

Annex

Protected Disclosures Scheme for Private Sector and Foreign Banks

1. Introduction

1.1 Disclosure of information in the public interest by the employees of an organisation is increasingly gaining acceptance by public bodies for ensuring better governance standards and probity / transparency in the conduct of affairs of public institutions. Large scale corporate frauds had necessitated, internationally, various legislative measures for safeguarding public interest, through enactments such as Whistleblower Protection Act in USA and Public Interest Disclosure Act in UK. In the Indian context, the Government of India had passed a resolution on April 21, 2004 authorizing the Central Vigilance Commission (CVC) as the 'Designated Agency' to receive written complaints or disclosure on any allegation of corruption or of misuse of office and recommend appropriate action. The jurisdiction of the CVC in this regard is restricted to employees of the Central Government or of any corporation established by it or under any Central Act, Government companies, societies or local authorities owned or controlled by the Central Government.

1.2 As a proactive measure for strengthening financial stability and with a view to enhancing public confidence in the robustness of the financial sector, RBI has formulated a scheme called "Protected Disclosures Scheme for Private Sector and Foreign Banks". The salient features of the Scheme are as under:

2. Scope and Coverage

2.1 As Public Sector Banks and Reserve Bank of India (since it is an entity established under Central Statute) have already been brought under the purview of Government of India scheme, with a view to avoid duplication, this Scheme would cover all private sector and foreign banks operating in India.

2.2 The complaints under the Scheme would cover the areas such as corruption, misuse of office, criminal offences, suspected / actual fraud, failure to comply with existing rules and regulations such as Reserve Bank of India Act, 1934, Banking Regulation Act 1949, etc. and acts resulting in financial loss / operational risk, loss of reputation, etc. detrimental to depositors' interest / public interest.

2.3 Under the Scheme, employees of the bank concerned (private sector and foreign banks operating in India), customers, stake holders, NGOs and members of public can lodge complaints.

2.4 Anonymous / pseudonymous complaints will not be covered under the Scheme and such complaints will not be entertained.

2.5 Reserve Bank of India (RBI) will be the Nodal Agency to receive complaints under the Scheme. RBI would keep the identity of the complainant secret, except in cases where complaint turns out to be vexatious or frivolous and action has to be initiated against the complainant as mentioned at para 2.6 below.

2.6 The institution against which complaint has been made can take action against complainants in cases where motivated / vexatious complaints are made under the Scheme, after being advised by RBI. An opportunity of hearing will, however, be given by the concerned bank to the complainant before taking such action.

2.7 Final action taken by RBI on the complaint will be intimated to the complainant.

3. Procedure for lodging the complaint under the Scheme

3.1 The complaint should be sent in a closed / secured envelope.

3.2 The envelope should be addressed to The Chief General Manager, Reserve Bank of India, Department of Banking Supervision, Fraud Monitoring Cell, Third Floor, World Trade Centre, Centre 1, Cuffe Parade, Mumbai 400 005. The envelope should be superscribed "Complaint under Protected Disclosures Scheme for Banks".

3.3 The complainant should give his / her name and address in the beginning or end of the complaint or in an attached letter. In case of an employee making such complaint, details such as name, designation, department, institution and place of posting etc. should be furnished.

3.4 Complaints can be made through e-mail also giving full details as specified above. For this purpose, a specific e-mail id has been created.

3.5 The complainant should ensure that the issue raised by him involves dishonest intention/moral angle. He should study all the relevant facts and understand their significance. He should also make an effort, if possible, to resolve the issue through internal channels in order to avoid making the complaint.

3.6 The text of the complaint should be carefully drafted so as not to give any details or clue to complainant's identity. The details of the complaint should be specific and verifiable.

3.7 In order to protect the identity of the complainant, RBI will not issue any acknowledgement of receipt of the complaint and the complainants are advised not to enter into any further correspondence with the RBI in their own interest. RBI assures that, subject to the facts of the case being verifiable, it would take necessary action, as provided under the scheme. If any further clarification is required, RBI will get in touch with the complainant.

3.8 If the complaint is accompanied by particulars of the person making the complaint, the RBI shall take the following steps :

- a) If necessary, it would ascertain from the complainant whether he was the person who made the complaint or not.
- b) The identity of the complainant will not be revealed unless the complainant himself has made the details of the complaint either public or disclosed his identity to any other authority.
- c) If the identity of the complainant is concealed, RBI shall make discreet inquiries to ascertain if there is any basis for proceeding further with the complaint.
- d) Either as a result of the discreet enquiry, or on the basis of complaint itself without any inquiry, if RBI is of the opinion that the matter requires to be investigated further, RBI may consider calling for the comments / response from the Chairman / Chief Executive Officer of the concerned bank.
- e) After obtaining the response of the concerned bank and / or on the basis of an independent scrutiny conducted / ordered by RBI, if RBI is of the opinion that the allegations are substantiated, the RBI shall recommend appropriate action to the concerned bank. These shall, inter alia, include the following :
 - Appropriate action to be initiated against the concerned official.
 - Appropriate administrative steps for recovery of the loss caused to the bank as a result of the corrupt act or mis-use of office, or any other offence covered by the Scheme.
 - Recommend to the appropriate authority / agency for initiation of criminal proceedings, if warranted by the facts and circumstances of the cases.
 - Recommend taking corrective measures to prevent recurrence of such events in future.
 - Consider initiating any other action that it deems fit keeping in view the facts of the case.

3.9 If any person is aggrieved by any action on the ground that he is victimized due to filing of the complaint or disclosure, he may file an application before the RBI seeking redressal in the matter. RBI shall take such action, as deemed fit. In case the complainant is an employee of the bank, RBI may give suitable directions to the concerned bank, preventing initiation of any adverse personnel action against the complainant.

3.10 Either on the basis of application of the complainant or on the basis of information gathered, if the RBI is of the opinion that either the complainant or the witnesses in the case need protection, the RBI shall issue appropriate directions to the concerned bank.

3.11 The system evolved herein shall be in addition to the existing grievances redressal mechanism in place. However, secrecy of identity shall be observed, only if the complaint is received under the scheme.

3.12 In case RBI finds that the complaint is motivated or vexatious, RBI shall be at liberty to take appropriate steps.

3.13 In the event of the identity of the informant being disclosed inspite of RBI's directions to the contrary, the RBI shall be authorized to initiate appropriate action as per extant regulations against the person or agency making such disclosure. RBI may also direct such person or agency to suitably compensate the complainant.

4. Framing of protected disclosure policy by banks

All private sector and foreign banks operating in India may frame a 'Protected Disclosures Scheme' duly approved by their respective Boards of Directors, keeping in view the broad framework given above. The policy should clearly lay down norms for protection of identity of employees making disclosures under the scheme and safeguarding them from any adverse personnel action. The role and responsibilities of the Board of Directors may also be well defined in dealing with the complaints received under the scheme. The Board, or a committee of Directors of the Board may be made responsible for monitoring the

implementation of the scheme. Banks may factor suggestions of the unions / associations of officers / employees before framing such a policy. Suitable mechanism should be put in place to make newly recruited employees of the bank aware of the existence of such a scheme in the bank.