

Merger of ICICI Ltd. with ICICI Bank Ltd.

April 26, 2002

An application for merger of ICICI Ltd. with ICICI Bank Ltd. was submitted to the Reserve Bank of India (RBI) on October 25, 2001 for regulatory approvals.

The Reserve Bank examined the request keeping in view the statutory, regulatory and other prudential requirements and the need for compliance by ICICI Bank Ltd. with the various provisions of the Banking Regulation Act, 1949.

It will be recalled that the Scheme of Merger has already received the sanction of High Court of Gujarat on March 7, 2002 and the High Court of Mumbai on April 11.

After obtaining the approval of other regulatory agencies as required, the Reserve Bank, has today approved the merger subject to the following conditions:

(i) **Compliance with Reserve Requirements**

The ICICI Bank Ltd. would comply with the Cash Reserve Requirements (under Section 42 of the Reserve Bank of India Act, 1934) and Statutory Liquidity Reserve Requirements (under Section 24 of the Banking Regulation Act, 1949) as applicable to banks on the net demand and time liabilities of the bank, inclusive of the liabilities pertaining to ICICI Ltd. from the date of merger. Consequently, ICICI Bank Ltd. would have to comply with the CRR/SLR computed accordingly and with reference to the position of Net Demand and Time Liabilities as required under existing instructions.

(ii) **Other Prudential Norms**

ICICI Bank Ltd. will continue to comply with all prudential requirements, guidelines and other instructions as applicable to banks concerning capital adequacy, asset classification, income recognition and provisioning, issued by the Reserve Bank from time to time on the **entire** portfolio of assets and liabilities of the bank after the merger.

(iii) **Conditions relating to Swap Ratio**

As the proposed merger is between a banking company and a financial institution, all matters connected with shareholding including the swap ratio, will be governed by the provisions of Companies Act, 1956, as provided. In case of any disputes, the legal provisions in the Companies Act and the decision of the Courts would apply.

(iv) **Appointment of Directors**

The bank should ensure compliance with Section 20 of the Banking Regulation Act, 1949, concerning granting of loans to the companies in which directors of such

companies are also directors. In respect of loans granted by ICICI Ltd. to companies having common directors, while it will not be legally necessary for ICICI Bank Ltd. to recall the loans already granted to such companies after the merger, it will not be open to the bank to grant any fresh loans and advances to such companies after merger. The prohibition will include any renewal or enhancement of existing loan facilities. The restriction contained in Section 20 of the Act *ibid*, does not make any distinction between professional directors and other directors and would apply to all directors.

(v) **Priority Sector Lending**

Considering that the advances of ICICI Ltd. were not subject to the requirement applicable to banks in respect of priority sector lending, the bank would, after merger, maintain an additional 10 per cent over and above the requirement of 40 per cent, i.e., a total of 50 per cent of the net bank credit on the residual portion of the bank's advances. This additional 10 per cent by way of priority sector advances will apply until such time as the aggregate priority sector advances reaches a level of 40 per cent of the total net bank credit of the bank. The Reserve Bank's existing instructions on sub-targets under priority sector lending and eligibility of certain types of investments/funds for reckoning as priority sector advances would apply to the bank.

(vi) **Equity Exposure Ceiling of 5%**

The investments of ICICI Ltd. acquired by way of project finance as on the date of merger would be kept outside the exposure ceiling of 5 per cent of advances towards exposure to equity and equity linked instruments for a period of five years since these investments need to be continued to avoid any adverse effect on the viability or expansion of the project. The bank should, however, mark to market the above instruments and provide for any loss in their value in the manner prescribed for the investments of the bank. Any incremental accretion to the above project-finance category of equity investment will be reckoned within the 5 per cent ceiling for equity exposure for the bank.

(vii) **Investments in Other Companies**

The bank should ensure that its investments in any of the companies in which ICICI Ltd. had investments prior to the merger are in compliance with Section 19 (2) of Banking Regulation Act, 1949, prohibiting holding of equity in excess of 30 per cent of the paid-up share capital of the company concerned or 30 per cent of its own paid-up share capital and reserves, whichever is less.

(viii) **Subsidiaries**

(a) While taking over the subsidiaries of ICICI Ltd. after merger, the bank should ensure that the activities of the subsidiaries comply with the requirements of permissible activities to be undertaken by a bank under Section 6 of the Banking Regulation Act, 1949 and Section 19 (1) of the Act *ibid*.

(b) The take over of certain subsidiaries presently owned by ICICI Ltd. by ICICI Bank Ltd. will be subject to approval, if necessary, by other regulatory agencies, viz., IRDA, SEBI, NHB, etc.

(ix) **Preference Share Capital**

Section 12 of the Banking Regulation Act, 1949 requires that capital of a banking company shall consist of ordinary shares only (except preference share issued before 1944). The inclusion of preference share capital of Rs. 350 crore (350 shares of Rs.1 crore each issued by ICICI Ltd. prior to merger), in the capital structure of the bank after merger is, therefore, subject to the exemption from the application of the above provision of Banking Regulation Act, 1949, granted by the Central Government in terms of Section 53 of the Act *ibid* for a period of five years.

(x) **Valuation and Certification of the Assets of ICICI Ltd**

ICICI Bank Ltd. should ensure that fair valuation of the assets of the ICICI Ltd. is carried out by the statutory auditors to its satisfaction and that required provisioning requirements are duly carried out in the books of ICICI Ltd. before the accounts are merged. Certificates from statutory auditors should be obtained in this regard and kept on record.

(xi) **Date of Merger**

As the scheme of merger has been approved by the High Courts, the Reserve Bank has no objection to the date of merger being the appointed date, viz., March 30, 2002 or any other date as per the orders of the High Court.

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General Manager

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