

May 12, 2008

The Chief Executive Officers of
All Primary (Urban) Co-operative Banks

Dear Sir / Madam,

Settlement of claims in respect of missing persons

A query has been raised regarding the system which should be followed by urban co-operative banks (UCBs) in case a claim is received from a nominee / legal heirs for settlement of claim in respect of missing persons.

2. The settlement of claims in respect of missing persons would be governed by the provisions of Section 107 / 108 of the Indian Evidence Act, 1872. Section 107 deals with presumption of continuance and Section 108 deals with presumption of death. As per the provisions of Section 108 of the Indian Evidence Act, presumption of death can be raised only after a lapse of seven years from the date of his/her being reported missing. As such, the nominee / legal heirs have to raise an express presumption of death of the subscriber under Section 107/108 of the Indian Evidence Act before a competent court. If the court presumes that he/she is dead, then the claim in respect of a missing person can be settled on the basis of the same.

3. UCBs are advised to formulate a policy, which would enable them to settle the claims of a missing person after considering the legal opinion and taking into account the facts and circumstances of each case. Further, keeping in view the imperative need to avoid inconvenience and undue hardship to the common person, UCBs are advised that keeping in view their risk management systems, they may fix a threshold limit, up to which claims in respect of missing persons could be settled without insisting on production of any documentation other than (i) FIR and the non-traceable report issued by police authorities and (ii) letter of indemnity.

Yours faithfully

(A. K. Khound)
Chief General Manager in Charge.