



Ref: NAFCUB/2020-21/148

Date: 17 Aug 2020

To,

The Governor,  
Reserve Bank of India,  
Central Office,  
Mumbai-400001.

Dear Sir,

**RE: Constitution of Board of Management (BOM) in Primary (Urban) Co-operative Banks (UCBs)**

Please refer to RBI Circular DOR.(PCB).BPD.Cir.No 8/12.05.002/2019-20 dated December 31<sup>st</sup>,2019 advising UCBs to constitute BOM in addition to BOD by undertaking amendments of their bye-laws. The instructions issued by RBI envisage that the constitution of BOM shall be mandatory requirement for branch expansion and extension of area of operation of UCBs. The proposal for constitution of BOM in UCBs has been opposed by NAFCUB ever since it was recommended by Malegam Committee. In their report submitted to RBI, the Expert Committee on licencing of new UCBs under the Chairmanship of Shri Y.H. Malegam, Director, Central Board of RBI, had recommended that it would be necessary to have a new organization structure for UCBs consisting of BOM in addition to BOD. Further, the RBI would have unfettered powers to continue and regulate the functioning of the banks and its BOM and the CEO in exactly the same way as it controls and regulates the functioning of the BOD & CEO in the case of commercial banks.

2. In this connection, we enclose a copy of our letter NAFCUB-2019-20/235 dated January 27, 2020 addressed to Shri N. S. Vishwanathan, the then Dy. Governor, RBI, the contents of which are self-explanatory. It would be observed, therefore, that the issue of guidelines for setting up of BOM in addition to BOD in UCBs is contrary to the extant provisions of the Banking Regulations Act, 1949 as no specific powers have been vested with RBI in the Act *ibid*. There are no provisions in the B.R. Act, 1949 to constitute BOM in addition to BOD in UCBs. The provisions of State Cooperative Societies Act/Multi-State Co-op Societies Act also do not provide for establishment of BOM along with BOD. Hence the amendment in the bye- laws of UCBs for implementing the instructions issued by RBI is void *ab initio*. Further, the arrangement regarding prior approval of RBI for appointment of CEO and the supercession of BOM is also beyond the powers of RBI and obtaining prior approval in respect of more than 650 UCBs is time consuming and will disrupt the normal functioning of UCBs.

3. NAFCUB in their letter dated January 27, 2020 has also raised operational and functional problems as also the issue of accountability of the members of BOM. Further, the availability of a large number of professional directors for appointment as BOM is also likely to cause great difficulties in implementing the guidelines issued by RBI. In view of the above, NAFCUB has, therefore, been vehemently opposing the linking of restrictions on opening of branches and area of operation to the mandatory implementation of instructions issued by RBI on the constitution



of BOM in addition to BOD in the UCBs. It was, therefore requested that RBI may reconsider their decision in the matter. It appears that the request made to RBI has not been considered favourably so far.

4. In this connection, it is submitted that the GOI has promulgated the Banking Regulation (Amendment) Ordinance, 2020 on June 26, 2020 in terms of which the powers relating to regulation and supervision of cooperative banks have been vested with RBI at par with commercial banks. As regards, professional management in the functioning of UCBs, the provisions relating to Sec. 56 (g) which pertained to Sec. 10, 10A, 10B, 10BB, 10C & 10D of the Banking Regulation Act, 1949 which were omitted at the time of applicability of the B.R. Act to UCBs have now been made applicable to cooperative banks. The above provisions relate to professional and experienced BOD with fit and proper criteria applicable to them, prohibition on employment of managing agents and restrictions on certain employment, managing of the bank by whole-time Chairman/CEO appointed by RBI, appointment of Chairman of banks by Directors, qualification of Directors and over-riding effect of other laws, if any. The above provisions also empower RBI for appointment/removal of directors/Chairman of BOD and prior approval of RBI for appointment of Managing Director. In view of the heterogeneous character of the UCBs in India, the ordinance empowers RBI to grant exemption from the applicability of the above provisions relating to professional management in UCBs. Thus, the ordinance has brought about enabling provisions to infuse professionalism in the functioning of UCBs by RBI and also to initiate action against the erring managements of the UCBs in case the affairs of the bank are conducted in a manner detrimental to the interest of the depositors.

5. Although the above ordinance has vested full control over the functioning of UCBs by RBI, however, the RBI Circular dated 31.12.2019 issued by RBI advising UCBs to constitute BOM in addition to BOD continues to be in violation of the provisions of the B.R. Act and the provisions of the State Cooperative Societies Act and the Multi-State Cooperative Societies Act, 2002. The operational and functional problems in implementation of the RBI instructions and the issue of accountability of members of the BOM continues unabatedly. In view of the above and having regard to the issues raised by NAFCUB in our letter dated 27.01.2020, it is earnestly requested that the instructions issued by RBI through their Circular dated 31.12.2019 in respect of establishing BOM in addition to BOD may be withdrawn forthwith as the same are impinging on the cooperative principles as also the provisions of the Constitution of India. As regards professional management in UCBs, RBI may consider issuing fresh instructions based on the powers vested with it through the B.R. (Amendment) Ordinance, 2020 in consultation with all the stake holders. Needless to mention that NAFCUB remains committed to functioning of UCBs on sound and professional lines and is taking effective steps for establishing an Umbrella Organisation for UCBs as approved by RBI.

Yours faithfully,

(PRESIDENT)