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Dated: 1st December 2016

To
Dr Urjit R Patel
Governor
Reserve Bank of India
16th floor, Central Office Building
Shahid Bhagat Singh Marg
Mumbai - 400 001

Sub: Limited Liability on Unauthorized Electronic Banking Transactions

Dear Sir,

I invite your attention to circular dated August 11, 2016, no: RBI/2016-17/DBR No Leg.BC./09.07.005/2016-17 titled Customer Protection – Limiting Liability of Customers in Unauthorised Electronic Banking Transactions.

I am an ex-Banker and founder of www.naavi.org. I have been keenly following the development of Digital Banking in India and also involved in educating the public about the Cyber Risks. I also focus on organizations complying with the regulations both in the form of Cyber Laws applicable to Indian Banking scenario as well as the RBI guidelines.

When the above circular was issued, I was glad that at last RBI had taken a Customer Centric policy initiative which had long been sidelined in the push for technology. As a person who was involved in the first case where a Bank (ICICI Bank) was held liable for a phishing loss of one of its customers (S.Umashankar), I was glad that once the circular became effective, the needless litigation efforts that are required today by customers to recover their unfortunate losses arising out of the push for technology in Banking and the recklessness of the Bankers would cease and customers can get their losses reimbursed as soon as they report the “Unauthorized Transaction” to the Bank. I was also happy that the circular gave effect to the Damodaran Committee report of 2011 where “Zero Liability” and “Onus of Evidence on Bank” had been recommended but not implemented.

While I welcomed the “Draft Circular”, I had expressed my apprehension that the vested interests in the Banking industry which unfortunately includes SBI, ICICI Bank and IBA may scuttle the intentions of the Banks and RBI may not have the guts to implement what it says through its circulars particularly when they are labeled as “Draft”. Since the closure of the public comments upto August 31, 2016, RBI has not yet come out with

the confirmatory circular which makes the “Draft Circular” operative. Sadly my apprehension appears to have come true.

Many in the market consider this to be an operative circular but I am aware that it still needs to be confirmed by RBI to avoid legal disputes.

I am aware that there are some sinister lawyers in the Banking system who will argue that “Intention” is not “Action” and RBI has in its greater wisdom decided not to give effect to the circular. This requires to be fought all the way up to Supreme Court which may pass strictures on RBI for issuing circulars without intention of implementing the same.

I hope that it is not your intention that RBI under your leadership cannot implement customer centric policies because IBA is not in favour.

With the recent demonetization of notes in India and the increased need for use of digital money, the responsibility of Mr Urjit Patel as Governor as well as Mr Narendra Modi as Prime Minister has increased in ensuring that we donot push common citizens to the “Digital Banking Trap” where fraudsters are waiting to exploit the ignorance of customers as well as the technical vulnerabilities and negligence of the Bankers, not to speak of the frauds committed by Bankers themselves, without appropriate safeguards.

Now, cyber security advisers like us are no longer in a position to advise people not to use digital banking because of security reasons. While we wish to support less cash society, we donot have the confidence that RBI or the Bankers have done anything to improve the security of the digital banking system. The delay in issuing the circular is an corroborates our fear.

The least that can be done by RBI now is to operationalize this August 11 circular to protect the public.

Day before yesterday I was sitting in one Police Station in Bangalore for an hour and found that within one hour there were two complaints on Card misuse one on State Bank of India and the other on Citi Bank. In both cases the withdrawals are in foreign countries and indicate a clear failure of the Banks to use adaptive authentication measures to identify such frauds. In both cases, Banks have sent the customers to the Police station rather than settling it themselves.

If this is the rate at which card frauds are being reported in one Police Station in the Country, I would like you to estimate the extent of the frauds that the new initiatives of pushing the rural folk to use debit cards may unleash.

It is therefore urgent that RBI takes suitable measures to improve the security of the digital banking system.

I take note and appreciate the recent TV ad program initiated by IBA on educating card owners not to reveal the card details to phishing agents. This was long overdue and should continue.

RBI had also initiated measures such as the Cyber Security Framework recently but it is not known if they have in fact been implemented. The tendency of RBI to issue a circular and forget implementation is too well known to presume that the cyber security framework has been implemented by most Banks.

As regards the limited liability circular not being operationalized, it is clear that the interests of the public are directly affected and any delay is considered as an abetment of RBI officials in prolonging the misery of Bank customers who are defrauded by the weak system.

In the current context the blame for such lax implementation will directly affect the Prime Minister's initiative in demonetization and moving towards the less cash society. One scam that sweeps across the system is sufficient to kill the political fortunes of Mr Modi and the great future that we are all looking forward to the Country under Mr Modi's leadership.

I therefore wish that the draft circular of 11th August 2016 will be operationalized immediately.

I am marking a copy of this letter to the Finance Minister and the PMO so that this will not be forgotten and buried in RBI. If not acted upon, I will reopen it with an RTI application to hold persons accountable for their negligence. I sincerely hope this would not be required.

I would be glad to meet you in person if possible any time between December 18th and December 24th when I will be in Mumbai and discuss the issue personally in the interest of all the Bank customers. I look forward to your confirmation of appointment in this regard.

I may also place this letter in public domain if there is no response from RBI to this request.

Regards

Yours faithfully

Na.Vijayashankar

CC: Mr Arun Jaitley, Honourable Minister of Finance,
Mr Narendra Modi, Honourable Prime Minister
Ms Alpana Killawala, Principal Adviser, RBI