NRB Unified Directives for Class A, B and C Licensed Institutions

Directive 12

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Controlled English translation

Provisions Relating to Credit Information and Blacklisting

Preamble

Controlled English translation

As it is desirable, for the purpose of making credit analysis of Class “A”, “B” and “C” licensed institutions more effective, to regularise and systematise the credit-information arrangement and the preparation of a blacklist for banking purposes, this Directive is issued, for the purpose of Section 79 of the Nepal Rastra Bank Act, 2058, in exercise of the authority conferred by Section 79 of the same Act and Regulation 7 of the Nepal Rastra Bank Credit Information Regulations, 2079.

Source Page: 100

1 Provisions Relating to the Credit Information Centre

Controlled English translation

Credit Information Centre Ltd., established and operating under the Companies Act, 2063, has been designated as the Credit Information Centre pursuant to Section 79 of the Nepal Rastra Bank Act, 2058 and Regulation 3 of the Nepal Rastra Bank Credit Information Regulations, 2079.

2 Information Relating to Borrowers (Customers) to Be Sent to the Centre

Controlled English translation

(1) A licensed institution shall update in the Centre’s online system, in the prescribed format, the following information relating to credit within 15 days after the end of the month:
(a) all credit/facilities approved by it, within 7 days after disbursement of the credit;
(b) all credit/facilities overdue by more than 90 days, within 15 days after the end of the month.

(2) Thereafter, the above information shall be sent to the Centre within 15 days from the end of each quarter of every fiscal year until the credit is repaid. Where any subsequent change occurs in the information sent to the Centre, or where the credit is repaid, or where the term, repayment schedule or loan terms are changed, or the maturity date is extended or the loan is rescheduled, information thereof shall mandatorily be made available to the Centre within 15 days.

3 Credit Information to Be Obtained Mandatorily

Controlled English translation

(1) Before disbursing credit, renewing an existing credit, or restructuring or rescheduling a credit, credit information concerning the borrower/customer shall mandatorily be obtained from the Centre.
However, this requirement shall not be mandatory for credit secured by gold/silver, fixed-deposit receipts or Government securities, Credit Card credit up to NPR 300,000, and credit up to NPR 500,000 approved through electronic means after completion of a simplified process.

(2) When providing credit/facility to any customer/borrower, once credit information has been obtained from the Centre pursuant to sub-clause (1), it shall not be mandatory to obtain information from any other body.

(3) For credit information obtained from the Centre pursuant to this clause, the licensed institution shall pay to the Centre the credit-information service charge prescribed by the Centre.

(4) Before opening any account, a licensed institution shall open the account only after ascertaining, on the basis of the records of the Credit Information Centre, that the depositor is not blacklisted. The institution shall not charge the customer any fee for this purpose.

4 Process for Inclusion in the Blacklist

Controlled English translation

(1) A licensed institution shall recommend for blacklisting, under the provisions relating to blacklisting, credit amounts of NPR 1 million or more. Nothing in this provision shall be deemed to prevent the concerned licensed institution from recommending to the Credit Information Centre for blacklisting a borrower who fails to repay any amount of credit, advance or facility obtained from a licensed institution, irrespective of the amount.

(2) Upon receiving from the concerned bank a recommendation for inclusion in the blacklist, the Credit Information Centre shall verify the identity particulars (official identity documents obtained at the time of account opening) and include the name in the blacklist within five days. Action for removal of the name from the blacklist shall be taken in accordance with the prevailing policy and procedural arrangements.

5 Classification of Borrowers

Controlled English translation

Borrowers who have obtained loans from licensed institutions and failed to repay them shall be classified as follows:

(1) Willful Defaulters:
(a) borrowers who, even up to one year after the due date for payment has passed, have not come into contact with the bank, have absconded or disappeared without repaying the loan, have not initiated the process of restructuring or rescheduling the loan, and have not expressed a commitment to pay;
(b) borrowers who create a situation in which collateral cannot be sold, or refuse to sell/allow sale, even though the collateral is capable of being sold to clear the institution's outstanding credit;
(c) borrowers operating more than one business who do not use returns earned and other assets held by them for repayment of the loan;
(d) borrowers who use the loan for a purpose other than the project for which it was obtained (Diversion of Fund), use income earned from the business for other purposes instead of repayment of the loan (Siphoning off), create other assets, make excessive use of inter-company transactions, and channel resources to other firms/companies through related counterpart companies;
(e) borrowers who obtain credit with an intention to conceal their own involvement by using the names of other persons or third parties, such as labourers or employees, in a project or business under their control;
(f) borrowers who, after the credit becomes overdue, fail to provide additional security or a personal guarantee when required by the institution;
(g) borrowers who knowingly provide false particulars concerning collateral or the business;
(h) borrowers found to have misappropriated collateral related to the loan;
(i) borrowers who obtained credit by colluding with, inducing or engaging in other unlawful transactions with employees of the lending institution and who provide excuses for non-payment; and

(j) investors who, through incorrect analysis of the financial, technical, managerial, demand, supply or market aspects of the project, unrealistically increase the cost of capital (Overcapitalization).

(2) Non-willful Defaulters:
(a) borrowers who, despite intending to repay the loan, are unable to repay because the business has incurred losses or become distressed due to circumstances beyond their control, such as an adverse economic, commercial or industrial situation arising in the country due to conflict or other adverse external circumstances; and
(b) borrowers who, although unable to repay within the due period, remain in contact with the institution from which the loan was obtained, complete the credit restructuring or rescheduling process and express a commitment to repay in a manner evidencing genuine effort.

6 Restriction on Granting Credit by Licensed Institutions to Blacklisted Borrowers

Controlled English translation

A licensed institution shall not grant any new credit/facility, renew any credit/facility, grant additional credit/facility, disburse the remaining instalment of a credit granted on an instalment basis, or accept a guarantee in favour of any person, firm, company or organised institution included in the blacklist pursuant to this Directive.

Provided that:
(a) nothing shall prevent restructuring or rescheduling of the existing outstanding credit within the scope of the directives of this Bank. Likewise, this restriction shall not apply for up to six months to a person, firm, company or organised institution related to the group of a blacklisted borrower that regularly repays principal and interest in accordance with the rules. If the concerned licensed institution's Board of Directors considers the borrower's request appropriate, it may grant such borrower a further extension of up to six months. Where a person, firm, company or organised institution related to the group of a blacklisted borrower has failed to repay principal and interest within the prescribed due date and has allowed the credit to become overdue, the credit shall be regularised within a maximum of six months or within the additional period granted by the Board of Directors. Otherwise, even a person, firm, company or organised institution related to such borrower group that regularly repays principal and interest shall not be granted new or additional credit, renewal, or the remaining instalment of credit.
(b) where, in the course of transactions under a credit/debit card, the concerned person falls within the scope of the blacklist after the credit/debit card has already been issued, nothing shall prevent the licensed institution from making payment of amounts spent up to the approved limit of such credit/debit card.
(c) where a licensed institution wishes to grant credit to family members related to persons included in the blacklist, it may grant such credit pursuant to a decision of the Board of Directors. For credit so granted, twice the loan-loss provision required under the prevailing arrangement shall be maintained. However, loan-loss provision exceeding one hundred percent shall not be required for the total credit.
(d) where principal and interest on a credit are regular, nothing shall prevent renewal of such credit.

7 Special Provisions Relating to Collateral Valuers

Controlled English translation

(1) When enlisting a valuer for the purpose of collateral valuation, a licensed bank or financial institution shall enter into an agreement clearly setting out the valuer's duties, responsibilities, authority and accountability.
(2) When valuing property to be received as collateral, a licensed bank or financial institution shall ensure that the valuer has valued the collateral independently, without conflict of interest or prejudice, and on the basis of international standards and good practices.
(3) Where, upon revaluation in the course of auction of collateral by a licensed institution, the amount is less than two-thirds of the amount valued by the collateral valuer, or where collateral of a wrong location/nature has been valued as though it were correct, the licensed institution shall recommend the collateral valuer for inclusion in the blacklist of the

Credit Information Centre.
(4) Where, on auction of collateral by a licensed institution, only an amount less than two-thirds of the valued amount is realised, and the Board of Directors of the concerned licensed institution considers that the result arose from circumstances beyond the valuer's control and no fault is attributable to the valuer, it may decide to pardon the valuer without placing the valuer on the blacklist.
(5) Where the borrower of the credit for which the collateral was valued is removed from the blacklist, the concerned bank or financial institution shall also remove from the blacklist the valuer who valued such collateral.
(6) A licensed institution shall obtain information from the Centre as to whether the valuer is blacklisted and maintain its list of collateral valuers accordingly.

8 Recommendation for Impounding Passport

Controlled English translation

A licensed institution may, through Nepal Rastra Bank, recommend to the Government of Nepal that no new passport be issued to persons included in the blacklist and that an existing passport be impounded. Where a person whose passport has been impounded contacts the bank or financial institution and restructures or reschedules the credit obtained by him/her in a manner acceptable to the institution, a recommendation shall again be made for return of the impounded passport.

9.1 Blacklisting Provisions — Circumstances for Inclusion in the Blacklist

Controlled English translation

Borrowers or persons who have obtained credit/facilities of NPR 1 million or more from licensed institutions shall be included in the blacklist in any one or all of the following circumstances:
(a) where the due date for payment of principal, any instalment of principal, or interest has exceeded one year (including where the due date of only one of the various credits/facilities used by a borrower has expired);
Provided that the Board of Directors of the concerned licensed institution may, considering the circumstances and justification, grant an additional period of up to three months.
(b) where misuse of credit or facility is proved;
For this purpose, "misuse" means that the credit amount obtained for a stated purpose was not used for that purpose, the project is not in operation, or misuse is certified by the supervisor/auditor in the course of inspection and supervision.
(c) where misuse of goods/property kept as security is proved;
(d) where the borrower absconds or remains out of contact for 90 days;
(e) where the borrower becomes insolvent under prevailing law;
(f) where the licensed institution has filed a case against the borrower in court;
(g) where a complaint has been filed before the Debt Recovery Tribunal;
(h) in the case of credit (Forced Loan) created from a non-fund-based facility or credit card, where 90 days have elapsed after accounting for the amount under the loan heading.
However, in the case of a Forced Loan created upon a guarantee claim against a construction entrepreneur, in fiscal year 2081/82 such borrower and the related parties shall be included in the blacklist only where the amount has remained overdue for one year.

9.2 Other Circumstances for Inclusion in the Blacklist

Controlled English translation

Other circumstances for inclusion in the blacklist are:
(a) where a person is convicted by a court of fraudulently obtaining money, or attempting to do so, by using forged cheques, drafts, foreign currency, credit/debit cards, bills or other documents or instruments;
(b) where a person, firm, company or organised institution is proved to have been involved in an offence relating to financial transactions;
(c) where a person, firm, company or institution fails to repay, within the maturity stated in the credit instrument, a credit

obtained from a licensed institution and recovery proceedings have been initiated pursuant to Section 57 of the Bank and Financial Institution Act, 2073;
(d) where the licensed institution is required to write off the credit;
Provided that, where a licensed institution writes off a credit of less than NPR 200,000 under procedures prepared pursuant to Clause 12(3) of Directive No. 2, it may write off the credit without including the related party in the blacklist;
(e) until payment of the cash fine by directors, chief executives or other employees of banks and financial institutions involved in wrongful activities through failure to comply with directions given by this Bank under the Nepal Rastra Bank Act, 2058, the Bank and Financial Institution Act, 2073 and other policy arrangements;
(f) where dishonour of a cheque is certified because the account has no balance or, though there is a balance, it is insufficient;
(g) notwithstanding sufficient balance in the account, where a cheque is returned for any reason other than a situation in which the holder can verify that the particulars stated in the cheque are correct, a construction business institution shall not be included in the blacklist up to the end of Mangsir 2081 merely because the amount payable has not been paid.

9.3 Procedure for Blacklisting upon Dishonour/Return of Cheque

Controlled English translation

(a) Where there is no balance or the balance is insufficient:
1) In accordance with the "Procedure for Certifying Dishonour of Cheque, 2082", where a cheque is dishonoured because there is no balance in the account or the balance is insufficient for payment, the holder shall submit an application to the concerned bank or financial institution to blacklist the account holder who issued the dishonoured cheque and the related parties.
2) An application for blacklisting shall be submitted to the concerned bank or financial institution, together with the original dishonoured cheque, within six months from the date on which dishonour of the cheque was certified.
3) Within five working days of receiving an application to blacklist the person, firm, company or institution that issued the dishonoured cheque (including the person who signed the cheque) and the related parties, the concerned bank or financial institution shall write to the Credit Information Centre.

(b) In circumstances other than insufficiency of funds in the account:
(1) Where payment of a cheque cannot be made because the account holder closed the account before payment of a cheque issued by him/her, the concerned bank or financial institution shall, immediately upon receiving such information, notify the concerned account holder by any means in accordance with prevailing law. If, even after such notification, arrangements are not made for payment of the cheque, the person/firm/company that issued the cheque shall be recommended for blacklisting.
(2) Where payment is not made because the cheque bears an incorrect signature:
(a) where the signature on a cheque issued by a person, firm, company or institution does not match, the bank shall inform the cheque holder in writing that the signature on the cheque does not match;
(b) the cheque holder shall, through the bank/financial institution, inform the person, firm, company or institution issuing the cheque that the signature does not match. If the person, firm, company or institution issuing the cheque does not sign correctly or replace the cheque, the holder may, after two working days from the first presentation of the cheque, inform in writing the bank or financial institution responsible for payment of the cheque;
(c) upon receipt of written information pursuant to paragraph (b), the concerned bank or financial institution shall give the person, firm, company or organised institution issuing the cheque seven days, excluding public holidays, to pay the amount of the cheque. If payment is still not made within that period, then except where the cheque is lost, stolen or issued without authority in accordance with the relevant directives/procedures of this Bank or the Credit Information Centre, the bank or financial institution on which the cheque is drawn shall mandatorily write to the Credit Information Centre to blacklist the person, firm, company or organised institution issuing the cheque. Failure to do so shall result in action against the bank or financial institution under this Directive.
(3) Except where the account holder has placed a "Stop Payment" instruction on reasonable and substantiated grounds that the cheque has been lost, stolen or used without authority, where "Stop Payment" is made after issuance of the

cheque and the cheque is not paid, the person/firm/company/organised institution issuing the cheque shall be given seven days, excluding public holidays, to pay the amount. If payment is still not made within that period, the person or institution issuing the cheque and the related parties shall, upon the holder's request, be referred to the Credit Information Centre for blacklisting.
(4) Where any person, firm, company or organised institution issues a cheque that is returned in any circumstance other than one in which the holder can verify that the particulars stated in the cheque are correct, the concerned bank or financial institution shall give the person, firm, company or organised institution issuing the cheque seven days, excluding public holidays, to pay the cheque amount. If payment is still not made, the issuing person or institution and the related parties shall, upon the holder's request, be referred to the Credit Information Centre for blacklisting.
(5) In the circumstance under sub-clause 2(c), where the cheque is returned without payment, the bank or financial institution on which the cheque is drawn shall certify that the cheque was returned unpaid. Within six months from the date of such certification, the holder shall submit an application to the concerned bank or financial institution to blacklist the person, firm, company or institution issuing the cheque and the related parties.
(6) Within five working days of receiving an application to blacklist the person, firm, company or institution issuing a cheque returned under paragraph (b) (including the person who signed the cheque) and the related parties, the concerned bank or financial institution shall write to the Credit Information Centre.

९(३) नरिन्तर Dishonour/Return of Cheque Procedure — Additional Provisions

Controlled English translation

(c) All the above provisions relating to dishonour of cheques shall also apply to foreign citizens and foreign institutions that maintain accounts with Nepali banks and financial institutions and issue cheques.

(d) A person, firm, company or organised institution that remains blacklisted because of dishonour/return of a cheque shall, until released from such blacklist, not be permitted to carry out any banking transaction other than depositing money into its account.

९(४) Parties to Be Included in the Blacklist

Controlled English translation

Where any one or more of the circumstances for blacklisting arise, the following borrower/person, firm, company or organised institution and related parties shall also be included in the blacklist.

However, where a borrower/person is blacklisted, members of the same household/family of such borrower/person shall not be required to be blacklisted.

(a) the person, firm, company or organised institution that uses the credit/facility or issues a cheque without sufficient balance in the account;
(b) the proprietor of a proprietorship firm;
(c) partners of a partnership firm;
(d) a person, firm, company or organised institution that provides a guarantee for the credit/facility.
However, before a guarantor is blacklisted, the collateral placed as security for the borrower shall be auctioned and recovery made. Where recovery from such security is insufficient and a remaining liability exists, the guarantor shall be given 90 days to pay the remaining liability. Only after expiry of such notice period shall the guarantor be included in the blacklist. Where the written notice cannot be delivered to the concerned person's address, the notice shall be published publicly in a newspaper.
(e) directors of a company/organised institution;
(f) in the case of a private or public company:
1) directors;
2) shareholders owning fifteen percent or more of the shares.

However, where a shareholder holding less than 15 percent of a private or public company has any financial interest in such company, nothing shall prevent banks and financial institutions from including such shareholder in the blacklist.
3) a person, firm, company or organised institution having the right to nominate a director.
However, a representative/employee of a licensed institution representing such licensed institution as a nominee on the Board of Directors of the borrower institution solely in connection with security for credit extended by the licensed institution shall not be required to be blacklisted.
(g) in the case of a joint venture, the firms/companies participating in the joint venture.
However, the other firms/companies participating in the same joint venture shall not be required to be blacklisted merely because one participating firm/company is blacklisted.
(h) where a blacklisted person or institution holds, personally or institutionally, fifteen percent or more of the shares of another firm/company/organised institution, the directors and chief executive of such firm/company/organised institution.
However, in the case of persons, firms or companies within the same group, even where each holds less than 15 percent of the shares, nothing shall prevent the persons, firms or companies within such group from being blacklisted where the aggregate share investment exceeds 15 percent.
(i) where a representative of a blacklisted person or institution is a director in any other non-government firm/company/organised institution, such firm/company/organised institution.
However, such non-government firm/company/organised institution need not be blacklisted where all of the following conditions are fulfilled:
1) the shareholding of such director is less than 15 percent;
2) credit/loan is being repaid regularly; and
3) such representative has resigned from or been released from the directorship.
(j) a person, firm, company or organised institution falling within the same group through interrelationship in accordance with the directives issued by this Bank;
(k) a person, firm, company or organised institution providing a guarantee to the customer.
However, in the case of a guarantee or Partial Guarantee, where the amount of the guarantee is paid, this provision shall not apply in respect of the borrower's other outstanding amounts.
(l) where a borrower dies, persons accepting the borrower's property may be made to assume the liability and the licensed institution may allow such persons a reasonable period of grace. Where a person assuming such liability fails to settle or regularise the amount that would cause such person to be blacklisted, such person shall also be included in the blacklist.
(m) where a loan remains overdue for more than two years and the borrower has nevertheless not been blacklisted, an explanation thereof shall be submitted to the concerned Supervision Department of this Bank within one month after the end of each fiscal year.

९(५) Circumstances in Which Blacklisting Is Not Required

Controlled English translation

Where a borrower, because of any abnormal circumstance beyond the borrower's control as specified below, is unable to pay principal and/or interest on time, and the borrower so requests and the circumstances appear reasonable, the Board of Directors of the concerned licensed institution may decide not to include such customer in the blacklist:
(a) where a natural/disaster event such as flood, landslide or earthquake occurs;
(b) until expiry of the period during which a borrower, prior to being blacklisted, is permitted to use a refinance facility granted on the recommendation of the Loan Recovery/Rehabilitation Committee;
(c) where the Government of Nepal acquires the customer's land or the location from which the business is operated.
However, the grounds for such decision shall be stated clearly.

९(६) Provisions for Removal of Name from the Blacklist

Controlled English translation

In the following circumstances, the concerned licensed institution shall, within three days, recommend to the Centre that the name of a customer included in the blacklist be removed from such list. The Centre shall update the particulars so received within three working days.
1) where the overdue principal and interest of the credit are paid;
2) where the licensed institution accepts non-banking property in a manner that fully recovers the entire liability receivable by it. When accepting such property, an undertaking shall also be obtained from the borrower relinquishing any claim over the property;
3) where a person, firm, company or organised institution blacklisted due to dishonour/return of a cheque pays the cheque amount to the holder, earmarks the amount for payment to the holder, or the concerned bank or financial institution receives information that settlement has been reached under prevailing law;
4) where the Board of Directors of the concerned licensed institution considers it appropriate and extends the credit maturity or restructures/reschedules the credit subject to the directives of this Bank;
5) in the case of a credit involving more than one borrower with individually determined liability limits, where a borrower pays the principal and interest relating to that borrower's share, or the concerned bank or financial institution writes that the credit has been restructured or rescheduled subject to the directives of this Bank, the name of such borrower shall be removed from the blacklist. However, in the case of directors or executive office holders, the applicable period for removal from the blacklist shall remain unchanged;
6) where the Board of Directors of the concerned licensed institution approves acceptance of the credit liability by another person, firm, company or organised institution. When removing the name from the blacklist in this manner, the person, firm, company or organised institution accepting the liability shall be granted a period of up to one year; if the credit/facility is not repaid or regularised within such period, the new person, firm, company or organised institution shall be included in the blacklist;
7) where the bank or financial institution writes that a borrower, after determining the liability in respect of the credit/facility obtained, has paid the amount corresponding to that liability, the Credit Information Centre shall remove the name from the blacklist. However, this provision shall not apply to directors and executive office holders. Nevertheless, in the case of directors and executive office holders, where a bank or financial institution writes that an amount corresponding to the share of liability determined pursuant to an order of the Debt Recovery Tribunal or another concerned judicial body has been paid, nothing shall prevent the Credit Information Centre from removing such person from the blacklist;
8) even where banks and financial institutions have included a Non-willful Defaulter in the blacklist of the Credit Information Centre, if the bank or financial institution considers that, if given some time, the borrower will make efforts and repay the loan within a short period, arrangements may be made to remove the borrower from the blacklist for six months. However, if the loan is not repaid within six months, a recommendation shall mandatorily be made to the Centre to include the borrower in the blacklist.

१० Provisions Relating to Consortium Financing Credit

Controlled English translation

(1) In respect of credit extended under consortium financing, the Lead Bank shall, subject to this Directive, recommend to the Centre inclusion/removal of the concerned borrower in/from the blacklist on the basis of a majority decision, determined according to the credit/investment ratio, at the Consortium Meeting. Upon receipt of such recommendation from the Lead Bank, the Centre shall include/remove the concerned borrower in/from the blacklist.

(2) Where a Lead Bank fails to make a recommendation to the Centre in accordance with this Directive and a participating bank or financial institution has caused the borrower to be blacklisted, the Centre shall remove the concerned borrower from the blacklist only upon receipt of a recommendation from the participating bank or financial institution. In such case, the Lead Bank shall be deemed to have failed to discharge its obligation and action shall be taken pursuant to Section 100 of the Nepal Rastra Bank Act, 2058.

(3) Where a customer has been blacklisted because the customer has used credit/facility under consortium financing as well as separate duplicate credit/facility with a licensed institution, the customer shall remain blacklisted until the remaining

bad credit/facility amount is paid, notwithstanding a recommendation from the consortium meeting for removal from the blacklist.

११ Notice to Be Given Before Inclusion in the Blacklist

Controlled English translation

Before any borrower or any other party related to the borrower is recommended for inclusion in the blacklist, the concerned licensed institution shall give 35 days' notice. The notice shall state that the borrower will be included in the blacklist if the credit is not repaid or regularised within the prescribed period. The notice shall be deemed received if delivered to the concerned person, a member of the person's family, the person's office, or the concerned institution, or if published in a national-level newspaper.

१२ Provision Relating to New Credit after Removal from Blacklist

Controlled English translation

Where a bank or financial institution has caused a defaulting borrower to be blacklisted by the Credit Information Centre and the borrower is subsequently removed from the blacklist after repayment of the credit, new credit shall not be prohibited merely because the borrower's name appears in the historical blacklist record. Where a bank or financial institution's credit policy contains a provision prohibiting new credit for three years merely because the name remains in the blacklist record after removal from the Credit Information Centre's blacklist, such policy shall be amended to conform to this provision.

१३ Written Acknowledgment from Borrower and Guarantor

Controlled English translation

When granting any credit/facility, the concerned licensed institution shall obtain a written acknowledgment from the concerned borrower and guarantor stating that they consent to inclusion of their names in the Centre's blacklist where circumstances under this Directive arise.

However, absence of such written acknowledgment shall not prevent inclusion of the names of the borrower and guarantor in the blacklist.

१४ Centre May Request Information and Particulars

Controlled English translation

For implementation of the objectives of Section 79 of the Nepal Rastra Bank Act, 2058, the Nepal Rastra Bank Credit Information Regulations, 2079 and this Directive, the Centre may request from a licensed institution information and particulars other than those specifically prescribed in this Directive. It shall be the duty of the concerned licensed institution to provide the information and particulars so requested. Where a licensed institution does not regularly submit updated information to the Centre, the Centre shall not be obliged to provide information to that institution.

१५ Inspection by the Centre

Controlled English translation

The Centre may monitor and inspect a licensed institution to determine whether borrower information required to be provided to the Centre has been provided on time, whether credit information was obtained before extension of credit, and whether the information provided has been kept updated. A report thereof shall be submitted to the Banks and Financial Institutions Regulation Department of this Bank and the concerned Supervision Department. The Centre may carry out such inspection/supervision, by deploying its employees, on-site or off-site.

१६ Publication of Details of Blacklisted Borrowers

Controlled English translation

For each Ashadh-end and Poush-end, the Centre shall update the list of persons, firms, companies or organised institutions that are blacklisted and have amounts exceeding NPR 10 million remaining unpaid, and publish such list respectively by the end of Shrawan and Magh in a national daily newspaper for public information. The information shall also be provided to the Banks and Financial Institutions Regulation Department of this Bank, the concerned Supervision Department, the Office of the Company Registrar and the Securities Board. In the case of names of other persons, the Credit Information Centre shall, as necessary, make such information available to the public upon charging a fee. The Centre shall also mandatorily maintain updated information on blacklisted persons on its website. In addition, the list of blacklisted borrowers published by the Centre shall include the citizenship number in the case of individuals and the Permanent Account Number (PAN) in the case of companies/firms.

१७(१) Confidentiality

Controlled English translation

As information and other particulars exchanged between a licensed institution and the Centre are sensitive, complete confidentiality shall be maintained when exchanging such information and particulars and when keeping records.

१७(२) Credit Extended against Personal and Institutional Guarantees

Controlled English translation

Where credit/facilities extended by licensed institutions against any type of personal or institutional guarantee are not repaid within the prescribed period, the persons and institutions providing such guarantees shall also be included in the blacklist subject to this Directive. Where the concerned licensed institution informs that an amount up to the limit of the guarantee given by such guarantor has been paid, the guarantor's name shall be removed from the blacklist.

१७(३) Where the Name of a Shareholder Changes

Controlled English translation

Where blacklisted shareholders transfer their shares to other persons and the new shareholder accepts the liability, the former shareholder shall be removed from the blacklist if the Board of Directors of the concerned licensed institution accepts the matter and recommends removal.

Where a shareholder holding more than fifteen percent of a private limited company or of a public limited company that has not issued shares to the public, and such company has obtained credit from a licensed institution, the shareholder shall obtain approval of the concerned lending licensed institution before selling or transferring the shares held in such company. For this purpose, the lending licensed institution shall mandatorily arrange that the shares of such company cannot be sold or transferred without its approval. Where, without obtaining such approval, a shareholder of the borrowing company transfers or sells shares, the former shareholder shall be blacklisted.

१७(४) Directors Nominated by Government and Semi-Government Bodies

Controlled English translation

Notwithstanding anything elsewhere in this Directive, a director nominated by this Bank, the Government of Nepal, or an institution wholly or substantially owned by the Government of Nepal shall not be included in the blacklist merely because the borrower institution on whose Board such person served becomes blacklisted.

१७(५) Same-Household Family

Controlled English translation

For the purpose of this Directive, "same-household family" means the concerned person's husband or wife, son, daughter-in-law, daughter, adopted son, adopted daughter, father, mother, stepmother, and elder brother, sister-in-law, younger brother, younger brother's wife and sisters whom the person is required to maintain.

However, the term does not include a family member who, after partition, lives separately and carries on his/her own profession or business.

१७(६) Credit Information Unit

Controlled English translation

A licensed institution shall establish a central Credit Information Unit and all credit-information work required to be sent to the Centre and other bodies shall be carried out only through that Unit. Personnel shall be designated for all dealings with the Centre and the concerned licensed institution shall provide information thereof to the Centre. The designated Unit shall also keep updated records of correspondence and electronic data exchanged between the licensed institution and the Centre.

१७(७) Persons Mistakenly Included in the Blacklist

Controlled English translation

Where a person, firm, company or organised institution that should not have been blacklisted is mistakenly included in the blacklist or defaulter list, the chief executive of the concerned licensed institution shall decide the matter and, on the basis of the recommendation made by him/her, such person, firm, company or organised institution shall be removed from the blacklist without retaining any record thereof. A person, firm, company or organised institution so removed after mistaken inclusion shall not be treated as having been blacklisted. The licensed institution shall submit quarterly to its Board of Directors details of persons, firms, companies or organised institutions so mistakenly blacklisted and removed.

१७(८) Membership of the Centre

Controlled English translation

Licensed institutions shall mandatorily obtain membership of the Centre for exchange of credit information and for inclusion in the blacklist of borrowers who fail to pay principal/interest on time.

१७(९) Exemptions

Controlled English translation

(a) The Government of Nepal and Government institutions wholly or substantially owned by the Government of Nepal shall not be blacklisted.
(b) Institutions licensed by this Bank to carry out deposit and credit transactions shall not be blacklisted.
(c) Partner investors entering under foreign investment, foreign missions, embassies and development partners shall not be blacklisted.
(d) International organisations having bilateral or multilateral relations shall not be blacklisted.
(e) Where an institution with more than 50 percent foreign investment has invested through Private Equity Venture Capital (PEVC), the PEVC-operating institution shall not be blacklisted merely because the structure and medium enterprise in which such investment was made has been blacklisted.
(f) A domestic PEVC institution shall not be blacklisted merely because a small or medium enterprise in which the PEVC institution has 50 percent or less share ownership has been blacklisted.

१७(१०) Updating Blacklist Details

Controlled English translation

The Centre and the concerned bank or financial institution shall keep the blacklist prepared under this Directive updated.

१७(११) Rights Shares, Preference Shares, Debentures and Dividends of Promoter Shareholders Listed in the Centre's Blacklist

Controlled English translation

(a) A promoter shareholder of a licensed bank or financial institution who remains listed in the Centre's blacklist shall not be permitted to purchase rights shares, preference shares or debentures of the bank/financial institution of which the person is a promoter. Where, after removal from the Centre's blacklist, such promoter shareholder claims rights shares, preference shares or debentures of the bank/financial institution, the former promoter shareholder shall not be entitled to those securities if they have already been sold/distributed/forfeited to another person/institution in accordance with prevailing law.
(b) Where a blacklisted borrower is entitled to dividend as a promoter or other shareholder of a bank or financial institution, such dividend shall remain frozen while the person remains blacklisted. Where recovery of the credit is demanded from such person, the concerned institution shall make available the dividend otherwise payable to that person by keeping it frozen against the amount recoverable. This arrangement shall also apply for repayment of credit of the same bank or financial institution.

१७(१२) Blacklisted Promoter Shareholders May Not Participate in Rights Issues or Receive Dividends

Controlled English translation

(a) A blacklisted promoter shareholder shall not be permitted to participate in any rights issue.
(b) Any dividend receivable by a blacklisted promoter shareholder shall not be paid or received in any manner other than for repayment of the loan.
(c) Licensed banks and financial institutions shall keep updated details of promoter shareholders of their institution who are listed in the blacklist.

१७(१३) Information to Be Provided to This Bank

Controlled English translation

Except for the institutions referred to in sub-clauses (9) and (11), before recommending to the Credit Information Centre the blacklisting of any other institution licensed or permitted by this Bank, the concerned licensed institution shall inform this Bank.

१८ Provisions Relating to Fine, Penalty and Action

Controlled English translation

(1) Where a licensed institution fails to make available to the Centre on time the borrower particulars and names/details of borrowers required to be blacklisted, conceals such facts and extends additional credit/facility, provides false information, extends credit to a blacklisted person, firm, company or organised institution, or such matter is reported in an inspection or supervision report of this Bank, this Bank may take action pursuant to Section 100 of the Nepal Rastra Bank Act, 2058 against the concerned licensed institution or its concerned directors, office holders or employees.

(2) Fine for granting credit/facility to a blacklisted party:
Where any bank or financial institution extends credit/facility to a blacklisted person, firm, company or organised institution, the concerned bank or financial institution shall be fined pursuant to Section 99(1) of the Nepal Rastra Bank Act, 2058 by treating the amount of such credit/facility as the amount in controversy.

(3) Fine for failure to recommend blacklisting:
Where a bank or financial institution is required under the directives of Nepal Rastra Bank to recommend inclusion of a person, firm, company or organised institution in the Credit Information Centre's blacklist but fails to do so, such institution

shall be fined pursuant to Section 99(1) of the Nepal Rastra Bank Act, 2058 by treating the amount remaining recoverable from such borrower as the amount in controversy.

(4) One hundred percent loan-loss provision to be maintained for credit extended to blacklisted persons, firms, companies or organised institutions:
(a) where any credit remains recoverable from a blacklisted person, firm, company or organised institution, one hundred percent loan-loss provision shall be maintained for such credit. Where such provision is not maintained, the concerned chief executive may be fined up to NPR 500,000 in cash pursuant to Section 100(2)(c) of the Nepal Rastra Bank Act, 2058;
(b) even where a borrower has been blacklisted through another bank or financial institution, the licensed institution may maintain loan-loss provision for credit extended by it to such borrower on the basis of the classification of its own credit/facility.

१९ Provision Relating to Collateral of Blacklisted Promoter Shareholders

Controlled English translation

Where a promoter shareholder of a licensed institution is listed in the Credit Information Centre's blacklist, credit shall not be extended to another person or institution against property of such promoter shareholder as collateral.

२० Accounts and Banking Transactions of Blacklisted Parties

Controlled English translation

(a) A person, firm, company or institution blacklisted pursuant to the directives of this Bank shall not be permitted to open an account (including a call account) with a bank or financial institution.
However, nothing in this provision shall prevent opening of an account for the purpose of receiving allowances, social-security allowances or pension amounts by a blacklisted person.

(b) A blacklisted person, firm, company or institution shall not be permitted to carry out banking transactions in an existing account other than depositing funds into the account.
However, nothing in this provision shall prevent withdrawal, up to the limit prescribed by the Government of Nepal, for basic daily living expenses; withdrawal of remuneration, social-security allowances, pension and similar amounts received under law; withdrawal, up to the amount of a grant, where a grant has been provided by any body of the Government of Nepal or a Provincial Government; payment of taxes, fees and charges payable to the Government of Nepal; or operation of the account solely for repayment of credit by a person, firm, company or institution blacklisted for failure to repay a bank or financial institution loan.
Likewise, where a firm/company that is not itself blacklisted participates in a joint venture with another blacklisted firm/company, the mere fact of such joint venture shall not prevent operation of the inactive account of that joint venture or credit transactions.

२१ Repeal and Saving

Controlled English translation

(1) The following directives previously issued by this Bank are hereby repealed:
Directive No. 12/081 issued under the provisions relating to credit information and blacklisting in the Unified Directives, 2081, and all circulars relating to the same subject issued thereafter up to Magh 2, 2082.

(2) Any acts or actions done or taken pursuant to the directives and circulars repealed under sub-clause (1) shall be deemed to have been done or taken pursuant to this Directive.

Supplemental compilation status

Controlled English translation

On rechecking Circular Nos. 11–19 of FY 2082/83 and Class A, B and C circulars issued to date in FY 2083/84, no amendment to Directive No. 12 was found.

Note: Status note from the supplied bilingual compilation; not part of official pages 100-113.

Source and disclaimer

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