

F.No. 7/48/2012-BOA

Government of India

Ministry of Finance
Department of Financial Services

Jeevan Deep Building
Parliament Street,
New Delhi the 30th January, 2013

To

CEOs of all Public Sector Banks

Sir,
Sub- Policy on Joint Lending Arrangement

I am directed to refer to this Department's letter of even number dated 31.05.2012 circulating therewith policy on Joint Lending Arrangement (JLA).

2. The policy has subsequently been studied by a Group set up by this Department under the Chairmanship of Shri Diwakar Gupta, MD, State Bank of India (SBI) with a view to look into the issues coming in the way of effective implementation of lending under consortium arrangement and to suggest improvement in the policy in such a way that it protects the interests of the lenders as well as those of the borrowers in the best possible manner. The Group submitted its final report on policy for JLA in banks after considering the suggestions given by various Public Sector Banks (PSBs) and Reserve Bank of India (RBI). This has been approved by the Finance Minister. On the basis of the report, the policy for JLA has been further evolved which is annexed herewith.

3. You may place the policy before the Board of the Bank for appropriate action.

Yours faithfully,

(M.M.Dawla)

Under Secretary to the Government of India
Tel: 011-23748731

Encls : as above

Copy to : All Government Nominee Directors on the Board of PSBs.

REVISED DRAFT POLICY ON JOINT LENDING ARRANGEMENT (JLA)

BACKGROUND

1. With a view to introducing flexibility in credit delivery system and to facilitate smooth flow of credit, various regulatory prescriptions regarding conduct of consortium/multiple banking / syndicate arrangements were withdrawn by RBI in October 1996.

2. It is now common to find large borrowers availing term loan as well as working capital limits from a number of financial institutions and commercial banks partly because of the large size of borrowing and partly to have a degree of flexibility in their operations.

3. Most such large borrowers having multiple banking relationships have independent arrangement with each lending institution, the security offered to each institution is separate and no formal understanding exists between different lenders financing the same borrower. Further, lenders usually sanction loans / limits on different terms and conditions. This arrangement, however, goes contrary to principles of credit discipline which require that a wholesome view of entire operations of a customer must be taken by the lender and the assessment and monitoring of credit needs be also done in totality.

4. In the background of some high value frauds coming to light after the withdrawal of regulatory prescriptions regarding conduct of consortium/ multiple banking arrangement, the Central Vigilance Commission and other authorities had expressed concerns and had attributed the incidents of frauds mainly to lack of effective sharing of information about the credit history and conduct of account of the borrowers amongst various lending institutions. This had led RBI to examine the matter in consultation with IBA and conclude that there was need for improving the sharing/dissemination of information among the banks about the borrower. Accordingly detailed guidelines were issued by RBI on 10/02/2009 to banks to strengthen their information back-up about the borrowers enjoying credit facilities with multiple banks. This arrangement is however not working satisfactorily with frauds continuing to come to light.

5. In addition to the above some other major pitfalls observed in the Consortium Arrangement are as under:

- a) Lack of cohesiveness and transparency among the member Banks, specifically in respect of

- Timely sharing / exchange of complete information in respect of conduct of accounts, IRAC status etc.
 - Holding of quarterly Consortium meetings on regular basis as mandated
 - Important matters such as status of accounts, outstanding, overdue, operations in the accounts, audit observations, sanction of ad-hoc limits, dealings of the borrower with banks outside the Consortium, adverse news items/ information in respect of the borrowers etc. are not discussed in the meetings
 - Proper appraisal and assessment by the leader.
- b) Undue delay in processing the loan application, sanction, documentation etc. causing project delays, cost overruns etc.
- c) Lack of due diligence, as most banks are guided by the disclosures made by the borrowers and do not make independent inquiries.
- d) Withholding of vital information by Consortium leaders/ member banks in regard to the account, which could have significant impact on the other banks' interests.
- e) Non-acceptance of inter-se agreements, which form the backbone of any Consortium Arrangement, by all member banks, or unilateral amendments/ additions/ deletions by some member banks, or incorporation of all terms and conditions/ responsibilities of every member bank, making the agreements unwieldy.
- f) Unhealthy competition amongst member banks to grab more business, offer finer rates of interest, margin concessions, processing charges etc.
- g) Sanction of Ad-hoc limits by non-member banks without the knowledge and approvals of Consortium, which leads to over financing resulting in diversion.
- h) Above all, the complete absence of any mandated or self-imposed timelines for taking decisions on several issues/ requests, with the delay invariably affecting the borrowers detrimentally.

6. On the other hand, in case of Multiple Banking, there is hardly any credit discipline among the stakeholders.

7. With view to inculcate the required financial discipline in the borrowers and enable financing banks to take informed decision on credit matters, the policy on JLA was evolved by DFS in May, 2012 and circulated among Public Sector Banks/Financial Institutions.

8. To further streamline the ground rules governing JLA to improve the performance of joint lending, Govt. of India, Ministry of Finance, Dept. of Financial Services, constituted a Group, vide Order no. 7/129/2012-BOA dated 28th August, 2012 under the Chairmanship of Shri Diwakar Gupta, Managing Director and Chief Financial Officer, State Bank of India. The other members of the Group were the Executive Directors of Bank of Baroda, Bank of India, Canara Bank, Central Bank of India, Punjab National Bank, and Union Bank of India, and the CEO of Indian Banks' Association.

9. The Group submitted the Draft Report to the Ministry of Finance (GoI) containing the framework drawn up by the group, for effective implementation of lending under JLA arrangement. The report has been examined by the DFS and accordingly detailed and modified draft guidelines on the JLA policy, incorporating the suggestions of this Group are being issued.

POLICY ON JOINT LENDING ARRANGEMENT

Formation of the Joint Lending Arrangement (JLA)

10. The scheme shall be applicable to all lending arrangements, with a single borrower with aggregate credit limits (both fund based and non-fund based) of Rs.150 crore and above involving more than one Public Sector Bank. All non-investment grade borrowers (ECR below BBB or equivalent), irrespective of the amount of exposure.

11. Banks / consortia should treat borrowers having multi-division / multi-product companies as one single unit, unless there is more than one published balance sheet. Similarly, in the cases of merger, the merged units should be treated as a single unit. In case of split, the separated units should be treated as separate borrowal accounts provided there is more than one published balance sheet.

12. To keep JLA size manageable, the minimum share of a member must be 10% of the aggregate working capital limits for aggregate working capital exposures (FB & NFB) under Rs. 1,000 crores,. For working capital exposures of Rs. 1,000 crores and above, the minimum participation in the working capital JLA should be at least Rs. 100 crores.

13. Banks participating in term loans extended to a borrower should normally also provide working capital finance. However, if so warranted, other banks may also provide working capital finance, subject to compliance with other conditions contained in these guidelines. To that extent, the working capital JLAs can be distinct and separate from term lending syndications / arrangements.

14. In case of large projects, often, the size of the funding requirement as term loans would necessitate joint financing by more than one bank under syndication arrangements. In such cases, participating banks may, for the purpose of their own

assessment, refer to the appraisal report prepared by the lead bank / Sub-committee or have the project appraised jointly.

15. While sanctioning credit facilities to the borrower by the JLA members / multiple bankers, credit report on the borrower from various Credit Information Companies like CIBIL has to be perused without fail.

Applicability of JLA

16. **New Borrowers**-Lending under joint arrangement shall be mandatory for Public Sector Banks for borrowers falling under the above mentioned criteria by way of term loan, working capital and non-fund based facilities, from multiple banks. The Bank from which the borrower has sought the maximum credit, or any other Bank as mutually agreed by Member Banks, will be the designated Lead Bank for the JLA.

17. **Existing Borrowers**- In case of borrowers presently enjoying aggregate limits falling under the above mentioned criteria under multiple banking arrangement the Bank which has extended the highest credit, or any other Bank as mutually agreed by Member Banks, would become the leader of the JLA and take initiative for holding the meeting of all financing banks within **3 (three) months** from the date of adoption of the policy by the Banks and ensure that a formal JLA lending arrangement is established within **3 (three) months**, thereafter. Thus, all such exposures shall be brought under JLA **within 6 months** of the adoption of the policy. Further, in the case of borrowal accounts which do not fall under the above mentioned criteria, the concerned banks will be free to enter into a JLA at their option.

18. **Existing borrowers seeking enhanced limits**- In case of borrowers enjoying aggregate credit limits below the threshold fixed from more than one bank, where further enhancement would take the aggregate limits to cross the threshold limit, should be considered jointly by the financing banks concerned and the bank, which takes up the largest share of the limits, or any other Bank as mutually agreed by Member Banks, shall be deemed to be the leader of the formalized JLA.

19. **Existing Consortium Arrangements**- The borrowers who are already having formal Consortium Arrangement with limits below the defined threshold limit may continue under such Consortium Arrangement.

The lead bank in a syndicate should not reduce or downsell its share for a minimum period of two years without the consent of other co-lenders.

Institutions to be included in JLA

20. It would be open to a borrower to choose his bank/(s) for obtaining credit facilities as also for the bank/(s) to take a credit decision on the borrower.

21. In case of borrowers enjoying credit facilities under multiple banking arrangements with both public and private sector banks, the public sector banks should form a joint lending group and invite the private sector banks also to participate subject to the terms and conditions spelt out in this policy and in case of reluctance, the public

sector banks may go ahead and form joint lending group on their own amongst themselves.

22. In case of borrower availing term loan from All India Financial Institution either singly or jointly with bank(s) the said AFI shall be inducted as a member of joint lending group and be subjected to the mandatory ground rules governing joint lending.

Terms and Conditions of Operations of JLA

23. The ceilings on a bank exposure to a single borrower or to a 'group' of borrowers will continue to be in force, as hitherto, and banks shall not exceed the prudential exposure limits applicable to them, without the necessary prior approvals.

24. Sub-committee-

It is felt that one basic requirement to make lending under JLA effective is to ensure that the norms applicable to JLA are accepted by all the member banks and the borrowers, in a timely manner. Given the diversity of the financing banks, a mechanism to force a consensus on the issues is necessary. On the other hand, at times it may be difficult on the part of the borrower to run from bank to bank to get certain tasks done, such as obtaining NOC, etc. Accordingly, it is proposed that

a) A Sub-committee, comprising at least two member banks having a combined exposure of not less than 50% of the total exposure should be formed, for deciding all matters relating to appraisal, sharing of income and monitoring of the accounts, at the time of initial creation/ formation of the JLA. (specific tasks / responsibilities enumerated in the policy elsewhere).

b) The existence and roles of Sub-committee should be formalized in the inter-se agreement at the time of documentation.

c) Decision making in the Sub-committee will be by consensus. The decisions of the Sub-committee will be binding on all JLA members.

d) The officials nominated by the member-banks to participate in the Sub-committee have to be of a fairly senior level, say DGM and above.

e) As decision-making in the Sub-committee will be by consensus, the Sub-committee members would need to take their respective internal approvals before conveying decisions of the Sub-committee.

f) The members of the Sub-committee can arrive at decisions through circulation of relevant note/ document, or meeting in person/ audio conference/ video conference. In fact, the practice of convening JLA meetings by requiring the bank representatives to assemble at (or travel to) a specified time and venue should be discouraged

1 g) Issues referred to the Sub-committee must be decided upon in maximum 30 days (at Sub-committee level 10 days, and at a higher level 20 days).

h) The Sub-committee shall be authorized to issue No Objection Certificate (NOC) on behalf of the JLA for any purpose.

25. Enhancements-

Existing member banks will take care of the additional requirements in proportion to their exposure. If any bank has a difficulty on account of policy issues or exposure ceiling/ prudential norms to take additional exposure, then its share in full or in part may be offered to the other JLA members. If no member bank is in a position to take the share, a new lender willing to take up the enhanced share can be inducted after obtaining NOC from existing member banks. Sub-committee will examine the requirement only if cost over-run is significant.

26. Ad-hoc facility-

To meet the emergent credit requirement of the borrower, an upfront ad hoc facility of maximum 10% of the FB + NFB limits will be sanctioned at the time of sanction/ renewal of limits itself. Documentation will be executed for the exposure including the ad-hoc limit. Ad-hoc limits will be shared by the JLA members in proportion to their sharing pattern. In case of a small adhoc requirement, it can be availed of from one lender within the apportioned share of adhoc limits. Sub-committee will decide on the details and modalities. Sub-committee will examine the requirement if cost overrun is significant. Existing member banks will take care of the additional requirements in proportion to their exposure.

27. Processing Time-

It is necessary that lead bank and member bank(s)/institution(s) ensure that formal joint lending arrangement does not result in delay in credit delivery. The Sub-committee will make all efforts to tie up the Arrangement within 90 days of taking a credit decision regarding the proposal.

Quite often non-availability of data or submission of incorrect data or non-receipt of required financial statements results in banks being not able to take decisions within a stipulated period of time. These data/statements include, among others, audited financial results for the last two / three years, estimated and projected results for the current and subsequent years respectively. More often than not borrowers require an average time of at least six months to obtain audited financial statements. Considering all these aspects as also available technology, the following maximum time-frames are prescribed for formal disposal of loan proposals provided applications/proposals are

received together with required details/information supported by requisite financial and operating statements:

1 (i) For sanction of fresh/ enhanced credit facilities (including Export Credit):

Should not be more than 90 days from the date of applications/ proposals received together with required details / information supported by requisite financial and operating statements by the Lead Bank.

a) Appraisal by the Lead Bank/Sub- committee - 35 days,

b) Circulation of draft appraisal note by the Lead Bank after convening the JLA meeting - 10 days; and

c) Sanction by the member Banks in JLA telescoping with Lead bank/sub-committee proposal - 45 days

1 (ii) For renewal of credit facilities at existing level (including Export Credit):

Should not be more than 45 days from the date of applications/proposals received together with required details/ information supported by requisite financial and operating statements by the Lead Bank.

a) Appraisal by the Lead Bank/Sub-committee - 20 days

b) Circulation of draft appraisal note by the Lead Bank after convening the JLA meeting - 10 days; and

c) Sanction by the member Banks in the Consortium- 15 days

In cases, where banks/JLA are unable to adhere to the recommended maximum time-frames for disposal of loan applications/proposals, borrowers will be free to bring in a new bank or new banks to form/to join a JLA/syndicate. Within **fifteen days** of sanction of any credit facility, such new banks should inform the existing JLA/regular bank/(s) and should not disburse the limit without obtaining 'no objection'. In case such 'no objection' certificate is not received within next **forty five** days, it would be deemed that existing JLA/regular bank/(s) have no objection to the new bank/(s) joining/forming JLA.

28. **Lead Bank Fees-**

The Lead Lender may be permitted to charge a **suitable annual** Fee **on** the Total Borrowing (Fund Based and Non-Fund Based) as compensation for making Joint Lending Arrangements and for hosting meetings of the Joint Lending Group. For various services rendered, lead bank may charge a suitable annual fee to be borne by the borrower. Sub-committee will decide the same.

29. Pricing –

As hitherto, terms and conditions for different categories of credit facilities, **except pricing**, as finalized by the JLA, should be uniformly applied by all member-banks. Thus, it will not be open to any member-bank to waive the penal **interest** or vary the margin stipulated unilaterally.

- a) As hitherto, terms and conditions for different categories of credit facilities, as finalized by the JLA, should be uniformly applied by all member-banks. Thus, it will not be open to any member-bank to waive the **penal interest** or vary the margin stipulated unilaterally.
- b) Equitable sharing of non-fund based business has to be ensured in a ratio similar to that for fund based exposure. Sub-committee will review the sharing of business as well as charges at periodical intervals, say, on monthly basis.
- c) All the member banks will be permitted to charge Processing and Inspection fees as per their Schedule of Fees. Documentation will be common and as such a common Stamp Duty will be payable.
- d) If the borrower has disagreement, he has freedom to substitute bank(s) or form another JLA altogether.
- e) However, in cases of credit facilities extended/to be extended to 'sick' and 'weak' units, banks will be guided by extant guidelines issued/to be issued by Reserve Bank of India.

30.

Asset Classification-

- a) Since the counterparty for all the lenders is the same, status of the borrower across all lenders shall have to be the same i.e. if any account of the borrower turns NPA with any of the JLA lenders, then all the lenders in the JLA will treat the accounts of the borrower as NPA. This will prevent undue leverage in the hands of the borrower and will also incentivize early resolution of any irregularity with all the lenders.
- b) The IRAC status becoming NPA with a lender (s) due to technical reasons, viz., non-submission of stock statements, non-review of facilities, etc. may not arise as the Sub-committee should be the focal agency to address issues of credit administration.

31. **NPA Recovery-**

The JLA will have Common Documentation and Common Asset Classification. In view of this the recovery effort of the JLA will also have to be common and will take a holistic view of the dues of all member banks. Disposal of assets of the borrower for recovery of these dues will be in compliance with Department of Financial Services, Circular number 23/3/2012-DRT dated April 23, 2012, as given in Annexure-1

32. **Documentation and Terms and Conditions of sanction-**

- a) The set of documents under the Joint Lending Arrangement will be designed and circulated by the Indian Banks' Association (IBA). IBA approved JLA Documents should be adopted. The documentation process has to be completed within 15 days of acceptance of sanction.
- b) The Sub-committee will provide a letter of in-principle sanction detailing the terms and conditions including indicative pricing to the borrowers and obtain their concurrence, upfront.
- c) Minimum Rs. 5 lacs to be recovered as the cost for each modification to minimise frequent revision of terms and other conditions - post sanction of facilities. Sub-committee will decide on the finalisation of the modifications within 15 days time after receipt of all required information from the borrower.
- d) In case of any contentious issue, the decision will be taken by member banks having more than 50% share in the exposure to the borrower.

33. **Financing outside the Consortium-**

- a) In the case of borrowers enjoying credit limits from one bank and/or from a JLA/ Multiple lenders, as the case may be, **no other bank shall extend any additional banking facility**, or extend bill limits, guarantees/acceptances, letters of credit, etc., without concurrence of existing single bank/ consortium/multiple bankers.
- b) Similarly in the case of borrowers enjoying credit limits under multiple banking arrangement / consortium, no other bank shall open current account (or any other form of transacting account) without the concurrence of the existing lenders/ consortium. In case any bank opens such account without consent/NOC from the existing lenders, there should be a regulatory provision of penalty on such bank.

34. **Disagreement among lenders in case of stressed assets-**

The decision of the majority of member banks with more than 50% exposure shall prevail.

35. **Exit from Performing Asset-**

While a member-bank may be permitted not to take up its enhanced/incremental share, it cannot be permitted to leave the JLA before expiry of at least two years from the date of its joining the Consortium. An existing member-bank may be permitted to withdraw from the JLA after two years provided other existing member-banks and/or a new bank is willing to take its share by joining the Consortium. However, the first right of refusal will be of the JLA members.

36. **Exit from Stressed / Non-performing Asset-**

Members should not be ordinarily permitted to exit from stressed accounts. Exit may be allowed in exceptional cases, with the approval of all JLA members, at a hair-cut which should be decided by the member banks.

37. **Information sharing-**

The existing monitoring system should be uniformly adopted by all banks/ FIs through periodical submission of

- a) Monthly Select Operational Data (MSOD)
- b) Financial Follow-up Reports (FFR)

On 21st November, 2012, RBI has issued Circular no. RBI/2012-13/304 DBOD.BP.BC.No. 62/21.04.103/2012-13 vide which it has asked all the banks to strictly adhere to the instructions regarding sharing of information relating to credit, derivatives and unhedged foreign currency exposures among themselves and put in place an effective mechanism for information sharing by end-December 2012. Any sanction of fresh loans/*ad hoc* loans/renewal of loans to new/existing borrowers with effect from January 1, 2013 should be done only after obtaining/sharing necessary information.

Non-adherence to the above instructions by banks would be viewed seriously by the Reserve Bank and they would be liable to action, including imposition of penalty, wherever considered appropriate.

38. Any breach of the covenants or discipline stipulated for JLA/ multiple lending will be treated as an event of default. Breaches will include:

- Any attempt by a borrower to raise funds without the knowledge of the existing lenders
- Opening of any type of accounts or routing transactions through banks other than the existing lenders
- The Sub-committee will decide what constitutes an event of default

39. **Forward Contracts & Derivatives-**

- a) All PSBs would ensure that export Credit to any borrower under JLA will be extended only by those Banks that have extended Working Capital Loans to the borrower. **The lending banks will ensure that RBI's guidelines in respect of pre-shipment credits are meticulously adhered to.**

- b) All PSBs would ensure that they would share data relating to sanction of any Forward Contract and Derivatives with all member Banks in the JLA.
- c) The Lead Bank of the JLA would obtain on quarterly basis, a certificate from the Chartered Accountants of the concerned corporate stating and certifying all the outstanding Forward and Derivative Contracts across the banking system and that the same has not exceeded the underlying exposure.

Annexure-1
No. 23/3/2012-DRT
Ministry of Finance
Department of Financial Services
Jeevan Deep Building,
Parliament Street, New Delhi,

Dated the 23rd April, 2012

To

The CMDs/CEOs of all PSBs and FIs.

Subject: Sale of immovable secured assets through private treaty.

Sir,

I am directed to say that the Security Interest (Enforcement) Rules, 2002 provide for selling of the whole or any part of the immovable secured asset by obtaining quotations/ inviting tenders/by holding public auction or by private treaty. Instances have come to the notice of this Ministry where the provision of private treaty has been misused. It has further been noticed that the immovable secured assets have been sold through private treaty for an amount lower than the assessed value/ reserve price.

2. The matter has been considered in this Ministry and it is felt that alternative of private treaty should generally be resorted to only the other more transparent methods of obtaining quotations / inviting tenders or public auction etc. have not been successful. It would also be desirable to prescribe a minimum number of attempts of sale of immovable secured assets through other more transparent methods depending upon the assessed value / reserve price fixed for the secured assets. It is suggested that at least one such attempt is prescribed for assets with a value up to Rs. One crore and two such attempts for value more than Rs. one crore. However, the alternative of private treaty may be considered without resorting to other methods if all the dues of the bank/ banks in the case are being fully recovered.

3. Further, where the dues of the banks) are not being fully recovered and the amount recoverable through sale in private treaty is less than the assessed value/ reserve price, the approval of one level above the authority competent to enter into the private treaty should invariably be obtained. The banks may, if considered appropriate, constitute a committee of officers including one GM level officer from the Head/Corporate Office of the Bank to consider such issues.

3. You are requested to consider the above suggestion and appropriate instructions/ guidelines within this broad framework may be finalised and issued immediately to all Branches. Please confirm action taken accordingly.

Yours faithfully,

(V K Chopra)

Deputy Secretary to the Government of India
Tele No. 23748738

