



Module-D Unit-3

JAIIB PAPER-2

Principles and Practices of Banking (PPB)



JAIIB PPB Module D Unit 3- Ethical Dimension Employees

Obligation to Bank: Obligations of Bank

- Obligation to Honour Cheques
- Obligation to Maintain Secrecy
- Obligation to follow all financial instructions of customers
- Obligation to keep records in order
- Obligation to give Notice before closing the account
- Besides the Obligation towards the bank's customers, they also have got the obligation to follow all the laws, guidelines, directives and policies of the regulator- RBI

Right of Bank

For fulfilling the obligations towards the customers, bankers enjoy the following rights:

- **Right of General Lien:** A general lien authorizes a bank to retain and securities till all the bank's claims against the customer are satisfied. A lien is an implied such that if a default is made by the debtor, the bank, by giving a reasonable notice to the borrower, can sell and recover the amount due to it. No other valuables, cash, etc, kept in lockers or fixed deposits etc, should be set off against the claim.
- **Right to charge interest and commission:** Bank has implied right to charge interest on loans and advances and commission on services rendered to the customer.
- **Closure of Account:** The Bank has the right to close a customer's account if it is inoperative for the specified duration, provided it informs in writing to the customer to respond within a stipulated time.

Obligation to Third Parties: Fiduciary Responsibilities

Obligations under the KYC for regulated Entities

As per the Master Direction issued by RBI on February 25, 2016 (which was updated as on April 20, 2018), know as the RBI (KYC) direction 2016, the following are the directives issued for the Regulated Entities (REs refer to Bank, Asset Management Companies, Investment Managers/ Advisors, Portfolio Managers etc).

For the purpose of verifying the identity of customers at the time of commencement of an account-based relationship, REs, shall at their option, rely on customer due diligence done by a third party, subject to the following conditions:

- Records or the information of the customer due diligence carried out by the third party is obtained within two days from the third party or from the Central KYC Records Registry.
- Adequate steps are taken by REs to satisfy themselves that copies of identification data and other relevant documentation relating to the customer due diligence requirements shall be made available from the third party upon request without delay.
- The third party is regulated, supervised or monitored for, and has measures in place for, compliance with customer due diligence and record-keeping requirements in line with the requirements and obligations under the PML Act.
- The third party shall not be based in a country or jurisdiction assessed as high risk.
- The ultimate responsibility for customer due diligence and undertaking enhanced due diligence measures, as applicable, will be with the RE.

REs shall frame a Customer Acceptance Policy.

- No account is opened in anonymous or fictitious/benami name.
- No account is opened where the RE is unable to apply appropriate CDD measures, either due to non-cooperation of the customer or non-reliability of the documents/information furnished by the customer.
- No transaction or account-based relationship is undertaken without following the CDD procedure.
- The mandatory information to be sought for KYC purpose while opening an account and during the periodic updation, is specified.
- 'Optional'/additional information, is obtained with the explicit consent of the customer after the account is opened.
- REs shall apply the CDD procedure at the UCIC level. Thus, if an existing KYC compliant customer of a RE desires to open another account with the same RE, there shall be no need for a fresh CDD exercise.
- CDD Procedure is followed for all the joint account holders, while opening a joint account.
- Circumstances in which, a customer is permitted to act on behalf of another person/entity, is clearly spelt out.
- Suitable system is put in place to ensure that the identity of the customer does not match with any person or entity, whose name appears in the sanctions lists circulated by Reserve Bank of India.

For Non- Banking Financial Companies

Simplified procedure for opening accounts by Non-Banking Finance Companies (NBFCs): ***In case a person who desires to open an account is not able to produce documents, as specified in Section 16, NBFCs may at their discretion open accounts subject to the following conditions:***

- (a) The NBFC shall obtain a self-attested photograph from the customer.
- (b) The designated officer of the NBFC certifies under his signature that the person opening the account has affixed his signature or thumb impression in his presence.
- (c) The account shall remain operational initially for a period of twelve months, within which CDD as per Section 16 shall be carried out.
- (d) Balances in all their accounts taken together shall not exceed rupees fifty thousand at any point of time.
- (e) The total credit in all the accounts taken together shall not exceed rupees one lakh in a year.
- (f) The customer shall be made aware that no further transactions will be permitted until the full KYC procedure is completed in case Directions (d) and (e) above are breached by him.
- (h) The customer shall be notified when the balance reaches rupees forty thousand or the total credit in a year reaches rupees eighty thousand that appropriate documents for conducting the KYC must be submitted otherwise the operations in the account shall be stopped when the total balance in all the accounts taken together exceeds the limits prescribed in direction (d) and (e) above.

Abuse of Official Position: Insider Trading, Proprietary Data, Bribes Etc.

Employees are advised to follow Code of Conduct laid down by the Bank. Abuse of official position for personal gains or providing gains to friends, family members and other with selfish motive amounts to violation of employee's to the Bank. Examples of abuse of power can be:

- Bank employee goes for a personal travel and claims reimbursement as official travel
- Showing discrimination to the customers based on their proximity to the employee (his relatives friends, etc, showing special preference)
- Use of official resources for personal use
- False claims beyond the fixed perquisites

Insider Trading

In India, SEBI (Insider Trading) Regulation, 1992 framed under the Section 11 of the SEBI Act, 1992 intends to curb and prevent the menace of insider trading in

securities. An insider is a person who is an accepted member of a group or organization who has special knowledge regarding his firm.

Proprietary Data

Proprietary Data refers to the information relating to the intellectual property right and trade secrets of any company. All employees are expected to keep confidentially of the data relating to all stakeholders, customers, vendors, promoters, investors and other who are associated with the Bank.

Bribes

Bribes refers to paying money or gift to a person with a motive of getting some favour done. Bank's Services regulations provide details of dos and don'ts with respect to bribes.

Obligations to third Parties

When the Bank is outsourcing its functions to the Third Parties, it needs to have clear, transparent contracts and agreements with all terms & conditions incorporated. Especially in service contracts, the service level agreement have to be defined minutely and ensure that the Third party do not cause an inconvenience to the Bank customer.

Job Discrimination

- **Job discrimination is when an employee is treated badly by a supervisor or boss for something they cannot control**, like their age or race.
- Mistreatment can range from verbal or sexual harassment, withholding benefits, withholding opportunities for advancement, pay, or someone being fired from their job.

Sexual Harassment

Sexual harassment is a type of harassment technique with explicit or implicit sexual overtones, including the unwelcome or inappropriate promise of rewards in exchange for sexual favors. Sexual harassment includes a range of actions from verbal transgressions to sexual abuse or assault.

The Guidelines and norms prescribed included the definition of sexual harassment and details as under:

- Physical Contact
- A demand or respect for sexual favours
- Sexually coloured remarks
- Showing pornography
- Any other unwelcome physical, verbal or non-verbal conduct or sexual nature

Managing Conflict of Interests

The Dictionary meaning of conflict of interest is “a situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity.”

Some examples for conflict of interest are:

- A given bank and its client/ clients
- Among the employees of a bank
- Employee of a bank and a client
- Between a given bank and one or more of its clients
- Provision of bank’s services to two or more clients

HRM Ethics

- **Human Resource Management (HRM)** deals with work force management, manpower planning and other employee related activities in an organization. Therefore, we can say that it is a special branch of management where ethics play a crucial role.
- HRM concerns human issues, especially those related with compensation, development, industrial relations, health and safety issues. However, there are sufficient disagreements in managing HRM issues that stem from various quarters.

