



भारतीय रिज़र्व बैंक
RESERVE BANK OF INDIA
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RBI/2015-16/27

DNBR (PD) CC. No. 049/03.10.119 / 2015-16

July 01, 2015

(Updated as on April 11, 2016)

To

All NBFCs,

Dear Sir/Madam,

Master Circular – The Non-Banking Financial Company - Factors (Reserve Bank) Directions, 2012

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 as on June 30, 2015 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

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Introduction

The Central Government notified the Factoring Regulation Act, 2011 on January 22, 2012. The Act aims to regulate Factors and assignment of receivables in favour of Factors, as also delineate the rights and obligations of parties to assignment of receivables. Under the Act, factoring companies other than banks, Government companies etc. (Section 5 of the Act) would be registered with the Reserve Bank as NBFCs and would be subject to prudential regulations by the Reserve Bank. In accordance with the above, a new category of NBFCs viz; Non-Banking Financial Company-Factors was introduced and separate Directions were issued to them for meticulous compliance.

1. ¹Short title and commencement

These Directions shall be known as 'Non-Banking Financial Company - Factor (Reserve Bank) Directions, 2012'. They shall come into force with immediate effect and any reference in these Directions to the date of commencement thereof shall be deemed to be a reference to the date of the Directions.

2. Applicability of the Directions

The provisions of these Directions shall apply to every Non-Banking Financial Company - Factor registered with the RBI under Section 3 of the Factoring Regulation Act, 2011.

3. Definitions

- (i) "Act" means the Factoring Regulation Act, 2011;
- (ii) "Bank" means the Reserve Bank of India constituted under Section 3 of the Reserve Bank of India Act, 1934;
- (iii) "Non-Banking Financial Company - Factor (NBFC-Factor)" means a non-banking financial company as defined in clause (f) of section 45-I of the RBI Act, 1934 which has its principal business as defined in para 6 of these directions and

¹ [DNBS\(PD\)CC.No.297/Factor/22.10.91/2012-13 dated July 23, 2012](#)

has been granted a certificate of registration under sub-section (1) of section 3 of the Act;

(iv) Company means a company registered under Section 3 of the Companies Act, 2013;

(v) Words or expressions used but not defined herein and defined in the Act shall have the same meaning as assigned to them in the Act. Any other words or expressions not defined in that Act shall have the same meaning as assigned to them in the RBI Act, 1934.

4. Registration and Matters Incidental Thereto

(i) ²Every company intending to undertake factoring business shall make an application for grant of certificate of registration (CoR) as NBFC-factor to the Bank as provided under Section 3 of the Act;

(ii) Existing NBFCs that satisfy all the conditions enumerated in these Directions may approach the Regional Office where it is registered, along with the original CoR issued by the Bank for change in their classification as NBFC-Factor within six months from the date of this notification. Their request must be supported by their Statutory Auditor's certificate indicating the asset and income pattern;

(iii) An entity not registered with the Bank may conduct the business of factoring if it is an entity mentioned in Section 5 of the Act i.e. a bank or any corporation established under an Act of Parliament or State Legislature, or a Government Company as defined under section 617 of the Companies Act, 1956;

(iv) A new company that is granted CoR by the Bank as NBFC-Factor, shall commence business within six months from the date of grant of CoR by the Bank.

5. Net Owned Fund

(i) Every company seeking registration as NBFC-Factor shall have a minimum Net Owned Fund (NOF) of Rs.5 crore;

² In terms of [Press Release 2013-2014/1931 dated April 01, 2014](#), with effect from April 01, 2014, the issue of Certificate of Registration (COR) to the companies proposing to conduct business of NBFIs in terms of Section 45IA of the RBI Act, 1934 has been kept in abeyance by RBI, for a period of one year.
Foot Note: The reference to Companies Act, 1956 in the Master Circular will be changed as and when change is effected in the original circular/notification.

(ii) Existing companies seeking registration as NBFC-Factor but do not fulfil the NOF criterion of Rs.5 crore may approach the Bank for time to comply with the requirement.

6. Principal Business

³An NBFC-Factor shall ensure that its financial assets in the factoring business constitute at least 50 per cent of its total assets and the income derived from factoring business is not less than 50 per cent of its gross income.

⁴Also Refer [DBOD.BP.BC.No.40/21.04.172/2012-13 dated September 11, 2012.](#)

7. Conduct of Business

The NBFC-Factors shall conduct the business of factoring in accordance with the Act and the rules and regulations framed under the Act from time to time.

8. Prudential Norms

⁵8.1 The provisions of Systemically Important Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015 or Non-Systemically Important Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015 or Non-Banking Financial (Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2007, as the case may be and as applicable to a loan company shall apply to an NBFC-Factor.

8.2 The receivable acquired under factoring which is not paid within such period of due date as applicable, should be treated as non-performing asset (NPA) irrespective of when the receivable was acquired by the factor or whether the factoring was carried out on “with recourse” basis or “non-recourse” basis. The entity on which the exposure was booked should be shown as NPA and provisioning made accordingly.

³ Substituted vide [Notification No. 012 dated March 27, 2015](#)

⁴ The Circular pertains to Instructions on bank finance to factoring companies.

⁵ Substituted vide [Notification No.DNBR.036/CGM \(CDS\)-2016 dated February 18, 2016](#)

⁶8A. Exposure Norms-Single and Group Borrower Limits

The facilities extended by way of factoring services would be covered within the overall exposure ceiling specified in the Systemically Important Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015 or Non-Banking Financial (Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2007, as applicable. The exposure shall be reckoned as under :

- a. In case of factoring on “with-recourse” basis, the exposure would be reckoned on the assignor.
- b. In case of factoring on “without-recourse” basis, the exposure would be reckoned on the debtor, irrespective of credit risk cover / protection provided, except in cases of international factoring where the entire credit risk has been assumed by the import factor.

9. Submission of Returns

The submission of returns to the Reserve Bank will be as specified presently in the case of registered NBFCs.

⁷9A. Risk Management

Proper and adequate control and reporting mechanisms should be put in place before such business is undertaken.

- a. NBFC-Factors should carry out a thorough credit appraisal of the debtors before entering into any factoring arrangement or prior to establishing lines of credit with the export factor.
- b. Factoring services should be extended in respect of invoices which represent genuine trade transactions.
- c. Since under without recourse factoring transactions, the factor is underwriting the credit risk on the debtor, there should be a clearly laid down board-approved limit for all such underwriting commitments.

⁶ Inserted vide [Notification No.DNBR.036/CGM \(CDS\)-2016 dated February 18, 2016](#)

⁷ Inserted vide [Notification No.DNBR.036/CGM \(CDS\)-2016 dated February 18, 2016](#)

10. Export / Import Factoring

Foreign Exchange Department (FED) of the Reserve Bank gives authorization to Factors under FEMA, 1999. Therefore, NBFC-Factors, intending to deal in forex through export/import factoring, should make an application to FED for necessary authorization under FEMA, 1999 to deal in forex and adhere to the terms and conditions prescribed by FED and all the relevant provisions of the FEMA or Rules, Regulations, Notifications, Directions or Orders made thereunder from time to time.

⁸10A. For the purpose of exchange of information, the assignor will be deemed to be the borrower. Factors and banks should share information about common borrowers. Factors must ensure to intimate the limits sanctioned to the borrower to the concerned banks/ NBFCs and details of debts factored to avoid double financing.

11. Miscellaneous

(i) In terms of paragraph 15 of the ⁹Systemically Important Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015 , Non-Systemically Important Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015 and Non-Banking Financial (Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2007, all NBFCs are required to submit Statutory Auditors' Certificate with reference to the position of the company as at the end of the financial year ended March 31 every year. For an NBFC-Factor, such Certificate will indicate the requirement of holding the certificate under section 3 of the Factoring Act. The certificate will also indicate the percentage of factoring assets and income, the compliance that it fulfils all conditions stipulated under the Act to be classified as an NBFC-Factor and compliance to minimum capitalization norms, if FDI has been received;

(ii) Non-compliance to the provisions of these Directions shall invite penal action under the Act.

⁸ Inserted vide [Notification No.DNBR.036/CGM \(CDS\)-2016 dated February 18, 2016](#)

⁹ Introduced vide [DNBR \(PD\) CC. No. 024/ 03.10.001/ 2014-15 dated March 27, 2015](#)

Appendix
List of Circular

Sr No	Subject	Date
1	<u>DNBS(PD)CC.No.297/Factor/22.10.91/2012-13</u>	July 23, 2012
2	<u>DNBR.012/CGM.(CDS)-2015</u>	March 27, 2015
3	<u>DNBR (PD) CC. No. 024/ 03.10.001/ 2014-15</u>	March 27, 2015
4	<u>Notification No.DNBR.036/CGM (CDS)-2016</u>	February 18, 2016