

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’

Subject: Regulation of loans advanced by the financing banks to Cooperative Societies.

The department has been receiving complaints regarding misutilization of credit disbursed through Cooperative Societies in absence of effective monitoring of credit advanced to the Cooperative Societies by the financing Bank. The matter of rationalising the procedures for extension of credit/loans to cooperative Societies through financing bank i.e. Cooperative Banks has been under consideration for quite some time. The Department had issued instructions regarding rationalising the procedures about extension of loans to members of Cooperative Societies for Agricultural purposes in tune with the guidelines of the RBI issued from time to time on the matter. Such crop loans are to be disbursed to individual members in accordance with the norms prescribed vide letter No.5-392/95-Coop.(C&M) dated 10-3-1969 and instructions issued by the department from time to time. The financing banks have also brought to the notice of the department that the loans advanced to the Cooperative Societies for various purposes like ST, MT and CCL etc. have been in most of the cases misutilized due to lack of supervision and in absence of express powers to financing banks to inspect the account books of such Cooperative Societies and monitor their proper utilization at society level regularly. As a result the societies are becoming defaulter of the financing banks and these advances are becoming NPA's in the account books of these banks.

In view of the foregoing, it is thought expedient to issue necessary instructions in pursuance of rule 152 of H.P. Co-operative Societies Rules,1971, to ensure effective monitoring of loans advanced by the financing banks to the Cooperative Societies for various purposes to ensure their proper utilization and timely repayments etc.

Section 86-A of the Cooperative Societies Act, 1968 (Act No.3 of 1969), vests a financing bank with the power to proceed against defaulting members of a Cooperative Society and have the power to direct the committee of such society to proceed against such members by taking action under section 72,73,74,75,76,86,87,89,90 and 90-A of the Act. The Act further provides that if the committee of the Cooperative Society fails to proceed against its defaulting members within a period of 90 days from the date of receipt of such direction from the financing bank, then the financing bank itself may proceed against such defaulting members in which event, the provisions of sections referred above of the Act, the Rules and bye-laws made their under shall apply as if all references to the society or its committee in the said provisions of Act, Rules and the bye-laws were references to the financing bank.

In addition to above statutory provisions, the financing bank shall have the power to inspect the books of accounts of a Cooperative Society in relation to the loans advanced by the Bank from time to time and shall monitor the utilization of such loan advanced at regular intervals. The Cooperative Society shall provide necessary information with regard to the loans advanced to it by the financing bank as and when asked for by the financing bank. The regular utilization statement of loans shall be furnished to the financing bank by the Cooperative Society

on the prescribed proforma devised by the financial bank. The financing bank shall prescribe the proforma in relation to utilization of loans advanced to Cooperative Societies and shall monitor it at regular intervals. The financing bank shall take immediate action against the misutilization of loans advanced and shall report such misutilization to the concerned Assistant Registrar Cooperative Societies within 15 days to take appropriate action against the erring official/management of the cooperative society. The concerned ARCS shall on receipt of such report from the financing bank proceed against the erring management of the cooperative society as per provisions of the H.P. Cooperative Societies Act, 1968 (Act No.3 of 1969) and the Rules made there under. The authorized representative of a financing bank shall be competent to attend the meetings of managing committee of a co-operative society where the bank has financed such society; to address its issues pertaining to finance and its recoveries etc. before the managing committee for immediate suitable corrective actions by management of the society.

These instructions are to be brought to the notices of all field functionaries for strict compliance. The receipt of this communication may please be acknowledged.

Registrar Cooperative Societies,
Himachal Pradesh.

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

Dated Shimla-9, the 4th January, 2006

Copy to:

1. Principal Secretary (Cooperation) to the Govt. of H.P Shimla-2.
2. The Additional Registrar, Cooperative Societies, Dharamshala.
3. All the Deputy Registrar, Cooperative Societies in H.P.
4. All the Assistant Registrar, Cooperative Societies in H.P.
5. The Managing Director, H.P. State Cooperative Bank Ltd; Shimla,
6. The Managing Director, Kangra Central Cooperative Bank Ltd; Dharamshala.
7. The Managing Director, Jogindra Central Cooperative Bank Ltd; Solan.
8. The Secretary, Himcofed, Shimla-4 for publication in 'Sehkar Darpan'.
9. All Branch officers in this Directorate for information and necessary action.
10. Guard file

Registrar Cooperative Societies,
Himachal Pradesh.

DIRECTORATE OF COOPERATION
HIMACHAL PRADESH.

No. 5-109/76-Coop.(C&M)-IV

Dated Shimla-9, the 22nd May, 2006.

‘C I R C U L A R’

Subject:- Credit dispensation and management of loans and advances by Apex Co-operative banks and Distt. Central Co-operative Banks in Himachal Pradesh, guidelines/instructions thereof.

In the context of rapid growth of Apex and District Central Co-operative banks, qualitative aspects of lending, such as adequacy of lending, appraisal, security and effective supervision and monitoring of advances have assumed considerable importance. Department has been receiving constant reports of non-adherence to basic financial discipline by these co-operative banks prescribed by RBI/NABARD and department from time to time in credit dispensation thereby resulting in poor credit appraisal and bad loaning. Instances have been repeatedly coming into notice of poor appraisal, non-creation of assets, inadequate security and resulting cases of chronic default and low recoveries. The matter was under active consideration of the department for quite some time to issue comprehensive guidelines/instructions to co-operative banks in the state to regulate their credit dispensation system in tune with RBI/NABARD guidelines on the matter and as per provisions of H.P. Co-operative Societies Act, Rules and instructions issued in this behalf from time to time.

Over the years, several indirect measures to regulate bank credit such as exposure norms for lending to individual/group borrowers, prudential norms for income recognition, assets classification and provisioning for advances, capital adequacy ratios etc. have been introduced by RBI/NABARD and greater operational freedom has been provided for the co-operative banks in dispensation of credit.

Co-operative banks are now expected to lay down, through their boards, transparent policies and guidelines for credit dispensation, in respect of each broad category of economic activity, keeping in view the credit exposure norms and various other guidelines issued by Reserve Bank of India, NABARD and department from time to time.

In view of the foregoing, it has been decided to issue following instructions under Rule 152 of the H.P. Co-operative Societies Rules, 1971 to regulate and manage loans and advances in tune with RBI/NABARD guidelines, relevant provisions of H.P. Co-operative Societies Act, 1968 and Rules made thereunder and instructions issued by the department on the matter from time to time:-

1. Loaning & appraisal : The state and District Central Co-operative Banks are required to follow strictly the following instructions/guidelines to ensure proper and secured loaning and eliminate possibilities of bad and doubtful debts at the inception stage. Board of Directors and Managing Director/Chief Executive officers of the Co-operative banks shall ensure compliance of these directions and whenever, the powers to sanction loan etc. are delegated to lower level, the BOD/Managing Director shall ensure that such lower authority also follows them without fail.

- (i) Personal Assessment : The Chief Executive Officer/Managing Director or Branch Manager as the case may be shall ensure the personal assessment of loanee/applicant to ascertain whether the loan 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 (but not later than 15 days of such decision) 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 : Notwithstanding the policy guidelines/ instructions issued in this behalf by co-operative banks, a detailed financial appraisal of each loan proposal shall be carried out by the Chief Executive/Managing Director or the Branch Manager as the case may be. The task of appraisal should be given top priority and officers should be trained and sensitised about various aspects of appraising a proposal. Responsibility for appraisal be assigned to a particular officer and not to a sub committee of BOD or any other committee. Such officer should certify various aspects of the proposal including costing, returns, title of land etc. verification of collaterals and their valuation and should be accountable for the same. The returns from 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. The following amongst other, steps be taken for loan appraisal by concerned authority:-

- (a) Assessment of need for the loan : Concerned authority as referred above, shall assess the need of loanee for credit in the first instance by conducting personal enquiries/interview etc of the borrower. Based on need the proposal be recommended to competent authorities for sanction.
- (b) Sources of income : As declared in the loan application by the borrower, the Chief Executive/Managing Director for the Branch Manager or any other competent authority 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 : The competent authority shall assess the repaying capacity of the borrower based on the commitments made by the borrower towards his other liabilities, factors such as other loan liabilities number of dependents, other earnings of members of the family, saving habit etc. may be taken into account.
- (d) Credit history : Competent authority shall make required efforts to obtain applicant/borrowers credit history and shall examine it before sanction. He shall ask the borrower to furnish 'No Dues Certificate' from concerned banks or co-operative institutions etc. to access his credit trustworthiness.
- (e) Technical appraisal : The appraising authority shall ensure that the property of the borrower/or the persons (guarantors etc.) 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 effects on the marketability and value of property.

The following factors may be considered under the technical appraisal particularly in Semi-urban areas/towns:-

- (1) It shall be ensured that security property is free from any encumbrances and have a clear title in favour of owner.
 - (2) Location of security property may be inspected personally by the competent authority or concerned branch manager and it may be ensure that the security offered is proper, adequate and of required value. The property offered as primary and collateral security should be properly identified with boundaries so as to avoid any disputes regarding the property at a later stage.
 - (3) Inquiries may be made by the competent authorities with local revenue authorities etc. to ascertain as to the ownership of the security property. The title of the property should be free and marketable.
- (f) Financial appraisal : The financial appraisal of all loan proposals shall be carried out by the appraising authority or the officers authorized by the Chief Executive officers of the bank. Estimates of costs and other projections shall be realistically worked out. Debt equity ratio or margin money requirements and its availability shall also be ascertained. Returns from the investments wherever applicable shall be worked out and viability of the proposal shall be certified by the competent authority.

2. Creation of charge : The Board of Directors and Chief Executive officer of the bank shall ensure that loan is sanctioned after proper appraisal as stated above and after verifying the required primary/collateral security value of which shall not be less than 150% of the loan amount. The loan instalments shall be released by competent authority after creation of charge of the bank on such security property in revenue record. The bank shall also obtain two guarantors.

Insurance upto the full value of the security 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 employees as per requirement of section 46 of the 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 or such assets/property be hypothecated in favour of the bank as the case may be.

The 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 Officer/Managing Director/Branch Manager of the bank shall ensure that no overdraft is allowed in CCL, enhanced limit shall be secured by way of additional collateral security.

The personal loans and consumer loans to employees of Government/ Public Sector Undertakings/ Banks etc. upto one lakh may be provided on the security of one guarantor/ hypothecation of assets and DDO's certificate under Section 46 of the H.P. Co-operative

Societies Act,1968. The quantum of loan upto one lakh shall be decided on the basis of length of service and repaying capacity of the employee.

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 bank/society as security of the loan

3. Accountability : The Board of Directors of the bank is a custodian of the bank and it is their duty/responsibility to ensure proper, productive and secured investment of depositors' money. They shall restrain from taking 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 proper systems of credit dispensation wherever required, failing which the liability for unsecured/irregular loaning shall rest squarely on the members of Board of Directors/Managing Directors in the presumption that they failed to discharge their duties imposed on them in accordance with the provisions of the Act, Rules, Bye-laws and instructions/norms of RBI/NABARD and department issued from time to time.

Managing Director/Chief Executive 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 case any undue pressure is exerted to clear loan cases without following these instructions in letter and spirit. They shall ensure that all the instructions/guidelines issued by RBI/NABARD and department on the matter from time to time are brought in the notice of BOD failing which Chief Executive shall be liable to be proceeded against departmentally or otherwise for non-observance of these instructions. Board of Directors/Chief Executive Officer of the Co-operative Banks must appreciate the fact that they are dealing with public money entrusted to them by the depositors in good faith and they should not under any circumstances breach that trust to uphold the credibility of concerned bank and co-operative movement as a whole.

Members of BOD individually shall refrain from associating with any loan proposal or visiting any branch or issuing any instructions to H.Q or field/branch staff. Similarly they will also not undertake any spot visit individually.

BODs or Sub-Committees of the Board shall only meet at headquarter. No spot visit of any type shall be undertaken by the Committees. If BODs or Committees require any spot verification report or any other assessment report, the same shall be sought from a particular officer in the headoffice or field.

4. Recovery : Board of Directors/Managing Directors of the banks shall ensure that an effective Recovery Cell headed by a senior officer is made functional immediately. This cell shall monitor the default cases on day to day basis and issue notices, and take follow-up action in all cases. In each case, decision to launch arbitration proceedings or action under Securitization Act etc. shall be taken by Managing Director after analyzing the position of assets created, type and value of collaterals, sale-ability of assets, amount outstanding, repayments made etc. not later than one year from the first default. Efforts shall be made to locate and get the other properties of the borrower attached. This cell shall also be responsible for attachment and follow-up of the execution proceedings with the Collectors. Action to dispose of the properties taken over under Securitization Act shall be taken without delay in transparent manners after wide publicity. Monthly review meetings of default cases shall be conducted by Managing Director, where

progress of all individual cases shall be reviewed including arbitration, execution, attachment and sales of properties under the Securitization Act on the basis of information compiled by the Recovery Cell . Performance of staff posted in Recovery Cell shall be accessed in terms of actual recoveries made.

Notwithstanding above instructions, the guidelines/instructions framed by the co-operative banks, to the extent they are not in conflict with this directive/circular shall continue to be adhered to.

These instructions shall be adhered to by the department officers/officials during the course of audit, inspection and enquiries etc. and shall report non-compliance/violation etc. alongwith special report to concerned bank as well as to Registrar Cooperative Societies H.P. for further necessary action.

Board of Directors and Managing Director/Chief Executive Officer of the bank shall also prepare and review from time to time, the specific guidelines/instructions for each category of loans to incorporate above safe guards in their long term credit policy to ensure prudent and secured loaning and advancements in future.

Registrar Cooperative Societies,
Himachal Pradesh.

No. 5-109/76-Coop.(C&M)-IV

Dated Shimla-9,the 22nd May, 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 in their respective circle.
5. All the Managing Directors of Apex banks and Distt. Central Coop. Banks in H.P. for strict compliance. They shall ensure that these instructions are brought to the notice of all the members of BOD for adherence and compliance.
6. Secretary, Himcofed for publishing in the Sehkar Darpan for wide publicity.
7. Guard File.

Registrar Cooperative Societies,
Himachal Pradesh.