

Entertainment Industry - Bank Finance for Film Industry

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**The Chairmen/Chief Executives
of all commercial banks**

Dear Sir,

Entertainment Industry - Bank Finance for Film Industry

As you are aware, In June 1998, the Indian Banks' Association (IBA) had constituted a Working Group, comprising representatives of banks and film industry to suggest a suitable methodology for financing film industry, which constitutes an important segment of the entertainment industry. The Working Group submitted its Report to IBA in May 1999 and the same was circulated by IBA among member banks for necessary action. Further, Government of India has also conferred industry status to the 'Entertainment Industry including Films'. However, despite the above developments, film financing has not made much headway so far.

2. Against this background, it is felt desirable to formulate, for the information of banks, guidelines on various aspects of lending to film industry so that banks may participate in financing this important economic activity.

Accordingly, RBI, after extensive consultations with banks, IBA and representatives of film industry, has framed broad guidelines regarding bank finance for production of films, which are set out in the enclosed memorandum. It may, however, be stated that the stance of Reserve Bank's policy of bestowing operational freedom to banks in the matter of credit dispensation remains unchanged and that banks are free to take lending decisions based on their own experience and other relevant information without reference to Reserve Bank, keeping in view the spirit of the guidelines.

3. The guidelines will be reviewed after a year based on the feedback received from the banks.

4. Please acknowledge receipt.

Yours faithfully,

(S.S.Gangopadhyay)
Chief General Manager-in-Charge

Guidelines for financing film production

Introduction

1.1 Film production constitutes the most important part of film industry. Film production involves development of story, screenplay, dialogue, etc., music recording, film shooting, lab processing and post production activities such as editing, dubbing, re-recording, mixing, taking final prints, obtaining censor clearance and release of prints for distribution. Under the existing financing practices followed in the industry, the producers normally bring in about 25 per cent of the cost of production of a film and, the balance 75 per cent is met by way of advance payments from distributors and finance from private financiers. A peculiar feature of film production is that the producer recovers the entire cost of production of a film before / at the time of release of the film through sale of distribution rights to the distributors (normally distributors pay up to 40 per cent of the agreed amount when the film is under production and the balance at the time of the release of the film).

1.2 Given the need for institutional finance for film production, the broad guidelines for financing this activity are enumerated in the following paragraphs.

2. Eligibility

- Banks may provide finance to film producers (corporate as well as non-corporate entities) with good track record in the relative field.
- Banks may also provide finance to these entities for production of films in participation with the National Film Development Corporation (please see item 4).

3. Direct Finance for Film Production

3.1 Criteria for financing

- Banks may obtain from the producers a detailed budget for each film, clearly indicating the entire cost estimates for the film and the means of financing the same.
- Ordinarily producers are required to bring in at least 25 per cent of the project cost as promoters' contribution. Producers are also required to tie up the advances from the Distributors in the usual course as per usual

practice (sales advances) to cover 35 per cent to 40 per cent of the budget. **Thus, bank advances could be for the balance requirement of 35 per cent to 40 per cent of the project cost. However, in deserving cases where the banks are quite comfortable with the project as well as the background of the producers, the financing could be increased up to 50 per cent of the project cost on merits.**

- **Banks may provide finance to such of the projects where the total cost of production of a film does not exceed Rs.10 crore.** The amount sanctioned should be within the overall ceiling of the prudential exposure norms prescribed by RBI from time to time. Banks may also internally prescribe a suitable limit for their overall exposure to the film industry.
- The disbursement of bank loan should ordinarily start only after utilising the promoter's contribution and advance payments from the distributors. There may not, however, be any objection to bank loan being disbursed side by side along with payments by distributors on proportionate basis. The arrangement should be firmed up at the commencement of the project. However, in any case, banks may disburse loan only after the promoter has brought in his contribution to the project.

3.2 Period of Loan

The period of loan may be fixed based on the financing bank's assessment of cash generation of the project.

3.3 Security

- Banks may obtain the Laboratory Letter conveying rights on the negatives in favour of the lenders.
- The Music Audio/Video rights, CD/DVD/internet rights, Satellite Rights, Channel Rights, Export/International Rights, etc. should also be assigned to the banks to serve as main security along with the negative rights in the form of lab letter, through appropriate documentation.
- First hypothecation charge on all the tangible movable assets under the project.
- Assignment of all agreements and Intellectual Property Rights (IPRs) in favour of the lenders. Lenders to have right in negotiation of valuation of all IPRs.
- Collaterals, if necessary, may be obtained at the discretion of banks.

- A Trust & Retention Account (TRA) may be maintained for all capital as well as revenue inflows and outflows. Thus, receivables on sale of all IPRs may be credited to TRA. The modalities of TRA may be worked out on case-to-case basis to the satisfaction of the lenders. A No Objection Certificate (NOC) from all concerned parties for the TRA arrangement will be required. The lenders will have first charge on the TRA.
- Banks may look into the legal aspects of the laboratory letter, assignment of music, audio/video rights, etc.

3.4 Insurance

The existing insurance products as acceptable to banks may be obtained from film producers.

3.5 Follow-up/ Monitoring

Banks should devise appropriate accounting and information/data submission formats for periodic flow of information from the producers. They should also obtain periodical progress reports, cash flow statements, audit reports and such other reports as are considered necessary. Banks may also consider appointing specialised agencies for monitoring the timely shooting/processing of the film and assessing the reasonableness of the expenditure.

3.6 Risk factors

Production completion risk is one of the major risks in any film production. To mitigate this risk, it would be necessary for banks to carefully appraise the projects having due regard to the track record of the producers as also the distributors. If necessary, banks may also engage industry specialists /consultants for evaluation of proposals. Insurance of risks, key personnel, etc. needs to be organised. Pending development of appropriate risk insurance products, the existing products such as equipment insurance, key personnel insurance, etc. could be availed of.

4. Finance through NFDC/to NFDC

4.1 The National Film Development Corporation Ltd. (NFDC) is a specialised agency set up by Government of India for promoting quality cinema. NFDC produces, co-produces and finances films, particularly small budget films. Over the years, it has provided a wide range of services essential for the integrated growth of Indian cinema. Considering that appraisal of film projects requires

special skills (which all banks may not be equipped with, at least in the initial years), banks, at the request of NFDC, may also consider extending credit for production of films in participation with NFDC. This would be an additional channel for extending credit to the film industry. The detailed modalities in this regard (including security cover) may be worked out mutually by banks and NFDC.

4.2 Banks may also consider providing reasonable credit facility to NFDC taking into account usual safeguards observed while taking credit exposure.