

## **BANK'S POLICY ON OUTWARD BILLS FOR COLLECTION**

Head Office has been issuing several circulars/Guidelines, from time to time on different points of Outward Bills for Collections. Now the Reserve Bank of India has directed to formulate bank wise policy / procedures relating to collection of cheques and also provide due disclosure to the customers on the bank's obligations and the customers' rights. Wide publicity has to be given to the policy, as formulated hereunder, by placing it on the web-site and also displaying the same on the notice board in the branches.

However, it may be noted that the Reserve Bank of India and the Banking Ombudsman would continue to exercise the prerogative to examine any dispute which may arise between the bank and any of its customer, vis-à-vis published policies and procedures.

While adopting this policy, the bank reiterates its commitments to individual customers outlined in Bankers' Fair Practice Code of Indian Banks' Association. The document recognizes the rights of small depositors & benefit of customers. This document is a broad framework. The detailed operational guidelines on different aspects will be issued from time to time.

### **A.1 GENERAL :**

- (i) The legal relationship between a banker and its customer, so far as bills are concerned is that of an agent and principal respectively.
- (ii) A Bill of Exchange is an instrument in writing, containing an unconditional order, signed by the maker (drawer), directing a certain person (drawee) to pay a certain sum of money only to a certain person (Payee) or to his order or bearer.
- (iii) Further, a cheque is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand.
- (iv) As per the above description, cheques and hundies will be treated as bills of exchange.
- (v) A bill of exchange involves three parties, viz. the drawer, drawee and payee. Banks act as collecting agents on behalf of these parties.
- (vi) Section 131 of Negotiable Instruments Act gives protection to the collecting banker, if the crossed instruments are collected on behalf of a customer who is properly introduced and in good faith and without negligence.

### **A.2 Duties of the collecting bank to its customers :**

While collecting cheques as agents for collection on behalf of customers, the collecting bank should take care of the following :-

- (i) Cheques must be presented to the drawee banks for payment with care and diligence. Negligence in selection of agents for collection, where the Bank has no branch, may result in a loss to the customer and consequent liability to the Bank.
- (ii) Notice of dishonour should be given to the customer if any cheque is not paid on presentation.
- (iii) Notice of dishonour should also be given where cheques are returned unpaid for other reasons, such as for want of endorsements etc., which can be attended to by the Bank for representation of cheques.

- (iv) Cheques drawn on the branch and received for collection should either be paid or returned on the same day.
- (v) Cheques drawn on other local banks received from upcountry branches for collection should be presented to the drawee banks without loss of time.

### **A.3 Statutory protection :**

- (i) To get protection under Section 131 of the Negotiable Instruments Act, 1881, cheques should be crossed by the customers before they are tendered to the Bank for collection. Affixing the Bank's crossing stamp on cheques at the time of receiving the cheques or thereafter would not suffice for claiming protection under the Act.  
Branches should, therefore, ensure that only crossed cheques are accepted for collection. For this, customer should be educated/advised to cross the cheques before tendering for collections.
- (ii) Cheques should be collected only for properly introduced account holders of the Bank. It is possible that the branches may be having unIntroduced savings bank accounts, in which case sufficient care must be exercised to ensure that the cheques are accepted for collection only after the accounts are introduced. Further, cheques favouring only account holders should be collected in savings bank accounts. No third party cheques should be accepted in savings bank accounts. Cheques/instruments payable jointly to two or more persons should not be collected for credit of the proceeds in single account of one of the payees or in another joint account wherein name of one of the account holders is mentioned as payee but the name of other account holder is not mentioned in the instrument.
- (iii) Cheques should be accepted and collected without negligence.

### **A.4 Negligence :**

The following acts would generally constitute negligence :

- (i) To collect cheques which contain irregular endorsements. It is the duty of the Bank to verify the correctness of endorsements on a cheque and to satisfy that the cheques are in order in all respects without any reason to doubt the title of the lodger.
- (ii) To collect cheques for customers, whose accounts are not properly introduced.
- (iii) To collect cheques crossed "A/c Payee" for an account other than that of the payee. However, there may be exceptional circumstances when a banker can collect a cheque crossed "A/c Payee" for an account other than that of the payee. The "A/c Payee" crossing on a cheque does not deprive it of its attributes of negotiability and transferability. The paying banker is not concerned with "A/c Payee" crossing.

The "A/c Payee" crossing is a direction to the collecting banker for appropriation in terms of the crossing. Generally, if a banker collects a bearer or order cheque crossed "A/c Payee" on account of a third party, who has no title to it, the banker would be guilty of negligence and, therefore, of conversion and would lose the protection under Section 131 of the Negotiable Instruments Act, 1881. The bank would be liable to the true owner of the cheque and not to the drawer of the cheque. The true owner of the cheque is the payee or the endorsee, when it is properly endorsed. A forged endorsement would not convey any title to the endorsee.

When a customer draws a cheque, he wishes his banker to pay the cheque to its payee or any other person to the payee's order. So long as the banker pays the cheque in due course (vide Section 10 of the Negotiable Instruments Act, 1881) he is completely discharged. It, therefore, follows that the true owner of a cheque is the person to whom the drawer wishes it to be paid, i.e. the first payee or the second payee (may be subsequent payees) according to the order of the first payee. But the collecting banker should be cautious of collecting such cheques, unless the payee and/or endorsee are very well known to him.

- (iv) To collect for credit of a personal account of an employee, an official or an agent, a cheque payable to his employer, a joint stock company or his principal respectively.
- (v) To collect cheques payable to a partnership firm for the personal account of its partner.
- (vi) To collect for the personal account of an employee, an official or an agent, cheques drawn by his employer, joint stock company or his principal respectively favouring third parties.
- (vii) To collect a cheque drawn by a partner on the firm's account for adjustment of his personal overdraft account.
- (viii) To collect an instrument payable to a public body or a public official for credit of any other account.
- (ix) To collect in the personal account of an attorney a cheque signed by him under a Power of Attorney, without proper enquiries.
- (x) To collect an uncrossed cheque for an accountholder who has no title to it.
- (xi) If a transaction of an abnormal character, which should normally evoke an enquiry, is not noticed, e.g. to collect a cheque for a fairly large amount immediately after an account is opened although the payee's name is the same as that of the account holder.
- (xii) To collect a cheque drawn in favour of a firm or company for credit of a person whose spouse is a director, partner, agent, employee or closely connected with the payee of the cheque, without the express sanction of the payee.

Apart from the above, branches should note the following :

- (a) A cheque drawn on behalf of a company or a firm by its director or partner in his own favour should not be accepted for collection either to his account or his wife's account without proper enquiries.
- (b) A cheque in favour of a joint stock company should not generally be accepted in an account other than that of the company. If such a cheque is tendered for credit of any other account, it may be accepted provided it is properly endorsed in favour of the accountholder and the accountholder is in no way connected with the payee company.
- (c) A bearer or an order cheque payable to a firm should not be accepted for the credit of the personal account of an individual or a partner unless specifically endorsed in his favour by the firm or another partner of the firm respectively.
- (d) Where an accountholder is a trustee, collection of cheques representing trust funds in such account should not be accepted. The fiduciary capacity or trusteeship of an accountholder should prominently be noted in the relative ledger folio.

- (e) Protection under Section 131 of the Negotiable Instruments Act, 1881 is available only for collection of cheques and drafts. Analogous instruments, such as orders on a bank with receipt attached, orders on Government departments, postal orders, interest and dividend warrants not drawn in the form of a cheque should be collected only for the account of a payee.
- (f) Cheques/instruments drawn on private bankers or non-banking agencies other than those permitted under Section 49(a) of the Banking Regulation (Amendment) Act, 1949, should be accepted for collection only from well-known clients and at their risk and responsibility. In the event of a defective title in such a cheque, the Bank will not get protection under Section 131 of the Negotiable Instruments Act as such an instrument is not deemed to be a cheque.
- (g) A cheque drawn payable to a particular payee only (i.e. "Pay to 'A' only) should be collected only to payee's account.

#### **A.5 Scrutiny of instruments etc:**

- (i) Cheques received for collection should be scrutinised with a view to find out prima facie any defects in them such as alteration in date, payee's name, amount etc. Such defective cheques should not be accepted.
- (ii) Cheques should be collected only in properly introduced accounts.
- (iii) Where a bearer cheque is specially crossed to a particular bank, but collected through another bank, the cheque should bear the stamp of the bank to which it is specially crossed or an indication that the cheque is being collected on its behalf.
- (iv) Hand written additions, if any, on the reverse of the cheques should be authenticated under full signature.

#### **A.6 Documentary bills - Scrutiny of documents etc.:**

- (i) Bills, like cheques, should be collected only for customers whose accounts are properly introduced. Bills should be made out or endorsed in favour of the Bank or its order.
- (ii) Hundies and bills drawn in vernacular, other than the regional language, should be accompanied by translation memos giving full particulars of bills, viz. date, name of the drawee, address, amount etc. The translation memo should be prepared by the branch sending the bill for collection.
- (iii) Branches should act in strict accordance with the instructions given by their customers while collecting various types of bills as agents for collection. To avoid any embarrassment and to safeguard the interests of customers, branches should obtain request letter containing specific instructions from customers tendering bills for collection/purchase/discount.
- (iv) In case bills covering shares and blank transfer deeds, share certificates and transfer deeds should be sent separately by registered post on two consecutive working days. If a customer gives instruction in writing to send both of them together at his risk and responsibility and indemnifies the Bank for doing so, the documents may be sent by the same mail, but in two different packets. Government promissory notes should be cut into two halves and sent separately by registered insured post on two consecutive working days.
- (v) Branches should accept for collection bills accompanied by consignee's copies of MTRs and not the other copies.

#### **A.7 Forwarding of outward bills for collection :**

- (i) All the instruments must be sent for collection on the day they are received from the customers or the next working day.
- (ii) All cheques/instruments and bills should be affixed with the Bank's crossing stamp except shares, Government promissory notes, debentures etc. Similarly round stamp bearing name of the bank, branch and OBC number be affixed on all instruments and paying-in-slips.
- (iii) All items received for collection should be entered in the OBC Register and numbered serially. Fresh running numbers should be given at the beginning of each year. The relative instruments and paying-in-slips and /or covering letters should also be given the same numbers and kept in a file, serially arranged, pending realisation.
- (iv) All cheques and other instruments should be endorsed, wherever necessary. All order cheques/instruments should bear Bank's certificate "Payee's account will be credited on realisation".  
In case of third party order cheques/instruments all previous endorsements should also be confirmed.
- (v) Where collection items are forwarded to other banks, authority should be given to such banks to receive payments on our behalf by making endorsement "Pay/deliver to ..... Bank" as agents for collection.
- (vi) Endorsements should be signed only by an authorised signatory.
- (vii) Amounts of bills received and entered in OBC Register during the day should be totalled and entries for the aggregate amount passed at the end of the day.
- (viii) Due dates of usance bills should be recorded in a diary for follow up.

#### **A.8 Branches to whom OBCs should be sent for collection :**

Bills and cheques should be sent for collection to our branches at the centres where they are payable. Where a customer specifically requests to present the bill (received on collection basis) for payment through another bank, branch should send the bill directly to the concerned bank even if we have a branch at the centre. In all other cases, the bills should be sent for collection to banks with whom reciprocal arrangements exist or to any nationalised/scheduled bank. As per H.O. instructions vide circular dated 20-01-2005 w.e.f. 15<sup>th</sup> February 2005, as the bank has entered into an arrangement with H.D.F.C. Bank Ltd; New Delhi to collect our O.B.Cs. through our New Delhi branch, all branches are advised to forward their O.B.Cs., drawn on any bank, to our New Delhi Panchkuian road branch for collection, if the instrument is drawn on any of the center of the H.D.F.C. Bank Ltd; as per list supplied with the circular.

#### **A.9 IMMEDIATE CREDIT IN RESPECT OF OUTSTATION/LOCAL CHEQUES:**

The present ceiling for immediate credit of outstation/local cheques is Rs.15000/-. Normal collection charges may be recovered in case of outstation cheques and a charge of Rs.5/- may be recovered for local cheques. The facility may be extended to all individual depositors without making a distinction about their status i.e. Savings Bank, Current Account, Cash Credit Account etc. The bank will not lay any Separate stipulation for minimum balance for extending this facility. This facility is to be extended to the customers at the bank's Extension counters subject to the usual precautions taken by the bank in this regard. While immediate credit of cheque will amount to grant of advance, no

charging of interest on such cheques of the face value upto Rs.15000/- will not be viewed as violation of R.B.I.'s directive on interest rates on advances.

In case where the instrument are credited to the account, in whatever manner, in advance of the date of actual realization of the amount, interest at the stipulated rate (in addition to the usual service charges prescribed by the bank), shall also be charged for the period for which outlay of funds is involved.

In the event of the cheque being returned unpaid, the bank can recover interest in conformity with the applicable interest rate directive of Reserve Bank of India for the period the bank is out of funds.

- a. No interest is to be charged to the customer for the period between the date of credit of the outstation cheque lodged and its return.
- b. Bank may charge interest from the date of return of the cheque till the reimbursement of money to the bank.
- c. Where the cheque is credited to a savings bank account, no interest will be payable on the amount so credited if the cheque is returned unpaid.

The banks may consider introducing different pay-in-slip superimposing a notice to the effect that in the event of dishonour of the cheque, the customer will have to pay interest for the period the bank is out of funds at the normal rate. A notice regarding the availability of facility should be prominently displayed at each branch.

At any point of time the bank may allow withdrawl against such immediate credits maximum to 15000/- against any individual customer.

**A.10 Payment/Charging of interest on account of delays in Collection of cheques/instruments :**

- (i) The interest @ as applicable to appropriate tenor of fixed deposit for the period of delayed collection beyond 10/14 days in collection of outstation instruments, without the customer being required to claim it. Interest as above will, however, not be payable if the cheques/instruments are lost in transit.
- (ii) If the proceeds are to be credited to the borrowal accounts, like cash credit/overdraft/loan etc. interest should be paid at Bank's prime lending rate irrespective of the interest rate applicable to the borrowal account.
- (iii) These instructions are applicable only for inland instruments i.e. instruments drawn and payable in India.
- (iv) The interest should be paid without the customer being required to claim it.
- (v) Besides above banks should also pay penal interest @ -2-% above fixed deposit rate where there is abnormal delay in collection of outstation cheques. "Abnormal Delay" for this purpose may be treated where there is delay of more than 90 days beyond the normal collection period.

As, the Reserve Bank of India has instructed that a clear cut staff accountability should be fixed for the delay, the branches are dvised to follow the time schedule.

**A.11 Follow-up / Fate enquiry :**

- (i) Bills and cheques sent for collection to branches or to other banks should be followed up if their fate is not received within a reasonable period of time.

- (ii) Fate enquiry should contain OBC number, date, C-Schedule number, amount, brief nature of collection instrument (cheque/DD, documentary etc.) name of the drawee and whether sent by ordinary/registered post etc., to facilitate investigations at the receiving branch.

#### **A.12 Collection of prize money of lottery tickets :**

Where branches are requested by the winner of a lottery to collect the prize money against presentation of lottery ticket, they should exercise great care as the prize money is payable to the bearer of the lottery ticket. Branch should take following precautions while sending a lottery ticket for collection :

- (a) Person, on whose behalf the lottery ticket is to be collected, must have a properly introduced current or savings bank account. Branches should exercise extra care about introduction etc.
- (b) The person tendering the lottery ticket should give a declaration stating that the prize-winning lottery ticket relates to a lottery organised or authorised by the Government mentioning full details, such as the number and date of the government notification relating to the lottery.
- (c) The person should also furnish a letter stating that the Bank may send the lottery ticket by post at his risk for collection of the proceeds. He should also give his consent that in case the lottery ticket is lost, misplaced, intercepted, wrongly delivered or delivered late, he would not hold the Bank responsible to make good the loss to him other than that for which the post office compensates the Bank.
- (d) The person should also declare that the lottery ticket lodged by him/her for collection was purchased by him/her or purchased by another person for giving benefit to him/her and he/she is entitled to receive payment of the ticket. The collecting branch should preserve these undertakings/declarations carefully and send the lottery ticket for collection.
- (e) The lottery ticket must be received for collection personally by the Branch Manager/Joint Manager who should sign the counterfoil/acknowledgement.
- (f) The lottery ticket must be kept in a cover which should be sealed in the presence of the Branch Manager and another officer.
- (g) The cover should be insured with the post office upto the amount of prize money or the maximum insurance cover that is available from the post office, whichever is lower.

Alternatively the cover may be insured with an insurance company upto the full value of the prize money, if the customer so desires. The premium should be recovered in advance from the account holder.

#### **A.13 Bills sent to agents for collection :**

- (i) Bills sent to other banks for collection should be endorsed in their favour as agents for collection. Bills written in vernacular, other than the regional language, should be accompanied by a certified Hindi/English translation.
- (ii) Where the collection work is entrusted to our branch and any claim arises due to its negligence the bank would remain liable as the constituent branch cannot be regarded as a separate entity but as one composite entity.
- (iii) Where the collection work is entrusted to another bank, that bank becomes a sub-agent of our Bank and if any claim arises due to its negligence, our Bank is responsible to the constituent although the agent bank is in turn responsible

to our Bank. With a view to making the agent bank directly responsible to the constituent the following clause is included in current account rules :

"Upcountry cheques, bills or hundis deposited for collection shall be collected through other bank or banks where our bank has no branch and such collecting bank shall be deemed to be the agent of the constituent wherever such cheques, bills or hundis are sent for collection".

- (iv) Before sending bills for collection to other Bank, branches should ensure the existence of that bank at the centre.

**A.14 Service charges :**

Branches should recover collection charges on outstation cheques/bills/dividend warrants etc. as stipulated by H.O. from time to time.

**A.15 Balancing :**

Outstanding items in OBC Register should be taken down in the balance book every month on last Friday/last day in September & March and tallied with the balance in the relative general ledger Account. Running totals of the OBC Register should be tallied with the summations of the respective account in the general ledger.