

## **Amendments to NBFC Regulations**

**Ref.DNBS.(PD).CC.No. 16 / 02.01/2000-01**

June 27 , 2001.

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

Dear Sirs,

### **Amendments to NBFC Regulations**

The Bank regulates the activities of NBFCs through five sets of Directions viz.

- (i) Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998
- (ii) Non-Banking Financial Companies Prudential Norms (Reserve Bank) Directions, 1998
- (iii) Non-Banking Financial Companies Auditors Report (Reserve Bank) Directions, 1998
- (iv) Residuary Non-Banking Companies (Reserve Bank) Directions 1987
- (v) Miscellaneous Non-Banking Companies (Reserve Bank) Directions, 1977

The NBFC regulations were comprehensively amended on 30 June 2000 followed by an amendment on April 1, 2001 for lowering the ceiling on rate of interest to 14 per cent per annum which the NBFCs including chit funds and Nidhis can pay on deposits accepted by them. Pursuant to certain policy changes felt necessary on the basis of changes in regulatory and supervisory environment and suggestions from NBFCs and members of Informal Advisory Group on NBFCs, it has been decided to amend the above Directions and issue the following instructions and clarifications for information of NBFCs and compliance by them.

### **Amendments to Directions:**

#### **1. Moneys received by issuance of Commercial Papers (CP) to be exempted from the purview of public deposits**

As part of efforts to develop the money market, CP was introduced in India in 1990 with a view to enabling highly rated corporate borrowers to diversify their short-term borrowings and also for providing an additional financial instrument to investors. As indicated in the Statement on Monetary and Credit Policy for the year 2000-2001, to keep pace with several developments in the financial market, guidelines have been issued by Industrial & Export Credit Department (IECD) vide Circular IECD. 3/08.15.01 / 2000-01 dated October 10, 2000 on issuance of Commercial Paper by corporates *in supercession of all the earlier guidelines / directions on the subject*. The extant provisions relating to definition of public deposits in the paragraph 2 (1) (xii) of NBFC Acceptance of Public Deposits (Reserve Bank) Directions, 1998 do not cover CP. In view of the fact that the issue of CPs by NBFCs would be governed by the guidelines issued by IECD, and in order to facilitate raising of monies by NBFCs through this instrument, it has been decided to exempt from the purview of public deposits, the monies received by NBFCs by issue

of CP in accordance with the above guidelines. The NBFC Acceptance of Public Deposits (Reserve Bank) Directions, 1998 contained in the Notification DFC. 118/DG (SPT)-98 dated January 31, 1998 have been amended accordingly.

## 2. Change in the name of credit rating agency

The credit rating agency viz., Duff & Phelps Credit Rating India Private Ltd., (DCR India) has changed its name to FITCH Ratings India Private Ltd.. Accordingly, an amendment is being made in the Directions to incorporate the above change.

## 3. Change of name of city of Calcutta to Kolkata

The Government of West Bengal, vide their Notification No.376-Home(Cons.) dated December 27,2000, have changed the name of the city of Calcutta to Kolkata with effect from January 1, 2001. Accordingly, an amendment is made in the Second Schedule to the Directions to incorporate the above change.

## 4. Shifting of Regional Office of DNBS from Lucknow to Kanpur

Reserve Bank of India has shifted the Regional Office of Department of Non-Banking Supervision (DNBS) located at Lucknow Office of the Bank to Kanpur Office. The new Office has started functioning at Kanpur with effect from 27 January 2001. Accordingly, the NBFCs having their registered offices in the States of Uttar Pradesh and Uttaranchal, which were so far, under the jurisdictional area of the Lucknow Regional Office, should now submit to the Regional Office at Kanpur their balance sheets, returns or information required to be submitted or furnished to Reserve Bank of India in pursuance of the directions / guidelines issued from time to time. The address of the Regional Office at Kanpur is Department of Non-Banking Supervision, Reserve Bank of India, Mahatma Gandhi Road, Kanpur - 208 001. Accordingly, an amendment is made in the Second Schedule to the Directions to incorporate the above change.

## 5. Extension of jurisdiction of ROs to newly created States

As you are aware, pursuant to States Reorganisation Act, 2000 three new States have been formed on dates as shown below :

<b>Name of State</b>	<b>Appointed date</b>
Chattisgarh	01.11.2000
Uttaranchal	09.11.2000
Jharkhand	15.11.2000

The areas of jurisdiction of the Regional Offices of Patna, Bhopal and Kanpur, respectively, have been extended to cover the newly created States of Jharkhand, Chattisgarh and Uttaranchal respectively. Accordingly, an amendment is made in the Second Schedule to the Directions to incorporate the above changes.

## 6. Changes in RNBC Directions

An amendment is made to the paragraphs 2 and 20 of the RNBC (Reserve Bank) Directions, 1987 to substitute the words " Non-Banking Financial Companies (Reserve Bank) Directions, 1977 " with the words "Non-Banking Financial Companies Acceptance of Public Deposit (Reserve Bank) Directions 1998 ".

## **Clarifications**

### **7. Accounting for Repossessed Assets**

The Bank has been receiving various references seeking clarification on procedure of accounting in respect of repossessed assets. The issue was also discussed in the Informal Advisory Group on NBFCs and it has been decided that the proper accounting procedure would be as follows :

#### **(a) In case the asset is taken as part of Fixed assets for own use**

- (i) The repossession of leased or hire purchase assets should be treated as foreclosure of the contract of lease or hire purchase finance;
- (ii) The accounting adjustment should be done in these cases by taking the assets at its book value;
- (iii) In case of hire purchase assets, in arriving at the book value, the asset value should be depreciated by 20 per cent per annum of the cost on straight-line method;
- (iv) The realisable value has to be arrived at after deducting the expenditure likely to be incurred on resale of the asset;
- (v) The provision in regard to deficit between book value and realisable value should be made in the current year itself.

#### **(b) In case the asset is still treated as part of Lease / hire purchase portfolio**

The asset should continue to be treated as non-performing and provisions should be made according to the provisioning norms on the lines of those applicable to rescheduled contracts.

### **8. Computation of amount of public deposits for determination of SLR - Impact of TDS**

NBFCs are required to maintain liquid assets on outstanding liabilities in respect of public deposits together with interest accrued thereon, as per the provisions of section 45-IB of the RBI Act. The NBFCs are obliged to deduct TDS, wherever applicable and remit the same to Government. A question has arisen as to the computation of aggregate amount of liabilities under the head 'public deposits' where interest is payable on cumulative basis and TDS on such interest amount has been remitted to Government. It has been noticed that companies are

following different practices for computing the net amount of outstanding public deposit liabilities while taking into account TDS on interest accrued. It is clarified that NBFCs may net off the TDS actually deducted and remitted to Government from the interest payable on deposits as applicable and maintain liquid assets on outstanding public deposit liabilities.

9. Auditors to include violation of RBI Act/Directions in their report to the shareholders of the company

Under the provisions of sub-section (2) of Section 227 of the Companies Act, 1956, the Statutory Auditor of a company is required to make a report to the members of the company on the accounts examined by him and certify that these accounts present a true and fair picture of the company. Under Section 45MA(2) of the RBI Act, 1934, the Statutory Auditor would also be making a report to the RBI regarding any contravention by an NBFC in respect of compliance with provisions of the RBI Act, 1934 and Directions issued thereunder. Section 45MA (2) also requires that such contravention should form part of the report under Section 227(2) of the Companies Act, 1956. Statutory auditors of NBFCs are advised that contravention of RBI Act / Directions should also form part of the reports submitted by them to the shareholders of the company under Section 227(2) of the Companies Act, 1956, besides directly reporting such contraventions to RBI. Such a measure is expected to improve the accountability of the management to the company shareholders.

10. Conversion of NBFCs from the category of "deposit taking companies" to "non-deposit taking companies "

As you are aware the Bank issues (i) Certificates of Registration (CoR) to eligible companies with authorisation to accept public deposits and (ii) to companies not so eligible and not presently holding public deposits issues CoR without authorisation to accept public deposits. The companies at (i) above which are so authorised can accept public deposits to the extent of their eligibility as determined by Directions issued in this regard. It is observed that some of the NBFCs which have accepted and held public deposits have since repaid entire public deposits or placed necessary amounts in escrow accounts thus becoming a non-public deposit taking company. They do not submit the periodical returns to the Bank under the impression that they need not submit such returns since they are not holding public deposits any longer. It is clarified that the companies having CoR with authorisation to accept deposits, though they may no longer hold public deposit, are required to continue to furnish returns on liquid assets, prudential norms, annual return on deposits, etc. in terms of Directions. However, in order to give some operational freedom, it has been decided to give an option to these NBFCs holding CoR with authorisation to accept public deposits but not holding public deposits that -

- (i) the company may comply with all the requirements as applicable to a public deposit taking NBFC irrespective of their not holding public deposits viz.
  - (a) it would have to submit **all** the returns namely, the quarterly return on liquid assets, half yearly return on the prudential norms and annual return on deposits. In case the company chooses to retain 'A' category certificate but does not submit the statutory returns, an appropriate adverse action for not complying with the directions of Reserve Bank of India would be taken against it including a review of the CoR granted to it;

- (b) it would have to comply with all the prudential norms including the CRAR and the exposure norms; so that there would be few supervisory concerns if the company chooses to accept public deposits again without prior specific approval of RBI; **OR**
- (ii) the company may surrender the CoR issued to it with authorisation to accept public deposits and obtain another CoR which does not authorise it to accept public deposits so that it can enjoy the freedom from submission of returns as also the exemptions from CRAR and exposure norms. Such company, when it intends to take public deposits, would obtain prior specific approval of RBI;

Accordingly, the NBFCs which have branded their CoR as a public deposit taking company, but currently not holding public deposits are advised to exercise the option within 30 days of the receipt of this letter failing which punitive measures would be initiated against them for non-submission of the returns.

(11) A copy each of the amending Notifications No. 148, 149 and 150 is enclosed. You are requested to ensure meticulous compliance with the regulatory framework.

Yours faithfully,

(R. Sadanandam)  
Chief General Manger-in-Charge

Encl: As above