



B MATHUR & CO.
Company Secretaries

WEEKLY UPDATES

FROM

21ST DECEMBER – 26TH DECEMBER, 2009



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RBI UPDATES

✚ RBI/2009-10/267
UBD. BPD. (PCB).Cir. No. 37 / 13.01.000/ 2009-10

December 21, 2009

**Chief Executive Officer of
All Primary (Urban) Cooperative Banks**

Dear Sir/ Madam

Settlement of Interest Rate Futures (IRF) - UCBs

Please refer to circular UBD (PCB) BPD Cir No. 17 /13.01.000/2009-10 dated October 28, 2009 on the introduction of Exchange Traded Interest Rate Futures (IRFs).

2. As regards the settlement mechanism for the IRF contracts, it has been decided that all entities having short (sold) position in the IRF contracts and required to deliver securities on the appointed date will move these securities from their respective Subsidiary General Ledger/Constituents' Subsidiary General Ledger (SGL/CSGL) accounts with the RBI to a special "Settlement" SGL account of the respective Clearing Corporations of the Exchanges [Exchange Clearing House (ECH) / Exchange Clearing Corporation (ECC)] authorised to deal in IRF. The ECH/ECC will in turn deliver the securities to the SGL/CSGL accounts of the entities having long (bought) position after ensuring that the settlement of funds has been completed through the designated clearing banks. Thus, the clearing and settlement will essentially be the responsibility of the ECH/ECC. RBI will provide the facility for transfer of Government securities to facilitate completion of the securities leg of the settlement.

3. Operational guidelines:

- a. Each ECH/ECC will have to open a Settlement SGL account and a Proprietary SGL account for which they have to apply to the Public Debt Office (PDO), Mumbai with relevant documents.
- b. Upon the opening of such accounts, each ECH/ECC will be provided with the Negotiated Dealing System (NDS) and the Indian Financial Network (INFINET)



- c. connectivity.
- d. Since the IRF contracts will be traded on the authorised exchanges the settlement details will be arrived at by the respective Exchanges and the details of the settlement will be communicated by the ECH/ECC to the parties concerned who are required to either deliver or to receive the securities. The holder of the security (transferor) who has to deliver the securities will initiate the transfer to the Settlement SGL Account of the ECH/ECC in the NDS. The ECH/ECC will authorise each such transfer after which the security will move into their Settlement SGL account. The ECH/ECC in turn will transfer the securities to different transferees who are eligible to receive the securities. All the above transfers in respect of IRF settlements would be effected electronically with digital signatures in terms of Regulation 4 (2) of the Government Securities Regulations, 2007. The above procedure will be applicable only where it involves transfer of securities between two SGL/CSGL accounts or between the two depositories, i.e. NSDL and CDSL, while the transfer of securities between demat accounts maintained with the same depository will be settled through the depository itself.
- e. As only the settlement of securities arising out of obligations under IRF will take place under the above mode, it would be the responsibility of the ECH/ECC to ensure the settlement of the funds leg of the transaction through the designated clearing banks.
- f. The ECH/ECC will ensure that only securities eligible under IRF are transferred to their Settlement SGL account.
- g. The Settlement SGL account will be only for the limited purpose of enabling pay-ins and pay-outs of the Government securities to be delivered for the IRF settlement on the settlement date. As this account is for the limited purpose of holding securities between pay-in and pay-out while the ECH/ECC ensures that the funds leg has been settled, this Settlement SGL Account must have a zero balance at the end of the day.
- h. The ECH/ECC will give a onetime mandate to the PDO, Mumbai that any leftover security in the settlement SGL account (arising out of securities blocked due to defaults in funds settlement or for any other reason) gets automatically transferred to the Proprietary SGL account of the ECH/ECC at the end of the day. Any such incident of transfer to the Proprietary SGL account will result in issue of notification message to



the Financial Markets Department, RBI, CO, Mumbai & the PDO, Mumbai and the concerned ECH/ECC.

- i. In case of default in delivery of securities by the SGL account holders, it will be treated as "bouncing" and current penalties in respect of SGL bouncing would apply. In case of default in delivery of security by the CSGL account holders, arising out of the actions of the individual Gilt Account Holders (GAH), it will be the responsibility of the CSGL account holders to suitably deal with the concerned GAH to prevent recurrence of such defaults. The ECH/ECC will inform the PDO, Mumbai about any such default by the SGL/CSGL account holders on the same day.
 - j. Individual ECH/ECC may decide upon the time frame for the settlement. However, the pay-out of the securities for settlement of IRF contracts should be completed latest by 2.30 PM.
 - k. Any misuse of the SGL/CSGL facility or the IRF settlement mechanism may result in action in terms of section 27, 29 and 30 of the Government Securities Act, 2006 (38 of 2006).
4. Please acknowledge receipt to the Regional Office concerned.

Yours faithfully,

(A. K. Khound)
Chief General Manager-in-Charge



RBI/2009-10/269
DPSS.CO.AD.No./1320/02.27.005/2009-10

December 22, 2009

To

All the Payment System Operators authorized under the Payment and Settlement Systems Act, 2007

Madam/Dear Sir,

Know Your Customer (KYC) norms/Anti-Money Laundering (AML) standards/Combating the Financing of Terrorism (CFT) obligation of Payment System Operators under Prevention of Money Laundering Act, (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009

Attention of all the Payment System Operators authorized under the Payment and Settlement Systems Act, 2007 (PSS Act) is invited to the terms and conditions subject to which the Certificates of Authorisation were issued specifying inter-alia to adhere to the provisions of the Prevention of Money Laundering (Amendment) Act and the rules framed thereunder.

2. In terms of **Prevention of Money Laundering Act, (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009**, all the Payment System Operators have been brought under the purview of PMLA, 2002. Therefore, detailed instructions on Know Your Customer (KYC) norms/Anti-Money Laundering (AML) standards/Combating the Financing of Terrorism (CFT) in respect of cross-border inward remittance activities, in the context of the Financial Action Task Force (FATF) Recommendations on Anti Money Laundering (AML) standards and on Combating the Financing of Terrorism (CFT) have been prescribed.

3. Accordingly, guidelines on obligation of Payment System Operators under PMLA, 2002 as amended **by Prevention of Money Laundering (Amendment) Act, 2009 are given in Annex-I and Annex-II**. All Payment System Operators should



have in place a proper policy framework on 'Know Your Customer', 'Anti-Money Laundering' and Combating the Financing of Terrorism measures with the approval of their Board.

4. These guidelines would also be applicable mutatis mutandis to all the agents and sub-agents of the Payment System Operators in India and it will be their sole responsibility to ensure that their agents and sub-agents also adhere to these guidelines.

5. Payment System Operators should bring the contents of this circular to the notice of their constituents concerned.

6. The directions contained in this circular have been issued under Section 18 of the PSS Act and non-compliance with the guidelines would attract penal provisions of the Act concerned or Rules made there under.

Please acknowledge receipt.

Yours faithfully

**(G. Padmanabhan)
Chief General Manager**



🚩 RBI/2009-10/269
DPSS.CO.AD.No./1320/02.27.005/2009-10

December 22, 2009

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3. Accordingly, guidelines on obligation of Payment System Operators under PMLA, 2002 as amended by **Prevention of Money Laundering (Amendment) Act, 2009** are given in Annex-I and Annex-II. All Payment System Operators should have in place a proper policy framework on 'Know Your Customer', 'Anti-Money



Laundering' and Combating the Financing of Terrorism measures with the approval of their Board.

4. These guidelines would also be applicable mutatis mutandis to all the agents and sub-agents of the Payment System Operators in India and it will be their sole responsibility to ensure that their agents and sub-agents also adhere to these guidelines.

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Please acknowledge receipt.

Yours faithfully

(G. Padmanabhan)
Chief General Manager



RBI/2009-10/271
UBD.BPD.CO.NSBI/ 38 /12.03.000/2009-10

December 23, 2009

The Chief Executive Officer of
All Primary (Urban) Co-operative Banks

Dear Sir / Madam,

Know Your Customer (KYC) Guidelines - Accounts of Proprietary Concern

Please refer to the circular UBD.BPD.CO/NSB1/11/12.03.000/2009-10 dated September 29, 2009 on the captioned subject.

In partial modification of paragraph 3 (ii) thereof, it is advised that apart from the documents mentioned therein, any certificate / registration document issued by Sales Tax / Service Tax / Professional Tax authorities may also be considered for verification of the proof of name, address and activity of the Proprietary concern.

Yours faithfully,

(Dr. Sathyan David)
General Manager



RBI/2009-10/272
DBOD.Dir.BC. 66 /13.03.00/2009-10

December 23, 2009

**All Scheduled Commercial Banks
(excluding RRBs)**

Dear Sir

**Banks' Exposure to Capital Market -
Loans extended by banks to Mutual Funds and
Issue of Irrevocable Payment Commitments (IPCs)**

Please refer to our circular No.DBOD.Dir.BC.139/13.03.00/2009-10 dated June 25, 2009 in terms of which the transition period allowed to banks to comply with the requirements contained in our circular No. DBOD.Dir.BC.57/13.03.00/2007-08 dated December 14, 2007, was extended up to December 31, 2009. On a review, it has been decided to further extend the transition period up to **June 30, 2010**.

Yours faithfully

(P Vijaya Bhaskar)
Chief General Manager-in-Charge



RBI/2009-10/272
DPSS.CO.No.1357/02.23.02/ 2009-10

December 24, 2009

The Chairman and Managing Director / Chief Executive Officers
All Scheduled Commercial Banks including RRBs /
Urban Co-operative Banks / State Co-operative Banks /
District Central Co-operative Banks

Madam/ Dear Sir

Mobile Banking Transactions in India - Operative Guidelines for Banks

A reference is invited to the guidelines appended to our circular no. RBI/2008-09/209, DPSS.CO.No.619 /02.23.02/ 2008-09 dated October 08, 2008, on the captioned subject.

2. Based on the requests received from the banks facilitating mobile banking transactions, the guidelines are modified as under:

- I. **Transaction limit** : In amendment of provisions of paragraph 8.1 of the above guidelines, banks are now permitted to offer this service to their customers subject to a daily cap of Rs 50,000/- per customer for both funds transfer and transactions involving purchase of goods/services. Presently, such transactions are subject to separate caps of Rs 5000/- and Rs 10000/- respectively.
- II. **Technology and Security Standard** : Transactions up to Rs 1000/- can be facilitated by banks without end-to-end encryption. The risk aspects involved in such transactions may be addressed by the banks through adequate security measures.

3. Remittance of funds for disbursement in cash:

In order to facilitate the use of mobile phones for remittance of cash, banks are permitted to provide fund transfer services which facilitate transfer of funds from the accounts of their customers for delivery in cash to the recipients. The disbursal of funds to recipients of such services can be facilitated at ATMs or through any agent(s) appointed by the bank as business



correspondents. Such fund transfer service shall be provided by banks subject to the following conditions:-

- i. The maximum value of such transfers shall be Rs 5000/- per transaction.
 - ii. Banks may place suitable cap on the velocity of such transactions, subject to a maximum value of Rs 25,000/- per month, per customer.
 - iii. The disbursement of funds at the agent/ATM shall be permitted only after identification of the recipient. In this connection, attention of banks is drawn to the provisions of the Notification dated November 12, 2009, issued by Government of India, under Prevention of Money Laundering Act, 2002, as amended from time to time.
 - iv. Banks may carry out proper due diligence of the persons before appointing them as authorized agents for such services.
 - v. Banks shall be responsible as principals for all the acts of omission or commission of their agents.
4. The directive is issued under Section 18 of Payment and Settlement Systems Act, 2007, (Act 51 of 2007).

Yours faithfully,

(G. Padmanabhan)
Chief General Manager



IRDA UPDATES

23rd December, 2009

To

The CEOs of All Insurers,
All ATIs (Online and Off-line),
Examination bodies,
The Secretary General - Life Insurance Council,
The Secretary General - General Insurance Council.

Sub: Launching of New Agency Licensing Portal

As you are aware, during the month of June 2009, the Authority initiated the process of revamping the present agency licensing portal in order to widen the scope of the portal - integrating the various stakeholders with this Agency Licensing system namely insurers, agent training institutes, examination bodies and the designated persons.

The development exercise commenced during the month of August 2009 after receiving feedback from various stakeholders of the portal through a workshop held in Hyderabad. More than fifteen short-listed business users from various insurance companies participated for User Acceptance Test (UAT) at NSE-IT development center during the month of October /November. This was followed by detailed workshop presentations on how the portal will



function; to all stakeholders at Kolkata, Delhi, Bangalore, Chennai and Mumbai which was successfully completed in the first week of December '09.

It has now been decided to launch the new licensing portal from 5th January 2010 as per the following guidelines:-

1. The current portal would be UNAVAILABLE for use from 2nd January 2010 to 4th January 2010 for migration of data from the current portal to the new one.
2. From 5th January 2010 onwards, both old and new versions would be simultaneously available for use for a period of one month (i.e. till 5th February 2010). In this one month period, i.e. from 5th January 2010 till 5th February 2010, the current sponsored candidates, who have already undertaken training, and/or have examination scheduled/completed examinations can be licensed in the old portal with the following restrictions:
 - i. All candidates must complete the training and examinations by 31st Jan 2010.
 - ii. All licenses must be issued in the old portal by 5th February 2010.
3. All candidates sponsored by insurers on or after 5th January 2010 should be registered in the new portal ONLY. Licenses generated in the new portal would start with a new series.
4. All the options EXCEPT issue of new licenses and duplicate license printing (only for the new licenses) would be disabled in the old portal from 5th January 2010.
5. 50% of the available Web Wallet Balance would be transferred to the new portal to enable insurers to issue licenses from the new portal.
6. The login ID/passwords would be emailed to all the new users. In respect of the existing users (DPs, Corporate DPs etc) the login would remain the same.



7. From 5th January 2010 onwards, a unique reference number (URN) will be allocated for the candidates sponsored which will act as reference number for tracking the status of a candidate under licensing process. Hence, the Agent Training Institutes should not allocate training for candidates without an IRDA URN after 20th January 2010. The Examination Bodies also should not allocate examination slots for candidates without an IRDA URN after 31st Jan 2010.
8. Reports option on the old portal would continue to be available till **5th February 2010**
9. All candidates licensed in the old portal between 5th January 2010 – 5th February 2010 would be migrated to the new portal during 6th to 7th February 2010 (Saturday and Sunday). The entire web wallet balance from old portal would also be transferred to new portal during this period. To enable the service provider to complete this process, both old and new portal would not be available for use during these days.
10. From 8th February 2010 onwards, only the new portal would be active.

The demonstration videos and the user manuals explaining all the functions of the portal have been made available in our website under the following link:

<http://www.irdaonline.org/videos/AvailableVideos.htm>

11. The minimum software and hardware required for usage of the new portal are:

- Hardware: Pentium IV, 3.0 Ghz / 512 MB RAM or above
- Software: Windows XP SP2 or above with Microsoft Internet Explorer 7.0 and above
- A good quality entry level scanner for scanning the photographs and signatures

All the insurers, ATIs and examination bodies are requested to make a note of the above and comply. You may kindly contact our service provider NSE-IT in case of any difficulties. The



contact details of the service provider have been made available in our agency licensing portal www.irdaonline.org.

Sd/-
(A. Giridhar)
Executive Director (Admn)

Guidelines on 'Health plus Life Combi Products'

23rd December, 2009

No.: IRDA/ LIFE /GDL/MISC/087/12/2009

Re : Guidelines on 'Health plus Life Combi Products'

The Authority on receiving requests for promotion of combined products of pure term life insurance products offered by Life Insurance Companies and standalone health insurance products offered by Non Life insurance Companies considered allowing it as a product class and elicited the views of Life Insurance and Non Life Insurance Councils. Based on responses received the Authority issues the 'Guidelines on Health plus Life Combi Products' that are attached herewith. The Insurers are advised to ensure the compliance to the guidelines.

Sd/-
(G. Prabhakara)
Member (Life)

CUSTOM AND EXCISE UPDATES



Circular No. 909/29/09-CX

F.No. 6/4/2009-DS (CX.1 & 4)

**Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Custom**

New Delhi, the 11 December 2009

To,

Director General (All)
Chief Commissioners of Central Excise including LTU (All)
Commissioners of Central Excise (All)

Sir/Madam

Subject: Inclusion of After Sale Service and Pre-delivery Inspection Charges in the assessable value.

Please refer to the Minutes of the Conference of Chief Commissioners at Shillong on 30th and 31st October 2009 with regard to the issue mentioned above at point No 2.9.

2. On this issue, the Board has vide point No 7 in circular No. 643/34/2002-CX dated 1-7-2002 clarified as follows:



<p>What about the cost of after sales service charges and pre delivery inspection (PDI) charges, incurred by the dealer during the warranty period ?</p>	<p>Since these services are provided free by the dealer on behalf of the assessee, the cost towards this is included in the dealer's margin (or reimbursed to him). This is one of the considerations for sale of the goods (motor vehicles, consumer items etc.) to the dealer and will therefore be governed by Rule 6 of the Valuation Rules on the same grounds as indicated in respect of Advertisement and Publicity charges. That is, in such cases the after sales service charges and PDI charges will be included in the assessable value.</p>
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3. **The tribunal** in the case of Maruti Udyog Limited [2004 (170) E.L.T. 245 (Tri. - Del.)] held that these charges are not includible in the assessable value as these do not accrue to the manufacturer. But recently, the Tribunal has in the case of Maruti Udyog Ltd, [2009 (238) ELT 186 (T-Del)] doubted the correctness of its earlier decision referred to above, and referred the following question for consideration by a Larger Bench.

“Whether the charges towards pre-delivery inspection and after-sale-services received by dealers from buyers of the cars are to be included in the assessable value of cars in the light of the definition of ‘transaction value’ given in Section 4(3)(d) of the Central Excise Act.”

4. Further, the Supreme Court has in the case of Grasim Industries (C.A. No.3159/2004), referred the question as to whether the concept of transaction value under new Section 4 has made any material departure from deemed normal price concept of erstwhile Section 4(1)(a) of the Act for consideration of the Larger Bench.

5. In view of the above decisions referring the matter to larger bench, the conference was of the view that in this matter show cause notices should



be issued demanding duty on the value of these activities, and transferred to Call Book pending the decision of Larger Bench on the issue.

6. The view expressed in the Chief Commissioners Conference has been accepted by the Board and accordingly you may direct the officers in your jurisdiction to continue issuing show cause notice and transfer them to call book, pending the decision of larger bench on the issue.

7. Receipt of this circular may be acknowledged

8. Hindi version would follow.

Yours faithfully

Madan Mohan
Under Secretary (CX.1)

F.No. 6/44/2000-CX1



DGFT UPDATES

TO BE PUBLISHED IN THE GAZETTE OF INDIA EXTRAORDINARY
PART-II, SECTION-3, SUB SECTION (ii)

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY
DEPARTMENT OF COMMERCE

NOTIFICATION NO. 22/2009-2014
NEW DELHI, DATED 23rd DECEMBER, 2009

Subject : Prohibition on import of milk and milk products from China.

S.O. (E) In exercise of powers conferred by Section 5, read alongwith Section 3(2) of the Foreign Trade (Development and Regulation) Act, 1992, also read alongwith paragraph 2.1 of Foreign Trade Policy, 2009-14, the Central Government hereby further extends the prohibition on import of milk and milk products including chocolates and chocolate products and candies/ confectionary/ food preparations with milk or milk solids as an ingredient, from China, imposed vide Notification No. 67(RE-2008)/2004-2009 dated 1st December, 2008 and extended vide Notification No. 111(RE-2008)/2004-2009 dated 16th June, 2009, for a period of six months from 24th December, 2009 and until further orders.

2. This issues in public interest.

Sd/-
(R.S. Gujral)
Director General of Foreign Trade and
Ex-officio Special Secretary to the Government of India

(Issued from F.No.01/93/180/898/AM99/PC-2(A))



PS.: This compilation provides for the updates available on respective websites till December 26, 2009

DISCLAIMER

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