



भारतीय रिजर्व बैंक

RESERVE BANK OF INDIA

www.rbi.org.in

RBI/2015-16/107

DNBR (PD) CC.No.056/03.10.119/2015-16

July 01, 2015

(Updated as on April 11, 2016)

To

All Non-Banking Financial Companies (NBFCs),

Dear Sir/Madam,

**Master Circular - Miscellaneous Instructions to all Non-Banking Financial Companies**

As you are aware, in order to have all current instructions on the subject at one place, the Reserve Bank of India issues updated circulars / notifications. The instructions related to the captioned subject contained in various circulars issued by RBI updated till the date as indicated above are reproduced below. The updated circular has also been placed on the RBI web-site (<https://www.rbi.org.in>).

Yours faithfully,

(C.D.Srinivasan)

Chief General Manager

## Table of Contents

Para No	Particulars
1.	Nomination rules under Section 45QB of RBI Act for NBFC Deposits
2.	Safe Custody of Liquid Assets / Collection of Interest on SLR Securities
3.	Non- Reckoning Fixed Deposits with Banks as Financial Assets
4.	Operative instructions relating to relaxation / modification in Ready Forward Contracts, Settlement of Government Securities Transactions and Sale of securities allotted in Primary Issues
5.	FIMMDA Reporting Platform for Corporate Bond Transactions
6.	Need for public notice before Closure of the Branch / Office by any NBFC
7.	Cover for public deposits - creation of floating charge on Liquid Assets by deposit taking NBFCs
8.	Unsolicited Commercial Communications - National Do Not Call Registry
9.	Investment through Alternative Investments Funds- clarification calculation of NOF of an NBFC
10.	Accounting for taxes on income - Accounting Standard 22 - Treatment of deferred tax assets (DTA) and deferred tax liabilities (DTL) for computation of capital
11.	Introduction of Interest Rate Futures – NBFCs
12.	Finance for Housing Projects - Incorporating clause in the terms and conditions to disclose in pamphlets / brochures / advertisements, information regarding mortgage of property to the NBFC
13.	Loan facilities to the physically / visually challenged by NBFCs
14.	Participation in Currency Futures
15.	Submission of data to Credit Information Companies - Format of data to be submitted by Credit Institutions
15.1	Data Format for Furnishing of Credit Information to Credit Information Companies (CICs) and other Regulatory Measures

15.2	Membership of Credit Information Companies (CICs)
16.	Implementation of Green Initiative of the Government
17.	Attempt to defraud using fake bank guarantee-modus operandi
18.	Credit Default Swaps – NBFCs as Users
19.	Revision to the guidelines on Securitisation Transactions-To all NBFCs except Primary Dealers.
20.	Standardisation and Enhancement of Security Features in Cheque Forms - Migrating to CTS 2010 Standards
21.	Migration of Post Dated Cheques (PDC)/ EMI cheques to ECS (Debit)
22.	Readiness of major service providers to migrate from IPv4 to IPv6 –Issued to all NBFCs/RNBCs
23.	Checklist for NBFCs, Non-Banking Financial Company-Micro Finance Institutions (NBFC-MFIs), Non-Banking Financial Company-Factoring Institutions (NBFC-Factors) and Core Investment Companies (CICs) -Issued to all NBFCs excluding RNBCs
24.	Raising Money Through Private Placement by NBFCs-Debentures etc
25.	Filing of mortgages with the Central Registry
26.	Early Recognition of Financial Distress, Prompt Steps for Resolution and Fair Recovery for Lenders: Framework for Revitalizing Distressed Assets in the Economy
27.	Rounding off transactions to the Nearest Rupee by NBFCs
28.	Multiple NBFCs
29.	Net Owned Fund(NOF) Requirement
30.	Appointment of Non-Deposit Accepting NBFCs as sub- agents under Money Transfer Service Schemes (MTSS)
31.	Provision of Safe Deposit Locker Facility by NBFCs
32.	Undertaking of Point of Presence (PoP) Services under Pension Fund Regulatory and Development Authority for National Pension System (NPS)
	<b>Appendix</b>

## **1. <sup>1</sup>Nomination rules under Section 45QB of RBI Act for NBFC Deposits**

In terms of Section 45QB of the RBI Act, the depositor/s of NBFCs may nominate, in the manner prescribed under the rules made by the Central Government under Section 45ZA of the Banking Regulation Act, 1949 (B.R.Act) one person to whom, in the event of death of the depositor/s, the amount of deposit may be returned by the NBFC. It has been decided in consultation with the Government of India, that the Banking Companies (Nomination) Rules, 1985 are the relevant rules made under Section 45ZA of the B. R. Act, 1949. Accordingly, NBFCs may accept nominations made by the depositors in the form similar to that specified under the said rules.

## **2. <sup>2</sup>Safe Custody of Liquid Assets / Collection of Interest on SLR Securities**

NBFCs including RNBCs are required to maintain liquid assets in the form of Government securities / guaranteed bonds as per the provisions of Section 45-IB of the RBI Act, 1934 and lodge such securities in a Constituents' Subsidiary General Ledger (CSGL) Account with a scheduled commercial bank (SCB) / Stock Holding Corporation of India Ltd., (SHCIL) or in a demat account with a depository through a depository participant (DP) registered with Securities & Exchange Board of India (SEBI) or with a branch of SCB to the extent such securities are yet to be dematerialised.

In order to protect the interest of depositors, an exclusive CSGL or demat account to hold Government securities shall be maintained for securities held for the purpose of compliance with Section 45-IB of the RBI Act. This account should be operated only for purchase or sale of securities due to increase or decrease in the quantum of public deposits or withdrawal of securities for encashment on maturity or for repayment to depositors in special circumstances, and not be used to undertake repo or other transactions.

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<sup>1</sup>Details in [DNBS.\(PD\).CC.No.27/02.05/2003-04 dated July 28, 2003](#)

<sup>2</sup>Details in [DNBS.\(PD\).C.C.No.28/02.02/2002-03 dated July 31, 2003](#), [DNBS.\(PD\).CC.No.37/02.02/2003-04 dated May 17, 2004](#)

In case an NBFC (including RNBC) deals in the government securities in a manner other than that permitted above, another CSGL account may be opened for this purpose.

It is also observed that some of the NBFCs have either not dematerialised the government securities or have dematerialized but failed to report the same to the RBI. For this purpose the quarterly liquid asset return in the reporting formats of NBS 3 and NBS 3A has been amended to include the information about the demat accounts, which will ensure that the information in this regard is not omitted by NBFCs.

It may be possible that there may be a few Government securities / Government guaranteed bonds that have not been dematerialized and are held in physical form which for the purpose of collection of interest are withdrawn from the safe custody with their designated bankers and re-deposited with the banks after collection of interest. To avoid the process of withdrawal and re-depositing the same it has now been decided that NBFCs / RNBCs shall authorize the designated banks as agents for collection of interest on due dates on these securities held in physical form and lodged for safe custody. NBFCs / RNBCs may approach their designated banker and exercise a Power of Attorney in favour of the designated bank to enable it to collect interest on the securities / guaranteed bonds held in physical form on the due date.

### **3. <sup>3</sup>Non- Reckoning Fixed Deposits with Banks as Financial Assets**

It was clarified, that the Reserve Bank issues a Certificate of Registration for the specific purpose of conducting NBFIs activities. Investments in fixed deposits cannot be treated as financial assets and receipt of interest income on fixed deposits with banks cannot be treated as income from financial assets as these are not covered under the activities mentioned in the definition of “financial Institution” in Section 45I(c) of the RBI Act 1934. Besides, bank deposits constitute near money and can be used only for temporary parking of idle funds, and/or in the above cases, till commencement of NBFIs business.

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<sup>3</sup>Details in [DNBS\(PD\)CC.No.259/03.02.59/2011-12 dated March 15, 2012](#)

In addition, the NBFC which is in receipt of a CoR from the Bank must necessarily commence NBFC business within six months of obtaining CoR. If the business of NBFC is not commenced by the company within the period of six months from the date of issue of CoR, the CoR will stand withdrawn automatically. Further, there can be no change in ownership of the NBFC prior to commencement of business and regularization of its CoR.

#### **4. <sup>4</sup>Operative instructions relating to relaxation / modification in Ready Forward Contracts, Settlement of Government Securities Transactions and Sale of securities allotted in Primary Issues**

All NBFCs / RNBCs are instructed to follow the guidelines on transactions in Government Securities as given in the circular IDMD.PDRS.05/10.02.01/2003-04 dated March 29, 2004 and [IDMD.PDRS.4777](#), [4779](#) & [4783/10.02.01/2004-05](#) all dated May 11, 2005 as amended from time to time. In cases of doubt they may refer to IDMD.

#### **5. <sup>5</sup>FIMMDA Reporting Platform for Corporate Bond Transactions**

SEBI has permitted FIMMDA to set up its reporting platform for corporate bonds. It has also been mandated to aggregate the trades reported on its platform as well as those reported on BSE and NSE with appropriate value addition. All NBFCs would be required to report their secondary market transactions in corporate bonds done in OTC market, on FIMMDA's reporting platform with effect from September 1, 2007. Detailed operational guidelines in this regard would be issued by FIMMDA. In the meanwhile, the NBFCs may approach FIMMDA directly for participating in the mock reporting sessions.

#### **6. Need for public notice before Closure of the Branch / Office by any NBFC**

<sup>6</sup>NBFCs should give at least three months public notice prior to the date of closure of any of its branches / offices in, at least, one leading national news paper and a leading

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<sup>4</sup>Details in [DNBS. \(PD\).C.C.No.38/02.02/2003-04 dated June 11, 2004](#), [DNBS. \(PD\).CC.No.49/02.02/2004-05 dated June 9, 2005](#)

<sup>5</sup>Details in [DNBS.PD/C.C.No.96/03.10.001/2007-08 dated July 31, 2007](#)

local (covering the place of branch / office) vernacular language newspaper indicating therein the purpose and arrangements being made to service the depositors etc.

## **7. Cover for public deposits - creation of floating charge on Liquid Assets by deposit taking NBFCs**

NBFCs raise funds for their operations from various sources like public deposits, bank borrowings, inter-corporate deposits, secured / unsecured debentures, etc.

<sup>7</sup>In order to ensure protection of depositors interest, NBFCs should ensure that at all times there is full cover available for public deposits accepted by them. While calculating this cover the value of all debentures (secured and unsecured) and outside liabilities other than the aggregate liabilities to depositors may be deducted from the total assets. Further, the assets should be evaluated at their book value or realizable / market value whichever is lower for this purpose. It shall be incumbent upon the NBFC concerned to inform the Regional Office of the Reserve Bank in case the asset cover calculated as above falls short of the liability on account of public deposits. NBFCs accepting / holding public deposits were directed to create a floating charge on the statutory liquid assets invested in terms of Section 45-IB of the RBI Act, 1934, in favour of their depositors. Such charge should be duly registered in accordance with the requirements of the Companies Act, 1956.

<sup>8</sup>In view of the practical difficulties expressed by the NBFCs in creating charge on the statutory liquid assets in favour of large number of depositors, it was subsequently decided that NBFCs accepting / holding public deposits may create the floating charge on the statutory liquid assets maintained in terms of Section 45-IB of the RBI Act, 1934 and notifications issued by the Bank from time to time, in favour of their depositors through the mechanism of 'Trust Deed'.

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<sup>6</sup>Details in DNBS.(PD).CC.No.11/02.01/99-2000 dated November 15, 1999

<sup>7</sup>Details in [DNBS.\(PD\).C.C.No.47/02.01/2004-05 dated February 07, 2005](#)

<sup>8</sup>Details in [DNBS.\(PD\).C.C.No.87/03.02.004/2006-07 dated January 4, 2007](#)

## 8. Unsolicited Commercial Communications - National Do Not Call Registry

<sup>9</sup>It is an emerging practice in India to engage agents / outsource business operations for the purpose of soliciting or promoting any commercial transactions using telecommunication mode. There is a need to protect the right to privacy of the members of public and to curb the complaints relating to unsolicited commercial communications being received by customers / non-customers, as part of best business practices.

Telecom Regulatory Authority of India (TRAI) has framed the Telecom Unsolicited Commercial Communications (UCC) Regulations for curbing UCC. Further, the Department of Telecommunications (DoT) has issued relevant guidelines for telemarketers along with the registration procedure on June 6, 2007. These guidelines have made it mandatory for telemarketers to register themselves with DoT or any other agency authorized by DoT and also specified that the telemarketers shall comply with the Guidelines and Orders / Directions issued by DoT and Orders / Directions / Regulations issued by Telecom Regulatory Authority of India (TRAI) on Unsolicited Commercial Communications (UCC). The detailed procedure in this regard is also available on TRAI's website ([www.traai.gov.in](http://www.traai.gov.in)).

NBFCs are therefore advised

- (i) not to engage Telemarketers (DSAs / DMAs) who do not have any valid registration certificate from DoT, Govt of India, as telemarketers;<sup>10</sup>NBFCs should engage only those telemarketers who are registered in terms of the guidelines issued by TRAI, from time to time, for all their promotional/ telemarketing activities.
- (ii) to furnish the list of Telemarketers (DSAs/DMAs) engaged by them along with the registered telephone numbers being used by them for making telemarketing calls to TRAI; and
- (iii) to ensure that all agents presently engaged by them register themselves with DoT as telemarketers.

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<sup>9</sup> Details in [DNBS.PD/C.C.No.109/03.10.001/2007-08 dated November 26, 2007](#)

<sup>10</sup>Inserted vide [DNBS \(PD\) CC No. 353/ 03.10.042 / 2013-14 dated July 26, 2013](#)



## **9. <sup>11</sup>Investment through Alternative Investment Funds-Clarification on Calculation of NOF of an NBFC**

It was observed in certain cases that an NBFC while arriving at the NOF figure as in terms of Section 45 IA of the RBI Act, 1934, did not reckon its investment in group companies on the ground that investments in the group companies were made by the Venture Capital Fund (VCF) sponsored by the NBFC, although, in term, the contribution to the funds held by the VCF had come primarily from the NBFC itself.

A VCF or any such Alternative Investment Fund (AIF)<sup>12</sup> means a pool of capital by investors and the investment made by such an AIF is done on behalf of the investors. Accordingly, it is clarified that while arriving at the NOF figure, investment made by an NBFC in entities of the same group concerns shall be treated alike, whether the investment is made directly or through an AIF / VCF, and when the funds in the VCF have come from the NBFC to the extent of 50% or more; or where the beneficial owner, in the case of Trusts is the NBFC, if 50% of the funds in the Trusts are from the concerned NBFC. For this purpose, "beneficial ownership" would mean holding the power to make or influence decisions in the Trust and being the recipient of benefits arising out of the activities of the Trust. In other words, in arriving at the NOF, the substance would take precedence over form. NBFCs were advised to keep this principle in mind, always, while calculating their NOF.

## **10. <sup>13</sup>Accounting for taxes on income - Accounting Standard 22 - Treatment of deferred tax assets (DTA) and deferred tax liabilities (DTL) for computation of capital**

As creation of DTA or DTL would give rise to certain issues impacting the balance sheet of the company, it is clarified that the regulatory treatment to be given to these issues are as under:

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<sup>11</sup> Inserted vide [DNBS \(PD\) CC.No.373/03.10.01/2013-14 dated April 7, 2014](#)

<sup>12</sup> As defined in 'Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012'

<sup>13</sup> Details in [DNBS. \(PD\).C.C.No.124/03.05.002/2008-09 dated July 31, 2008](#) and [DNBS.PD/CC.No.142/03.05.002/2008-09 dated June 9, 2009](#)

- The balance in DTL account will not be eligible for inclusion in Tier I or Tier II capital for capital adequacy purpose as it is not an eligible item of capital.
- DTA will be treated as an intangible asset and should be deducted from Tier I Capital.
- NBFCs may keep the above clarifications in mind for all regulatory requirements including computation of CRAR and ensure compliance with effect from the accounting year ending March 31, 2009.

In this connection it is further clarified that

DTL created by debit to opening balance of Revenue Reserves or to Profit and Loss Account for the current year should be included under 'others' of "Other Liabilities and Provisions."

DTA created by credit to opening balance of Revenue Reserves or to Profit and Loss account for the current year should be included under item 'others' of "Other Assets."

Intangible assets and losses in the current period and those brought forward from previous periods should be deducted from Tier I capital.

DTA computed as under should be deducted from Tier I capital:

- (i) DTA associated with accumulated losses; and
- (ii) The DTA (excluding DTA associated with accumulated losses) net of DTL. Where the DTL is in excess of the DTA (excluding DTA associated with accumulated losses), the excess shall neither be adjusted against item (i) nor added to Tier I capital."

## **11. <sup>14</sup>Introduction of Interest Rate Futures – NBFCs**

NBFCs can participate in the designated interest rate futures exchanges recognized by SEBI, as clients, subject to RBI / SEBI guidelines in the matter, for the purpose of hedging their underlying exposures. NBFCs participating in IRF exchanges may submit the data in this regard half yearly, in the prescribed format, to the Regional office of the

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<sup>14</sup> Details are in [DNBS.PD.CC.No.161/3.10.01/2009-10 dated September 18, 2009](#)

Department of Non-Banking Supervision in whose jurisdiction their company is registered, within a period of one month from the close of the half year.

<sup>15</sup>All non-deposit taking NBFCs with asset size of Rs.1000 crore and above may also participate in the interest rate futures market permitted on recognized stock exchanges as trading members, subject to RBI/ SEBI guidelines. It may be noted that in terms of RBI [circular IDMD.PCD. 08/14.03.01/2013-14 dated December 5, 2013](#) on 'Exchange-Traded Interest Rate Futures', the position limits for the various categories of participants in the Interest Rate Futures market shall be subject to the guidelines issued by the Securities and Exchange Board of India.

## **12. <sup>16</sup>Finance for Housing Projects - Incorporating clause in the terms and conditions to disclose in pamphlets / brochures / advertisements, information regarding mortgage of property to the NBFC**

While granting finance to housing / development projects, NBFCs also should stipulate as a part of the terms and conditions that:

- (i) the builder / developer / owner / company would disclose in the Pamphlets / Brochures / advertisements etc., the name(s) of the entity to which the property is mortgaged.
- (ii) the builder / developer / owner / company should indicate in the pamphlets / brochures, that they would provide No Objection Certificate (NOC) / permission of the mortgagee entity for sale of flats / property, if required.

NBFCs should ensure compliance with the above stipulations and funds should not be released unless the builder / developer / owner / company fulfil the above requirements.

## **13. <sup>17</sup>Loan facilities to the physically / visually challenged by NBFCs**

NBFCs shall not discriminate in extending products and facilities including loan facilities to the physically / visually challenged applicants on grounds of disability. NBFCs were also instructed to advise their branches to render all possible assistance to such

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<sup>15</sup> Inserted vide [DNBS.CC.PD.No.406/03.10.01/2014-15 dated August 12,2014](#)

<sup>16</sup> Details are in [DNBS\(PD\)C.C.No.174/03.10.001/2009-10 dated May 6, 2010](#)

<sup>17</sup> Inserted vide [DNBS.CC.PD.No.191/03.10.01/2010-11 dated July 27, 2010](#)

persons for availing of the various business facilities.<sup>18</sup> NBFCs should include a suitable module containing the rights of persons with disabilities guaranteed to them by the law and international conventions, in all the training programmes conducted for their employees at all levels. Further, NBFCs may ensure redressal of grievances of persons with disabilities under the Grievance Redressal Mechanism already set up by them.

#### **14. <sup>19</sup>Participation in Currency Futures**

All NBFCs excluding RNBCs are allowed to participate in the designated currency futures exchanges recognized by SEBI as clients, subject to RBI (Foreign Exchange Department) guidelines in the matter, only for the purpose of hedging their underlying forex exposures. NBFCs were advised to make appropriate regarding transactions undertaken in the balance sheet.

#### **15. <sup>20</sup>Submission of data to Credit Information Companies - Format of data to be submitted by Credit Institutions**

In terms of Section 2(f) (ii) of the Credit Information Companies (Regulation) Act, 2005, a non-banking financial company as defined under clause (f) of Section 45-I of the Reserve Bank of India Act, 1934 has also been included as "credit institution". Further, the Credit Information Companies (Regulation) Act provides that every credit institution in existence shall become a member of at least one credit information company. Thus all NBFCs being credit institutions are required to become a member of at least one credit information company as per the statute.

In this regard, in terms of sub-sections (1) and (2) of Section 17 of the Credit Information Companies (Regulation) Act, 2005, a credit information company may require its members to furnish credit information as it may deem necessary in accordance with the provisions of the Act and every such credit institution has to provide the required information to that credit information company. Further, in terms of

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<sup>18</sup>Inserted vide [DNBS.\(PD\).CC.No.195/03.10.001/2010-11 dated August 09, 2010](#)

<sup>19</sup>Inserted vide [DNBS.\(PD\).CC.No.195/03.10.001/2010-11 dated August 09, 2010](#)

<sup>20</sup>Inserted vide [DNBS.\(PD\).CC.No.200/03.10.001/2010-11 dated September 17, 2010](#)

Regulation 10(a) (ii) of the Credit Information Companies Regulations, 2006, every credit institution shall:

- (a) keep the credit information maintained by it, updated regularly on a monthly basis or at such shorter intervals as may be mutually agreed upon between the credit institution and the credit information company; and
- (b) take all such steps which may be necessary to ensure that the credit information furnished by it, is update, accurate and complete.

It was therefore, advised that NBFCs which had become member / members of any new credit information company / companies may provide them the current data in the existing format. Such NBFCs were also advised to provide historical data in order to enable the new credit information companies to validate their software and develop a robust database. <sup>21</sup>However, NBFCs which are registered with the Bank as Core Investment Companies, Primary Dealers and those purely into investment activities without any customer interface are exempt from the applicability of these instructions.

#### 15.1 <sup>22</sup>**Data Format for Furnishing of Credit Information to Credit Information Companies (CICs) and other Regulatory Measures**

A committee to Recommend Data Format for Furnishing of Credit Information to Credit Information Companies (Chairman: Shri Aditya Puri) was constituted by the Reserve Bank of India (RBI). The Report of the Committee was placed on RBI's website on March 22, 2014 inviting comments on the recommendations of the Committee. Subsequently, the Bank issued the [Circular DBOD.No.CID.BC.127/20.16.056/2013-14 dated June 27, 2014](#) laying down instructions regarding the following:

- i) Creating Awareness about Credit Information Report (CIR);
- ii) Usage of CIR in all Lending Decisions and Account Opening;
- iii) Populating Commercial Data Records in Databases of all CICs;
- iv) Standardisation of Data Format;

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<sup>21</sup> Inserted vide [DNBR.\(PD\).CC.No.015/03.10.001/2014-15 dated January 28, 2015](#)

<sup>22</sup> Inserted vide [DNBS\(PD\).CC.No.407/03.10.01/2014-15 dated August 20, 2014](#)

- v) Constitution of a Technical Working Group;
- vi) Process of Rectification of Rejected Data;
- vii) Determining Data Quality Index;
- viii) Calibration of Credit Score and Standardising Format of CIR;
- ix) Best practices for Banks/FIs.

## **15.2 Membership of Credit Information Companies (CICs)**

<sup>23</sup>Presently, four CICs, viz. Credit Information Bureau (India) Limited, Equifax Credit Information Services Private Limited, Experian Credit Information Company of India Private Limited and CRIF High Mark Credit Information Services Private Limited have been granted Certificate of Registration by RBI. In terms of Section 15 of the Credit Information Companies (Regulation) Act, 2005 (CICRA), every Credit Institution shall become member of at least one CIC. Further, Section 17 of CICRA stipulates that a CIC may seek and obtain credit information from its members (Credit Institution / CIC) only. As a result, when a Specified User, as defined in CICRA and Credit Information Companies Regulations, 2006, obtains credit information on a particular borrower/client from a CIC, it gets only such information that has been provided to the CIC by its members. This does not include credit history related to those non-member Credit Institutions with which the borrower/client has/had a current or a past exposure. To overcome this problem of incomplete/inaccurate credit information, pros and cons of certain possible alternatives have been discussed in the Report of the Committee to Recommend Data Format for Furnishing of Credit information to Credit Information Companies (Chairman: Shri Aditya Puri) constituted by the Reserve Bank of India (RBI). The report of the committee can be accessed on the following URL: <http://rbi.org.in/scripts/PublicationReportDetails.aspx?UrlPage=&ID=763>.

These alternatives along with suggestions/comments obtained from IBA and the CICs have been examined by RBI. It has been decided that the best option would be to mandate all Credit Institutions to become members of all CICs and moderate the membership and annual fees suitably. These instructions would be reviewed in due course.

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<sup>23</sup> Inserted vide [DNBR.\(PD\).CC.No.019/03.10.001/2014-15 dated February 06, 2015](#)

Attention is also invited to the directive issued under CICRA Sec 11(1) by the Bank vide DBR.No.CID.BC.59/20.16.056/2014-15 dated January 15, 2015. Accordingly all NBFCs are directed to comply with the directive and become member of all CICs and submit data (including historical data) to them.

## **16. <sup>24</sup>Implementation of Green Initiative of the Government**

As part of the 'Green Initiative' of the Government, the Government of India had suggested that steps be taken by entities in financial sector, including NBFCs to help better utilisation of their resources and also better delivery of services. NBFCs were therefore, requested to take proactive steps in this regard by increasing the use of electronic payment systems, elimination of post-dated cheques and gradual phase-out of cheques in their day to day business transactions which would result in more cost-effective transactions and faster and accurate settlements.

## **17. <sup>25</sup>Attempt to defraud using fake bank guarantee-modus operandi**

In view of reports of instances of frauds involving fake Bank Guarantee with forged signature etc in certain bank branches, NBFCs were advised to take notice of the names of the beneficiaries /representative of beneficiaries and applicants of BGs in order to exercise due caution while handling cases involving the firms/individuals cited in the circular.

## **18. <sup>26</sup>Credit Default Swaps – NBFCs as Users**

NBFCs shall only participate in CDS market as users. As users, they would be permitted to buy credit protection only to hedge their credit risk on corporate bonds they hold. They are not permitted to sell protection and hence not permitted to enter into short positions in the CDS contracts. However, they are permitted to exit their bought

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<sup>24</sup>Inserted vide [DNBS\(PD\).CC.No.248/03.10.01/2011-12 dated October 28, 2011](#)

<sup>25</sup>Details in [DNBS\(PD\).CC.No.245/03.10.42/2011-12 dated September 27, 2011](#)

<sup>26</sup>Details in [DNBS.CC.PD.No.253/03.10.01/2011-12 dated December 26, 2011](#)

CDS positions by unwinding them with the original counterparty or by assigning them in favour of buyer of the underlying bond.

Apart from complying with all the provisions above, NBFCs were advised that, as users, they shall also be required to ensure that the guidelines enclosed including operational requirements for CDS are fulfilled by them.

## **19. <sup>27</sup>Revisions to the Guidelines on Securitisation Transactions**

### **I. Detailed Guidelines on Securitisation of Standard Assets were issued to NBFCs vide [Circular DBOD.NO.BP.BC.60/21.04.048/2005-06 dated February 01, 2006](#).**

In order to prevent unhealthy practices surrounding securitization viz. origination of loans for the sole purpose of securitization and in order to align the interest of the originator with that of the investors and with a view to redistribute credit risk to a wide spectrum of investors, it was felt necessary that originators should retain a portion of each securitization originated and ensure more effective screening of loans. In addition, a minimum period of retention of loans prior to securitization was also considered desirable, to give comfort to the investors regarding the due diligence exercised by the originator. Keeping in view the above objectives, revised guidelines were issued in this regard to banks and NBFCs also (Annex-1). The guidelines also include, inter alia, bilateral sale of assets, accounting of profits and disclosures.

### **II. <sup>28</sup>Reset of Credit Enhancement**

a) Detailed Guidelines on reset of credit enhancement were issued to banks vide [circular DBOD.No.BP.BC-25/21.04.177/2013-14, dated July 1, 2013](#). The guidelines cover in detail the manner in which such reset could be carried out subject to the conditions prescribed therein. The applicability of these instructions has been extended to securitization transactions undertaken by NBFCs as well.

b) In respect of the transactions already entered into in terms of circular dated [DNBS.PD.No.301/3.10.01/2012-13, dated August 21, 2012](#), reset can be carried out subject to the consent of all investors of outstanding securities. In respect of the

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<sup>27</sup>Inserted vide [DNBS. PD. No. 301/3.10.01/2012-13 dated 21.8.12](#)

<sup>28</sup>Inserted vide [DNBS. PD. No. 372/3.10.01/2013-14 dated 24.3.14](#)



transactions entered into prior to August 2012 guidelines, the stipulation pertaining to MRR will also have to be complied with in addition to other conditions for reset of CE mentioned in para (a) above.

## **20. <sup>29</sup>Standardisation and Enhancement of Security Features in Cheque Forms - Migrating to CTS 2010 Standards**

All NBFCs were advised about the "CTS-2010 standard" which is a set of benchmarks towards achieving standardisation of cheques issued by banks across the country and include provision of mandatory minimum security features on cheque forms like quality of paper, watermark, bank's logo in invisible ink, void pantograph, etc., and standardisation of field placements on cheques. NBFCs were advised that "CTS-2010 standard" were to be implemented by December 31, 2012 and those NBFCs who accept post-dated cheques from their customers for future EMI payments were required to ensure the replacement of Non CTS-2010 standard compliant cheques with CTS-2010 standard compliant cheques before December 31, 2012. However, <sup>30</sup>taking into consideration the representations from NBFCs, it was decided to extend the time up to March 31, 2013 to ensure withdrawal of Non-CTS 2010 Standard compliant cheques and replace them with CTS-2010 Standard compliant cheques. However, NBFCs were advised to note that the residual Non-CTS-2010 Standard compliant cheques that get presented in the clearing system beyond the extended period, will continue to be accepted for the clearing but will be cleared at less frequent intervals.

## **21. <sup>31</sup>Migration of Post-dated cheques (PDC)/Equated Monthly Installment (EMI) Cheques to Electronic Clearing Service (Debit)**

Reference is invited to circular issued by our Department of Payment and Settlement System ([DPSS.CO.CHD.No.133/04.07.05/2013-14 dated July 16, 2013](#)) wherein it has been indicated that cheques not complying with CTS-2010 Standard will be cleared at

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<sup>29</sup> Inserted vide [DNBS.PD/ CC.NO.308 /03.10.001/2012-13 dated 6.11.12](#)

<sup>30</sup> Inserted vide [DNBS.PD.CC.No.317/03.10.001/2012-13 dated 20.12.12](#)

<sup>31</sup> Inserted vide [DNBS.PD.CC.No.359/03.10.001/2013-14 dated November 06, 2013](#)

less frequent intervals with effect from January 1, 2014 (thrice a week up to April 30, 2014, twice a week up to October 31, 2014 and weekly once from November 1, 2014 onwards).

To avoid delays in realization of non-CTS-2010 cheques, all NBFCs were advised

- a) to migrate towards accepting only CTS-2010 standard cheques
- b) Not to accept fresh / additional Post Dated Cheques (PDC) / Equated Monthly Installment (EMI) cheques (either in old format or new CTS-2010 format) in locations where the facility of ECS / RECS (Debit) is available. The existing PDCs / EMI cheques in such locations may be converted into ECS / RECS (Debit) by obtaining fresh ECS (Debit) mandates. This exercise was to be completed by December 31, 2013.

Considering the protection available under Section 25 of the Payment and Settlement Systems Act, 2007 which accords the same rights and remedies to the payee (beneficiary) against dishonor of electronic funds transfer instructions under insufficiency of funds as are available under Section 138 of the Negotiable Instruments Act, 1881, it was advised that there is no need for NBFCs to take additional cheques, if any, from customers in addition to ECS (Debit) mandates. Cheques complying with CTS-2010 standard formats shall alone be obtained in locations, where the facility of ECS/RECS is not available.

## **22. <sup>32</sup>Readiness of major service providers to migrate from IPv4 to IPv6**

Government of India had envisaged providing “Broadband on Demand” by 2015 in the recently unveiled National Telecom Policy (NTP) – 2012 emphasizing the role of Internet as catalyst for socio-economic development of a country which serves as an effective medium of various citizen centric services in today’s information economy.

Department of Telecommunication under the Ministry of Communication and Information Technology, Government of India has undertaken the initiative of migration from IPv4 to IPv6. Since migration to IPv6 is an eventuality that has to be accepted and

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<sup>32</sup> Inserted vide [DNBS \(Inf.\)CC. No 309/24.01.022 /2012-13 dated 8.11.12](#)

manage proactively, NBFCs/RNBCs were advised to initiate necessary action by constituting a special team to complete the migration by December 2012.

**23. <sup>33</sup>Checklist for NBFCs, Non-Banking Financial Company-Micro Finance Institutions (NBFC-MFIs), Non-Banking Financial Company-Factoring Institutions (NBFC-Factors) and Core Investment Companies (CICs)**

Five checklists with respect to Application for seeking Certificate of Registration from the Reserve Bank have been uploaded in the RBI website, a) documents required for registration as NBFCs b) documents required for registration of NBFC-MFI – New Companies and c) documents required for registration of NBFC-MFI (Existing NBFCs) d) documents required for registration of NBFC – Factors and e) documents required for registration as CIC-ND-SI. (Annex 2)

Checklists mentioned are indicative and not exhaustive. Bank can, if necessary, call for any further documents to satisfy themselves on the eligibility for obtaining registration as NBFC. In the event of the Bank calling for further documents in addition to those mentioned in the checklist, the applicant company must respond within a stipulated time of one month failing which the application/request for conversion along with all the documents will be returned to the company for submission afresh with the required information/documents.

**24. <sup>34</sup>Raising Money through Private Placement by NBFCs-Debentures etc.**

All NBFCs except Primary Dealers are required to follow the guidelines on private placement of Non-Convertible Debentures (NCDs) (given in Annex-3) for compliance. It may be noted that the provisions of Companies Act, 2013 and Rules issued there under shall be applicable wherever not contradictory.

**25. <sup>35</sup>Filing of records of mortgages with the Central Registry**

All NBFCs were advised to file and register the records of equitable mortgages created in their favour on or after 31<sup>st</sup> March 2011 with the Central Registry and also register the records with the Central Registry as and when equitable mortgages are created in their

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<sup>33</sup> Inserted vide [DNBS.CC.PD.No. 312 /03.10.01/2012-13 dated 7.12.12](#)

<sup>34</sup> Superseded vide [Circular No. DNBR \(PD\) CC No.021/03.10.001/2014-15 dated February 20, 2015](#)

<sup>35</sup> Inserted vide [DNBS.\(PD\).CC.No 360/03.10.001/2013-14 dated November 12, 2013](#)

favour. <sup>36</sup>In continuation of the above, NBFCs were further advised to register all types of mortgages with CERSAI.

## **26. <sup>37</sup>Early Recognition of Financial Distress, Prompt Steps for Resolution and Fair Recovery for Lenders: Framework for Revitalizing Distressed Assets in the Economy**

The RBI issued Framework for Revitalizing Distressed Assets in the Economy (Framework) on January 30, 2014. The framework covered in the guidelines, has outlined a corrective action plan that will incentivize early identification of problem account, timely restructuring of accounts which are considered to be viable, and taking prompt steps by lenders for recovery or sale of unviable accounts. In the background of the above, to the extent it is applicable to NBFCs; guidelines will be effective from April 1, 2014; as given in Annex-4.

<sup>38</sup>The Department of Banking Regulation, Reserve Bank has made certain modifications to the Framework vide circulars dated October 21, December 22, 2014, June 8, 2015 and <sup>39</sup>September 24, 2015 On a review, it has been decided that the modifications in the Framework made vide the above mentioned circulars shall also be, mutatis mutandis, applicable to NBFCs.

## **27 <sup>40</sup>Rounding off transactions to the Nearest Rupee by NBFCs**

NBFCs were advised that all transactions, including payment of interest on deposits/ charging of interest on advances, should be rounded off to the nearest rupee, i.e. fractions of 50 paise and above shall be rounded off to the next higher rupee and fractions of less than 50 paise should be ignored. Further, NBFCs were also advised to ensure that cheques / drafts issued by clients containing fractions of a rupee should not be rejected by them.

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<sup>36</sup> Inserted vide [DNBS \(PD\) CC.No.371/03.05.02/2013-14 dated March 21, 2014](#)

<sup>37</sup> Inserted vide [DNBS \(PD\) CC.No.371/03.05.02/2013-14 dated March 21, 2014](#)

<sup>38</sup> Inserted vide [Notification DNBR.CC.PD.No.066/03.10.01/2015-16 dated July 23, 2015](#)

<sup>39</sup> Inserted vide [Notification DNBR.CC.PD.No.070/03.10.01/2015-16 dated October 29, 2015](#)

<sup>40</sup> [DNBS \(PD\) CC.No.377/03.10.001/2013-14 dated May 27, 2014](#)

Foot Note: The reference to Companies Act, 1956 in the Master Circular will be changed as and when change is effected in the original circulars/notifications.

## **28. <sup>41</sup>Multiple NBFCs**

NBFCs that are part of a corporate group or are floated by a common set of promoters will not be viewed on a standalone basis. The total assets of NBFCs in a group including deposit taking NBFCs, if any, will be aggregated to determine if such consolidation falls within the asset sizes of the two categories mentioned viz. NBFCs-ND (those with assets of less than Rs. 500 crore) and NBFCs-ND-SI (those with assets of Rs. 500 crore and above). Regulations as applicable to the two categories will be applicable to each of the NBFC-ND within the group. For this purpose, Statutory Auditors would be required to certify the asset size of all the NBFCs in the Group. However, NBFC-D, within the group, if any, will be governed under the Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Direction 1998 and Non-Banking Financial (Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2007 and other applicable Directions.

The definition of the word “group” will be the same as per Accounting Standards. “Companies in the Group”, shall mean an arrangement involving two or more entities related to each other through any of the following relationships:

- Subsidiary – parent (defined in terms of AS 21),
- Joint venture (defined in terms of AS 27),
- Associate (defined in terms of AS 23),
- Promoter - promotee [as provided in the SEBI (Acquisition of Shares and Takeover) Regulations, 1997],
- For listed companies, a related party (defined in terms of AS 18), common brand name, and investment in equity shares of 20% and above.

## **29. <sup>42</sup>Net Owned Fund (NOF) Requirement**

In exercise of the powers under clause (b) of sub-section (1) of section 45 –IA of the Reserve Bank of India Act, 1934 (Act 2 of 1934) and all the powers enabling it in that

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<sup>41</sup> [Notification No. DNBR \(PD\) CC.No. 002/03.10.001/2014-15](#) dated November 10, 2014

<sup>42</sup> Inserted vide notification no. [DNBR.007/ CGM \(CDS\) -2015 dated March 27, 2015](#)

behalf, the Reserve Bank of India, in supersession of Notification No. 132/ CGM (VSNM) -99 dated April 20, 1999, has specified two hundred lakhs rupees as the net owned fund required for a non-banking financial company to commence or carry on the business of non-banking financial institution.

Provided that a non-banking financial company holding a certificate of registration issued by the Reserve Bank of India and having net owned fund of less than two hundred lakhs of rupees, may continue to carry on the business of non-banking financial institution, if such company achieves net owned fund of,

-one hundred lakhs of rupees before April 1, 2016; and

-two hundred lakhs of rupees before April 1, 2017

### **30. <sup>43</sup>Appointment of Non-Deposit Accepting NBFCs as sub- agents under Money Transfer Service Schemes (MTSS)**

All non-deposit taking NBFCs have been permitted to act as sub-agents under MTSS without any prior approval of RBI. Deposit accepting NBFCs are, however, not permitted to undertake such activity.

### **31. <sup>44</sup>Provision of Safe Deposit Locker Facility by NBFCs**

Providing safe deposit locker facility is a fee based service and shall not be reckoned as part of the financial business carried out by NBFCs. NBFCs offering safe deposit locker facility or intending to offer it, shall disclose to their customers that the activity is not regulated by the Bank.

### **32. <sup>45</sup>Undertaking of Point of Presence (PoP) Services under Pension Fund Regulatory and Development Authority for National Pension System (NPS)**

NBFCs are not permitted to undertake Point of Presence (PoP) services for National Pension System (NPS) under Pension Fund Regulatory and Development Authority.

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<sup>43</sup> Inserted vide [Circular No. DNBR.CC.PD.No.041 /03.10.01/ 2014-15 dated June 25, 2015](#)

<sup>44</sup> Inserted vide [Circular No. DNBR \(PD\).CC.No. 072/03.10.001/2015-16 dated January 28, 2016](#)

<sup>45</sup> Inserted vide [Circular No. DNBR \(PD\) CC.No. 073/03.10.001/2015-16 dated February 18, 2016](#)

## Revisions to the Guidelines on Securitisation Transactions

### Section A

#### Guidelines on Securitisation of Standard Assets

#### 1 Requirements to be met by the originating NBFCs

##### 1.1 Assets Eligible for Securitisation

In a single securitisation transaction, the underlying assets should represent the debt obligations of a homogeneous pool of obligors<sup>1</sup>. Subject to this condition, all on-balance sheet standard assets<sup>2</sup> except the following, will be eligible for securitisation by the originators :

- i) Revolving credit facilities (e.g., Credit Card receivables)
- ii) Assets purchased from other entities
- iii) Securitisation exposures (e.g. Mortgage-backed / asset-backed securities)
- iv) Loans with bullet repayment of both principal and interest<sup>3</sup>.

##### 1.2 Minimum Holding Period (MHP)

1.2.1 Originating NBFCs can securitise loans only after these have been held by them for a minimum period in their books. The criteria governing determination of MHP for assets listed below reflect the need to ensure that :

- \* the project implementation risk is not passed on to the investors, and
- \* a minimum recovery performance is demonstrated prior to securitisation to ensure better underwriting standards

1.2.2 NBFCs can securitise loans only after a MHP counted from the date of

full disbursement of loans for an activity / purpose; acquisition of asset (i.e., car, residential house etc.) by the borrower or the date of completion of a project, as the case may be. MHP would be defined with reference to the number of instalments to be paid prior to securitisation. MHP applicable to various loans depending upon the tenor and repayment frequency is given in the following table<sup>4</sup>.

<b>Minimum Holding Period</b>				
	<b>Minimum number of instalments to be paid before securitisation</b>			
	<b>Repayment frequency - Weekly</b>	<b>Repayment frequency - Fortnightly</b>	<b>Repayment frequency - Monthly</b>	<b>Repayment frequency - Quarterly</b>
<b>Loans with original maturity up to 2 years</b>	Twelve	Six	Three	Two
<b>Loans with original maturity of more than 2 years and up to 5 years</b>	Eighteen	Nine	Six	Three
<b>Loans with original maturity of more than 5 years</b>	-	-	Twelve	Four

1.2.3 The MHP will be applicable to individual loans in the pool of securitised loans. MHP will not be applicable to loans referred to in foot note 3 of



para 1.1.

### 1.3 Minimum Retention Requirement (MRR)

1.3.1 The MRR is primarily designed to ensure that the originating NBFCs have a continuing stake in the performance of securitised assets so as to ensure that they carry out proper due diligence of loans to be securitised. In the case of long term loans, the MRR may also include a vertical tranche of securitised paper in addition to the equity / subordinate tranche, to ensure that the originating NBFCs have stake in the performance of securitised assets for the entire life of the securitisation process.

The originating NBFCs should adhere to the MRR detailed in the Table below while securitising loans :

<b>Minimum Retention Requirements at the Time of Securitisation</b>				
<b>Type of Loan</b>	<b>MRR</b>	<b>Description of MRR</b>		
Loans with original maturity of 24 months or less	5% of the book value of the loans being securitised	i)	Where securitisation involves neither credit tranching nor any first loss credit enhancement by originators	Investment in the securities issued by the Special Purpose Vehicle (SPV) equal to 5% of the book value of the loans being securitised
		ii)	Where securitisation involves no credit tranching, but involves originators providing first loss	The originator would be providing the required credit enhancement If the first loss

			credit enhancements e.g. off-balance sheet supports, cash collaterals, overcollateralisation etc.	credit enhancement required is less than 5%, then the balance should be in the securities issued by the SPV.
		iii)	Where securitisation involves credit tranching but no first loss credit enhancement from originator	5% in equity tranche. If equity tranche is less than 5%, then balance paripassu in remaining tranches.
		iv)	Where securitisation involves credit tranching and first loss credit enhancements by originator (off-balance sheet supports, cash collaterals, overcollateralisation etc.)	If the first loss credit enhancement is less than 5%, then balance in equity tranche. If first loss credit enhancement plus equity tranche is less than 5%, then remaining pari-passu in other tranches.

Loans with original maturity of more than 24 months	10% of the book value of the loans being securitised	i)	Where securitization involves neither credit tranching nor any first loss credit enhancement	Investment in the securities issued by the SPV equal to 10% of the book value of the loans being securitised.
		ii)	Where securitisation involves no credit tranching, but involves first loss credit enhancements from originators e.g., off balance sheet supports, cash collaterals, overcollateralisation etc.	The originator would be providing required credit enhancement. If this is less than 10%, then balance in the securities issued by the SPV.
		iii)	Where securitisation involves credit tranching but no first loss credit enhancement from originator	5% in equity tranche or less if the equity tranche is less than 5%. The balance (10% - investment in equity tranche) pari-passu in other tranches

				issued by the SPV.
		iv)	Where securitisation involves credit tranching as well as the first loss credit enhancements by originators (off-balance sheet supports, cash collaterals, overcollateralisation etc.)	i) If the first loss credit enhancement is more than 5% but less than 10%, then balance pari-passu in securities including equity tranche issued by the SPV. ii) If the first loss credit enhancement is less than 5%, then in equity tranche so that first loss plus equity tranche is equal to 5%. Balance paripassu in other

				tranches (excluding equity tranche) issued by the SPV so that the total retention is 10%.
Bullet repayment loans / receivables referred to in foot note 3 of para 1.1	10% of the book value of the loans being securitised	i)	Where securitisation involves neither credit tranching nor any first loss credit enhancement by originators	Investment in the securities issued by the SPV equal to 10% of the book value of the loans being securitised
		ii)	Where securitisation involves no credit tranching, but involves originators providing first loss credit enhancements e.g. off-balance sheet supports, cash collaterals, over collateralisation etc.	The originator would be providing the required credit enhancement. If the first loss credit enhancement required is less than 10%, then the balance should be in the securities issued by the SPV.

		iii)	Where securitisation involves credit tranching but no first loss credit enhancement from originator	10% in equity tranche. If equity tranche is less than 10%, then balance paripassu in remaining tranches.
		iv)	Where securitisation involves credit tranching and first loss credit enhancements by originator (off-balance sheet supports, cash collaterals, over collateralisation etc.)	If the first loss credit enhancement is less than 10%, then balance in equity tranche. If balance is greater than equity tranche, then remaining pari-passu in other tranches.

- 1.3.2 MRR will have to be maintained by the entity which securitises the loans. In other words, it cannot be maintained by other entities which are treated as 'originator' in terms of para 5(vi) of the circular dated February 1, 2006 containing Guidelines on Securitisation of Standard Assets.
- 1.3.3 The MRR should represent the principal cash flows. Therefore, NBFCs' investment in the Interest Only Strip representing the Excess Interest Spread / Future Margin Income, whether or not subordinated, will not be counted towards the MRR.
- 1.3.4 The level of or selling the retained interest commitment by originators i.e.,

MRR should not be reduced either through hedging of credit risk. The MRR as a percentage of unamortised principal should be maintained on an ongoing basis except for reduction of retained exposure due to proportionate repayment or through the absorption of losses. The form of MRR should not change during the life of securitisation.

1.3.5 For complying with the MRR under these guidelines NBFCs should ensure that proper documentation in accordance with law is made.

#### **1.4 Limit on Total Retained Exposures**

1.4.1 At present, total investment by the originator in the securities issued by the SPV through underwriting or otherwise is limited to 20% of the total securitised instruments issued. It has been decided that the total exposure of NBFCs to the loans securitised in the following forms should not exceed 20% of the total securitised instruments issued :

- Investments in equity / subordinate / senior tranches of securities issued by the SPV including through underwriting commitments
- Credit enhancements including cash and other forms of collaterals including overcollateralisation, but excluding the credit enhancing interest only strip
- Liquidity support.

1.4.2 If an NBFC exceeds the above limit, the excess amount would be risk weighted at 667%<sup>5</sup>.

1.4.3 The 20% limit on exposures will not be deemed to have been breached if it is exceeded due to amortisation of securitisation instruments issued.

#### **1.5 Booking of Profit Upfront**

1.5.1 In terms of para 20.1 of [circular DBOD.No.BP.BC.60/21.04.048/2005-06 dated February 1, 2006](#), any profit / premium arising on account of securitisation of loans should be amortised over the life of the securities

issued or to be issued by the SPV. These instructions were inter alia intended to discourage 'originate-to-distribute' model. Now that these concerns are sought to be addressed to some extent by MRR, MHP and other measures being proposed in these guidelines, it has been decided to allow higher recognition of cash profits during a year based on amortisation of principal and losses incurred as well as specific provision requirements on the securitisation exposures as explained below :

The amount of profit received in cash may be held under an accounting head styled as "Cash Profit on Loan Transfer Transactions Pending Recognition" maintained on individual transaction basis. The amortisation of cash profit arising out of securitisation transaction will be done at the end of every financial year and calculated as under :

$$\text{Profit to be amortised} = \text{Max}\{L, [(X*(Y/Z))], [(X/n)]\}$$

X = amount of unamortised cash profit lying in the account 'Cash Profit on Loan Transfer Transactions Pending Recognition' at the beginning of the year

Y = amount of principal amortised during the year

Z = amount of unamortised principal at the beginning of the year

L = Loss<sup>6</sup> (marked to market losses incurred on the portfolio + specific provisions, if any, made against the exposures to the particular securitisation transaction + direct write-off) excluding loss incurred on credit enhancing interest only strip<sup>7</sup>

n = residual maturity of the securitisation transaction

- 1.5.2 The above method of amortisation of profit can be applied to outstanding securitisation transactions as well. However, the method can be applied only with respect to the outstanding amortisable profit and un-amortised principal outstanding as on the date of issuance of this circular.



1.5.3 At times, the originating NBFCs retain contractual right to receive some of the interest amount due on the transferred assets. This interest receivable by the originating NBFC represents a liability of the SPV and its present value is capitalised by the originating NBFC as an Interest Only Strip (I / O Strip), which is an on-balance sheet asset. Normally, a NBFC would recognise an unrealised gain in its Profit and Loss account on capitalisation of future interest receivable by way of I / O Strip. However, consistent with the instructions contained in circular dated February 1, 2006 referred to above, NBFCs should not recognise the unrealised gains in Profit and Loss account; instead they should hold the unrealised profit under an accounting head styled as "Unrealised Gain on Loan Transfer Transactions". The balance in this account may be treated as a provision against potential losses incurred on the I / O Strip due to its serving as credit enhancement for the securitisation transaction<sup>8</sup>. The profit may be recognised in Profit and Loss Account only when Interest Only Strip is redeemed in cash. As NBFCs would not be booking gain on sale represented by I / O Strip upfront, it need not be deducted from Tier I capital. This method of accounting of Interest Only Strip can be applied to outstanding securitisation transactions as well.

## 1.6 Disclosures by the Originating NBFCs

### 1.6.1 *Disclosures to be made in Servicer / Investor / Trustee Report*

The originating NBFCs should disclose to investors the weighted average holding period of the assets securitised and the level of their MRR in the securitisation. The originating NBFCs should ensure that prospective investors have readily available access to all materially relevant data on the credit quality and performance of the individual underlying exposures, cash flows and collateral supporting a securitisation exposure as well as such information that is necessary to conduct comprehensive and well-

informed stress tests on the cash flows and collateral values supporting the underlying exposures. The disclosure by an originator of its fulfillment of the MHP and MRR should be made available publicly and should be appropriately documented; for instance, a reference to the retention commitment in the prospectus for securities issued under that securitization programme would be considered appropriate. The disclosure should be made at origination of the transaction, and should be confirmed thereafter at a minimum half yearly (end-September and March), and at any point where the requirement is breached.

The above periodical disclosures should be made separately for each securitisation transaction, throughout its life, in the servicer report, investor report, trustee report, or any similar document published. The aforesaid disclosures can be made in the format given in Appendix 1.

#### **1.6.2 *Disclosures to be made by the Originator in Notes to Annual Accounts***

The Notes to Annual Accounts of the originating NBFCs should indicate the outstanding amount of securitised assets as per books of the SPVs sponsored by the NBFC and total amount of exposures retained by the NBFC as on the date of balance sheet to comply with the MRR. These figures should be based on the information duly certified by the SPV's auditors obtained by the originating NBFC from the SPV. These disclosures should be made in the format given in Appendix 2.

### **1.7 Loan Origination Standards**

The originating NBFCs should apply the same sound and well-defined criteria for credit underwriting to exposures to be securitised as they apply to exposures to be held on their book. To this end, the same processes for approving and, where relevant, amending, renewing and monitoring of credits should be applied by the originators.

## **1.8 Treatment of Securitised Assets not Meeting the Requirements Stipulated above**

All instructions contained in this paragraph will be applicable only to the new transactions unless explicitly stated otherwise. If an originating NBFC fails to meet the requirement laid down in the paragraphs 1.1 to 1.7 above, it will have to maintain capital for the securitised assets as if these were not securitised. This capital would be in addition to the capital which the NBFC is required to maintain on its other existing exposures to the securitisation transaction.

## **2. Requirements to be met by NBFCs other than originators having Securitisation exposure**

### **2.1 Standards for Due Diligence**

2.1.1 NBFCs can invest in or assume exposure to a securitisation position only if the originator (other NBFCs / FIs / banks) has explicitly disclosed to the credit institution that it has adhered to MHP and MRR stipulated in these guidelines and will adhere to MRR guidelines on an ongoing basis.

2.1.2 Before investing, and as appropriate thereafter, NBFCs should be able to demonstrate for each of their individual securitisation positions, that they have a comprehensive and thorough understanding of risk profile of their proposed / existing investments in securitised positions. NBFCs will also have to demonstrate that for making such an assessment they have implemented formal policies and procedures appropriate for analysing and recording the following :

- a) information disclosed by the originators regarding the MRR in the securitisation, on at least half yearly basis;
- b) the risk characteristics of the individual securitisation position including all the structural features of the securitisation that can materially impact the performance of the investing NBFC's securitisation position (i.e., the seniority of the tranche, thickness of

the subordinate tranches, its sensitivity to prepayment risk and credit enhancement resets, structure of repayment waterfalls, waterfall related triggers, the position of the tranche in sequential repayment of tranches (time-tranching), liquidity enhancements, availability of credit enhancements in the case of liquidity facilities, deal-specific definition of default, etc.);

- c) the risk characteristics of the exposures underlying the securitization position (i.e., the credit quality, extent of diversification and homogeneity of the pool of loans, sensitivity of the repayment behavior of individual borrowers to factors other than their sources of income, volatility of the market values of the collaterals supporting the loans, cyclicity of the economic activities in which the underlying borrowers are engaged, etc.);
- d) the reputation of the originators in terms of observance of credit appraisal and credit monitoring standards, adherence to MRR and MHP standards in earlier securitisations, and fairness in selecting exposures for securitisation;
- e) loss experience in earlier securitisations of the originators in the relevant exposure classes underlying the securitisation position, incidence of any frauds committed by the underlying borrowers, truthfulness of the representations and warranties made by the originator;
- f) the statements and disclosures made by the originators, or their agents or advisors, about their due diligence on the securitized exposures and, where applicable, on the quality of the collateral supporting the securitised exposures; and
- g) where applicable, the methodologies and concepts on which the valuation of collateral supporting the securitised exposures is based and the policies adopted by the originator to ensure the

independence of the valuer.

2.1.3 When the securitised instruments are subsequently purchased in the secondary market by an NBFC, it should, at that point in time, ensure that the originator has explicitly disclosed that it will retain a position that meets the MRR.

## 2.2 **Stress Testing**

NBFCs should regularly perform their own stress tests appropriate to their securitisation positions. For this purpose, various factors which may be considered include, but are not limited to, rise in default rates in the underlying portfolios in a situation of economic downturn, rise in pre-payment rates due to fall in rate of interest or rise in income levels of the borrowers leading to early redemption of exposures, fall in rating of the credit enhancers resulting in fall in market value of securities (Asset Backed Securities / Mortgage Backed Securities) and drying of liquidity of the securities resulting in higher prudent valuation adjustments.

## 2.3 **Credit Monitoring**

NBFCs need to monitor on an ongoing basis and in a timely manner, performance information on the exposures underlying their securitisation positions and take appropriate action, if any, required. Action may include modification to exposure ceilings to certain type of asset class underlying securitisation transaction, modification to ceilings applicable to originators etc. For this purpose, NBFCs should establish formal procedures commensurate with the risk profile of their exposures in securitised positions as stipulated in para 2.1.2. Where relevant, this shall include the exposure type, the percentage of loans more than 30, 60, 90, 120 and 180 days past due, default rates, prepayment rates, loans in foreclosure, collateral type and occupancy and frequency distribution of credit scores or other measures of credit worthiness across underlying exposures, industry and geographical diversification, frequency distribution of loan to value ratios with bandwidths that facilitate

adequate sensitivity analysis. NBFCs may inter alia make use of the disclosures made by the originators in the form given in Appendix 1 to monitor the securitisation exposures.

#### **2.4 Treatment of Exposures not Meeting the Requirements Stipulated above**

The investing NBFCs will assign a risk weight of 667% to the securitisation exposures where the requirements in the paragraphs 2.1 to 2.3 above are not met. While NBFCs should make serious efforts to comply with the guidelines contained in paragraphs 2.1 to 2.3, the higher risk weight of 667% will be applicable with effect from October 01, 2012. NBFCs should put in place necessary systems and procedures to implement the requirements in paragraphs 2.1 to 2.3 before October 31, 2012.

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### **Section B**

#### **Guidelines on Transactions Involving Transfer of Assets through Direct Assignment of Cash Flows and the Underlying Securities**

##### **1. Requirements to be met by the Originating NBFCs**

###### **1.1 Assets Eligible for Transfer<sup>9</sup>**

1.1.1 Under these guidelines, NBFCs can transfer a single standard asset or a part of such asset or a portfolio of such assets to financial entities through an assignment deed with the exception of the following :

- i) Revolving credit facilities (e.g., Credit Card receivables)
- ii) Assets purchased from other entities
- iii) Assets with bullet repayment of both principal and interest<sup>10</sup>

1.1.2 However, these guidelines do not apply to :

- i) Transfer of loan accounts of borrowers by an NBFC to other NBFCs

/ FIs / banks and vice versa, at the request / instance of borrower;

- ii) Trading in bonds;
- iii) Sale of entire portfolio of assets consequent upon a decision to exit the line of business completely. Such a decision should have the approval of Board of Directors of the NBFC;
- iv) Consortium and syndication arrangements.
- v) Any other arrangement / transactions, specifically exempted by the Reserve Bank of India.

### 1.2 Minimum Holding Period (MHP)

Same as in para 1.2 of Section A.

### 1.3 Minimum Retention Requirement (MRR)

1.3.1 The originating NBFCs should adhere to the MRR detailed in the Table below while transferring assets to other financial entities :

Type of asset		MRR
Assets with original maturity of 24 months or less		Retention of right to receive 5% of the cash flows from the assets transferred on pari-passu basis
i)	Assets with original maturity of above 24 months; and	Retention of right to receive 10% of the cash flows from the assets transferred on pari-passu basis.
ii)	Loans referred to in foot note 10 of para 1.1 of Section B.	

1.3.2 In the case of partial sale of assets, if the portion retained by the seller is more than the MRR required as per para 1.3.1 above, then out of the

portion retained by the seller, the portion equivalent to 5% of the portion sold or 10% of the portion sold, as the case may be, would be treated as MRR. However, all exposures retained by the selling NBFC including MRR should rank pari-passu with the sold portion of the asset.

- 1.3.3 NBFCs should not offer credit enhancements in any form and liquidity facilities in the case of loan transfers through direct assignment of cash flows, as the investors in such cases are generally the institutional investors who should have the necessary expertise to appraise and assume the exposure after carrying out the required due diligence. NBFCs should also not retain any exposures through investment in the Interest Only Strip representing the Excess Interest Spread / Future Margin Income from the loans transferred. However, the originating NBFCs will have to satisfy the MRR requirements stipulated in para 1.3.1 above. NBFCs' retention of partial interest in the loans transferred to comply with the MRR indicated in para 1.3.1 should be supported by a legally valid documentation. At a minimum, a legal opinion regarding the following should also be kept on record by the originator :
- a) legal validity of amount of interest retained by the originator;
  - b) such arrangement not interfering with assignee's rights and rewards associated with the loans to the extent transferred to it; and
  - c) the originator not retaining any risk and rewards associated with the loans to the extent transferred to the assignee.
- 1.3.4 MRR will have to be maintained by the entity which sells the loans. In other words, it cannot be maintained by other entities which are treated as 'originator' in terms of para 5(vi) of the circular dated February 1, 2006 containing guidelines on securitisation of standard assets.
- 1.3.5 The level of commitment by originators i.e., MRR should not be reduced either through hedging of credit risk or selling the retained interest. The



MRR as a percentage of unamortised principal should be maintained on an ongoing basis except for reduction of retained exposure due to proportionate repayment or through the absorption of losses. The form of MRR should not change during the life of transaction.

- 1.3.6 For complying with the MRR under these guidelines, NBFCs should ensure that proper documentation in accordance with law is made.

#### 1.4 **Booking of Profit Upfront**

- 1.4.1 The amount of profit in cash on direct sale of loans may be held under an accounting head styled as "Cash Profit on Loan Transfer Transactions Pending Recognition" maintained on individual transaction basis and amortised over the life of the transaction. The amortisation of cash profit arising out of loan assignment transaction will be done at the end of every financial year and calculated as under :

$$\text{Profit to be amortised} = \text{Max} \{L, [(X*(Y/Z)), [(X/n)]\}$$

X = amount of unamortised cash profit lying in the account 'Cash Profit on Loan Transfer Transactions Pending Recognition' at the beginning of the year

Y = amount of principal amortised during the year

Z = amount of unamortised principal at the beginning of the year

L = Loss (specific provisions to be made on retained exposures for credit losses plus direct write-off plus any other losses, if any)<sup>11</sup> incurred on the portfolio

n = residual maturity of the securitisation transaction

- 1.4.2 ***Accounting, Asset Classification and provisioning norms for MRR***

The asset classification and provisioning rules in respect of the exposure representing the MRR would be as under :

- a) The originating NBFC may maintain a consolidated account of the amount representing MRR if the loans transferred are retail loans. In such a case, the consolidated amount receivable in amortisation of the MRR and its periodicity should be clearly established and the overdue status of the MRR should be determined with reference to repayment of such amount. Alternatively, the originating NBFC may continue to maintain borrower-wise accounts for the proportionate amounts retained in respect of those accounts. In such a case, the overdue status of the individual loan accounts should be determined with reference to repayment received in each account.
- b) In the case of transfer of a pool of loans other than retail loans, the originator should maintain borrower-wise accounts for the proportionate amounts retained in respect of each loan. In such a case, the overdue status of the individual loan accounts should be determined with reference to repayment received in each account.
- c) If the originating NBFC acts as a servicing agent of the assignee bank / NBFC for the loans transferred, it would know the overdue status of loans transferred which should form the basis of classification of the entire MRR / individual loans representing MRR as NPA in the books of the originating NBFC, depending upon the method of accounting followed as explained in para (a) and (b) above.

#### **1.5 Disclosures by the Originating NBFCs**

Same as in para 1.6 of Section A.

#### **1.6 Loan Origination Standards**

Same as in para 1.7 of Section A.

#### **1.7 Treatment of Assets sold not Meeting the Requirements stipulated above**

All instructions contained in this paragraph except in para 1.4.2 will be applicable

only to the new transactions undertaken on or after the date of this circular. Instructions in para 1.4.2 will be applicable to both existing and new transactions<sup>12</sup>. If an originating NBFC fails to meet the requirement laid down in paragraphs 1.1 to 1.6 above, it will have to maintain capital for the assets sold as if these were still on the books of the NBFC (originating NBFC).

## **2. Requirements to be met by the Purchasing NBFCs**

### **2.1 Restrictions on Purchase of loans**

NBFCs can purchase loans from other NBFCs / FIs / banks in India only if the seller has explicitly disclosed to the purchasing NBFCs that it will adhere to the MRR indicated in para 1.3 on an ongoing basis. In addition, for domestic transactions, purchasing NBFCs should also ensure that the originating institution has strictly adhered to the MHP criteria prescribed in the guidelines in respect of loans purchased by them.

### **2.2 Standards for Due Diligence**

2.2.1 NBFCs should have the necessary expertise and resources in terms of skilled manpower and systems to carry out the due diligence of the loans / portfolios of loans before purchasing them. In this regard the purchasing NBFCs should adhere to the following guidelines :

- a) NBFCs with the approval of their Board of Directors, should formulate policies regarding the process of due diligence which needs to be exercised by the NBFCs' own officers to satisfy about the Know Your Customer requirements and credit quality of the underlying assets. Such policies should inter alia lay down the methodology to evaluate credit quality of underlying loans, the information requirements etc.
- b) The due diligence of the purchased loans cannot be outsourced by the NBFC and should be carried out by its own officers with the same rigour as would have been applied while sanctioning new

loans by the NBFC.

- c) If an NBFC wishes to outsource certain activities like collection of information and documents etc., then NBFCs would continue to retain full responsibility in regard to selection of loans for purchase and compliance with Know Your Customer requirements.

2.2.2 Before purchasing individual loans or portfolio of loans, and as appropriate thereafter, NBFCs should be able to demonstrate that they have a comprehensive and thorough understanding of and have implemented formal policies and procedures commensurate with the risk profile of the loans purchased analysing and recording :

- a) information disclosed by the originators regarding the MRR, on an ongoing basis;
- b) the risk characteristics of the exposures constituting the portfolio purchased (i.e., the credit quality, extent of diversification and homogeneity of the pool of loans, sensitivity of the repayment behavior of individual borrowers to factors other than their sources of income, volatility of the market values of the collaterals supporting the loans, cyclicalities of the economic activities in which the underlying borrowers are engaged, etc.);
- c) the reputation of the originators in terms of observance of credit appraisal and credit monitoring standards, adherence to MRR and MHP standards in earlier transfer of portfolios and fairness in selecting exposures for transfer;
- d) loss experience in earlier transfer of loans / portfolios by the originators in the relevant exposure classes underlying and incidence of any frauds committed by the underlying borrowers, truthfulness of the representations and warranties made by the originator;

- e) the statements and disclosures made by the originators, or their agents or advisors, about their due diligence on the assigned exposures and, where applicable, on the quality of the collateral supporting the loans transferred; and
- f) where applicable, the methodologies and concepts on which the valuation of loans transferred is based and the policies adopted by the originator to ensure the independence of the valuer.

### **2.3 Stress Testing**

NBFCs should regularly perform their own stress tests appropriate to the portfolios of loans purchased by them. For this purpose, various factors which may be considered include, but are not limited to, rise in default rates in the underlying portfolios in a situation of economic downturn and rise in pre-payment rates due to fall in rate of interest or rise in income levels of the borrowers leading to early redemption of exposures.

### **2.4 Credit monitoring**

2.4.1 The purchasing NBFCs need to monitor on an ongoing basis and in timely manner performance information on the loans purchased and take appropriate action required, if any. Action may include modification to exposure ceilings to certain type of asset classes, modification to ceilings applicable to originators etc. For this purpose, NBFCs should establish formal procedures appropriate and commensurate with the risk profile of the purchased loans. Such procedures should be as rigorous as that followed by the NBFC for portfolios of similar loans directly originated by it. In particular, such procedures must facilitate timely detection of signs of weaknesses in individual accounts and identification of non-performing borrowers as per RBI guidelines as soon as loans are 180 days past due. The information collected should include the exposure type, the percentage of loans more than 30, 60, 90, 120 and 180 days past due, default rates, prepayment rates, loans in foreclosure, collateral type and

occupancy, and frequency distribution of credit scores or other measures of credit worthiness across underlying exposures, industry and geographical diversification, frequency distribution of loan to value ratios with band widths that facilitate adequate sensitivity analysis. Such information, if not collected directly by the NBFC and obtained from the servicing agent, should be certified by the authorized officials of the servicing agent. NBFCs may inter alia make use of the disclosures made by the originators in the form given in Appendix 1 to monitor the exposures.

- 2.4.2 Depending upon the size of the portfolio, credit monitoring procedures may include verification of the information submitted by the bank / NBFC's concurrent and internal auditors. The servicing agreement should provide for such verifications by the auditors of the purchasing NBFC. All relevant information and audit reports should be available for verification by the Inspecting Officials of RBI during the Annual Financial Inspections of the purchasing NBFCs.

## 2.5 True Sale Criteria<sup>13</sup>

- 2.5.1 The 'sale' (this term would hereinafter include direct sale, assignment and any other form of transfer of asset, but does not include bills rediscounted, outright transfer of loan accounts to other financial entities at the instance of the borrower and sale of bonds other than those in the nature of advance) should result in immediate legal separation of the 'selling NBFC'<sup>14</sup> (this term hereinafter would include direct selling NBFC, assigning NBFC and the NBFC transferring assets through any other mode), from the assets<sup>15</sup> which are sold. The assets should stand completely isolated from the selling NBFC, after its transfer to the buyer, i.e., put beyond the selling NBFC's as well as its creditors' reach, even in the event of bankruptcy of the selling / assigning / transferring NBFC.

- 2.5.2 The selling NBFC should effectively transfer all risks / rewards and rights / obligations pertaining to the asset and shall not hold any beneficial interest in the asset after its sale except those specifically permitted under these guidelines. The buyer should have the unfettered right to pledge, sell, transfer or exchange or otherwise dispose of the assets free of any restraining condition. The selling NBFC shall not have any economic interest in the assets after its sale and the buyer shall have no recourse to the selling NBFC for any expenses or losses except those specifically permitted under these guidelines.
- 2.5.3 There shall be no obligation on the selling NBFC to re-purchase or fund the repayment of the asset or any part of it or substitute assets held by the buyer or provide additional assets to the buyer at any time except those arising out of breach of warranties or representations made at the time of sale. The selling NBFC should be able to demonstrate that a notice to this effect has been given to the buyer and that the buyer has acknowledged the absence of such obligation.
- 2.5.4 The selling NBFC should be able to demonstrate that it has taken all reasonable precautions to ensure that it is not obliged, nor will feel impelled, to support any losses suffered by the buyer.
- 2.5.5 The sale shall be only on cash basis and the consideration shall be received not later than at the time of transfer of assets. The sale consideration should be market-based and arrived at in a transparent manner on an arm's length basis.
- 2.5.6 If the seller of loans acts as the servicing agent for the loans, it would not detract from the 'true sale' nature of the transaction, provided such service obligations do not entail any residual credit risk on the sold assets or any additional liability for them beyond the contractual performance obligations in respect of such services.

- 2.5.7 An opinion from the selling NBFC's Legal Counsel should be kept on record signifying that : (i) all rights, titles, interests and benefits in the assets have been transferred to the buyer; (ii) selling NBFC is not liable to the buyer in any way with regard to these assets other than the servicing obligations as indicated in para 2.5.6 above; and (iii) creditors of the selling NBFC do not have any right in any way with regard to these assets even in case of bankruptcy of the selling NBFC.
- 2.5.8 Any re-schedulement, restructuring or re-negotiation of the terms of the underlying agreement/s effected after the transfer of assets to the buyer, shall be binding on the buyer and not on the selling NBFC except to the extent of MRR.
- 2.5.9 The transfer of assets from selling NBFC must not contravene the terms and conditions of any underlying agreement governing the assets and all necessary consents from obligors (including from third parties, where necessary) should have been obtained.
- 2.5.10 In case the selling NBFC also provides servicing of assets after the sale under a separate servicing agreement for fee, and the payments / repayments from the borrowers are routed through it, it shall be under no obligation to remit funds to the buyer unless and until these are received from the borrowers.

## **2.6 Representations and Warranties**

An originator that sells assets to other financial entities may make representations and warranties concerning those assets. Where the following conditions are met the seller will not be required to hold capital against such representations and warranties.

- a) Any representation or warranty is provided only by way of a formal written agreement.
- b) The seller undertakes appropriate due diligence before providing or



accepting any representation or warranty.

- c) The representation or warranty refers to an existing state of facts that is capable of being verified by the seller at the time the assets are sold.
- d) The representation or warranty is not open-ended and, in particular, does not relate to the future creditworthiness of the loans / underlying borrowers.
- e) The exercise of a representation or warranty, requiring an originator to replace asset (or any parts of them) sold, on grounds covered in the representation or warranty, must be :
  - \* undertaken within 120 days of the transfer of assets; and
  - \* conducted on the same terms and conditions as the original sale.
- f) A seller that is required to pay damages for breach of representation or warranty can do so provided the agreement to pay damages meets the following conditions :
  - \* the onus of proof for breach of representation or warranty remains at all times with the party so alleging;
  - \* the party alleging the breach serves a written Notice of Claim on the seller, specifying the basis for the claim; and
  - \* damages are limited to losses directly incurred as a result of the breach
- g) A seller should notify RBI (Department of Non-Banking Supervision) of all instances where it has agreed to replace assets sold to another financial entity or pay damages arising out of any representation or warranty.

## **2.7 Re-purchase of Assets**

In order to limit the extent of effective control of transferred assets by the seller in the case of direct assignment transactions, NBFCs should not have any re-

purchase agreement including through "clean-up calls" on the transferred assets.

## **2.8 Applicability of Capital Adequacy and other Prudential Norms**

2.8.1 The capital adequacy treatment for direct purchase of loans will be as per the rules applicable to loans directly originated by the NBFCs. Investment in tranches of securitized loans will attract capital adequacy and other prudential norms as applicable to securitization transactions. NBFCs may, if they so desire, have the pools of loans rated before purchasing so as to have a third party view of the credit quality of the pool in addition to their own due diligence. However, such rating cannot substitute for the due diligence that the purchasing NBFC is required to perform in terms of para 2.2 of this Section.

2.8.2 In purchase of pools of retail and non-retail loans, income recognition, asset classification, provisioning and exposure norms for the purchasing NBFC will be applicable based on individual obligors and not based on portfolio. NBFCs should not apply the asset classification, income recognition and provisioning norms at portfolio level, as such treatment is likely to weaken the credit supervision due to its inability to detect and address weaknesses in individual accounts in a timely manner. If the purchasing NBFC is not maintaining the individual obligor-wise accounts for the portfolio of loans purchased, it should have an alternative mechanism to ensure application of prudential norms on individual obligor basis, especially the classification of the amounts corresponding to the obligors which need to be treated as NPAs as per existing prudential norms. One such mechanism could be to seek monthly statements containing account-wise details from the servicing agent to facilitate classification of the portfolio into different asset classification categories. Such details should be certified by the authorized officials of the servicing agent. NBFC's concurrent auditors, internal auditors and statutory auditors should also conduct checks of these portfolios with

reference to the basic records maintained by the servicing agent. The servicing agreement should provide for such verifications by the auditors of the purchasing NBFC. All relevant information and audit reports should be available for verification by the Inspecting Officials of RBI during the Annual Financial Inspections of the purchasing NBFCs.

2.8.3 The purchased loans will be carried at acquisition cost unless it is more than the face value, in which case the premium paid should be amortised based on straight line method or effective interest rate method, as considered appropriate by the individual NBFCs. The outstanding / unamortised premium need not be deducted from capital. The discount / premium on the purchased loans can be accounted for on portfolio basis or allocated to individual exposures proportionately.

## **2.9 Treatment of Exposures not Meeting the Requirements Stipulated Above**

The investing NBFCs will assign a risk weight of 667% to the assignment exposures where the requirements in paragraphs 2.1 to 2.8 above are not met. While NBFCs should make serious efforts to comply with the guidelines contained in paragraphs 2.1 to 2.4, the higher risk weight of 667% for non-compliance of these paragraphs will be applicable with effect from October 01, 2012. NBFCs should put in place necessary systems and procedures to implement the requirements in paragraphs 2.1 to 2.4 before October 31, 2012.

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## **Section C**

### **Securitisation Activities / Exposures not permitted**

1. At present, NBFCs in India are not permitted to undertake the securitisation activities or assume securitisation exposures as mentioned below.

#### **1.1 Re-securitisation of Assets**

A re-securitisation exposure is a securitisation exposure in which the risk associated with an underlying pool of exposures is tranching and at least one of the underlying exposures is a securitisation exposure. In addition, an exposure to one or more resecuritisation exposures is a re-securitisation exposure. This definition of resecuritised exposure will capture collateralised debt obligations (CDOs) of asset backed securities, including, for example, a CDO backed by residential mortgage backed securities (RMBS).

#### **1.2 Synthetic Securitisations**

A synthetic securitisation is a structure with at least two different stratified risk positions or tranches that reflect different degrees of credit risk where credit risk of an underlying pool of exposures is transferred, in whole or in part, through the use of funded (e.g. credit-linked notes) or unfunded (e.g. credit default swaps) credit derivatives or guarantees that serve to hedge the credit risk of the portfolio. Accordingly, the investors' potential risk is dependent upon the performance of the underlying pool.

#### **1.3 Securitisation with Revolving Structures (with or without early amortisation features)**

These involve exposures where the borrower is permitted to vary the drawn amount and repayments within an agreed limit under a line of credit (e.g. credit card receivables and cash credit facilities). Typically, revolving structures will have non-amortising assets such as credit card receivables, trade receivables,

dealer floor plan loans and some leases that would support non-amortising structures, unless these are designed to include early amortisation features. Early amortisation means repayment of securities before their normal contractual maturity. At the time of early amortisation there are three potential amortisation mechanics: (i) Controlled amortisation; (ii) Rapid or non-controlled amortisation; and (iii) Controlled followed by a subsequent (after the completion of the controlled period) non-controlled amortisation phase.

2. The appropriateness and suitability of transactions prohibited in the above guidelines would be revisited in due course.

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## Appendix – 1

### Format for Disclosure Requirements in offer documents, servicer report, investor report, etc.<sup>16</sup>

Name / Identification No. of securitisation transaction<sup>17</sup>

	<b>Nature of disclosure</b>	<b>Details</b>		<b>Amount / percentage / years</b>	
1.	Maturity characteristics of the underlying assets (on the date of disclosure)	i)	Weighted average maturity of the underlying assets (in years)		
		ii)	Maturity-wise distribution of underlying assets		
			a)	Percentage of assets maturing within one year	
			b)	Percentage of assets maturing within one to three year	
			c)	Percentage of assets maturing within three to five years	
			d)	Percentage of assets maturing after five years	
2	Minimum Holding Period (MHP) of securitised assets	i)	MHP required as per RBI guidelines (years / months)		
		ii)	a)	Weighted average holding period of securitised assets at the time of securitisation (years / months)	
			b)	Minimum and maximum holding period of the securitised assets	
3	Minimum Retention	i)	MRR as per RBI guidelines as a percentage of book value of assets		

	Requirement (MRR) on the date of disclosure		securitised and outstanding on the date of disclosure		
		ii)	Actual retention as a percentage of book value of assets securitised and outstanding on the date of disclosure		
		iii)	Types of retained exposure constituting MRR in percentage of book value of assets securitised (percentage of book value of assets securitised and outstanding on the date of disclosure) <sup>18</sup>		
			a)	Credit Enhancement (i.e. whether investment in equity / subordinate tranches, first / second loss guarantees, cash collateral, overcollateralisation	
			b)	Investment in senior tranches	
			c)	Liquidity support	
			d)	Any other (pl. specify)	
		iv)	Breaches, if any, and reasons there for		
4	Credit quality of the underlying loans	i)	Distribution of overdue loans		
		a)	Percentage of loans overdue up to 30 days		
		b)	Percentage of loans overdue between 31-60 days		
		c)	Percentage of loans overdue between 61-90 days		
		d)	Percentage of loans overdue between 90 and 120 days		

		e)	Percentage of loans overdue between 120 and 180 days	
		f)	Percentage of loans overdue more than 180 days	
	ii)	Details of tangible security available for the portfolio of underlying loans (vehicles, mortgages, etc.)		
		a)	Security 1( to be named) (% loans covered)	
		b)	Security 2.....	
		c)	Security 'n'	
	iii)	Extent of security cover available for the underlying loans		
		a)	Percentage of loans fully secured included in the pool (%)	
		b)	Percentage of partly secured loans included in the pool (%)	
		c)	Percentage of unsecured loans included in the pool (%)	
	iv)	Rating-wise distribution of underlying loans( if these loans are rated)		
		a)	Internal grade of the NBFC / external grade (highest quality internal grade may be indicated as 1)	
			1/AAA or equivalent	
			2	
			3	
			4.....	
			N	



		b)	Weighted average rating of the pool	
	v)		Default rates of similar portfolios observed in the past	
		a)	Average default rate per annum during last five years	
		b)	Average default rate per annum during last year	
	vi)		Upgradation / Recovery / Loss Rates of similar portfolios	
		a)	Percentage of NPAs upgraded (average of the last five years)	
		b)	Amount written-off as a percentage of NPAs in the beginning of the year (average of last five years)	
		c)	Amount recovered during the year as a percentage of incremental NPAs during the year (average of last five year)	
	vii)		Frequency distribution of LTV ratios, in case of housing loans and commercial real estate loans)	
		a)	Percentage of loans with LTV ratio less than 60%	
		b)	Percentage of loans with LTV ratio between 60-75%	
		c)	Percentage of loans with LTV ratio greater than 75%	
		d)	Weighted average LTV ratio of the	

			underlying loans (%)		
5	Other characteristics of the loan pool	i)	Industry-wise breakup of the loans in case of mixed pools (%)		
			Industry 1		
			Industry 2		
			Industry 3....		
				Industry n	
		ii)	Geographical distribution of loan pools (state wise) (%)		
			State 1		
			State 2		
			State 3		
		State 4			

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## Appendix 2

### Disclosures to be made in Notes to Accounts by NBFCs

S. No.	Particulars	No. / Amount in Rs. crore
1.	No of SPVs sponsored by the NBFC for securitisation transactions <sup>19</sup>	
2.	Total amount of securitised assets as per books of the SPVs sponsored by the NBFC	
3.	Total amount of exposures retained by the NBFC to comply with MRR as on the date of balance sheet	
	a) Off-balance sheet exposures	
	* First loss	
	* Others	
	b) On-balance sheet exposures	
	* First loss	
	* Others	
4	Amount of exposures to securitisation transactions other than MRR	
	a) Off-balance sheet exposures	
	i) Exposure to own securitisations	
	* First loss	
	* loss	
	ii) Exposure to third party securitisations	
	* First loss	
	* Others	
	b) On-balance sheet exposures	
	i) Exposure to own securitisations	

			*	First loss	
			*	Others	
		ii)		Exposure to third party securitisations	
			*	First loss	
			*	Others	

- 1 The single asset securitisations do not involve any credit tranching and redistribution of risk, and therefore, are not consistent with the economic objectives of securitisation.
- 2 In these guidelines the term loans / assets have been used to refer to loans, advances and bonds which are in the nature of advances
- 3 Trade receivables with tenor up to 12 months discounted / purchased by NBFCs from their borrowers will be eligible for securitisation. However, only those loans / receivables will be eligible for securitisation where a drawee of the bill has fully repaid the entire amount of last two loans / receivables within 180 days of the due date.
- 4 Where the repayment is at more than quarterly intervals, loans can be securitised after repayment of at-least two instalments.
- 5 The minimum CRAR requirement for NBFCs is 15%. Hence risk weight has been capped at 667% so as to ensure that the capital charge does not exceed the exposure value.
- 6 The losses, including marked-to-market losses, incurred by NBFCs, specific provisions, if any, and direct write-offs to be made on the MRR and any other exposures to the securitisation transaction (other than credit enhancing interest only strip) should be charged to Profit and Loss account. However, the amortisation formula would ensure that these debits to Profit and Loss account are offset to the extent there is balance in "Cash Profit on Loan Transfer Transactions Pending Recognition Account". NBFCs should also

hold capital against securitisation exposures in terms of extant guidelines of RBI without taking into account balance in "Cash Profit on Loan Transfer Transactions Pending Recognition Account".

7 For accounting of losses in respect of credit enhancing interest only strip, please see para 1.5.3.

8 The I / O Strips may be amortising or non-amortising. In the case of amortising I / O strips, an NBFC would periodically receive in cash, only the amount which is left after absorbing losses, if any, supported by the I / O strip. On receipt, this amount may be credited to Profit and Loss account and the amount equivalent to the amortisation due may be written-off against the "Unrealised Gain on Loan Transfer Transactions" A/c bringing down the book value of the I / O strip in the NBFC's books. In the case of a non-amortising I / O Strip, as and when the NBFC receives intimation of charging-off of losses by the SPV against the I / O strip, it may write-off equivalent amount against "Unrealised Gain on Loan Transfer Transactions" A/c and bring down the book value of the I / O strip in the NBFC's books. The amount received in final redemption value of the I / O Strip received in cash may be taken to Profit and Loss account.

9 In these guidelines, transfer would mean transfer of assets through direct sale, assignment and any other form of transfer of assets. The generic term used for transfers would be sale and purchase.

10 Trade receivables with tenor up to 12 months discounted / purchased by NBFCs from their borrowers will be eligible for direct transfer through assignment. However, only those loans / receivables will be eligible for such transfer where a drawee of the bill has fully repaid the entire amount of last two loans / receivables within 180 days of the due date.

11 The specific provisions to be made as well as direct write-offs and other losses, if any, on the retained exposures should be charged to Profit and Loss account. In addition NBFCs should hold capital against the exposure retained as part of MRR as required in terms of extant guidelines of RBI without taking

into account balance in "Cash Profit on Loan Transfer Transactions Pending Recognition" account. NBFCs will also be required to separately maintain 'standard asset' provisions on MRR as per existing instructions which should not be charged to the "Cash Profit on Loan Transfer Transactions Pending Recognition" A/c.

<sup>12</sup> For existing transactions para 1.4.2 would apply to credit enhancements or any other type of retained exposures.

<sup>13</sup> For true sale criteria for securitisation transaction, please refer to Guidelines on Securitisation of Standard Assets DBOD.NO.BP.BC.60/21.04.048/2005-06 dated February 01, 2006 as amended from time to time.

<sup>14</sup> In this para, the term 'selling NBFC' will include other financial entities selling loans to NBFCs

<sup>15</sup> In case of sale of a part of an asset, true sale criteria will apply to the part of the asset sold

<sup>16</sup> This appendix will also be applicable to direct transfer of loans. For that purpose the words 'securitised assets'/'asset securitised' may be interpreted to mean 'loans directly transferred / assigned'. NBFCs should disclose / report the information in respect of securitisation and direct transfers separately.

<sup>17</sup> These disclosures should be made separately for each securitisation transaction throughout the life of the transaction

<sup>18</sup> This item is not relevant for direct transfer of loans, as there will be no credit enhancement, liquidity support and tranching.

<sup>19</sup> Only the SPVs relating to outstanding securitisation transactions may be reported here

## Annex-2

***An indicative list of basic documents/information to be furnished along with the application. All documents/information is to be submitted in duplicate.***

Sr. No	<b><i>Requirements to be complied with and documents to be submitted to RBI by Companies for obtaining certificate and Registration from RBI as NBFC</i></b>	Page no. in the file
1.	Minimum NOF requirement Rs. 200 lakh.	
2.	Application to be submitted in two separate sets tied up properly in two separate files and properly page numbered.	
3.	Identification particulars ( <b>Annex I</b> ).	
4.	Statement on prudential norms ( <b>Annex II</b> ).	
5.	Information about the management ( <b>Annex III</b> )	
6.	Details of change in the management of the company during last financial year till date if any and reasons thereof.	
7.	Certified copies of Certificate of Incorporation and Certificate of Commencement of Business in case of public limited companies.	
8.	Certified copies of up-to-date Memorandum and Articles of Association of the company.	
9.	Details of clauses in the memorandum relating to financial business.	
10	Details of changes in the Memorandum and Articles of Association duly certified.	
11.	Copy of PAN/CIN allotted to the company.	
12.	Annex II to be submitted duly signed by the director/Authorized signatory and certified by the statutory auditors.	
13.	Annex III (directors' profile) to be separately filled up and signed	

	by each director. Care should be taken to give details of bankers in respect of firms/companies/entities in which directors have substantial interest.	
14.	In case the directors are associated with or without substantial interest (indicate % of holding in each company firm) in other companies, indicate clearly the activity of the companies and details of their regulators if any.	
15.	Certificate from the respective NBFC/s where the Directors have gained NBFC experience.	
16	Copy of PAN and DIN allotted to the Directors.	
17	CIBIL Data pertaining to Directors of the company	
18	Financial Statements of the last 2 years of Unincorporated Bodies, if any, in the group where the directors may be holding directorship with/without substantial interest.	
19	Certificate of compliance with section 45S of Chapter IIIC of the RBI Act, 1934 regarding unincorporated bodies with which director/s of the company are associated.	
20	Whether any prohibitory order was issued in the past to the company or any other NBFC/RNBC with which the directors/promoters etc. were associated? If details thereof.	
21	Whether the company or any of its directors was/is involved in any criminal case, including under section 138(1) of the Negotiable Instruments Act? If yes, details thereof.	
22	Board Resolution specifically approving the submission of the application and its contents and authorising signatory.	
23	Board Resolution to the effect that the company has not accepted any public deposit, in the past (specify period)/does not hold any public deposit as on the date and will not accept the same in future without the prior approval of Reserve Bank of India in writing.	



24	Board resolution stating that the company is not carrying on any NBFC activity/stopped NBFC activity and will not carry on/commence the same before getting registration from RBI.	
25	Certified copy of Board resolution for formulation of "Fair Practices Code"	
26	Statutory Auditors Certificate certifying that the company is/does not accept/is not holding Public Deposit.	
27	Statutory Auditors Certificate certifying that the company is not carrying on any NBFC activity.	
28	Statutory Auditors Certificate certifying net owned fund as on date of the application.	
29	Details of Authorised Share Capital and latest shareholding pattern of the company including the percentages. Documentary evidence for change in shareholding pattern, if undergone. If there are any NBFC corporate shareholders, certificates from their statutory auditors regarding the adequacy of statutory NOF post investment. Also, provide details about the line of activity of other corporate stake holders.	
30	Copy of Fixed Deposit receipt & bankers certificate of no lien indicating balances in support of NOF	
31	Details of infusion of capital if any during last financial year together with the copy of return of allotment filed with Registrar of Companies.	
32	Details of the bank balances/bank accounts/complete postal address of the branch/bank, loan/credit facilities etc. availed.	
33	Details of unsecured loans if any, raised by the company from others (including the directors) during the year and if these fall in the exempted category of Public deposits certified by the Auditor.	
34	A certificate of Chartered Accountant regarding details of group/associate/subsidiary/holding/related companies is submitted.	

	<p><i>(‘Companies in the group’ have been exhaustively defined in para 3(1) b of Notification No. DNBS.(PD) 219/CGM (US)-2011 dated January 05, 2011 as an arrangement involving two or more entities related to each other through any of the following relationships, viz. subsidiary-parent (defined in terms of AS-21), Joint Venture (defined in terms of AS 27), Associate (defined in terms of AS 23), promoter-promotee (as provided in the SEBI-Acquisition of shares and takeover) Regulations, 1997) for listed companies, a related party (defined in terms of AS 18) Common brand name, and investment in equity shares of 20% and above.)</i></p> <p>Details should include names of the company, its activity, whether it is an NBFC or have other regulators like SEBI/IRDA/FMC/NHB/Foreign Regulators. If they are unregulated give the details of their activities, principal banker’s name, address, account no. Whether the names of these companies are appearing in the balance sheet of the applicant company. If not, indicate why they are not appearing. Whether overseas group companies were established under general permission route or under approval from appropriate authority if any. If there are other NBFCs in the group, justification of having another NBFC.</p>	
35	<p>Brief background note on the activities of the company during the last three years and the reasons for applying for NBFC registration.</p>	
36	<p>Whether the company has applied to RBI in the past for registration, if rejected, give full details. If not applied to RBI earlier, whether the company was doing NBFi activities without CoR. If yes, indicate reasons for same. Whether they have completely stopped NBFi activities now and whether that has been certified by their auditor. Also, submit a letter seeking to be condoned for violation of Sec 45 IA if the company had conducted NBFi business detailing the circumstances.</p>	

37	Last three years Audited balance sheet and Profit & Loss account along with directors & auditor's report or for such shorter period as are available (for companies already in existence).	
38	Business plan of the company for the next three years giving details of its (a) thrust of business; (b) market segment; and (c) projected balance sheets, Cash flow statement, asset/income pattern statement without any element of public deposits.	
39	Source of the startup capital of the company substantiated with documentary evidence. Provide Self attested Bank Statement/IT returns etc.	
40	Details of mergers and acquisition with/of other companies if any together with supporting documents.	
41	Is the company engaged in any capital market activity? If so, whether there has been any non-compliance with SEBI Regulations? (Statement to be certified by Auditors).	
42	Whether the company was granted any permission by FED to function as Full-fledged Money Changers? If so, copy of the RBI letter granting the permission.	
43	<p>If there is FDI in the company, its percentage (submit FIRC in support thereof) and whether it fulfils the minimum capitalization norms or not (also submit FC_GPRs).</p> <p>(i) Has the FDI been brought in with FIPB approval (Copy of approval to be submitted)?</p> <p>(ii) Is the foreign entity contributing the FDI subject to supervision in its home country (if yes, name, address and email id of the regulator).</p> <p>(iii) If not, mention legal status, viz. statutes under which it was established, its statutory obligations, procedures under which it was established, whether listed on stock exchange etc.</p> <p>(iv) The particulars of approval of Foreign Exchange Department (FED) if any obtained/copies of Foreign Inward Remittance</p>	

	<p>Certificate in r/o Foreign Direct Investment if any, received by the applicant company are furnished.</p> <p>(v) Activities undertaken, details of regulator of group/associate companies doing financial activities which are regulated either in the home country or elsewhere, if any.</p> <p>(v) If any group/ associate company is operating in India, details such as its activities, its partners or associates, regulator/s etc. may be furnished.</p>	
44	<p>Declaration by the company to own electronic infrastructure and its capability regarding electronic submission of data through the internet as and when required by Reserve Bank of India. Email id of the company should also be provided.</p>	
45	<p>Are there are any incidents of non-compliance with the directions of Revenue Authorities or any other statutory authority by the applicant company, its holding company/ subsidiaries, If yes, give particulars, else report "Nil"</p>	

**Note: (1) The Above Checklist is indicative and not exhaustive. Bank can, if necessary, call for any further documents to satisfy themselves on the eligibility for obtaining registration as NBFC.**

**(2) In the event of the Bank calling for further documents in addition to those mentioned above, the applicant company is supposed to respond within a stipulated time of one month failing which the original CoR application may be returned to the company for resubmission afresh with the required information/documents.**

### Checklist for NBFC-MFI- New Companies

**Name of the Applicant Company:**

**Name of the Regional Office:**

	<b>Items to be Checked</b>	Confirm	Page No1
1	Is the Application of the Company duly stamped		
2	Is the Application accompanied by the following :		
a	<p>Annexure I</p> <p>Is the Annexure duly signed by the Board authorized Director of the Company under company's stamp?</p> <p>Board Resolution to the effect that the company will be a member of at least one Credit Information Bureau/Company and will be a member of at least one SRO.</p>		
b	<p>Annexure II duly certified by the Auditor.</p> <p>Are the particulars/information furnished in Annexure II based on figures of latest annual audited balance sheet. (For companies incorporated after March 31 of the particular year in which the application is being made, information being furnished should be with reference to a date not earlier than 30 days of date of application.</p>		
c	<p>Annexure III as additional information for each of the Directors</p> <p>Are the DIN and PAN Nos indicated.</p> <p>Has the CIBIL data for all the directors submitted if company is already member of Credit Information Bureau</p> <p>If there are any foreign nationals as Directors, are the equivalent of PAN No issued by the authorities of the country of residence such as Social Security No., Passport No. and overseas bankers' report on them furnished?</p> <p>Do the names and addresses on such documents tally with</p>		

	<p>DIN allotment letter. If not, are the reasons for variation provided? Or are the claims of genuineness supported by a magistrate's certificate.</p> <p>Are the current and past directorships held by the Directors and also the names and activities of the companies/firms where they are holding substantial interest (indicate percentage exceeding 10%) mentioned in each of the Annexure III.</p> <p>Are the names of the regulators (RBI, SEBI, IRDA, PFRDA, NHB or any other foreign regulator) of the entities in which the Directors hold directorships mentioned? If yes, please provide the registration details.</p> <p>Are the entities unregulated? If so what is the nature of their activities?</p> <p>Financial Statements of Unincorporated Bodies, if any, in the group where the directors may be holding directorship with/without substantial interest of the last 2 years.</p>		
3	<p>Are any of the companies indicated against Item No. 15 of Annexure III, an NBFC registered with the Reserve Bank? If yes, please provide the registration details.</p>		
4	<p>Has the applicant company changed its name earlier? If yes are the earlier held names and dates of change together with the names of Chief Executive Officer and Chairman at the time of change of name furnished?</p> <p>Has the applicant company furnished the reasoning for the change of name?</p>		
5	<p>Details of change in the management of the company during last financial year till date if any and reasons thereof.</p>		
6	<p>Has the applicant company ever defaulted in timely repayment of deposits and payment of interest? If yes, have they provided a list of all such pending cases and</p>		

	the action taken in respect of each case?		
7	Does the applicant company have any cases pending in any court including consumer forums? If yes, have they provided a list of such pending cases, including those pertaining to its deposit acceptance activities, if any?		
8	Are the certified and up-to date copy of the Memorandum of Association (MOA) and Articles of Association of the company submitted? Details of changes in the Memorandum and Articles of Association duly certified. Does the MOA of the applicant company have enabling clause/s for conducting MFI business by the company?		
9	Has the applicant company, if a public limited company, provided a certified copy of Certificate of Incorporation (bearing the signature of the Registrar of Companies) with the initial name & fresh certificate of incorporation consequent upon change of name of the Company?		
10	Has the applicant company provided a copy of the PAN/CIN Nos. allotted to the Company?		
11	Has the company submitted certified copies of the audited Balance Sheet & Profit and Loss Account for the last three years? If the company is incurring losses, are the steps to wipe out loss indicated?		
12	Has the applicant company raised unsecured loans, including from the Directors during the year? If yes, do these fall under the definition of public deposits as per Section 2(1) (xii) of the APD Directions, 1998?		
13	Is the company engaged in any capital market activity? If so, whether there has been any non-compliance with SEBI		

	Regulations? (Statement to be certified by Auditors).		
14	<p>What is the latest shareholding pattern of the company and what percentages do they comprise?</p> <p>If there are any NBFC corporate share holders, have the certificates from their statutory auditors regarding the adequacy of statutory NOF of such NBFCs post investment been provided?</p> <p>What is the line of activity of other corporate stake holders?</p>		
15	<p>Does the applicant company hold FDI?</p> <p>If yes, has the FDI been brought in with FIPB approval? (Copy of approval to be submitted).</p> <p>What is the percentage holding?</p> <p>Has the company submitted FIRC and FC-GPR in support thereof?</p> <p>Does the company fulfil the minimum capitalization norms or not? (Statutory Auditor certificate to be submitted)</p> <p>Is the foreign entity contributing the FDI subject to supervision in its home country?</p> <p>If yes, what is the name, address and email id of the regulator?</p> <p>If not, what is the legal status of the foreign investor? Under what statutes was it established? Is it a listed or an unlisted entity? Was any approval given by FED, RBI? If yes, a certified copy of the approval may be attached.</p>		



	<p>Activities undertaken, details of regulator of group/associate companies doing financial activities which are regulated either in the home country or elsewhere, if any.</p> <p>If any group/ associate company is operating in India, details such as its activities, its partners or associates, regulator/s etc. may be furnished.</p>		
16	Whether the company was granted any permission by FED to function as Full-fledged Money Changers? If so, copy of the RBI letter granting the permission.		
17	Has the applicant company submitted a certified copy of Board Resolution approving the submission of application and its contents for COR as NBFC-MFI and also authorizing a Director to submit the application?		
18	Has the applicant company submitted a certified copy of the Board Resolution that the company has not accepted any public deposits in the past/ does not hold any public deposits as on date and will not accept the deposits in future without prior approval of the Bank?		
19	Has the applicant company submitted a copy of the board resolution certifying fixing internal exposure limits to avoid any undesirable concentration in specific geographical locations?		
20	Has the applicant company submitted a certified copy of the Board Resolution that the company will adhere to the other regulations regarding pricing of credit, Fair Practices in lending and non-coercive method of recovery as specified in <a href="#">DNBS.CC.PD.No.250/03.10.01/2011-12 dated December 2, 2011</a> ?		
21	Has the applicant company submitted a certified copy of Board resolution stating the company is not licensed under		

	Section 25 of the Companies Act, 1956?		
22	<p>Does the Auditors Certificate certify the following :</p> <p>(a) The company is not holding any public deposits as on date</p> <p>(b) The company is not carrying on any NBF1 activity as on date.</p> <p>(c) The company's NOF is ...</p> <p>(d) As per the projected figures given in the business plan of the company will meet the qualifying asset criteria</p>		
23	<p>Has the applicant company given a declaration to the effect that it is capable of electronic submission of Returns through the internet as and when required by Reserve Bank of India? Has the email of the company been provided?</p>		
24	<p>Have all the Directors of the applicant company given a declaration individually that they are not associated with un-incorporated bodies and that they are in compliance to the provisions of Section 45S of the RBI Act, 1934?</p>		
25	<p>Is the Application accompanied by a certificate by a Chartered Accountant on the details including percentage shareholding of group/associate/subsidiary/holding/related companies?</p> <p><i>("Companies in the group" have been exhaustively defined in para 3(1) b of Notification No. DNBS.(PD) 219/CGM (US)-2011 dated January 05, 2011 as an arrangement involving two or more entities related to each other through any of the following relationships, viz. subsidiary-parent (defined in terms of AS-21), Joint Venture (defined in terms of AS 27), Associate (defined in terms of AS 23), promoter-promotee (as provided in the SEBI-Acquisition of shares and takeover Regulations, 1997) for listed companies, a related party (defined in terms of AS 18) Common brand name, and investment in equity shares of 20% and above.)</i></p>		

	<p>Do the details include names of the company, their activity, their regulators?</p> <p>If they are unregulated, have the details of their activities, provided?</p> <p>Are the names of the above companies/entities appearing in the balance sheet of the applicant company? If not, has the applicant company stated the reasons thereof?</p> <p>Is there any group companies located overseas?</p> <p>If yes, were these established under general permission route or under approval from appropriate authority?</p> <p>Are there any NBFCs from among the group companies?</p> <p>If so, the supervisory findings as observed in the last inspection conducted.</p>		
26	<p>Are there any other NBFC-MFIs/pending NBFC-MFIs in the group?</p> <p>If yes, has the applicant company provided any justification in having another NBFC-MFI within the Group?</p>		
27	<p>Has the applicant Banker's report in r/o applicant company been furnished?</p>		
28	<p>Has the company furnished the Bankers' Report in r/o companies in which the Directors of the applicant company have substantial interest as indicated against Items Nos. 14 &amp; 15 of Annexure –III?</p>		
29	<p>Has the company submitted Bankers' Reports in r/o group/subsidiary/holding companies if any, of the applicant company?</p>		
30	<p>Has the company submitted overseas Bankers' Reports in r/o foreign directors, if any?</p>		
31	<p>Has the applicant company submitted the Business Plan for the next three years giving details of its thrust of business, market segment &amp; projected balance sheets, Cash flow</p>		

	statement, asset/income pattern statement without any element of public deposits		
32	<p>The Projected business plan for 3 years must indicate the following as well(year wise):</p> <ul style="list-style-type: none"> <li>i. Amount of loan assets to be originated</li> <li>ii. Amount of loan assets to be extended for income generation</li> <li>iii. Break up of amount of assets to be originated in rural areas and semi-urban and urban areas</li> <li>iv. Activities the company intends to support in rural and semi-urban areas and urban areas</li> <li>v. Projected profits</li> <li>vi. Average cost of borrowings</li> <li>vii. Average Return on Assets(ROA)</li> <li>viii. Qualifying Assets is more than 85% of the Net Assets.</li> <li>ix. Expected capital expenditure in <ul style="list-style-type: none"> <li>a. land and buildings and</li> <li>b. IT resources</li> </ul> </li> <li>x. Locations where the company intends to operate</li> <li>xi. Allocation of resources to training and skill development of SHGs/JLGs</li> </ul>		
33	Is the number of directorships held by the company in compliance with Sections 274 - 278 of the Companies Act? If not, give detailed reasons for the same.		
34	Is the company or its Directors involved in any criminal case including Section 138 of Negotiable Instruments Act?		
35	Has the company provided details of infusion of capital if any during last financial year together with the copy of return of allotment filed with Registrar of Companies?		
36	What is the source of funds contributing to the initial capital of the applicant NBFC-MFI? Has the company produced		

	documentary proof in this regard?		
37	Are there are any incidents of non-compliance with the directions of Revenue Authorities or any other statutory authority by the applicant company, its holding company/ subsidiaries, If yes, give particulars, else report "Nil"		

**Note: (1) The Above Checklist is indicative and not exhaustive. Bank can, if necessary, call for any further documents to satisfy themselves on the eligibility for obtaining registration as NBFC-MFI.**

**(2) In the event of the Bank calling for further documents in addition to those mentioned above, the applicant company is supposed to respond within a stipulated time of one month failing which the original CoR application may be returned to the company for resubmission afresh with the required information/documents.**

## Checklist for NBFC-MFI- Existing Companies

**Name of the Applicant Company:**

**Name of the Regional Office:**

	Items to be Checked	Confirm	Page No
1	Is the Application of the Company duly stamped		
2	Is the Application accompanied by the following :		
a	<p>Annexure I</p> <p>Is the Annexure duly signed by the Board authorized Director of the Company under company's stamp?</p> <p>Has the Documentary evidence on membership to at least one Credit Information Bureau/Company submitted?</p> <p>Has the Board passed a resolution that the company will be associated with at least one Self Regulatory Organization (SRO)?</p>		
b	<p>Annexure II duly certified by the Auditor.</p> <p>Are the particulars/information furnished in Annexure II based on figures of latest annual audited balance sheet or a date not earlier than 30 days of date of application.</p>		
c	<p>Annexure III as additional information for each of the Directors</p> <p>Are the DIN and PAN Nos indicated.</p> <p>Has the CIBIL data for all the directors been submitted?</p> <p>If there are any foreign nationals as Directors, are the equivalent of PAN No issued by the authorities of the country of residence such as Social Security No., Passport No. and overseas bankers' report on them furnished?</p> <p>Do the names and addresses on such documents tally</p>		

	<p>with DIN allotment letter. If not, are the reasons for variation provided? Or are the claims of genuineness supported by a magistrate's certificate.</p> <p>Are the current and past directorships held by the Directors and also the names and activities of the companies/firms where they are holding substantial interest (indicate percentage exceeding 10%) mentioned in each of the Annexure III.</p> <p>Are the names of the regulators (RBI, SEBI, IRDA, PFRDA, NHB or any other foreign regulator) of the entities in which the Directors hold directorships mentioned? If yes, please provide the registration details.</p> <p>Are the entities unregulated? If so what is the nature of their activities?</p> <p>Financial Statements of Unincorporated Bodies, if any, in the group where the directors may be holding directorship with/without substantial interest of the last 2 years.</p>		
3	<p>Are any of the companies indicated against Item No. 15 of Annexure III, an NBFC registered with the Reserve Bank?</p> <p>If yes, please provide the registration details.</p>		
4	<p>Is the CoR granted to the company to function as an NBFC enclosed in original?</p>		
5	<p>Has the applicant company changed its name earlier?</p> <p>If yes are the earlier held names and dates of change together with the names of Chief Executive Officer and Chairman at the time of change of name furnished?</p> <p>Has the applicant company furnished the reasoning for the change of name?</p>		

6	Details of change in the management of the company during last financial year till date if any and reasons thereof.		
7	Has the applicant company ever defaulted in timely repayment of deposits and payment of interest? If yes, have they provided a list of all such pending cases and the action taken in respect of each case?		
8	Does the applicant company have any cases pending in any court including consumer forums? If yes, have they provided a list of such pending cases, including those pertaining to its deposit acceptance activities, if any?		
9	Are the certified and up-to date copy of the Memorandum of Association (MOA) and Articles of Association of the company submitted? Details of changes in the Memorandum and Articles of Association duly certified. Does the MOA of the applicant company have enabling clause/s for conducting MFI business by the company?		
10	Has the applicant company, if a public limited company, provided a certified copy of Certificate of Incorporation (bearing the signature of the Registrar of Companies) with the initial name & fresh certificate of incorporation consequent upon change of name of the Company?		
11	Has the applicant company provided a copy of the PAN/CIN Nos. allotted to the Company?		
12	Has the company submitted certified copies of the audited Balance Sheet & Profit and Loss Account for the last three years? If the company is incurring losses, are the steps to wipe out loss indicated?		
13	Has the applicant company raised unsecured loans,		



	including from the Directors during the year? If yes, do these fall under the definition of public deposits as per Section 2(1) (xii) of the APD Directions, 1998?											
14	Does the company fulfil the Qualifying asset criteria criteria for registration? Are its qualifying assets (originated on or after January 1, 2012) not less than 85% of its net assets? (Board Resolution certifying the same is to be submitted) <i>(Qualifying assets and net assets have been defined in as specified in Non-Banking Financial Company-Micro Finance Institutions' (NBFC-MFIs) - Directions, 2011 amended as on date)</i>											
15	If the company does not qualify as a MFI and still proposes to become one, has it provided a time bound action plan for qualifying as one?											
16	If the company does not meet the NOF requirement / minimum capital adequacy ratio as on the date of the last audited balance sheet has the applicant company provided a time bound action plan for compliance											
17	<p>Please provide details of the loan asset profile as on the date of application certified by the Statutory Auditor in the following format along with annexure II:</p> <table border="1"> <thead> <tr> <th>Category</th> <th>No of accounts</th> <th>Amount outstanding</th> </tr> </thead> <tbody> <tr> <td>(1). Total Loans outstanding as on the date of application</td> <td></td> <td></td> </tr> <tr> <td>(i) Of the item (1). above,</td> <td></td> <td></td> </tr> </tbody> </table>	Category	No of accounts	Amount outstanding	(1). Total Loans outstanding as on the date of application			(i) Of the item (1). above,				
Category	No of accounts	Amount outstanding										
(1). Total Loans outstanding as on the date of application												
(i) Of the item (1). above,												

	loans sanctioned on or after January 01, 2012 for amounts of Rs. 15,000 and below				
	(i.i) Of the item at i. above, loans for tenure exceeding 1 year:				
	(ii) On the item (1). above, Loans sanctioned on or after January 01, 2012 with amount exceeding Rs. 15,000/-				
	(ii.i) for loans at item ii. above, loans for tenure less than 24 months				
	(iii) Loans extended towards income generation				
	(iv) Loans where the annual income				

	<p>of the household is (iv.i) more than Rs. 1,00,000 (for rural areas)</p> <p>(iv.ii) more than Rs. 1,60,000 (for semi urban and urban areas)</p>				
	(v) where the borrower has borrowed from more than 2 MFIs				
	(vi) where the borrower is member of more than 1 SHG/JLG				
	(vii) where the borrower has availed loans in individual capacity as also as member of SHG/JLG				
18	<p>Does the applicant company hold FDI?</p> <p>If yes, has the FDI been brought in with FIPB approval? (Copy of approval to be submitted).</p> <p>What is the percentage holding?</p>				

	<p>Has the company submitted FIRC and FC-GPR in support thereof?</p> <p>Does the company fulfil the minimum capitalization norms or not? (Statutory Auditor certificate to be submitted)</p> <p>Is the foreign entity contributing the FDI subject to supervision in its home country?</p> <p>If yes, what is the name, address and email id of the regulator?</p> <p>If not, what is the legal status of the foreign investor? Under what statutes was it established? Is it a listed or an unlisted entity? Was any approval given by FED, RBI? If yes, a certified copy of the approval may be attached.</p> <p>Activities undertaken, details of regulator of group/associate companies doing financial activities which are regulated either in the home country or elsewhere, if any.</p> <p>If any group/ associate company is operating in India, details such as its activities, its partners or associates, regulator/s etc. may be furnished.</p>		
19	<p>Whether the company was granted any permission by FED to function as Full-fledged Money Changers? If so, copy of the RBI letter granting the permission.</p>		
20	<p>Has the applicant company submitted a certified copy of Board Resolution approving the submission of</p>		

	application and its contents for COR as NBFC-MFI and also authorizing a Director to submit the application?		
21	Has the applicant company submitted a certified copy of the Board Resolution that the company has not accepted any public deposits in the past/ does not hold any public deposits as on date and will not accept the deposits in future without prior approval of the Bank?		
22	Has the applicant company submitted a copy of the board resolution certifying fixing internal exposure limits to avoid any undesirable concentration in specific geographical locations?		
23	Has the applicant company submitted a certified copy of the Board Resolution that the company is adhering to the other regulations regarding pricing of credit, Fair Practices in lending and non-coercive method of recovery as specified in <a href="#">DNBS.CC.PD.No. 250/03.10.01/2011-12 dated December 2, 2011</a> ?		
24	Has the company provided Board Resolution certifying the following details in addition to Annex II? A. Details of Average interest cost of borrowings of the NBFC-MFI as on March 31, 2011 and 2012. B. Average interest charged by the NBFC-MFI on advances extended as on March 31, 2011 and 2012 C. Of the total loans outstanding as on the date of application, Number and amount of loans outstanding in the state of Andhra Pradesh as on March 31, 2012 (if any) D. Amount of provisions, if any, held against loans in the state of Andhra Pradesh as on March 31, 2012		
25	Does the Auditors Certificate certify the following : (a) The company is not holding any public deposits as on date (b) The company's NOF is.		

	<p>(c) The company's asset size is.</p> <p>(d) The company's qualifying assets (originated on or after January 1, 2012) is ... and its ratio to net assets is ...which is not less than 85 %.</p> <p>(e) The company's CRAR is ....</p> <p>(f) The company's loan portfolio in the state of Andhra Pradesh is .....</p> <p>g) The company has adopted the asset classification and provisioning norms with effect from April 1, 2012 as specified in <a href="#">DNBS.CC.PD.No.250/03.10.01/2011-12 dated December 2, 2011.</a></p> <p>h) The company fulfils all conditions stipulated to be classified as an NBFC-MFI during the current financial year as specified in <a href="#">DNBS.CC.PD.No.250/03.10.01/2011-12 dated December 2, 2011.</a></p>		
26	Has the applicant company given a declaration to the effect that it is capable of electronic submission of Returns through the internet as and when required by Reserve Bank of India? Has the email of the company been provided?		
27	Have all the Directors of the applicant company given a declaration individually that they are not associated with un-incorporated bodies and that they are in compliance to the provisions of Section 45S of the RBI Act, 1934?		
28	<p>Is the Application accompanied by a certificate by a Chartered Accountant on the details including percentage shareholding of group/ associate/ subsidiary/ holding/ related companies?</p> <p><i>("Companies in the group" have been exhaustively defined in para 3(1) b of Notification No. DNBS.(PD) 219/CGM (US)-2011 dated January 05, 2011 as an</i></p>		

	<p><i>arrangement involving two or more entities related to each other through any of the following relationships, viz. subsidiary-parent (defined in terms of AS-21), Joint Venture (defined in terms of AS 27), Associate (defined in terms of AS 23), promoter-promotee (as provided in the SEBI-Acquisition of shares and takeover) Regulations, 1997) for listed companies, a related party (defined in terms of AS 18) Common brand name, and investment in equity shares of 20% and above.)</i></p> <p>Do the details include names of the company, their activity, their regulators?</p> <p>If they are unregulated, have the details of their activities, provided?</p> <p>Are the names of the above companies/entities appearing in the balance sheet of the applicant company? If not, has the applicant company stated the reasons thereof?</p> <p>Is there any group companies located overseas?</p> <p>If yes, were these established under general permission route or under approval from appropriate authority?</p> <p>Are there any NBFCs from among the group companies?</p>		
29	<p>Are there any other NBFC-MFIs/pending NBFC-MFIs in the group?</p> <p>If yes, has the applicant company provided any</p>		

	justification in having another NBFC-MFI within the Group?		
30	Has the applicant Banker's report in r/o applicant company been furnished?		
31	Has the company furnished the Bankers' Report in r/o companies in which the Directors of the applicant company have substantial interest as indicated against Items Nos. 14 & 15 of Annexure –III?		
32	Has the company submitted Bankers' Reports in r/o group/subsidiary/holding companies if any, of the applicant company?		
33	Has the company submitted overseas Bankers' Reports in r/o foreign directors, if any?		
34	Has the applicant company submitted the Business Plan for the next three years giving details of its thrust of business, market segment & projected balance sheets, Cash flow statement, asset/income pattern statement without any element of public deposits		
35	<p>The Projected business plan for 3 years must indicate the following as well(year wise):</p> <ul style="list-style-type: none"> <li>i. Amount of loan assets to be originated</li> <li>ii. Amount of loan assets to be extended for income generation</li> <li>iii. Break up of amount of assets to be originated in rural areas and semi-urban and urban areas</li> <li>iv. Activities the company intends to support in rural and semi-urban areas and urban areas</li> <li>v. Projected profits</li> <li>vi. Average cost of borrowings</li> <li>vii. Average Return on Assets(ROA)</li> <li>viii. Qualifying Assets is more than 85% of the Net Assets.</li> <li>ix. Expected capital expenditure in</li> </ul>		



	<p>a. land and buildings and</p> <p>b. IT resources</p> <p>x. Locations where the company intends to operate</p> <p>xi. Allocation of resources to training and skill development of SHGs/JLGs</p>		
36	Is the number of directorships held by the company in compliance with Sections 274 - 278 of the Companies Act? If not, give detailed reasons for the same.		
37	Is the company or its Directors involved in any criminal case including Section 138 of Negotiable Instruments Act?		
38	Has the company provided details of infusion of capital if any during last financial year together with the copy of return of allotment filed with Registrar of Companies?		
39	Does the company fulfil the provisioning norms? For the companies having an exposure to the Andhra Pradesh portfolio, the provisioning should be as per the current provisioning norms. However, for the calculation of CRAR, the provisioning made towards AP portfolio shall be notionally reckoned as part of NOF and there shall be progressive reduction in such recognition of the provisions for AP portfolio equally over a period of 5 years. (Please refer to Instructions - Annex II (13) for further clarification)		
40	Are there are any incidents of non-compliance with the directions of Revenue Authorities or any other statutory authority by the applicant company, its holding company/ subsidiaries, If yes, give particulars, else report "Nil"		

**Note: (1) The Above Checklist is indicative and not exhaustive. Bank can, if necessary, call for any further documents to satisfy themselves on the eligibility for obtaining registration as NBFC-MFI.**

**(2) In the event of the Bank calling for further documents in addition to those mentioned above, the applicant company is supposed to respond within a stipulated time of one month failing which the request for conversion may be returned to the company for resubmission afresh with the required information/documents.**

***An indicative list of basic documents/information to be furnished along with the application. All documents/information is to be submitted in duplicate.***

<b>Sr No</b>	<b>Requirements to be complied with and documents to be submitted to RBI by Companies for obtaining certificate and Registration from RBI as NBFC- Factor</b>	<b>Page no. in the file</b>
<b>1</b>	Minimum NOF requirement Rs. 500 lakh.	
<b>2</b>	Application to be submitted in two separate sets tied up properly in two separate files and properly page numbered.	
<b>3</b>	Identification particulars ( <b>Annex I</b> ).	
<b>4</b>	Statement on prudential norms ( <b>Annex II</b> ).	
<b>5</b>	Information about the management ( <b>Annex III</b> )	
<b>6</b>	Is the CoR granted to the company to function as an NBFC enclosed in original? (For existing companies)	
<b>7</b>	Details of change in the management of the company during last financial year till date if any and reasons thereof.	
<b>8</b>	Certified copies of Certificate of Incorporation and Certificate of Commencement of Business in case of public limited companies.	
<b>9</b>	Certified copies of up-to-date Memorandum and Articles of Association of the company.	
<b>10</b>	Details of clauses in the memorandum relating to financial business.	
<b>11</b>	Details of changes in the Memorandum and Articles of Association duly certified.	
<b>12</b>	Copy of PAN/CIN allotted to the company.	
<b>13</b>	Annex II to be submitted duly signed by the director/Authorized signatory and certified by the statutory auditors.	
<b>14</b>	Annex III (directors' profile) to be separately filled up and signed by each director. Care should be taken to give details of bankers in respect of firms/companies/entities in which directors have substantial interest.	

15	In case the directors are associated with or without substantial interest (indicate % of holding in each company firm) in other companies, indicate clearly the activity of the companies and details of their regulators if any.	
16	Certificate from the respective NBFC/s where the Directors have gained NBFC experience.	
17	Copy of PAN and DIN allotted to the Directors.	
18	CIBIL Data pertaining to Directors of the company	
19	Financial Statements of the last 2 years of Unincorporated Bodies, if any, in the group where the directors may be holding directorship with/without substantial interest.	
20	Certificate of compliance with section 45S of Chapter IIIC of the RBI Act, 1934 regarding unincorporated bodies with which director/s of the company are associated.	
21	Whether any prohibitory order was issued in the past to the company or any other NBFC/RNBC with which the directors/promoters etc. were associated? If yes, details there of.	
22	Whether the company or any of its directors was/is involved in any criminal case, including under section 138(1) of the Negotiable Instruments Act? If yes, details thereof.	
23	Board Resolution specifically approving the submission of the application and its contents and authorizing signatory.	
24	Board Resolution to the effect that the company has not accepted any public deposit, in the past (specify period)/does not hold any public deposit as on the date and will not accept the same in future without the prior approval of Reserve Bank of India in writing.	
25	Board resolution stating that the company is not carrying on any NBFC activity/stopped NBFC activity and will not carry on/commence the same before getting registration from RBI. <b>(Only for the new companies)</b>	
26	Certified copy of Board resolution for formulation of "Fair	

	Practices Code”	
<b>27</b>	Board resolution certifying the time limit within which the company would comply with the requirement of fulfilling the NOF criterion of NOF of Rs.500 lakhs <b>(for the existing companies not fulfilling the criteria regarding NOF).</b>	
<b>28</b>	Board Resolution enclosing a road map certifying that they will either raise factoring assets/income percentage to 75 % of total assets/income or unwind the factoring business by July 22, 2014. <b>(for the existing companies not fulfilling the criteria regarding asset income percentage).</b>	
<b>29</b>	Statutory Auditors Certificate certifying that the company is/does not accept/is not holding Public Deposit.	
<b>30</b>	Statutory Auditors Certificate certifying that the company is not carrying on any NBFC activity.	
<b>31</b>	Statutory Auditors Certificate certifying net owned fund as on date of the application.	
<b>32</b>	Statutory Auditors Certificate certifying that financial assets in the factoring business constitute at least 75 percent of its total assets and its income derived from factoring business is not less than 75 percent of its gross income.	
<b>33</b>	Details of Authorised Share Capital and latest shareholding pattern of the company including the percentages. Documentary evidence for change in shareholding pattern, if undergone. If there are any NBFC corporate share holders, certificates from their statutory auditors regarding the adequacy of statutory NOF post investment. Also, provide details about the line of activity of other corporate stake holders.	
<b>34</b>	Copy of Fixed Deposit receipt & bankers certificate of no lien indicating balances in support of NOF	
<b>35</b>	Details of infusion of capital if any during last financial year together with the copy of return of allotment filed with Registrar of Companies.	

36	Details of the bank balances/bank accounts/complete postal address of the branch/bank, loan/credit facilities etc. availed.	
37	Details of unsecured loans if any, raised by the company from others (including the directors) during the year and if these fall in the exempted category of Public deposits certified by the Auditor.	
38	<p>Is a certificate of Chartered Accountant regarding details of group/associate /subsidiary/holding/related companies submitted?</p> <p><i>(“Companies in the group” have been exhaustively defined in para 3(1) b of Notification No. DNBS.(PD) 219/CGM (US)-2011 dated January 05, 2011 as an arrangement involving two or more entities related to each other through any of the following relationships, viz. subsidiary-parent (defined in terms of AS-21), Joint Venture (defined in terms of AS 27), Associate (defined in terms of AS23), promoter-promotee (as provided in the SEBI-Acquisition of shares and takeover) Regulations, 1997) for listed companies, a related party (defined in terms of AS 18) Common brand name, and investment in equity shares of 20% and above.)</i></p> <p>Details should include names of the company, its activity, whether it is an NBFC or have other regulators like SEBI/IRDA/FMC/NHB/Foreign Regulators. If they are unregulated give the details of their activities, principal banker’s name, address, account no. Whether the names of these companies are appearing in the balance sheet of the applicant company. If not, indicate why they are not appearing. Whether overseas group companies were established under general permission route or under approval from appropriate authority if any. If there are other NBFCs in the group, justification of having another NBFC.</p>	
39	Brief background note on the activities of the company	

	during the last three years.	
<b>40</b>	Whether the company has applied to RBI in the past for registration, if rejected, give full details. If not applied to RBI earlier, whether the company was doing NBFIs activities without CoR. If yes, indicate reasons for same. Whether they have completely stopped NBFIs activities now and whether that has been certified by their auditor. Also, submit a letter seeking to be condoned for violation of Sec 45 IA if the company had conducted NBFIs business detailing the circumstances.	
<b>41</b>	Last three years Audited balance sheet and Profit & Loss account along with directors & auditors report or for such shorter period as are available (for companies already in existence).	
<b>42</b>	Business plan of the company for the next three years giving details of its (a) thrust of business; (b) market segment; and (c) projected balance sheets, Cash flow statement, asset/income pattern statement without any element of public deposits.	
<b>43</b>	Source of the startup capital of the company substantiated with documentary evidence. Provide Self attested Bank Statement/IT returns etc.	
<b>44</b>	Details of mergers and acquisition with/of other companies if any together with supporting documents.	
<b>45</b>	Is the company engaged in any capital market activity? If so, whether there has been any non-compliance with SEBI Regulations? (Statement to be certified by Auditors).	
<b>46</b>	Whether the company was granted any permission by FED to function as Full-fledged Money Changers? If so, copy of the RBI letter granting the permission.	
<b>47</b>	If there is FDI in the company, its percentage (submit FIRC in support thereof) and whether it fulfills the minimum capitalization norms or not (also submit FC_GPRs).	

	<p>(i) Has the FDI been brought in with FIPB approval (Copy of approval to be submitted)?</p> <p>(ii) Is the foreign entity contributing the FDI subject to supervision in its home country (if yes, name, address and email id of the regulator).</p> <p>(iii) If not, mention legal status, viz. statutes under which it was established, its statutory obligations, procedures under which it was established, whether listed on stock exchange etc.</p> <p>(iv) The particulars of approval of Foreign Exchange Department (FED) if any obtained/copies of Foreign Inward Remittance Certificate in r/o Foreign Direct Investment if any, received by the applicant company are furnished.</p> <p>(v) Activities undertaken, details of regulator of group/associate companies doing financial activities which are regulated either in the home country or elsewhere, if any.</p> <p>(v) If any group/ associate company is operating in India, details such as its activities, its partners or associates, regulator/s etc. may be furnished.</p>	
<b>48</b>	Declaration by the company to own electronic infrastructure and its capability regarding electronic submission of data through the internet as and when required by Reserve Bank of India. Email id of the company should also be provided.	
<b>49</b>	Are there are any incidents of non-compliance with the directions of Revenue Authorities or any other statutory authority by the applicant company, its holding company/ subsidiaries, If yes, give particulars, else report "Nil"	

**Note: (1) The Above Checklist is indicative and not exhaustive. Bank can, if necessary, call for any further documents to satisfy themselves on the eligibility for obtaining registration as NBFC- Factor**



**(2) In the event of the Bank calling for further documents in addition to those mentioned above, the applicant company is supposed to respond within a stipulated time of one month failing which the application/request for conversion may be returned to the company for resubmission afresh with the required information/documents.**

***An indicative list of basic documents/information to be furnished along with the application. All documents/information is to be submitted in duplicate***

Sr. No	<b><i>Requirements to be complied with and documents to be submitted to RBI by Companies for obtaining certificate and Registration from RBI as Core Investment Company (CIC)</i></b>	Page No. as in the file
1	Details of access to Public Funds.	
2	If the company does not have public funds but intends to access public funds anytime in the future and therefore applying for the CoR, they have to submit the Board Resolution to the effect that they intend to raise resources through public funds at a future date.	
3	Application to be submitted in two separate sets tied up properly in two separate files and properly page numbered.	
4	Identification particulars ( <b>Annex I</b> ).	
5	Statement on prudential norms ( <b>Annex II</b> ).	
6	Information about the management ( <b>Annex III</b> )	
7	Details of change in the management of the company during last financial year till date if any and reasons thereof.	
8	Certified copies of Certificate of Incorporation and Certificate of Commencement of Business in case of public limited companies.	
9	Certified copies of up-to-date Memorandum and Articles of Association of the company.	
10	Details of clauses in the memorandum relating to financial business.	
11	Details of changes in the Memorandum and Articles of Association duly certified.	
12	Copy of PAN/CIN allotted to the company.	
13	Annex II to be submitted duly signed by the director/Authorized signatory and certified by the statutory	

	auditors.	
<b>14</b>	Annex III (directors' profile) to be separately filled up and signed by each director. Care should be taken to give details of bankers in respect of firms/companies/entities in which directors have substantial interest.	
<b>15</b>	In case the directors are associated with or without substantial interest (indicate % of holding in each company firm) in other companies, indicate clearly the activity of the companies and details of their regulators if any.	
<b>16</b>	Certificate from the respective NBFC/s where the Directors have gained NBFC experience.	
<b>17</b>	Copy of PAN and DIN allotted to the Directors.	
<b>18</b>	CIBIL Data pertaining to Directors of the company	
<b>19</b>	Financial Statements of the last 2 years of Unincorporated Bodies, if any, in the group where the directors may be holding directorship with/without substantial interest	
<b>20</b>	Certificate of compliance with section 45S of Chapter IIIC of the RBI Act, 1934 regarding unincorporated bodies with which director/s of the company are associated.	
<b>21</b>	Whether any prohibitory order was issued in the past to the company or any other NBFC/RNBC with which the directors/promoters etc. were associated? If yes, details thereof.	
<b>22</b>	Whether the company or any of its directors was/is involved in any criminal case, including under section 138(1) of the Negotiable Instruments Act? If yes, details thereof.	
<b>23</b>	Board Resolution specifically approving the submission of the application and its contents and authorising signatory.	
<b>24</b>	Board Resolution to the effect that the company has not accepted/solicited any public deposit and will not accept the same in future without the prior approval of Reserve Bank of India in writing.	
<b>25</b>	Board resolution stating that the company was not trading/	

	will not trade in its investments in shares, bonds, debentures, debt or loans in group companies except through block sale for the purpose of dilution or disinvestment.	
<b>26</b>	Board resolution stating that the company does not carry on any other financial activity referred to in Section 45I(c) and 45I(f) of the Reserve Bank of India Act, 1934 except investment in i) bank deposits, ii) money market instruments, including money market mutual funds iii) government securities, and iv) bonds or debentures issued by group companies, v) granting of loans to group companies and vi) issuing of guarantees on behalf of group companies.	
<b>27</b>	Certified copy of Board resolution for formulation of "Fair Practices Code"	
<b>28</b>	Statutory Auditors Certificate certifying that the company is/does not accept/is not holding Public Deposit.	
<b>29</b>	Statutory Auditors Certificate certifying that the company had not traded, during the year in its investments in shares, bonds, debentures, debt or loans in group companies except through block sale for the purpose of dilution or disinvestment.	
<b>30</b>	Statutory Auditors Certificate certifying that the company does not carry on any other financial activity referred to in Section 45I(c) and 45I(f) of the Reserve Bank of India Act, 1934 except investment in i) bank deposits, ii) money market instruments, including money market mutual funds iii) government securities, and iv) bonds or debentures issued by group companies,	

	v) granting of loans to group companies and vi) issuing of guarantees on behalf of group companies.	
<b>31</b>	Statutory Auditors Certificate certifying Average Market Price of quoted investments.	
<b>32</b>	Statutory Auditors Certificate certifying the net asset size of the company.	
<b>33</b>	Statutory Auditors Certificate certifying investment in group companies as percent of its Net Assets.	
<b>34</b>	Statutory Auditors Certificate certifying investments in equity shares (including instruments compulsorily convertible into equity shares within a period not exceeding 10 years from the date of issue) in group companies as percent of its net assets	
<b>35</b>	Details of Authorised Share Capital and latest shareholding pattern of the company including the percentages. Documentary evidence for change in shareholding pattern, if undergone. If there are any NBFC corporate shareholders, certificates from their statutory auditors regarding the adequacy of statutory NOF post investment. Also, provide details about the line of activity of other corporate stake holders.	
<b>36</b>	Details of infusion of capital if any during last financial year together with the copy of return of allotment filed with Registrar of Companies.	
<b>37</b>	Details of the bank balances/bank accounts/complete postal address of the branch/bank, loan/credit facilities etc. availed.	
<b>38</b>	Details of unsecured loans if any, raised by the company from others (including the directors) during the year and if these fall in the exempted category of Public deposits certified by the Auditor.	
<b>39</b>	A certificate of Chartered Accountant regarding details of group/associate/subsidiary/holding/related companies is to be submitted.	

	<p><i>(For the purposes of determining whether a company is a CIC/CIC-ND-SI, 'companies in the group' have been exhaustively defined in para 3(1) b of Notification No. DNBS.(PD) 219/CGM (US)-2011 dated January 05, 2011 as an arrangement involving two or more entities related to each other through any of the following relationships, viz. subsidiary-parent (defined in terms of AS-21), Joint Venture (defined in terms of AS 27), Associate (defined in terms of AS 23), promoter-promotee (as provided in the SEBI-Acquisition of shares and takeover) Regulations, 1997) for listed companies, a related party (defined in terms of AS 18) Common brand name, and investment in equity shares of 20% and above.)</i></p> <p>Details should include names of the company, its activity, whether it is an NBFC or have other regulators like SEBI/IRDA/FMC/NHB/Foreign Regulators. If they are unregulated give the details of their activities, principal banker's name, address, account no. Whether the names of these companies are appearing in the balance sheet of the applicant company. If not, indicate why they are not appearing. Whether overseas group companies were established under general permission route or under approval from appropriate authority if any. If there are other NBFCs in the group, justification of having another NBFC.</p>	
<b>40</b>	<p>Details of other CICs in the group. If they are not registered with the Bank, reasons for the same may be given. Justification of having another CIC in the group also should be provided.</p>	
<b>41</b>	<p>Brief background note on the activities of the company during the last three years.</p>	
<b>42</b>	<p>Last three years Audited balance sheet and Profit &amp; Loss account along with directors &amp; auditors report or for such shorter period as are available (for companies already in</p>	

	existence).	
<b>43</b>	Business plan of the company for the next three years giving details of its (a) thrust of business; (b) market segment; and (c) projected balance sheets, Cash flow statement, asset/income pattern statement.	
<b>44</b>	Source of the startup capital of the company substantiated with documentary evidence. (only for the new companies).	
<b>45</b>	Details of mergers and acquisition with/of other companies if any together with supporting documents.	
<b>46</b>	Is the company engaged in any capital market activity? If so, whether there has been any non-compliance with SEBI Regulations? (Statement to be certified by Auditors).	
<b>47</b>	Whether the company was granted any permission by FED to function as Full-fledged Money Changers? If so, copy of the RBI letter granting the permission.	
<b>48</b>	<p>If there is FDI in the company, its percentage (submit FIRC in support thereof) and whether it fulfils the minimum capitalization norms or not (also submit FC_GPRs).</p> <p>(i) Has the FDI been brought in with FIPB approval (Copy of approval to be submitted)?</p> <p>(ii) Is the foreign entity contributing the FDI subject to supervision in its home country (if yes, name, address and email id of the regulator).</p> <p>(iii) If not, mention legal status, viz. statutes under which it was established, its statutory obligations, procedures under which it was established, whether listed on stock exchange etc.</p> <p>(iv) The particulars of approval of Foreign Exchange Department (FED) if any obtained/copies of Foreign Inward</p>	

	<p>Remittance Certificate in r/o Foreign Direct Investment if any, received by the applicant company are furnished.</p> <p>(v) Activities undertaken, details of regulator of group/associate companies doing financial activities which are regulated either in the home country or elsewhere, if any.</p> <p>(v) If any group/ associate company is operating in India, details such as its activities, its partners or associates, regulator/s etc. may be furnished.</p>	
<b>49</b>	<p>Declaration by the company to own electronic infrastructure and its capability regarding electronic submission of data through the internet as and when required by Reserve Bank of India. Email id of the company should also be provided.</p>	
<b>50</b>	<p>A company which is already in existence and whose (i) minimum Capital Ratio in terms of Adjusted Net Worth is less than 30% of its aggregate risk weighted assets on Balance Sheet and risk adjusted value of off-balance sheet items as on the date of the last audited Balance Sheet, and/or (iii) a Leverage Ratio where its outside liabilities are exceeding 2.5 times its Adjusted Net Worth as on the date of the last audited Balance Sheet, as on the date of application, may also furnish a time-bound programme as to how it proposes to adhere to these requirements.</p>	
<b>51</b>	<p>A company which proposes to become a CIC-ND-SI but does not qualify in terms of 90% of net assets under investments may also give a time bound action plan as to how it would achieve such eligibility.</p>	
<b>52</b>	<p>Are there are any incidents of non-compliance with the directions of Revenue Authorities or any other statutory authority by the applicant company, its holding company/ subsidiaries, If yes, give particulars, else report "Nil"</p>	



**Note: (1) The Above Checklist is indicative and not exhaustive. Bank can, if necessary, call for any further documents to satisfy themselves on the eligibility for obtaining registration as CIC.**

**(2) In the event of the Bank calling for further documents in addition to those mentioned above, the applicant company is supposed to respond within a stipulated time of one month failing which the original CoR application may be returned to the company for resubmission afresh with the required information/documents.**

<sup>46</sup>**A. Guidelines on Private Placement of NCDs (maturity more than 1 year) by NBFCs:**

1. NBFCs shall put in place a Board approved policy for resource planning which, inter-alia, should cover the planning horizon and the periodicity of private placement.
2. The issues shall be governed by the following instructions:
  - i. The minimum subscription per investor shall be Rs. 20,000 (Rupees Twenty thousand);
  - ii. The issuance of private placement of NCDs shall be in two separate categories, those with a maximum subscription of less than Rs. 1 crore and those with a minimum subscription of Rs. 1 crore and above per investor;
  - iii. There shall be a limit of 200 subscribers for every financial year, for issuance of NCDs with a maximum subscription of less than Rs. 1 crore, and such subscription shall be fully secured;
  - iv. There shall be no limit on the number of subscribers in respect of issuances with a minimum subscription of Rs. 1 crore and above; the option to create security in favour of subscribers will be with the issuers. Such unsecured debentures shall not be treated as public deposits as defined in NBFCs Acceptance of Public Deposits (Reserve Bank) Directions, 1998.
  - v. An NBFC (excluding Core Investment Companies) shall issue debentures only for deployment of funds on its own balance sheet and not to facilitate resource requests of group entities / parent company / associates.
  - vi. An NBFC shall not extend loans against the security of its own debentures (issued either by way of private placement or public issue).
3. Tax exempt bonds offered by NBFCs are exempted from the applicability of the circular.
4. For NCDs of maturity upto one year, guidelines on Issuance of Non-Convertible Debentures (Reserve Bank) Directions, 2010, dated June 23, 2010, by Internal Debt Management Department, RBI shall be applicable.

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<sup>46</sup>Inserted vide [DNBR \(PD\) CC No.021/03.10.001/2014-15 dated February 20, 2015](#)

**<sup>47</sup>Early Recognition of Financial Distress, Prompt Steps for Resolution and Fair Recovery for Lenders : Framework for Revitalising Distressed Assets in the Economy**

**1. Corrective Action Plan to arrest increasing NPAs**

**1.1 Early Recognition of Stress and Reporting to Central Repository of Information on Large Credits (CRILC)**

1.1.1 Before a loan account turns into an NPA, NBFCs will be required to identify incipient stress in the account by creating a sub-asset category viz. 'Special Mention Accounts' (SMA) with the three sub-categories as given in the table below :

<b>SMA Sub-categories</b>	<b>Basis for classification</b>
SMA-0	Principal or interest payment not overdue for more than 30 days but account showing signs of incipient stress as illustrated in the annex to the framework of Jan 30, 2014 (Annex-A)
SMA-1	Principal or interest payment overdue between 31-60 days
SMA-2	Principal or interest payment overdue between 61-180 days

1.1.2 The Reserve Bank of India has set up a Central Repository of Information on Large Credits (CRILC) to collect, store, and disseminate credit data to lenders as advised by the Bank in its [Circular No. DBS.No.OSMOS. 9862/33.01.018/2013-14 dated February 13, 2014](#) issued by the Department of Banking Supervision. All systemically important non-banking financial companies (NBFC-ND-SI), NBFCs-D and all NBFC-

<sup>47</sup>Inserted vide [DNBS.\(PD\).CC.No.371/03.05.02/2013-14 dated March 21, 2014](#)

Factors, (Notified NBFCs, for short) shall be required to report the relevant credit information on a quarterly basis in the enclosed formats given in [Annex II](#) to CRILC once the XBRL reporting mechanism is established. Till then they shall forward the information to PCGM, Department of Banking Supervision, Reserve Bank of India, World Trade Centre, Mumbai - 400 005 in hard copy. The data includes credit information on all the borrowers having aggregate fund-based and non-fund based exposure of Rs.50 million and above with them and the SMA status of the borrower. The Notified NBFCs shall be ready with the correct PAN details of their borrowers having fund based and / or non-fund based exposure of Rs.50 million and above duly authenticated from Income Tax records.

1.1.3 Individual notified NBFCs shall closely monitor the accounts reported as SMA-1 or SMA-0 as these are the early warning signs of weaknesses in the account. They should take up the issue with the borrower with a view to rectifying the deficiencies at the earliest. However, as soon as an account is reported as SMA-2 by one or more lending banks / notified NBFCs, this will trigger the mandatory formation of a Joint Lenders' Forum (JLF) and formulation of Corrective Action Plan (CAP)(Annex-B) as envisioned in Para 2.3 of the Framework. Notified NBFCs must put in place a proper Management Information and Reporting System so that any account having principal or interest overdue for more than 60 days gets reported as SMA-2 on the 61st day itself in the format given in [Annex III](#), in hard copy to PCGM, Department of Banking Supervision, Reserve Bank of India, World Trade Centre, Mumbai - 400 005. NBFCs shall endeavour to put in place an XBRL reporting framework at the earliest.

## **1.2 Accelerated Provisioning**

1.2.1 In cases where NBFCs fail to report SMA status of the accounts to CRILC or resort to methods with the intent to conceal the actual status of the accounts or evergreen the account, NBFCs will be subjected to accelerated provisioning for these accounts and / or other supervisory actions as deemed appropriate by RBI. The current provisioning

requirement and the revised accelerated provisioning in respect of such non performing accounts are as under:

<b>Asset Classification</b>	<b>Period as NPA</b>	<b>Period as NPA For NBFCs</b>	<b>Current *provisioning (%) NBFCs</b>	<b>Revised accelerated provisioning (%) for banks and proposed for NBFCs</b>
Sub- standard (secured)	Up to 6 months			No change
	6 months to 1 year	6 months to 1 and half year	For secured and unsecured 10	25
Sub-standard (unsecured ab-initio)	Up to 6 months	--		25
		--		
	6 months to 1 year	6 months to 1 and half year	10	40
	6 months to 1 and half year	10		
Doubtful I	2nd year	Upto One year (secured portion)	20	40 (secured portion)
		Up to one year (unsecured portion)	100	100 (unsecured portion)
		1-3 years	30 for secured	For NBFCs the above may be

			portion and 100 for unsecured portion	adopted i.e. 40 and 100
Doubtful II	3rd & 4th year	More than Three Years	100 for unsecured portion and 50 for secured portion	100 for both secured and unsecured portions
Doubtful III	5th year onwards			100

1.2.2 Further, any of the lenders who have agreed to the restructuring decision under the CAP by JLF and is a signatory to the Inter Creditor Agreement (ICA) and Debtor Creditor Agreement (DCA), but changes their stance later on, or delays / refuses to implement the package, will also be subjected to accelerated provisioning requirement as indicated above, on their exposure to this borrower i.e., if it is classified as an NPA. If the account is standard in those lenders' books, the provisioning requirement would be 5%. Further, any such backtracking by a lender might attract negative supervisory view during Supervisory Review and Evaluation Process.

1.2.3 Presently, asset classification is based on record of recovery at individual NBFCs and provisioning is based on asset classification status at the level of each NBFCs. However, if lenders fail to convene the JLF or fail to agree upon a common CAP within the stipulated time frame, the account will be subjected to accelerated provisioning as indicated above, if it is classified as an NPA. If the account is standard in those lenders' books, the provisioning requirement would be 5%.

### **1.3 "Non-Co-operative borrowers"**

1.3.1 All Notified NBFCs shall identify "non-co-operative borrowers". A "non-co-operative borrower" is defined as one who does not provide necessary information required by a lender to assess its financial health even after 2 reminders; or denies access to securities etc. as per terms of sanction or does not comply with other terms of loan agreements within stipulated period; or is hostile / indifferent / in denial mode to negotiate with the NBFC on repayment issues; or plays for time by giving false impression that some solution is on horizon; or resorts to vexatious tactics such as litigation to thwart timely resolution of the interest of the lender/s. The borrowers will be given 30 days' notice to clarify their stand before their names are reported as non-cooperative borrowers.

1.3.2 With a view to discouraging borrowers / defaulters from being unreasonable and non-cooperative with lenders in their bonafide resolution / recovery efforts, NBFCs may classify such borrowers as non-cooperative borrowers, after giving them due notice if satisfactory clarifications are not furnished. Notified NBFCs will be required to report classification of such borrowers to CRILC. Further, NBFCs will be required to make higher / accelerated provisioning in respect of new loans / exposures to such borrowers as also new loans / exposures to any other company promoted by such promoters / directors or to a company on whose board any of the promoter / directors of this non-cooperative borrower is a director. The provisioning applicable in such cases will be at the rate of 5% if it is a standard account and accelerated provisioning, if it is an NPA. This is a prudential measure since the expected losses on exposures to such non-cooperative borrowers are likely to be higher.

## **2. Board Oversight**

2.1 The Board of Directors of NBFCs will take all necessary steps to arrest the deteriorating asset quality in their books and should focus on improving the credit risk management system. Early recognition of problems in asset quality

and which resolution envisaged in the Framework requires the lenders to be proactive and make use of CRILC as soon as it becomes functional.

2.2 Boards should ensure that a policy is put in place for timely provision of credit information to and access to credit information from CRILC, prompt formation of JLFs, monitoring the progress of JLFs and periodical review of the above policy.

### **3. Credit Risk Management**

3.1 Notified NBFCs should carry out their independent and objective credit appraisal in all cases of lending and must not depend on credit appraisal reports prepared by outside consultants, especially the in-house consultants of the borrowing entity. They should carry out sensitivity tests / scenario analysis, especially for infrastructure projects, which should, inter alia, include project delays and cost overruns. This will aid in taking a view on viability of the project at the time of deciding Corrective Action Plan (CAP). NBFCs should ascertain the source and quality of equity capital brought in by the promoters / shareholders. Multiple leveraging, especially, in infrastructure projects, is a matter of concern as it effectively camouflages the financial ratios such as Debt / Equity ratio, leading to adverse selection of the borrowers. Therefore, NBFCs should ensure at the time of credit appraisal that debt of the parent company is not infused as equity capital of the subsidiary / SPV.

3.2 While carrying out the credit appraisal, notified NBFCs should verify as to whether the names of any of the directors of the companies appear in the list of defaulters by way of reference to DIN / PAN etc. Further, in case of any doubt arising on account of identical names, NBFCs should use independent sources for confirmation of the identity of directors rather than seeking declaration from the borrowing company.

3.3 In addition to the above, notified NBFCs are advised that with a view to ensuring proper end-use of funds and preventing diversion / siphoning of funds by the borrowers, NBFCs could consider engaging their own auditors for such specific certification purpose without relying on certification given by borrower's



auditors. However, this cannot substitute NBFC's basic minimum own diligence in the matter.

#### **4. Purchase / Sale of Non-Performing Financial Assets to Other Banks / FIs / NBFCs**

4.1 DBOD Circular on Guidelines on Sale / Purchase of Non-Performing Financial Assets' (also applicable to NBFCs) as consolidated and updated in DBOD Master Circular 'Prudential Norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances', inter-alia, prescribes the following:

A non-performing asset in the books of a bank shall be eligible for sale to other banks only if it has remained a non-performing asset for at least two years in the books of the selling bank.

A non-performing financial asset should be held by the purchasing bank in its books at least for a period of 15 months before it is sold to other banks

4.2 In partial modification to the above, it is advised that NBFCs will be permitted to sell their NPAs to other banks / FIs / NBFCs (excluding SCs / RCs) without any initial holding period. However, the non-performing financial asset should be held by the purchasing bank / FI / NBFC in its books at least for a period of 12 months before it is sold to other banks / financial institutions / NBFCs (excluding SCs / RCs). The extant prudential norms on asset classification of such assets in the books of purchasing banks / FIs / NBFCs will remain unchanged.

**SMA-0 Signs of Stress**

**Illustrative list of signs of stress for categorising an account as SMA-0:**

1. Delay of 90 days or more in (a) submission of stock statement / other stipulated operating control statements or (b) credit monitoring or financial statements or (c) non-renewal of facilities based on audited financials.
2. Actual sales / operating profits falling short of projections accepted for loan sanction by 40% or more; or a single event of non-cooperation / prevention from conduct of stock audits by NBFCs or evidence of diversion of funds for unapproved purpose.
3. Return of 3 or more cheques (or electronic debit instructions) issued by borrowers in 30 days on grounds of non-availability of balance/DP in the account or return of 3 or more bills / cheques discounted or sent under collection by the borrower.
4. Devolvement of Deferred Payment Guarantee (DPG) instalments or invocation of Bank Guarantees (BGs) and its non-payment within 30 days.
5. Third request for extension of time either for creation or perfection of securities as against time specified in original sanction terms or for compliance with any other terms and conditions of sanction.
6. The borrower reporting stress in the business and financials.
7. Promoter(s) pledging/selling their shares in the borrower company due to financial stress.

**Formation of Joint Lenders Forum (JLF)**

Notified NBFCs are advised that as soon as an account is reported by any of the lenders to CRILC as SMA-2, they should mandatorily form a committee to be called Joint Lenders' Forum (JLF) if the aggregate exposure (AE) [fund based and non-fund based taken together] of lenders in that account is Rs 1000 million and above. Lenders also have the option of forming a JLF even when the AE in an account is less than Rs.1000 million and/or when the account is reported as SMA-0 or SMA-1.

1.2 While the existing Consortium Arrangement for consortium accounts will serve as JLF with the Consortium Leader as convener, for accounts under Multiple Banking Arrangements (MBA), the lender with the highest AE will convene JLF at the earliest and facilitate exchange of credit information on the account. In case there are multiple consortium of lenders for a borrower (e.g. separate consortium for working capital and term loans), the lender with the highest AE will convene the JLF.

1.3 It is possible that a borrower may request the lender/s, with substantiated grounds, for formation of a JLF on account of imminent stress. When such a request is received by a lender, the account should be reported to CRILC as SMA-0, and the lenders should also form the JLF immediately if the AE is Rs. 1000 million and above. It is, however, clarified that for the present, JLF formation is optional in other cases of SMA-0 reporting.

1.4 All the lenders should formulate and sign an Agreement (which may be called JLF agreement) incorporating the broad rules for the functioning of the JLF. The Indian Banks' Association (IBA) would prepare a Master JLF agreement and operational guidelines for JLF which could be adopted by all lenders. The JLF should explore the possibility of the borrower setting right the irregularities/weaknesses in the account. The JLF may invite representatives of the Central/State Government/Project authorities/Local authorities, if they have a role in the implementation of the project financed.

1.5 While JLF formation and subsequent corrective actions will be mandatory in accounts having AE of Rs.1000 million and above, in other cases also the lenders will have to monitor

the asset quality closely and take corrective action for effective resolution as deemed appropriate.

## **2 Corrective Action Plan (CAP) by JLF**

2.1 The JLF may explore various options to resolve the stress in the account. The intention is not to encourage a particular resolution option, e.g. restructuring or recovery, but to arrive at an early and feasible solution to preserve the economic value of the underlying assets as well as the lenders' loans. The options under CAP by the JLF would generally include:

**(a) Rectification** - Obtaining a specific commitment from the borrower to regularise the account so that the account comes out of SMA status or does not slip into the NPA category. The commitment should be supported with identifiable cash flows within the required time period and without involving any loss or sacrifice on the part of the existing lenders. If the existing promoters are not in a position to bring in additional money or take any measures to regularise the account, the possibility of getting some other equity/strategic investors to the company may be explored by the JLF in consultation with the borrower. These measures are intended to turn-around the entity/company without any change in terms and conditions of the loan. The JLF may also consider providing need based additional finance to the borrower, if considered necessary, as part of the rectification process. However, it should be strictly ensured that additional financing is not provided with a view to ever-greening the account.

**(b) Restructuring** - Consider the possibility of restructuring the account if it is prima facie viable and there is no diversion of funds, fraud or malfeasance, etc. At this stage, commitment from promoters for extending their personal guarantees along with their net worth statement supported by copies of legal titles to assets may be obtained along with a declaration that they would not undertake any transaction that would alienate assets without the permission of the JLF. Any deviation from the commitment by the borrowers affecting the security/recoverability of the loans may be treated as a valid factor for initiating recovery process. For this action to be sustainable, the lenders in the JLF may sign an Inter Creditor Agreement (ICA) and also require the borrower to sign the Debtor Creditor Agreement (DCA) which would provide the legal basis for any restructuring process. The formats used by the Corporate Debt Restructuring (CDR) mechanism for ICA and DCA could be

considered, if necessary with appropriate changes. Further, a 'stand still'<sup>48</sup> clause could be stipulated in the DCA to enable a smooth process of restructuring. The 'stand-still' clause does not mean that the borrower is precluded from making payments to the lenders. The ICA may also stipulate that both secured and unsecured creditors need to agree to the final resolution.

**(c) Recovery** - Once the first two options at (a) and (b) above are seen as not feasible, due recovery process may be resorted to. The JLF may decide the best recovery process to be followed, among the various legal and other recovery options available, with a view to optimising the efforts and results.

2.2 The decisions agreed upon by a minimum of 75% of creditors by value and 60% of creditors by number in the JLF would be considered as the basis for proceeding with the restructuring of the account, and will be binding on all lenders under the terms of the ICA. However, if the JLF decides to proceed with recovery, the minimum criteria for binding decision, if any, under any relevant laws/Acts would be applicable.

2.3 The JLF is required to arrive at an agreement on the option to be adopted for CAP within 30 days from (i) the date of an account being reported as SMA-2 by one or more lender, or (ii) receipt of request from the borrower to form a JLF, with substantiated grounds, if it senses imminent stress. The JLF should sign off the detailed final CAP within the next 30 days from the date of arriving at such an agreement.

2.4 If the JLF decides on options 2.1 (a) or (b), but the account fails to perform as per the agreed terms under option (a) or (b), the JLF should initiate recovery under option 2.1 (c).

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<sup>48</sup> One of the important elements of DCA would be a 'stand still' agreement binding for the period from the date of signing of DCA to the date of approval of restructuring package as per the time frame indicated in paragraphs 2.3 and 2.4 of these Guidelines. Under this clause, both the debtor and creditor(s) shall agree to a legally binding 'stand-still' whereby both the parties commit themselves not to take recourse to any other legal action during the 'stand-still' period. This would be necessary to undertake the necessary debt restructuring exercise without any outside intervention, judicial or otherwise. However, the stand-still clause will be applicable only to any civil action either by the borrower or any lender against the other party and will not cover any criminal action. Further, during the stand-still period, outstanding foreign exchange forward contracts, derivative products, etc., can be crystallised, provided the borrower is agreeable to such crystallisation. The borrower will additionally undertake that during the stand-still period the documents will stand extended for the purpose of limitation and also that it will not approach any other authority for any relief and the directors of the borrowing company will not resign from the Board of Directors during the stand- still period.

### **3. Restructuring Process**

3.1 RBI's extant prudential guidelines on restructuring of advances lay down detailed methodology and norms for restructuring of advances under individual as well as multiple/ consortium arrangements. Corporate Debt Restructuring (CDR) mechanism is an institutional framework for restructuring of multiple/ consortium advances of banks and NBFCs where even creditors who are not part of CDR system can join by signing transaction to transaction based agreements.

3.2 If the JLF decides restructuring of the account as CAP, it will have the option of either referring the account to CDR Cell after a decision to restructure is taken under para 2.1 as indicated above or restructure the same independent of the CDR mechanism.

#### **3.3 Restructuring by JLF**

3.3.1 If the JLF decides to restructure an account independent of the CDR mechanism, the JLF should carry out the detailed Techno-Economic Viability (TEV) study, and if found viable, finalise the restructuring package within 30 days from the date of signing off the final CAP as mentioned in paragraph 2.3 above.

3.3.2 For accounts with AE of less than Rs.5000 million, the above-mentioned restructuring package should be approved by the JLF and conveyed by the lenders to the borrower within the next 15 days for implementation.

3.3.3 For accounts with AE of Rs.5000 million and above, the above-mentioned TEV study and restructuring package will have to be subjected to an evaluation by an Independent Evaluation Committee (IEC)<sup>49</sup> of experts fulfilling certain eligibility conditions. The IEC will look into the viability aspects after ensuring that the terms of restructuring are fair to the lenders. The IEC will be required to give their recommendation in these cases to the JLF within a period of 30 days. Thereafter, considering the views of IEC if the JLF decides to go ahead with the restructuring, the restructuring package including all terms and conditions as mutually agreed upon between the lenders and borrower, would have to be approved by all the lenders and communicated to the borrower within next 15 days for implementation.

3.3.4 Asset Classification benefit as applicable under the extant guidelines will accrue to such restructured accounts as if they were restructured under CDR mechanism. For this purpose, the asset classification of the account as on the date of formation of JLF will be taken into account.

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<sup>49</sup> The constitution of the IEC and the funding needs for payment of fees for independent experts would be decided by Indian Banks' Association (IBA) in consultation with RBI.

3.3.5 The above-mentioned time limits are maximum permitted time periods and the JLF should try to arrive at a restructuring package as soon as possible in cases of simple restructuring.

3.3.6 Restructuring cases will be taken up by the JLF only in respect of assets reported as Standard, SMA or Sub-Standard by one or more lenders of the JLF. While generally no account classified as doubtful should be considered by the JLF for restructuring, in cases where a small portion of debt is doubtful i.e. the account is standard/sub-standard in the books of at least 90% of creditors (by value), the account may then be considered under JLF for restructuring.

3.3.7 The viability of the account should be determined by the JLF based on acceptable viability benchmarks determined by them. Illustratively, the parameters may include the Debt Equity Ratio, Debt Service Coverage Ratio, Liquidity/Current Ratio and the amount of provision required in lieu of the diminution in the fair value of the restructured advance, etc. Further, the JLF may consider the benchmarks for the viability parameters adopted by the CDR mechanism (as mentioned in Appendix to the [circular No.DNBS.CO.PD.No.367/03.10.01/2013-14 dated January 23, 2014](#) on 'Review of Prudential Guidelines on Restructuring of Advances by NBFCs' and adopt the same with suitable adjustments taking into account the fact that different sectors of the economy have different performance indicators .

#### **3.4 Restructuring Referred by the JLF to the CDR Cell**

3.4.1 If the JLF decides to refer the account to CDR Cell after a decision to restructure is taken under para 2.1, the following procedure may be followed.

3.4.2 As the preliminary viability of account has already been decided by the JLF, CDR Cell should directly prepare the Techno-Economic Viability (TEV) study and restructuring plan in consultation with JLF within 30 days from the date of reference to it by the JLF.

3.4.3 For accounts with AE of less than Rs.5000 million, the above-mentioned restructuring package should be submitted to CDR Empowered Group (EG) for approval. Under extant instructions, CDR EG can approve or suggest modifications but ensure that a final decision is taken within a total period of 90 days, which can be extended up to a maximum of 180 days from the date of reference to CDR Cell. However, the cases referred to CDR Cell by JLF will have to be finally decided by the CDR EG within the next 30 days. If approved by CDR EG,

the restructuring package should be approved by all lenders and conveyed to the borrower within the next 30 days for implementation.

3.4.4 For accounts with AE of Rs.5000 million and above, the TEV study and restructuring package prepared by CDR Cell will have to be subjected to an evaluation by an Independent Evaluation Committee (IEC) of experts. As stated in paragraph 3.3.3, composition and other details of the IEC would be communicated separately by IBA to banks. The IEC will look into the viability aspects after ensuring that the terms of restructuring are fair to the lenders. The IEC will be required to give their recommendation in these aspects to the CDR Cell under advice to JLF within a period of 30 days. Thereafter, considering the views of IEC if the JLF decides to go ahead with the restructuring, the same should be communicated to CDR Cell and CDR Cell should submit the restructuring package to CDR EG within a total period of 7 days from receiving the views of IEC. Thereafter, CDR EG should decide on the approval/modification/rejection within the next 30 days. If approved by CDR EG, the restructuring package should be approved by all lenders and conveyed to the borrower within the next 30 days for implementation.

#### **4. Other Issues/Conditions Relating to Restructuring by JLF/CDR Cell**

4.1 Both under JLF and CDR mechanism, the restructuring package should also stipulate the timeline during which certain viability milestones (e.g. improvement in certain financial ratios after a period of time, say, 6 months or 1 year and so on) would be achieved. The JLF must periodically review the account for achievement/non-achievement of milestones and should consider initiating suitable measures including recovery measures as deemed appropriate.

4.2 Restructuring whether under JLF or CDR is to be completed within the specified time periods. The JLF and CDR Cell should optimally utilise the specified time periods so that the aggregate time limit is not breached under any mode of restructuring. If the JLF/CDR takes a shorter time for an activity as against the prescribed limit, then it can have the discretion to utilise the saved time for other activities provided the aggregate time limit is not breached.

4.3 The general principle of restructuring should be that the shareholders bear the first loss rather than the debt holders. With this principle in view and also to ensure more 'skin in the game' of promoters, JLF/CDR may consider the following options when a loan is restructured:

- Possibility of transferring equity of the company by promoters to the lenders to compensate for their sacrifices;



- Promoters infusing more equity into their companies;
- Transfer of the promoters' holdings to a security trustee or an escrow arrangement till turnaround of company. This will enable a change in management control, should lenders favour it.

4.4 In case a borrower has undertaken diversification or expansion of the activities which has resulted in the stress on the core-business of the group, a clause for sale of non-core assets or other assets may be stipulated as a condition for restructuring the account, if under the TEV study the account is likely to become viable on hiving off of non-core activities and other assets.

4.5 For restructuring of dues in respect of listed companies, lenders may be ab-initio compensated for their loss/sacrifice (diminution in fair value of account in net present value terms) by way of issuance of equities of the company upfront, subject to the extant regulations and statutory requirements. In such cases, the restructuring agreement shall not incorporate any right of recompense clause. However, if the lenders' sacrifice is not fully compensated by way of issuance of equities, the right of recompense clause may be incorporated to the extent of shortfall. For unlisted companies, the JLF will have option of either getting equities issued or incorporate suitable 'right to recompense' clause.

4.6 In order to distinguish the differential security interest available to secured lenders, partially secured lenders and unsecured lenders, the JLF/CDR could consider various options like:

- Prior agreement in the ICA among the above classes of lenders regarding repayments, say, as per an agreed waterfall mechanism;
- A structured agreement stipulating priority of secured creditors;
- Appropriation of repayment proceeds among secured, partially secured and unsecured lenders in certain pre-agreed proportion.

The above is only an illustrative list and the JLF may decide on a mutually agreed option. It also needs to be emphasised that while one lender may have a better security interest when it comes to one borrower, the case may be vice versa in the case of another borrower. So, it would be beneficial if lenders appreciate the concerns of fellow lenders and arrive at a mutually agreed option with a view to preserving the economic value of assets. Once an option is agreed upon, the lender having the largest exposure may take the lead in ensuring distribution according to agreed terms once the restructuring package is implemented.

4.7 As regards prudential norms and operational details, RBI's guidelines on CDR Mechanism, will be applicable to the extent that they are not inconsistent with these guidelines.

#### **5. Prudential Norms on Asset Classification and Provisioning**

5.1 While a restructuring proposal is under consideration by the JLF/CDR, the usual asset classification norm would continue to apply. The process of re-classification of an asset should not stop merely because restructuring proposal is under consideration by the JLF/CDR.

5.2 However, as an incentive for quick implementation of a restructuring package, the special asset classification benefit on restructuring of accounts as per extant instructions would be available for accounts undertaken for restructuring under these guidelines, subject to adherence to the overall timeframe for approval of restructuring package detailed in paragraphs 3.3 and 3.4 above and implementation of the approved package within 90 days from the date of approval. The asset classification status as on the date of formation of JLF would be the relevant date to decide the asset classification status of the account after implementation of the final restructuring package. As advised to NBFCs vide RBI circular dated January 23, 2014, the special asset classification benefit as above will however be withdrawn for all restructurings with effect from April 1, 2015 with the exception of provisions related to changes in Date of Commencement of Commercial Operations (DCCO) in respect of infrastructure and non-infrastructure project loans.

5.3 As a measure to ensure adherence to the proposals made in these guidelines as also to impose disincentives on borrowers for not maintaining credit discipline, accelerated provisioning norms (as detailed in the guidelines) are being introduced.

## Appendix

### List of Circulars

Sr.	Circular No.	Date
1.	DNBS.(PD).CC.No.11/02.01/99-2000	November 15, 1999
2.	DNBS.(PD).C.C.No.27/02.05/2003-04	July 28, 2003
3.	DNBS.(PD).C.C.No.28/02.02/2002-03	July 31 ,2003
4.	<a href="#">DNBS.(PD).CC.No.37/02.02/2003-04</a>	May 17, 2004
5.	<a href="#">DNBS.(PD).CC.No.38/02.02/2003-04</a>	June 11, 2004
6.	<a href="#">DNBS.(PD).C.C.No.42/02.59/2004-05</a>	July 24, 2004
7.	<a href="#">DNBS.(PD).C.C.No.43/05.02/2004-05</a>	August 10, 2004
8.	<a href="#">DNBS.(PD).C.C.No.47/02.01/2004-05</a>	February07, 2005
9.	<a href="#">DNBS.(PD).CC.No.49/02.02/2004-05</a>	June 9, 2005
10.	<a href="#">DNBS.(PD).C.C.No.79/03.05.002/2006-07</a>	September 21, 2006
11.	<a href="#">DNBS.(PD).C.C.No.81/03.05.002/2006-07</a>	October 19, 2006
12.	<a href="#">DNBS.(PD).CC.No.82/03.02.02/2006-07</a>	October 27, 2006
13.	<a href="#">DNBS.(PD)C.C No.87/03.02.004/2006-07</a>	January 4, 2007
14.	<a href="#">DNBS.PD/C.C.No.96/03.10.001/2007-08</a>	July 31, 2007
15.	<a href="#">DNBS.PD/C.C No.109/03.10.001/2007-08</a>	November 26, 2007
16.	<a href="#">DNBS. (PD).C.C.No.114/03.02.059/2007-08</a>	June 17, 2008
17.	<a href="#">DNBS.(PD).C.C.No.124/03.05.002/2008-09</a>	July 31, 2008
18.	<a href="#">DNBS.PD.CC No.128/03.02.059/2008-09</a>	September 15, 2008
19.	<a href="#">DNBS.PD.CC.No.130/03.05.002/2008-09</a>	September 24, 2008
20.	<a href="#">DNBS.PD.CC.No.137/03.05.002/2008-09</a>	March 02, 2009
21.	<a href="#">DNBS.PD/CC.No.142/03.05.002/2008-09</a>	June 9, 2009
22.	<a href="#">DNBS.(PD).CC.No.167/03.10.01/2009-10</a>	February 04, 2010
23.	<a href="#">DNBS.PD.CC.No.168/03.02.089/2009-10</a>	February 12 , 2010
24.	<a href="#">DNBS.(PD).CC.No.173/03.10.01/2009-10</a>	May 03, 2010
25.	<a href="#">DNBS.(PD).C.C.No.174/03.10.001/2009-10</a>	May 6, 2010
26.	<a href="#">DNBS.CC.PD.No.191/03.10.01/2010-11</a>	July 27, 2010
27.	<a href="#">DNBS (PD) CC No. 195/03.10.001/ 2010-11</a>	August 9, 2010
28.	<a href="#">DNBS.(PD).CC.No.200/03.10.001/2010-11</a>	September 17, 2010
29.	<a href="#">DNBS(PD).CC.No.206/03.10.001/2010-11</a>	January 5, 2011
30.	<a href="#">DNBS.CC.PD.No.208/03.10.01/2010-11</a>	January 27, 2011
31.	<a href="#">DNBS(PD).CC. No. 245/03.10.42/2011-12</a>	September 27, 2011
32.	<a href="#">DNBS (PD).CC. No 248 /03.10.01 /2011-12</a>	October 28, 2011
33.	<a href="#">DNBS (PD)CC.No.259 /03.02.59/2011-12</a>	March 15, 2012
34.	<a href="#">DNBS.CC.PD.No.253/03.10.01/2011-12</a>	December 26, 2011
35.	<a href="#">DNBS.CC.PD.No.265/03.10.01/2011-12</a>	March 21, 2012
36.	<a href="#">DNBS. PD. No. 301/3.10.01/2012-13</a>	August 21, 2012

37.	<a href="#">DNBS.PD/ CC.No.308/03.10.001/2012-13</a>	November 6, 2012
38.	<a href="#">DNBS (Inf.).CC. No 309/24.01.022 /2012-13</a>	November 8, 2012
39.	<a href="#">DNBS.CC.PD.No. 312 /03.10.01/2012-13</a>	December 7, 2012
40.	<a href="#">DNBS.PD.CC.No. 317/03.10.001/2012-13</a>	December 20, 2012
41.	<a href="#">DNBS.CC.PD.No.326/03.10.01/2012-13</a>	May 27, 2013
42.	<a href="#">DNBS(PD)CC.NO 330/03.10.01/2012-13</a>	June 27, 2013
43.	<a href="#">DNBS(PD) CC No.349/03.10.001/2013-14</a>	July 2, 2013
44.	<a href="#">DNBS (PD) CC No. 353/ 03.10.042/2013-14</a>	July 26, 2013
45.	<a href="#">DNBS.PD/CC.No 359/03.10.001/2013-14</a>	November 06, 2013
46.	<a href="#">DNBS.(PD).CC.No 360/03.10.001/2013-14</a>	November 12, 2013
47.	<a href="#">DNBS.CO.PD.No 367/03.10.01/2013-14</a>	January 23, 2014
48.	<a href="#">DNBS (PD) CC.No.371/03.05.02/2013-14</a>	March 21, 2014
49.	<a href="#">DNBS. PD. No. 372/3.10.01/2013-14</a>	March 24, 2014
50.	<a href="#">DNBS (PD) CC.No.373/03.10.01/2013-14</a>	April 7, 2014
51.	<a href="#">DNBS (PD) CC.No.376/03.10.001/2013-14</a>	May 26, 2014
52.	<a href="#">DNBS.CC.PD.No.377/03.10.01/2013-14</a>	May 27, 2014
53.	<a href="#">DNBS.CC.PD.No.406/03.10.01/2014-15</a>	August 12, 2014
54.	<a href="#">DNBS (PD).CC. No 407/03.10.42 /2014-15</a>	August 20, 2014
55.	<a href="#">DNBR.(PD).CC.No.015/03.10.001/2014-15</a>	January 28, 2015
56.	<a href="#">DNBR.(PD).CC.No.019/03.10.001/2014-15</a>	February 06, 2015
57.	<a href="#">DNBR (PD) CC No.021/03.10.001/2014-15</a>	February 20, 2015
58.	<a href="#">DNBR.007/ CGM (CDS) -2015</a>	March 27,2015
59.	<a href="#">DNBR.CC.PD.No.041/03.10.01/2014-15</a>	June 25,2015
60.	<a href="#">DNBR.CC.PD.No.066/03.10.01/2015-16</a>	July 23, 2015
61.	<a href="#">DNBR.CC.PD.No. 070/03.10.01/2015-16</a>	October 29, 2015
62.	<a href="#">DNBR(PD).CC.No. 072/03.10.001/2015-16</a>	January 28, 2016
63.	<a href="#">DNBR (PD)CC.No. 073/03.10.001/2015-16</a>	February 18, 2016