

Draft Guidelines for extending No Objection Certificate (NoC) for opening of branch/subsidiary/Joint Venture/representative office or undertaking investment abroad by NBFCs

NBFCs should obtain prior approval of the Bank for opening of subsidiaries/Joint Ventures/representative office abroad or for undertaking investment in foreign entities. The guidelines in place are being reviewed. The application from the NBFC seeking No Objection would be considered subject to the following guidelines.

2. The guidelines are in addition to those prescribed by FED for opening of branches abroad or for investments in Joint Venture/Wholly Owned Subsidiary.

3. The following general conditions are prescribed for permitting subsidiaries/Joint Ventures/representative office or making investments abroad by an NBFC (both deposit taking and non-deposit taking NBFCs) registered with RBI on a case to case basis. Further, NBFCs would not be permitted to set up subsidiaries abroad for services/activities other than those aligned with the activities normally undertaken by a financial institution.

General conditions

(a) The CRAR of the NBFCs should be not less than 15% post investment in subsidiary abroad in case of deposit taking NBFCs and 10% in case of all non-deposit taking NBFCs;

(b) The NBFC should continue to maintain required level of NOF after accounting for investment in the proposed subsidiary/investment abroad as prescribed in the explanation to Section 45-IA of the RBI Act, 1934.

(c) The level of Net Non-Performing Assets of the NBFC should not be more than 5% of the net advances;

(d) The NBFC should be earning profit for the last three years and its performance in general should be satisfactory;

(e) The NBFC should comply with the regulations issued under FEMA, 1999 from time to time;

(f) Regulatory compliance and servicing of public deposits, if held by the NBFC, should be satisfactory; and

(g) The NBFC must be compliant with the KYC norms;

Specific provisions

(A) Opening of Branch

As a general policy, NBFCs would not be allowed to open a branch abroad. In case of non-banking financial companies which have already set up branch(es) abroad for undertaking financial business will be allowed to continue to operate subject to complying with the revised guidelines, as applicable.

(B) Opening of subsidiary abroad by NBFCs

In case of opening of subsidiary abroad by the NBFCs, all the conditions as stipulated above would apply. The NoC to be issued by the Bank is independent of the overseas regulators approval process, if any. In addition, the following stipulations are made, which are applicable to all NBFCs:

- (a) In case of opening of subsidiary abroad, the parent NBFC should not extend any implicit or explicit guarantee to or on behalf of such subsidiaries.
- (b) NBFC should not extend any credit to the overseas subsidiary.
- (c) All the operations of the subsidiary abroad would be subject to regulatory prescriptions of the host country.
- (d) It shall be ensured that NBFC's liability in the proposed overseas entity undertaking financial or non-financial business is restricted to its equity commitment to the subsidiary.
- (e) At **no** point of time, request for line of credit or letter of comfort in favour of the subsidiary abroad from any institution in India would be permitted.
- (f) The subsidiary being established abroad should not be a shell company i.e "a company that is incorporated, but has no significant assets or operations."
- (g) The subsidiary being established abroad by the NBFC should not be used as a vehicle for raising resources for creating assets in India for the Indian operations.
- (h) In order to ensure compliance of the provisions, the parent NBFC must obtain periodical reports about the business undertaken by the subsidiary abroad.
- (i) If the subsidiary has not undertaken any activity or such reports are not forthcoming, the approvals given for setting up a subsidiary abroad would be reviewed.

(C) Joint Ventures/Investment abroad

Investments abroad, other than by way of subsidiaries also would be governed by same guidelines as applicable to subsidiaries.

(D) Opening of representative offices abroad by NBFCs

In case of NBFCs seeking permission to open representative offices abroad, policy would be to permit the same subject to the condition that the representative office abroad is being opened for

the purpose of liaising on behalf of the NBFC and it would not carry on any financial or non-financial business normally not undertaken by the NBFC. The business proposed to be undertaken at the Representative office should be normally in line with the activity being undertaken domestically. Further, no line of credit or guarantee would be allowed to the representative office on the strength of parent's balance sheet. The NBFC requesting NoC from the Bank must subject itself to the overseas regulators approval process, if any. The parent NBFC must obtain periodical reports about the business undertaken by the representative office abroad. If the representative office has not undertaken any activity or such reports are not forthcoming, the approvals given for the purpose would be reviewed.