

MAINTENANCE OF DEPOSIT ACCOUNTS BY UCBs

Opening of Accounts

Introduction

- The practice of obtaining proper introduction should not be treated as a mere formality, but as a measure of safe-guard against opening of accounts by undesirable persons or in fictitious names with a view, inter alia, to depositing unaccounted money.
- Branches are required to obtain introduction by persons with some standing and have an account with the bank for at least 6 months or a respectable member of the local community known to the bank or the bank's staff. The role of the introducers should be made more specific. The Branch Managers/staff may be discouraged from giving the introduction.
- Introduction in absentia is permitted provided the same should be confirmed by the introducer in writing and upon receipt of the confirmation only transaction may be allowed.

Photographs

- Banks are required to obtain recent photographs of the depositors/account holders who are authorized to operate the accounts at the time of opening of all new accounts including the photographs of 'Pardanashin' women. Photographs cannot be a substitute for specimen signatures.
- Photographs need not be insisted upon in respect of:-
 - i) New savings bank accounts where cheque facility is not provided and fixed and other term deposits up to an amount and inclusive of Rs. 10,000/-.
 - ii) Banks, local authorities and Government departments (excl. PSUs or quasi-Government bodies)
 - iii) Borrowal accounts viz. Cash Credit, Overdrafts accounts, etc.
 - iv) Accounts of staff members (Single/Joint).

Address of Account Holders

Banks are required to obtain full and complete address with supporting evidence.

Other Safeguards

- The banks are required to obtain PAN/GIR number of a depositor opening an account with an initial deposit of Rs.50,000/- and above.
- New accounts should be properly authorized by the competent authority for the purpose.
- Declaration from account holder to the effect that he does not enjoy any credit facilities with other bank/s and in case of credit facilities being enjoyed, insist for NOC from the bank. In case of no response from the existing bankers after a minimum period of a fortnight, banks may open current accounts of prospective customers, etc.

Opening of various types of accounts - precautions

Proprietary concerns

Banks are required to verify, in addition to the identity of the individual proprietor, the identity of the proprietary concern also by calling for documents such as various licences issued by competent authorities in the name of the concern as listed out in the RBI circular.

Multi Level Marketing Firms

Considering the nature of activities of such firms, banks are supposed to be more alert/careful while opening of accounts and banks are required ensure compliance of KYC/AML guidelines of RBI meticulously.

Financial Inclusion

UCBs are required to popularize opening of 'no-frills' accounts, being part of financial inclusion with the appropriate technology so as to lower the transaction costs to make small ticket transactions viable. Adequate security safe guards need to be taken by the banks while undertaking the business.

Opening of NRO/NRE accounts

- UCBs may maintain NRO accounts upon the existing resident account holders becoming non-resident and in such accounts only, periodical credit of interest will be permitted. UCBs are not permitted to open any fresh NRO accounts (with the exception of Category I Authorized Dealers).
- UCBs registered in States and under Multi State Co-operative Act 2002 and entered into MOU with RBI for supervisory and regulatory co-ordination and complying with following criteria are only eligible for maintaining NRE accounts:-
 - a) Minimum Net worth of Rs. 25 crore
 - b) CRAR of not less than 9%
 - c) Net NPAs to be less than 10%
 - d) Compliance with CRR/SLR requirements
 - e) Net profit for preceding 3 years without any accumulated losses
 - f) Sound internal control systems
 - g) Satisfactory compliance with KYC/AML guidelines
 - h) Presence of at least 2 professional directors on the Board.

Restriction on opening of certain types of accounts

Deposit schemes with lock-in period

- UCBs are not supposed to float any special deposit schemes with lock-in periods and other features which are not in conformity with RBI's instructions. Such schemes already floated need to be discontinued forthwith.

Minor's account with Mother as Guardian

UCBs can open Minors' accounts with Mother as Guardian, notwithstanding the legal provisions/ sec. 6 of the Hindu Minority and Guardianship Act, 1956, provided the accounts are not allowed to be overdrawn and remain always in credit.

Nomination Facilities

Banks are required to make available the Nomination facility to all types of deposit accounts, irrespective of the nomenclature used by different banks. In case any account holder declines to fill in the nomination form, the same may be recorded and insist for a letter to that effect. Banks are not supposed to decline opening of accounts for having refused to avail the nomination facility.

The Banking Regulation Act (Sections 45 ZA to 45 ZF), as applicable to Co-operative Societies, enables a co-operative bank to:-

- i) Make payment to the nominee of a deceased depositor of the amount standing to the credit of the depositor.
- ii) Return the articles left by a deceased person in its safe custody to his nominee after making an inventory of the articles in the manner directed by the RBI.
- iii) Release the contents of a safety locker to the nominee of the hirer of such locker in the event of the death of the hirer after making an inventory of the contents of the safety locker in the manner directed by RBI.

The Co-operative Banks (Nomination) Rules, 1985 in respect of Deposit Accounts provide, inter alia, as under:

- Nomination can be made by the depositor, all depositors together in respect of a deposit held to the credit of one or more individuals. Nomination facility is made available only in respect of deposit accounts held in individual capacity.
- In case the nominee is a minor, the depositor or all the depositors can appoint another individual (not being a minor) to receive the amount of the deposit on behalf of the nominee in the event of the death of the depositor or all the depositors during the minority of the nominee.
- In the case of a deposit made in the name of a minor, the nomination shall be made by a person-lawfully entitled to act on behalf of the minor.
- The nomination can be made in favour of only one individual.
- Nomination, cancellation of nomination or variation of nomination may be made at any time during which the deposit is held to the credit of the depositor or depositors, as the case may be.
- In the case of a deposit held to the credit of more than one depositor, the cancellation or variation of a nomination shall not be valid unless it is made by all the depositors surviving at the time of the cancellation or variation of the nomination.
- A nomination or cancellation of nomination or variation of nomination shall not cease to be in force merely by reason of the renewal of the deposit.

- Banks are required to acknowledge in writing to the depositor(s) / locker hirers (s) the filing of the relevant duly completed Form of nomination, cancellation and / or variation of the nomination.
- In addition to the legend “Nomination Registered”, banks are required to indicate the name of the Nominee in the Pass Books / Statement of Accounts / Fixed Deposit Receipts, in case the customer is agreeable to the same.

Nomination facility in respect of articles in Safe Custody

- The nomination to be made by an individual (depositor) in respect of articles left in safe custody
- Where the nominee is minor, the depositor may, while making the nomination, appoint another individual not being a minor, to receive the said articles on behalf of the nominee in the event of the death of the depositor during the minority of the nominee.
- Where the articles are left in safe custody in the name of a minor, the nomination shall be made by a person lawfully entitled to act on behalf of the minor.
- The nomination can be made in favour of one individual only.
- A nomination, cancellation of nomination or variation of nomination may be made by the depositor at any time during which the articles so deposited are held in safe custody by the co-operative bank.
- The bank should acknowledge in writing to the depositor the filing of the relevant duly completed Form of nomination or cancellation of nomination or variation of nomination, as the case may be, in respect of the articles so deposited, etc.
- Nomination facilities are available only in the case of individual depositors and not in respect of persons jointly depositing articles for safe custody.
- While returning articles kept in safe custody to the nominee and surviving hirers, banks are not required to open sealed/closed packets left with them for safe custody, etc.

Nomination facility in respect of Safety Locker

- Where the locker is hired by two or more individuals jointly, the nomination to be made by such hirers.
- In the case of a sole hirer of a locker, nomination shall be made in favour of only one individual.
- Where the locker is hired in the name of a minor, the nomination shall be made by a person lawfully entitled to act on behalf of the minor.
- The cancellation of the said nomination to be made by the sole hirer or, as the case may be, joint hirers of a locker.
- A variation of the said nomination to be made by the sole hirer /joint hirers of a locker.
- A nomination, cancellation of nomination or variation of nomination may be made as aforesaid at any time during which the locker is under hire.
- While returning articles to the nominee and surviving hirers, banks are not required to open sealed/closed packets found in the locker.

- As regards locker hired jointly, on the death of any one of the joint hirers, the contents of the locker are only allowed to be removed (jointly by the nominee and the survivors) after an inventory is taken in the prescribed manner.
- After removal preceded by an inventory, the nominee and surviving hirer(s) may still keep the entire contents with the same bank, if they so desire by entering into a fresh contract of hiring a locker.

Operation in accounts

Joint Accounts

- If fixed/Term deposits are with operational instruction “Either or Survivor”, both the signatures of the account holders are **not required** on maturity. However, for premature payment, both the signatures need to be obtained.
- In case the mandate is “Former or Survivor”, former **alone** can operate/withdraw the matured amount. Both the signatures are to be obtained in case of payment before maturity. If the former expires before maturity, the survivor can get the amount **only on maturity**.

(Detailed guidelines on mode of operations of joint accounts outlined in RBI Master Circular by way of Annexure)

Precautions in Opening Joint Accounts

- a) There are no restrictions on the number of account holders in a joint account. However, while opening such accounts, care has to be exercised when number of account holders is large.
- b) The account payee cheques payable to third parties should not be collected.
- c) Cheques that are “crossed generally” and payable to "order" should be collected only on proper endorsement by the payee.
- d) Care should be exercised in collection of cheques for large amounts.
- e) Periodical scrutiny of joint accounts to be carried out to ensure that the joint accounts are not used for benami transactions.

Monitoring operations in new accounts

- The transactions in the newly opened accounts for at least 6 months are scrutinized by the Branch Manager or the Managers of Deposit Account Department to guard against fraudulent or doubtful transactions.
- Caution should be exercised whenever cheques/ drafts for large amounts are presented for collection or Telegraphic Transfers (TTs)/Mail Transfers (MTs) are received for credit of new accounts immediately/within a short period after opening of account.
- Close monitoring of cash deposits and withdrawals for Rs. 5 Lakh and above not only in deposit accounts but also in borrowal accounts and a separate register may also be maintained to record such transactions.

- Caution need to be exercised in the areas such as verification of drawer's signature, custody of specimen signature cards, supervision over issue of cheque books and control over custody of blank cheque books/leaves.

Unclaimed deposits

- A savings as well as current account can be treated as inoperative / dormant if there are no transactions in the account for over a period of two years. In case of existence of mandate given by the customer for crediting the interest in Fixed Deposit account to the Savings Bank account and there are no other operations in the Savings Bank account, such credits are to be treated as customer induced transaction and account is to be classified as operative. The account would become inoperative only after two years from the date of last credit of the interest on Fixed Deposit account.
- In view of the increase in the amount of unclaimed deposits with banks year after year and the inherent risk associated with such deposits, banks are required to contact the customers at the given address/email/through introducers/legal heirs (if deceased), etc.
- If the account still remains inoperative even after contacting the customer, one year extension may be given and it may be classified as inoperative after the lapse of the extended time of one year. In case the bank could not locate the customer/whereabouts of the customers even after putting all efforts, the account may be classified as inoperative.
- UCBs are required to carry out an annual review of all accounts in which there are no operations other than credit of interest and debit of other service charges. Operation in such accounts can be permitted upon proper due diligence by the banks. Banks are also required to ensure that the amounts lying in inoperative accounts ledger are properly audited by the internal auditors / statutory auditors of the bank.

Electronic mode of payments for large value transactions

Considering the level of comfort that the electronic payment systems and its users have achieved, UCBs were directed by RBI to switch over to electronic mode of payment viz. Real Time Gross Settlement (RTGS) System, National Electronic Fund Transfer (NEFT) System and Electronic Clearing Service (ECS) for large value payments of Rs. 10 Lakh and above w.e.f. 01.08.2008 (reduced from Rs. 1 crore).

Operation of bank accounts by old/sick/incapacitated customers

- In case of an account holder who is too ill to sign a cheque/unable to physically present in the bank to withdraw money from his bank account but can put his/her thumb impression on the cheque/withdrawal form, bank can permit withdrawal by obtaining thumb or toe impression on the instrument which should be identified by two independent witnesses known to the bank, one of whom should be a responsible bank official.
- In case of an account holder who is not only unable to be physically present in the bank but also not even able to put his/her thumb impression on the cheque/withdrawal form due to certain physical defect/incapacity, bank can permit the

withdrawal by obtaining a mark on the cheque/withdrawal form which should be identified by two independent witnesses, one of whom should be a responsible bank official.

- In both the cases, the customer may be asked to indicate to the bank as to who would withdraw the amount from the bank on the basis of cheque/withdrawal form and the person may be asked to furnish his signature to the bank.

Settlement of claims in respect of deceased customers

Accounts with survivor/nominee clause

- Deposit Accounts wherein valid nomination is available and it is opened with the survivorship clause (either or survivor or former or survivor or anyone or survivor or latter of survivor), payment of the balance in the deposit account of a deceased account to the survivor(s)/nominee represents a valid discharge of the bank's liability provided bank has exercised adequate care and caution in establishing the identity of survivor(s)/nominee.
- Such payments by the bank to the survivor(s)/nominee would not affect the right or claim which any person may have against the beneficiaries. Banks need not insist for production of legal representation/succession certificate/letter of administration or probate, etc.

Accounts without the survivor/ nominee clause

- In such cases, banks may fix a minimum threshold limit for the balance in the deceased account upto which the claims can be settled without insisting on production of any documentation other than letter of indemnity.
- For access to the contents of the locker / safe custody article on the death of a locker hirer / depositor of the article, the banks can adopt the same procedure for the deposit accounts.
- Banks are advised to settle the claims in respect of deceased depositors and release payments to survivor(s) / nominee(s) within a period not exceeding 15 days from the date of receipt of the claim subject to the production of proof of death of the depositor and suitable identification of the claim(s), to the bank's satisfaction.

Settlement of claims in respect of missing persons

- Claims can be settled on the basis of presumption of death which can be raised only after a lapse of 7 years from the date of his/her being reported missing before competent court and the court presumes that the person is dead (Section 107 / 108 of the Indian Evidence Act, 1872).
- Banks may formulate a policy by fixing a threshold limit upto which claims in respect of missing persons can be settled without insisting on production of any documentation other than copy of FIR and the non-traceable report issued by police authorities and letter of indemnity.

Other restrictions/aspects

- Banks are not permitted to pay brokerage on deposits in any form to any individual or entities. Banks are not supposed to employ/engage any outside persons even through firms/ companies for collection of deposits including Non-Resident deposits or for selling any other deposit linked products on payment of fees/ commission in any form or manner, except to the extent permitted by RBI.
- Banks are not permitted to accept deposits at the instance of private financiers or unincorporated bodies under any arrangement. Banks are not supposed to associate themselves directly or indirectly with lottery schemes of organizations of any description.
- Banks are expected to maintain greater co-ordination between Income Tax Authorities, Officers of Central Board of Direct Taxes, etc.
- UCBs are required to strictly adhere to the guidelines on KYC / AML / CFT issued by RBI from time to time and to those relating to periodical updation of customer identification data after the account is opened and also monitor transactions in order to protect themselves and their customers from misuse by such fraudsters.
- Banks are required to put in place a system of periodical review of risk categorization of accounts and the need for applying enhanced due diligence measures in case of higher risk perception on a customer.
- Banks are also required to develop suitable mechanism through appropriate policy framework for enhanced monitoring of accounts suspected of having terrorist links and swift identification of the transactions and making suitable reports to the Financial Intelligence Unit - India (FIU-IND) on priority.

(Source: RBI M. Circular)

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