

**DIRECTORATE OF COOPERATION
HIMACHAL PRADESH**

No. 10-124/90(A&L)

Dated Shimla-9, the 17th August 2004

DIRECTIVE

Subject: - Giving gifts by Primary Cooperative Societies

This is super session of all previous orders issued by this department with regard to the giving of any gifts by primary cooperative societies to their managing committee members, their members, employees for the promotion of business or for any purpose which is in the interest of the society. In exercise of powers vested under Rule –152 of the H.P. Cooperative Societies Rules, 1971, it is directed that henceforth all Primary Cooperative Societies in the State of Himachal Pradesh can give gifts, with the approval of their respective Managing Committee and subject the following set of norms.

1. No society shall spend more than a maximum of 5 % of its net profits, after deducting the provisions for statutory funds, on all gifts by it during a cooperative year.
2. “Net profit” for this purpose means “net profit” as defined under section 56 of the H.P. Cooperative Societies Act, 1968.
3. For this purpose if any society has a “net profit” as defined above, which is higher than Rs. Ten lacs its “net profit” will be deemed to be Rs. Ten lacs.
4. No gift to any individual should exceed Rs. 500/- during any year.
5. An authenticated statement giving details of the total value and the total number of the gifts given and of maximum value of an individual gift given by the society and of the “net profit” of the society shall be submitted to this department at the end of the cooperative year.

Registrar Cooperative Societies,
Himachal Pradesh.

Endst.No. 10-124/90(A&L)

Dated Shimla-9, the 17th August 2004

Copy for information and necessary action to: -

1. Additional Registrar Cooperative Societies, Dharamshala.
2. All the Deputy Registrar, Cooperative Societies, in Himachal Pradesh.
3. All the Branch Officers in Directorate.
4. The Secretary, H.P.State Cooperative Development Federation for publication in “Sehkar Darpan”.
5. The Controller, Printing & Stationery for publication in the official gazette

Registrar Cooperative Societies,
Himachal Pradesh.

**DIRECTORATE OF COOPERATION
HIMACHAL PRADESH**

No. 10-124/90(A&L)

Dated Shimla-9, the 17th August 2004

DIRECTIVE

Subject: - Diversification of Business activities by the Primary Agricultural Cooperative Societies.

Whereas viability of the Primary Agricultural Coop. Societies (PACS) is not Possible with the credit business only.

And whereas the concept of PACS have attained the status of Cooperative Multi purpose Societies and these PACS are expected to external following services to their members: -

1. Financial services (Deposit mobilization & advances)
2. Production Aid Services (Supply of inputs such as fertilizer, seed, Agriculture implements and to arrange for disseminate of technical know how)
3. Marketing & Processing Services (collecting, Packaging and Marketing of Agriculture/ Horticulture surplus of members & to carryout processing of products where ever possible)
4. Consumer Services (PDS work, purchase & sale of all other non-PDS items and daily needs benefit public in general and members in particulars)
5. Welfare Services (Out of the profit generated, the PACS may contribute certain amount in Welfare fund not exceeding Ten percent of the net profit for carrying out welfare activities for its members & Families of the members subject to approval of general meeting and the Registrar)

The above provisions shall stand including in the byelaws of the PAC's accordingly.

In addition to above the PACS May carryout all or any such activity which is profitable and in the interest of its members subject to prior approval of the general meeting (e.g. Passenger transport, tourism, education & Health etc.)

Now, therefore, exercise of power vested under Rule -152 of the H.P. Cooperative Societies Rules. 1971 it is direct that PACS may carryout all or any of the above said activities as per above said guidelines.

Endst.No. 10-124/90(A&L)

Dated Shimla-9, the 17th August 2004

Copy to:-

1. The Private Secretary to Hon'ble Cooperation Minister of H.P.
2. The Principal Secretary (Cooperation) to the Govt. of H.P. Shimla-2
3. The Additional Registrar Co-operative Societies Dharamshala Distt. Kangra, H.P.
4. All the Deputy Registrar Co-operative Societies, in H.P.

5. All Assistant Registrar Co-operative Societies, in H.P (for circulation to this directive among all PACS).
6. Controller, Printing & Stationary for publication in official Gazette.
7. All Branch Officers of this Directorate.
8. The Secretary, HIMCOFED for publication in Sehkar Darpan.

Registrar Co-operative Societies
Himachal Pradesh

DIRECTORATE OF COOPERATION
HIMACHAL PRADESH.

No.CS-5-60/91-Coop.(C&M)-I

Dated Shimla-9,the 4th January, 2006.

'C I R C U L A R'

The issue of regulating the functioning of Primary Agriculture Cooperative Societies (PACS) in the State of HP in accordance with the provisions of H.P. Cooperative Societies Act,1968 and Rules made thereunder and the instructions of RBI issued in this regard from time to time in view of the changing socio-economic conditions in a liberalized economic scenario prevalent today has been attracting attention of the department for quite some time. It is evident that the PACS are engaged in multifarious activities and rendering various services to the people in its area of operation to cater to their credit and other needs.

The department has been issuing instructions and guidelines for smooth conduct of business operations of the cooperatives from time to time to ensure that their affairs are run in accordance with the provisions of H.P. Cooperative Societies Act,1968, RBI instructions and other related laws to avoid any violations and conflicts which may prove detrimental to their growth and development.

In view of the foregoing, it is thought expedient and proper to reiterate and elaborate the instructions issued from time to time on the matter in pursuance of Rule 152 of H.P. Co-operative Societies Rules, 1971 for effective and smooth conduct of their business operations in the following manner:-

Credit Operations:-

H.P. Cooperative Societies Act,1968 under section 59 read with rule 78 of H.P. Cooperative Societies Rules,1971 provides restriction on borrowing of a cooperative society. The rule 78 of H.P. Cooperative Societies Rules,1971 provides for borrowing in the shape of loans and deposits from non-members together with the amount borrowed and deposits received from members, subject to conditions that it does not exceed the limit fixed from time to time by the Registrar for the class of societies to which it belongs.

The above rule clearly provides for fixation of Maximum Borrowing Limit of the cooperative society and the department has also issued instructions vide Circular No.Coop.5-334/58, dated 29-01-1960 regarding standards for fixation of Maximum Borrowing Limit (MBL) of PACS and individual members of Agriculture Credit Societies and Multipurpose service societies with limited liabilities. The Maximum Borrowing Limit of PACS has been fixed 8 times of the owned capital minus accumulated losses. For this purpose, owned capital will mean paid up share capital plus reserve funds. But it has been observed that the cooperative societies specifically the PACS are invariably not adhering to these instructions referred above and are violating the norms and rules by accepting deposits from non-members beyond the limit fixed for the purpose. The RBI has also observed that PACS can't accept deposits from non-members as that amounts to violations of the Banking Regulation Act,1949 which prohibits any banking business without approval of the RBI/license. In view of the position explained above, the PACS shall henceforth observe the

following instructions to regulate their credit business operations as per Act, Rules and RBI instructions and provisions of the Banking Regulation Act,1949:-

1. The PACS shall fix their maximum borrowing limit(MBL) 12 times of the owned capital and shall submit the certificate to this effect to concerned Assistant Registrar Cooperative Societies within a period of one month of such fixation by incorporating suitable amendments in its bye-laws etc. if not provided earlier.
Explanation:- For the purpose, owned capital will mean total paid up share capital and accumulated reserve funds and other funds and undistributed profits minus accumulated losses as per latest audited balance sheet of the society.
2. The PACS shall regulate their deposit and loaning business as per provisions of H.P. Cooperative Societies Act,1968 and Rules made thereunder and instructions issued from time to time in this behalf and shall deal with members only to avoid violations of B.R.Act,1949. However, PACS may enroll their borrowers/depositors as member/nominal member as per provisions of Section 17 and 18 of H.P. Cooperative Societies Act,1968 to carry-out their business operations in accordance with the provisions of the Act *ibid.* and to avoid violations of other related laws like B.R.Act,1949 etc.
3. The PACS shall frame regulations for loan making policy as per provisions of the section 58 of the Act *ibid.* which shall broadly include provisions for advancement of Short Term credit and Medium Term credit to its members only on the basis of prescribed security and resources available for such advancements. These regulations shall include amongst others:-
 - (a) Member should not be a defaulter of the society.
 - (b) 1:10 share linkage with total borrowing from the society.
 - (c) Borrower should execute the loan bond in favour of the society.
 - (d) Borrower should execute the loan agreement with society specifying the terms of loans, interest rates and repayment schedule and penal clause on account of default etc.
 - (e) Two personal sureties to be furnished of members of the society.
4. The loan beyond the limit fixed for crop loans by Registrar, Cooperative Societies H.P. vide order No.5-60/91-Coop.(C&M) dated 17-5-2002 shall be advanced against adequate tangible security mortgaged in favour of the society as security of the loan.
5. Ordinarily, a medium term loan is not to be advanced to a person who has already availed such type of loan and outstanding against him from any other society or cooperative bank or the Land Development Bank or Commercial Bank etc.
6. The Secretary and the Managing Committee of the society shall be responsible for the prudent loaning and recoveries thereof as per terms of loan agreements within specified period of the loan to reduce over-dues and restrain from unsecured loaning in the larger interest of the society.
7. The maximum credit to a member shall be restricted to the MCL of the member fixed as per norms approved by competent authority and thereof by society / bank and the resources available with the society to meet the credit demand of its members.

8. The society shall restrict its loaning to members' upto 70% of its own funds available for investments and shall maintain adequate liquidity for discharge of depositors' liability on maturity/demand.
9. The borrower who is an employee of the Government, Public Undertaking, Cooperative Bank etc. shall furnish undertaking under section 46 of H.P Cooperative Societies Act,1968 in addition to other usual securities from his DDO to ensure repayments of loan from his salary in monthly installments.
10. The charge created under sub-section(1) of section 52 of the H.P. Cooperative Societies Act,1968 shall be available as against any claim of the Government arising from a loan granted under the Land Improvement Loans Act,1883(19 of 1883), or the Agriculturists' Loan Act,1884(12 of 1884), after the grant of loan by the society.
11. The loan advanced by the society to its employees and their near relation shall not be more than 2% of the lendable resources available with the society at any point of time.
12. Similarly the loan advanced by the society to its BODs and their near relation shall not be more than 3% of the lendable resource available with the society at any point of time.

For the purpose of S.No.11 & 12 above, lendable resources will mean owned capital, members' & non-members' deposits and borrowings from the financing bank. The above conditions of security shall apply to the loans issued to BODs & employees of the society

13. No concessional loan of any type shall be made by the society to its employees and members of BODs

Investment of surplus funds.

Section 53 of H.P. Cooperative Societies Act,1968 provides for investment of funds by a registered cooperative society in the following manner:-

- (a) in the post office saving bank; or
- (b) in any of the securities specified in section 20 of the Indian Trust Act,1882(2 of 1882);
or
- (c) in the shares or the securities of any other registered society; or
- (d) with any bank or person carrying on the business of banking approved for this purpose by the Registrar; or
- (e) in any other mode permitted by the rules.

The Registrar Cooperative Societies, H.P. vide letter No.CS-4-57/57, dated 2-07-1959 has however, restricted the investment of reserve funds of a Primary Society with the Central Cooperative Banks to which they are affiliated. The Rule 68 of H.P.Cooperative Societies Rules,1971 provides for investment of funds in addition to the manner specified in section 53 of the ibid. Act as under:-

- (a) with the State Bank of India; or
- (b) in the shares of the Reserve Bank of India; or
- (c) in any other manner permitted by the Registrar.

The PACS in view of their growing credit business and availability of surplus funds coupled with limited scope for deployment of their deposits with cooperative banks as per instructions referred above have been pressing hard to allow them freedom to deploy their surplus funds/deposits elsewhere also as per provisions of the Act *ibid*.

Considering the demand of the PACS and the limited avenues available with the PACS to invest their surplus funds/deposits, the PACS are allowed to deploy their surplus funds/deposits in the manner specified in section 53 of the *ibid* Act i.e.(i) with Apex/Distt Central Cooperative Banks, (ii) Scheduled Banks, (iii) in Govt. Securities duly granted by the State Govt., (iv) in the shares or the securities of any other registered society and (v) in the shares of RBI or (vi) in any other manner permitted by the Registrar, Cooperative Societies H.P.

All the investments whether they are made as fixed deposits or as Govt. securities shall be duly reported to the concerned Assistant Registrar Cooperative Societies on quarterly basis by the PACS and the concerned Inspector/Auditor during the course of inspection/audit, as the case may be, shall verify such investments on the basis of the documents/instruments required to be maintained by the society as proof of these investments. The Auditor / Inspector shall immediately report any discrepancy detected to the Assistant Registrar Cooperative Societies for appropriate action.

The Managing Committee of a PACS shall be a competent authority to invest its funds in the manner prescribed above and shall be responsible for prudent and productive investment of the funds of the society. The society may frame its own investment policy within the framework of H.P. Cooperative Societies Act,1968 and Rules made thereunder and get it approved from the concerned Assistant Registrar, Cooperative Societies.

Registrar Cooperative Societies,
Himachal Pradesh.

No.CS-5-60/91-Coop.(C&M)-I

Dated Shimla-9,the 4th January, 2006.

Copy to:-

1. The Principal Secretary (Coop.) to the Govt. of H.P. Shimla-2 for information.
2. The Additional Registrar Cooperative Societies, Dharamshala/ Shimla for information and necessary action.
3. All the Deputy Registrar Cooperative Societies in H.P
4. All the Assistant Registrar Cooperative Societies in H.P. for strict compliance of these guidelines and to circulate these directions to all PACS functioning in their respective circle.
5. Himcofed for publishing in the Sehkar Darpan for wide publicity.
6. All the branch officers in this directorate for information and necessary action.
7. Guard File.

Registrar Cooperative Societies,
Himachal Pradesh.

**DIRECTORATE OF COOPERATION
GOVERNMENT OF HIMACHAL PRADESH
SHIMLA-9**

No.5-37/2005-Coop(C&M)-V

Dated Shimla-9, the 24th August,2005

D I R E C T I V E

The chain of events that have unfolded in case of Mandi Urban Co-operative Bank clearly indicate that Board of Directors of Urban Co-operative Bank have failed to put in position the system to safeguard the security of depositors money and to ensure safe deployment of funds. At the same time, the system of internal checks and balances also failed giving rise to difficulty in fixing responsibility and accountability for various acts of omissions and commissions.

It has become evident that Urban Co-operative Banks are advancing loans to their members without proper appraisal, documentation, scrutiny etc. and in violation of the instructions, norms and guidelines prescribed by the Reserve Bank of India from time to time. It has also been noticed that the loans to the members are generally advanced without proper assessment of borrower's existing liability and repaying capacity and even without furnishing adequate security etc. Thus unsecured loaning is being resorted to by the co-operative banks leading to grave financial implications and also legal complications while defending recovery cases before the different forums. Similarly, some members of urban co-operative banks have also acquired membership of more than one financial institution and have also obtained loans from such institutions without obtaining NOC which is clear violation of the provisions of H.P. Co-operative Societies Rules,1971. This practice in absence of any set procedure or policy of loaning at urban co-operative banks level has resulted in increase of NPAs and accumulation of bad debts which has posed threat to the safety, security and timely repayment of public/depositor's money invested with Urban Co-operative bank in the State.

In order to obviate this tendency, it has been thought expedient and necessary to issue instructions under Rule 152 of the H.P. co-operative Societies Rules, 1971 to the management of all the Urban Co-operative Banks functioning in the State to ensure security and safety of public money and for smooth and beneficial running of Urban co-operative Banks by strictly adhering to all the norms, instructions as well as guidelines issued by the Reserve Bank of India and this Directorate from time to time. It is, therefore, directed that all the Urban Co-operative Banks in State shall follow strictly the following instructions/guidelines to ensure proper and secure loaning and eliminate possibilities of bad and doubtful debts at inception stage. BODs and Chief Executive/Managing Director/Manager of Urban Co-operative Banks shall ensure proper appraisal of the loan proposals, feasibility of the project by assessing various aspects like viability, need for loan, sources of income, repayment capacity of the borrower, credit history of the borrower and quality of security on which bank would create its charge.

In this regard, following detailed guidelines are laid down for strict compliance of all concerned:

(I) Personal Assessment

Chief Executive officer of the bank shall ensure the personal assessment of the loanee/applicant to ascertain whether the proposal is prima-facie acceptable or not i.e. whether it conforms to the credit norms or is acceptable from security considerations etc. where the proposal does not conform to above norms, the applicant/loanee should be informed as early as possible regarding rejection of his proposal.

Once the proposal is found acceptable, detailed appraisal may be carried out before final sanction is accorded.

(II) Appraisal of the loan proposal

Detailed financial appraisal of each loan proposal shall be carried out by the Chief Executive Officer/Manager. Return from the loan/project shall be realistically worked out and assessed. The loanee's own share in the project shall not be less than 25% of the project cost.

- (a) Assessment of need for the loan : The Chief Executive Officer shall assess the need of the loanee for credit in the first instance by conducting personal enquiries/interview of the borrower.
- (b) Sources of income : As declared in the loan application by the borrower, the Chief Executive Officer shall ensure that income declared is realistic and not inflated. It should be confirmed by all possible means to avoid fictitious/inflated income declaration by the borrower.
- (c) Repaying capacity : Chief Executive Officer shall assess the repaying capacity of the borrower based on the commitments made by the borrowers towards his other liabilities; factors such as other loan liabilities, number of dependents, other earning of members of the family, saving habits etc. may be taken into account.
- (d) Credit history: Chief Executive Officer shall make required efforts to obtain applicant/borrower's credit history and shall examine it before sanction. He shall ask the borrowers to furnish certificate of No Dues from concerned bank or Co-operative Institution etc. to assess his credit trust-worthiness.
- (e) Technical Appraisal: Chief Executive Officer shall ensure that the property of the borrowers/ or other person which is being taken as security is free from all encumbrances and should meet the requirements of applicable bye-laws, prevailing standards, if any, prevailing conditions which may have favourable or adverse effect on the marketability and value of property. The following factors may be considered under the technical appraisal particularly in the Semi-Urban areas/towns:-
 - (i) It shall be ensured that security property is free from any encumbrances and have a clear title in favour of the owner.
 - (ii) Location of the security property may be inspected personally by the Chief Executive Officer and it may be ensured that the security offered is proper, adequate and valuable. The property offered as primary or collateral security should be properly identified with boundaries so as to avoid any disputes regarding the property on a later stage.

- (iii) Inquiries may be made by the Chief Executive Officer with the local authorities to ascertain as to the ownership of the security property. The title of the property should be free and marketable.
- (f) Financial Appraisal: Financial appraisal of all the loan proposal shall be carried out by the Chief Executive Officer or the officer authorized by him. Estimates of costs and other projections shall be realistically worked out. Debit equity ratio or margin money requirements and its availability shall also be ascertained. Returns from the investment wherever applicable shall be worked out and viability of the proposal shall be certified by the Chief Executive Officer.

III. Creation of Charge

The BODs and Chief Executive Officer shall ensure that loan is sanctioned after appraisal as stated above and verifying the required Primary/collateral security (i.e. at least 150% of the loan amount). The loan installment shall be released by the Chief Executive Officer after creation of charge of the Bank on Primary/Collateral security property in revenue record. The bank shall also obtain two guarantors.

Insurance upto the full value of the property shall be ensured by the bank as per requirement and safety of the loan repayment in the event of damage/destruction to financed/security property of the borrower.

In case of employees of Govt./Semi. Govt. undertakings and other institutions, loan shall not be advanced without obtaining proper undertaking from concerned drawing and disbursing officer and employee as per requirement of section 46 of H.P. Co-operative Societies Act, 1968. In such cases creation of charge of Bank on plot/building/flat/motor vehicle etc. as the case may be, shall also be mandatory before disbursement of loan.

Chief Executive Officer/Managing Director of the bank shall ensure that in cases of CCL advances, additional collateral security at least to the extent of 100% of the CCL sanctioned is obtained and charge created to secure such advances, apart from hypothecation of stocks/goods etc.

Chief Executive Officers and BOD of the bank shall ensure that no overdraft is allowed in CCL. Whenever need be, the enhanced limit shall be secured by way of additional collateral security.

IV. Accountability: The Board of Directors of the Bank is custodian of the property of the bank and it is their duty/responsibility to ensure proper and safe investment of depositor's money. They will not take any action which is detrimental to the interest of the bank and its share holders/depositors. They should therefore, ensure to adhere to the above instructions strictly and also put in place the effective systems, wherever required failing which the liability for un-secured/irregular loaning shall rest squarely on the members of the Board of Directors in the presumption that they failed to discharge their duties in accordance with the provisions of the Act, Rules, Bye-laws and instructions/norms of Reserve Bank of India and this Department issued form time to time.

Chief Executive Officer/manager of the bank shall ensure that under no circumstances the loan is sanctioned without proper appraisal and that no loan is disbursed without obtaining prescribed security or creating charge on primary/collateral security and shall report to the

Registrar Cooperative Societies directly in cases where any undue pressure is exerted on him to clear loan cases without following these instructions in letter and spirit.

Chief Executive Officer/Manager should note that he will be liable to be proceeded against departmentally or otherwise for non-observance of any of above directions and as such it is expected of him to strictly follow all RBI guidelines/directions and this directive for safeguarding the depositors interests. While dealing with loan/investment matters, BOD/CEOs should appreciate that they are dealing with public money entrusted to them by the depositors in good faith and they should not under any circumstance breach that trust. It is essential to maintain the credibility of concerned bank and also the Co-operative movement as whole.

Besides this, the guidelines already framed by the co-operative banks, to the extent they are not in conflict with this directive, shall continue to be adhered to.

The concerned Assistant Registrar Cooperative Societies of the circle/district shall ensure the enforcement of these guidelines/instructions through his field functionaries and Audit staff during the course of audit/inspections of these Banks and shall report non-compliance alongwith special report directly to the Registrar Cooperative Societies.

Chief Executive Officers and BODs of the banks shall also prepare and review from time to time specific guidelines for each category of loans to incorporate above safeguards to ensure prudent and secured loaning in future.

Registrar Co-operative Societies
Himachal Pradesh.

No.5-37/2005-Coop(C&M)-V

Dated Shimla-9, the 24th August,2005

Copy to:-

1. The Principal Secretary (Cooperation) to the Govt. of H.P. for information please.
2. Additional Registrar Cooperative Societies, Monitoring /Dharamshala for necessary action.
3. The Deputy Registrar Cooperative Societies Shimla, Mandi and Dharamshala.
4. Assistant Registrar Cooperative Societies, Shimla, Solan, Mandi and Chamba for strict compliance.
5. All Urban Co-operative Banks in the State for strict compliance. CEOs of the bank shall ensure that these instructions are brought in the notice of all the members of BODs.

Registrar Co-operative Societies
Himachal Pradesh.