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Policy on Customer Protection – Limiting Liability of Customers in Unauthorised Electronic Banking Transactions

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This policy is reviewed and approved by:

No	Working Unit	Name
1.	General Manager and Country Head - India	Mohit Varma
2.	CFO - India	Vikas Golyan
3.	CRO - India	Swati Bhawe
4.	Head - Compliance	Amrik Singh
5.	Head- HR	Yusuf Cementwala
6.	Head- Treasury	Chetan Shenoy
7.	Head - Operations	Rahul Sanghvi
8.	Head - Transaction Banking & FI	Anish Verma
9.	Head - Corporate Banking	Bharat Pania
10.	Head - IT	Shridhar Chary

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I. PRELIMINARY

1. Introduction

With the increased thrust on financial inclusion and customer protection and considering the recent surge in customer grievances relating to unauthorised transactions resulting in debits to customer's accounts, the criteria for determining the customer liability in these circumstances have been reviewed by RBI and they have advised revised directions vide their circular DBR.No.Leg.BC.78/09.07.005/2017-18 dated 06-July-2017.

2. Purpose

Presently MBI, Mumbai has very few accounts and negligible number of clients have been provided with Internet Banking facility for 'viewing' their accounts. NO online transactions are permitted through Internet Banking platform. Hence the chances of online fraud is almost NIL. However, to align with RBI guidelines this policy is put in place.

3. Scope and Application

This policy is applicable to all employees of MBI India in connection with their activities with respect to the adherence of the points mentioned in this document.

4. Acknowledgement

This policy is acknowledge by MANCO (MBI)

5. Owner

Branch Operations MBI

II. GENERAL REQUIREMENTS

1. Electronic Banking Platform:

RBI has divided the electronic banking transactions into two categories:

- (i) Remote/ online payment transactions (transactions that do not require physical payment instruments to be presented at the point of transactions e.g. internet banking, mobile banking, card not present (CNP) transactions), Pre-paid Payment Instruments (PPI), and
- (ii) Face-to-face/ proximity payment transactions (transactions which require the physical payment instrument such as a card or mobile phone to be present at the point of transaction e.g. ATM, POS, etc.)

2. Strengthening of systems and procedures

Bank should put in place –

- appropriate systems and procedures to ensure safety and security of electronic banking transactions carried out by customers;
- robust and dynamic fraud detection and prevention mechanism;
- mechanism to assess the risks (for example, gaps in the bank's existing systems) resulting from unauthorised transactions and measure the liabilities arising out of such events;
- appropriate measures to mitigate the risks and protect themselves against the liabilities arising therefrom; and

III. SPECIFIC REQUIREMENT

1. Reporting of unauthorised transactions by customers:

The customers must be advised to notify the bank of any unauthorised transaction at the earliest after the occurrence of such transaction as the longer the time taken to notify the bank, the higher will be the risk of loss to the bank/ customer.

2. Limited Liability of a Customer:

(a) Zero Liability of a Customer:

A customer's entitlement to zero liability shall arise where the unauthorised transaction occurs in the following events:

- (i) Contributory fraud/ negligence/ deficiency on the part of the bank (irrespective of whether or not the transaction is reported by the customer).
- (ii) Third party breach where the deficiency lies neither with the bank nor with the customer but lies elsewhere in the system, and the customer notifies the bank within three working days of receiving the communication from the bank regarding the unauthorised transaction.

(b) Limited Liability of a Customer:

A customer shall be liable for the loss occurring due to unauthorised transactions in the following cases:

- (i) In cases where the loss is due to negligence by a customer, such as where he has shared the payment credentials, the customer will bear the entire loss until he reports the unauthorised transaction to the bank. Any loss occurring after the reporting of the unauthorised transaction shall be borne by the bank.
- (ii) In cases where the responsibility for the unauthorised electronic banking transaction lies neither with the bank nor with the customer, but lies elsewhere in the system and when there is a delay (of four to seven working days after receiving the communication from the bank) on the part of the customer in notifying the bank of such a transaction, the per transaction liability of the customer shall be limited to the transaction value or the amount mentioned in Table 1, whichever is lower.

Table 1 - Maximum Liability of a Customer

Type of Account	Maximum Liability (₹)
▪ BSBD accounts	5,000
▪ All other SB accounts ▪ Current / Cash Credit / OD accounts of MSMEs ▪ Current Accounts/Cash Credit/OD accounts of individuals with annual average balance (during 365 days preceding the incidence of fraud) / limit up to ₹ 25 lakhs	10,000
▪ All other current / cash credit / OD accounts	25,000

Further, if the delay in reporting is beyond seven working days, the customer liability shall be determined as per the bank's Board approved policy. Banks shall provide the details of their policy in regard to customers' liability formulated in pursuance of these directions at the time of opening the accounts. Banks shall also display their approved policy in public domain for wider dissemination. The existing customers must also be individually informed about the bank's policy.

Overall liability of the customer in third party breaches, as detailed in above paragraphs, where the deficiency lies neither with the bank nor with the customer but lies elsewhere in the system, is summarised in the table 2 below:

Table 2 – Summary of Customer's Liability

Time taken to report the fraudulent transaction from the date of receiving the communication	Customer's Liability (₹)
Within 3 working days	Zero liability
Within 4 to 7 working days	The transaction value or the amount mentioned in Table 1, whichever is lower
Beyond 7 working days	₹ 100,000 or 50% of the loss whichever is less.

The number of working days mentioned in Table 2 above shall be counted as per the working schedule of the home branch of the customer excluding the date of receiving the communication.

3. Reversal Timeline for Zero Liability/ Limited Liability of customer:

On being notified by the customer, the bank shall credit (shadow reversal) the amount involved in the unauthorised electronic transaction to the customer's account within 10 working days from the date of such notification by the customer (without waiting for settlement of insurance claim, if any). The credit shall be value dated to be as of the date of the unauthorised transaction.

The burden of proving customer liability in case of unauthorised electronic banking transactions shall lie on the bank.

Bank shall ensure that:

(i) a complaint is resolved and liability of the customer, if any, established within such time, as may be specified in the bank's Board approved policy, but not exceeding 90 days from the date of receipt of the complaint, and the customer is compensated as per provisions of paragraphs above; and

(ii) where it is unable to resolve the complaint or determine the customer liability, if any, within 90 days, the compensation as prescribed in paragraphs above is paid to the customer.

4. Reporting & Monitoring:

All cases of such fraudulent transactions should be reported to the MANCO immediately. MANCO should review the cases and take appropriate measures to improve the systems and procedures to avoid such frauds. All such frauds should be reviewed by the bank's internal auditors.

3. EFFECTIVE ISSUE DATE

This policy is hereby conveyed, so that it can be implemented and effective from the date of issue.