

Amendments to NBFC Regulations

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November 15, 1999.

To All Non-Banking Financial Companies including Residuary Non-Banking Companies

Dear Sirs,

Amendments to NBFC Regulations

As you are aware, Reserve Bank of India has put in place a comprehensive regulatory and supervisory framework in January 1998, aimed at protecting the interests of depositors and ensuring that the NBFCs function on sound and healthy lines. These regulations are being reviewed by the Bank from time to time keeping in view the emerging situations.

2. Pursuant to our Governor's Statement on Mid-Term Review of Monetary and Credit Policy for the year 1999-2000 issued on October 29, 1999, the following changes and further instructions are issued for information and necessary action :

(1) Borrowings from Mutual Funds to be exempted from the purview of public deposits

The borrowings from mutual funds are presently treated as Public Deposits. However, the Bank has received representations from leading NBFCs, more particularly the Primary Dealers, that the borrowings from mutual funds should be excluded from the purview of public deposits. In view of the fact that the mutual funds have the time tested appraisal techniques for assessment of the borrowers' capacity to repay the debts and they do not require the same degree of protection as needed by the depositors under the RBI Act, it has been decided to exempt the borrowings from mutual funds from the purview of public deposits. Accordingly, the Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998 contained in the Notification DFC.118/DG(SPT)-98 dated January 31, 1998 has been amended. A copy of the amending notification is enclosed for your information and necessary action. The NBFCs could reduce the amount of borrowings from mutual funds while computing the outstanding public deposits as on December 31, 1999 and maintain the liquid assets on and from April 1, 2000 on the remaining public deposit liabilities as per the extant provisions under Section 45-IB of the RBI Act, 1934.

(2) Need for public notice before

(i) closure of the branch/office by any NBFC

(ii) sale/transfer of ownership by an NBFC

(a) With a view to ensuring that an NBFC intending to close a particular branch/ office gives proper notice to the depositors and adequate arrangements are made to service the deposits mobilised through such a branch/office, it has been decided that the concerned NBFC should give at least 3 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 local (covering the place of branch / office) vernacular language newspaper indicating therein the purpose and arrangements being made to service the depositors etc.

(b) (i) Reserve Bank grants Certificate of Registration to an NBFC after assessing and evaluating various factors including the quality of promoters and management to protect the interests of depositors and the soundness of the financial system. To ensure that the new management subserves the above objectives and to keep the public informed of the change of management and control of NBFCs, it has been decided that a public notice of three months shall be given before effecting the sale of, or transfer of the ownership by sale of shares, or transfer of control, whether with or without sale of shares. Such public notice shall be given by the NBFC and also by the transferor, or the transferee. For this purpose, the term 'control' shall have the same meaning as defined in Regulation 2(1) (c) of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997.

(ii) The public notice should indicate the intention to sell or transfer ownership / control, the particulars of transferee and the reasons for such sale or transfer of ownership / control. The notice should be published in one leading national and another in leading local (covering the place of registered office) vernacular language newspaper.

An intimation along with a copy of the notice in respect of items (a) and (b) above should be sent within 7 days of its publication in the newspapers to the Regional Office of RBI under whose jurisdiction the registered office of the company is located.

Implementation of the recommendations of the Task Force on NBFCs (Vasudev Committee)

3. The NBFC Directions on Acceptance of Public Deposits, Directions on Prudential Norms and Auditors Directions were last reviewed on December 18, 1998 to give effect to some of the recommendations of the Task Force on NBFCs. Steps are afoot to implement the recommendations which require amendments to the Statute. The remaining recommendations would be implemented in due course of time.

Redesigning of Financial Statements of NBFCs

4. The necessity of separate formats of financial statements for NBFCs became more pronounced with the issuance of the Non-Banking Financial Companies Prudential Norms

(Reserve Bank) Directions, 1998. In order to satisfy the need and in tune with the recommendations of the "Expert Group on Designing a Supervisory framework for NBFCs (Khanna Committee)", as also in the context of powers of the Bank to determine policy in respect of accounting system of NBFCs, a Committee was formed for suggesting separate formats of financial statements for the NBFCs, with members nominated by the Institute of Chartered Accountants of India and officials of the Department of Non-Banking Supervision of Reserve Bank of India. The Committee has submitted its report to the Bank on September 30, 1999. The Bank has solicited the views of Department of Company Affairs, Govt. of India and the Institute of Chartered Accountants of India. With a view to getting wider acceptability, the report has been discussed with the members of the Informal Advisory Group for Non-Banking Financial Companies. It has also been placed on the Bank's Website (rbi.org.in). The recommendations of the Committee will be examined in the light of feedback received from various quarters and a final view will be taken thereafter.

5. Please acknowledge the receipt of this letter to the General Manager/Deputy General Manager of the Regional Office of the Department of Non-Banking Supervision under whose jurisdiction the registered office of your company is located.

Yours faithfully,

Sd/-

(O. P. Agarwal)
Chief General Manager

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RESERVE BANK OF INDIA
DEPARTMENT OF NON-BANKING SUPERVISION
CENTRAL OFFICE
CENTRE I, WORLD TRADE CENTRE,
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NOTIFICATION No. DNBS. 133 /CGM(OPA)-99 dated November 15, 1999.

The Reserve Bank of India, having considered it necessary in the public interest and being satisfied that for the purpose of enabling the Bank to regulate the credit system to the advantage of the country, to amend the Non-Banking Financial Companies Acceptance of Public Deposit (Reserve Bank) Directions, 1998, in exercise of the powers conferred by sections 45J, 45K, 45L and 45MA of the Reserve Bank of India Act, 1934 (2 of 1934) and of all the powers enabling it in this behalf, hereby directs that the said directions contained in Notification No.DFC.118/DG(SPT)/98 dated January 31,1998 shall stand amended with immediate effect, as follows, namely –

In paragraph 2, in sub-paragraph (1), in clause (xii), after sub-clause (g), the following sub-clause shall be added, namely : -

“(h) any amount received from a Mutual Fund which is governed by the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996”

Sd/-
(O. P. Agarwal)
Chief General Manager