

FAIR PRACTICES CODE FOR LENDERS

This circular supercedes guidelines contained in ID circular no. 1548 dated 14.07.2004 and circulatory letter no. 7/2004 dated 31.03.2004. During Inspection of branches it has been observed that branches are not adhering to Fair Practice Code for Lending (FPC) of the Bank and additions made to FPC circulated vide ID circular no. 1548 dated

14.07.2003 and circulatory letter no. 07/2004 dated 31.03.2004 respectively. Some of the deviations pointed out by the inspectors are as under:

- No acknowledgment of loan application is issued by branches.
- Reasons for rejection of application not being intimated to the applicant.
- Copy of loan agreement along with all enclosures not being provided to borrowers.
- The customers are not being informed about procedure involved in servicing and closure of account
- The loan sanction/agreement letter does not clearly stipulate the credit facilities that are at the discretion of the Bank such as allowing drawing beyond sanctioned limits

Further, IBA vide their letter No.OPR/Legal/1965 dated August 27, 2004 have forwarded copy of High Court , Delhi Order dated 29th May 2003, giving guidelines to be followed by the Banks/Financial Companies before exercising their powers to re- possess any asset hypothecated to them which will form part of Fair Practice Code for Lending of the Bank..

Conscious of the fact that parties are governed by a written contract and are bound by the terms of the contract which they have entered into with open eyes, and in view of guidelines framed by the RBI which the High Court Delhi finds are not being followed by all finance companies, the High Court Delhi has issued the following guidelines to be strictly followed by all finance companies before it exercises its powers to re-possess a vehicle :

- Whenever a cheque is not honoured for payment, it would be immediately brought to the notice of the borrower by issuance of a notice under registered post, to be posted at the address provided by the borrower and proof of dispatch by registered post at the given address would be considered as sufficient proof of service of notice.
- 7 days time should be given reckoned from the date of service of the registered notice for clearance of the amount under the dishonoured cheque.
- In case of second dishonour of cheque similar notice be provided drawing the attention of the borrower to the term of the agreement entitling the lender to recall the entire loan. This notice should again give 7 days time to the borrower to pay the outstanding amounts as on date. The 7 days time to be reckoned from the date of service of the notice.
- If the amount is not paid, it would be open to the finance company(bank) to exercise its power under the finance agreement to recall the loan. If it exercise this power another notice be given to the borrower intimating that the loan has been recalled and the borrower should be called upon to tender the amount due within 7 days of receipt of notice. This notice again be sent by registered post at the address given by the borrower.
- If no amount is paid within the stipulated period as per the notice, finance company(bank) would be authorized to repossess the vehicle but this power of repossession would not entitle the finance company to track the vehicle while plying on the road.
- In case the borrower refuses to sign the papers when the car is repossessed, on repossession of the vehicle, immediate information be provided by the finance company(bank) to the local police intimating the time and place when the vehicle was repossessed.