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BANKING - LAW & PRACTICE

MODULE 3

ELECTIVE PAPER 9.1

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Lesson 1-Overview of Indian Banking System

Master Direction – Non-Banking Financial Company – Housing Finance Company (Reserve Bank) Directions, 2021 (Notification no. RBI/2020-21/73 DOR.FIN.HFC.CC.No.120/03.10.136/2020-21 dated February 17, 2021)

The Reserve Bank of India has issued the Non-Banking Financial Company – Housing Finance Company (Reserve Bank) Directions, 2021 on February 17, 2021. The Reserve Bank of India, having considered it necessary in the public interest, and being satisfied that, for the purpose of enabling the Bank to regulate the financial system to the advantage of the country and to prevent the affairs of any Housing Finance Company (HFCs) from being conducted in a manner detrimental to the interest of investors and depositors or in any manner prejudicial to the interest of such HFCs.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12030&Mode=0>

Enhancement of limit of maximum balance per customer at end of the day from Rs.1 lakh to Rs.2 lakh – Payments Banks (PBs) (Notification no. RBI/2021-22/20DoR.LIC.REC.5/ 16.13.218/2021-22 dated April 8, 2021)

In terms of paragraph 4(i) of the ‘Guidelines for Licensing of Payments Banks’ (Licensing Guidelines) dated November 27, 2014, PBs were restricted to hold a maximum balance of Rs.1 lakh per individual customer at the end of the day. It was also indicated in the guidelines that after gauging the performance of the PBs, RBI may consider increasing the maximum balance limit.

Brief Analysis:

Considering the progress made by Public Sector banks in furthering financial inclusion and with the objective of giving more flexibility to the PBs, it has been decided to enhance the limit of maximum balance at the end of the day from Rs.1 lakh to Rs.2 lakh per individual customer of PBs with immediate effect.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12074&Mode=0>

Lesson 2- Regulatory Framework of Banks

Loans and advances to directors, their relatives, and firms / concerns in which they are interested (Notification no. RBI/2020-21/89 DOR.CRG.CRS. Cir.No.5/13.05.000/2020-21 dated February 05, 2021)

The Banking Regulation Act, 1949 has been amended by the Banking Regulation (Amendment) Act, 2020 notified for the Primary (Urban) Co-operative Banks (UCBs) on September 29, 2020 and deemed to have been effective from June 29, 2020. Consequently, section 20 of the principal Act has become applicable to UCBs. Keeping in view the above, the extant directions on the subject issued to UCBs have been reviewed and revised.

Brief Analysis:

UCBs shall not make, provide or renew any loans and advances or extend any other financial accommodation to or on behalf of their directors or their relatives, or to the firms / companies / concerns in which the directors or their relatives are interested (collectively called as “director-related loans”). Further, the directors or their relatives or the firms / companies / concerns in which the directors or their relatives are interested shall also not stand as surety/guarantor to the loans and advances or any other financial accommodation sanctioned by UCBs. ‘Advances’ for the purpose shall include all types of funded / working capital limits such as cash credits, overdrafts, credit cards, etc.

The following categories of director-related loans shall, however, be excluded from “loans and advances” for the purpose of these directions:

- (i) Regular employee-related loans to staff directors, if any, on the Boards of UCBs;
- (ii) Normal loans, as applicable to members, to the directors on the Boards of Salary Earners' UCBs;
- (iii) Normal employee-related loans to Managing Directors / Chief Executive Officers of UCBs;
- (iv) Loans to directors or their relatives against Government Securities, Fixed Deposits and Life Insurance Policies standing in their own name.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12019&Mode=0>

Credit to MSME Entrepreneurs (Notification no. RBI/2021-22/30DoR.RET.REC.09/12.01.001/2021-22 dated May 05, 2021)

The Scheduled Commercial Banks were earlier allowed to deduct the amount equivalent to credit disbursed to new MSME borrowers from their Net Demand and Time Liabilities (NDTL) for calculation of the Cash Reserve Ratio (CRR). This exemption was available up to Rs.25 lakh per borrower for the credit disbursed up to the fortnight ending October 1, 2021.

Brief Analysis:

It has been decided to extend this exemption for such credits disbursed up to the fortnight ending December 31, 2021. All other instructions remain same.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12084&Mode=0>

Amalgamation of District Central Co-operative Banks (DCCBs) with the State Co-operative Bank (StCB) – Guidelines (Notification no. RBI/2021-22/42 DOR.RUR.REC.No.17 /19.51.007/2021-22 dated May 24, 2021)

In recent past, a few State Governments approached RBI for amalgamation of DCCBs with the StCB as a two-tier Short-term Co-operative Credit Structure (STCCS). In order to help the States contemplating delayering their STCCS, captioned guidelines are being issued to bring the requirements and indicative benchmarks for the amalgamation of DCCBs with the StCB to the notice of all stakeholders. These guidelines will also apply for amalgamation of one or more DCCBs in a State with the StCB or amalgamation of one DCCB with another.

Brief Analysis:

The Reserve Bank of India will consider proposals for amalgamation if the following conditions are fulfilled:

- (i) When the State Government of the State makes a proposal to amalgamate one or more DCCB/s in the State with the StCB after conducting a detailed study of the legal framework along with additional capital infusion strategy, assurance regarding financial support if required, projected business model with clear profitability and proposed governance model for the amalgamated bank.
- (ii) When the scheme of amalgamation is approved by the requisite majority of shareholders in accordance with the provisions of Section 44A read with Section 56 of the Banking Regulation Act, 1949.
- (iii) When such proposal of the State Government has been examined and recommended by NABARD.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12096&Mode=0>

Lesson 3- Control Over Organization of Banks

Corporate Governance in Banks - Appointment of Directors and Constitution of Committees of the Board (Notification no. RBI/2021-22/24DOR.GOV.REC.8/29.67.001/2021-22 dated April 26, 2021)

A Discussion Paper on 'Governance in Commercial Banks in India' was issued by the Reserve Bank on June 11, 2020 to review the framework for governance in the commercial banks. Based on the feedback received, a comprehensive review of the framework has been done. In order to address a few operative aspects received through such feedback, it has been decided to issue instructions with regard to the Chair and meetings of the board, composition of certain committees of the board, age, tenure and remuneration of directors, and appointment of the whole-time directors (WTDs).

Brief Analysis:

The revised instructions would be applicable to all the Private Sector Banks including Small Finance Banks (SFBs) and wholly owned subsidiaries of Foreign Banks. In respect of State Bank of India and Nationalised Banks, these guidelines would apply to the extent the stipulations are not inconsistent with provisions of specific statutes applicable to these banks or instructions issued under the statutes. The circular will not be applicable in the case of foreign banks operating as branches in India.

The Chair of the board shall be an independent director. In the absence of the Chair of the board, the meetings of the board shall be chaired by an independent director. The quorum for the board meetings shall be one-third of the total strength of the board or three directors, whichever is higher. At least half of the directors attending the meetings of the board shall be independent directors.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12078&Mode=0>

Lesson 4- Regulation of Banking Business

Credit to MSME Entrepreneurs (Notification no. RBI/2020-21/92DOR.No.Ret.BC.37/12.01.001/2020 - 21 dated February 05, 2021)

The Scheduled Commercial Banks are allowed to deduct the amount equivalent to credit disbursed to 'New MSME borrowers' from their Net Demand and Time Liabilities (NDTL) for calculation of the Cash Reserve Ratio (CRR). For the purpose of this exemption, 'New MSME borrowers' shall be defined as those MSME borrowers who have not availed any credit facilities from the banking system as on January 1, 2021. This exemption will be available only up to Rs.25 lakh per borrower disbursed up to the fortnight ending October 1, 2021, for a period of one year from the date of origination of the loan or the tenure of the loan, whichever is earlier.

Brief Analysis:

Banks are required to report the exemption availed at the end of a fortnight under the item "Any other liabilities coming under the purview of zero prescription" at VIII.1. Proper fortnightly records of credit disbursed to new MSME borrowers/CRR exemption claimed, duly certified by the Chief Financial Officer (CFO) or an equivalent level officer, must be maintained by banks for supervisory review.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12022&Mode=0>

Government Agency Business Arrangement – Appointment of Scheduled Private Sector Banks as Agency Banks of Reserve Bank of India (RBI) (Notification no. RBI/2021-22/36CO.DGBA.GBD. No. S77/ 42.01.033/2021-22 dated May 10, 2021)

An embargo put in place from September 2012 by Department of Financial Services (DFS), Ministry of Finance (MoF) on further allocation of Government business to private sector banks has since been lifted by them vide their communication dated February 24, 2021. Based on the above developments, the existing guidelines on appointment of Scheduled Private Sector Banks as Agency Banks of RBI have been reviewed and the revised guidelines/framework for authorising Scheduled Private Sector Banks as agency banks of RBI for conduct of government business attracting agency commission.

Brief Analysis:

(i) For existing Private Sector Agency Banks (already having agency banking agreement with RBI):

(a) Such existing private Sector Agency bank with whom RBI already has agency banking agreement and who are authorized to do government agency business for Civil/Non-Civil Ministry/Department (for Central Government) or concerned department of a State Government (for State Government) may continue to do these government agency business for Central and/or State Governments without taking any fresh approval from RBI.

(b) For the purpose of undertaking fresh/additional government agency business by these existing private sector agency banks, after obtaining approval from O/o CGA (for Central Government) or the Finance Department of the State Government (for State Government) they need to obtain approval from DGBA, CO.

(ii) For other private sector banks (not having agency banking agreement with RBI)

Scheduled private sector banks, not having agency banking agreement with RBI, but intend to handle Government agency business, may be appointed as agents of RBI upon execution of an agreement with RBI. This will be subject to the condition that the concerned bank is not under Prompt Corrective Action (PCA) framework or moratorium at the time of making the application or signing of the agreement with RBI.

(iii) The choice of accrediting an agency bank (including scheduled private sector agency bank) for any particular government agency business rests solely with the concerned Central Government Departments /State Governments. Further, Government Departments /State Governments have the option to discontinue the arrangement after giving notice to the concerned agency banks, keeping RBI informed.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12090&Mode=0>

Banking Regulation Act, 1949 – Section 26A Depositor Education and Awareness Fund Scheme, 2014– Interest rates payable on unclaimed interest-bearing deposit (Notification no. RBI/2021-22/37 DoR.DEA.REC.No.16/30.01.002/2021-22 dated May 11, 2021)

The rate of interest has been reviewed and it has been decided that the rate of interest payable by banks to the depositors/claimants on the unclaimed interest-bearing deposit amount transferred to the Fund shall be 3 per cent simple interest per annum with effect from the date of this circular.

Brief Analysis:

Accordingly, all the banks are advised to calculate the interest payable on interest bearing deposits transferred to RBI at the rate of 4 per cent p.a. up to June 30, 2018, 3.5 per cent w.e.f. July 1, 2018 up to May 10, 2021 and at 3 per cent with effect from May 11, 2021 till the time of payment to the depositor / claimant.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12091&Mode=0>

Sponsor Contribution to an AIF set up in Overseas Jurisdiction, including IFSCs (Notification no. RBI/2021-22/39 IDMD.CDD.No.45187/14.04.050/2021-22dated May 12, 2021)

It has been decided by the RBI that any sponsor contribution from a sponsor Indian Party (IP) to an Alternative Investment Fund (AIF) set up in an overseas jurisdiction, including International Financial Services Centres (IFSCs) in India, as per the laws of the host jurisdiction, will be treated as Overseas Direct Investment (ODI).

Brief Analysis:

Accordingly, IP, as defined in regulation 2(k) of the Notification *ibid.* can set up AIF in overseas jurisdictions, including IFSCs, under the automatic route provided it complies with Regulation 7 of the Notification FEMA 120/2004-RB.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12092&Mode=0>

Lesson 5-Banking Operation

Extension of Cheque Truncation System (CTS) across all bank branches in the country (Notification no. RBI/2020-21/107DPSS.CO.RPPD.No.SUO 21102/04.07.005/2020-21 dated March 15, 2021)

The CTS is in use since 2010 and presently covers around 1,50,000 branches. All the erstwhile 1219 non-CTS clearing houses (ECCS centres) have been migrated to CTS effective September 2020. It is, however, seen that there are branches of banks that are outside any formal clearing arrangement and their customers face hardships due to longer time taken and cost involved in collection of cheques presented by them.

Brief Analysis:

To leverage the availability of CTS and provide uniform customer experience irrespective of location of her/his bank branch, it has been decided to extend CTS across all bank branches in the country. To facilitate this, banks shall have to ensure that all their branches participate in image-based CTS under respective grids by September 30, 2021. They are free to adopt a model of their choice, like deploying suitable infrastructure in every branch or following a hub & spoke model, etc. and concerned banks shall coordinate with the respective Regional Offices of RBI to operationalise this.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12039&Mode=0>

Amendment to Master Direction (MD) on KYC – Procedure for Implementation of Section 51A of the Unlawful Activities (Prevention) Act, 1967 (Notification no. RBI/2020-21/110DOR.AML.REC.48/14.01.001/2020-21 dated March 23, 2021)

In line with the revised order dated February 2, 2021, issued by the Ministry of Home Affairs (MHA), Sections 52 and 54 of the Master Direction on KYC dated February 25, 2016, are amended. Further Section 54 has been amended to include “The list of Nodal Officers for UAPA is available on the website of Ministry of Home Affairs”.

Brief Analysis:

In terms of instructions contained therein, Regulated Entities (REs) have been instructed, inter alia, that the procedure laid down in the Unlawful Activities (Prevention) Act, 1967, (UAPA) Order dated March 14, 2019, shall be strictly followed and meticulous compliance with the order issued by the Government shall be ensured.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12042&Mode=0>

Master Circular – Facility for Exchange of Notes and Coins (Notification no. RBI/2021-22/01 DCM (NE) No.G-4/08.07.18/2021-22 dated April 01, 2021)

A revised version of Master Circular – Facility for Exchange of Notes and Coins issued by the Reserve Bank of India and placed on its website. All branches of banks in all parts of the country are mandated to provide the customer services related to Issuing fresh / good quality notes and coins of all

denominations, Exchanging soiled / mutilated / defective notes and Accepting coins and notes either for transactions or exchange more actively and vigorously to the members of public so that there is no need for them to approach the RBI Regional Offices for this purpose.

Brief Analysis:

Facility for Exchange of Notes and Coins at Bank Branches

(a) All branches of banks in all parts of the country are mandated to provide the following customer services, more actively and vigorously to the members of public so that there is no need for them to approach the RBI Regional Offices for this purpose:

(i) Issuing fresh / good quality notes and coins of all denominations,

(ii) Exchanging soiled / mutilated / defective notes,*

* Small Finance Banks and Payment Banks may exchange mutilated and defective notes at their option.

and

(iii) Accepting coins and notes either for transactions or exchange.

It will be preferable to accept coins, particularly, in the denominations of ₹1 and ₹2, by weight. However, accepting coins packed in sachets of 100 each would perhaps be more convenient for the cashiers as well as the customers. Such sachets may be kept at the counters and made available to the customers.

(b) All branches should provide the above facilities to members of public without any discrimination on all working days. The scheme of providing exchange facility by a few select currency chest branches on one of the Sundays in a month will remain unchanged. The names and addresses of such bank branches should be available with the respective banks.

(c) The availability of the above-mentioned facilities at the bank branches should be given wide publicity for information of the public at large.

(d) None of the bank branches should refuse to accept small denomination notes and / or coins tendered at their counters. All coins in the denomination of 50 paise, ₹1, ₹2, ₹5, ₹10 and ₹20 of various sizes, theme and design issued from time to time by the Government of India continue to be legal tender.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12052&Mode=0>

Amendment to the Master Direction (MD) on KYC (Notification no. RBI/2021-22/35DOR.AML.REC.No.15/14.01.001/2021-22 dated May 10, 2021)

It has been decided by the Reserve Bank of India to amend the MD on KYC to further leverage the Video based Customer Identification Process (V- CIP) and to simplify and rationalise the process of periodic updation of KYC.

Brief Analysis:

I. V-CIP:

Clause (xx) of Section 3: Amended Definition of V-CIP:

Video based Customer Identification Process (V-CIP) is an alternate method of customer identification with facial recognition and customer due diligence by an authorised official of the RE by undertaking seamless, secure, live, informed-consent based audio-visual interaction with the customer to obtain identification information required for CDD purpose, and to ascertain the veracity of the information furnished by the customer through independent verification and maintaining audit trail of the process. Such processes complying with prescribed standards and procedures shall be treated on par with face-to-face CIP for the purpose of this Master Direction.

II. Clause (v) of Section 17:

Accounts, both deposit and borrowal, opened using OTP based e-KYC shall not be allowed for more than one year unless identification as per Section 16 or as per Section 18 (V-CIP) is carried out, If Aadhaar details are used under Section 18, the process shall be followed in its entirety including fresh Aadhaar OTP authentication.

III. Amended Section 18 on V-CIP:

REs may undertake V-CIP to carry out:

CDD in case of new customer on-boarding for individual customers, proprietor in case of proprietorship firm, authorised signatories and Beneficial Owners (BOs) in case of Legal Entity (LE) customers.

Provided that in case of CDD of a proprietorship firm, REs shall also obtain the equivalent e-document of the activity proofs with respect to the proprietorship firm, as mentioned in Section 28, apart from undertaking CDD of the proprietor.

Conversion of existing accounts opened in non-face to face mode using Aadhaar OTP based e-KYC authentication as per Section 17.

Updation/Periodic updation of KYC for eligible customers.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12089&Mode=0>

Customer Due Diligence for transactions in Virtual Currencies (VC) (Notification no. RBI/2021-22/45 DOR. AML.REC 18 /14.01.001/2021-22 dated May 31, 2021)

The Reserve Bank of India said that banks and other regulated entities cannot cite its April 2018 order on virtual currencies (VCs) as it was set aside by the Supreme Court last year. RBI Also said that all the Banks, as well as other regulated entities to continue to carry out customer due diligence processes in line with regulations governing standards for Know Your Customer (KYC), Anti-Money Laundering (AML), Combating of Financing of Terrorism (CFT) and obligations of regulated entities under

Prevention of Money Laundering Act, (PMLA), 2002 in addition to ensuring compliance with relevant provisions under Foreign Exchange Management Act (FEMA) for overseas remittances.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12103&Mode=0>

Lesson 6-IT in Banking

Introduction of Legal Entity Identifier for Large Value Transactions in Centralised Payment Systems (Notification No. RBI/2020-21/82DPSS.CO.OD No.901/06.24.001/2020-21 dated January 05, 2021)

The Legal Entity Identifier (LEI) is a 20-digit number used to uniquely identify parties to financial transactions worldwide. It was conceived as a key measure to improve the quality and accuracy of financial data systems for better risk management post the Global Financial Crisis. LEI has been introduced by the Reserve Bank in a phased manner for participants in the over the counter (OTC) derivative and non-derivative markets as also for large corporate borrowers. It has now been decided to introduce the LEI system for all payment transactions of value ₹50 crore and above undertaken by entities (non-individuals) using Reserve Bank-run Centralised Payment Systems viz. Real Time Gross Settlement (RTGS) and National Electronic Funds Transfer (NEFT).

Brief Analysis:

In preparation for the wider introduction of LEI across all payment transactions, member banks should:

- (i) advise entities who undertake large value transactions (₹50 crore and above) to obtain LEI in time, if they do not already have one;
- (ii) include remitter and beneficiary LEI information in RTGS and NEFT payment messages (details of the identified fields in the messaging structures of RTGS and NEFT for inclusion of LEI information are at Annex);
- (iii) maintain records of all transactions of ₹50 crore and above through RTGS and / or NEFT.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12010&Mode=0>

Master Direction on Digital Payment Security Controls (Notification no. RBI/2020-21/74 DoS.CO.CSITE.SEC.No.1852/31.01.015/2020-21 dated February 18, 2021)

The Reserve Bank of India has issued the Master Direction on Digital Payment Security Controls. These Master Direction provides necessary guidelines for the regulated entities to set up a robust governance structure and implement common minimum standards of security controls for digital payment products and services.

Brief Analysis:

Digital Payment Security Controls

Going by the pre-eminent role being played by digital payment systems in India, RBI gives highest importance to the security controls around it. Now it is proposed to issue Reserve Bank of India (Digital Payment Security Controls) Directions 2020, for regulated entities to set up a robust governance structure for such systems and implement common minimum standards of security controls for channels

like internet, mobile banking, card payments, among others. While the guidelines will be technology and platform agnostic, it will create an enhanced and enabling environment for customers to use digital payment products in more safe and secure manner.

Governance and Management of Security Risks

REs shall formulate a policy for digital payment products and services with the approval of their Board. The contours of the policy, while discussing the parameters of any “new product” including its alignment with the overall business strategy and inherent risk of the product, risk management/ mitigation measures, compliance with regulatory instructions, customer experience, etc., should explicitly discuss about payment security requirements from Functionality, Security and Performance (FSP) angles such as:

- (i) Necessary controls to protect the confidentiality of customer data and integrity of data and processes associated with the digital product/ services offered;
- (ii) Availability of requisite infrastructure e.g. human resources, technology, etc. with necessary back up;
- (iii) Assurance that the payment product is built in a secure manner offering robust performance ensuring safety, consistency and rolled out after necessary testing for achieving desired FSP;
- (iv) Capacity building and expansion with scalability (to meet the growth for efficient transaction processing);
- (v) Minimal customer service disruption with high availability of systems/ channels (to have minimal technical declines);
- (vi) Efficient and effective dispute resolution mechanism and handling of customer grievance; and
- (vii) Adequate and appropriate review mechanism followed by swift corrective action, in case any one of the above requirements is hampered or having high potential to get hampered.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12032&Mode=0>

Large Exposures Framework – Exemptions (Notification no. RBI/2020-21/104 DOR.No.CRE.BC.45/21.01.003/2020-21 dated February 24, 2021)

The Reserve bank of India has issued exemptions for some specified exposures from Large Exposures Framework (LEF).

Brief Analysis:

On a review, it has been decided to further exempt the following exposures from the LEF:

- Exposures to foreign sovereigns or their central banks that are:

- (i) subject to a 0% risk weight under Table 2 of paragraph 5.3.1 of the Master Circular – Basel III Capital Regulations dated July 1, 2015, as modified vide circular dated October 8, 2015; and,
- (ii) denominated in the domestic currency of that sovereign and met out of resources of the same currency.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12036&Mode=0>

Lesson 17- Introduction to Foreign Exchange

Foreign Exchange Management (Export of Goods and Services) (Amendment) Regulations, 2021 (Notification No. FEMA 23(R)/(4)/2021-RB dated January 08, 2021)

The Reserve Bank of India has made amendments in the Foreign Exchange Management (Export of Goods & Services) Regulations, 2015 (the Principal Regulations) and the amended regulations are now called the Foreign Exchange Management (Export of Goods and Services) (Amendment) Regulations, 2021.

The regulation 4, for sub-regulation (ea), of the Principal Regulations is substituted by “(ea) re-export of leased aircraft/helicopter and/or engines/auxiliary power units (APUs), either completely or in partially knocked down condition re-possessed by overseas lessor and duly de-registered by the Directorate General of Civil Aviation (DGCA) on the request of Irrevocable Deregistration and Export Request Authorisation (IDERA) holder under ‘Cape Town Convention’ or any other termination or cancellation of the lease agreement between the lessor and lessee subject to permission by DGCA/Ministry of Civil Aviation for such export/s.”

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12014&Mode=0>

Margin for Derivative Contracts (Notification no. RBI/2020-21/98 A. P. (DIR Series) Circular No. 10 dated February 15, 2021)

The Reserve Bank of India had invited Foreign Exchange Management (Margin for Derivative Contracts) Regulations, 2020 on October 23, 2020. Accordingly, directions are being issued to allow posting and collection of margin for permitted derivative contracts between a person resident in India and a person resident outside India.

Brief Analysis:

AD Cat-I banks may post and collect margin in India, on their own account or on behalf of their customers, for a permitted derivative contract entered into with a person resident outside India in the form of:

- i. Indian currency;
- ii. Freely convertible foreign currency;
- iii. Debt securities issued by Indian Central Government and State Governments;
- iv. Rupee bonds issued by persons resident in India which are:
 - a. Listed on a recognized stock exchange in India; and
 - b. Assigned a credit rating of AAA issued by a rating agency registered with the Securities and Exchange Board of India. If different ratings are accorded by two or more credit rating agencies, then the lowest rating shall be reckoned.

Explanation: Permitted derivative contract shall have the same meaning as assigned to it in the Foreign Exchange Management (Margin for Derivative Contracts) Regulations, 2020 [Notification no. FEMA.399/RB-2020 dated October 23, 2020].

AD Cat-I banks may post and collect such margin outside India in the form of:

- i. Freely convertible foreign currency; and
- ii. Debt securities issued by foreign sovereigns with a credit rating of AA- and above issued by S&P Global Ratings / Fitch Ratings or Aa3 and above issued by Moody's Investors Service. If different ratings are accorded by two or more credit rating agencies, then the lowest rating shall be reckoned.

AD Cat-I banks may receive and pay interest on margin posted and collected on their own account or on behalf of their customers for a permitted derivative contract entered into with a person resident outside India.

AD Cat-I banks shall maintain a separate account in the name of persons resident outside India for the purpose of posting and collecting cash margin in India, and transactions incidental thereto.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12028&Mode=0>

Lesson 18-Non- Performing Assets

Reserve Bank of India constitutes a Committee on functioning of Asset Reconstruction Companies (ARCs) and review of regulatory guidelines applicable to them (Notification no. RBI/2021-22/40DPSS.CO.PD.No.S-99/ 02.14.006/2021-22 dated May 19, 2021)

As part of the Statement on Developmental and Regulatory Policies released along with the Monetary Policy Statement on April 7, 2021, the Reserve Bank of India had announced setting up of a Committee to undertake a comprehensive review of the working of ARCs in the financial sector ecosystem and recommend suitable measures for enabling such entities to meet the growing requirements of the financial sector.

Brief Analysis:

The Reserve Bank of India has constituted a Committee with the following composition:

1.	Shri Sudarshan Sen, former Executive Director, RBI	Chairman
2.	Ms. Vishakha Mulye, Executive Director, ICICI Bank	Member
3.	Shri P N Prasad, former Dy. Managing Director, SBI	Member
4.	Shri Rohit Prasad, Professor of Economics, MDI, Gurgaon	Member
5.	Shri Abizer Diwanji, Partner, Ernst & Young	Member
6.	Shri R Anand, Chartered Accountant	Member

The terms of reference of the Committee will be as under:

- (i) Review of existing legal and regulatory framework applicable to ARCs and recommend measures to improve efficacy of ARCs;
- (ii) Review of role of ARCs in resolution of stressed assets including under Insolvency & Bankruptcy Code (IBC), 2016;
- (iii) Suggestions for improving liquidity in and trading of security receipts;
- (iv) Review of business models of the ARCs;
- (iv) Any other matter relevant to the functioning, transparency and governance of ARCs.

For more details: https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=51443

Lesson 20- Risk Management in Banks and Basel Accords

Prudential Guidelines on Capital Adequacy and Market Discipline - New Capital Adequacy Framework (NCAF) - Eligible Credit Rating Agencies – CRISIL Ratings Limited (Notification No. RBI/2020-21/86DOR.No.CRE.BC.33/21.06. 007/2020-21 dated January 27, 2021)

CRISIL Limited has been accredited for the purpose of risk weighting the banks' claims for capital adequacy purposes along with other credit rating agencies (CRAs) registered with Securities and Exchange Board of India (SEBI). The rating business of CRISIL Limited has since been transferred to CRISIL Ratings Limited, a wholly owned subsidiary of CRISIL Limited in compliance with SEBI's notification dated September 11, 2018 read with SEBI's circular dated September 19, 2018. Banks may therefore, use the ratings of the CRISIL Ratings Limited for the purpose of risk weighting their claims for capital adequacy purposes. The rating-risk weight mapping for the long term and short-term ratings assigned by CRISIL Ratings Limited will be the same as was in the case of CRISIL Limited and there is no change in the rating symbols earlier assigned by CRISIL Limited.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12016&Mode=0>

Currency Exposure (Notification no. RBI/2020-21/100DOR.No.MRG.BC.41/21.06.200/ 2020-21 dated February 17, 2021)

The guidelines mandate that information on Unhedged Foreign Currency Exposure (UFCE) may be obtained by banks from entities on a quarterly basis, on self-certification basis, and preferably should be internally audited by the entity concerned. We have received representation from banks expressing their inability in obtaining UFCE certificates from listed entities for the latest quarter due to restrictions on disclosure of such information prior to finalisation of accounts. In view of this, it has been decided that in such cases, banks may use data pertaining to the immediate preceding quarter for computing

capital and provisioning requirements in case of Unhedged Foreign Currency Exposures.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12031&Mode=0>

Lesson 21-Audits in Banks

Risk Based Internal Audit (RBIA) Framework – Strengthening Governance arrangements (Notification No. RBI/2020-21/83 Ref. No.DoS.CO.PPG./SEC.04/11.01.005/2020-21 dated January 07, 2021)

In terms of the Guidance Note on Risk-Based Internal Audit issued by RBI, banks, inter alia, are required to put in place a Risk Based Internal Audit (RBIA) system as part of their internal control framework that relies on a well-defined policy for internal audit, functional independence with sufficient standing and authority within the bank, effective channels of communication, adequate audit resources with sufficient professional competence, among others.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12011&Mode=0>

Risk-Based Internal Audit (RBIA) (Notification no. RBI/2020-21/88 Ref.No.DoS.CO.PPG./SEC.05/11.01. 005/2020-21 dated February 03, 2021)

Earlier Risk-Based Internal Audit (RBIA) system was mandated for all Scheduled Commercial Banks (except Regional Rural Banks) now it has been decided to mandate RBIA framework for:

- (a) All deposit taking Non-Banking Financial Companies (NBFCs), irrespective of their size and all Non-deposit taking NBFCs (including Core Investment Companies) with asset size of Rs.5,000 crore and above; and
- (b) Primary (Urban) Co-operative Banks (All UCBs having asset size of Rs.500 crore and above).

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12018&Mode=0>

Guidelines for Appointment of Statutory Central Auditors (SCAs)/Statutory Auditors (SAs) of Commercial Banks (excluding RRBs), UCBs and NBFCs (including HFCs) (Notification no.

RBI/2021-22/25Ref.No.DoS.CO.ARG/SEC.01/08.91.001/2021-22 dated April 27, 2021)

These guidelines will be applicable to the Commercial Banks (excluding RRBs), UCBs and NBFCs including HFCs for Financial Year 2021-22 and onwards in respect of appointment / reappointment of SCAs / SAs¹ of the Entities. However, non-deposit taking NBFCs with asset size² below ₹1,000 crore have the option to continue with their extant procedure. As RBI guidelines regarding appointment of SCAs / SAs shall be implemented for the first time for UCBs and NBFCs from FY 2021-22, they shall have the flexibility to adopt these guidelines from H2 (second half) of FY 2021-22 in order to ensure that there is no disruption.

For more details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12079&Mode=0>