

# **Settlement of Claims in respect of Missing Persons**

## **A. Settlement of Claims in respect of Missing Persons**

Based on the RBI Circular under reference RBI/200708/308 DBOD. No. Leg. BC.80/09.07.005/2007-08, and in line with RBI Master Circular on Customer Services dated 1 July 2014, the policy on missing persons has been formulated. This note aims at providing internal guidance to branches for settlement of claims in respect of account(s) held by missing persons.

The settlement of claims in respect of missing persons is 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 the person being reported missing.

As such, the nominee/legal heirs of the missing deposit holder have to raise an express presumption of death of the deposit holder under Section 107/108 of the Indian Evidence Act, 1872, before a competent court of law. If the said court presumes that he(s)he is dead, then the claim in respect of a missing person can be settled on the basis of a decree issued by the court regarding the same.

However, keeping in view the imperative need to avoid inconvenience and undue hardship to the common person and based on the guidelines given in the abovementioned circular of RBI, this policy has been bifurcated into two parts viz.

- (i) Claims upto and including ₹1,000,000 with nomination and
- (ii) Other claims.

This policy will be applicable for savings/current accounts, term deposit account and Lockers. (RBWM Branch Banking).

Where known through reliable sources about customer being missing on case-to-case basis the Bank has taken an initiative to debit freeze such customer account if the account is operated solely and even though there is no formal intimation from any of the claimant.

Bank may not voluntarily intimate about such debit freeze to any one and would await claimant to approach the Bank and ensure a seamless settlement is made to the rightful owner of missing customer. The initiative is to protect customer monies and any content held in customer lockers with the Bank.

### **Claims ≤ ₹1,000,000 with Nomination**

For all claim amounts ≤ ₹1,000,000, the following documents need to be submitted by the nominee:

- ✓ FIR
- ✓ Non-traceable Report (There is no fixed time frame by which such report may be filed by the police authorities and it varies from case-to-case depending on the speed of investigation.)
- ✓ Claim Form (refer Annexure I)
- ✓ Indemnity for the threshold (refer Annexure III)
- ✓ Proof of Address and Proof of ID of the nominee
- ✓ Copy of nomination, if available

While in the above scenario, the nominee need not wait for a period of 7 years, for presumption of death by the court of law, however considering the risk associated in settlement of such claims prior to the presumption of death being decreed by the court, a minimum time period of 3 years should have lapsed from the date the person was reported missing.

### **Other Claims**

#### **(This will include claims > ₹1,000,000 with nomination and claims without nomination)**

For all other claims, the deposit holder will be presumed deceased under the provisions of Section 108 of the Indian Evidence Act, if all of the following is true.

- ✓ Nominee/Legal heirs have raised an express presumption of death of the deposit holder before a competent court of law
- ✓ Such presumption of death has been raised only after a lapse of 7 years from the date of the deposit holder being reported missing (date of missing report/FIR issued by the police)
- ✓ If the court, based on the presumption of death raised by the nominee/legal heir, presumes that the deposit holder is dead, a certified copy of the appropriate order to the effect issued by the court is to be collected in evidence of presumption of death

Other clauses as in the Deceased Depositor's policy will continue to be applicable. Once the above documents are collected along with the routine documents (as highlighted for all claim amounts upto and including ₹1,000,000) under Deceased Depositors policy, the Bank can proceed with the processing of the claims.

Thus, the following documents will be required to process such other claims:

- ✓ Certified copy of court order in evidence of presumption of death
- ✓ Non-traceable report
- ✓ FIR
- ✓ All other documents as applicable for settlement of deceased claims > ₹10 lakh under the Deceased Depositor's policy i.e.
  - Claim Form. Refer Annexure I format available in the Deceased Depositor's policy)
  - Indemnity cum Affidavit. Refer Annexure II format available in the Deceased Depositor's policy
  - Proof of Address and Photo ID of the legal heirs/survivors. Customer copy of nomination, if any  
OR  
Probated Will OR Succession Certificate OR Letter of Administration issued by a competent jurisdiction in India

## **Lockers - Missing Persons**

It would not be possible for the Bank to ascertain the value of the contents of the locker and therefore we will have to insist upon the Court Order for Presumption of Death before releasing the contents of the locker. Once the court order presuming death is furnished, please be guided by the requirements of the deceased depositor's policy.

The following documents would be required to process such claims:

- ☐ Certified copy of court order in evidence of presumption of death
- ☐ Non-traceable report/FIR issued by the police
- ☐ All other documents as applicable for settlement of deceased claims > ₹10 lacs under the Deceased Depositors Policy i.e.
  - Claim Form. Refer Annexure I format available in the Deceased Depositors policy.
  - Proof of Address (PA) and Photo ID (PI) of the legal heirs/survivors. Please be guided by the CAP guidelines for the list of documents that are acceptable as PA and PI
  - Customer copy of nomination, if any  
OR  
Probated Will OR Succession Certificate OR Letter of Administration issued by a competent jurisdiction in India
  - Inventory listing in the presence of the legal heirs/mandate holder and two witnesses. Refer Annexure III format available in the Deceased Depositor's policy.

**Note:** All original documents have to be witnessed by the Bank staff and copies attested as 'Original Sighted'.

### **Sole Locker Hirer**

#### **With Nomination**

In case of death of a sole locker hirer, and there is a nomination, access to locker may be given to the nominee, subject to the provision of documents.

#### **Without Nomination**

In case of death of a sole locker hirer without nomination, and there is a probated will/Letters of Administration of Estate access may be given to the executor/administrator. In other cases, access may be given to the legal representative of the deceased. This is subject to the provision of documents.

**Joint Locker Hire operated jointly (as per the contract of locker hire)  
(Without survivorship mandate)**

**With Nomination**

In the event of death of one of the joint locker hirers, access to the lockers may be given to the nominee jointly with the surviving hirer(s) subject to the provision of documents.

In the event of death of both or all the joint locker hirer(s), access to the locker may be given to the nominee(s) subject to the provision of documents.

**Without Nomination**

In the event of death of one of the joint locker hirers, access to the locker may be given to the survivor jointly with the legal heirs (or the executor/administrator, if appointed) of the deceased hirer. This is subject to the provision of documents.

In the event of death of all the joint locker hirer(s), access to the locker may be given jointly to the legal heirs of all the deceased hirers (or the executor/administrator if appointed). This is subject to the provision of documents.

**Joint Safe Deposit Lockers with survivorship mandate and with or without nomination (Either or survivor/any one or survivor)**

**With Nomination**

In the event of death of one of the locker hirers, access to the locker may be given only to survivor subject to the provision of documents.

In the event of death of both or all the joint locker hirer(s), access to the locker may be given to the nominee(s) subject to the provision of documents.

**Without Nomination**

In the event of death of one of the joint accountholders, the access may be given to the survivor(s) subject to the provision of documentation.

In the event of death of both/all accountholders, access to the said locker may be given jointly to the legal heirs of all the deceased hirers (or the executor/administrator if appointed) subject to the provision of documentation.

### **Safe Deposit Lockers with Nomination**

- Claim Form (Refer Annexure I for format)
- Death Certificate issued by municipal authorities/government department. The photocopy should be original sighted by the Bank Officer
- Death Certificate issued in other than English language in India will be translated by the Bank in India
- For Death Certificate (DC) issued outside India: The Death Certificate should be attested by Indian Embassy located in country issuing the DC or embassy of the country issuing DC located in India
- In case the Death Certificate had been not written in English and issued outside India it should be attested by official translator and on Letterhead
- Proof of Address and Photo ID of the legal heirs/survivor/nominee (Refer Annexure IV)
- Customer copy of nomination, if any
- Inventory listing in the presence of the nominee(s) and two witnesses. (Refer Annexure III for format)

### **Safe Deposit Lockers without Nomination/Survivor clause**

- Claim Form (Refer Annexure I for format)
- Death Certificate issued by municipal authorities/government department. The photocopy should be original sighted by the Bank Officer.
- Death Certificate issued in other than English language in India will be translated by the Bank in India
- For Death Certificate (DC) issued outside India: The Death Certificate should be attested by Indian Embassy located in country issuing the DC or embassy of the country issuing DC located in India
- In case the Death Certificate had been not written in English and issued outside India it should be attested by official translator and on Letterhead
- Proof of Address and Photo ID (Refer Annexure IV) of the Legal heirs/ Survivor.
- Probated Will/Succession Certificate/Letter of Administration issued by competent jurisdiction, in India need to be submitted
- Inventory listing in the presence of the legal heirs/mandate holder and two witnesses. (Refer Annexure III for format)

**Annexure I – Claim Form**

**Application for settlement of claims of missing deposit holder (To be used for claims upto ₹1,000,000 with nomination)**

From

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**To**

The Branch Manager,  
The Hongkong and Shanghai Banking Corporation Limited, India  
\_\_\_\_\_ Branch

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Dear Sir/Madam,**

**Re.: Missing person presumed as deceased**

**Missing Shri(s)mt** \_\_\_\_\_

**Account No(s)** \_\_\_\_\_

I/We wish to advise that Shri(s)mt. \_\_\_\_\_  
has been missing from \_\_\_\_\_. (<date>)

He(s)he holds the above account(s) at your branch. The account is in the name(s) of:

\_\_\_\_\_

**a. In case of nomination**

I, \_\_\_\_\_, residing at \_\_\_\_\_  
\_\_\_\_\_ am

- (i) the registered nominee in the above account(s).
- (ii) the person authorised to receive payment on behalf of Master/Miss \_\_\_\_\_ who is the nominee in the above account(s) and is a minor as on the date of this claim.

Please settle the balance in the account in the name of the nominee.

OR

I will receive the payment for and on behalf of the minor nominee as trustee(s) of the nominee of the deceased.

**b. In the case of joint account with nomination**

I request you to delete the name of missing person and continue the account in my/our name(s) with same mode of operations.

I/We submit photocopy of the following document(s) together with originals. Please return the original to us after verification. (Please tick the documents submitted)<sup>1</sup>.

- FIR
- Non-traceable Report
- Indemnity
- Claim Form (refer annexure)
- Proof of Address and Proof of ID of the nominee/guardian of the minor nominee/person entitled to receive the payment on behalf of the minor nominee
- Copy of nomination, if any

Yours faithfully,

[Claimant(s)]

Date: \_\_\_\_\_

Place: \_\_\_\_\_

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<sup>1</sup>All these documents to be obtained in respect of both the categories of accounts.



**Annexure II**  
**Application for settlement of claims for a missing deposit holder**  
**(All other claims)**

From

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To  
The Branch Manager,  
The Hongkong and Shanghai Banking Corporation Limited, India  
\_\_\_\_\_ Branch  
\_\_\_\_\_

**Dear Sir/Madam,**

**Re.: Missing person presumed as deceased**

**Missing Shri(s)mt** \_\_\_\_\_

**Account No(s)** \_\_\_\_\_

I/We wish to advise that Shri(s)mt. \_\_\_\_\_ (Depositor),  
has been missing since \_\_\_\_\_ (<date>). He(s)he holds the above account(s) at The Hongkong  
and Shanghai Banking Corporation Limited, India \_\_\_\_\_ branch (Bank). The account is in the  
name(s) of: \_\_\_\_\_

I/We lodge my/our claim, for the balances with accrued interest lying to the credit of the above named  
Depositor who is missing. I/We, am/are the legal heirs of the above named Depositor and lodge my/  
our claim for payment as per the Bank's rules. The relevant information about the Depositor and the  
legal heirs are as under:

Details of legal heirs of the Depositor:

(i) Name: \_\_\_\_\_

Relationship with the Depositor: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Occupation: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

(ii) Name: \_\_\_\_\_

Relationship with the Depositor: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Occupation: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

(iii) Name: \_\_\_\_\_  
Relationship with the Depositor: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Occupation: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_

(iv) Name: \_\_\_\_\_  
Relationship with the Depositor: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Occupation: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_

(v) Name: \_\_\_\_\_  
Relationship with the Depositor: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Occupation: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_

(vi) Name: \_\_\_\_\_  
Relationship with the Depositor: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Occupation: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_

1. Name or Names of the Guardian(s)/person(s) appointed to claim on behalf of the minor children of the Depositor.

a. Whether Natural Guardian	
b. Whether Guardian appointed by a Court of Law in India. If so attach a certified copy or duly attested copy of such Order	
c. In whose custody the Minor/Minors is/are?	

2. Claimant(s) name(s) and address in full

(i) \_\_\_\_\_  
(ii) \_\_\_\_\_  
(iii) \_\_\_\_\_

I/We submit the following documents. Please return the original death certificate to us after verification:

- Date of missing report/FIR issued by the police
- A certified copy of the appropriate order issued by the competent court on the presumption of death
- \* \_\_\_\_\_
- \* \_\_\_\_\_
- \* \_\_\_\_\_
- \* \_\_\_\_\_
- \* \_\_\_\_\_
- \* \_\_\_\_\_

(\*Please update documents as per the policy)

We request you to pay the balance amount lying to the credit of the above named Depositor to \_\_\_\_\_ on my/our behalf. Such person shall receive such amounts as trustee(s) on my/our behalf and payment of the said sum of ₹ \_\_\_\_\_ would constitute a full discharge of the Bank's obligations in this regard.

I/We hereby solemnly affirm that the above statements are true and correct to the best of my/our knowledge and belief.

Yours faithfully,

Signature of Claimant(s)

Name: \_\_\_\_\_

Place: \_\_\_\_\_

Date: \_\_\_\_\_

**Annexure III****INDEMNITY CUM AFFIDAVIT (ON STAMP PAPER OF ₹300) (To be used for claims where nomination is registered and the claim amount is upto ₹21,000,000)**

We,

1. Mr./Ms. \_\_\_\_\_ Indian National residing at \_\_\_\_\_  
hereinafter referred to as Deponent no. 1,
2. Mr./Ms. \_\_\_\_\_ Indian National residing at \_\_\_\_\_  
hereinafter referred to as Deponent no. 2,
3. Mr./Ms. \_\_\_\_\_ Indian National residing at \_\_\_\_\_  
hereinafter referred to as Deponent no. 3,
4. Mr./Ms. \_\_\_\_\_ Indian National residing at \_\_\_\_\_  
hereinafter referred to as Deponent no. 4,
5. Mr./Ms. \_\_\_\_\_ Indian National residing at \_\_\_\_\_  
hereinafter referred to as Deponent no. 5,

Hereinafter, collectively referred to as the Deponents, do and each of us doth hereby solemnly declare and state as follows:

- (1) One Mr./Ms. \_\_\_\_\_ (herein after referred to as the 'Accountholder') has been missing since \_\_\_\_\_. The Bank is in receipt of a non-traceable report issued by \_\_\_\_\_ dated \_\_\_\_\_ in lieu of the death certificate. Hereto, annexed is a xerox copy of the non-traceable report .
- (2) At the time of issuance of the non-traceable report, the Accountholder was a Hindu/Christian/ Parsee, Indian National, residing in India and in the circumstances the administration of the estate of the Accountholder in India is governed by the provisions of the Hindu Succession Act 1957/Mohammedan Law/Indian Succession Act (herein referred to as the 'Said Act').
- (3) The Accountholder is survived by

Sr. No.	Claimant/Deponent Name	Relationship with the deceased

- (4) The Accountholder, maintained in his/her, single name Savings/Term Deposit/Bank Account No. \_\_\_\_\_, \_\_\_\_\_ (said Account) with the \_\_\_\_\_ Branch of The HongKong and Shanghai Banking Corporation Ltd. (hereinafter called 'the Bank'). The Accountholder alone was entitled to the amounts lying to the credit of the said Account and no other person had any share, right, title or interest therein or any part thereof. A sum of ₹\_\_\_\_\_ is now lying to the credit of the said Account.

OR

The Accountholder, maintained in the joint name Savings/Term Deposit/Bank Account No. \_\_\_\_\_ with Mr./Mrs./Ms. \_\_\_\_\_

with the \_\_\_\_\_ branch of The Hongkong and Shanghai Banking Corporation Limited, India (hereinafter referred to as the 'the Bank'). The Accountholder was jointly entitled to the amounts lying to the credit of the said account with Mr./Ms. \_\_\_\_\_ and no other person had any share, right, title or interest therein or any part thereof. A sum of ₹ \_\_\_\_\_ is now lying to the credit of the said account.

(Strike out what is not applicable)

- (5) On the basis of the aforesaid representations and declarations we have requested the Bank to close the said account and pay over the amount standing to the credit of the account to Deponent no. \_\_\_\_\_, which the Bank has agreed to do on the following indemnity being given by us.
- (6) Deponent no. \_\_\_\_\_ will receive such amounts as trustee(s) on our behalf and payment of the said sum of ₹ \_\_\_\_\_ to Deponent no. \_\_\_\_\_ would constitute a full discharge of the Bank's obligations in this regard.
- (a) In consideration of the Bank having agreed to close the said account on the basis of the foregoing representation and paying over the amount lying to the credit thereof to Deponent no. \_\_\_\_\_ without insisting for on a court order issued by a competent court presuming the Accountholder to be dead, we do hereby jointly and each of us doth hereby severally agree to indemnify and keep indemnified the Bank and its officers against all claims, demands, actions, suits, proceedings, estate charges, expenses, loss and/or damages of whatsoever nature which may be made or brought or commenced against the Bank or be paid, sustained, suffered or incurred by the Bank or shall arise and/or accrue against the said Bank and/or its officers or any of them by reason of the said Bank having so closed the said account and paid over the amount standing to the credit thereof to Deponent no. \_\_\_\_\_.
- (b) The Deponents further declare that in case the Bank incurs any such expenses, cost, charges, etc. then in such an event, the Bank shall have the right to set off any such amount, expenses, charges, cost, etc. incurred against the amount of the Deponents' Fixed Deposit, amounts in savings/current accounts, etc. or any other deposits maintained by the Deponents with the Bank.
- (c) The Deponents also declare that the Bank shall have the liberty to proceed against any movable or immovable property owned and possessed by the Deponents, to recover any loss, damages, costs or expenses caused to the Bank as reason consequent, direct or indirect of not submitting the court order raising a presumption of death of the Accountholder.

Solemnly Declared at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_

by the within named:

- 1)
- 2)
- 3)
- 4)
- 5)

Before me

(Notary. State)

Read over and explained by each of us in the presence of each other unto the Deponent above named before the execution hereby by them in our presence and each of them is known and identified by each one of us.

- 1)
- 2)
- 3)

## **B. Settlement of Claims in respect of Missing Persons in Uttarakhand Disaster**

Based on the RBI Circular under reference RBI/2014-15/72

DBOD No.Leg.BC.21/09.07.006/2014-15 Master Circular on Customer Service in Banks

the policy in respect of Missing Persons in Uttarakhand Disaster has been formulated. This note aims at providing,

In the aftermath of Uttarakhand Natural Disaster during June 14-20, 2013 the Office of the Registrar General of India, Ministry of Home Affairs and Government of India has devised a procedure for Registration of Death of Missing Persons in Natural Calamities affected areas in Uttarakhand vide its Circular F.No. 1/2/ (Uttarakhand)/2011-VS-CRS dated August 16, 2013 (MHA Circular). A copy of MHA Circular is furnished as Annexure VI for reference. The MHA Circular has devised detailed procedure for registration and issue of 'Death Certificate' of a person reportedly missing since his/her visit to the site of disaster in Uttarakhand in June 2013.

Note that the missing persons of Uttarakhand can be divided into the following categories:

- (i) Permanent residents of the flood affected villages and permanent residents of the nearby villages of Uttarakhand who were present in the flood affected villages during the catastrophe.
- (ii) Residents of other districts of Uttarakhand who were present in the flood affected villages during the catastrophe.
- (iii) Tourists from other States who were present in the flood affected villages during the catastrophe.

Further be advised that the provisions detailed in Para A above on 'Settlement of claims in respect of missing persons' would be applicable in other cases which are not covered by MHA Circular.

### **Claims ≤ ₹1,000,000 with Nomination**

For all claim amounts up to and including ₹1,000,000, if the nominee submits the following documents, the claim can be settled without insisting on any additional documents:

- ✓ Claim Form (refer Annexure I)
- ✓ Proof of Address and Proof of ID of the nominee
- ✓ Copy of nomination, if any
- ✓ the 'Death Certificate' issued by the Designated Officer under MHA Circular and
- ✓ Indemnity for the threshold (refer Annexure 3)

### **Other Claims (This will include claims > ₹1,000,000 with or without nomination and claims ≤ ₹1,000,000 without nomination)**

Other clauses as in the Deceased Depositors policy will continue to be applicable. Once the above documents are collected along with the routine documents (as highlighted for all claim amounts upto and including ₹1,000,000) under Deceased Depositor's policy, the Bank can proceed with the processing of the claims.

Thus, the following documents will be required to process such other claims:

- ✓ the 'Death Certificate' issued by the Designated Officer under MHA Circular and
- ✓ Indemnity for the threshold (refer Annexure III)
- ✓ All other documents as applicable for settlement of deceased claims > ₹10 lakh under the Deceased Depositor's Policy, i.e.
  - Claim Form. Refer Annexure I format available in the Deceased Depositor's policy)
  - Indemnity cum Affidavit. Refer Annexure II format available in the Deceased Depositor's policy
  - Proof of Address and Photo ID of the legal heirs/survivors. Please be guided by the CAP guidelines for the list of documents that are acceptable as PA and PI
  - Customer copy of nomination, if any  
OR  
Probated Will OR Succession Certificate OR Letter of Administration issued by a competent jurisdiction in India

### **Lockers – Missing Persons in Uttarakhand Disaster**

The following documents would be required to process such claims:

- ✓ the 'Death Certificate' issued by the Designated Officer under MHA Circular and
- ✓ Indemnity for the threshold (refer Annexure 3)
- ✓ All other documents as applicable for settlement of deceased claims > ₹10 lakh under the Deceased Depositor's policy, i.e.
  - Claim Form. Refer Annexure I format available in the Deceased Depositor's policy.
  - Proof of Address (PA) and Photo ID (PI) of the legal heirs/survivors. Please be guided by the CAP guidelines for the list of documents that are acceptable as PA and PI
  - Customer copy of nomination, if any  
OR  
Probated Will OR Succession Certificate OR Letter of Administration issued by a competent jurisdiction in India
  - Inventory listing in the presence of the legal heirs/mandate holder and two witnesses. Refer Annexure III format available in the Deceased Depositor's policy.

**Note:** All original documents have to be witnessed by the Bank staff and copies attested as 'Original Sighted'.