

## Awareness Series 4: (Gold and Bank Locker Facts)

(A CSR initiative)

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### Essentials of a Bank Locker

#### Bank's Do's:

- KYC of the customers
- Banks shall incorporate a clause in the locker agreement that the locker-hirer/s shall not keep anything illegal or any hazardous substance in the Safe Deposit locker.
- The banks shall obtain recent passport size photographs of locker-hirer(s) and individual(s) authorised by locker hirer(s) to operate the locker and preserve in the records pertaining to locker-hirer being maintained in the bank's branch.
- A copy of the locker agreement in duplicate signed by both the parties shall be furnished to the locker-hirer to know his/her rights and responsibilities. Original Agreement shall be retained with the bank's branch where the locker is situated
- banks are allowed to obtain a Term Deposit, at the time of allotment, which would cover three years' rent and the charges for breaking open the locker in case of such eventuality
- In case of surrender of the Locker, advance rent collected by the bank should be refunded to the hirer
- If there is any event such as merger / closure / shifting of branch warranting physical relocation of the lockers, the bank shall give public notice in two newspapers (including one local daily in vernacular language) in this regard and the customers shall be intimated at least two months in advance along with options for them to change or close the facility. In case of unplanned shifting due to natural calamities or any

other such emergency situation, banks shall make efforts to intimate their customers suitably at the earliest.

- Banks should ensure that locker facility is housed is properly secured to prevent criminal break-ins and secured enough to protect against hazard of fire, rain / flood water entering and damaging the lockers in contingent situations. It should remain adequately guarded at all times.
- As per their internal security policy, banks may cover the entry and exit of the strong room and the common areas of operation under CCTV camera and preserve its recording for a period of not less than 180 days.
- The bank custodian shall check whether the lockers are properly closed post locker operation. If the same is not done, the lockers must be immediately closed, and the locker-hirer shall be promptly intimated through e-mail, if registered or through SMS, if mobile number is registered or through letter so that they may verify any resulting discrepancy in the contents of the locker.

### **Rights of the Hirer**

- Ensure that above security compliance is made by the banks
- Ensure that your signatures are taken on the ingress and egress register for access to Vault Room
- The bank's officer authorizing the locker-hirer to access the locker, after unlocking the first key / password shall not remain present when the locker is opened by the locker-hirer. You should have clear privacy.
- Make sure you receive an email and SMS alert to the registered email ID and mobile number before the end of the day as a positive confirmation intimating the date and time of the locker operation and the redressal mechanism available in case of unauthorized locker access
- The regulations from the Reserve Bank of India (RBI) requires you to operate it at least once a year
- Customers who have failed to sign the revised locker agreement by December 31, 2023 can face restrictions as banks can deny access to the locker and impose supplementary charges. So if you haven't then approach your bank.

### **I. How much Gold can you hold legally:**

There is no legal limit on holding of Gold jewellery but for the gold jewellery bought by you out of your tax paid money, you need not worry

- Gold Control Act, 1968, which prohibited citizens from owning gold beyond certain quantity was abolished in the year June 1990 and therefore presently there are no restriction on the quantum of gold one can hold in India.
- However, the Income Tax department does not give full liberty on this account, hence the CBDT instruction. As per this instruction the tax officers are clearly prohibited from seizing and taking away gold jewellery up to the specified limit under all the circumstances even in the cases where the source for acquisition of the jewellery does not get explained at the time of raid.

**As per CBDT Instruction No. 1916, Dated 11-5-1994**

In the case of a person not assessed to wealth-tax gold jewellery and ornaments to the extent of 500 gms. per married lady, 250 gms. per unmarried lady and 100 gms. per male member of the family need not be seized.

The CBDT instruction applies only to the gold jewellery and not to gold in any other form or jewellery of other nature like diamond jewellery, precious stones, gold bars etc.

**Since one Tola is 10 Gms so you can hold:**

**Per Married woman = 50 Tolas**

**Per Unmarried lady = 25 Tolas**

**Per male = 10 Tolas**

**Including minors**

- **You may hold more quantity than this if you are able to substantiate the source of acquisition of the excess quantity to avoid seizure.**
- **Though this much quantity won't be seized but source will have to be explained to Income Tax Department.**

## **II. What depositors and locker-holders need to be aware of**

The relationship between the bank and the person hiring the locker is not that of a landlord and tenant. On the contrary, it is a relationship between

the bailor and bailee. That means the bank is not aware about the contents of the locker and that is something only the individual knows. A bailor-bailee relationship obviously means that the bank does not take responsibility for the contents of the safe deposit locker and that continues to be the sole liability of the individual. The locker can only be opened by the person who has kept the valuables in the locker combined with the master key of the bank. In any unforeseen circumstance like theft, burglary, war or civil strife, the bank is absolved of any responsibility pertaining to the contents of the locker. The bank only takes responsibility in the event of deficiency in service.

### **III. Why has this issue of bank locker security come up now**

1. In recent times there have been a number of such cases where the liability of the banker in the event of loss to locker valuables comes into question. There have been few high profile cases in the recent past.

- A group of burglars, in a daring robbery attempt, dug a 125 feet long tunnel and decamped with valuables from more than 75 lockers at the PNB, Sonapat branch.
- In another case over 40 lockers of Central Bank branch UP was completely emptied out. In IOB in Chennai account holders were so shocked by a daring daylight robbery that there was a literal clamour to withdraw their savings and empty their lockers in the branch.

In all these cases, the bank has refused to accept any responsibility for valuables lost from the locker.

### **IV. How can the bank-locker customer protect himself?**

The RBI Policy also clearly states that the bank is unaware of the contents of the locker and therefore the banks does not accept any responsibility for the same. Therefore, when you take a locker in a bank, you can start off by ensuring that your valuables are insured. That will entail an additional cost, but it is worth the trouble. Additionally, to protect your own interest you can insist on the following measures

- ensure that CCTV cameras are installed along the route to the lockers
- visit your locker frequently and check that the contents are intact
- whenever you put things in the locker and take things out, ensure that you maintain a complete register of these movements
- keep your locker key safe
- Inspect the locker before and after every use
- Pay locker rent regularly

#### **V. What is the Liability of the Bank in case of Loss of contents of the Locker:**

- **Liability of banks arising from natural calamities like earthquake, flood, thunderstorm, lightning etc. or due to sole negligence of the customer** No liability for any damage and/or loss of contents of locker arising from natural calamities or Acts of God like earthquake, floods, lightning and thunderstorm or any act that is attributable to the sole fault or negligence of the customer
- **Liability of banks arising from events like fire, theft, burglary, dacoity, robbery, building collapse or in case of fraud committed by the employees of the bank**

Banks are mandated to take all steps for the safety and security of the premises in which the safe deposit vaults are housed and ensure that incidents like fire, theft/ burglary/ robbery, dacoity, building collapse do not occur in the bank's premises due to its own shortcomings, negligence and by any act of omission/commission. Any mishappening due to incidents mentioned above or attributable to fraud committed by its employee(s), the banks' **liability shall be for an amount equivalent to one hundred times the prevailing annual rent** of the safe deposit locker.

#### **VI. What if the locker remains inoperative for a long period of time**

If the locker remains inoperative for a period of seven years and the locker-hirer cannot be located, even if rent is being paid regularly, the bank shall be at liberty to transfer the contents of the locker to their nominees/legal heir or dispose of the articles in a transparent manner, as

the case may be. Before breaking open the locker, the bank shall follow the prescribed procedure provided it is mentioned in incorporated in their locker agreement. Bank has a clear SOP to break open the locker

**VII. What if Locker rent is not paid by the hirer:**

- Banks shall have the discretion to break open any locker following due procedure if the rent has not been paid by the customer for three years in a row. The bank shall ensure to notify the existing locker-hirer prior to any changes in the allotment and give him/her reasonable opportunity to withdraw the articles deposited by him/her. A clause may be incorporated in the locker agreement to this effect.
- Before breaking open the locker, the bank is supposed to give due notice to the locker-hirer through a letter and through email and SMS alert to the registered email id and mobile phone number (all modes). If the letter is returned undelivered or the locker-hirer is not traceable, the bank shall issue public notice in two newspaper dailies (one in English and another in local language) giving reasonable time to the locker-hirer or to any other person/s who has interest in the contents of locker to respond. If no one approaches the Bank then the locker shall be broken open in the presence of an officer of the bank and two independent witnesses.
- shall also record a video of the break open process together with inventory assessment
- Ensure that the details of breaking open of locker is documented in CBS or any other computerized systems compliant with the Cyber Security Framework issued by RBI, apart from locker register.
- After breaking open of locker, the contents shall be kept in sealed envelope with detailed inventory inside fireproof safe in a tamper-proof way until customer claims it. A record of access to the fireproof safe shall invariably be maintained.
- While returning the contents of the locker, the bank shall obtain acknowledgement of the customer on the inventory list to avoid any dispute in future.

**VIII. What if your Locker is attached by any Law Enforcement Authority**

- The customer (locker-hirer) shall be informed by letter as well as by email/SMS to the registered email id/mobile phone number that the Government Authorities have approached for attachment and recovery or seizure of the locker or articles deposited for safe custody.
- An inventory of the contents of locker and articles seized and recovered by the Authority shall be prepared in the presence of such Government Authorities, two independent witnesses and an officer of the bank and shall be signed by all. A copy of the inventory may be forwarded to the customer to the address available in the bank's records or handed over to the customer against acknowledgement
- Banks shall also record a video of the break-open process and the inventory assessment, wherever legally permissible, and preserve the video to produce as evidence in case of any dispute or Court or fraud case in future
- In case of search of your Locker, the authorities need to produce search warrant to search the locker or Restraint Order

**IX. What to do if your Locker key is lost:**

- Notify the bank immediately. Bank would take an undertaking from you that if the key is found in future, it shall be handed over to the bank
- You will have to bear all charges for opening the locker, changing the lock and replacing the lost key.
- Bank would ask for proper identification and written authorisation from you to break open the locker
- It should be opened in your presence in such a way that the contents of the Locker should only be visible to you.

**X. Banking Nomination rules 1985 in case of Death and Nomination**

- Only single individual can be nominated.
- Nomination can be cancelled or changed during the period in which locker is under hire.
- In case of nomination of minor, another person to be authorized on behalf of a minor.

- Different forms are there for different types of nomination. (form SL1,SL1A,SL2,SL3 & SL3A)

#### **XI. Section 45ZE of banking regulation act 1949**

- A person can be nominated by locker hirer who can be given access to the locker and remove locker contents in the event of death of locker hirer on production of required documents including death certificate and identification certificate of the nominee
- When the locker is hired jointly and can be operated jointly only if one of the locker hirer dies than the nominee and the surviving joint hirer can access the locker and may remove its contents also on production of required documents including death certificate and identification certificate of the nominee.
- Before removing contents, an inventory of the locker contents should be prepared and signed by nominee or jointly by nominee and the surviving locker hirer.
- There is no liability of the bank after removal of locker contents by the nominee.

#### **XII. No person other than hirer or hirers can give a notice** to a bank for claiming locker contents except that from a court of competent jurisdiction. In that case bank should take note of such decree.

#### **XIII. What if there is no survivor/nominee clause**

Bank should make detailed procedure as per RBI in order to avoid inconvenience to the legal heir of locker hirer.

- If Sole hirer dies– Bank can give access to the legal heir after obtaining death certificate and proof of legal representation.
- In case of Joint locker hirers (locker to be operated jointly only)- In this case bank can give access to the survivor jointly with legal heir of the dead hirer. Bank should obtain death certificate and proof of legal representation.

#### **XIV. Whom to complain if there is deficiency of service by the bank**



- Bank ombudsman can be invoked when the facts of the case are not complicated and they can be addressed without supervision of the court in case of Lockers if matter is relating to non-adherence to the fair practices code as adopted by the bank, matter is relating to the violation of the directives issued by the Reserve Bank in relation to banking or other services.
- A customer can complain to the consumer forum under the consumer protection act 1986 if he feels there is deficiency of service by the bank. As per consumer protection act, banking facilities comes under the preview of the act. Banking facilities come under services. As per the act service means service of any description (includes the provision of facilities in connection with banking) but does not include rendering of any service free of charge or under a contract of personal service (quoted from CONSUMER ACT 1986). A consumer can go to court if there is deficiency in any respect Stop smoking.

#### **XV. End Notes on precautions in your Bank Management:**

- Take an insurance policy for the contents of Locker kept in Bank.
- Never share your personal identity proof with anyone like Aadhaar card, driving licence etc. Always **use masked Aadhaar**.
- Always shred sensitive papers before throwing them away that includes documents with barcodes reflecting payments made by you via card / UPI /IMPS (Boarding Pass, online purchases)
- Regularly check your Bank and credit card statements and report any wrong debit or credit entries
- Never give out personal details

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