

## **“Important Information and Extract of relevant Acts” -**

Extract of Section referred in Declaration & Undertaking are as follows:

Section 19A of the State Bank of India Act, 1955, introduced through the SBI (Amendment) Act, 2010, stipulated eligibility as well as ‘fit and proper’ status for elected directors, in terms of which:

- (i) elected director should have special knowledge or experience in agricultural and rural economy, banking, co-operation, economics, finance, law, small scale industry, and/or should represent the interests of depositors or farmers, workers and artisans; and,
- (ii) no person shall be eligible to be elected as Director, unless he has ‘fit and proper’ status, based upon track record, integrity and such other criteria, which the Reserve Bank may notify.

RBI, vide its notification no. DBOD.No.BC. 53/29.39.001/2011-12 dated 21.11.2011, on ‘Fit & Proper’ criteria for elected directors on the Board of SBI, has notified that:

- (i) a ‘Nomination Committee’ of minimum three independent/non-executive Directors, with one as Chairman, is required to be constituted by the Bank’s Board;
- (ii) the Committee should carry out a process of due diligence to determine the ‘fit and proper’ status of the candidates submitting nomination forms/ the person to be elected as Director under Section 19(c) of the SBI Act, 1955, after obtaining necessary information/ declaration (as per stipulated format) based on the following criteria:
  - (a) Educational qualification
  - (b) Experience and field of expertise
  - (c) Track record and integrity
  - (d) A candidate coming to the adverse notice of any authority/regulatory agency or insolvency or default of any loan from any bank or financial

institution would make the candidate 'unfit and improper' to be a Director on the Board of a Bank.

- (iii) the Board should ensure, in public interest, that the elected Directors execute the Deed of Covenants after the election and also every year as on 31<sup>st</sup> March.

RBI Notification No. DBR. Appt. BC. No. 38/29.39.001/2016-17 dated 24.11.2016 notifies that Special knowledge or practical experience useful to banking companies in the matters or areas relating to (i) information Technology (ii) Payment & Settlement Systems (iii) Human Resources (iv) Risk Management and (v) Business Management would be useful to a banking company, State Bank of India, Subsidiary Bank and a corresponding new bank as the case may be.

### **Section 22 of SBI Act, 1955: Disqualifications for directorship of Central Board**

(1) No person shall be qualified to be a director of the Central Board or a member of a Local Board or of a Local Committee if-

- (a) he holds the office of director, provisional director, promoter, agent or manager of any banking company already established or advertised as about to be established; or
- (b) he is a salaried officer of Government not specially authorised by the Central Government to be a director or member; or
- (c) he has been removed or dismissed from the service of Government on a charge of corruption or bribery; or
- (d) he holds any office of profit under the State Bank other than the office of chairman, [managing director (chief general manager) or legal or technical adviser]; or
- (da) in the case of a director appointed under clause (ca) or clause (cb) Section 19-
  - (i) he is not serving in the State Bank or has not been serving in it for a continuous period of at least five years; and
  - (ii) he is of such age that there is a likelihood of his attaining the age of superannuation during his term of office as a director; or]
- (e) he is or at any time has been adjudicated an insolvent or has suspended payment of his debts or has compounded with his creditors; or
- (f) he is declared lunatic or becomes of unsound mind; or
- (g) he is or has been convicted of any offence involving moral turpitude; or

- (h) **in the case of an elected director, he is not registered as a holder in his own right of unencumbered shares in the State Bank, either as sole holder or as first named holder when jointly held, of a nominal value of at least five thousand rupees:**

Provided that in the case of a director appointed under clause (ca) or clause (cb) of section 19, the disqualification mentioned in clause (d) shall not operate;

- (2) No two persons who are partners of the same firm or are directors of the same private company or one of whom is an agent of the other or holds a power of attorney from a firm of which the other is a partner may be directors of the Central Board or members of the same Local Board or Local Committee at the same time.

Guideline for appointment of Part Time Non-Official Directors (NOD) issued by Government of India on 22.04.2015, though not applicable to election of directors, may also be considered by the Nomination Committee of the Bank.

### **Section 184 of the Companies Act, 2013:**

Disclosure of interest by director.— (1) Every director shall at the first meeting of the Board in which he participates as a director and thereafter at the first meeting of the Board in every financial year or whenever there is any change in the disclosures already made, then at the first Board meeting held after such change, disclose his concern or interest in any company or companies or bodies corporate, firms, or other association of individuals which shall include the shareholding, in such manner as may be prescribed.

- (2) Every director of a company who is in any way, whether directly or indirectly, concerned or interested in a contract or arrangement or proposed contract or arrangement entered into or to be entered into—
- (a) with a body corporate in which such director or such director in association with any other director, holds more than two per cent. shareholding of that body corporate, or is a promoter, manager, Chief Executive Officer of that body corporate; or
- (b) with a firm or other entity in which, such director is a partner, owner or member, as the case may be,

shall disclose the nature of his concern or interest at the meeting of the Board in which the contract or arrangement is discussed and shall not participate in such meeting:

Provided that where any director who is not so concerned or interested at the time of entering into such contract or arrangement, he shall, if he becomes concerned or interested after the contract or arrangement is entered into, disclose his concern or interest forthwith when he becomes concerned or interested or at the first meeting of the Board held after he becomes so concerned or interested.

- (3) A contract or arrangement entered into by the company without disclosure under sub-section (2) or with participation by a director who is concerned or interested in any way, directly or indirectly, in the contract or arrangement, shall be voidable at the option of the company.
- (4) If a director of the company contravenes the provisions of sub-section (1) or subsection (2), such director shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees, or with both.
- (5) Nothing in this section—
  - (a) shall be taken to prejudice the operation of any rule of law restricting a director of a company from having any concern or interest in any contract or arrangement with the company;
  - (b) shall apply to any contract or arrangement entered into or to be entered into between two companies where any of the directors of the one company or two or more of them together holds or hold not more than two per cent. of the paid-up share capital in the other company.

### **Section 5(ne) of the Banking Regulation Act, 1949**

"substantial interest". –

- (i) in relation to a company, means the holding of a beneficial interest by an individual or his spouse or minor child, whether singly or taken together, in the shares thereof, the amount paid up on which exceeds five lakhs of rupees or ten percent of the paid-up capital of the company, whichever is less;

- (ii) in relation to a firm, means the beneficial interest held therein by an individual or his spouse or minor child, whether singly or taken together, which represents more than ten per cent of the total capital subscribed by all the partners of the said firm;

**Regulation 20 of Banking Regulations Act, 1949 - Restrictions on loans and advances:**

- (1) Notwithstanding anything to the contrary contained in section 77 of the Companies Act, 1956 (1 of 1956), no banking company shall,-
  - (a) grant any loans or advances on the security of its own shares, or-
  - (b) enter into any commitment for granting any loan or advance to or on behalf of-
    - (i) any of its Directors,
    - (ii) any firm in which any of its Directors is interested as partner, manager, employee or guarantor, or
    - (iii) any company [not being a subsidiary of the banking company or a company registered under section 25 of the Companies Act, 1956 (1 of 1956), or a Government company] of which [or the subsidiary or the holding company of which] any of the Directors of the banking company is a Director, Managing agent, manager, employee or guarantor or in which he holds substantial interest, or
    - (iv) any individual in respect of whom any of its Directors is a partner or guarantor.
- (2) Where any loan or advance granted by a banking company is such that a commitment for granting it could not have been made if clause (b) of sub-section (1) had been in force on the date on which the loan or advance was made, or is granted by a banking company after the commencement of section 5 of the Banking Laws (Amendment) Act, 1968 (58 of 1968), but in pursuance of a commitment entered into before such commencement, steps shall be taken to recover the amounts due to the banking company on account of the loan, or advance together with interest, if any, due thereon within the period stipulated at the time of the grant of the loan or advance, or where no such period has been stipulated, before the expiry of one year from the commencement of the said section 5:

“PROVIDED that the Reserve Bank may, in any case, on an application in writing made to it by the banking company in this behalf, extend the period for the recovery of the loan or advance until such date, not being a date Substituted by Act 58 of 1968, Section 5, for section 20 w.e.f. 1-2-1969 Inserted by Act 1 of 1984, w.e.f. 15-2-1984 beyond the period of three years from the commencement of the said section, and subject to such terms and conditions, as the Reserve Bank may deem fit:

PROVIDED FURTHER that this sub-section shall not apply if and when the Director concerned vacates the office of the Director of the banking company, whether by death, retirement, resignation or otherwise.”

- (3) No loan or advance, referred to in sub-section (2), or any part thereof shall be remitted without the previous approval of the Reserve Bank, and any remission without such approval shall be void and of no effect.
- (4) Where any loan or advance referred to in sub-section (2), payable by any person, has not been repaid to the banking company within the period specified in that subsection, then, such person shall, if he is a Director of such banking company on the date of the expiry of the said period, be deemed to have vacated his office as such on the said date.

Explanation.-- In this section-

- (a) "loans or advance" shall not include any transaction which the Reserve Bank may, having regard to the nature of the transaction, the period within which, and the manner and circumstances in which, any amount due on account of the transaction is likely to be realised, the interest of the depositors and other relevant considerations, specify by general or special order as not being a loan or advance for the purpose of this section;
  - (b) "Director" include a member of any board or committee in India constituted by a banking company for the purpose of Managing, or for the purpose of advising it in regard to the management of, all or any of its affairs.
- (5) If any question arises whether any transaction is a loan or advance for the purposes of this section, it shall be referred to the Reserve Bank, whose decision thereon shall be final.]

## **Section 2(77) of Companies Act, 2013:**

“relative”, with reference to any person, means any one who is related to another, if—

- (i) they are members of a Hindu Undivided Family;
- (ii) they are husband and wife; or
- (ii) one person is related to the other in such manner as may be prescribed;

Rule 4 of the Companies (Specification of definitions details) Rules, 2014 reads as follows:

1. Father: Provided that the term “Father” includes step-father.
2. Mother: Provided that the term “Mother” includes step-mother.
3. Son: Provided that the term “Son” includes step-son.
4. Son’s Wife.
5. Daughter.
6. Daughter’s husband.
7. Brother: Provided that the term “Brother” includes step-brother.
8. Sister: Provided that the term “Sister” includes step-sister.

### **164. Disqualifications for appointment of director—**

- (I) A person shall not be eligible for appointment as a director of a company, if
- (a) he is of unsound mind and stands so declared by a competent court;
  - (b) he is an undischarged insolvent;
  - (c) he has applied to be adjudicated as an insolvent and his application is pending;
  - (d) he has been convicted by a court of any offence, whether involving moral turpitude or otherwise, and sentenced in respect thereof to imprisonment for not less than six months and a period of five years has not elapsed from the date of expiry of the sentence:

Provided that if a person has been convicted of any offence and sentenced in respect thereof to imprisonment for a period of seven years or more, he shall not be eligible to be appointed as a director in any company;

- (e) an order disqualifying him for appointment as a director has been passed by a court or Tribunal and the order is in force;

- (f) he has not paid any calls in respect of any shares of the company held by him, whether alone or jointly with others, and six months have elapsed from the last day fixed for the payment of the call;
- (g) he has been convicted of the offence dealing with related party transactions under section 188 at any time during the last preceding five years; or
- (h) he has not complied with sub-section (3) of section 152.

(2) No person who is or has been a director of a company which—

- (a) has not filed financial statements or annual returns for any continuous period of three financial years; or
- (b) has failed to repay the deposits accepted by it or pay interest thereon or to redeem any debentures on the due date or pay interest due thereon or pay any dividend declared and such failure to pay or redeem continues for one year or more,

shall be eligible to be re-appointed as a director of that company or appointed in other company for a period of five years from the date on which the said company fails to do so.

(3) A private company may by its articles provide for any disqualifications for appointment as a director in addition to those specified in sub-sections (1) and (2):

Provided that the disqualifications referred to in clauses (d), (e) and (g) of sub-section (1) shall not take effect—

- (i) for thirty days from the date of conviction or order of disqualification;
- (ii) where an appeal or petition is preferred within thirty days as aforesaid against the conviction resulting in sentence or order, until expiry of seven days from the date on which such appeal or petition is disposed off; or
- (iii) where any further appeal or petition is preferred against order or sentence within seven days, until such further appeal or petition is disposed of.