

## **Banking Regulation (Companies) Rules, 1949**

**Notification.-** In exercise of the powers conferred by section 52 of the Banking Regulation Act, 1949 (10 of 1949), and after consultation with the Reserve Bank, the Central Government is pleased to make the following rules: -

**1. Short title, extent and commencement.-** (1) These rules may be called the Banking Regulation (Companies) Rules, 1949.

(1A) They extend to the whole of India.

**2. Interpretation.-** (1) In these rules,-

(a) "the Act" means the Banking Regulation Act, 1949;

(aa) "ineligible Director" means a Director who is not eligible under clause (a) or clause (b) of sub-section (2) of section 10A of the Act;

(b) "principal office of the Reserve Bank" means the office of the Reserve Bank to which the returns prescribed under the Act or these rules are required to be submitted;

(c) "principal office of the banking company" means the office of the banking company which will be responsible for the submission of returns prescribed under the Act or these rules;

(d) "quarter" means a period of three months ending on the last day of March, June, September or December of any year;

(e) "place of business" of a banking company includes any sub-office, pay-office, sub-pay-office and any place of business at which deposits are received, cheques cashed, moneys lent or any other form of business referred to in sub-section (1) of section 6 of the Act is transacted.

(f) "commencement of these rules" means,-

(i) in the case of any banking company whose registered office or principal place of business referred to in sub-rule (2) of rule 3 is or was in-

(A) the territories merged in the former Part A States, or

(B) the States of Hyderabad, Mysore, Travancore-Cochin, Bhopal, Manipur and Tripura, as these States existed before the 1st day of November, 1956, or

(C) those parts of the State of Rajasthan which formerly comprised the Indian States of Jaipur, Bikaner, Jaisalmer and Jodhpur, the 22nd day of November, 1952;

(ii) in the case of any banking company whose registered office or principal place of business referred to in sub-rule (2) of rule 3 is or was in the State of Jammu and Kashmir, the 1st day of November, 1956;

(iii) in the case of the State Bank of India, the date on which the Banking Companies (Amendment) Rules, 1961, are published in the Gazette of India;

(iv) in the case of a subsidiary bank, the date on which the Banking Regulation (Companies) Amendment Rules, 1985, are published in the Gazette of India;

(v) in the case of a corresponding new bank, the date on which the Banking Regulation (Companies) Amendment Rules, 1985, are published in the Gazette of India;

(vi) in the case of a Regional Rural Bank, the date on which the Banking Regulation (Companies) Amendment Rules, 1985, are published in the Gazette of India;

(vii) in any other case, the 26th day of March, 1949:

**PROVIDED that** nothing contained in sub-clauses (iii) to (vi) both inclusive shall affect the previous operation of any of these rules by virtue of the provisions of the Act; and

(g) "Chief Executive Officer" means in the case of a banking company incorporated outside India, the officer, by whatever name called, managing or in charge of all the branches of that company in India, or if there is no such officer, the officer, by whatever name called, managing or in charge of the principal office of the company in India.

**2A. Application of rules to State Bank of India, subsidiary banks, corresponding new banks and Regional Rural Banks.**-These rules and the Forms appended thereto excluding rules 6 to 11 and Forms II to V and XI, shall also apply, so far as may be, to the State Bank of India, a

subsidiary bank, a corresponding new bank and a Regional Rural Bank, as they apply to and in relation to a banking company:

**PROVIDED that** in the rules and Forms as so applied, the expression "registered office" shall mean the central office or the head office, as the case may be.

**3. Submission of returns.-** (1) A return prescribed under the Act or these rules shall be submitted in the form prescribed for the purpose or as near thereto as circumstances admit.

(2) Such return shall be submitted in the manner hereinafter provided:

(i) By a banking company incorporated in India, from its registered office to the office of the Reserve Bank situated in the State in which the banking company has its registered office.

(ii) By a banking company incorporated outside India and having a principal place of business as declared in terms of section 277(1)(e) of the Indian Companies Act, 1913, or as the case may be, section 592(1)(e) of the Companies Act, 1956, from that principal place of business to the office of the Reserve Bank situated in the State in which the banking company has its principal place of business.

(iii) In any other case, from such office of the banking company to such office of the Reserve Bank as may be specified by the Reserve Bank on an application to be made in this behalf to the Reserve Bank of India, Department of Banking Operations and Development at Bombay.

(iv) Notwithstanding anything contained in clauses (i), (ii) and (iii) the Reserve Bank may, at any time, direct that the returns prescribed under the Act or these rules shall be submitted from any specified office of a banking company to any specified office of the Reserve Bank.

(3) Whenever a return prescribed under the Act or these rules relates to a particular day or date, and where such day or date is not a holiday for all the offices of a banking company the return shall be prepared on the basis of the figures of that day or date in respect of offices working on that day or date, and the preceding working day's figures in respect of offices where that day or date is a holiday.

(4) A banking company shall within one month from the commencement of these rules or from the commencement of business, whichever is later, intimate to the principal office of the Reserve Bank, the address of its

principal office and shall intimate to that office any change in such address within one month of such change.

**4. List of officers.-** (1)(i) A banking company shall, not later than one month from the commencement of these rules or from the commencement of business, whichever is later send to the principal office of the Reserve Bank a written statement containing a list of:

(a) the names, the official designations and specimen signatures of the officers authorised to sign on behalf of the banking company returns required under the Act or these rules, and

(b) the names and addresses of the Directors of the banking company.

(ii) Any change in the list referred to in clause (i) of this sub-rule shall be intimated to the principal office of the Reserve Bank within one month from the occurrence of such change.

(2) A banking company incorporated outside India, which at the commencement of these rules has a place of business in India, and every such company which after the commencement of these rules establishes such a place of business in India, shall, within one month from the commencement of these rules or from the establishment of such place of business, as the case may be, furnish to the principal office of the Reserve Bank the full address of the principal place of business declared in terms of section 227(1)(e) of the Indian Companies Act, 1913, or as the case may be, section 592(1)(e) of the Companies Act, 1956, and the name and address of one or more persons resident in India authorised to accept on behalf of the company any notice or order required to be served on the company under the Act or these rules and shall intimate to the principal office of the Reserve Bank any change in such name or address within one month of the occurrence of the change:

PROVIDED that information furnished by a banking company under Rule 4 of the Banking Companies (Control) Rules, 1948, shall be deemed to have been furnished under this rule.

**5. Omitted.-** Rule 5 omitted by the Banking Regulation (Companies) Amendment Rules, 1985, vide Notification No. SO 268(E), dated 29th. March, 1985, w.e.f. 29th. March, 1985

**5A. Determination of the Directors who are to cease to hold office.-**

(1) The ascertainment of the Director or Directors who shall cease to be such, on the occasion of a reconstitution of the Board of Directors under

sub-section (3) of section 10A of the Act, and of the person or persons who are to be removed from the membership of the Board of Directors in pursuance of sub-section (5) of the said section 10A, shall be done as hereinafter laid down.

(2) The Board of Directors or, as the case may be, the Reserve Bank, shall ascertain the number of Directors out of the ineligible Directors, who have to cease to hold the office, or, as the case may be, have to be removed from such Board.

(3) The names of the Directors who are to cease to hold office, or, as the case may be, have to be removed from the Board of Directors, shall be determined by drawing lots from among the names of the ineligible Directors, the names of such number of Directors, as is determined under sub-rule (2) above.

(4) For the purposes of sub-rule (3), the following provisions shall be observed, namely,-

(i) the names of the ineligible Directors shall be grouped according to the periods for which the Directors have held office;

(ii) if there are two such groups only, the names of the Directors in the group representing a shorter period of office shall be excluded;

(iii) if there are more than two such groups, the names of those in the group representing the shortest period of office shall be excluded:

**PROVIDED that** such exclusion under clause (ii) or clause (iii) shall not be made if thereby the number of Directors whose names are to be included in the draw is not more than the number determined under sub-rule (2).

(5) The drawing of lots in pursuance of sub-section (3) of section 10A of the Act shall be done by the Board of Directors at a meeting of such Board.

(6) The drawing of lots of the Reserve Bank under sub-section (5) of section 10A of the Act shall be done by an officer of the Reserve Bank duly authorised in this behalf, and after giving a reasonable opportunity to the banking company to nominate a Director or officer of the banking company to be present at the time of the drawing of lots.

**6. Deposits.-** (1) The deposit specified in sub-section 2 of section 11 of the Act shall be maintained at the principal office of the Reserve Bank.

(2) The value of each security deposited under sub-rule (1) shall be estimated at its market rate, ex-dividend.

(3) Securities shall be duly transferred to the Reserve Bank by the banking company.

(4) Upon receipt of a deposit under sub-rule (1) the principal office of the Reserve Bank shall, as soon as possible, send to the principal office of the banking company a certificate in Form II.

**7. Withdrawals of deposits.-** The principal office of the Reserve Bank shall not be bound to return securities actually deposited, but may substitute therefor new scrips of securities of the same description and amount.

**8. Changes in deposits.-** When the form or amount of deposit is changed by reason of a subsequent deposit or withdrawal, the principal office of the Reserve Bank shall, as soon as possible, send to the principal office of the banking company a fresh certificate in Form II.

**9. Maturing of security deposits.-** When a security in deposit matures or when any yield on such a security ceases to accrue, the principal office of the Reserve Bank shall not be bound to inform the banking company; but upon the receipt of a requisition in writing from the banking company the principal office of the Reserve Bank, shall, as soon as possible, collect the discharge value and hold the amount in deposit for purposes of sub-section (2) of section 11 of the Act.

**10. Interest on deposits.-** (1) No interest shall be payable on cash deposits.

(2) The principal office of the Reserve Bank shall credit, as soon as possible, the current account of the banking company maintained with it with the interest realised on securities, subject to the usual charges.

**10A. Omitted.-** Rule 10A omitted by the Banking Regulation (Companies) Amendment Rules, 1975 vide Notification No. SO 5244, dated 15th. November, 1975.

**11. Licensing of banking companies.-** A company desiring to have a licence under section 22 of the Act shall apply to the principal office of the Reserve Bank in a form specified below, namely:

(a) in the case of a company incorporated in India and desiring to commence banking business, in Form III;

(b) in the case of company incorporated in India and in existence at the commencement of the Act, in Form IV; and

(c) in the case of company incorporated outside India and desiring to commence / carry on banking business in India, in Form V.

**12. Opening of new places of business.-** An application by a banking company for permission to open a new place of business or change the location of an existing place of business under section 23 of the Act shall be submitted to the principal office of the Reserve Bank in Form VI.

**13. List of offices.-** A banking company shall, within a period of one month from the close of every quarter, send to the principal office of the Reserve Bank a list relating to its office in India in Form VII.

**13A. Return under sections 18 and 24.-** The return under sections 18 and 24 of the Act shall be furnished to the Reserve Bank in Form VIII.

**14. Publication of approved currencies and securities.-** (1) The Reserve Bank shall, not later than one month from the commencement of these rules, by a notification in the Gazette of India, publish for the purpose of section 25 of the Act a list of currencies in which export bills drawn in, and import bills drawn on and payable in India may be expressed.

(2) The Reserve Bank may, by notification in the Gazette of India, publish for the purpose of section 25 of the Act, a list of securities approved by it.

(3) Any alteration in the list referred to in sub-rules (1) and (2) shall also be published in the Gazette of India.

(4) An alteration, adding a currency or security to the list, shall take effect from the date of publication of the alteration while an alteration, omitting a currency or security from the list, shall take effect at the expiry of three months from the date of publication of the alteration.

**14A. Return under sections 25 and 27.-** The return to be made by a banking company under sections 25 and 27 of the Act shall be in Form X.

**14B. Return under section 26.-** The return to be made by a banking company under section 26 of the Act shall be in Form IX.

**15. Manner of publication of accounts and balance sheet.-** The balance sheet and profit and loss account prepared in terms of section 29 of the Act together with the Auditor's report shall be published within a period of six months from the end of the period to which they relate in a newspaper which is in circulation at the place where the banking company has its principal office.

**Explanation:** For the purposes of this rule, the expression 'newspaper' means any newspaper or journal published at least once a week, but does not include a journal other than a banking, commercial, financial or economic journal.

**15A. The list of debtors.-** under section 45D of the Act shall be in Form XI or as near thereto as the circumstances permit.

**15B. Manner of holding inquiries.-** (1) For the purpose of holding an inquiry under sub-section (2) of section 47A of the Act, the Reserve Bank shall appoint in writing one of its officers for holding the inquiry and shall also authorise him to exercise the powers conferred on the Reserve Bank under sub-section (3) of the said section 47A.

(2) The said officer shall send to the banking company, at its registered office or principal office, a statement giving sufficient particulars of the contravention of the nature referred to in sub-section (3) or, as the case may be, sub-section (4) of section 46 of the Act.

(3) A banking company, to which a communication is addressed under sub-rule (2), shall before the expiry of thirty days from the receipt of such communication send in writing to the said officer its answer to the said statement, together with particulars of the documentary or other evidence on which it proposes to rely.

(4) The said officer shall appoint a date for holding the inquiry and intimate the same to the banking company at its registered office or the principal office. The date so appointed shall not be earlier than thirty days from the date of issue of the notice to the banking company.

(5) At the inquiry, the banking company shall be entitled to be represented by any of its Directors or officers but shall not be entitled to be represented by a legal practitioner.

(6) At the inquiry, an officer of the Reserve Bank, not being the officer conducting the inquiry, shall present the case for the Reserve Bank, including the evidence on the matter. Thereafter the representative of the



banking company shall present the case of the banking company including the evidence in relation thereto.

(7) The representative of the banking company and the officer of the Reserve Bank presenting the case for the Reserve Bank may cross-examine a witness other than a witness produced by the said representative or, as the case may be, the said officer.

(8) After the conclusion of the inquiry by the officer conducting the inquiry, the officer shall record his findings and submit the entire record to the Reserve Bank.

**16. Power to exempt in certain cases.-** The Central Government may, on the recommendation of the Reserve Bank, declare by notification in the Official Gazette that any or all of the provisions of these rules shall not apply to any banking company or to any class of banking companies either generally or for such period as may be specified.