100 crore and above.
6. Half-yearly ALM return by NBFC holding public deposits of more than ₹ 20 crore or asset size of more than ₹ 100 crore
7. Audited Balance sheet and Auditor's Report by NBFC accepting public deposits.
8. Branch Info Return.

B. Returns to be submitted by NBFCs-ND-SI

9. NBS-7 A Quarterly statement of capital funds, risk weighted assets, risk asset ratio etc., for NBFC-ND-SI.
10. Monthly Return on Important Financial Parameters of NBFCs-ND-SI.
11. ALM returns:
 - (i) Statement of short term dynamic liquidity in format ALM [NBS-ALM1] -Monthly,
 - (ii) Statement of structural liquidity in format ALM [NBS-ALM2] Half yearly,
 - (iii) Statement of Interest Rate Sensitivity in format ALM -[NBS-ALM3], Half yearly
12. Branch Info return

C. Quarterly return on important financial parameters of non deposit taking NBFCs having assets of more than ₹ 50 crore and above but less than ₹ 100 crore

Basic information like name of the company, address, NOF, profit / loss during the last three years has to be submitted quarterly by non-deposit taking NBFCs with asset size between ₹ 50 crore and ₹ 100 crore.

There are other generic reports to be submitted by all NBFCs as elaborated in Master Circular on Returns to be submitted by NBFCs as available on www.rbi.org.in → Notifications → Master Circulars → [Non-banking and Circular DNBS \(IT\) CC.No.02/24.01.191/2015-16 dated July 9, 2015](#) as available on www.rbi.org.in → Notifications.

20. Whether the circular on Lending against shares dated August 21, 2014 is applicable to existing loans also?

The Circular is applicable from the date of the circular and therefore the Circular shall not apply on those transactions which have been entered into prior to the date of the Circular. However, the guidelines will be applicable in case of roll-over/ renewal of loans. Guidelines will not apply to transactions where documents have been executed prior to the date of the circular and disbursement is pending.

21. Will the circular on Lending against shares be applicable on restructured accounts?

No. the Circular will not be applicable on restructured accounts

22. Will the Circular on Lending against shares be applicable on those loans where the primary security is not shares?

Loans which are against the collateral of multiple securities and it is specifically agreed to in the agreement that primary security would be something other than shares, LTV would not be applicable. However, reporting requirements shall remain. In cases where such differentiation is not made (thereby NBFCs can off-load shares at the instance of a default), LTV would be applicable.

23. Whether LTV for loans issued against the collateral of shares is to be computed at scrip level or at portfolio level?

LTV would be computed at portfolio level.

24. Whether PoA/ Non-Disposal undertaking structure by whatever name called is covered under the Circular on Lending against shares?

Yes, the Circular would be applicable and the type of encumbrance created is immaterial.

25. Does the definition of “companies in a group” as given in Systemically Important Non-Banking Financial (non-deposit accepting or holding) companies Prudential Norms Directions, 2015 apply in respect of concentration of credit/ investment norms.

No, the definition of “companies in a group” is only for the purpose of determining the applicability of prudential norms on multiple NBFCs in a group.

26. Whether acquisition/ transfer of shareholding of 26 per cent or more of the paid up equity capital of an NBFC within the same group i.e. intra group transfers require prior approval of the Bank?

Ans. Yes, prior approval would be required in all cases of acquisition/ transfer of shareholding of 26 per cent or more of the paid up equity capital of an NBFC. In case of intra-group transfers, NBFCs shall submit an application, on the company letter head, for obtaining prior approval of the Bank. Based on the application of the

NBFC, it would be decided, on a case to case basis, whether the NBFC requires to submit the documents as prescribed at para 3 of DNBR (PD) CC.No. 065/03.10.001/2015-16 dated July 9, 2015 for processing the application of the company. In cases where approval is granted without the documents, the NBFC would be required to submit the same after the process of transfer is complete.

27. NBFCs are charging high interest rates from their borrowers. Is there any ceiling on interest rate charged by the NBFCs to their borrowers?

Reserve Bank of India has deregulated interest rates to be charged to borrowers by financial institutions (other than NBFC- Micro Finance Institution). The rate of interest to be charged by the company is governed by the terms and conditions of the loan agreement entered into between the borrower and the NBFCs. However, the NBFCs have to be transparent and the rate of interest and manner of arriving at the rate of interest to different categories of borrowers should be disclosed to the borrower or customer in the application form and communicated explicitly in the sanction letter etc.

28. RBI permits NBFCs to hedge their exposure through dealing in IRFs. Currently, IRFs are on single stock 10 yr 8.40% 2024 security. The Composition of Balance Sheet is mix of fixed/ floating interest rate and different credit profile. Whether 10 yr single security can be used for hedging 2-3 yr liability and asset (Duration adjusted) or can be used for investment in other long tenor securities or corporate bonds. Alternatively, whether IRFs can be used holistically for hedging assets and liabilities in dynamic interest rate scenarios within total Balance Sheet amount and within hedging definition?

IRF may be used to hedge interest rate risk associated with single asset/ liability or a group of assets/ liabilities. Hence, NBFCs are permitted to use duration based hedging for managing interest rate risk.

29. Whether NBFCs as trading member can participate in the IRF market only for hedging or can also take trading position?

As per extant guidelines NBFCs with asset size of ₹ 1,000 cr and above are permitted to participate in IRF as trading members. While, trading members of stock exchanges are permitted to execute trades on their own account as well as on account of their clients, banks and PDs have been allowed to deal in IRF for both hedging and trading on own account and not on client's account. Similarly, NBFCs as trading members are permitted to execute their proprietary trades and not to undertake transactions on behalf of clients.

C. Residuary Non-Banking Companies (RNBCs)

30. What is a Residuary Non-Banking Company (RNBC)? In what way it is different from other NBFCs?

Residuary Non-Banking Company is a class of NBFC which is a company and has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner and not being Investment, Asset Financing, Loan Company. These companies are required to maintain investments as per directions of RBI, in addition to liquid assets. The functioning of these companies is different from those of NBFCs in terms of method of mobilization of deposits and requirement of deployment of depositors' funds as per Directions. Besides, Prudential Norms Directions are applicable to these companies also.

31. We understand that there is no ceiling on raising of deposits by RNBCs, then how safe is deposit with them?

It is true that there is no ceiling on raising of deposits by RNBCs. However, every RNBC has to ensure that the amounts deposited with it are fully invested in approved investments. In other words, in order to secure the interests of depositor, such companies are required to invest 100 per cent of their deposit liability into highly liquid and secure instruments, namely, Central/State Government securities, fixed deposits with scheduled commercial banks (SCB), Certificate of Deposits of SCB/FIs, units of Mutual Funds, etc.

32. Can RNBC forfeit deposit if deposit instalments are not paid regularly or discontinued?

No. Residuary Non-Banking Company cannot forfeit any amount deposited by the depositor, or any interest, premium, bonus or other advantage accrued thereon.

33. What is the rate of interest that an RNBC must pay on deposits and what should be maturity period of deposits taken by them?

The minimum interest an RNBC should pay on deposits should be 5% (to be compounded annually) on the amount deposited in lump sum or at monthly or longer intervals; and 3.5% (to be compounded annually) on the amount deposited under daily deposit scheme. Interest here includes premium, bonus or any other advantage, that an RNBC promises to the depositor by way of return. An RNBC can accept deposits for a minimum period of 12 months and maximum period of 84 months from the date of receipt of such deposit. They cannot accept deposits repayable on demand. However, at present, the only RNBCs in existence (Peerless) has been directed by the Reserve Bank to stop collecting deposits, repay the deposits to the depositor and wind up their RNBC business as their business model is inherently unviable.

D. Definition of deposits, Eligible / Ineligible Institutions to accept deposits and Related Matters

34. What is 'deposit' and 'public deposit'? Is it defined anywhere?

The term 'deposit' is defined under Section 45 I(bb) of the RBI Act, 1934. 'Deposit' includes and shall be deemed always to have included any receipt of money by way of deposit or loan or in any other form but does not include:

- i. amount raised by way of share capital, or contributed as capital by partners of a firm;
- ii. amount received from a scheduled bank, a co-operative bank, a banking company, Development bank, State Financial Corporation, IDBI or any other institution specified by RBI;
- iii. amount received in ordinary course of business by way of security deposit, dealership deposit, earnest money, advance against orders for goods, properties or services;
- iv. amount received by a registered money lender other than a body corporate;
- v. amount received by way of subscriptions in respect of a 'Chit'.

Paragraph 2(1)(xii) of the Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998 defines a ' public deposit' as a 'deposit' as defined under Section 45 I(bb) of the RBI Act, 1934 and further excludes the following:

- a. amount received from the Central/ State Government or any other source where repayment is guaranteed by Central/ State Government or any amount received from local authority or foreign government or any foreign citizen/ authority/ person;
- b. any amount received from financial institutions specified by RBI for this purpose;
- c. any amount received by a company from any other company;
- d. amount received by way of subscriptions to shares, stock, bonds or debentures pending allotment or by way of calls in advance if such amount is not repayable to the members under the articles of association of the company;
- e. amount received from directors of a company or from its shareholders by private company or by a private

company which has become a public company;

f. amount raised by issue of bonds or debentures secured by mortgage of any immovable property or other asset of the company subject to conditions;

fa. any amount raised by issuance of non-convertible debentures with a maturity more than one year and having the minimum subscription per investor at ₹ 1 crore and above, provided it is in accordance with the guidelines issued by the Bank.

g. the amount brought in by the promoters by way of unsecured loan;

h. amount received from a mutual fund;

i. any amount received as hybrid debt or subordinated debt;

j. amount received from a relative of the director of an NBFC;

k. any amount received by issuance of Commercial Paper.

l. any amount received by a systemically important non-deposit taking non-banking financial company by issuance of 'perpetual debt instruments'

m. any amount raised by the issue of infrastructure bonds by an Infrastructure Finance Company

Thus, the directions exclude from the definition of public deposit, amount raised from certain set of informed lenders who can make independent decision.

35. Which entities can legally accept deposits from public?

Banks, including co-operative banks, can accept deposits. Non-bank finance companies, which have been issued Certificate of Registration by RBI with a specific licence to accept deposits, are entitled to accept public deposit. In other words, not all NBFCs registered with the Reserve Bank are entitled to accept deposits but only those that hold a deposit accepting Certificate of Registration can accept deposits. They can, however, accept deposits, only to the extent permissible. Housing Finance Companies, which are again specifically authorized to collect deposits and companies authorized by Ministry of Corporate Affairs under the Companies Acceptance of Deposits Rules framed by Central Government under the Companies Act can also accept deposits also upto a certain limit. Cooperative Credit Societies can accept deposits from their members but not from the general public. The Reserve Bank regulates the deposit acceptance only of banks, cooperative banks and NBFCs.

It is not legally permissible for other entities to accept public deposits. Unincorporated bodies like individuals, partnership firms, and other association of individuals are prohibited from carrying on the business of acceptance of deposits as their principal business. Such unincorporated bodies are prohibited from even accepting deposits if they are carrying on financial business.

36. Can all NBFCs accept deposits? Is there any ceiling on acceptance of Public Deposits? What is the rate of interest and period of deposit which NBFCs can accept?

All NBFCs are not entitled to accept public deposits. Only those NBFCs to which the Bank had given a specific authorisation and have an investment grade rating are allowed to accept/ hold public deposits to a limit of 1.5 times of its Net Owned Funds. All existing unrated AFCs that have been allowed to accept deposits shall have to get themselves rated by March 31, 2016. Those AFCs that do not get an investment grade rating by March 31, 2016, will not be allowed to renew existing or accept fresh deposits thereafter. In the intervening period, i.e. till March 31, 2016, unrated AFCs or those with a sub-investment grade rating can only renew existing deposits on

maturity, and not accept fresh deposits, till they obtain an investment grade rating.

However, as a matter of public policy, Reserve Bank has decided that only banks should be allowed to accept public deposits and as such has since 1997 not issued any Certificate of Registration (CoR) to new NBFCs for acceptance of public deposits.

Presently, the maximum rate of interest an NBFC can offer is 12.5%. The interest may be paid or compounded at rests not shorter than monthly rests. The NBFCs are allowed to accept/renew public deposits for a minimum period of 12 months and maximum period of 60 months. They cannot accept deposits repayable on demand.

37. In respect of companies which do not fulfill the 50-50 criteria but are accepting deposits – do they come under RBI purview?

A company which does not have financial assets which is more than 50% of its total assets and does not derive at least 50% of its gross income from such assets is not an NBFC. Its principal business would be non-financial activity like agricultural operations, industrial activity, purchase or sale of goods or purchase/construction of immovable property, and will be a non-banking non-financial company. Acceptance of deposits by a Non-Banking Non-Financial Company are governed by the rules and regulations issued by the Ministry of Corporate Affairs.

38. Why is the RBI so restrictive in allowing NBFCs to raise public deposits?

The Reserve Bank's overarching concern while supervising any financial entity is protection of depositors' interest. Depositors place deposit with any entity on trust unlike an investor who invests in the shares of a company with the intention of sharing the risk as well as return with the promoters. Protection of depositors' interest thus is supreme in financial regulation. Banks are the most regulated financial entities. The Deposit Insurance and Credit Guarantee Corporation pays insurance on deposits up to ₹ One lakh in case a bank failed.

39. Which are the NBFCs specifically authorized by RBI to accept deposits?

The Reserve Bank publishes the list of NBFCs that hold a valid Certificate of Registration for accepting deposits on its website: www.rbi.org.in → Sitemap → NBFC List → [List of NBFCs Permitted to Accept Deposits](#). At times, some companies are temporarily prohibited from accepting public deposits. The Reserve Bank publishes the list of NBFCs temporarily prohibited also on its website. The Reserve Bank keeps both these lists updated. Members of the public are advised to check both these lists before placing deposits with NBFCs.

40. Whether NBFCs can accept deposits from NRIs?

Effective from April 24, 2004, NBFCs cannot accept deposits from NRIs except deposits by debit to NRO account of NRI provided such amount does not represent inward remittance or transfer from NRE/FCNR (B) account. However, the existing NRI deposits can be renewed.

41. Can a Co-operative Credit Society accept deposits from the public?

No. Co-operative Credit Societies cannot accept deposits from general public. They can accept deposits only from their members within the limit specified in their bye laws.

42. Can a Salary Earners' Society accept deposits from the public?

No. These societies are formed for salaried employees and hence they can accept deposit only from their own members and not from general public.

43. Is nomination facility available to the Depositors of NBFCs?

Yes, nomination facility is available to the depositors of NBFCs. The Rules for nomination facility are provided for in section 45QB of the Reserve Bank of India Act, 1934. Non-Banking Financial Companies have been advised to adopt the Banking Companies (Nomination) Rules, 1985 made under Section 45ZA of the Banking Regulation Act, 1949. Accordingly, depositor/s of NBFCs are permitted to nominate one person to whom the NBFC can return the deposit in the event of the death of the depositor/s. NBFCs are advised to accept nominations made by the depositors in the form similar to one specified under the said rules, viz Form DA 1 for the purpose of nomination, and Form DA2 and DA3 for cancellation of nomination and change of nomination respectively.

44. How does the Reserve Bank come to know about unauthorized acceptance of deposits by companies not registered with it or of NBFCs engaged in lending or investment activities without obtaining the Certificate of Registration from it?

NBFCs that ought to have sought registration from RBI but are functioning without doing so are committing a breach of law. Such companies are liable for action as envisaged under the RBI Act, 1934. To identify such entities, RBI has multiple sources of information. These include market intelligence, complaints received from affected parties, industry sources, and exception reports submitted by statutory auditors in terms of Non-Banking Financial Companies Auditor's Report (Reserve Bank) Directions, 2008. Further, the State Level Co-ordination Committees (SLCC) is convened by RBI in all the States/UTs on quarterly basis. The SLCC is now chaired by the Chief Secretary/ Administrator of the concerned State/UT and has, as its members, apart from the Reserve Bank, the Regional Directorate of the MCA/ ROC, local unit of SEBI, NHB, Registrar of Chits, ICAI, Economic Intelligence Unit of the State Police and officials from Law and Home Ministries of the State Government. As all the relevant financial sector regulators and enforcement agencies participate in the SLCC, it is possible to quickly share the information and agree on an effective course of action to be taken against entities indulging in unauthorized and suspect businesses involving funds mobilization from public.

45. Can Proprietorship/Partnership Concerns associated/not associated with registered NBFCs accept public deposits?

No. Proprietorship and partnership concerns are un-incorporated bodies. Hence they are prohibited under the RBI Act 1934 from accepting public deposits.

46. There are many jewellery shops taking money from the public in instalments. Is this amounting to acceptance of deposits?

It depends on whether the money is received as advance for delivering jewellery at a future date or whether the money is received with a promise to return the same with interest. The money accepted by Jewellery shops in instalments for the purpose of delivering jewellery at the end of the period of contract is not deposit. It will amount to acceptance of deposits if in return for the money received, the jewellery shop promises to return the principal amount along with interest.

47. What action can be taken if such unincorporated entities accept public deposits? What if NBFCs which have not been authorized to accept public deposits use proprietorship/partnership firms floated by their promoters to collect deposits?

Such unincorporated entities, if found accepting public deposits, are liable for criminal action. Further NBFCs are prohibited by RBI from associating with any unincorporated bodies. If NBFCs associate themselves with proprietorship/partnership firms accepting deposits in contravention of RBI Act, they are also liable to be prosecuted under criminal law or under the Protection of Interest of Depositors (in Financial Establishments) Act, if passed by the State Governments.

48. What is the difference between acceptance of money by Chit Funds and acceptance of deposits?

Deposits are defined under the RBI Act 1934 as acceptance of money other than that raised by way of share capital, money received from banks and other financial institutions, money received as security deposit, earnest money and advance against goods or services and subscriptions to chits. All other amounts, received as loan or in any form are treated as deposits. Chit Funds activity involves contributions by members in instalments by way of subscription to the Chit and by rotation each member of the Chit receives the chit amount. The subscriptions are specifically excluded from the definition of deposits and cannot be termed as deposits. While Chit funds may collect subscriptions as above, they are prohibited by RBI from accepting deposits with effect from August 2009.

E. Depositor Protection Issues

49. What are the salient features of NBFC regulations which the depositor may note at the time of investment?

Some of the important regulations relating to acceptance of deposits by NBFCs are as under:

- i. The NBFCs are allowed to accept/renew public deposits for a minimum period of 12 months and maximum period of 60 months. They cannot accept deposits repayable on demand.
- ii. NBFCs cannot offer interest rates higher than the ceiling rate prescribed by RBI from time to time. The present ceiling is 12.5 per cent per annum. The interest may be paid or compounded at rests not shorter than monthly rests.
- iii. NBFCs cannot offer gifts/incentives or any other additional benefit to the depositors.
- iv. NBFCs should have minimum investment grade credit rating.
- v. The deposits with NBFCs are not insured.
- vi. The repayment of deposits by NBFCs is not guaranteed by RBI.
- vii. Certain mandatory disclosures are to be made about the company in the Application Form issued by the company soliciting deposits.

50. What precautions should a depositor take before placing deposit with an NBFC?

A depositor wanting to place deposit with an NBFC must take the following precautions before placing deposits:

- i. That the NBFC is registered with RBI and specifically authorized by the RBI to accept deposits. A list of deposit taking NBFCs entitled to accept deposits is available at www.rbi.org.in → Sitemap → [NBFC List](#). The depositor should check the list of NBFCs permitted to accept public deposits and also check that it is not appearing in the list of companies prohibited from accepting deposits, which is available at www.rbi.org.in → Sitemap → NBFC List → [NBFCs](#) who have been issued prohibitory orders, winding up petitions filed and legal cases under Chapter IIIB, IIIC and others.
- ii. NBFCs have to prominently display the Certificate of Registration (CoR) issued by the Reserve Bank on its site. This certificate should also reflect that the NBFC has been specifically authorized by RBI to accept deposits. Depositors must scrutinize the certificate to ensure that the NBFC is authorized to accept deposits.
- iii. The maximum interest rate that an NBFC can pay to a depositor should not exceed 12.5%. The Reserve Bank keeps altering the interest rates depending on the macro-economic environment. The Reserve Bank publishes the change in the interest rates on www.rbi.org.in → Sitemap → NBFC List → [FAQs](#).
- iv. The depositor must insist on a proper receipt for every amount of deposit placed with the company. The receipt should be duly signed by an officer authorized by the company and should state the date of the deposit, the name of the depositor, the amount in words and figures, rate of interest payable, maturity date and amount.
- v. In the case of brokers/agents etc collecting public deposits on behalf of NBFCs, the depositors should satisfy themselves that the brokers/agents are duly authorized by the NBFC.
- vi. The depositor must bear in mind that public deposits are unsecured and Deposit Insurance facility is not available to depositors of NBFCs.
- vii. The Reserve Bank of India does not accept any responsibility or guarantee about the present position as to the financial soundness of the company or for the correctness of any of the statements or

representations made or opinions expressed by the company and for repayment of deposits/discharge of the liabilities by the company.

51. Does RBI guarantee the repayment of the deposits collected by NBFCs?

No. The Reserve Bank does not guarantee repayment of deposits by NBFCs even though they may be authorized to collect deposits. As such, investors and depositors should take informed decisions while placing deposit with an NBFC.

52. In case an NBFC defaults in repayment of deposit what course of action can be taken by depositors?

If an NBFC defaults in repayment of deposit, the depositor can approach Company Law Board or Consumer Forum or file a civil suit in a court of law to recover the deposits. NBFCs are also advised to follow a grievance redress procedure as indicated in reply to question 57 below. Further, at the level of the State Government, the State Legislations on Protection of Interest of Depositors (in Financial Establishments) empowers the State Governments to take action even before the default takes place or complaints are received from depositors. If there is perpetration of an offence and if the intention is to defraud, the State Government can even attach properties.

53. What is the role of Company Law Board in protecting the interest of depositors? How can one approach it?

When an NBFC fails to repay any deposit or part thereof in accordance with the terms and conditions of such deposit, the Company Law Board (CLB) either on its own motion or on an application from the depositor, directs by order the Non-Banking Financial Company to make repayment of such deposit or part thereof forthwith or within such time and subject to such conditions as may be specified in the order. After making the payment, the company will need to file the compliance with the local office of the Reserve Bank of India.

As explained above, the depositor can approach CLB by mailing an application in prescribed form to the appropriate bench of the Company Law Board according to its territorial jurisdiction along with the prescribed fee.

54. Can you give the addresses of the various benches of the Company Law Board (CLB) indicating their respective jurisdiction?

The details of addresses and territorial jurisdiction of the bench officers of CLB are as under:

S. No.	Benches	Jurisdiction	Telephone No.
1.	Company Law Board Principal Bench Paryavaran Bhawan B-Block, 3rd Floor C.G.O. Complex Lodhi Road, New Delhi – 110 003	All States & Union Territories	011 – 24366126
2.	Company Law Board New Delhi Bench Paryavaran Bhawan B-Block, 3rd Floor C.G.O. Complex Lodhi Road, New Delhi – 110 003	States of Delhi, Haryana, Himachal Pradesh, Jammu & Kashmir, Punjab, Rajasthan, Uttar Pradesh, Uttarakhand and Union Territories of Chandigarh.	011 – 24363671, 011 – 24362324
3.	Company Law Board Kolkata Bench	States of Arunachal Pradesh, Assam, Bihar, Manipur, Meghalaya, Nagaland,	033 – 22486330

5, Esplande Row(West)Orissa, Sikkim, Tripura, West Bengal,
Kolkata – 700 001 Jharkhand and Union Territories of
Andaman and Nicobar Island and
Mizoram.

4. Company Law Board, States of Goa, Gujarat, Madhya Pradesh, Maharashtra, Chhattisgarh
Mumbai Bench, N.T.C. House, 2ND and (Union Territories of Dadra and
Floor, Nagar Haveli and Damman and Diu)
15 Narottam Morarjee
Marg,
Ballard Estate,
Mumbai – 400 038

5. Company Law Board, States of Andhra Pradesh, Karnataka, Kerala, Tamil Nadu and Union
Chennai Bench, Corporate Bhawan (UT Territories of Pondicherry and
Building), Lakshadweep Island.
3rd Floor, No. 29 Rajaji
Salari,
Chennai – 600001.

55. We hear that in a number of cases Official Liquidators have been appointed on the defaulting NBFCs. What is the procedure adopted by the Official Liquidator?

An Official Liquidator is appointed by the court after giving the company reasonable opportunity of being heard in a winding up petition. The liquidator performs the duties of winding up of the company and such duties in reference thereto as the court may impose. Where the court has appointed an official liquidator or provisional liquidator, he becomes custodian of the property of the company and runs day-to-day affairs of the company. He has to draw up a statement of affairs of the company in prescribed form containing particulars of assets of the company, its debts and liabilities, names/residences/occupations of its creditors, the debts due to the company and such other information as may be prescribed. The scheme is drawn up by the liquidator and same is put up to the court for approval. The liquidator realizes the assets of the company and arranges to repay the creditors according to the scheme approved by the court. The liquidator generally inserts advertisement in the newspaper inviting claims from depositors/investors in compliance with court orders. Therefore, the investors/depositors should file the claims within due time as per such notices of the liquidator. The Reserve Bank also provides assistance to the depositors in furnishing addresses of the official liquidator.

56. The Consumer Court plays useful role in attending to depositors problems. Can one approach Consumer Forum, Civil Court, CLB simultaneously?

Yes, a depositor can approach any or all of the redressal authorities i.e consumer forum, court or CLB.

57. Is there an Ombudsman for hearing complaints against NBFCs or Does RBI have any grievance redressal mechanism in place for NBFCs?

No, there is no Ombudsman for hearing complaints against NBFCs. However, in respect of credit card operations of an NBFC, which is a subsidiary of a bank, if a complainant does not get satisfactory response from the NBFC within a maximum period of thirty (30) days from the date of lodging the complaint, the customer will have the option to approach the Office of the concerned Banking Ombudsman for redressal of his grievance/s.

If complaints or grievances against the NBFCs are submitted to the nearest office of the Reserve Bank of India, the same are taken up with the NBFC concerned to facilitate resolution of the grievance/complaint. Further, all NBFCs have in place a Grievance Redressal Officer, whose name and contact details have to be mandatorily displayed in the premises of the NBFCs. The grievance can be taken up with the Grievance Redressal Officer. In

case the complainant is not satisfied with the settlement of the complaint by the Grievance Redressal Officer of the NBFC, he/she may approach the nearest office of the Reserve Bank of India with the complaint. The details of the Office of the Reserve Bank has also to be mandatorily displayed in the premises of the NBFC.

58. Companies registered with MCA but not registered with RBI as NBFCs also sometimes default in repayment of deposit/ amounts invested with them? What is the recourse available to the investors in such an event? Does RBI have any role to play in such cases?

Companies registered with MCA but not required to be registered with RBI as NBFC are not under the regulatory domain of RBI. Whenever RBI receives any such complaints about the companies registered with MCA but not registered with RBI as NBFCs, it forwards the complaints to the Registrar of Companies (ROC) of the respective state for any action. The complainants are advised that the complaints relating to irregularities of such companies should be promptly lodged with ROC concerned for initiating corrective action. However, in case it comes to the knowledge of RBI those companies were required to be registered with the RBI, but have not done so and have accepted deposits as defined under RBI Act, such action as is deemed necessary under the provisions of the RBI Act will be taken.

59. The NBFCs have been made liable to pay interest on the overdue matured deposits if the company has not been able to repay the matured public deposits on receipt of a claim from the depositor. Please elaborate the provisions.

As per Reserve Bank's Directions, overdue interest is payable to the depositors in case the company has delayed the repayment of matured deposits, and such interest is payable from the date of receipt of such claim by the company or the date of maturity of the deposit whichever is later, till the date of actual payment. If the depositor has lodged his claim after the date of maturity, the company would be liable to pay interest for the period from the date of claim till the date of repayment. For the period between the date of maturity and the date of claim it is the discretion of the company to pay interest. In cases where NBFCs are required to freeze the term deposits of customer based on the orders of the enforcement authorities or the deposit receipts are seized by the enforcement authorities, they shall follow the procedure as given below:

- i. request letter may be obtained from the customer on maturity. While obtaining the request letter from the depositor for renewal, NBFCs should also advise him to indicate the term for which the deposit is to be renewed. In case the depositor does not exercise his option of choosing the term for renewal, NBFCs may renew the same for a term equal to the original term.
- ii. No new receipt is required to be issued. However, suitable note may be made regarding renewal in the deposit ledger.
- iii. Renewal of deposit may be advised by registered letter / speed post / courier service to the concerned Government department under advice to the depositor. In the advice to the depositor, the rate of interest at which the deposit is renewed should also be mentioned.
- iv. If overdue period does not exceed 14 days on the date of receipt of the request letter, renewal may be done from the date of maturity. If it exceeds 14 days, NBFCs may pay interest for the overdue period as per the policy adopted by them, and keep it in a separate interest free sub-account which should be released when the original fixed deposit is released.

However the final repayment of the principal and the interest so accrued should be done only after the clearance regarding the same is obtained by the NBFCs from the respective Government agencies.

60. Can a company pre-pay its public deposits?

An NBFC accepts deposits under a mutual contract with its depositors. In case a depositor requests for premature payment, Reserve Bank of India has prescribed Regulations for such an eventuality in the Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998 wherein it is specified that NBFCs cannot grant any loan against a public deposit or make premature repayment of a public deposit within a

period of three months (lock-in period) from the date of its acceptance. However, in the event of death of a depositor, the company may, even within the lock-in period, repay the deposit at the request of the joint holders with survivor clause / nominee / legal heir only against submission of relevant proof, to the satisfaction of the company

An NBFC, (which is not a problem company) subject to above provisions, may permit after the lock-in period, premature repayment of a public deposit at its sole discretion, at the rate of interest prescribed by the Bank

A problem NBFC is prohibited from making premature repayment of any deposits or granting any loan against public deposit/deposits, as the case may be. The prohibition shall not, however, apply in the case of death of depositor or repayment of tiny deposits i.e. up to ₹ 10000/- subject to lock in period of 3 months in the latter case.

61. What is the liquid assets requirement for the deposit taking companies? Where are these assets kept? Do depositors have any claims on them?

In terms of Section 45-IB of the RBI Act, 1934, the minimum level of liquid assets to be maintained by NBFCs is 15 per cent of public deposits outstanding as on the last working day of the second preceding quarter. Of the 15%, NBFCs are required to invest not less than ten percent in approved securities and the remaining 5% can be in unencumbered term deposits with any scheduled commercial bank. Thus, the liquid assets may consist of Government securities, Government guaranteed bonds and term deposits with any scheduled commercial bank.

The investment in Government securities should be in dematerialised form which can be maintained in Constituents' Subsidiary General Ledger (CSGL) Account with a scheduled commercial bank (SCB) / Stock Holding Corporation of India Limited (SHCIL). In case of Government guaranteed bonds the same may be kept in dematerialised form with SCB/SHCIL or in a dematerialised account with depositories [National Securities Depository Ltd. (NSDL)/Central Depository Services (India) Ltd. (CDSL)] through a depository participant registered with Securities & Exchange Board of India (SEBI). However in case there are Government bonds which are in physical form the same may be kept in safe custody of SCB/SHCIL.

NBFCs have been directed to maintain the mandated liquid asset securities in a dematerialised form with the entities stated above at a place where the registered office of the company is situated. However, if an NBFC intends to entrust the securities at a place other than the place at which its registered office is located, it may do so after obtaining the permission of RBI in writing. It may be noted that liquid assets in approved securities will have to be maintained in dematerialised form only. The liquid assets maintained as above are to be utilised for payment of claims of depositors. However, deposits being unsecured in nature, depositors do not have direct claim on liquid assets.

62. What does RBI do to protect the interest of NBFC depositors?

RBI has issued detailed regulations on deposit acceptance, including the quantum of deposits that can be collected, mandatory credit rating, mandatory maintenance of liquid assets for repayment to depositors, manner of maintenance of its deposit books, prudential regulations including maintenance of adequate capital, limitations on exposures, and inspection of the NBFCs, besides others, to ensure that the NBFCs function on sound lines. If the Bank observes through its inspection or audit of any NBFC or through complaints or through market intelligence, that a certain NBFC is not complying with RBI directions, it may prohibit the NBFC from accepting further deposits and prohibit it from selling its assets. In addition, if the depositor has complained to the Company Law Board (CLB) which has ordered repayment and the NBFC has not complied with the CLB order, RBI can initiate prosecution of the NBFC, including criminal action and winding up of the company.

More importantly, RBI initiates prompt action, including imposing penalties and taking legal action against companies which are found to be violating RBI's instructions/norms on basis of Market Intelligence reports, complaints, exception reports from statutory auditors of the companies, information received through SLCC

meetings, etc. The Reserve Bank immediately shares such information with all the financial sector regulators and enforcement agencies in the State Level Coordination Committee Meetings.

As a premier public policy institution, as part of its public policy measure, the Reserve Bank of India has been in the forefront in taking several initiatives to create awareness among the general public on the need to be careful while investing their hard earned money. The initiatives include issue of cautionary notices in print media and distribution of informative and educative brochures/pamphlets and close interaction with the public during awareness/outreach programs, Townhall events, participation in State Government sponsored trade fairs and exhibitions. At times, it even requests newspapers with large circulation (English and vernacular) to desist from accepting advertisements from unincorporated entities seeking deposits.

63. Who rates deposit taking NBFCs for acceptance of deposit?

NBFCs may get itself rated by any of the six rating agencies namely, CRISIL, CARE, ICRA, FITCH Ratings India Pvt. Ltd, Brickwork Ratings India Pvt. Ltd. and SMERA.

64. What are the symbols of minimum investment grade rating of different companies? When a company's rating is downgraded, does it have to bring down its level of public deposits immediately or over a period of time?

The symbols of minimum investment grade rating of the Credit rating agencies are:

Name of rating agencies	Nomenclature of minimum investment grade credit rating (MIGR)
CRISIL	FA- (FA MINUS)
ICRA	MA- (MA MINUS)
CARE	CARE BBB (FD)
FITCH Ratings India Pvt. Ltd.	tA-(ind)(FD)
SMERA	SMERA A
Brickwork Ratings India Pvt. Ltd.	BWR FBBB

It may be added that A- is not equivalent to A, AA- is not equivalent to AA and AAA- is not equivalent to AAA.

However, if rating of an NBFC is downgraded to below minimum investment grade rating, it has to stop accepting public deposits, report the position within fifteen working days to the RBI and bring within three years from the date of such downgrading of credit rating, the amount of public deposit to nil. With the introduction of revised regulatory framework in November 2014 deposit taking NBFCs have to mandatorily get investment grade credit rating for being eligible to accept public deposits.

65. What is the purpose of enacting Protection of Interest of Depositors in Financial Establishments Act by the State Governments?

The purpose of enacting this law is to protect the interests of the depositors. The provisions of RBI Act are directed towards enabling RBI to issue prudential regulations that make the financial entities function on sound lines. RBI is a civil body and the RBI act is a civil Act. Both do not have specific provisions to effect recovery by attachment and sale of assets of the defaulting companies, entities or their officials. It is the State government machinery which can effectively do this. The Protection of Interest of Depositors in Financial Establishments Acts, confers adequate powers on the State Governments to attach and sell assets of the defaulting companies, entities and their officials.

66. Will the passage of the Protection of Interest of Depositors in Financial Establishments by the State

Governments help in nailing unincorporated entities and companies from unauthorisedly accepting deposits?

Yes, to a large extent. The Act makes offences, such as, unauthorized acceptance of deposits by any entity, firm or company a cognizable offence, that is entities that are indulging in unauthorized deposit acceptance or unlawful financial activities can be immediately imprisoned and prosecuted. Under the Act, the State Governments have been given vast powers to attach the property of such entities, dispose them off under the orders of special courts and distribute the proceeds to the depositors. The widespread State Government / State Police machinery is best positioned to take quick action against the culprits. The Reserve Bank has, therefore, been urging all the State Governments to pass the legislation on Protection of Interest of Depositors in Financial Establishment Act.

67. Still there are cases of unscrupulous financial entities cheating public time and again. How does RBI plan to strengthen its surveillance on unauthorized acceptance of deposits/unauthorized conduct of NBFI business by companies?

The Reserve Bank is strengthening its market intelligence function in various Regional Offices and is constantly examining the financials of companies, references for which have been received through market intelligence or complaints to the Reserve Bank. In this, context, members of public can contribute a great deal by being vigilant and lodging a complaint immediately if they come across any financial entity that contravenes the RBI Act. For example, if they are accepting deposits unauthorisedly and/conducting NBFC activities without obtaining due permission from the RBI. More importantly, these entities will not be able to function if members of public start investing wisely. Members of the public must know that high returns on investments will also have high risks. And there can be no assured return for speculative activities. Before investing the public must ensure that the entity they are investing in is a regulated entity with one of the financial sector regulators.

F. Collective Investment Schemes (CIS) and Chit Funds

68. Are Collective Investment Schemes (CIS) regulated by the Reserve Bank of India?

No. CIS are schemes where money is exchanged for units, be it time share in resorts, profit from sale of wood or profits from the developed commercial plots and buildings and so on. Collective Investment Schemes (CIS) do not fall under the regulatory purview of the Reserve Bank.

69. Which is the authority that regulates Collective Investment Schemes (CIS)?

SEBI is the regulator of CIS. Information on such schemes and grievances against the promoters may be immediately forwarded to SEBI as well as to the EOW/Police Department of the State Government.

70. Is the conducting of Chit Fund business permissible under law?

The chit funds are governed by Chit Funds Act, 1982 which is a Central Act administered by state governments. Those chit funds which are registered under this Act can legally carry on chit fund business.

71. If Chit Fund companies are financial entities, why are they not regulated by RBI?

Chit Fund companies are regulated under the Chit Fund Act, 1982, which is a Central Act, and is implemented by the State Governments. RBI has prohibited chit fund companies from accepting deposits from the public in 2009. In case any Chit Fund is accepting public deposits, RBI can prosecute such chit funds.

G. Money Circulation/Multi-Level Marketing (MLM)/ Ponzi Schemes/ Unincorporated Bodies (UIBs)

72. There are some companies like Multi-Level Marketing companies, Direct Selling Companies, Online Selling Companies. Do they come under the purview of RBI?

No, Multi-Level Marketing companies, Direct Selling Companies, Online Selling Companies do not fall under the purview of RBI. Activities of these companies fall under the regulatory/administrative domain of respective state government. The list of regulators and the entities regulated by them are as provided in [Annex I](#).

73. What are money circulation/Ponzi/multi-level marketing schemes?

Money circulation, multi level marketing / Chain Marketing or Ponzi schemes are schemes promising easy or quick money upon enrollment of members. Income under Multi level marketing or pyramid structured schemes do not come from the sale of products they offer as much as from enrolling more and more members from whom hefty subscription fees are taken. It is incumbent upon all members to enroll more members, as a portion of the subscription amounts so collected are distributed among the members at the top of the pyramid. Any break in the chain leads to the collapse of the pyramid, and the members lower in the pyramid are the ones that are affected the most. Ponzi schemes are those schemes that collect money from the public on promises of high returns. As there is no asset creation, money collected from one depositor is paid as returns to the other. Since there is no other activity generating returns, the scheme becomes unviable and impossible for the people running the scheme to meet the promised return or even return the principal amounts collected. The scheme inevitably fails and the perpetrators disappear with the money.

74. Is acceptance of money under Money Circulation/Multi-level Marketing/Pyramid structured schemes allowed? Does RBI regulates such schemes?

No. Acceptance of money under Money Circulation/Multi-level Marketing/Pyramid structured schemes and Ponzi schemes is not allowed as acceptance of money under those schemes is a cognizable offence under the Prize Chit and Money Circulation (Banning) Act 1978 and are hence banned. The Reserve Bank has no role in implementation of this Act, except advising and assisting the Central Government in framing the Rules under this Act.

75. Then who regulates entities that run such schemes?

Money Circulation/Multi-level Marketing /Pyramid structured schemes are an offence under the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. The Act prohibits any person or individual to promote or conduct any prize chit or money circulation scheme or enrol as member to its schemes or anyone to participate in it by either receiving or remitting any money in pursuance of such chit or scheme. Contravention of the provisions of this Act, is monitored and dealt with by the State Governments.

76. What if someone operates such a scheme?

Any information/grievance relating to such schemes should be given to the police / Economic Offence Wing (EOW) of the concerned State Government or the Ministry of Corporate Affairs. If brought to RBI notice – we will inform the same to the concerned State Government authorities.

77. What are Unincorporated Bodies (UIBs)? Has RBI any role to play in curbing illegal deposit acceptance activities of UIBs? Who has the power to take action against Unincorporated Bodies (UIBs) accepting deposits?

Unincorporated bodies (UIBs) include an individual, a firm or an unincorporated association of individuals. In terms of provision of section 45S of RBI act, these entities are prohibited from accepting any deposit. The Act makes acceptance of deposits by such UIBs punishable with imprisonment or fine or both. The State government has to play a proactive role in arresting the illegal activities of such entities to protect interests of depositors/investors.

UIBs do not come under the regulatory domain of RBI. Whenever RBI receives any complaints against UIBs, it immediately forwards the same to the state government police agencies (Economic Offences Wing (EOW)). The complainants are advised to lodge the complaints directly with the State government police authorities (EOW) so

that appropriate action against the culprits is taken immediately and the process is hastened.

As per Section 45T of RBI Act, both the RBI and State Governments have been given concurrent powers. Nonetheless, in order to take immediate action against the offender, the information should immediately be passed on to the State Police or the Economic Offences Wing of the concerned State who can take prompt and appropriate action. Since the State Government machinery is widespread and the State Government is also empowered to take action under the provisions of RBI Act, 1934, any information on such entities accepting deposits may be provided immediately to the respective State Government’s Police Department/EOW.

Many of the State Governments have enacted the State Protection of Interests of Depositors in Financial Establishments Act, which empowers the State Government to take appropriate and timely action.

RBI on its part has taken various steps to curb activities of UIBs which includes spreading awareness through advertisements in leading newspapers to sensitise public, organize various investors awareness programmes in various districts of the country, keeps close liaison with the law enforcing agencies (Economic Offences Wing).

78. There are some entities (not companies) which carry on activities like that of NBFCs. Are they allowed to take deposits? Who regulates them?

Any person who is an individual or a firm or unincorporated association of individuals cannot accept deposits except by way of loan from relatives, if his/its business wholly or partly includes loan, investment, hire-purchase or leasing activity or principal business is that of receiving of deposits under any scheme or arrangement or in any manner or lending in any manner.

79. What precautions have to be taken by the public to forewarn themselves about the likelihood of losing money in schemes that offer high rates of interest?

Before investing in schemes that promise high rates of return investors must ensure that the entity offering such returns is registered with one of the financial sector regulators and is authorized to accept funds, whether in the form of deposits or otherwise. Investors must generally be circumspect if the interest rates or rates of return on investments offered are high. Unless the entity accepting funds is able to earn more than what it promises, the entity will not be able to repay the investor as promised. For earning higher returns, the entity will have to take higher risks on the investments it makes. Higher the risk, the more speculative are its investments on which there can be no assured return. As such, the public should forewarn themselves that the likelihood of losing money in schemes that offer high rates of interest are more.

80. Who can the Depositor/Investor turn to in case of grievances?

The two Charts given at [Annex I](#) and [II](#) depict the activities and the regulators overseeing the same. Complaints may hence be addressed to the concerned regulator. If the activity is a banned activity, the aggrieved person can approach the State Police/Economic Offences Wing of the State Police and lodge a suitable complaint.

81. What constitutes Commercial Real Estate exposure?

An exposure to be classified as CRE, the essential feature would be that the funding will result in the creation/ acquisition of real estate (such as, office buildings to let, retail space, multifamily residential buildings, industrial or warehouse space, and hotels) where the prospects for repayment would depends primarily on the cash flows generated by the asset. Additionally, the prospect of recovery in the event of default would also depend primarily on the cash flows generated from such funded asset which is taken as security, as would generally be the case. The primary source of cash flow (i.e. more than 50% of cash flows) for repayment would generally be lease or rental payments or the sale of the assets as also for recovery in the event of default where such asset is taken as security.

These guidelines will also be applicable to certain cases where the exposure may not be directly linked to the creation or acquisition of CRE but the repayment would come from the cash flows generated by CRE. For example, exposures taken against existing commercial real estate whose prospects of repayments primarily depend on rental/ sale proceeds of the real estate should be classified as CRE. Other such cases may include: extension of guarantees on behalf of companies engaged in commercial real estate activities, exposures on account of derivative transactions undertaken with real estate companies, corporate loans extended to real estate companies and investment made in the equity and debt instruments of real estate companies.

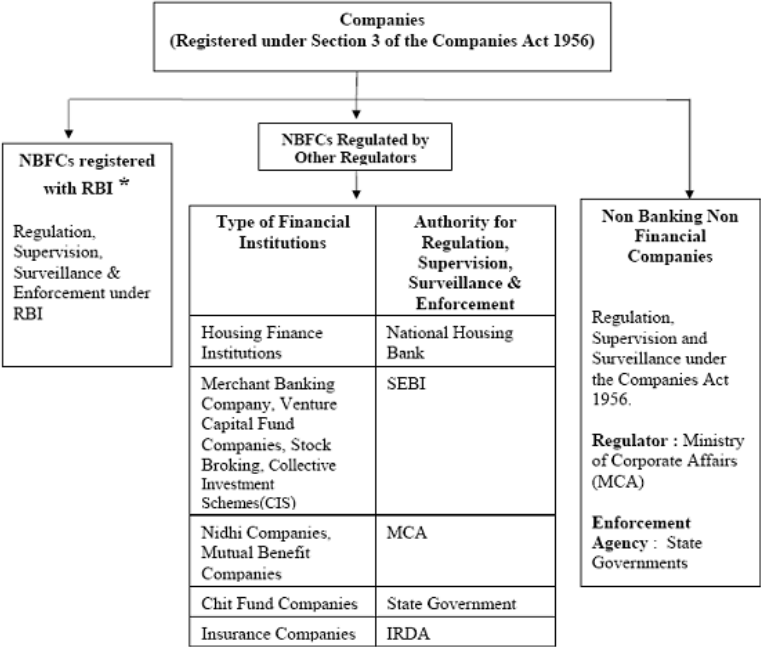
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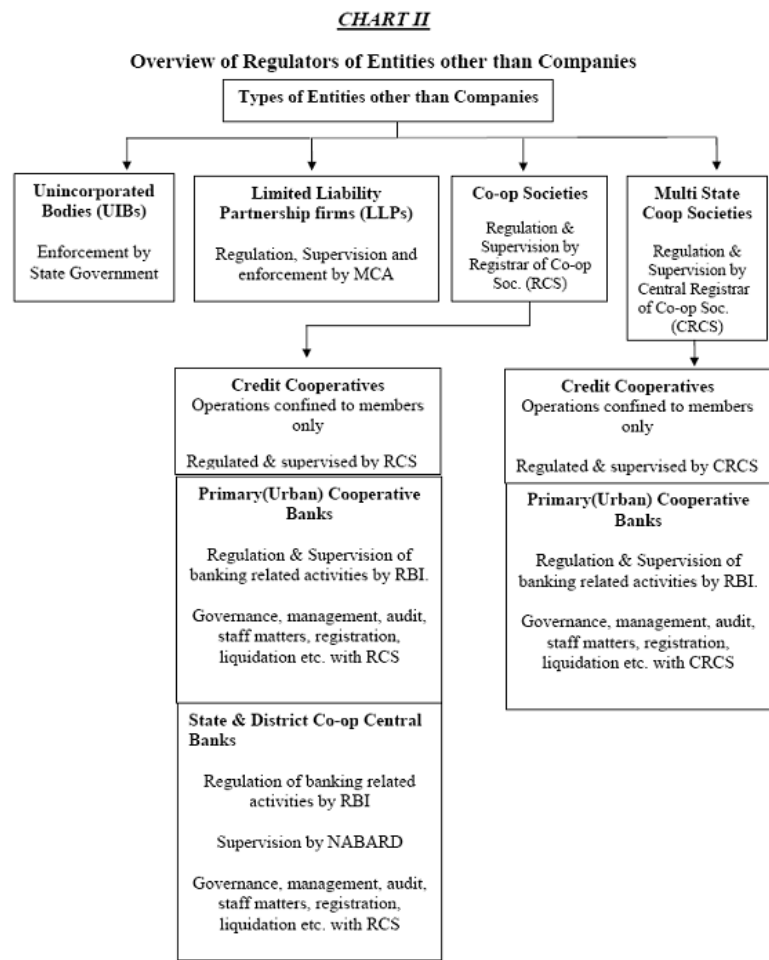
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CHART - I
Overview of Regulators of Non-Banking Companies



* NBFC is a financial Institution that is into Lending or Investment or collecting monies under any scheme or arrangement but does not include any institutions which carry on its principal business as agriculture activity, industrial activity, trading and purchase or sale of immovable properties. A company that carries on the business of accepting deposits as its principal business is also a NBFC.

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Related Press Release
May 31, 2013 [Check before Depositing Money with Financial Entities: RBI Advisory](#)

Infrastructure Finance Companies (IFCs)
(Updated as on March 01, 2016)

Q.1. What is an Infrastructure finance?

Ans “Infrastructure loan” means a credit facility extended by NBFCs to a borrower for exposure in the following infrastructure sub-sectors:

Sl.No.	Category	Infrastructure sub-sectors
1.	Transport	i. Roads and bridges ii. Ports iii. Inland Waterways iv. Airport v. Railway Track, tunnels, viaducts, bridges ¹ vi. Urban Public Transport (except rolling stock in case of urban road transport)
2.	Energy	i. Electricity Generation ii. Electricity Transmission iii. Electricity Distribution iv. Oil pipelines v. Oil/Gas/Liquefied Natural Gas (LNG) storage facility ² vi. Gas pipelines ³
3.	Water & Sanitation	i. Solid Waste Management ii. Water supply pipelines iii. Water treatment plants iv. Sewage collection, treatment and disposal system v. Irrigation (dams, channels, embankments etc) vi. Storm Water Drainage System
4.	Communication	i. Telecommunication (Fixed network) ⁴ ii. Telecommunication towers
5.	Social Commercial Infrastructure	and i. Education Institutions (capital stock) ii. Hospitals (capital stock) ⁵ iii. Three-star or higher category classified hotels located outside cities with population of more than 1 million iv. Common infrastructure for industrial parks, SEZ, tourism facilities and agriculture markets v. Fertilizer (Capital investment) vi. Post harvest storage infrastructure for agriculture and horticultural produce including cold storage vii. Terminal markets viii. Soil-testing laboratories ix. Cold Chain ⁶

Notes:

1. Includes supporting terminal infrastructure such as loading/unloading terminals, stations and buildings
2. Includes strategic storage of crude oil
3. Includes city gas distribution network
4. Includes optic fibre/cable networks which provide broadband / internet
5. Includes Medical Colleges, Para Medical Training Institutes and Diagnostics Centres
6. Includes cold room facility for farm level pre-cooling, for preservation or storage of agriculture and allied produce, marine products and meat.

Q.2. What is an IFC and what are the eligibility or entry point norms for registration of an IFC-NBFC with RBI?

Ans : IFC is a non-deposit accepting loan company which complies with the following :

1. A minimum of 75 per cent of the total assets of an IFC-NBFC should be deployed in infrastructure loans;
2. The company should have minimum net-worth of Rs 300 crore,
3. The CRAR of the company should be at 15% with Tier I capital at 10% and
4. The minimum credit rating of the company should be at 'A' or equivalent of CRISIL, FITCH, CARE, ICRA, BRICKWORK or equivalent rating by any other accrediting rating agencies.

Their request must be supported by a certificate from their Statutory Auditors confirming the asset pattern of the company as on March 31, of the latest financial year

Q.3. What are the credit concentration norms for IFCs?

Ans : IFCs may exceed the concentration of credit norms as provided in paragraph 18 of the aforesaid Directions as under:

i. In lending to

- a. any single borrower by ten per cent of its owned fund, (i.e at 25% of Owned Funds) and
- b. any single group of borrowers by fifteen per cent of its owned fund, (i.e. at 40% of Owned Funds)

ii. In lending and investing (loans/investments taken together) by

- a. five percent of its owned fund to a single party, (i.e.at 30% of Owned Funds); and
- b. ten percent of its owned fund to a single group of parties, (i.e. at 50% of Owned funds).

iii. The extant norms for investment for both single party and single group of parties will remain same as in Para 18 of the Directions, i.e.

- a. Investment in shares of another company cannot exceed 15% of its Owned Funds
- b. Investment in shares of a single group of companies cannot exceed 25% of its Owned Funds.

Q.4. What is the risk weight IFCs have to maintain on assets covering PPP and which have completed one year of commercial production?

Ans: Infrastructure Finance Companies can maintain risk weight at 50% for assets covering PPP and post commercial operations date (COD) projects which have completed at least one year of satisfactory commercial operations and which are backed by a buyback guarantee by a designated Project / Statutory authority under a Tripartite Agreement.

Q.5. What constitutes 'credit facility' under the definition of infrastructure loan?

Ans: The term 'credit facility' means a term loan, project loan subscription to bonds/ debentures/ preference shares/ equity shares in a project company acquired as a part of project finance package such that such subscription amounts to be "in the nature of advance" or any other form of long term funded facility provided to a borrower company engaged in developing/ operating and maintaining/ developing, operating and maintaining infrastructure facilities, that is a project in any of the sub-sectors as specified in the definition of infrastructure loan.

Non Banking Financial Company - Micro Finance Institutions (NBFC-MFIs)

(Updated as on October 14, 2015)

Q1. What is an NBFC-MFI?

Ans. An NBFC-MFI is defined as a non-deposit taking NBFC (other than a company licensed under Section 25 of the Indian Companies Act, 1956) with Minimum Net Owned Funds of Rs.5 crore (for NBFC-MFIs registered in the North Eastern Region of the country, it will be Rs. 2 crore) and having not less than 85% of its net assets as "qualifying assets".

Q2. What are the documents required for registration as NBFC-MFI?

Ans. The checklist with respect to application for seeking Certificate of Registration from the Reserve Bank have been uploaded in the RBI website www.rbi.org.in → Sitemap → NBFC List → Forms/ Returns → Documents required for registration of NBFC-MFI – New Companies and Documents required for registration of NBFC-MFI (Existing NBFCs). Checklists mentioned are indicative and not exhaustive. Bank can, if necessary, call for any further documents to satisfy themselves on the eligibility for obtaining registration as NBFC-MFI.

Q3. What are "Net Assets" and "Qualifying Assets"?

Ans. Net Assets: "Net assets" are defined as total assets other than cash and bank balances and money market instruments.

Qualifying Assets: Loan disbursed without collateral by an NBFC-MFI to a borrower with a household annual income not exceeding Rs.1,00,000 (rural) or Rs. 1,60,000 (urban and semi-urban) and total indebtedness not exceeding Rs. 1,00,000, excluding education and medical expenses, will be a qualifying asset provided:

- i. loan amount does not exceed Rs. 60,000 in the first cycle and Rs. 1,00,000 in subsequent cycles;
- ii. tenure of the loan not to be less than 24 months for loan amount in excess of Rs. 15,000 with prepayment without penalty;
- iii. aggregate amount of loans, given for income generation, is not less than 50 per cent of the total loans given by the MFIs and

loan is repayable on weekly, fortnightly or monthly installments at the choice of the borrower.

Q4. What are the limitations imposed on an NBFC which does not qualify as NBFC-MFI?

Ans. An NBFC which does not qualify as an NBFC-MFI shall not extend loans to micro finance sector, which in

aggregate exceed 10% of its total assets.

Q5. Are there any restrictions on the remaining 15% of the assets that an NBFC-MFI holds?

Ans. No there are no restrictions.

Q6. Can NBFC-MFIs lend funds for personal use/emergencies?

Ans. A part (i.e. maximum of 50 per cent) of the aggregate amount of loans may be extended for other purposes such as housing repairs, education, medical and other emergencies. However aggregate amount of loans given to a borrower for income generation should constitute at least 50 per cent of the total loans from the NBFC-MFI.

Q7. Is there any restriction on pricing of the loan/ interest recoverable on such loans?

Ans. The interest rates charged by an NBFC-MFI to its borrowers will be the lower of the following:

i. Cost of funds, plus margin

Cost of funds means interest cost and margin is a mark up of a maximum of 10 per cent for large NBFCs-MFI and 12 per cent for others. Large NBFCs-MFI are those with loans portfolios exceeding Rs.100 crore.

ii. The average base rate of the five largest commercial banks by assets multiplied by 2.75

The average of the base rates of the five largest commercial banks shall be advised by the Reserve Bank on the last working day of the previous quarter, which shall determine interest rates for the ensuing quarter.

Q8. What procedure is to be adopted for calculation of interest cost (cost of funds) and interest income by NBFC-MFIs?

Ans. The interest cost will be calculated on average fortnightly balances of outstanding borrowings and interest income is to be calculated on average fortnightly balances of outstanding loan portfolio of qualifying assets.

Q9. What are the processing charges that an NBFC-MFI can levy on its customers?

Ans. Processing charges by NBFC-MFIs shall not be more than 1 % of gross loan amount. Processing charges need not be included in the margin cap. Further, NBFC-MFIs shall recover only the actual cost of insurance for group, or livestock, life, health for borrower and spouse.

Q10. Can an NBFC-MFI charge a differential rate of interest to its customers? If yes, is there any limit imposed by RBI on it?

Ans. Yes, an NBFC-MFI can charge a differential rate of interest to its customers but the variance for individual loans between the minimum and maximum interest rate cannot exceed 4 per cent.

Q11. What are the charges that a customer is supposed to pay for the loan that he takes from an NBFC-MFI?

Ans. A customer needs to know that there are only three components in the pricing of a loan viz. the interest charge, the processing charge and the insurance premium (which includes the administrative charges in respect thereof). An NBFC-MFI cannot levy any charges apart from the three mentioned above.

Q12. What should a customer keep in mind when he/she takes a loan from an NBFC-MFI?

Ans. The customer must keep in mind the following

a. The NBFC-MFI is fair and transparent in its dealings with the borrower. Pl see [Master Circular on Fair Practices Code, DNBS \(PD\) CC No.388/03.10.042/2014-15, dated July 1, 2014](#), and updated each year.

b. No security deposit/ margin/collateral is required to be kept by the borrower with the NBFC-MFI.

c. The borrower should ensure that he gets a loan card from the NBFC-MFI reflecting:

(i) the effective rate of interest charged;

(ii) all other terms and conditions attached to the loan;

(iii) information which adequately identifies the borrower;

(iv) acknowledgement by the NBFC-MFI of all repayments including installments received and the final discharge;

d. All entries in the Loan Card should be in the vernacular language.

e. The interest charged to customer is calculated on a reducing balance basis.

f. NBFC-MFI does not levy penalty on delayed payment

Q13. How can a borrower find about the current interest rate being charged by the NBFC-MFI?

Ans. RBI has made it mandatory for the NBFC-MFIs to prominently display in all its offices and in the literature issued by it and on its website, the effective rate of interest being charged by it.

Q14. Is there any prepayment penalty that can be levied by an NBFC-MFI?

Ans. An NBFC-MFI cannot levy prepayment penalty.

Q15. Is there any cap on an individual membership with SHG/JLG and/or number of MFIs from whom a SHG/JLG/an individual can borrow?

Ans. A borrower can be a member of only one SHG/JLG. He can borrow from NBFC-MFIs as a member of a SHG or a member of a JLG or borrow in his individual capacity. Further, a SHG or JLG or individual cannot borrow from more than 2 MFIs.

Q16. Is it essential for NBFC-MFI to become a member of a Credit Information Company?

Ans. Every NBFC-MFI has to be a member of all the four Credit Information Company (CIC) established under the CIC Regulation Act 2005, provide timely and accurate data to the CICs and use the data available with them to ensure compliance with the conditions regarding membership of SHG / JLG, level of indebtedness and sources of borrowing. While the quality and coverage of data with CICs will take some time to become robust, the NBFC-MFIs may rely on self certification from the borrowers and their own local enquiries on these aspects as well as the annual household income.

Q17. What is the minimum moratorium period applicable in case of NBFC-MFIs?

Ans. There must be a minimum period of moratorium between the grant of the loan and the due date of the repayment of the first instalment. The moratorium shall not be less than the frequency of repayment. For

example, in the case of weekly repayment, the moratorium shall not be less than one week.

Q18. There have been a lot of issues related to methods of recovery used by the MFIs. How has RBI addressed this problem?

Ans. Taking into cognizance, the alleged coercive methods of recovery adopted by MFIs, RBI has mandated that NBFC-MFIs shall ensure that a Code of Conduct and systems are in place for recruitment, training and supervision of field staff, incorporating the Guidelines on Fair Practices Code issued for NBFCs vide circular CC No.266 dated March 26, 2012 as amended from time to time. Also, Recovery should normally be made only at a central designated place. Field staff shall be allowed to make recovery at the place of residence or work of the borrower only if borrower fails to appear at central designated place on 2 or more successive occasions.

Q19. Is there a difference in the asset classification and provisioning norms that are applicable to the NBFC-MFIs and other NBFCs?

Ans. Yes, there is a difference in the norms applicable to the NBFC-MFIs. For NBFC-MFIs non-standard asset would mean an asset for which, interest / principal payment has remained overdue for a period of 90 days or more. Provisioning norms are as under:

- 50 per cent of the aggregate loan instalments which are overdue for more than 90 days and less than 180 days.
- 100 per cent of the aggregate of loan instalments which are overdue for a period of overdue for 180 days or more.

Q20. What are the capital adequacy requirement for NBFCs-MFI?

Ans. All NBFC-MFIs shall maintain a capital adequacy ratio consisting of Tier I and Tier II Capital which shall not be less than 15 per cent of its aggregate risk weighted assets. The total of Tier II Capital at any point of time shall not exceed 100 per cent of Tier I Capital.

Q21. What is the dispensation given to AP based NBFCs which are not able to comply with the CRAR requirements?

Ans. To be able to facilitate the registration for those AP based NBFCs which are not able to comply with the capital adequacy requirement, for the purpose of calculation of the CRAR, the provisioning made towards AP portfolio can be notionally reckoned as part of NOF and there shall be progressive reduction in such recognition of the provisions for AP portfolio equally over a period of 5 years. Accordingly 100 per cent of the provision made for the AP portfolio as on March 31, 2013 would be added back notionally to NOF for CRAR purposes as on that date. This add-back would be progressively reduced by 20 per cent each year i.e. up to March 2017. No write-back or phased provisioning is permissible.

However, capital adequacy on non-AP portfolio and the notional AP portfolio (outstanding as on the balance sheet date less the provision on this portfolio not notionally added back) will have to be maintained at 15 per cent of the risk weighted assets.

Q22. Are the credit concentration norms applicable to NBFCs-MFIs?

Ans. No, the credit concentration norms are not applicable to NBFC-MFIs.

Q23. Are there any additional dispensations on provisioning and risk weights provided for NBFC-MFIs other than those related to AP –based portfolios provided earlier?

Ans. Yes, loans extended on the lines of credit facilities guaranteed by Credit Guarantee Fund Trust for Micro

and Small Enterprises, would be assigned zero risk weights and no provisioning is to be made towards the guaranteed portion.

Q24. Are there any specific corporate governance guidelines applicable to NBFC-MFIs?

Ans. The directions given in Non-Banking Financial Companies – Corporate Governance (Reserve Bank) Directions, 2015 issued vide [Notification No. DNBR.019/CGM \(CDS\)-2015 dated April 10, 2015](#) are applicable.

Q25. What is the role of a Self Regulatory Organization (SRO) in the monitoring of functioning of NBFC-MFIs?

Ans. The industry associations (SROs in this case) are expected to facilitate compliance by the Non-Banking Financial Companies that are engaged in microfinance (NBFC-MFIs) with the regulations and code of conduct and function in the best interest of the customers of the NBFC-MFIs. The membership of NBFC-MFIs in the industry association/SRO will be seen by the trade, borrowers and lenders as a mark of confidence and removal from membership will be seen as having an adverse impact on the reputation of such removed NBFC-MFIs.

Q26. What is the responsibility of a SRO with regard to the Microfinance sector?

Ans. The SRO holding recognition from the Reserve Bank will have to adhere to a set of functions and responsibilities, such as formulating and administering a Code of Conduct, having a grievance and dispute redressal mechanism for the clients of NBFC-MFIs, responsibility of ensuring borrower protection and education, monitoring compliance by NBFC-MFIs with the regulatory framework put in place by the Reserve Bank, surveillance of the microfinance sector, training and awareness programmes for the members, Self Help Groups, etc. and submission of its financials, including Annual Report, to the Reserve Bank.

Q27. Is it essential for an NBFC-MFI to be a member of the Self Regulatory Organisation (SRO)?

Ans. Membership to the SRO is not mandatory. However, NBFC-MFIs are encouraged to voluntarily become members of at least one SRO.

Infrastructure Debt Funds

Q1. What is an Infrastructure Debt Fund (IDF)?

Ans : IDFs are investment vehicles which can be sponsored by commercial banks and NBFCs in India in which domestic/offshore institutional investors, specially insurance and pension funds can invest through units and bonds issued by the IDFs. IDFs would essentially act as vehicles for refinancing existing debt of infrastructure companies, thereby creating fresh headroom for banks to lend to fresh infrastructure projects. IDF-NBFCs would take over loans extended to infrastructure projects which are created through the Public Private Partnership (PPP) route and have successfully completed one year of commercial production. Such take-over of loans from banks would be covered by a Tripartite Agreement between the IDF, Concessionaire and the Project Authority for ensuring a compulsory buyout with termination payment in the event of default in repayment by the Concessionaire.

Q.2 What legal forms can IDF be set up as and who will be the regulators?

Ans : Infrastructure Debt Funds (IDFs), can be set up either as a Trust or as a Company. A trust based IDF would normally be a Mutual Fund (MF), regulated by SEBI, while a company based IDF would normally be a NBFC regulated by the Reserve Bank.

Q3. Who can sponsor IDF-MFs and IDF-NBFCs?

Ans : IDF-MFs can be sponsored by banks and NBFCs. Only banks and Infrastructure Finance companies can sponsor IDF-NBFCs.

Q4. What does “sponsorship” mean?

Ans : “Sponsorship” means an equity participation by the NBFC between 30 to 49% of the IDF.

Q5. What are the eligibility parameters for NBFCs as sponsors of IDF-MF?

Ans : NBFCs desirous of sponsoring IDF-MFs are required to comply with the following requirements :

- The NBFC should have a minimum Net Owned Funds (NOF) of Rs.300 crore; and Capital to Risk Weighted Assets (CRAR) of 15%;
- its net NPAs should be less than 3% of net advances;
- it should have been in existence for at least 5 years;
- it should be earning profits for the last three years and its performance should be satisfactory;
- the CRAR of the NBFC post investment in the IDF-MF should not be less than the regulatory minimum prescribed for it;
- The NBFC should continue to maintain the required level of NOF after accounting for investment in the proposed IDF and
- There should be no supervisory concerns with respect to the NBFC.

Q6. What are the eligibility criteria for IFCs for sponsoring IDF-NBFCs?

Ans : NBFC-IFC will need to meet the following conditions for sponsoring an IDF-NBFC :

- Sponsor IFCs would be allowed to contribute a maximum of 49 percent to the equity of the IDF-NBFCs with a minimum equity holding of 30 percent of the equity of IDF-NBFCs,;
- Post investment in the IDF-NBFC, the sponsor NBFC-IFC must maintain minimum CRAR and NOF prescribed for IFCs
- There are no supervisory concerns with respect to the IFC.

Q7. Will the NBFCs/IFCs need prior permission from Reserve Bank for sponsoring IDFs?

Ans : Yes NBFCs and NBFC-IFCs need to take prior approval from the Reserve Bank for sponsoring IDFs.

Q8. If the NBFCs / NBFC-IFC do not want to sponsor IDFs can they make investments in the equity of IDFs?

Ans : Yes, However, the exposure of sponsor NBFCs / IFCs and non-sponsor NBFCs / IFCs to the equity and debt of the IDFs would be governed by the extant credit concentration norms as given in para 18 of the Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2007.

Q9. What is a Tripartite Agreement and why is it necessary for the IDFs to enter into Tripartite Agreements?

Tripartite Agreement is an agreement between three parties, namely, the Concessionaire (such as the project which is developing the infrastructure), the Project Authority (such as NHAI or a statutory body set up to develop infrastructure) and IDF-NBFC which binds all the parties collectively and provide, for the following :

- i. Take-over of a portion of the debt of the Concessionaire availed from Senior Lenders;
- ii. a default by the Concessionaire, shall trigger the process for termination of the agreement between Project Authority and Concessionaire;
- iii. the Project Authority shall redeem the bonds issued by the Concessionaire which have been purchased by IDF-NBFC, from out of the termination payment as per the Tripartite Agreement and other Agreements

- iv. referred to therein (compulsory buyout),
the fee payable by IDF-NBFC to the Project Authority as mutually agreed upon between the two.

Q10. What are the eligibility / entry point norms for an IDF-NBFC?

Ans : The following are the entry point norms for IDF-NBFC :

- Minimum Net Owned Funds (NOF) of Rs. 300 crore;
- Capital to Risk Weighted Assets (CRAR) of 15%;
- Net NPAs less than 3% of net advances;
- It should have been in existence for at least 5 years before application;
- It should have been profitable in the last three years;
- its performance should be satisfactory and free from supervisory concerns;
- It shall have at the minimum, a credit rating grade of 'A' of CRISIL or equivalent rating issued by other accredited rating agencies such as FITCH, CARE, BRICKWORK and ICRA.

Q11. How will IDF- NBFCs and IDF-MFs raise resources?

Ans : IDF-NBFCs will raise resources through issue of either Rupee or Dollar denominated bonds of minimum 5 year maturity. IDF-MFs will raise resources through issue of units of MFs.

Q.12 Which projects can IDF-NBFC invest in?

Ans : IDF-NBFCs shall invest only in PPP and post COD infrastructure projects which have completed at least one year of satisfactory commercial operation and are a party to a Tripartite Agreement with the Concessionaire and the Project Authority for ensuring a compulsory buyout with termination payment.

Q13. Who can invest in the bonds of IDF-NBFCs and Units of IDF-MFs?

Ans : Domestic/offshore institutional investors, specially insurance and pension funds can invest through units and bonds issued by the IDFs.

Q14. Do IDF-NBFCs get certain concession on credit concentration norms by virtue of the fact that their assets are of relatively lower risk?

Ans : Yes. The maximum exposure that an IDF-NBFC can take on individual projects will be

- i. at 50 percent of its total Capital Funds (Tier I plus Tier II) and not to Owned Funds as in the case of NBFCs.
- ii. An additional exposure up to 10 percent could be taken at the discretion of the Board of the IDF-NBFC.
- iii. In addition, if the financial position of the IDF-NBFC is satisfactory RBI may, on being satisfied and upon receipt of an application from an IDF-NBFC, permit additional exposure up to 15 percent (over 60 percent) subject to such conditions as it may deem fit to impose regarding additional prudential safeguards.

Q15. What would be the risk weights on assets of IDF-NBFCs for the purpose of maintenance of capital adequacy?

Ans : For the purpose of computing capital adequacy of the IDF-NBFC,

- i. bonds covering PPP and post commercial operations date (COD) projects in existence over a year of commercial operation shall be assigned a risk weight of 50 percent.
- ii. All other assets shall be risk weighted as per the extant regulations as given in para 16 of the Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2007.

NBFC – Factors

Q.1. What is Factoring?

The Factoring Act, 2011 defines the ‘*Factoring Business*’ as “*the business of acquisition of receivables of assignor by accepting assignment of such receivables or financing, whether by way of making loans or advances or in any other manner against the security interest over any receivables*”. However, credit facilities provided by banks in the ordinary course of business against security of receivables and any activity undertaken as a commission agent or otherwise for sale of agricultural produce or goods of any kind whatsoever and related activities are expressly excluded from the definition of Factoring Business. The Factoring Act has laid the basic legal framework for factoring in India.

Q 2. What is an NBFC-Factor?

Ans. NBFC- Factor means a non-banking financial company fulfilling the Principal business criteria i.e. whose financial assets in the factoring business constitute at least 75 percent of its total assets and income derived from factoring business is not less than 75 percent of its gross income, has Net Owned Funds of Rs. 5 crore and has been granted a certificate of registration by RBI under section 3 of the Factoring Regulation Act, 2011.

Q 3. What are the entry point norms for NBFC-Factor?

Ans. Every company registered under Section 3 of the Companies Act 1956 seeking registration as NBFC-Factor shall have a minimum Net Owned Fund (NOF) of Rs. 5 crore. Existing companies seeking registration as NBFC-Factor but do not fulfil the NOF criterion of Rs. 5 crore may approach the Bank for time to comply with the requirement.

Q 4. What would happen with the existing companies registered with RBI as NBFCs and conducting factoring business that constitute less than 75 percent of total assets / income?

Ans. Such a company shall have to submit to RBI, a letter of its intention either to become a Factor or to unwind the business totally, and a road map to this effect. The company would be granted CoR as NBFC-Factor only after it complies with the twin criteria of financial assets and income. If the company does not comply within the period as specified by the Bank, it would have to unwind the factoring business.

Q 5. Is it compulsory for all entities to get registered with RBI to conduct factoring business?

Ans. Yes. An entity not registered with the Bank may not conduct the business of factoring unless it is an entity mentioned in Section 5 of the Act i.e. a bank or any corporation established under an Act of Parliament or State Legislature, or a Government Company as defined under section 617 of the Companies Act, 1956.

Q.6. If a company does not fulfill the principal business criteria for factoring and has no intention of getting itself registered as a Factor with the Bank, can it continue to do factoring activities with its group entities.

Ans : No. As per Section 3 of the Factoring Act 2011, no Factor can commence or carry on the factoring business without a) obtaining a CoR from the Reserve Bank, b) fulfilling the principal business criteria.

Q.7. Can NBFC-Factors undertake Import and Export Factoring?

Ans : Yes, however, such NBFC-Factors will need to obtain the necessary authorization from the Foreign Exchange Department of the Bank under FEMA 1999 as amended and adhere to all the FEMA regulations in this regard.

Q.8 Is it necessary for NBFC-Factors to register every factoring transaction with the Central Registry?

Under Section 19 of the Factoring Act, 2011 every Factor is under obligation to file the particulars of every

transaction of assignment of receivables in his favour with the Central Registry to be set-up under section 20 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002), within a period of thirty days from the date of such assignment or from the date of establishment of such registry, as the case may be.

Q.9 Do NBFC-Factors have to comply with a separate set of prudential regulations?

Ans : No, The provisions of Non-Banking Financial (Non-deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2007 or Non-Banking Financial (Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2007, as the case may be and as applicable to a loan company shall apply to an NBFC-Factor.

Q.10. Are there a separate set of Returns that the NBFC-Factor has to submit?

Ans : The submission of returns to the Reserve Bank will be as specified presently in the case of registered NBFCs.

OTHERS

Application Tracking System (ATS)

1. What is the ATS?

The ATS is an Application Tracking System, hosted on the public website of the Reserve Bank of India (RBI), which has been developed for members of the public to submit any individual application to RBI and keep track of the status of its disposal thereafter.

2. What is an application?

An application can be any application, addressed to any department of RBI, through which members of the public can apply (except such applications for which specific instructions have been given regarding mode of submission, etc.)

3. How can the ATS be accessed?

A link to ATS has been provided in the RBI website <http://www.rbi.org.in>.

4. Who receives the application?

The Department / Office selected by the applicant, while submitting his/her application through ATS, will receive the application.

5. How does the ATS work?

- A first time user should register through ATS using his/her valid email id.
- A system generated Password will be forwarded to the applicant's email id.
- Thereafter, the applicant can login and submit his/her application and track the same.
- As soon as an application is submitted through ATS, a unique application number is generated and forwarded to the applicant by the system.
- A mail is sent by the system automatically when the application is disposed of or transferred from one office

/ department / section to another.

6. Can the ATS application be transferred to any other office / department / section?

Yes. The applicant will immediately receive a mail conveying details of the original office / department where the application was submitted and the details of the office / department / section to which it has been transferred. The information can also be ascertained through ATS by the applicant under 'My Application'. The entire history will be shown.

7. What happens when an application is transferred to another office / department?

The application is automatically inwarded in the receiving office/ department and marked to the administrator of that department.

8. Whether any attachment can be sent along with application?

Yes. One or more documents can be uploaded along with the application. However each document size should not exceed 1 MB.

9. Whether applications submitted physically at the counters of RBI or sent through post can also be tracked through the ATS?

Yes. ATS is also available for all applications / letters, etc. submitted physically at the counters of RBI or received through post/courier, provided a valid email id is given in the document. Receipt of all such applications as also its disposal will be advised to the applicant through email.

Additionally, the status of such applications can also be tracked through the ATS number and the password sent to the valid email id of the applicant.

PAYMENT SYSTEM

ATM/White Label ATM

Q.1. What is an Automated Teller Machine (ATM)?

Ans 1. Automated Teller Machine is a computerized machine that provides the customers of banks the facility of accessing their account for dispensing cash and to carry out other financial & non-financial transactions without the need to actually visit their bank branch.

Q.2. What are White Label ATMs (WLAs)?

Ans 2. ATMs set up, owned and operated by non-banks are called White Label ATMs. Non-bank ATM operators are authorized under Payment & Settlement Systems Act, 2007 by the Reserve Bank of India.

Q.3. What is the difference between ATM and WLA (White Label ATM)?

Ans 3. i) In White Label ATM scenario, logo displayed on ATM machine and in ATM premises pertain to WLA Operator instead of a bank. However, for a customer, using WLA is just like using the ATM of other bank (bank other than card issuing bank). ii) Acceptance of cash deposits at the WLAs is not permitted at present.

Q.4. What has been the rationale of allowing non-bank entities for setting up of WLAs?

Ans 4. The rationale of allowing non-bank entity to set up White Label ATMs has been to increase the geographical spread of ATM for increased / enhanced customer service.

Q.5. What type of cards can be used at an ATM/WLA?

Ans 5. The ATM/ATM cum debit cards, credit cards and open prepaid cards (that permit cash withdrawal) issued by banks can be used at ATMs/WLAs for various transactions.

Q.6. What are the services/facilities available at ATMs/WLAs?

Ans 6. In addition to cash dispensing, ATMs/WLAs may offer many other services/facilities to bank customers. Some of these services include:

- Account Information
- Cash Deposit (Acceptance of deposits are not permitted at WLAs)
- Regular Bills Payment (not permitted at WLAs)
- Purchase of Re-load Vouchers for Mobiles (not permitted at WLAs)
- Mini/Short Statement
- PIN change
- Request for Cheque Book

Q.7. How can one transact at an ATM/WLA?

Ans 7. For transacting at an ATM/WLA, the customer inserts /swipes his/her Card in the ATM/WLA and enters his/her Personal Identification Number (PIN). Usually the transactions are menu driven for facilitating easy operation.

Q.8. What is Personal Identification Number (PIN)?

Ans 8. PIN is the numeric password which is separately mailed / handed over to the customer by the bank while issuing the card. Most banks require the customers to change the PIN on the first use. Customer should not disclose PIN to anybody, including to bank officials. Customers should change the PIN at regular intervals.

Q.9. Can these cards be used at any bank/non-bank ATM (WLA) in the country?

Ans 9. Yes. The cards issued by banks in India may be used at any bank / white label ATM in the country.

Q.10. Are customers entitled to any free transactions at ATMs?

Ans.10. Yes. With effect from November 01, 2014, a bank must offer to its savings bank account holders a minimum number of free transactions at ATMs as under:

- I. Transactions at a bank's own ATMs at any location: Banks must offer their savings bank account holders a minimum of five free transactions (including both financial and non-financial) in a month, irrespective of the location of ATMs.
- II. Transactions at any other banks' ATMs at Metro locations: In case of ATMs located in six metro locations, viz. Mumbai, New Delhi, Chennai, Kolkata, Bengaluru and Hyderabad, banks must offer their savings bank account holders a minimum of three free transactions (including both financial and non-financial transactions) in a month.

III. Transactions at any other banks' ATMs at Non-Metro locations: At other locations, banks must offer the savings bank account holders a minimum of five free transactions (including both financial and non-financial transactions) in a month at other bank ATMs.

RBI has mandated only the minimum number of free transactions at ATMs. Banks may offer more number of transactions free of cost to their customers.

The above does not apply to Basic Savings Bank Deposit Accounts (BSBDA) as withdrawals from BSBDA are subject to the conditions associated with such accounts.

Q.11. Are customers charged for any transaction at ATMs?

Ans 11. Yes, customers can be charged for transactions at ATMs over and above the mandated number of free transactions (as indicated in answer to Q.10 above). In case a bank decides to levy charges, the customer can be charged a maximum of Rs. 20/- per transaction (plus service tax, if any) by his/her bank.

Q.12. What should be done if card is lost / stolen?

Ans 12. The customer should contact the card issuing bank immediately on noticing the loss / theft of the card and should request the bank to block the card.

Q.13. From where the customer can get the contact numbers for lodging a complaint?

Ans 13. Banks are required to display the name and the contact numbers of concerned officers/toll free numbers /help desk numbers in the ATM premises. Similarly, in WLAs, contact number of officials/toll free numbers/ helpline numbers are also displayed for lodging any complaint regarding failed/disputed transactions.

Q.14. What steps should a customer take in case of failed ATM transaction at other bank/white label ATMs, when his / her account is debited?

Ans 14. The customer should lodge a complaint with the card issuing bank at the earliest. This process is applicable even if the transaction was carried out at another bank's/non-bank's ATM. In case of WLAs, the contact number/toll free numbers are also available for lodging complaints regarding failed transactions at their ATMs.

Q.15. Is there any time limit for the card issuing banks for recrediting the customers account for a failed ATM/WLA transaction indicated under Q. No. 14?

Ans 15. As per the RBI instructions ([DPSS.PD.No.2632/02.10.002/2010-2011 dated May 27, 2011](#)), banks have been mandated to resolve customer complaints by re-crediting the customer's account within 7 working days from the date of complaint.

Q.16. Are the customers eligible for compensation for delays beyond 7 working days?

Ans 16. Yes. Effective from July 1, 2011, banks have to pay compensation of Rs. 100/- per day for delays in re-crediting the amount beyond 7 working days from the date of receipt of complaint for failed ATM transactions. The compensation has to be credited to the account of the customer without any claim being made by the customer. If the complaint is not lodged within 30 days of transaction, the customer is not entitled for any compensation for delay in resolving his / her complaint.

Q.17. What is the course of action for the customer if the complaint is not addressed by his/her bank within the stipulated time / not addressed to his/her satisfaction?

Ans 17. The customer can take recourse to the Banking Ombudsman, if the grievance is not redressed by his/her card issuing bank.

Q.18. What is the Grievance Redressal Mechanism available to users of WLAs in case of failed/disputed WLA transactions?

Ans 18. The Grievance Redressal Mechanism available to users of WLA is same as that available to users of banks' ATMs for failed/disputed transactions. While the primary responsibility to redress grievances of customers relating to failed transactions at such WLAs will vest with the card issuing bank, the sponsor bank will provide necessary support in this regard, ensuring that White Label ATM Operator (WLAO) makes available relevant records and information to the Issuing bank.

Q.19. What should be done to the ATM card when the card is expired or the account is closed?

Ans 19. Customer should destroy the card upon card expiry or closure of account, cut it into four pieces through the magnetic strip/chip before disposing it off.

Q.20. How shall the customer keep his/her ATM/WLA transaction secure?

Ans 20. Customers should observe following Do's and Don'ts to keep their transaction safe and secure at ATM/WLA:

- Customer should conduct any ATM/WLA transaction in complete privacy.
- Only one card holder should enter and access ATM/WLA kiosk at a time.
- He/she should never lend his/her card to anyone.
- Do not write PIN on the card.
- Never share PIN with anyone or seek help from anybody by handing over the card and revealing the PIN.
- Never let anyone see the PIN while it is being entered at the ATM
- Never use a PIN that could be easily guessed. e.g. his/her birthday, birthday of spouse or telephone number.
- Never leave card in the ATM/WLA.
- Register mobile number with the card issuing bank for getting alerts for ATM /WLA transactions. Any unauthorized card transaction in the account, if observed, should be immediately reported to the card issuing bank.
- Beware of any extra devices attached to the ATMs/WLAs. These may be put to capture customer's data fraudulently. If any such device is found, inform the security guard / bank/ white label ATM entity maintaining it immediately.
- Keep an eye on suspicious movements of people around ATMs/WLAs. Customer should beware of strangers trying to engaging him/her in conversation or offering assistance / help in operating the ATM.
- Remember that bank officials will never ask for card details or PIN over telephone / email. So, do not respond to any vishing / phishing mails from people indicating that they represent your bank.
- **Payment and Settlement Systems Act, 2007**

Q 1. When did Payment and Settlement Systems Act, 2007 (PSS Act, 2007) came into effect?

Ans. The PSS Act, 2007 received the assent of the President on 20th December 2007 and it came into force with effect from 12th August 2008.

Q 2. What is the objective of the PSS Act, 2007?

Ans. The PSS Act, 2007 provides for the regulation and supervision of payment systems in India and designates the Reserve Bank of India (Reserve Bank) as the authority for that purpose and all related matters. The Reserve Bank is authorized under the Act to constitute a Committee of its Central Board known as the Board for Regulation and Supervision of Payment and Settlement Systems (BPSS), to exercise its powers and perform its

functions and discharge its duties under this statute. The Act also provides the legal basis for “netting” and “settlement finality”. This is of great importance, as in India, other than the Real Time Gross Settlement (RTGS) system all other payment systems function on a net settlement basis.

Q 3. What are the Regulations made under the PSS Act, 2007 and when did they come into force?

Ans. Under the PSS Act, 2007, two Regulations have been made by the Reserve Bank of India, namely, the Board for Regulation and Supervision of Payment and Settlement Systems Regulations, 2008 and the Payment and Settlement Systems Regulations, 2008. Both these Regulations came into force along with the PSS Act, 2007 on 12th August 2008.

Q 4. What are the objectives of these two Regulations?

Ans. The Board for Regulation and Supervision of Payment and Settlement Systems Regulation, 2008 deals with the constitution of the Board for Regulation and Supervision of Payment and Settlement Systems (BPSS), a Committee of the Central Board of Directors of the Reserve Bank of India. It also deals with the composition of the BPSS, its powers and functions, exercising of powers on behalf of BPSS, meetings of the BPSS and quorum, the constitution of Sub-Committees/Advisory Committees by BPSS, etc. The BPSS exercises the powers on behalf of the Reserve Bank, for regulation and supervision of the payment and settlement systems under the PSS Act, 2007.

The Payment and Settlement Systems Regulations, 2008 covers matters like form of application for authorization for commencing/ carrying on a payment system and grant of authorization, payment instructions and determination of standards of payment systems, furnishing of returns/documents/other information, furnishing of accounts and balance sheets by system provider etc.

Q 5. Does the PSS Act, 2007 define what is a “payment obligation”, “payment instruction”, “payment system” and other commonly used terms like “electronic fund transfer”, “gross settlement system”, “netting”, “settlement”, “systemic risk”, “system participant” and “system provider”?

Ans. Yes, these terms are defined in Section 2 (1) of the PSS Act, 2007.

Q 6. What is a “Payment Obligation”?

Ans. “Payment obligation” is defined as what is owed by one participant in a payment system to another such participant which results from clearing or settlement or payment instructions relating to funds, securities or foreign exchange or derivatives or other transactions.

Q 7. What is a “Payment Instruction”?

Ans. “Payment Instruction” is defined as any instrument, authorization or order in any form, including by electronic means, to effect a payment by a person to a participant in a payment system or from one participant in such a system to another participant in that system.

The payment instruction can be communicated either manually i.e. through an instrument like a cheque draft, payment order etc. or through electronic means, so that a payment can be made by either a person to the participant in such a system or between two participants.

Q 8. What is a “Settlement”?

Ans. “Settlement” means the settlement of payment instructions received and these include settlement of securities, foreign exchange or derivatives or other transactions. Settlement can take place either on a net basis or

on a gross basis. Both netting and gross settlement system are defined under the Act.

Q 9. What is a “Payment System” under the PSS Act, 2007?

Ans. Section 2(1) (i) of the PSS Act 2007 defines a payment system to mean a system that enables payment to be effected between a payer and a beneficiary, involving clearing, payment or settlement service or all of them, but does not include a stock exchange (Section 34 of the PSS Act 2007 states that its provisions will not apply to stock exchanges or clearing corporations set up under stock exchanges). It is further stated by way of an explanation that a “payment system” includes the systems enabling credit card operations, debit card operations, smart card operations, money transfer operations or similar operations.

All systems (except stock exchanges and clearing corporations set up under stock exchanges) carrying out either clearing or settlement or payment operations or all of them are regarded as payment systems. All entities operating such systems will be known as system providers. Also all entities operating money transfer systems or card payment systems or similar systems fall within the definition of a system provider. To decide whether a particular entity operates the payment system, it must perform either the clearing or settlement or payment function or all of them.

Q 10. Are entities operating a payment system or intending to operate a payment system required to get a license, approval or authorization for the purpose?

Ans. In terms of Section 4 of the PSS Act, 2007 no person other than the Reserve Bank can operate or commence a payment system unless authorized by the Reserve Bank. Any person desirous of commencing or operating a payment system needs to apply for authorization under the PSS Act, 2007 (Section 5).

The application for authorization has to be made as per Form A under Regulation 3(2) of the Payment and Settlement Systems Regulations, 2008. The application is required to be duly filled up and submitted with the stipulated documents to the Reserve Bank.

All entities operating payment systems or desirous of setting up such systems are required to apply for authorization under the Act. The [application for authorisation can be downloaded from the following link](https://rbidocs.rbi.org.in/rdocs/Publications/PDFs/REGULATIO50115.pdf). Any unauthorized operation of a payment system would be an offence under the PSS Act, 2007 and accordingly liable for penal action under that Act.

Q 11. Is there any application fee to be submitted along with the application for authorization?

Ans. A sum of Rs 10,000/- is required to be submitted as application fee, which can be submitted by cash or cheque or payment order or demand draft or electronic fund transfer in favour of the Reserve Bank along with the application for authorisation.

The form and manner of application for authorisation is available at <https://rbidocs.rbi.org.in/rdocs/Publications/PDFs/REGULATIO50115.pdf>

Q 12. Are foreign entities allowed to operate a payment system in India?

Ans. Yes. The PSS Act 2007 does not prohibit foreign entities from operating a payment system in India and the Act does not discriminate/differentiate between foreign entities and domestic entities. (Pl see Sections 4 and 18 of the PSS Act, 2007)

Q 13. Are foreign entities required to get a license or approval or authorization from Reserve Bank before commencing operations?

Ans. Yes. All entities, irrespective of domestic or foreign, need to obtain license/ approval / authorization from

Reserve Bank before commencing payment system operations in the country. The PSS Act indicates that “No person can operate a payment system except under and in accordance with an authorisation issued by the Reserve Bank”. Criteria are also specified for particular payment systems which form part of the respective payment system guidelines / instructions

The form and manner of application for authorisation is available at <https://rbidocs.rbi.org.in/rdocs/Publications/PDFs/REGULATI050115.pdf>

Q 14. What are Financial Market Infrastructures?

Ans. Financial Market Infrastructure (FMI) is defined as a multilateral system among participating institutions, including the operator of the system, used for the purposes of clearing, settling, or recording payments, securities, derivatives, or other financial transactions. (Please see Regulation and Supervision of Financial Market Infrastructures regulated by Reserve Bank https://www.rbi.org.in/scripts/bs_viewcontent.aspx?Id=2705#F1). The term FMI generally refers to systemically important payment systems, Central Securities Depositories (CSDs), Securities Settlement Systems (SSSs), Central Counter Parties (CCPs), and Trade Repositories (TRs) that facilitate the clearing, settlement, and recording of financial transactions. CSDs, SSSs, CCPs are designated as “payment systems” under the PSS Act. TR has been defined and covered under the PSS Act.

The FMIs are subjected, on an on-going basis, to the rules and regulations that are consistent with the Principles for Financial Market Infrastructures (PFMIs) issued by the Committee on Payment and Settlement Systems (CPSS is rechristened as Committee on Payment and Market Infrastructures- CPMI) and International Organisation of Securities Commissions (IOSCO). The Reserve Bank has on 26 July 2013 issued a press release on “RBI issues Policy Document for Regulation and Supervision of Financial Market Infrastructures” https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=29170

Q 15. Can a foreign Financial Market Infrastructure(FMI) start operations in India?

Ans. Yes. The PSS Act 2007 does not prohibit foreign entities from operating a payment system in India. The Act does not discriminate/differentiate between foreign entities and domestic entities. (Pl see Sections 4 and 18 of the PSS Act, 2007). Please also see Ans to Q.12.

Q 16. What are the services which a foreign entity can provide?

Ans. The PSS Act does not place any restriction on the types of payment systems / services a foreign entity can provide. However, any service provided by a domestic or foreign entity must be in accordance with the overall legal framework of the country.

Foreign entities viz., card networks like MasterCard (Singapore), Visa Worldwide Pte. Limited (Singapore), etc. are authorised under the PSS Act and operating card schemes in India. Also, cross-border remittance service providers viz., Western Union Financial Services Incorporated, USA, MoneyGram Payment Systems Inc, USA., etc. have also been authorised and are providing remittance services. The list of entities authorised under the PSS Act is available at <https://rbi.org.in/Scripts/PublicationsView.aspx?id=12043>

Q 17. What are the factors which the Reserve Bank will consider while deciding on an application submitted for authorization?

Ans. The Reserve Bank will consider factors like the need for the proposed payment system, the technical standards and design of proposed system, the security procedures and terms and conditions of operation of the proposed system, the procedure for netting of payment instructions, risk management processes, financial status of the applicant, experience of management and integrity of applicant, consumer interests, monetary and credit policies and other relevant factors while deciding on an application for authorization for commencing or

operating a payment system (Section 7 of PSS Act, 2007).

The Reserve Bank will endeavour to dispose of all applications received for authorization within six months from the date of their receipt.

Q 18. What are the parameters taken into consideration for giving authorisation to the applicants?

Ans. Application for authorisation of a payment system operator is assessed against the criteria specified for a particular payment system. For example, the application for issuance and operation of PPI is assessed against the Policy Guidelines on Issuance and Operation of Pre-paid Payment Instruments in India. Similarly, in case of CCP, the application would be assessed against the backdrop of PFMI policy document issued by RBI.

As per section 6 of the PSS Act, the Reserve Bank may make such inquiries as it may consider necessary for the purpose of satisfying itself the capacity, credentials of the participants or for any other valid reason.

In case, the entity is already regulated by any other authority, information from such authorities may be called for making the assessment. It may be mentioned that for licensing Indian entities as banks in the recent past, the process entailed calling for due diligence reports from foreign regulators wherever the applicant entity had group entities operating in foreign jurisdictions.

Q 19. Can the Reserve Bank refuse to grant authorization to commence or operate a payment system?

Ans. Yes, the Reserve Bank can refuse to grant authorization under the PSS Act, 2007. However, the Reserve Bank has to give a written notice to such an applicant giving the reasons for refusal and also a reasonable opportunity of being heard {Section 7 (3) of the PSS Act 2007}.

Q 20. Can the Reserve Bank revoke authorization granted under the PSS Act 2007?

Ans. Yes, the Reserve Bank is empowered to revoke the authorization granted by it, if the system provider contravenes any provisions of the Act or Regulations, fails to comply with its orders/ directions or violates the terms and conditions under which the authorization was granted to it (Section 8 of PSS Act 2007).

Q 21. Is there any appellate authority to whom an aggrieved applicant whose application for authorization is refused or a system provider whose authorization is revoked, can appeal?

Ans. The aggrieved applicant or aggrieved system provider can appeal to the Central Government within 30 days from the date on which the order of refusal or revocation is conveyed to him (Section 9 of PSS Act, 2007).

Q 22. Can the Reserve Bank collect any authorisation fees and direct the applicant to furnish a security deposit?

Ans. Yes, Section 7 of the PSS Act, 2007 empowers the Reserve Bank to collect authorization fees while granting authorization. It can also call upon the applicant to furnish a security deposit for the proper conduct of the payment system. The quantum of authorization fees and security deposit can be decided by the Reserve Bank.

Q 23. Does the Reserve Bank have powers to lay down any standards?

Ans. The Reserve Bank is empowered to prescribe the format of payment instructions, size and shape of instructions, timings to be maintained by payment systems, manner of funds transfer criteria for membership including continuation, termination and rejection of membership, terms and conditions for participation in the payment system etc (Section 10 of PSS Act, 2007).

Q 24. Whether the Reserve Bank can call for returns, information etc., from the system provider with regard to

the operation of the payment system?

Ans. The Reserve Bank is empowered to call for from the system provider returns, documents and other information relating to the operation of the payment system. The system provider and all system participants are required to provide Reserve Bank access to any information relating to the operation of the payment system (Section 12 and 13 of PSS Act, 2007).

Q 25. Whether the Reserve Bank can share such information as received above with other regulators, etc.?

Ans. Yes, under Section 15 (2) of the PSS Act, the Reserve Bank may disclose any document or information obtained by it to any person to whom the disclosure of such document or information is considered necessary for protecting the integrity, effectiveness or security of the payment system, or in the interest of banking or monetary policy or the operation of the payment systems generally or in the public interest.

Q 26. Can the Reserve Bank inspect the premises of the system provider?

Ans. The Reserve Bank, in order to ensure compliance of the provisions of the PSS Act, 2007 and the Regulations made thereunder, can depute an officer authorized by it to enter any premises where a payment system is being operated, inspect any equipment, including any computer system or document, and call upon any employee of the system provider or participant to provide any document or information as required by it (Section 14 of PSS Act, 2007).

Q 27. Can Reserve Bank conduct inspection of foreign entities authorized by it but located in foreign jurisdictions?

Ans. Yes, Reserve Bank has the authority to conduct on-site inspection, under the PSS Act.

However, foreign entities located in overseas jurisdictions may be exempted from certain requirements applicable to domestic payment systems (India) subject to the RBI concluding cooperative agreements with the home regulator/s.

Q 28. Can the Reserve Bank issue directions to the system provider?

Ans. The Reserve Bank is authorized to issue directions to a payment system or system participant to cease or desist from engaging in any act, omission or course of conduct or direct it to perform any acts as well as issue general directions in the interests of the smooth operation of the payment system (Section 17 and 18 of the PSS Act, 2007).

Q 29. Does the PSS Act 2007 deal with netting and settlement finality?

Ans. The PSS Act 2007 defines “netting” and legally recognizes settlement finality. It states that a settlement, whether gross or net, will be final and irrevocable as soon as the money, securities, foreign exchange or derivatives or other transactions payable as a result of such settlement is determined, whether or not such money, securities or foreign exchange or other transactions is actually paid. In case a system participant is declared insolvent, or is dissolved or is wound up, no other law can affect any settlement which has become final and irrevocable and the right of the system provider to appropriate the collaterals contributed by the system participants towards settlement or other obligations.

This Act also legally recognizes the loss allocation among system participants and payment system, where the rules provide for this mechanism

Q 30. What are the duties of a system provider under the PSS Act, 2007?

Ans. The PSS Act, 2007 lays down the duties of the system provider. The system provider is required to operate the payment system in accordance with the provisions of the Act and the Regulations, the terms and conditions of authorization and the directions given by the Reserve Bank from time to time. The system provider is also required to act in accordance with the contract governing the relationship among the system participants and the rules and regulations which deal with the operation of the payment system. The Act requires the system provider to disclose the terms and conditions including the charges, limitations of liability etc., under the payment system to the system participants. The Act also requires the system provider to provide copies of all the rules and regulations governing the operation of the payment system and other relevant documents to the system participants. The system provider is required to keep the documents and its contents, provided to it by the system participants, as confidential and is prohibited from disclosing the same, except in accordance with the provisions of law.(Sections 20 to 22 of the Act)

Q 31. What is the mechanism for settlement of disputes under the PSS Act, 2007?

Ans. The Act lays down an elaborate mechanism for settlement of disputes between system participants in a payment system, between system participant and system provider and between system providers. The Act requires the system provider to make provision in its rules or regulations for creation of a panel to decide disputes between system participants. Where any system participant is dissatisfied with the decision of the panel, or where disputes arise between system participant and system provider or between system providers, such disputes are required to be referred to the Reserve Bank for adjudication, whose decision shall be final and binding on the parties. In cases where the Reserve Bank, in its capacity either as a system participant or system provider, is itself a party to the dispute, then there is a provision for referring such cases to the Central Government for adjudication. (Section 24 of Act)

Q 32. What are the consequences of dishonour of electronic fund transfer under the PSS Act, 2007?

Ans. Under the PSS Act, 2007, dishonour of an electronic fund transfer instruction due to insufficiency of funds in the account etc., is an offence punishable with imprisonment or with fine or both, similar to the dishonour of a cheque under the Negotiable Instruments Act 1881. Subject to complying with the procedures laid down under the PSS Act, 2007, criminal prosecution of defaulter can be initiated in such cases. This provision was introduced to discourage dishonour of electronic payment instructions. (Section 25 of the Act)

Q 33. Are there any penalties or punitive action laid down under the PSS Act, 2007?

Ans. Under the PSS Act, 2007, operating a payment system without authorization, failure to comply with the terms of authorization, failure to produce statements, returns information or documents or providing false statement or information, disclosing prohibited information, non-compliance of directions of Reserve Bank violations of any of the provisions of the Act, Regulations, order, directions etc., are offences punishable for which Reserve Bank can initiate criminal prosecution. Reserve Bank is also empowered to impose fine for certain contraventions under the Act. (Sections 26 and 30 of the PSS Act, 2007).

Bharat Bill Payment System (BBPS)

1) What is Bharat Bill Payment System (BBPS)?

Ans: Bharat Bill Payment System (BBPS) is an integrated bill payment system which will offer interoperable bill payment service to customers online as well as through a network of agents on the ground. The system will provide multiple payment modes and instant confirmation of payment.

2) Where I can find more details about the BBPS system?

Ans: The policy guidelines for the BBPS system were issued by the Reserve Bank of India on November 28, 2014. The document is available in the following link <https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=9368&Mode=0>. The BBPS will operate as a tiered structure with a single Bharat Bill Payment Central Unit (BBPCU) and multiple Bharat Bill Payment Operating

Units (BBPOUs).

3) What is Bharat Bill Payment Central Unit (BBPCU)?

Ans: Bharat Bill Payment Central Unit (BBPCU) will be a single authorized entity operating the BBPS. The BBPCU will set necessary operational, technical and business standards for the entire system and its participants, and also undertake clearing and settlement activities. As indicated in the circular dated November 28, 2015 National Payment Corporation (NPCI) has been identified to act as BBPCU. It will be an authorized entity under the Payment and Settlement Systems Act, 2007.

4) What is Bharat Bill Payment Operating Unit (BBPOU)?

Ans: Bharat Bill Payment Operating Units (BBPOUs) will be authorised operational entities, adhering to the standards set by the BBPCU for facilitating bill payments online as well as through a network of agents, on the ground.

5) What is the current scope of Bharat Bill Payment System (BBPS)?

Ans: To start with, the scope of BBPS will cover repetitive payments for everyday utility services such as electricity, water, gas, telephone and Direct-to-Home (DTH). Gradually, the scope would be expanded to include other types of repetitive payments, like school / university fees, municipal taxes etc.

6) Where can we get more details about the activities of BBPCU and BBPOU standards?

The prospective applicants for authorization / approval to function as BBPOUs may approach National Payments Corporation of India (NPCI) for further details on the Procedural Guidelines and other technical and operational aspects / details.

7) Who should apply for authorisation to become BBPOUs?

Ans: Banks and non-bank entities presently engaged in any of the above bill payment activities falling under the scope of BBPS and desirous of continuing the activity are mandatorily required to apply for approval / authorisation to Reserve Bank of India under the Payment and Settlement Systems (PSS) Act 2007.

8) What is the time frame for applying for authorization / approval to the Reserve Bank of India?

The applications for authorization / approval from non-bank entities and banks will be accepted till close of business on November 20, 2015.

The above timeline has been extended upto December 18, 2015.

9) What are the eligibility criteria for non-bank entities for seeking authorisation as BBPOUs?

Ans: The eligibility criteria for non-bank entities seeking authorization to function as BBPOUs are given below:

- The entity should be a company incorporated in India and registered under the Companies Act 1956 / Companies Act 2013
- The Memorandum of Association (MOA) of the applicant entity must cover the proposed activity of operating as a BBPOU
- The applicant entity should have a net worth of at least Rs.100 crore as per the last audited balance sheet and the same has to be maintained at all times.
- In case of any Foreign Direct Investment (FDI) in the applicant entity, necessary approval from the competent authority as required under the policy notified by the Department of Industrial Policy and

Promotion (DIPP) under the consolidated policy on FDI and regulations framed under the Foreign Exchange Management Act (FEMA) must be submitted while seeking authorization.

- The company must have domain experience in the field of bill collection/services to the billers, and relevant experience in transaction processing for a minimum period of one year.
- The entity must apply for authorization under the Payment and Settlement Systems Act, 2007 to the Reserve Bank of India for its operations.

10) How should net worth be computed for a non-bank entity?

Ans: For computation of Net Worth please refer to the instructions contained in our circular https://www.rbi.org.in/scripts/FS_Notification.aspx?Id=9490&fn=9&Mode=0.

'Net-worth' should be computed taking into account paid up equity capital, free reserves, balance in share premium account and capital reserves representing surplus arising out of sale proceeds of assets but not reserves created by revaluation of assets adjusted for 'accumulated loss balance, book value of intangible assets and Deferred Revenue Expenditure, if any'.

11) What is the application procedure for authorization for non-banks?

Ans: The application procedure for non-bank entities is given in the [Press Release](#) issued by the Reserve Bank of India on October 20, 2015.

The non-bank entities should apply as per the prescribed format given in <http://rbidocs.rbi.org.in/rdocs/Forms/DOCs/PSSACRT130215.DOC> along with additional inputs in the template as indicated in the above Press Release and a DD/Cheque for Rs 10,000 favoring Reserve Bank of India. The application may be submitted to the Chief General Manager, Department of Payment and Settlement System, Reserve Bank of India, 14th Floor, Central Office Building, Shahid Bhagat Singh Marg, Mumbai 400001. Such applications will be accepted till close of business on November 20, 2015.

The timeline for receipt of application has been extended till close of business on December 18, 2015.

12) What is the application procedure for banks to become BBPOUs?

Ans: The application procedure for banks is given in the [Press Release](#) issued by the Reserve Bank of India on October 20, 2015.

Banks are required to submit a letter along with the Board resolution for undertaking this activity. The details of the type of billers and bill payments that is being handled and/or proposed to be handled by them as BBPOUs, and a complete list of billers for whom services are presently offered may also be provided.

13) Whether it is mandatory for all entities (banks and non-banks) doing bill payments to apply for authorisation to Reserve Bank?

Ans: The entities currently engaged in bill payments which are falling under the existing scope of BBPS will mandatorily have to apply to Reserve Bank for authorisation.

14) If the entity does not fall under the present scope of BBPS, whether it is still required to apply for authorisation?

Ans: Entities engaging in bill payment activities not covered in the present scope of BBPS need not apply for authorisation now. These entities may be required to apply for authorisation as and when the scope of the BBPS is expanded in future. A separate notification will be issued by the Reserve Bank.

15) What will happen to the application when the entity meets all the eligibility criteria?

Ans: The Reserve Bank of India will issue in-principle authorisation to entities which meet the eligibility criteria and other due diligence checks carried out as part of authorisation. The final authorisation to commence the business will be issued after submission of System Audit report and obtaining certification from NPCI to join the BBPS system.

16) What will happen to the application if any entity already engaged in bill payments does not meet the eligibility criteria?

Ans: Those entities which have applied for authorisation but do not presently meet the eligibility criteria will be given one-time extension upto December 31, 2016 to meet the eligibility criteria. During this period, the entities can continue to engage in bill payments activities covered under the scope of BBPS.

17) Whether an entity which has been granted extension will be required to inform RBI when they meet the eligibility criteria?

Ans: Yes, the entity will be required to report to RBI as and when it meets the eligibility criteria, but not later than December 31, 2016, for obtaining authorisation to operate as BBPOU.

18) What will happen if an entity is not able to meet the eligibility criteria by December 31, 2016?

Ans: The entities which have been given extension of time but fail to meet the eligibility criteria by December 31, 2016 will be required to become agents of the existing BBPOUs or exit the business of bill payments covered under the scope of BBPS by May 31, 2017.

19) Will the BBPS guidelines apply to billers own collection centers operated by them?

Ans: No. The billers own collection points will continue as hitherto, even after operationalisation of BBPS.

20) Whether the entities (banks and non-banks), who are presently engaged in the bill payment activities falling under the scope of BBPS but want to become an agent only in future of a BBPOU, are also required to submit their application?

Ans: No, the entities (bank or non-banks) presently engaged in bill payment activities covered under the scope of BBPS desirous of operating only as agents under BBPS system are not required to apply for approval/authorisation to Reserve Bank.

21) In case of entities as indicated in Q.20, till what time such entities will be allowed to continue to provide bill payment service? Is there a timeline for them to join as agent or agent institution of authorised BBPOUs?

Ans: Those entities which have intent to become only agents of BBPOUs can continue to operate their business till December 31, 2016. In case they do not become agents of authorised BBPOUs by then, they will have to wind down their business by May 31, 2017.

22) In what capacity entities, which have been granted in-principle approval by RBI as a “small bank” or “payment bank”, should apply for BBPOU authorisation – as a bank or a non-bank?

Ans: Such entities will be required to apply for authorisation to Reserve bank under their current legal status.

23) Whether the non-bank entities will be required to show upfront that they are meeting the capital requirement for BBPOUs?

Ans: If an entity applying for authorisation for BBPOU does not have the required network as indicated in the eligibility criteria, then they are required to demonstrate unequivocal commitment / sources for raising the funds and also specify the time period within which the funds will be raised.

24) Whether the window for approval/authorisation will be opened in future date for existing entities (banks and non-banks)?

Ans: Depending on the development, growth and expansion of the scope of BBPS, the Reserve Bank may decide to open approval/authorisation window once again at a future date.

25) Whether the authorisation window will be opened again by Reserve Bank? In which case, who will be eligible for applying for authorisation at that time? Whether entities (bank and non-banks) currently not engaged in bill payment activities can also apply for approval/authorisation?

Ans: As indicated above, depending on the development, growth and expansion of the scope of BBPS, the Reserve Bank may decide to open approval/authorisation window once again at a future date.

All entities engaging in bill payment activities and meeting the requisite eligibility criteria for authorisation / approval as BBPOUs can apply as and when the window is opened again.

26) Whether it is mandatory for banks to submit copy of the “Board approval” while applying for approval to Reserve Bank?

Ans: Submission of Board approval will facilitate speedier processing of applications. If, however, a bank is unable to do so, it will be required to clearly indicate the timeline by which they will be submitting their “Board approval” in their application, and the application will be processed only thereafter.

Electronic Clearing Services

Q.1. What is Electronic Clearing Service (ECS)?

Ans : ECS is an electronic mode of payment / receipt for transactions that are repetitive and periodic in nature. ECS is used by institutions for making bulk payment of amounts towards distribution of dividend, interest, salary, pension, etc., or for bulk collection of amounts towards telephone / electricity / water dues, cess / tax collections, loan instalment repayments, periodic investments in mutual funds, insurance premium etc. Essentially, ECS facilitates bulk transfer of monies from one bank account to many bank accounts or vice versa. ECS includes transactions processed under National Automated Clearing House (NACH) operated by National Payments Corporation of India (NPCI).

Q.2. What are the variants of ECS? In what way are they different from each other?

Ans : Primarily, there are two variants of ECS - ECS Credit and ECS Debit.

ECS Credit is used by an institution for affording credit to a large number of beneficiaries (for instance, employees, investors etc.) having accounts with bank branches at various locations within the jurisdiction of a ECS Centre by raising a single debit to the bank account of the user institution. ECS Credit enables payment of amounts towards distribution of dividend, interest, salary, pension, etc., of the user institution.

ECS Debit is used by an institution for raising debits to a large number of accounts (for instance, consumers of utility services, borrowers, investors in mutual funds etc.) maintained with bank branches at various locations within the jurisdiction of a ECS Centre for single credit to the bank account of the user institution. ECS Debit is useful for payment of telephone / electricity / water bills, cess / tax collections, loan installment repayments, periodic investments in mutual funds, insurance premium etc., that are periodic or repetitive in nature and

payable to the user institution by large number of customers etc.

Q.3. At how many places in the country is ECS Scheme available?

Ans : Based on the geographical location of branches covered, there are three broad categories of ECS Schemes – Local ECS, Regional ECS and National ECS. These schemes are either operated by RBI or by the designated commercial banks. NACH is also one of the form of ECS system operated by NPCI and further details about NACH is available at NPCI web site under the link http://www.npci.org.in/clearing_faq.aspx.

Local ECS – this is operating at 81 centres / locations across the country. At each of these ECS centres, the branch coverage is restricted to the geographical coverage of the clearing house, generally covering one city and/or satellite towns and suburbs adjoining the city.

Regional ECS – this is operating at 9 centres / locations at various parts of the country. RECS facilitates the coverage all core-banking-enabled branches in a State or group of States and can be used by institutions desirous of reaching beneficiaries within the State / group of States. The system takes advantage of the core banking system in banks. Accordingly, even though the inter-bank settlement takes place centrally at one location in the State, the actual customers under the Scheme may have their accounts at various bank branches across the length and breadth of the State / group of States.

National ECS – this is the centralized version of ECS Credit which was launched in October 2008. The Scheme is operated at Mumbai and facilitates the coverage of all core-banking enabled branches located anywhere in the country. This system too takes advantage of the core banking system in banks. Accordingly, even though the inter-bank settlement takes place centrally at one location at Mumbai, the actual customers under the Scheme may have their accounts at various bank branches across the length and breadth of the country. Banks are free to add any of their core-banking-enabled branches in NECS irrespective of their location. Details of NECS Scheme are available on the website of Reserve Bank of India at http://www.rbi.org.in/scripts/bs_viewcontent.aspx?Id=2345

The list of centres where the ECS facility is available has been placed on the website of Reserve Bank of India at <http://www.rbi.org.in/Scripts/ECSUserView.aspx?Id=26>. Similarly, the centre-wise list of bank branches participating at each location is available on the website of Reserve Bank of India at <http://www.rbi.org.in/scripts/ECSUserView.aspx?Id=27>

ECS (CREDIT)

Q.4. Who can initiate an ECS Credit transaction?

Ans : ECS Credit payments can be initiated by any institution (called ECS Credit User) which needs to make bulk or repetitive payments to a number of beneficiaries. The institutional User has to first register with an ECS Centre. The User has to also obtain the consent of beneficiaries (i.e., the recipients of salary, pension, dividend, interest etc.) and get their bank account particulars prior to participation in the ECS Credit scheme.

ECS Credit payments can be put through by the ECS User only through his / her bank (known as the Sponsor bank). ECS Credits are afforded to the beneficiary account holders (known as destination account holders) through the beneficiary account holders' bank (known as the destination bank). The beneficiary account holders are required to give mandates to the user institutions to enable them to afford credit to their bank accounts through the ECS Credit mechanism.

Q.5. How does the ECS Credit Scheme work?

Ans : The User intending to effect payments through ECS Credit has to submit details of the beneficiaries (like name, bank / branch / account number of the beneficiary, MICR code of the destination bank branch, etc.), date

on which credit is to be afforded to the beneficiaries, etc., in a specified format (called the input file) through its sponsor bank to one of the ECS Centres where it is registered as a User.

The bank managing the ECS Centre then debits the account of the sponsor bank on the scheduled settlement day and credits the accounts of the destination banks, for onward credit to the accounts of the ultimate beneficiaries with the destination bank branches.

Further details about the ECS Credit scheme are contained in the Procedural Guidelines and available on the website of Reserve Bank of India at <http://www.rbi.org.in/Scripts/ECSUserView.aspx?Id=1>

Q.6. What is a MICR Code?

Ans : MICR is an acronym for Magnetic Ink Character Recognition. The MICR Code is a numeric code that uniquely identifies a bank-branch participating in the ECS Credit scheme. This is a 9 digit code to identify the location of the bank branch; the first 3 characters represent the city, the next 3 the bank and the last 3 the branch. The MICR Code allotted to a bank branch is printed on the MICR band of cheques issued by bank branches.

Q.7. How does a beneficiary participate in ECS Credit Scheme?

Ans : The beneficiary has to furnish a mandate to the user institution giving consent to avail the ECS Credit facility. The mandate contains details of his / her bank branch, account particulars and authorises the user institution to afford credit to his / her account with the destination bank branch.

Q.8. Is it necessary for user institutions to collect the mandates from beneficiaries?

Ans : Yes, in addition to the consent of the beneficiaries, the mandate also provides important information related to bank account details etc. which are useful for the user institution to transfer funds to the right accounts. A model mandate form has been prescribed for the purpose and is available in the ECS Credit Procedural Guidelines.

Q.9. Is there scope for the beneficiary to alter the mandate under the ECS Credit Scheme?

Ans : Yes. In case the information / account particulars contained in the mandate undergo any change, the beneficiary has to notify the changes to the User Institution so that the correct information can be incorporated in its records. This will ensure that transactions do not get rejected at the beneficiary's bank branch due to inconsistencies/ mismatch in the data sent by the user institution.

Q.10. Can ECS be used to transfer funds to Non Resident External (NRE) and Non Resident Ordinary (NRO) accounts?

Ans: Yes. ECS can be used to transfer funds to NRE and NRO accounts in the country. This, however, is subject to the adherence to the provisions of the Foreign Exchange Management Act, 2000 (FEMA) and Wire Transfer Guidelines.

Q.11. Will beneficiaries be intimated of credits afforded to their account under the ECS Credit Scheme?

Ans : It is the responsibility of the user institution to communicate to the beneficiary the details of credit that is being afforded to his / her account, indicating the proposed date of credit, amount and related particulars of the payment. Destination banks have been advised to ensure that the pass books / statements given to the beneficiary account holders reflect particulars of the transaction / credit provided by the ECS user institutions. The beneficiaries can match the entries in the passbook / account statement with the advice received by them from the User Institutions. Many banks also give mobile alerts / messages to customers after credit of such funds to

accounts.

Q.12. What will happen if credit is not afforded to the account of the beneficiary?

Ans: If a Destination Bank is not in a position to credit the beneficiary account due to any reason, the same would be returned to the ECS Centre to enable the ECS Centre to pass on the uncredited items to the User Institution through the Sponsor Bank. The User Institution can then initiate payment through alternate modes to the beneficiary.

In case of delayed credit by the destination bank, the destination bank would be liable to pay penal interest (at the prevailing RBI LAF Repo rate plus two percent) from the due date of credit till the date of actual credit. Such penal interest should be credited to the Destination Account Holder's account even if no claim is lodged to the effect by the Destination Account Holder.

Q.13. What are the advantages of the ECS Credit Scheme to the beneficiary

Ans : ECS Credit offers many advantages to the beneficiary –

- The beneficiary need not visit his / her bank for depositing the paper instruments which he would have otherwise received had he not opted for ECS Credit.
- The beneficiary need not be apprehensive of loss / theft of physical instruments or the likelihood of fraudulent encashment thereof.
- Cost effective.
- The beneficiary receives the funds right on the due date.

Q.14. How does the ECS Credit Scheme benefit User Institutions?

Ans : User institutions enjoy many advantages as well. For instance,

- Savings on administrative machinery and costs of printing, dispatch and reconciliation of paper instruments that would have been used had beneficiaries not opted for ECS Credit.
- Avoid chances of loss / theft of instruments in transit, likelihood of fraudulent encashment of paper instruments, etc. and subsequent correspondence / litigation.
- Efficient payment mode ensuring that the beneficiaries get credit on a designated date.
- Cost effective.

Q.15. Are there any advantages of the ECS Credit Scheme to the banking system?

Ans : Yes, the banking system too benefits from ECS Credit Scheme such as –

- Freedom from paper handling and the resultant disadvantages of handling, presenting and monitoring paper instruments presented in clearing. Ease of processing and return for the destination bank branches.
- Smooth process of reconciliation for the sponsor banks.
- Cost effective.

Q.16. Is there any limit on the value of individual transactions in ECS Credit?

Ans : No. There is no value limit on the amount of individual transactions.

Q.17. What are the processing / service charges levied under ECS Credit?

Ans : The Reserve Bank of India has deregulated the charges to be levied by sponsor banks from user institutions. The sponsor banks are, however, required to disclose the charges in a transparent manner. With

effect from 1st July 2011, originating banks are required to pay a nominal charge of 25 paise per transaction to the Clearing house and destination bank respectively. Destination bank branches have been directed to afford ECS Credit free of charge to the beneficiary account holders.

ECS (DEBIT)

Q.18. Who can initiate a ECS Debit transaction?

Ans : ECS Debit transaction can be initiated by any institution (called ECS Debit User) which has to receive / collect amounts towards telephone / electricity / water dues, cess / tax collections, loan installment repayments, periodic investments in mutual funds, insurance premium etc. It is a Scheme under which an account holder with a bank branch can authorise an ECS User to recover an amount at a prescribed frequency by raising a debit to his / her bank account.

The User institution has to first register with an ECS Centre. The User institution has to also obtain the authorization (mandate) from its customers for debiting their account along with their bank account particulars prior to participation in the ECS Debit scheme. The mandate has to be duly verified by the beneficiary's bank. A copy of the mandate should be available on record with the destination bank where the customer has a bank account.

Q.19. How does the ECS Debit Scheme work?

Ans : The ECS Debit User intending to collect receivables through ECS Debit has to submit details of the customers (like name, bank / branch / account number of the customer, MICR code of the destination bank branch, etc.), date on which the customer's account is to be debited, etc., in a specified format (called the input file) through its sponsor bank to the ECS Centre.

The bank managing the ECS Centre then passes on the debits to the destination banks for onward debit to the customer's account with the destination bank branch and credits the sponsor bank's account for onward credit to the User institution. Destination bank branches will treat the electronic instructions received from the ECS Centre on par with the physical cheques and accordingly debit the customer accounts maintained with them. All the unsuccessful debits are returned to the sponsor bank through the ECS Centre (for onward return to the User Institution) within the specified time frame.

For further details about the ECS Debit scheme, the ECS Debit Procedural Guidelines – available on the website of Reserve Bank of India at <http://www.rbi.org.in/Scripts/ECSUserView.aspx?Id=25> may be referred to.

Q.20. What are the advantages of ECS Debit Scheme to the customers?

Ans : The advantages of ECS Debit to customers are many and include,

- ECS Debit mandates will take care of automatic debit to customer accounts on the due dates without customers having to visit bank branches / collection centres of utility service providers etc.
- Customers need not keep track of due date for payments.
- The debits to customer accounts would be monitored by the ECS Users, and the customers alerted accordingly.
- Cost effective.

Q.21. How does the ECS Debit Scheme benefit user institutions?

Ans : User institutions enjoy many benefits from the ECS Debit Scheme like,

- Savings on administrative machinery and costs of collecting the cheques from customers, presenting in

clearing, monitoring their realisation and reconciliation.

- Better cash management because of realisation / recovery of dues on due dates promptly and efficiently.
- Avoids chances of loss / theft of instruments in transit, likelihood of fraudulent access to the paper instruments and encashment thereof.
- Realisation of payments on a uniform date instead of fragmented receipts spread over many days.
- Cost effective.

Q.22. What are the advantages of ECS Debit Scheme to the banking system?

Ans : The banking system has many benefits from ECS Debit such as –

- Freedom from paper handling and the resultant disadvantages of handling, receiving and monitoring paper instruments presented in clearing.
- Ease of processing and return for the destination bank branches. Destination bank branches can debit the customers' accounts after matching the account number of the customer in their database and due verification of existence of valid mandate and its particulars. With core banking systems in place and straight-through-processing, this process can be completed with minimal manual intervention.
- Smooth process of reconciliation for the sponsor banks.
- Cost effective.

Q.23. Can the mandate once given by a customer be withdrawn or stopped?

Ans : Yes. In case of any need to withdraw or stop a mandate the customer can do so by approaching the user institution to withdraw the mandate. The account holder / customer can also withdraw the mandate / debit instruction directly from his / her banker without involvement of the User institution. The withdrawal instructions of a customer in such cases would be treated equivalent to a 'stop payment' instruction in cheque clearing system. However, as a matter of best practice, the customer may also provide prior notice or intimation of mandate withdrawal to the ECS user institution well in time, so as to ensure that the input files submitted by the user institution does not include the ECS Debit details in respect of the withdrawn / stopped mandates, leading to avoidable returns/rejections etc.

Q.24. Can a customer stipulate any ceiling on the amount of debit, purpose or validity period of the mandate under the ECS Debit Scheme?

Ans : Yes. It is left to the choice of the individual customer and the ECS user to decide these aspects. The mandate can contain a ceiling on the maximum amount of debit, specify the purpose of debit and validity period of the mandate.

Q.25. Is there any limit on the value of Individual transactions in ECS Debit?

Ans : No. There is no value limit on the amount of individual transactions that can be collected by ECS Debit.

Q.26. What are the processing / service charges levied under ECS Debit?

Ans : The Reserve Bank of India has deregulated the charges to be levied by sponsor banks from user institutions. The sponsor banks are, however, required to disclose the charges in a transparent manner. With effect from 1st July 2011, originating banks are required to pay a nominal charge of 25 paise and 50 paise per transaction to the Clearing house and destination bank respectively. Bank branches do not generally levy processing / service charges for debiting the accounts of customers maintained with them.

NEFT System

Q.1. What is NEFT?

Ans: National Electronic Funds Transfer (NEFT) is a nation-wide payment system facilitating one-to-one funds

transfer. Under this Scheme, individuals, firms and corporates can electronically transfer funds from any bank branch to any individual, firm or corporate having an account with any other bank branch in the country participating in the Scheme.

Q.2. Are all bank branches in the country part of the NEFT funds transfer network?

Ans: For being part of the NEFT funds transfer network, a bank branch has to be NEFT- enabled. The list of bank-wise branches which are participating in NEFT is provided in the website of Reserve Bank of India at <http://www.rbi.org.in/scripts/neft.aspx>

Q.3. Who can transfer funds using NEFT?

Ans: Individuals, firms or corporates maintaining accounts with a bank branch can transfer funds using NEFT. Even such individuals who do not have a bank account (walk-in customers) can also deposit cash at the NEFT-enabled branches with instructions to transfer funds using NEFT. However, such cash remittances will be restricted to a maximum of Rs.50,000/- per transaction. Such customers have to furnish full details including complete address, telephone number, etc. NEFT, thus, facilitates originators or remitters to initiate funds transfer transactions even without having a bank account.

Q.4. Who can receive funds through the NEFT system?

Ans: Individuals, firms or corporates maintaining accounts with a bank branch can receive funds through the NEFT system. It is, therefore, necessary for the beneficiary to have an account with the NEFT enabled destination bank branch in the country.

The NEFT system also facilitates one-way cross-border transfer of funds from India to Nepal. This is known as the Indo-Nepal Remittance Facility Scheme. A remitter can transfer funds from any of the NEFT-enabled branches in to Nepal, irrespective of whether the beneficiary in Nepal maintains an account with a bank branch in Nepal or not. The beneficiary would receive funds in Nepalese Rupees.

Q.5. Is there any limit on the amount that could be transferred using NEFT?

Ans: No. There is no limit – either minimum or maximum – on the amount of funds that could be transferred using NEFT. However, maximum amount per transaction is limited to Rs.50,000/- for cash-based remittances within India and also for remittances to Nepal under the Indo-Nepal Remittance Facility Scheme.

Q.6. Whether the system is centre-specific or has any geographical restriction?

Ans: No. There is no restriction of centres or of any geographical area within the country. The NEFT system takes advantage of the core banking system in banks. Accordingly, the settlement of funds between originating and receiving banks takes places centrally at Mumbai, whereas the branches participating in NEFT can be located anywhere across the length and breadth of the country.

Q.7. What are the operating hours of NEFT?

Ans: Presently, NEFT operates in hourly batches - there are twelve settlements from 8 am to 7 pm on week days (Monday through Friday) and six settlements from 8 am to 1 pm on Saturdays.

Q.8. How does the NEFT system operate?

Step-1 : An individual / firm / corporate intending to originate transfer of funds through NEFT has to fill an application form providing details of the beneficiary (like name of the beneficiary, name of the bank branch where the beneficiary has an account, IFSC of the beneficiary bank branch, account type and account number)

and the amount to be remitted. The application form will be available at the originating bank branch. The remitter authorizes his/her bank branch to debit his account and remit the specified amount to the beneficiary. Customers enjoying net banking facility offered by their bankers can also initiate the funds transfer request online. Some banks offer the NEFT facility even through the ATMs. Walk-in customers will, however, have to give their contact details (complete address and telephone number, etc.) to the branch. This will help the branch to refund the money to the customer in case credit could not be afforded to the beneficiary's bank account or the transaction is rejected / returned for any reason.

Step-2 : The originating bank branch prepares a message and sends the message to its pooling centre (also called the NEFT Service Centre).

Step-3 : The pooling centre forwards the message to the NEFT Clearing Centre (operated by National Clearing Cell, Reserve Bank of India, Mumbai) to be included for the next available batch.

Step-4 : The Clearing Centre sorts the funds transfer transactions destination bank-wise and prepares accounting entries to receive funds from the originating banks (debit) and give the funds to the destination banks(credit). Thereafter, bank-wise remittance messages are forwarded to the destination banks through their pooling centre (NEFT Service Centre).

Step-5 : The destination banks receive the inward remittance messages from the Clearing Centre and pass on the credit to the beneficiary customers' accounts.

Q.9. What is IFSC?

Ans : IFSC or Indian Financial System Code is an alpha-numeric code that uniquely identifies a bank-branch participating in the NEFT system. This is an 11 digit code with the first 4 alpha characters representing the bank, and the last 6 characters representing the branch. The 5th character is 0 (zero). IFSC is used by the NEFT system to identify the originating / destination banks / branches and also to route the messages appropriately to the concerned banks / branches.

Q.10. How can the IFSC of a bank-branch be found?

Ans: Bank-wise list of IFSCs is available with all the bank-branches participating in NEFT. List of bank-wise branches participating in NEFT and their IFSCs is available on the website of Reserve Bank of India at http://www.rbi.org.in/Scripts/bs_viewcontent.aspx?Id=2009 . All the banks have also been advised to print the IFSC of the branch on cheques issued to their customers.

Further, banks have also been advised to ensure that their branch staff provide necessary assistance to customers in filling out the required details, including IFSC details, in the NEFT application form, and also help in ensuring that there is no mismatch between the IFSC code and branch details of beneficiary branch as provided by the customer.

Q.11. What are the processing or service charges for NEFT transactions?

Ans: The structure of charges that can be levied on the customer for NEFT is given below:

a) Inward transactions at destination bank branches (for credit to beneficiary accounts)

– Free, no charges to be levied on beneficiaries

b) Outward transactions at originating bank branches – charges applicable for the remitter

- For transactions up to Rs 10,000 : not exceeding Rs 2.50 (+ Service Tax)

- For transactions above Rs 10,000 up to Rs 1 lakh: not exceeding Rs 5 (+ Service Tax)

- For transactions above Rs 1 lakh and up to Rs 2 lakhs: not exceeding Rs 15 (+ Service Tax)

- For transactions above Rs 2 lakhs: not exceeding Rs 25 (+ Service Tax)

c) Charges applicable for transferring funds from India to Nepal using the NEFT system (under the Indo-Nepal Remittance Facility Scheme) is available on the website of RBI at <http://rbi.org.in/scripts/FAQView.aspx?Id=67>

With effect from 1st July 2011, originating banks are required to pay a nominal charge of 25 paise each per transaction to the clearing house as well as destination bank as service charge. However, these charges cannot be passed on to the customers by the banks.

Q.12. When can the beneficiary expect to get the credit to his bank account?

Ans: The beneficiary can expect to get credit for the NEFT transactions within two business hours (currently NEFT business hours is from morning 8 AM to evening 7 PM on all week days and from morning 8 AM to afternoon 1 PM on Saturdays) from the batch in which the transaction was settled.

Q.13. Who should be contacted in case of non-credit or delay in credit to the beneficiary account?

Ans: In case of non-credit or delay in credit to the beneficiary account, the NEFT Customer Facilitation Centre (CFC) of the respective bank can be contacted (the remitter can contact his bank's CFC; the beneficiary may contact the CFC of his bank). Details of NEFT Customer Facilitation Centres of banks are available on the websites of the respective banks. The details are also available on the website of Reserve Bank of India at http://www.rbi.org.in/Scripts/bs_viewcontent.aspx?Id=2070.

If the issue is not resolved satisfactorily, the NEFT Help Desk (or Customer Facilitation Centre of Reserve Bank of India) at National Clearing Cell, Reserve Bank of India, Mumbai may be contacted through [e-mail](#) or by addressing correspondence to the General Manager, Reserve Bank of India, National Clearing Centre, First Floor, Mumbai Regional Office, Fort Mumbai 400001

Q.14. What will happen if credit is not afforded to the account of the beneficiary?

Ans: If it is not possible to afford credit to the account of the beneficiary for whatever reason, destination banks are required to return the transaction (to the originating branch) within two hours of completion of the batch in which the transaction was processed.

For example, if a customer submits a fund transfer request at 12.05 p.m. to a NEFT-enabled branch, the branch in turn forwards the message through its pooling centre to the NEFT Clearing Centre for processing in the immediately available batch which (say) is the 1.00 pm batch. If the destination bank is unable to afford the credit to the beneficiary for any reason, it has to return the transaction to the originating bank, not later than in the 3.00 pm batch. On receiving such a returned transaction, the originating bank has to credit the amount back to account of the originating customer.

Q.15. Can NEFT be used to transfer funds from / to NRE and NRO accounts?

Ans: Yes. NEFT can be used to transfer funds from or to NRE and NRO accounts in the country. This, however, is subject to the adherence of the provisions of the Foreign Exchange Management Act, 2000 (FEMA) and Wire Transfer Guidelines.

Q.16. Can remittances be sent abroad using NEFT?

Ans: No. However, a facility is available to send outward remittances to Nepal under the Indo-Nepal Remittance Facility Scheme.

Q.17. What are the other transactions that could be initiated using NEFT?

Ans: Besides personal funds transfer, the NEFT system can also be used for a variety of transaction including payment of credit card dues to the card issuing banks, payment of loan EMI etc. It is necessary to quote the IFSC of the beneficiary card issuing bank to initiate the bill payment transactions using NEFT.

Q.18. Can a transaction be originated to draw (receive) funds from another account?

Ans: No. NEFT is a credit-push system i.e., transactions can be originated by the payer / remitter/send only to pay/ transfer / remit funds to a beneficiary.

Q.19. Would the remitter receive an acknowledgement once the funds are transferred to the account of the beneficiary?

Ans: Yes. In case of successful credit to the beneficiary's account, the bank which had originated the transaction is expected to send a confirmation to the originating customer (through SMS or e-mail) advising of the credit as also mentioning the date and time of credit. For the purpose, remitters need to provide their mobile number / e-mail-id to the branch at the time of originating the transaction.

Q.20. Is there a way for the remitter to track a transaction in NEFT?

Ans: Yes, the remitter can track the NEFT transaction through the originating bank branch or its CFC using the unique transaction reference number provided at the time of initiating the funds transfer. It is possible for the originating bank branch to keep track and be aware of the status of the NEFT transaction at all times.

Q.21. What are the pre-requisites for originating a NEFT transaction?

Ans: Following are the pre-requisites for putting through a funds transfer transaction using NEFT–

- Originating and destination bank branches should be part of the NEFT network
- Beneficiary details such as beneficiary name, account number and account type, name and IFSC of the beneficiary bank branch should be available with the remitter

Customers should exercise due care in providing the account number of the beneficiary, as, in the course of processing NEFT transactions, the credit will be given to the customer's account solely based on account number provided in the NEFT remittance instruction / message.

Q.22. What are the benefits of using NEFT?

Ans: NEFT offers many advantages over the other modes of funds transfer:

- The remitter need not send the physical cheque or Demand Draft to the beneficiary.
- The beneficiary need not visit his / her bank for depositing the paper instruments.
- The beneficiary need not be apprehensive of loss / theft of physical instruments or the likelihood of fraudulent encashment thereof.
- Cost effective.
- Credit confirmation of the remittances sent by SMS or email.
- Remitter can initiate the remittances from his home / place of work using the internet banking also.

- Near real time transfer of the funds to the beneficiary account in a secure manner.

Q.23. Is there any compensation for the customers, if the credit is delayed to beneficiary account or if there is any delay is returning the transaction to the originator / sender / remitter?

Ans: Yes. If the NEFT transaction is not credited or returned within the stipulated time then the banks are liable to pay penal interest to the affected customers. Banks are required to pay penal interest at the current RBI LAF Repo Rate plus two percent for the period of delay / till the date of refund as the case may be to the affected customers' account without waiting for a specific claim to be lodged by the customer in this regard.

Indo-Nepal Remittance Facility scheme

Q.1. What are the salient features of Indo-Nepal Remittance Facility Scheme?

Ans : Indo-Nepal Remittance Facility is a cross-border remittance scheme to transfer funds from India to Nepal, enabled under the NEFT Scheme. The scheme was launched to provide a safe and cost-efficient avenue to migrant Nepalese workers in India to remit money back to their families in Nepal. A remitter can transfer funds up to Indian Rupees 50,000 (maximum permissible amount) from any of the NEFT-enabled branches in India. The beneficiary would receive funds in Nepalese Rupees. Further details on the NEFT system and the NEFT-enabled branches are available on the website of Reserve Bank of India at <http://www.rbi.org.in/scripts/neft.aspx>.

Q.2. Is it necessary for the remitter to maintain an account with a bank branch in India?

Ans : No, this is not a mandatory requirement. Under the Scheme, even a walk-in customer can transfer funds upto Rs 50,000 by depositing the cash at the remitting bank branch.

Q.3. Does the beneficiary need to maintain an account with a bank branch in Nepal?

Ans : No, even this is not mandatory. It would, however, be ideal if the beneficiary maintains an account with a bank branch in Nepal to which the credit could be afforded. In Nepal, the Indo-Nepal Remittance Facility Scheme is handled by Nepal SBI Ltd. (NSBL). If the beneficiary does not have a bank account with NSBL or resides in a locality/ area in Nepal not serviced by a NSBL bank branch, an arrangement has been entered into by NSBL with a money transfer company in Nepal (called Prabhu Money Transfer) who would make arrangements for delivery of cash (in Nepalese Rupees) to the beneficiary.

Q.4. What are the minimum documents needed to be presented by the remitter?

Ans : If the remitting customer maintains an account with a bank branch in India, there is no need for any additional information, documents or identification. Else, the remitter has to submit documents for proof of identification such as Passport / Permanent Account Number / Driving License / Telephone Bill / Certificate of Identification issued by his employer with photograph and other details. The information will be captured in the NEFT system as part of compliance with the Know Your Customer (KYC) requirements. Complete address and telephone / mobile number of the beneficiary in Nepal will also be required.

Q.5. How do the transactions flow from India to Nepal and what are the timelines for completion of the transactions?

Ans : Remittances under the scheme for transfer of funds from India to Nepal can be originated from any of the NEFT-enabled branches in India.. List of bank-wise branches participating in the NEFT system is available on the website of Reserve Bank of India at http://www.rbi.org.in/Scripts/bs_viewcontent.aspx?Id=2009.

The bank branches originating the Indo-Nepal remittance transactions under the NEFT will process it like any other NEFT transaction, the only difference being that these transactions will subsequently be pooled / collected

at the designated branch of State Bank of India (SBI) in India. At the end of the day, the remittance information is conveyed electronically by SBI in a secured mode to Nepal SBI Bank Ltd. (NSBL). NSBL then makes arrangements for credit to the bank account of the beneficiary if the beneficiary is an account holder of NSBL. Else, NSBL disburses funds in cash to the beneficiary through the authorised money transfer company (Prabhu Money Transfer). The beneficiary has to approach the local branch of the money transfer company, furnish the UTR number (also called as the Unique Transaction Reference number that uniquely identifies a transaction in the NEFT system that can be obtained from the remitter), and produce a photo identity document (generally Nepal Citizenship Certificate) to prove his identity.

If the beneficiary does not approach the money transfer company within a week from the date of the transaction, the money transfer company would make arrangements for return of the remittance to the originator.

Q.6. How does the remitting customer in India know about the branches of NSBL and the outlets of Prabhu Money Transfer?

Ans : The location and addresses of NSBL and Prabhu Money Transfer are available in the Procedural Guidelines for Indo-Nepal Remittance Facility Scheme as also with the NEFT-enabled branches in India. The Procedural Guidelines for Indo- Nepal Remittance Facility Scheme are available on the website of Reserve Bank of India at <http://rbidocs.rbi.org.in/rdocs/content/pdfs/84489.pdf>.

Q.7. How does the remitter get back money if it is not delivered to the beneficiary?

Ans : The amount of remittance will flow back to the originating bank branch in India through the NEFT system and the bank branch would then communicate to the remitter about return of the remittance. If the remittance was originated by debit to an account, the returned amount will be credited to that account. If the remittance was made by a walk-in customer through a cash deposit, the remitter has to produce evidence of proof of remittance (counterfoil of the remittance application form) for getting refund.

Q.8. What are the charges for availing the remittance facility?

Ans : As the facility is targeted at the migrant Nepali workers in India, concessional charges are envisaged for transfer of funds under the scheme. The charges are as under—

- a. Originating bank branch in India – Maximum Rs. 5 per transaction.
- b. State Bank of India in India – Rs. 20 per transaction if the beneficiary maintains an account with Nepal SBI Ltd. (NSBL). State Bank of India shares this amount equally with NSBL. NSBL would not charge any additional amount for crediting the account of the beneficiary.
- c. In case the beneficiary does not maintain an account with NSBL, an additional amount of Rs.50 would be charged for remittances up to Rs. 5,000 and Rs. 75 for remittances above Rs. 5,000.

The charges would, thus, be a minimum of Rs. 25 or a maximum of Rs. 100 depending on the value of transaction and the manner in which credit is afforded to the beneficiary.

Originating bank branches have been advised to recover the entire charges from the remitter as per the structure detailed above and pass on the appropriate amount to SBI after retaining their share (of Rs. 5).

Q.9. Are there any restrictions on the number of remittances?

Ans : Yes. An originator in India is allowed to remit a maximum of 12 remittances in a year under the scheme.

Q.10. Who can be contacted for redressal of grievances under the Scheme?

Ans : In case of complaints relating to non-credit or delay in credit to the beneficiary account or for complaints

of any other nature, the NEFT Customer Facilitation Centre (CFC) of the respective bank (the originating bank and / or SBI) can be contacted. Details of NEFT Customer Facilitation Centres of banks are available on the websites of the respective banks. The details are also available on the website of Reserve Bank of India at http://www.rbi.org.in/Scripts/bs_viewcontent.aspx?Id=2070.

If the issue is not resolved satisfactorily, the NEFT Help Desk (or Customer Facilitation Centre of Reserve Bank of India) at National Clearing Cell, Reserve Bank of India, Mumbai may be contacted through [e-mail](#) or by addressing correspondence to the General Manager, Reserve Bank of India, National Clearing Centre, First Floor, Free Press House, Nariman Point, Mumbai – 400 021.

US-Dollar Cheque Collection

One of the services rendered by banks as part of their normal banking operations is collection of cheques deposited by their customers, some of which, could also be drawn or payable on banks that are outside the country. Such cheques are called foreign currency cheques and, presently, a significant part of these cheques are US-Dollar denominated payable by banks in the United States of America.

In the interest of better public awareness, the following FAQs have been prepared for cheques denominated in US-Dollars.

1. I have received a cheque denominated in US Dollars. How does such a cheque differ from the usual Rupee cheques as an instrument of payment?

Cheques denominated in currencies other than Indian Rupees such as Euro (€), Pound Sterling (£), US Dollar (\$), Yen (¥), etc., are called foreign currency cheques. Foreign currency cheques include demand drafts, personal cheques, banker's cheques, cashier's cheques, traveller's cheques, etc. Since such cheques are not payable in India they are, therefore, required to be sent to the country concerned for realization of proceeds.

2. RBI has advised banks to frame their own Cheque Collection Policy covering various aspects relating to collection of Rupee cheques. Are there similar guidelines for collection of foreign currency cheques as well?

Cheques denominated in US Dollars (USD cheques) constitute a major share of foreign currency cheques deposited by customers for realisation. In order to make the USD cheque collection process more efficient and transparent, RBI has advised banks to refine their USD cheque collection procedures and frame their own USD Cheque Collection Policy covering aspects like mode of collection, collection period, charges for collection, etc. This policy shall be made part of their regular Cheque Collection Policy.

3. It is now clear that USD cheques are payable in USA and are required to be sent there for realisation. But are there different modes of collecting such cheques?

Yes. There are various ways of collecting (realising) USD denominated cheques. The collection process followed by banks (presenting banks) varies depending on the institutional arrangements put in place by them. There are basically three types of arrangements adopted by banks—

i. Cash Letter Arrangement (CLA): Cheques are sent by the presenting banks in India to their correspondent banks (CBs) in USA for domestic clearing. Funds are collected (realised) by the CBs and credited to the account of the presenting bank maintained in US. Such accounts are known as NOSTRO accounts. For cheques sent under CLA the CB gives provisional credit to the bank on a pre-determined date (which varies from 7 to 9 days after tendering of cheque to the CB). However, the provisional credit will be subjected to a cooling period. After the cooling period, the customer's account with the presenting bank in India is credited. In case of secured collection facility, the CB provides a guaranteed credit but at an additional cost.

(Cooling period is the time up to which banks wait after receiving provisional credit for the amount of cheque in

their Nostro account for possible return of the cheque under provisions of the laws of USA by the drawee bank, before giving credit to the customers. More details are available under Question 9.)

(Secured Collection is a facility extended by the CBs. Under this facility, the CBs provide guaranteed final credit without recourse within a confirmed time period unlike normal collection service. Hence the collection time period is better under this facility. CBs offering this facility normally fix a cap for the amount of individual cheques collected under the arrangement. The CBs absorb any subsequent recall of payment by the drawee bank as per US laws. The bank offering such service charge an additional amount for giving credit without recourse.)

ii. Direct Collection Arrangement (DCA) : Cheques are sent by the banks in India directly to the drawee banks in USA for collection. Usually collection services ensure receipts of clear funds i.e., risk of return is almost eliminated. Therefore, high value cheques are generally sent under collection though the time taken may be more.

iii. Final Credit Services (FCS) : These services are offered by some CBs. The CB offering the service guarantees confirmed credit against the instrument. Under this arrangement banks receive final credit in their Nostro accounts without any recourse. This service normally does not have any cooling period as the cooling period is factored by the CBs before releasing the clear funds.

iv. Check-21 Facility : The System has been facilitated under Check-21 Legislation. It works more or less like CTS. When using check 21 facility, dealings are cleared utilizing the exchange of check images from bank to bank. It saves time in transit.

4. What is a Nostro Account?

A Nostro account is a bank account established in a foreign country usually in the currency of that country for the purpose of carrying out transactions there. For example most commercial banks maintain US dollar accounts with their correspondent banks in USA in order to facilitate settlement of interbank and customer transactions in US dollar.

5. What are the charges levied for the collection of these USD denominated cheques?

The charges levied by banks for collection of such USD denominated cheques are dependent on the type of collection arrangement chosen by customers and the number of intermediaries (correspondent banks) involved in the collection process. Each of the CBs will levy their own charges for facilitating the process of collection. All these charges will be in turn levied by the collecting banks in India from the customers. The customer's account is credited net of collection charges (proceeds minus collection charges)

6. Are US regulations applicable to USD cheque collection?

The basic legal framework for determining rights, responsibilities and liabilities of the parties in connection with collection of USD denominated cheques drawn on US banks are governed by the legal framework as laid down under the US federal and state laws like Uniform Commercial Code (UCC) etc. However, in the event of return of a counterfeit cheque handled through this process, the drawee bank in the US has the right to recover the proceeds from presenting banks within the period stipulated under US Clearing House guidelines.

7. Can the customer choose the mode for collecting USD cheques ?

Yes. Banks have been advised to make their USD Cheque Collection process transparent. Various modes of collection along with the timeframe and charges for collection shall be covered therein. Customers could request for any of the collection modes specified in the USD Cheque Collection Policy based on need, convenience and cost involved.

8. Just as RBI has mandated a timeframe for collection of Rupee cheques, is any timeframe stipulated for collection of USD cheques too?

No. Timeframe for collection of USD cheques will vary depending on the collection mode. The date of credit to the account of the customer will be reckoned based on the date of credit (value date) to the Nostro Account of collecting banks and the cooling period. The time taken by banks for collection of USD cheques normally ranges from 15 to 30 days and may go up to 45 days depending upon the collection arrangement and place at which the instrument is payable. The diversity in the banking and payment systems in USA and laws governing cheque transactions have a significant bearing on the collection time. Based on the mode of collection, banks have been advised to indicate the period for collection of USD cheques in their USD Cheque Collection Policy. The transit time may be reduced by 2 to 3 days by sending the cheques the same day from branches to centralised pooling branch and centralised pooling branch to Correspondent Banks. However, banks have also been advised to explore using faster methods of realisation such as leveraging on Check-21 facility in the US for saving in transit time.

9. It appears that the cooling period has a major impact on collection time?

Yes. Cooling period is the time up to which banks wait after receiving provisional credit for the amount of cheque in their Nostro account for possible return of the cheque by the drawee bank under the provisions of the US laws, before giving credit to the customers. Cooling period is dependent on the mode and area of collection and varies from 5-8 days for cheques in New York area and 15-21 days for other cities collected under CLA mode. However, under the FCS mode, banks receive final credit in their Nostro account without any recourse to recall. It does not involve cooling period as this is already factored into by the CBs before releasing the final credit.

10. Are customers given credit and allowed to use the funds after sight of credit in the Nostro accounts of banks?

No. The collecting banks credit the customer's account only after expiry of the cooling period as such funds are subject to recall under US laws. Some banks may permit selective withdrawal of funds before the cooling period lapses depending on the customer's credit worthiness, relationship with the bank, KYC compliance, value of the cheque, etc. It is a commercial decision of the bank. Banks have been advised to formulate their policy on instant credit for small value cheques as part of the USD Cheque Collection Policy.

11. Funds are credited to the customers' accounts after the cooling period though funds are resting in the Nostro accounts of collecting banks during the period. Is there any compensation for customers?

Yes. Banks have been advised to pay interest on the amount of cheque on a value-date concept from the date of sighting of credit in their Nostro accounts till such time the credit is actually afforded to customers' accounts. Interest shall be paid minimum at the Savings Bank rate calculated on the amount of proceeds credited to the customers' accounts.

12. Will the customer be compensated for delay in collection beyond the collection period indicated in the Cheque Collection Policy of the bank?

Yes. Compensation by way of additional interest will be paid on to the customer for delay in collection beyond the declared collection period as per the bank's USD Cheque Collection policy and such interest shall be on "step-up basis" for the period of delay. The compensation shall be paid automatically without the customer requesting for the same

13. What are the instructions for facilitating customer awareness and redressing customer complaints?

Banks are required to make their USD Cheque Collection Policy transparent covering all the relevant aspects detailed above. Banks are also required to widely disseminate the policy by displaying at their branches, on their

website, etc. A copy of the policy will be available with the Branch for the customers to go through. Banks have been advised to look into and redress customer complaints like delay in collection / receipt of proceeds, etc. Customers may resort to the redressal mechanism put in place by RBI under the Banking Ombudsman Scheme, 2006 for any complaints.

14. Are there any other instructions to banks in this regard?

RBI has recommended the following steps to banks for reducing the timeframe for collection of USD cheques -

- Review the collection policy on an on-going basis so as to explore faster methods of realisation.
- Reduce the transit period for movement of cheques from the collecting branches to the centralised pooling branch and from the centralised pooling branch to CBs.
- Explore feasibility of forming / pooling cheques of various collecting banks to a common service bureau to avail benefits arising out of increased volumes, reduced infrastructure costs, etc.
- Explore the possibility of leveraging on Check-21 facility.
- Use of efficient and reliable courier / postal service.

15. Do I have recourse to any other arrangement for collection (realisation) of USD cheques if I am in urgent need of proceeds?

Yes. The customer can approach the bank to discount or purchase the cheque. It is the commercial decision to extend this facility to customers based on customer profile. It needs to be appreciated that the charges for purchase / discount will be significantly higher because the bank will be parting with the proceeds before realising the cheques. The charges will vary depending on when the request for discount / purchase is made by the customer and the period for which the bank is out of funds.

Speed Clearing

1. What is Speed Clearing?

Speed Clearing refers to collection of outstation cheques (a cheque drawn on non-local bank branch) through the local clearing. It facilitates collection of cheques drawn on outstation core-banking-enabled branches of banks, if they have a net-worked branch locally.

2. Why Speed Clearing?

The collection of outstation cheques, earlier required movement of cheques from the Presentation centre (city where the cheque is presented) to Drawee centre (city where the cheque is payable) which increases the realisation time for cheques. Speed Clearing aims to reduce the time taken for realisation of outstation cheques.

Even though Speed clearing hastens the process of cheque collection as compared to outstation cheque collection, it pre-supposes the presence of the drawee bank branch in the clearing house location

3. What was the process followed by banks for collection of outstation cheques before the introduction of Speed Clearing?

A person who had an outstation cheque with him/her use to deposit it with his/her bank branch. This bank branch is called the Presenting branch. The cheque, was sent for collection to the city where it was payable / drawn called Destination centre or Drawee centre. The branch providing the collection service is called the Collecting branch. On receipt of the cheque, the Collecting branch use to present the physical instrument in local clearing at the drawee bank branch location through its branch at the drawee bank branch location. Once the cheque was paid, the Collecting branch use to remit the proceeds to the Presenting branch. On receipt of realisation advice of the cheque from the Collecting branch, the customer's account was credited. This, in short,

is the process of Collection before the introduction of Speed Clearing.

When a cheque was accepted on a collection basis by a bank, the customer's account was credited only after realisation of proceeds. In the absence of a clearing arrangement at the Destination centre, the Presenting branch was sending the cheque directly to the Destination branch for payment. On receiving the proceeds from Destination branch, Presenting branch follow the practice of crediting the customer's account.

4. How long does it take for getting credit of an outstation cheque sent on Collection basis?

Generally, it takes around a week to three weeks' time depending on the drawee centre and collection arrangements to get outstation cheques realised on a Collection basis.

5. How does the Local Cheque Clearing work?

In Local Cheque Clearing in major centres, cheques are processed by using Cheque Truncation Systems(CTS) through movement of images. Grid based CTS are in place in New Delhi, Chennai and Mumbai. In addition, Express Cheque Clearing Systems (ECCS) application package is used in small clearing houses.

Local Clearing handles only those cheques that are drawn on branches within the jurisdiction of the local Clearing House. Generally, the jurisdiction is determined taking into account the logistics available to physically move to and from the Clearing House.

It may however be noted, under grid-based CTS clearing, all cheques drawn on bank branches falling within in the grid jurisdiction are treated and cleared as local cheques. The grid clearing allows banks to present/ receive cheques to/ from multiple cities to a single clearing house through their service branches in the grid location.

6. How does the Speed Clearing work?

Banks have networked their branches by implementing Core Banking Solutions (CBS). In CBS environment, cheques can be paid at any location obviating the need for their physical movement to the Drawee branch. Cheques drawn on outstation CBS branches of a Drawee bank can be processed in the Local Clearing under the Speed Clearing arrangement if the Drawee bank has a branch presence at the local centre.

7. When will the beneficiary get funds under Speed Clearing?

As on date, the local cheques are processed on T+1 working day basis and customers get the benefit of withdrawal of funds on a T+1 or 2 basis. 'T' denotes transaction day viz. date of presentation of cheque at the Clearing House. So, the outstation cheques under Speed Clearing will also be paid on T+1 or 2 basis like any other local cheque.

8. What are the charges for cheques cleared through Speed Clearing?

With effect from April 1, 2011, no charges will be payable for cheques of value up to and including Rs.1 lakh by Savings a/c customers. Banks would be free to fix charges for collection of other types of accounts for all values and also from Savings a/c customers for cheque of value above Rs.1 lakh. Charges fixed should be reasonable, computed on a cost-plus-basis and not as an arbitrary percentage of the value of the instrument and to be levied in an upfront manner with due dissemination to the customers of such charges.

9. How is Speed Clearing an improvement over collection basis?

Outstation cheque collection through collection basis takes around one to three weeks' time depending on the drawee centre. Under Speed Clearing, it would be realised on T+1 or 2 basis, say, within 48 hours. Further Savings Bank customers need not incur any service charge for collection of outstation cheques (value up to Rs.1

lakh) in Speed Clearing which they may have to incur if such cheque is collected under collection basis.

10. How will a customer know whether a cheque can be cleared in Speed Clearing?

For facilitating customers to know CBS status of a branch, some of the banks stamp / print 'CBS' on the cheque leaves. Account numbers (if length of account number is more than 10 digits) printed on the cheque leaves may give a broad indication regarding CBS status of the branch.

11. What type of cheques can be presented in Speed Clearing?

Instruments of all transaction codes (except Government cheques) and drawn on CBS-enabled bank branches are eligible for being presented in Speed Clearing.

Collection of Instruments

1. What is the timeline for realization of local and outstation cheques and compensation payable if there are delays in affording credit?

Local Cheques

Local cheques are payable within the jurisdiction of the clearing house and will be presented through the clearing system prevailing at the centre. Credit arising out of local cheques shall be given to the customer's account as indicated in the Cheque Collection Policy (CCP) of the concerned collecting bank.

Notwithstanding to the CCP of concerned collecting bank, ideally, in respect of local clearing, banks shall permit usage of the shadow credit afforded to the customers' accounts immediately after closure of the relative return clearing on the next working day or maximum within an hour of commencement of business on the third working day from the day of presentation in clearing, subject to usual safeguards.

Under grid-based Cheque Truncation System clearing, all cheques drawn on bank branches falling within in the grid jurisdiction are treated and cleared as local cheques. The grid clearing allows banks to present/ receive cheques to/ from multiple cities to a single clearing house through their service branches in the grid location.

If there is any delay in credit, beyond the period specified above, customer is entitled to receive compensation at the rate specified in the CCP of the concerned collecting bank. In case, no rate is specified in the CCP for delay in realisation of local cheques, compensation at savings bank interest rate has to be paid for the corresponding period of delay.

Outstation Cheques

Maximum timeframe for collection of cheques drawn on state capitals/major cities/other locations are 7/10/14 days respectively.

If there is any delay in collection beyond this period, customer is entitled to receive compensation at the rate specified in the Cheque Collection Policy (CCP) of the concerned bank. In case the rate is not specified in the CCP, interest rate on Fixed Deposits for the corresponding maturity to be paid. Banks' cheque collection policy also indicates the limit up to which outstation cheques are given immediate/instant credit.

2. What happens if cheques / instruments are lost in transit / in clearing process?

If cheques are lost in transit or in the clearing process or at the paying bank's branch under physical instrument delivery clearing, the bank should immediately bring the same to the notice of the presenting customer (beneficiary)'s notice so that the customer can inform the drawer to record stop payment and can also take care

that other cheques issued anticipating the credit arising out of the lost cheque are not dishonoured due to non-credit of the amount of the lost cheques / instruments.

It may however be noted that the probability of losing the physical instrument in the hands of paying bank is remote in the locations covered by CTS as clearing is undertaken on the basis of images. If the instrument is lost after lodging with the collecting bank but before truncating the same for sending through image based clearing, the presenting bank should follow the procedure indicated above.

The customer is entitled to be reimbursed by banks for related expenses for obtaining duplicate instruments and also interest for reasonable delays in obtaining the same.

3. My bank charges me a large sum of money for cheque collection. Is there any remedy?

Local Cheque collection charges are decided by the concerned bank from time to time and communicated to customer through their Cheque Collection Policy as part of the Code of Bank's Commitment to Customers.

Banks cannot charge more than the following for outstation cheques:

Up to and including Rs.5000 – Rs.25 per instrument + service tax; Above Rs.5000 and Up to and including Rs.10,000 – not exceeding Rs.50 per instrument+ service tax; Above Rs.10,000 and up to and including Rs.1,00,000 – not exceeding Rs.100 per instrument + service tax; Rs.1,00,001 and above – left to the banks to decide. No additional charges such as courier charges, out of pocket expenses, etc., should be levied.

It may be noted, no outstation cheque collection charges to be levied if the collecting bank and the paying bank are located within the jurisdiction of the same CTS grid even though they are located in different cities.

4. My bank refuses to accept outstation cheques for collection. Is there any remedy?

No bank can refuse to accept outstation cheques deposited for collection or refuse to offer its products to customers.

5. Can I know a bank's Cheque Collection Policy?

Like in most countries, banks in India also are required to develop their own individual policy / procedures relating to collection of cheques. The customer is entitled to receive due disclosures from the bank on the bank's obligations and the customers' rights.

Broadly, the policies formulated by banks should cover the following areas:

Immediate credit for local/outstation cheques, Time frame for collection of local/ outstation instruments and compensation payable for delayed collection.

The cheque collection policies of various banks are made available on the website of respective bank.

Banks are obliged to disclose their liability to customers by way of compensation/interest payments due to delays for non-compliance with the standards set by the banks themselves. The customer has to be compensated by way of compensation/interest payment even if no formal claim is lodged to the effect.

6. How bank are supposed to disclose their policies?

Customer has the right to know the Cheque Collection Policy of the bank before entering into any transaction.

The bank is obliged to disclose the amount up to which immediate credit of outstation cheque is offered in its

Comprehensive Notice Board, which is to be displayed at each and every branch of the bank. The bank is also required to disclose time frame for collection of local/outstation instruments and policy for compensation payable for delayed collection. The same will be available in the Information Booklets which should be available at all the bank branches. The customer is also entitled to receive a copy of the bank's Cheque Collection Policy, if he/she so desire. Banks are also required to put up their Cheque Collection Policy on their websites.

7. What are the other means of transfer of funds?

They are RTGS (Real Time Gross Settlement) & NEFT (National Electronic Fund Transfer). For more details visit the FAQs on RTGS under the link <http://rbi.org.in/scripts/FAQView.aspx?Id=65> and NEFT under the link <http://rbi.org.in/scripts/FAQView.aspx?Id=60>.

In addition to the above, Immediate Payment Service (IMPS) is offered by National Payments Corporation of India (NPCI). For more details the website of NPCI under the link http://www.npci.org.in/imps_product.aspx may be visited.

8. Am I entitled to receive an acknowledgement for cheque deposited in a bank for collection?

Banks are required to provide both the cheque drop box facility and the acknowledgement facility at their collection counters. No bank branch can refuse to give an acknowledgement to the customer if the latter asks for the same while tendering cheque for collection at the bank branch's counter.

9. What do I do if I still have a grievance?

If any customer has a complaint against a bank due to non-payment or inordinate delay in the payment or collection of cheques, complaint can be lodged with the bank concerned. If the bank fails to respond within 30 days, a complaint with the Banking Ombudsman may be lodged. (Please note that complaints pending in any other judicial forum will not be entertained by the Banking Ombudsman). No fee is levied by the office of the Banking Ombudsman for resolving the customer's complaint. A unique complaint identification number will be given for tracking purpose.

Complaints have to be addressed to the Banking Ombudsman within whose jurisdiction the branch or office of the bank complained against is located. Complaints can be lodged simply by writing on a plain paper or online at www.bankingombudsman.rbi.org.in or by sending an email to the concerned Banking Ombudsman. Complaint forms are available at all bank branches also.

Complaint can also be lodged by authorised representative (other than a lawyer) or by a consumer association/forum acting on customer's behalf. If the complainant is not satisfied with the decision of the Banking Ombudsman, an appeal can be made to the appellate authority in the Reserve Bank of India (Deputy Governor of Reserve Bank of India in charge of Consumer Education and Protection Department)

Cheque Truncation System

1. What is Cheque Truncation?

Truncation is the process of stopping the flow of the physical cheque issued by a drawer at some point by the presenting bank en-route to the paying bank branch. In its place an electronic image of the cheque is transmitted to the paying branch through the clearing house, along with relevant information like data on the MICR band, date of presentation, presenting bank, etc. Cheque truncation thus obviates the need to move the physical instruments across bank branches, other than in exceptional circumstances for clearing purposes. This effectively eliminates the associated cost of movement of the physical cheques, reduces the time required for their collection and brings elegance to the entire activity of cheque processing.

2. Why Cheque Truncation in India?

As explained above, Cheque Truncation speeds up the process of collection of cheques resulting in better service to customers, reduces the scope of loss of instruments in transit, lowers the cost of collection of cheques, and removes reconciliation-related and logistics-related problems, thus benefitting the system as a whole.

With the other major products being offered in the form of RTGS and NEFT, the Reserve Bank has created the capability to enable inter-bank and customer payments online and in near-real time. However, cheques continue to be the prominent mode of payments in the country. Reserve Bank of India has therefore decided to focus on improving the efficiency of the cheque clearing cycle. Offering Cheque Truncation System (CTS) is a step in this direction.

In addition to operational efficiency, CTS offers several benefits to banks and customers, including human resource rationalisation, cost effectiveness, business process re-engineering, better service, adoption of latest technology, etc. CTS, thus, has emerged as an important efficiency enhancement initiative undertaken by Reserve Bank in the Payments Systems arena.

3. What is the status of CTS implementation in the country?

CTS has been implemented in New Delhi, Chennai and Mumbai with effect from February 1, 2008, September 24, 2011 and April 27, 2013 respectively. After migration of the entire cheque volume from MICR system to CTS, the traditional MICR-based cheque processing has been discontinued across the country.

4. What is the new approach to CTS implementation in the country?

The new approach envisioned as part of the national roll-out is the grid-based approach. Under this approach the entire cheque volume in the country which was earlier cleared through 66 MICR Cheque Processing locations is consolidated into the three grids in New Delhi, Chennai and Mumbai.

Each grid provides processing and clearing services to all the banks under its respective jurisdiction. Banks, branches and customers based at small / remote locations falling under the jurisdiction of a grid would be benefitted, irrespective of whether there exists at present a formal arrangement for cheque clearing or otherwise. The illustrative jurisdiction of the three grids are indicated below:

- **New Delhi Grid:** National Capital Region of New Delhi, Haryana, Punjab, Uttar Pradesh, Uttarakhand, Bihar, Jharkhand and the Union Territory of Chandigarh.
- **Mumbai Grid:** Maharashtra, Goa, Gujarat, Madhya Pradesh and Chattisgarh.
- **Chennai Grid:** Andhra Pradesh, Telangana, Karnataka, Kerala, Tamilnadu, Odisha, West Bengal, Assam and the Union Territory of Puducherry.

5. What are the benefits of Grid Based CTS over Speed Clearing to the customer?

Even though Speed clearing hastens the process of cheque collection as compared to outstation cheque collection, it requires the presence of the paying bank branch in the clearing house location. In comparison, grid-based CTS, is a superior system as it encompasses a larger geographical area and the chances of paying bank not having presence in the grid location is seldom.

Under grid-based Cheque Truncation System clearing, all cheques drawn on bank branches falling within in the grid jurisdiction are treated and cleared as local cheques. Cheque collection charges including Speed Clearing Charges should not be levied if the collecting bank and the paying bank are located within the jurisdiction of the same CTS grid even though they are located in different cities.

6. Is it possible to briefly explain the entire process flow in CTS?

In CTS, the presenting bank (or its branch) captures the data (on the MICR band) and the images of a cheque

using their Capture System (comprising of a scanner, core banking or other application) which is internal to them, and have to meet the specifications and standards prescribed for data and images.

To ensure security, safety and non-repudiation of data / images, end-to-end Public Key Infrastructure (PKI) has been implemented in CTS. As part of the requirement, the collecting bank (presenting bank) sends the data and captured images duly signed digitally and encrypted to the central processing location (Clearing House) for onward transmission to the paying bank (destination or drawee bank). For the purpose of participation the presenting and paying banks are provided with an interface / gateway called the Clearing House Interface (CHI) that enables them to connect and transmit data and images in a secure and safe manner to the Clearing House (CH).

The Clearing House processes the data, arrives at the settlement figure and routes the images and requisite data to the paying banks. This is called the presentation clearing. The paying banks through their CHIs receive the images and data from the Clearing House for payment processing.

The paying bank's CHIs also generates the return file for unpaid instruments, if any. The return file / data sent by the paying banks are processed by the Clearing House in the return clearing session in the same way as presentation clearing and return data is provided to the presenting banks for processing.

The clearing cycle is treated as complete once the presentation clearing and the associated return clearing sessions are successfully processed. The entire essence of CTS technology lies in the use of images of cheques (instead of the physical cheques) for payment processing.

7. What type of instruments can be presented for clearing through CTS?

It is preferable to present instruments complying with CTS-2010 standards for clearing through CTS for faster realisation. Instruments not complying with CTS-2010 standards will continue to be accepted but will be cleared at less frequent intervals i.e. once a week (every Monday).

8. Will there be any change in the process for the customers?

No. There is no major change in the clearing process for customers. Customers continue to use cheques as at present, except to ensure the use of image-friendly-coloured-inks while writing the cheques. Of course, such of those customers, who are used to receiving the paid instruments (like government departments) would also receive the cheque images. Cheques with alterations in material fields (explained in detail later) are not allowed to be processed under the CTS environment.

9. What are the benefits of CTS to customers of banks?

The benefits are many. With the introduction of imaging and truncation, the physical movement of instruments is stopped. The electronic movement of images can facilitate reduction in the clearing cycles as well. Moreover, there is no fear of loss of instruments in transit. Further, limitations of the existing clearing system in terms of geography or jurisdiction can be removed, thus enabling consolidation and integration of multiple clearing locations managed by different banks with varying service levels into a nation-wide standard clearing system with uniform processes and practices.

Under grid-based Cheque Truncation System clearing, all cheques drawn on bank branches falling within in the grid jurisdiction are treated and cleared as local cheques. No outstation cheque collection charges/Speed Clearing charges to be levied if the collecting bank and the paying bank are located within the jurisdiction of the same CTS grid even though they are located in different cities.

CTS also benefits issuers of cheques. The Corporates if needed can be provided with images of cheques by their

bankers for internal requirements, if any.

CTS thus brings elegance to the entire activity of cheque processing and clearing. The benefits from CTS could be summarized as follows –

- Shorter clearing cycle
- Superior verification and reconciliation process
- No geographical restrictions as to jurisdiction
- Operational efficiency for banks and customers alike
- Reduction in operational risk and risks associated with paper clearing
- No collection charges for collection of cheque drawn on a bank located within the grid.

10. What are the benefits of Grid Based CTS to the banking system?

Grid based CTS provides significant cost savings. Consolidation of clearing locations into a few grids minimise the investment in MICR machines and the related AMC costs. Banks will benefit from economies of scale as the grid CTS obviates the need for establishing inward cheque processing infrastructure at various clearing locations. With the merger of many local clearing houses with CTS grids, the settlements which were earlier spread across numerous clearing house locations have been subsumed into a single settlement, thereby significantly reducing the liquidity requirements for the banks.

CTS will also result in other benefits in terms of reduction in the cheque processing fee, reduction in operational overhead, elimination of clearing differences and reconciliation issues etc.

11. If a customer desires to see the physical cheque issued by him for any reason, what are the options available?

Under CTS the physical cheques are retained at the presenting bank and do not move to the paying banks. In case a customer desires, banks can provide images of cheques duly certified/authenticated. In case, however, a customer desires to see / get the physical cheque, it would need to be sourced from the presenting bank, for which a request has to be made to his/her bank. An element of cost / charge may also be involved for the purpose. To meet legal requirements, the presenting banks which truncate the cheques need to preserve the physical instruments for a period of 10 years.

12. How would be the uniqueness of a physical cheque be captured and imparted to the cheque image?

CTS in India mandates the use of prescribed image specifications only. Images that do not meet the specifications are rejected. As the payments are made on the basis of the images, it is essential to ensure the quality of the images. To ensure only images of requisite quality move in the CTS processing cycle, there is a rigorous quality check process at the level of the Capture Systems and the Clearing House Interface (of the presenting bank).

The solution encompasses Image Quality Assessment (IQA) at different levels. The presenting bank is required to perform the IQA during the capture itself. Further IQA is done at the gateway before onward transmission to clearing house. The images are captured with digital signatures of the presenting bank and thereafter transmitted to the paying banks through the Clearing House. Further, the paying banks, if not satisfied with the image quality or for any other reason, can demand for the physical instrument before making payment of the instrument.

Further, the new cheque standard "CTS-2010" prescribes certain mandatory and optional security features to be available on cheques, which will also add to the uniqueness of the images.

13. What are the image specifications in CTS in the Indian context?

Imaging of cheques can be based on various technology options. The cheque images can be Black & White,

Gray Scale or Coloured. These have their associated advantages and disadvantages. Black & White images are light in terms of image-size, but do not reveal all the subtle features that are there in the cheques. Coloured images are ideal but increase storage and network bandwidth requirements. Gray Scale images are mid-way. CTS in India use a combination of Gray Scale and Black & White images. There are three images of each cheque that need to be taken - front Gray Scale, front Black & White and back Black & White.

14. How are the images of cheques taken?

Images of cheques are taken using specific scanners. Scanners also function like photo-copiers by reflecting the light passed through a narrow passage on to the document. Tiny sensors measure the reflection from each point along the strip of light. Reflectance measurements of each dot are called a pixel. Images are classified as black and white, gray-scale or colour based on how the pixels are converted into digital values. For getting a gray scale image the pixels are mapped onto a range of gray shades between black and white. The entire image of the original document gets mapped as some shade of gray, lighter or darker, depending on the colour of the source. In the case of black and white images, such mapping is made only to two colours based on the range of values of contrasts. A black and white image is also called a binary image.

15. How the image and data transmitted over the network is secured?

The security, integrity, non-repudiation and authenticity of the data and image transmitted from the presenting bank to the paying bank through Clearing House are ensured using the Public Key Infrastructure (PKI). CTS is compliant to the requirements of the IT Act, 2000. It has been made mandatory for the presenting bank to sign the images and data from the point of origin itself. PKI is used throughout the entire cycle covering capture system, the presenting bank, the clearing house and the paying bank. The PKI standards used are in accordance with the appropriate Indian acts and notifications of Controller of Certifying Authority (CCA).

16. What is Cheque Standardisation and what does CTS 2010 Standard mean?

Standardisation of cheque forms (leaves) in terms of size, MICR band, quality of paper, etc., was one of the key factors that enabled mechanisation of cheque processing. Over a period of time, banks have added a variety of patterns and design of cheque forms to aid segmentation, branding, identification, etc., as also incorporated therein a number of security features to reduce the incidence of cheque misuse, tampering, alterations, etc. Growing use of multi-city and payable-at-par cheques for handling of cheques at any branches of a bank, introduction of Cheque Truncation System (CTS), increasing popularity of Speed Clearing, etc., were a few aspects that led to prescription of certain common minimum security features in cheques printed, issued and handled by banks and customers uniformly across the banking industry.

Accordingly, certain benchmarks towards achieving standardisation of cheques issued by banks across the country have been prescribed like – quality of paper, watermark, bank's logo in invisible ink, void pantograph, etc., and standardisation of field placements on cheques. In addition, certain desirable features have also been suggested to be implemented by banks based on their need and risk perception.

The set of minimum security features would not only ensure uniformity across all cheque forms issued by banks in the country but also help presenting banks while scrutinising / recognising cheques of paying banks in an image-based processing scenario. The homogeneity in security features is expected to act as a deterrent against cheque frauds, while the standardisation of field placements on cheque forms would enable straight-through-processing by use of optical / image character recognition technology. The benchmark prescriptions are collectively known as "CTS-2010 standard".

All banks providing cheque facility to their customers have been advised to issue only 'CTS-2010' standard cheques. Cheques not complying with CTS-2010 standards will be cleared at less frequent intervals i.e. weekly once from November 1, 2014 onwards.

17. What is the prescription relating to alterations / corrections on cheque forms?

The prescription on prohibiting alterations / corrections on cheques has been introduced to curtail cheque related frauds. No changes / corrections can be carried out on the cheques (other than for date validation purposes, if required). For any change in the payee's name, courtesy amount (amount in figures) or legal amount (amount in words), fresh cheque leaves should be used by customers. This would help banks in identifying and controlling fraudulent alterations. This prohibition is applicable to cheques cleared under the image based Cheque Truncation System (CTS) only. It is not applicable to cheques cleared under physical exchange of instruments.

18. What are the precautions required to be taken by the banks / customers to avoid frauds?

Banks / Customers should use "CTS 2010" cheques which are not only image friendly but also have more security features. Customers may request/insist their banks for cheque forms that are compliant with the "CTS 2010" standard. They should preferably use image-friendly coloured inks while writing cheques and avoid any alterations / corrections thereon. Preferably, a new cheque leaf may be used in the event of any alterations / corrections as the cheque may be cleared through image based clearing system.

Banks should exercise care while affixing stamps on the cheque forms, so that it does not interfere with the material portions such as date, payee's name, amount and signature. The use of rubber stamps, etc, should not overshadow the clear appearance of these basic features in image. It is necessary to ensure that all essential elements of a cheque are captured in an image during the scanning process and banks / customers have to exercise appropriate care in this regard.

Types of Cards

Q. No. 1: How many types of cards are available to a customer?

Ans: Cards can be classified on the basis of their issuance, usage and payment by the card holder. There are three types of cards (a) debit cards (b) credit cards and (c) prepaid cards.

Q. No. 2: Who issues these cards?

Ans: Debit cards are issued by banks and are linked to a bank account. Credit cards are issued by banks / other entities approved by RBI. The credit limits sanctioned to a card holder is in the form of a revolving line of credit (similar to a loan sanctioned by the issuer) and may or may not be linked to a bank account. Prepaid cards are issued by the banks / non-banks against the value paid in advance by the cardholder and stored in such cards which can be issued as smart cards or chip cards, magnetic stripe cards, internet accounts, internet wallets, mobile accounts, mobile wallets, paper vouchers, etc.

Q. No. 3: What are the usages of debit cards?

Ans: The debit cards are used to withdraw cash from an ATM, purchase of goods and services at Point of Sale (POS)/E-commerce (online purchase) both domestically and internationally (provided it is enabled for international use). However, it can be used only for domestic fund transfer from one person to another.

Q. No. 4: What are the usages of credit cards?

Ans: The credit cards are used for purchase of goods and services at Point of Sale (POS) and E-commerce (online purchase)/ through Interactive Voice Response (IVR)/Recurring transactions/ Mail Order Telephone Order (MOTO). These cards can be used domestically and internationally (provided it is enabled for international use). The credit cards can be used to withdraw cash from an ATM and for transferring funds to bank accounts, debit cards, credit cards and prepaid cards within the country.

Q. No. 5: What are the usages of prepaid cards?

Ans: The usage of prepaid cards depends on who has issued these cards. The prepaid cards issued by the banks can be used to withdraw cash from an ATM, purchase of goods and services at Point of Sale (POS)/E-commerce (online purchase) and for domestic fund transfer from one person to another. Such prepaid cards are known as open system prepaid cards. However, the prepaid cards issued by authorised non-bank entities can be used only for purchase of goods and services at Point of Sale (POS)/E-commerce (online purchase) and for domestic fund transfer from one person to another. Such prepaid cards are known as semi-closed system prepaid cards. These cards can be used only domestically.

Q. No. 6: Is there any limit on the value stored in a prepaid card?

Ans: Yes, as per extant instructions, the maximum value that can be stored in any prepaid card (issued by banks and authorised non-bank entities) at any point of time is Rs 50,000/-

Q. No. 7: Can prepaid cards of lesser limits be issued?

Ans: Yes. The following types of semi closed pre-paid payment instruments can be issued by carrying out Customer Due Diligence as detailed by the banks and authorised non- bank entities:

- a. Up to Rs.10,000/- by accepting minimum details of the customer provided the amount outstanding at any point of time does not exceed Rs 10,000/- and the total value of reloads during any given month also does not exceed Rs 10,000/-. These can be issued only in electronic form;
- b. from Rs.10,001/- to Rs.50,000/- by accepting any 'officially valid document' defined under Rule 2(d) of the PML Rules 2005, as amended from time to time. Such PPIs can be issued only in electronic form and should be non-reloadable in nature;
- c. up to Rs.50,000/- with full KYC and can be reloadable in nature. The balance in the PPI should not exceed Rs.50,000/- at any point of time.

Q. No. 8: Who decides the limits on cash withdrawal or purchase of goods and services through use of a card?

Ans: The limits on cash withdrawal at ATMs and for purchase of goods and services are decided by the issuer bank. However, in case of cash withdrawal at other bank's ATM, there is a limit of Rs 10,000/- per transaction. Cash withdrawal at POS has also been enabled by certain banks wherein, a maximum of Rs.1000/- can be withdrawn daily by using debit cards.

Q. No.9: Is the customer charged by his/her bank when he uses his debit card at other banks ATM for withdrawing cash?

Ans: As per extant instructions, the savings bank account customer will not be charged by his/her bank up to five transactions (inclusive of both financial and non-financial transactions) in a month if he/she uses an ATM of another bank. However, within this overall limit of five free transactions, for transactions done at ATM of another bank located in the six metro centres, viz. Mumbai, New Delhi, Chennai, Kolkata, Bengaluru and Hyderabad, the free transaction limit is set to three transactions per month.

Q. No.10: Where should the customer lodge a complaint in the event of a failed ATM transaction (account debited but cash not dispensed at the ATM)?

Ans: The customer has to approach his/her bank (bank that issued the card) to lodge a complaint in the event of a failed ATM transaction.

Q. No.11: What is the time limit for resolution of the complaint pertaining to failed ATM transaction?

Ans: The time limit, for resolution of customer complaints by the issuing banks, is within 7 working days from the date of receipt of customer complaint. Hence the bank is supposed to re-credit the customer's account within

7 working days. For failure to re-credit the customer's account within 7 working days of receipt of the complaint from the customer, the bank is liable to pay Rs 100 per day as compensation to the customer.

Q. No. 12: What is the option for a card holder if his complaint is not redressed by the issuer?

Ans: If a complainant does not get satisfactory response from his/her bank within a maximum period of thirty (30) days from the date of his lodging the complaint, he/she will have the option to approach the Office of the Banking Ombudsman (in appropriate jurisdiction) for redressal of his grievance.

Q. No. 13: How are the transactions carried out through cards protected against fraudulent usage?

Ans: For carrying out any transactions at an ATM, the card holder has to key in the PIN which is known only to him/her for debit/credit and prepaid cards. However, for carrying out transactions at POS too, the card holder has to key-in the PIN which is known only to the card holder if a debit card is used. In the case of credit card usage at POS the requirement of PIN depends on the banks policy on security and risk mitigation. In the case of e-commerce transactions, additional factor of authentication is applicable except in case of international websites.

Q. No. 14: What are the liabilities of a bank in case of fraudulent use of a card by unauthorised person?

Ans: In case of card not present transactions RBI has mandated providing additional factor of authentication (if the issuer bank and e-commerce merchant bank is in India). Hence, if a transaction has taken place without the additional factor of authentication and the customer has complained that the transaction is not effected by her/him, then the issuer bank shall reimburse the loss to the customer without demur.

Q. No. 15: Is there anyway a customer can come to know quickly whether a fraudulent transaction has taken place using his/her card?

Ans: RBI has been taking various steps to ensure that card payment environment is safe and secure. RBI has mandated banks to send online alerts for all card transactions so that a card holder is aware of transactions taking place on his / her card.

Q No. 16: What is the mandate for banks for issuing Magnetic stripe cards or Chip-based cards?

Ans: RBI has mandated that banks may issue new debit and credit cards only for domestic usage unless international use is specifically sought by the customer. Such cards enabling international usage will have to be essentially EMV Chip and Pin enabled. The banks have also been instructed to convert all existing Mag-stripe cards to EMV Chip card for all customers who have used their cards internationally at least once (for/through e-commerce/ATM/POS).

RTGS System

Q1. What is RTGS System?

Ans. The acronym 'RTGS' stands for Real Time Gross Settlement, which can be defined as the continuous (real-time) settlement of funds transfers individually on an order by order basis (without netting). 'Real Time' means the processing of instructions at the time they are received rather than at some later time; 'Gross Settlement' means the settlement of funds transfer instructions occurs individually (on an instruction by instruction basis). Considering that the funds settlement takes place in the books of the Reserve Bank of India, the payments are final and irrevocable.

Q2. How RTGS is different from National Electronics Funds Transfer System (NEFT)?

Ans. NEFT is an electronic fund transfer system that operates on a Deferred Net Settlement (DNS) basis which settles transactions in batches. In DNS, the settlement takes place with all transactions received till the particular

cut-off time. These transactions are netted (payable and receivables) in NEFT whereas in RTGS the transactions are settled individually. For example, currently, NEFT operates in hourly batches. [There are twelve settlements from 8 am to 7 pm on week days and six settlements from 8 am to 1 pm on Saturdays.] Any transaction initiated after a designated settlement time would have to wait till the next designated settlement time. Contrary to this, in the RTGS transactions are processed continuously throughout the RTGS business hours.

Q3. Is there any minimum / maximum amount stipulation for RTGS transactions?

Ans. The RTGS system is primarily meant for large value transactions. The minimum amount to be remitted through RTGS is ` 2 lakh. There is no upper ceiling for RTGS transactions.

Q4. What is the time taken for effecting funds transfer from one account to another under RTGS?

Ans. Under normal circumstances the beneficiary branches are expected to receive the funds in real time as soon as funds are transferred by the remitting bank. The beneficiary bank has to credit the beneficiary's account within 30 minutes of receiving the funds transfer message.

Q5. Would the remitting customer receive an acknowledgement of money credited to the beneficiary's account?

Ans. The remitting bank receives a message from the Reserve Bank that money has been credited to the receiving bank. Based on this the remitting bank can advise the remitting customer through SMS that money has been credited to the receiving bank.

Q6. Would the remitting customer get back the money if it is not credited to the beneficiary's account? When?

Ans. Yes. Funds, received by a RTGS member for the credit to a beneficiary customer's account, will be returned to the originating RTGS member within one hour of the receipt of the payment at the PI of the recipient bank or before the end of the RTGS Business day, whichever is earlier, if it is not possible to credit the funds to the beneficiary customer's account for any reason e.g. account does not exist, account frozen, etc. Once the money is received back by the remitting bank, the original debit entry in the customer's account is reversed.

Q7. Till what time RTGS service window is available?

Ans. The RTGS service window for customer's transactions is available to banks from 9.00 hours to 16.30 hours on week days and from 9.00 hours to 14.00 hours on Saturdays for settlement at the RBI end. However, the timings that the banks follow may vary depending on the customer timings of the bank branches.

Q8. What about Processing Charges / Service Charges for RTGS transactions?

Ans. With a view to rationalize the service charges levied by banks for offering funds transfer through RTGS system, a broad framework has been mandated as under:

a) Inward transactions – Free, no charge to be levied.

b) Outward transactions – ` 2 lakh to ` 5 lakh - not exceeding ` 30.00 per transaction; Above ` 5 lakh – not exceeding ` 55.00 per transaction.

Q9. What is the essential information that the remitting customer would have to furnish to a bank for the remittance to be effected?

Ans. The remitting customer has to furnish the following information to a bank for initiating a RTGS remittance:

1. Amount to be remitted
2. Remitting customer's account number which is to be debited
3. Name of the beneficiary bank and branch
4. The IFSC Number of the receiving branch
5. Name of the beneficiary customer
6. Account number of the beneficiary customer
7. Sender to receiver information, if any

Q10. How would one know the IFSC number of the receiving branch?

Ans. The beneficiary customer can obtain the IFSC code from his bank branch. The IFSC code is also available on the cheque leaf. The list of IFSCs is also available on the RBI website (<http://rbidocs.rbi.org.in/rdocs/RTGS/DOCs/RTGEB0815.xlsx>). This code number and bank branch details can be communicated by the beneficiary to the remitting customer.

Q11. Do all bank branches in India provide RTGS service?

Ans. No. All the bank branches in India are not RTGS enabled. Presently, there are more than 100,000 RTGS enabled bank branches. The list of such branches is available on RBI website at: <http://rbidocs.rbi.org.in/rdocs/RTGS/DOCs/RTGEB0815.xlsx>.

Q12. Is there any way that a remitting customer can track the remittance transaction?

Ans. It would depend on the arrangement between the remitting customer and the remitting bank. Some banks with internet banking facility provide this service. Once the funds are credited to the account of the beneficiary bank, the remitting customer gets a confirmation from his bank either by an e-mail or SMS. Customer may also contact RTGS / NEFT [Customer Facilitation Centres](#) of the banks, for tracking a transaction.

Q13. Whom do I can contact, in case of non-credit or delay in credit to the beneficiary account?

Ans. Contact your bank / branch. If the issue is not resolved satisfactorily, complaint may be lodged to the Customer Service Department of RBI at -

The Reserve Customer 1st Mumbai	Chief Bank Floor,	General Service Amar	Manager of Building,	India Department Fort
Or send email	–		400	001

Q14. How can a remitting customer know whether the bank branch of the beneficiary accepts remittance through RTGS?

Ans. For a funds transfer to go through RTGS, both the sending bank branch and the receiving bank branch would have to be RTGS enabled. The lists are readily available at all RTGS enabled branches. Besides, the information is available at RBI website (<http://rbidocs.rbi.org.in/rdocs/RTGS/DOCs/RTGEB0815.xlsx>). Considering that more than 110,000 branches at more than 30,000 cities / towns / taluka places are covered under the RTGS system, getting this information would not be difficult.



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