

**February 15, 2008**

**Regulatory Framework for Mortgage Guarantee Company**

Please refer to Company Circular DNBS/PD(MGC) C.C.111/ 03.11.001 /2007-08 dated January 15, 2008 on the captioned subject wherein Mortgage Guarantee Company have been specified as non-banking financial company in terms of powers conferred upon the Bank under Section 45 I (f) (iii) of the RBI Act, 1934.

2. The Bank has since finalised Guidelines on Registration and Operations of Mortgage Guarantee Company under Section 45L(1)(b) of the Reserve Bank of India Act, 1934 and a Notification DNBS(PD)MGC No.3 /CGM (PK) - 2008 dated February 15, 2008 is enclosed.

3. The Prudential Norms and Investment Norms as applicable to Mortgage Guarantee Company have also been framed and are enclosed as per Notification DNBS(PD)MGC No.4 /CGM (PK) - 2008 and Notification DNBS(PD)MGC No.5 /CGM (PK) - 2008 both dated February 15, 2008 for meticulous compliance by the Mortgage Guarantee Companies.

4. The Company desirous of registration as Mortgage Guarantee Company may apply to Reserve Bank of India in application form in duplicate, duly filled in, as per format enclosed / placed on the Bank's web-site [www.rbi.org.in](http://www.rbi.org.in) .

Yours faithfully,

(P Krishnamurthy)  
Chief General Manager In-Charge

**Reserve Bank of India  
Department of Non-Banking Supervision  
Central Office, Centre 1  
World Trade Centre  
Cuffe Parade, Colaba  
Mumbai - 400 005**

**Notification DNBS(PD)MGC No.3 /CGM (PK) - 2008 dated February 15, 2008**

**Guidelines on Registration and Operations of Mortgage Guarantee Company under  
Section 45L(1)(b) of the Reserve Bank of India Act, 1934**

The Reserve Bank of India, in terms of Notification No. DNBS. (MGC) 1 /CGM (PK)- 2008 dated January 15, 2008, issued in terms of Section 45I(f)(iii) of the Reserve Bank of India Act, 1934 (2 of 1934) and on being satisfied that it is necessary so to do in exercise of the powers conferred under Section 45 L(1)(b) of the said Act, 1934 (2 of 1934) and of all the powers enabling it in this behalf, hereby issues these guidelines for compliance of the same by every non-banking financial company undertaking the business of Mortgage Guarantee as defined herein.

**1. Short title, commencement and applicability of the directions:**

- (i) These guidelines shall be known as the "Mortgage Guarantee Company (Reserve Bank) Guidelines, 2008".
- (ii) These guidelines shall come into force with immediate effect.

**Scope**

- (iii) These guidelines provide a framework for the registration and operation of mortgage guarantee companies in India.

**Definitions**

2. (1) In these guidelines unless the context otherwise requires,

(a) "bank" means-

- (i) a banking company; or
- (ii) a corresponding new bank; or
- (iii) the State Bank of India; or
- (iv) a subsidiary bank; or
- (v) such other bank which the Reserve Bank may, by notification, specify for the purposes of these guidelines; and
- (vi) a cooperative bank as defined under the Banking Regulation Act, 1949 (10 of 1949);

- (b) "banking company" means a banking company as defined in Section 5(c) of the Banking Regulation Act, 1949 (10 of 1949);
- (c) "borrower" means any person or any entity who has been granted a housing loan by any creditor institution or any other entity which may be specified by Reserve Bank of India from time to time;
- (d) "creditor institution" means a bank or housing finance company;
- (e) "company" means a company registered under Section 3 of the Companies Act, 1956;
- (f) "corresponding new bank" means as defined in clause (da) of Section 5 of the Banking Regulation Act, 1949;
- (g) "default" means non-payment on the due date of any principal debt or interest thereon payable by a borrower to any creditor institution ;
- (h) "guarantee" means a contract of guarantee as defined in the Indian Contract Act, 1872 (9 of 1872);
- (i) "housing finance company" means a company which primarily transacts or has as one of its principal objects, the transacting of the business of providing finance for housing, as defined in the National Housing Bank Act, 1987;
- (j) "housing loan" means any loan or advance granted to an individual or any other entity which may be specified by Reserve Bank of India from time to time for the purpose of construction/ repairs/ upgradation of a house or residential property or acquisition of a house or residential property or both i.e. house and residential property;  
  
Explanation:- 'Other entities' would include housing societies and housing co-operatives in the above definition of 'housing loan'.
- (k) "mortgage guarantee" means a guarantee provided by a mortgage guarantee company for the repayment of an outstanding housing loan and interest accrued thereon up to the guaranteed amount to a creditor institution, on the occurrence of a trigger event;
- (l) "mortgage guarantee company" means a company which primarily transacts the business of providing mortgage guarantee;
- (m) "mortgage guarantee contract" means a tri-partite contract among the borrower, the creditor institution and the mortgage guarantee company, which provides the mortgage guarantee;
- (n) "National Housing Bank" means the National Housing Bank established under the National Housing Bank Act, 1987 (53 of 1987);

- (o) "net owned fund" is as notified in the Prudential Norms for Mortgage Guarantee Companies;
- (p) "non-performing asset" means account of a borrower, which has been classified by a creditor institution as sub-standard, doubtful or loss asset, in accordance with the directions or guidelines relating to asset classification issued by the Reserve Bank or the National Housing Bank as the case may be;
- (q) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (2 of 1934);
- (r) "substantial interest" means holding of a beneficial interest by an individual or his spouse or minor child, whether singly or taken together in the shares of a company, the amount paid up on which exceeds ten percent of the paid up capital of the company; or the capital subscribed by all partners of a partnership firm;
- (s) "trigger event" means classification of the account of a borrower as non-performing asset in the books of the creditor institution;
- (t) 'turnover or business turnover' means the total mortgage guarantee contracts entered during the year together with the volume of business arising out of other activities (specially permitted by RBI), undertaken during the year;

2. (2) Words or expressions used but not defined herein and defined in the Companies Act, 1956 (1 of 1956) or Accounting Standards issued by the Chartered Accountants of India, shall have the same meaning as assigned to them in that Act / Accounting standards.

### **Registration with the Reserve Bank of India**

- 3. A mortgage guarantee company shall commence the business of providing mortgage guarantee after -
  - (a) obtaining a certificate of registration from the Reserve Bank of India; and
  - (b) having a net owned fund of one hundred crore rupees or such other higher amount, as the Reserve Bank of India may, by notification, specify.
- 4. Every mortgage guarantee company shall make an application for registration to the Reserve Bank of India in such form as may be specified by the Reserve Bank of India for the purpose.
- 5. The Reserve Bank of India, for the purpose of considering the application for registration, shall require to be satisfied that the following conditions are fulfilled:-

(a) that the mortgage guarantee company shall primarily transact the business of providing mortgage guarantee. A mortgage guarantee company shall be deemed to comply with the above when at least 90% of the business turnover is mortgage guarantee business or at least 90% of the gross income is from mortgage guarantee business (which includes the income derived from reinvesting the income generated from mortgage guarantee business);

(b) that the mortgage guarantee company is or shall be in a position to pay its liabilities arising from the contracts of guarantee it may enter into;

(c) that the mortgage guarantee company has adequate capital structure as stipulated in paragraphs 11 to 13 below and adequate earning prospects from mortgage guarantee business;

(d) that the general character of the management or the proposed management of the mortgage guarantee company shall not be prejudicial to the public interest;

(e) that the Board of Directors of such mortgage guarantee company does not consist of more than half of its total number of directors who are either nominees of any shareholder with substantial interest or associated in any manner with the shareholder with substantial interest or any of the subsidiaries of the shareholder with substantial interest if such a shareholder is a company;

(f) (i) Mortgage guarantee company shall have a well diversified shareholding;

(ii) Mortgage guarantee company shall not be a subsidiary of any other company including a company registered or incorporated under any law in force outside India;

(iii) No individual, association or body of individuals whether incorporated or not, partnership firm, company or company registered or incorporated under any law in force outside India shall, directly or indirectly, have any controlling interest in mortgage guarantee company;"

(g) the Foreign Direct Investment to be eligible for investment in the equity of a mortgage guarantee company should have prior approval of FIPB. If the foreign entity which has received FIPB / FED approval is having substantial interest in the applicant mortgage guarantee company, it should be regulated by a home country financial regulator and should itself preferably be a mortgage guarantee company and have a good track record of operating as a mortgage guarantee company. However, the above clauses would not be applicable if the investor in the equity of a mortgage guarantee company is international financial institution;

(h) that the public interest shall be served by the grant of certificate of registration to the mortgage guarantee company to commence or to carry on the business in India;

(i) that the grant of certificate of registration shall not be prejudicial to the operation and growth of the housing finance sector of the country;

(j) that the mortgage guarantee company is compliant with the applicable norms for foreign investment in such companies; and

(k) any other condition, fulfillment of which in the opinion of the Reserve Bank of India, shall be necessary to ensure that the commencement of or carrying on the business in India by a mortgage guarantee company shall not be prejudicial to the public interest and the housing finance sector in India.

6. The Reserve Bank of India may, after being satisfied that the conditions specified in sub paragraphs of paragraph 5 are fulfilled, grant a certificate of registration subject to such conditions which it may consider, fit to impose.

7. The mortgage guarantee company shall be under the regulatory and supervisory jurisdiction of the Reserve Bank of India.

8. The Reserve Bank of India may cancel a certificate of registration granted to a mortgage guarantee company, if such company-

(a) ceases to carry on the business of providing mortgage guarantee in India; or

(b) has failed to comply with any condition subject to which the certificate of registration has been issued to it; or

(c) has failed to honour, in a timely manner, the claims arising from the contract of guarantee it has entered into or may enter into; or

(d) at any time fails to fulfill any of the conditions referred to in paragraphs 5 and 6; or

(e) fails to -

i) comply with any direction issued by the Reserve Bank of India; or

ii) maintain accounts, publish and disclose its financial position in accordance with the requirements of any law or any direction or order issued by the Reserve Bank of India; or

iii) submit or offer for inspection its books of account or other relevant documents when so demanded by the Reserve Bank of India.

### **Essential features of a mortgage guarantee**

9. The essential features of a mortgage guarantee contract shall be as follows:

- (a) it shall be a contract of guarantee under Section 126 of the Indian Contract Act, 1872;
- (b) the mortgage guarantee contract shall be unconditional and irrevocable and the guarantee obtained shall be free from coercion, undue influence, fraud, misrepresentation, and/or mistake under Indian Contract Act, 1872 ;
- (c) it shall guarantee the repayment of the principal and interest outstanding in the housing loan account of the borrower, up to the amount of guarantee;
- (d) the guarantor shall pay the guaranteed amount on invocation without any adjustment against the realisable value of the mortgage property;
- (e) it shall be a tri-partite contract among the borrower, the creditor institution and the mortgage guarantee company, which provides the mortgage guarantee.

10. The mortgage guarantee company shall not carry on insurance business.

### **Minimum Capital requirement**

11. A mortgage guarantee company shall have a minimum net owned fund of Rs.100 crore at the time of commencement of business, which shall be reviewed for enhancement after 3 years.

### **Capital Adequacy**

12. A mortgage guarantee company shall maintain a capital adequacy ratio of ten percent (10%) of its aggregate risk weighted assets of on balance sheet and of risk adjusted value of off-balance sheet items or any other percentage that may be prescribed by the Reserve Bank of India for the purpose, from time to time.

13. A mortgage guarantee company shall maintain at least six percent (6%) of its aggregate risk weighted assets of on balance sheet and of risk adjusted value of off-balance sheet items as Tier I capital.

### **Prudential and accounting norms**

14. The mortgage guarantee company shall be required to comply with various prudential guidelines including those relating to income recognition, asset classification, provisioning, classification and valuation of investments and prudential exposures that are issued by the Reserve Bank of India from time to time.

15. The mortgage guarantee company shall also comply with all the relevant Accounting Standards and Guidance Notes issued by the Institute of Chartered Accountants of India from time to time.
16. No single guarantee shall exceed 10% of the company's Tier I and Tier II capital.

### **Funding options**

17. (1) **Acceptance of public deposits** - Mortgage guarantee companies shall not accept public deposits.
17. (2) **External Commercial Borrowings** - Mortgage guarantee companies shall not avail External Commercial Borrowings.

### **Creation and maintenance of Reserves**

#### **Contingency Reserves:**

18. A mortgage guarantee company shall create and maintain a "Contingency Reserve" on an ongoing basis. The mortgage guarantee company:
  - (a) Shall appropriate each year **at least** forty percent (40%) of the premium or fee earned during that accounting year or twenty five percent (25%) of the profit (after provisions and tax), whichever is higher, to the Contingency Reserve;
  - (b) In case of inadequate profits, such appropriation shall either result in or increase the amount of carry forward loss;
  - (c) May appropriate a lower percentage of the premium or fee earned during any accounting year when the provisions made each year towards losses on account of settlement of mortgage guarantee claims exceeds thirty-five percent (35%) of the premium or fee earned during that accounting year;
  - (d) Shall ensure that the Contingency Reserve is built up to **at least five percent (5%)** of the total outstanding mortgage guarantee commitments;
  - (e) Shall retain the amounts appropriated each year to the Contingency Reserve for a minimum period of seven (7) subsequent years which shall be eligible for reversal only in the eighth year subject to the condition in 18(d) above;
  - (f) Shall utilize the Contingency Reserve only with the prior approval of the Reserve Bank of India;
  - (g) Shall show the amount of 'Contingency Reserve' as a separate line item on the liability side of the balance sheet; however, Contingency Reserve may be treated as 'free reserve' for the purpose of net owned fund.



### **Accounting of Unearned Premium**

19. A mortgage guarantee company shall account the premium or fee on the mortgage guarantee contracts as an income in the profit and loss account in accordance with the Accounting Standards issued by the Institute of Chartered Accountants of India. The amount of unearned premium shall be shown as a separate line on the liability side of the balance sheet.

### **Provision for losses on invoked guarantees**

20. A mortgage guarantee company is exposed to a potential loss when its guarantee is invoked. Mortgage guarantee companies shall hold provisions for losses in respect of such invoked guarantees pending recovery of assets. The amount of provisions required to be held shall be equal to the contract-wise aggregate of 'amount of invocation' after adjusting the realisable value of the assets held by the company in respect of each housing loan where the guarantee has been invoked. In case the realisable value of the assets held in respect of any invoked guarantee is more than the amount of invocation, the excess shall not be adjusted against the shortfall in other invoked guarantees. In case the amount of provisions already held is in excess of the amount as computed above, the excess shall not be reversed. The amount of provisions made each year shall be shown as a separate line item in the Profit and Loss Account. The amount of provision held for losses on settlement of invoked guarantees shall be shown as a separate line item on the liability side of the balance sheet.

### **Provision for 'Incurred But-Not-Reported (IBNR) losses'**

21. A mortgage guarantee company is exposed to a potential loss when there is a default in a housing loan guaranteed by it. Mortgage guarantee companies shall hold provisions in respect of such defaulted housing loans where the trigger event is yet to occur or the guarantee is yet to be invoked. The potential loss to which the guarantee company is exposed to is referred to as 'Incurred-But-Not-Reported (IBNR) losses'. The amount of provisions required to be held shall be arrived at on an actuarial basis depending upon the estimates of loss frequency and loss severity for incurred but not reported losses which are derived from historic data, trends, economic factors and other statistical data in relation to paid claims, the provisions held for claims settled, risk statistics, etc. In case the amount of provisions already held is in excess of the amount as computed above, the excess shall not be reversed. The amount of provisions made each year shall be shown as a separate line item in the Profit and Loss Account. The amount of provision held for Incurred But-Not-Reported (IBNR) losses shall be shown as a separate line item on the liability side of the balance sheet.

### **Requirement of maintaining Register of guarantees**

22. Every mortgage guarantee company shall keep one or more registers in which shall be entered the particulars of guarantee provided by the company, namely,
- (a) name and address of the borrower/co-borrower,
  - (b) date and amount of loan sanctioned to the borrower,
  - (c) brief description of the property including the site/location of the property,
  - (d) the nature of security available for the loan,
  - (e) tenure of the loan,
  - (f) amount of each installment and due date for the payment of each installment,
  - (g) name and address of the bank or housing finance company to whom the guarantee has been provided,
  - (h) date and amount of the guarantee, and
  - (i) duration of the guarantee.

### **Mortgage guarantee company's obligations**

23. The liability of the mortgage guarantee company in respect of a secured housing loan granted by a creditor institution where the mortgage guarantee company has provided a guarantee shall be as stipulated in the contract of guarantee entered into by and between the mortgage guarantee company, the creditor institution and the borrower.
24. On any day after a trigger event, the creditor institution, which has obtained a mortgage guarantee from a mortgage guarantee company, shall be entitled to invoke the guarantee against the mortgage guarantee company.
25. The mortgage guarantee company shall make good the guarantee liability without demur as and when a notice of demand for the payment of the guarantee liability in respect of the mortgage guarantee provided by it in favour of a bank or a housing finance company is received by it.
26. If a housing loan turns into a non-performing asset and the creditor institution prefers first to realize the loan by resorting to speedy recovery procedures prescribed in the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the creditor institution, realizes some amount of the loan from the borrower, the liability of the mortgage guarantee company in respect of the loan, will stand reduced to that extent.

27. No mortgage guarantee company shall provide mortgage guarantee for a housing loan with 90% and above LTV ratio.

**Due diligence to be exercised by a mortgage guarantee company**

28. Before offering to provide a guarantee for the repayment of a housing loan, the mortgage guarantee company shall be required to be satisfied, amongst others, with the following;

- (a) that the loans are secured by a valid mortgage;
- (b) that the creditor institution has verified title to the property, marketability of the property and credit worthiness of the borrower;
- (c) that the creditor institution has verified the use of the land on which a house or residential property is constructed or proposed to be constructed out of the loan obtained from it;
- (d) that the creditor institution has verified and obtained a copy of the permission obtained by the borrower from the proper authorities for the purpose of construction of the house or residential property; and
- (e) that the loan granted by a creditor institution to a borrower is not more than 90% of the value of the property.

**Prohibitions**

29.(1) A housing loan which is not secured by a valid mortgage of the house / residential property that is or is proposed to be acquired by such loan shall not be eligible for a mortgage guarantee from a mortgage guarantee company.

**No commissions, rebates or inducements**

29.(2) A mortgage guarantee company shall not pay commissions, rebates, or other inducements for referral of mortgage guarantee business to any person.

**Prohibition on guaranteeing mortgage originations of Related Party**

29.(3) A mortgage guarantee company shall not provide guarantees on mortgage originations of promoters, its / their subsidiaries, associates and related parties or subsidiaries, associates and related parties of mortgage guarantee company including companies where the mortgage guarantee company has a material investment or interest of five percent (5%) or more of the shareholding.

## **Investments**

29.(4) A mortgage guarantee company shall not invest in notes or other evidences of indebtedness secured by a mortgage or other lien upon real property. This section shall not apply to obligations secured by real property, or contracts for the sale of real property, which obligations or contracts of sale are acquired in the course of the good faith settlement of claims under policies issued by the mortgage guarantee company, or in good faith disposition of real property so acquired.

## **Constitution of Audit Committee**

30. A mortgage guarantee company shall constitute an Audit Committee consisting of not less than three non-executive Directors of the Board of the company, at least one of whom will be a Chartered Accountant.

## **Policy for grant of guarantee**

31. The Board of Directors of a mortgage guarantee company shall frame a policy for the company for providing mortgage guarantee to creditor institutions. Such policy shall, inter alia, stipulate the following:-

- (a) the fee or premium chargeable for providing a mortgage guarantee based on specific identified criteria including the quantum of loan; LTV ratio; credit quality of the borrower; and credit appraisal / credit risk management skills of the bank or housing finance company,
- (b) delegation of power for providing a mortgage guarantee and to enter into a contract of guarantee,
- (c) delegation of power for taking a decision to make good the claims received from banks and housing finance companies, and
- (d) delegation of power for initiating proceedings for the recovery of its dues from the borrowers.

## **Scheme of Mortgage Guarantee**

32. For the purpose of providing mortgage guarantee, the mortgage guarantee company shall prepare a detailed scheme duly approved by its Board of Directors. The scheme shall contain, amongst others, the following matters:

- (a) the quality of a housing loan,
- (b) the maximum portion of a housing loan granted by a bank or a housing finance company to a borrower, that may be covered under the contract of guarantee,

- (c) the minimum and the maximum LTV ratio of a housing loan proposed to be covered under the contract of guarantee,
- (d) the fee or premium or charge indicating the manner for the payment there of, payable by a borrower to the mortgage guarantee company in consideration for the contract of guarantee,
- (e) the liability of the mortgage guarantee company as to whether the liability will be co-extensive with that of the borrower or otherwise, and
- (f) the conditions governing the issue as to which party of the mortgage guarantee company or a bank/ housing finance company will be required to effect recoveries from the borrower after the mortgage guarantee is invoked and the guarantee liability is made good by the mortgage guarantee company to the bank or housing finance company.

### **Counter-guarantee**

33. Whenever a mortgage guarantee company obtains counter-guarantee cover in respect of the housing loans guaranteed by it from another mortgage guarantee company, the mortgage guarantee company and the counter-guarantee company shall establish and maintain the reserves required for a mortgage guarantee company in India in appropriate proportions in relation to the risk retained by the original mortgage guarantee company and ceded to the assuming counter-guarantee company so that the total reserves established shall not be less than the reserves required under Indian law for a mortgage guarantee company. In case the counter-guarantee company is not regulated by the regulator(s) in India, the mortgage guarantee company guaranteeing the claim shall hold relevant reserves and provisions in respect of all outstanding mortgage guarantee contracts issued by it.

### **Exemptions**

34. The Reserve Bank of India may, if it considers necessary for avoiding any hardship or for any other just and sufficient reason, grant extension of time to comply with or exempt any mortgage guarantee company or class of mortgage guarantee companies or all mortgage guarantee companies, from all or any of the provisions of these guidelines either generally or for any specified period, subject to such conditions as the Reserve Bank of India may impose.

35. The Reserve Bank of India can give any clarification in respect of the above guidelines and such clarification shall be treated as part of these guidelines. The guidelines can be amended by the Bank from time to time.

(P. Krishnamurthy)  
Chief General Manager-in-Charge

**RESERVE BANK OF INDIA  
DEPARTMENT OF NON-BANKING SUPERVISION  
CENTRAL OFFICE  
CENTRE I, WORLD TRADE CENTRE  
CUFFE PARADE, COLABA  
MUMBAI 400 005**

**Notification DNBS(PD)MGC No.4 /CGM (PK) - 2008 dated February 15, 2008**

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, it is necessary to issue the directions relating to the prudential norms as set out below, in exercise of the powers conferred by Section 45JA of the Reserve Bank of India Act, 1934 (2 of 1934) and of all the powers enabling it in this behalf, gives to every Mortgage Guarantee Company the directions hereinafter specified.

**Short title, commencement and applicability of the directions**

1. (i) These directions shall be known as the "Mortgage Guarantee Companies Prudential Norms (Reserve Bank) Directions, 2008".

(ii) These directions shall come into force with immediate effect and shall apply to every Mortgage Guarantee Company which has been granted Certificate of Registration under the scheme of Registration of Mortgage Guarantee Companies by the Reserve Bank of India.

**Definitions**

2. (1) For the purpose of these directions, unless the context otherwise requires:

(i) "doubtful asset" means an asset which remains a sub-standard asset for a period exceeding 12 months;

(ii) "hybrid debt capital instrument" means capital instrument which possesses certain characteristics of equity as well as of debt;

(iii) "loss asset" means:

(a) an asset which has been identified as loss asset by the mortgage guarantee company or its internal or external auditor or by the Reserve Bank of India, to the extent it is not written off by the mortgage guarantee company; and

(b) an asset which is adversely affected by a potential threat of non-recoverability for reasons like erosion in the value of security or non availability of security or due to any fraudulent act or omission on the part of the borrower, etc.;

(iv) "Mortgage Guarantee Company" means as defined in paragraph 2(1)(l) of the Mortgage Guarantee Company (Reserve Bank) Guidelines, 2008;

(v) (I) For the purpose of these directions 'net owned fund' means:

(a) the aggregate of the paid-up equity capital and free reserves as disclosed in the latest balance sheet of the company after deducting therefrom-

(i) accumulated balance of loss;

(ii) deferred revenue expenditure; and

(iii) other intangible assets; and

(b) further reduced by the amounts representing-

(1) investments of such company in shares of-

(i) its subsidiaries;

(ii) companies in the same group;

(iii) all other non-banking financial companies; and

(2) the book value of debentures, bonds, outstanding loans and advances (including hire-purchase and lease finance) made to, and deposits with-

(i) subsidiaries of such company; and

(ii) companies in the same group,

to the extent such amount exceeds ten per cent, of (a) above.

(II) "subsidiaries" and "companies in the same group" shall have the same meanings assigned to them in the Companies Act, 1956 (1 of 1956).]

(vi) 'non-performing asset' (NPA) in respect of mortgage guarantee asset means,

an asset acquired from the credit institution on the happening of trigger event which is straight away classified as non-performing asset and shall thereafter be classified according to the age of NPA;

(vii) "owned fund" means paid up equity capital, free reserves including contingency reserves maintained as per paragraph 18 of the Guidelines on Registration and Operations of Mortgage Guarantee Company, balance in share premium account and capital reserves representing surplus arising out of sale proceeds of asset, excluding reserves created by revaluation of asset, as reduced by accumulated loss balance, book value of intangible assets and deferred revenue expenditure, if any;



(viii) "standard asset" means the asset in respect of which, no default in repayment of principal or payment of interest is perceived and which does not disclose any problem nor carry more than normal risk attached to the business;

(ix) "sub-standard asset in respect of mortgage guarantee asset" means an asset which has been classified as non-performing asset for a period not exceeding 12 months;

(x) "subordinated debt" means an instrument, which is fully paid up, is unsecured and is subordinated to the claims of other creditors and is free from restrictive clauses and is not redeemable at the instance of the holder or without the consent of the supervisory authority of the mortgage guarantee company. The book value of such instrument shall be subjected to discounting as provided hereunder:

<u>Remaining Maturity of the instruments</u>	<u>Rate of discount</u>
(a) Upto one year	100%
(b) More than one year but upto two years	80%
(c) More than two years but upto three years	60%
(d) More than three years but upto four years	40%
(e) More than four years but upto five years	20%

to the extent such discounted value does not exceed fifty per cent of Tier I capital;

(xi) "substantial interest" means holding of a beneficial interest by an individual or his spouse or minor child, whether singly or taken together in the shares of a company, the amount paid up on which exceeds ten per cent of the paid up capital of the company; or the capital subscribed by all the partners of a partnership firm;

(xii) "Tier I Capital" means owned fund as reduced by investment in shares of other non-banking financial companies and in shares, debentures, bonds, outstanding loans and advances including hire purchase and lease finance made to and deposits with subsidiaries and companies in the same group exceeding, in aggregate, ten per cent of the owned fund;

Note;- Investment in shares of subsidiaries, companies in the same group and other NBFCs refers to that which has been acquired by the mortgage guarantee company in satisfaction of debt;

- (xiii) "Tier II Capital" includes the following:-
- (a) preference shares;
  - (b) revaluation reserves at discounted rate of fifty five percent;
  - (c) general provisions and loss reserves to the extent these are not attributable to actual diminution in value or identifiable potential loss in any specific asset and are available to meet unexpected losses and provisions made on standard assets, to the extent of one and one fourth percent of risk weighted assets;
  - (d) hybrid debt capital instruments; and
  - (e) subordinated debt,
- to the extent the aggregate does not exceed Tier I capital;
- (xiv) 'Turnover or business turnover' means the total mortgage guarantee contracts entered during the year together with the volume of business arising out of other activities undertaken during the year;

(2) Other words or expressions used but not defined herein and defined in the Reserve Bank of India Act, 1934 (2 of 1934) or Mortgage Guarantee Company (Reserve Bank) Guidelines, 2008 contained in Notification DNBS(PD)MGC)No.3 /CGM (PK) - 2008 dated February 15, 2008 shall have the same meaning as assigned to them under that Act or that Directions. Any other words or expressions not defined in that Act or that Directions, shall have the same meaning assigned to them in the Companies Act, 1956 (1 of 1956).

### **Income recognition**

3. (i) Income including interest/discount or any other charges on an asset which is NPA or on an asset which is NPA and is taken over from creditor institution on happening of trigger event shall be recognised only on cash basis.

(ii) A mortgage guarantee company shall account the premium or fee on the mortgage guarantee contracts as an income in the profit and loss account in accordance with the Accounting Standards issued by the Institute of Chartered Accountants of India. The amount of unearned premium shall be shown as a separate line on the liability side of the balance sheet.

(iii) In respect of any other business undertaken by the mortgage guarantee company as specified in Section 45 I (c) of the RBI Act, 1934 within the permitted limit, income shall be recognised as per income recognition norms prescribed for such assets as contained in the "Non-Banking Financial (Non - Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2007".

### **Accounting standards**

4. Accounting Standards and Guidance Notes issued by the Institute of Chartered Accountants of India (referred to in these directions as "ICAI") shall be followed insofar as they are not inconsistent with any of the provisions of these directions.

### **Asset Classification**

5. (1) Every mortgage guarantee company shall, after taking into account the degree of well defined credit weaknesses and extent of dependence on collateral security for realisation, classify its assets, loans and advances and any other forms of credit into the following classes, namely:

- (i) Standard assets\*;
- (ii) Sub-standard assets;
- (iii) Doubtful assets; and
- (iv) Loss assets.

\* Assets acquired under guarantee obligations will not be classified as standard assets.

(2) The class of assets referred to above shall not be upgraded merely as a result of rescheduling, unless it satisfies the conditions as stipulated by the Bank from time to time, required for the upgradation.

### **Provisioning requirements**

6. (1) **Provision for losses on invoked guarantees:** A mortgage guarantee company is exposed to a potential loss when its guarantee is invoked. Mortgage guarantee companies shall hold provisions for losses in respect of such invoked guarantees pending recovery of assets. The amount of provisions required to be held shall be equal to the contract-wise aggregate of 'amount of invocation' after adjusting the realisable value of the assets held by the company in respect of each housing loan where the guarantee has been invoked. In case the realisable value of the assets held in respect of any invoked guarantee is more than the amount of invocation, the excess shall not be adjusted against the shortfall in other invoked guarantees. In case the amount of provisions already held is in excess of the amount as computed above, the excess shall not be reversed. The amount of provisions made each year shall be shown as a separate line item in the Profit and Loss Account. The amount of provision held for losses on settlement of invoked guarantees shall be shown as a separate line item on the liability side of the balance sheet.

(2) **Provision for 'Incurred But-Not-Reported (IBNR) losses':** A mortgage guarantee company is exposed to a potential loss when there is a default in a housing loan guaranteed by it. Mortgage guarantee companies shall hold provisions in respect of such defaulted housing loans where the trigger event is yet to occur or the guarantee is yet to be invoked. The potential loss to

which the guarantee company is exposed to is referred to as 'Incurred-But-Not-Reported (IBNR) losses'. The amount of provisions required to be held shall be arrived at on an actuarial basis depending upon the estimates of loss frequency and loss severity for incurred but not reported losses which are derived from historic data, trends, economic factors and other statistical data in relation to paid claims, the provisions held for claims settled, risk statistics, etc. In case the amount of provisions already held is in excess of the amount as computed above, the excess shall not be reversed. The amount of provisions made each year shall be shown as a separate line item in the Profit and Loss Account. The amount of provision held for Incurred But-Not-Reported (IBNR) losses shall be shown as a separate line item on the liability side of the balance sheet.

(3) Subject to what has been mentioned above, every mortgage guarantee company shall, after taking into account the time lag between an account becoming non-performing, its recognition as such, the realisation of the security and the erosion over time in the value of security charged, make provision against each class as provided hereunder :-

#### (4) Mortgage guarantee assets

The provisioning requirement in respect of mortgage guarantee assets shall be as under:

(i) Loss Assets	The entire asset shall be written off. If the assets are permitted to remain in the books for any reason, 100% of the outstanding should be provided for;
(ii) Doubtful Assets	<p>(a) 100% provision to the extent to which the advance is not covered by the realisable value of the security to which the mortgage guarantee company has a valid recourse shall be made. The realisable value is to be estimated on a realistic basis;</p> <p>(b) In regard to the secured portion, provision is to be made on the following basis to the extent of 20% to 100% of the secured portion depending upon the period for which the asset has remained doubtful:</p> <p><b>Period for which the asset has <u>remained in doubtful category</u></b> <b><u>% of provision</u></b></p> <p>Up to one year 20</p> <p>One to three years 30</p> <p>More than three years 100</p>
(iii) Sub-standard assets	A general provision of 10% of total outstanding shall be made.
<b>For Standard Assets</b>	
Standard asset	<p>Mortgage guarantee companies should make general provisions for standard asset on the following basis;</p> <p>(a) Guarantee cover for residential housing loans beyond Rs. 20 lakhs at 1%;</p> <p>(b) All other guarantee cover at 0.40%</p>

Notes:

- (1) The provisions on standard asset should not be reckoned for arriving at net NPAs.
- (2) The provisions towards standard assets need not be netted from gross advances but shown separately as 'Contingent Provisions against Standard Assets' under 'Other Liabilities and Provisions Others' in the balance sheet.
- (3) It is clarified that income recognition on and provisioning against NPAs are two different aspects of prudential norms and provisions as per the norms are required to be made on NPAs on total outstanding balances. The fact that income on an NPA has not been recognised cannot be taken as reason for not making provision.

### **Other Activities**

7. A mortgage guarantee company can take up any activity up to 10% of its total assets. If a mortgage guarantee company undertakes any other business as specified in 45I(c) of the RBI Act 1934 within the permitted limit, for which Prudential Norms are already prescribed and the same is contained in Notification No. DNBS. 193 DG(VL)-2007 dated February 22, 2007, as amended from time to time, the said norms for valuation of investments, asset classification and provisioning should be followed.

### **Accounting year**

8. Every mortgage guarantee company shall prepare its balance sheet and profit and loss account as on March 31 every year. Whenever a mortgage guarantee company intends to extend the date of its balance sheet as per provisions of the Companies Act, it should take prior approval of the Reserve Bank of India before approaching the Registrar of Companies for this purpose.

Further, even in cases where the Bank and the Registrar of Companies grant extension of time, the mortgage guarantee company shall furnish to the Bank a proforma balance sheet (unaudited) as on March 31 of the year and the statutory returns due on the said date.

### **Disclosure in the balance sheet**

9. (1) Every mortgage guarantee company shall separately disclose in its balance sheet the provisions made as per paragraph 6 above without netting them from the income or against the value of assets.

(2) The provisions shall be distinctly indicated under separate heads of account separately for mortgage guarantee business and others and individually for each type of assets as under :-

(i) provisions for bad and doubtful debts; and

(ii) provisions for depreciation in investments.

(3) Such provisions for each year shall be made from the profit and loss account.

### **Constitution of Audit Committee by mortgage guarantee company**

10. Every mortgage guarantee company shall constitute an Audit Committee, consisting of not less than three non-executive Directors of the Board of its company, at least one of whom will be Chartered Accountant.

Explanation I: The Audit Committee constituted by a mortgage guarantee company as required under Section 292A of the Companies Act, 1956 (1 of 1956) shall be the Audit Committee for the purposes of this paragraph.

Explanation II: The Audit Committee constituted under this paragraph shall have the same powers, functions and duties as laid down in Section 292A of the Companies Act, 1956 (1 of 1956).

### **Transactions in Government securities**

11. Every mortgage guarantee company may undertake transactions in Government securities through its CSDL account or its demat account:

Provided that no mortgage guarantee company shall undertake any transaction in government security in physical form through any broker.

### **Requirement as to capital adequacy**

12. (1) Every mortgage guarantee company subject to the condition that the net owned fund shall be a minimum of 100 crore rupees or such other amount that Reserve Bank of India may specify from time to time, shall maintain, a minimum capital ratio consisting of Tier I and Tier II capital which shall not be less than ten per cent of its aggregate risk weighted assets of its on balance sheet and of risk adjusted value of off-balance sheet items. Of the required capital ratio, it shall maintain at least 6% of its aggregate risk weighted assets as Tier I.

(2) The total of Tier II capital, at any point of time, shall not exceed one hundred per cent of Tier I capital.

### **Explanations:**

#### **On balance sheet assets**

(1) In these Directions, degrees of credit risk expressed as percentage weightages have been assigned to balance sheet assets. Hence, the value of each asset/item requires to be multiplied by the relevant risk weights to arrive at risk adjusted value of assets. The aggregate shall be taken into account for reckoning the minimum capital ratio. The risk weighted asset shall be calculated as the weighted aggregate of funded items as detailed hereunder:

<b><u>Items of assets – On-Balance Sheet items</u></b>	<b><u>Risk weight %age</u></b>
(i) Cash	0
(ii) Bank balances and claims on banks including fixed deposits and certificates of deposits.	20
(iii) <u>Investments</u>	
(a) Central Government and State Government Securities	0
(b) Bonds of banks	20
(c) Fixed deposits/certificates of deposits/ bonds of public financial institutions	100
(d) Shares of all companies *and debentures/bonds/commercial papers of all companies and units of debt oriented/money market mutual funds	100
(*As per paragraph 3(ii) of Mortgage Guarantee Companies Investment (Reserve Bank) Directions, 2008 shares of corporates can be acquired only in satisfaction of debt)	
(iv) <u>Current assets</u>	
(a) Loans and advances	100
(b) Loans to staff, if fully covered by superannuities, benefits & mortgage of flats/houses	20
(c) Other loans to staff	100
(d) Other secured loans and advances	100
(e) Others ( including net stock on hire, bills purchased and discounted, etc.)	100
(v) <u>Fixed Assets (net of depreciation)</u>	
(a) Assets leased out (net book value)	100
(b) Premises	100
(c) Furniture & Fixtures	100
(d) Other fixed assets	100
(vi) <u>Other assets</u>	



(a) Income tax deducted at source (net of provision)	0
(b) Advance tax paid (net of provision)	0
(c) Interest due on Government securities	0
(d) Others	100

**Notes:**

- (1) Netting may be done only in respect of assets where provisions for depreciation or for bad and doubtful debts have been made.
- (2) Assets which have been deducted from owned fund to arrive at net owned fund shall have a weightage of 'zero'.
- (3) While calculating the aggregate of funded exposure of a borrower for the purpose of assignment of risk weight, mortgage guarantee companies may net off the amount of cash margin/caution money/security deposits (against which right to set-off is available) held as collateral against the advances out of the total outstanding exposure of the borrower.

**Off-balance sheet items**

(2) In these Directions, degrees of credit risk exposure attached to off-balance sheet items have been expressed as percentage of credit conversion factor. Hence, the face value of each item requires to be first multiplied by the relevant conversion factor to arrive at credit equivalent value of off-balance sheet item. The credit equivalent value of each item shall have to be again multiplied by the risk weight as applicable to the respective counterparties. The aggregate risk weighted value shall be taken into account for reckoning the minimum capital ratio. The credit equivalent value of the off-balance sheet items shall be calculated as per the credit conversion factors for non-funded items as detailed hereunder :

Nature of item -----	Credit conversion factor – Percentage -----
i) Financial & other guarantees	100
ii) Underwriting obligations in r/o capital investment such as shares/ debentures, etc	50
iii) Partly-paid shares/debentures	100
iv) Lease contracts entered into but yet to be executed	100
v) Other contingent liabilities	50

**Note:** Cash margins/deposits shall be deducted before applying the conversion factor.

**Loans against Mortgage Guarantee Company's own shares prohibited**

13. (1) No mortgage guarantee company shall lend against its own shares.

(2) Any outstanding loan against its own shares shall be recovered by the mortgage guarantee company as per the repayment schedule before grant of Certificate of Registration to it.

**Concentration of credit/investment**

14. (1) No mortgage guarantee company shall lend to

(a) any single borrower exceeding fifteen per cent of its owned fund; and

(b) any single group of borrowers exceeding twenty five per cent of its owned fund.

(2) Every mortgage guarantee company shall formulate a policy in respect of exposures to a single party / a single group of parties.

**Notes :**

(1) For determining the limits, off-balance sheet exposures shall be converted into credit risk by applying the conversion factors as explained above.

(2) The investments in debentures for the purposes specified in this paragraph shall be treated as credit and not investment.

(3) These ceilings shall be applicable to credit exposure by such a mortgage guarantee company to companies/firms in its own group as well as to the borrower company's group.

**Information in regard to change of address, directors, auditors, etc. to be submitted**

15. Every mortgage guarantee company shall communicate to Reserve Bank of India, not later than one month from the occurrence of any change in:

- (a) the complete postal address, telephone number/s and fax number/s of the registered/corporate office;
- (b) the names and residential addresses of the directors of the company;
- (c) the names and the official designations of its principal officers;
- (d) the names and office address of the auditors of the company; and
- (e) the specimen signatures of the officers authorised to sign on behalf of the company.

**Exemptions**

16. The Reserve Bank of India may, if it considers it necessary for avoiding any hardship or for any other just and sufficient reason, grant extension of time to comply with or exempt any mortgage guarantee company or class of mortgage guarantee companies, from all or any of the provisions of these instructions either generally or for any specified period, subject to such conditions as the Reserve Bank of India may impose.

**Interpretations**

17. For the purpose of giving effect to the provisions of these directions, the Reserve Bank of India may, if it considers necessary, issue necessary clarifications in respect of any matter covered herein and the interpretation of any provision of these directions given by the Reserve Bank of India shall be final and binding on all the parties concerned.

(P. Krishnamurthy)  
Chief General Manager-in-Charge

**RESERVE BANK OF INDIA  
DEPARTMENT OF NON-BANKING SUPERVISION  
CENTRAL OFFICE  
CENTRE I, WORLD TRADE CENTRE  
CUFFE PARADE, COLABA  
MUMBAI 400 005**

**Notification DNBS(PD)MGC No.5 /CGM (PK) - 2008 dated February 15, 2008**

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, it is necessary to issue the directions relating to the prudential norms as set out below, in exercise of the powers conferred by Section 45JA of the Reserve Bank of India Act, 1934 (2 of 1934) and of all the powers enabling it in this behalf, gives to every Mortgage Guarantee Company the directions hereinafter specified.

**Short title, commencement and applicability of the directions:**

1. (i) These directions shall be known as the "Mortgage Guarantee Companies Investment (Reserve Bank) Directions, 2008".  
  
(ii) These directions shall come into force with immediate effect.  
  
(iii) The provisions of these directions shall apply to every Mortgage Guarantee Company which has been granted Certificate of Registration by the Reserve Bank of India.

**Definitions**

2. (1) For the purpose of these directions, unless the context otherwise requires:
  - (i) "break up value" means the equity capital and reserves as reduced by intangible assets and revaluation reserves, divided by the number of equity shares of the investee company;
  - (ii) "carrying cost" means book value of the assets and interest accrued thereon but not received;
  - (iii) "earning value" means the value of an equity share computed by taking the average of profits after tax as reduced by the preference dividend and adjusted for extra-ordinary and non-recurring items, for the immediately preceding three years and further divided by the number of equity shares of the investee company and capitalised at the following rate:
    - (a) in case of predominantly manufacturing company, eight per cent;
    - (b) in case of predominantly trading company, ten per cent; and
    - (c) in case of any other company, including a non-banking financial company, twelve per cent;

**NOTE** : If, an investee company is a loss making company, the earning value will be taken at zero;

- (iv) “fair value” means the mean of the earning value and the break up value;
- (v) “Mortgage Guarantee Company” means a company registered with the Bank as mortgage guarantee company as defined in “Mortgage Guarantee Companies Prudential Norms (Reserve Bank) Directions, 2008;
- (vi) “net asset value” means the latest declared net asset value by the mutual fund concerned in respect of that particular scheme;
- (vii) ‘non-performing asset’ (NPA) for the purpose of income recognition on investments by mortgage guarantee companies means an asset, in respect of which, interest or principal or amortization obligations have remained overdue for a period of **90 days** or more.

(2) Other words or expressions used but not defined herein and defined in the Reserve Bank of India Act, 1934 (2 of 1934) or Mortgage Guarantee Company Prudential Norms (Reserve Bank) Guidelines, 2008 contained in Prudential Norms (MGC) No. DNBS.(PD) MGC 4 /CGM (PK) - 2008 dated February 15, 2008, shall have the same meaning as assigned to them under that Act or that Directions. Any other words or expressions not defined in that Act or that Directions, shall have the same meaning assigned to them in the Companies Act, 1956 (1 of 1956).

### **Investment Policy for Mortgage Guarantee Companies**

3. (i) A mortgage guarantee company shall invest only in the following instruments:

- a) Government Securities;
- b) Securities of corporate bodies / public sector undertakings guaranteed by Government;
- c) Fixed Deposit/Certificate of Deposits/bonds of Scheduled Commercial banks/PFIs;
- d) listed and rated debentures/bonds of corporates;
- e) fully debt oriented Mutual Fund Units;
- f) unquoted Government securities and Government guaranteed bonds.

(ii) No other investment including investment in subsidiaries and joint ventures would be permitted. However, a mortgage guarantee company may hold investments in equity shares of any company which may be quoted or unquoted or other unquoted investments acquired in satisfaction of its debts which shall be disposed of by the mortgage guarantee company

within a period of three years or within such period as extended by the Bank, from the date of such acquisition.

#### **Pattern of Investment**

4. (i) A mortgage guarantee company shall hold not less than 25% of its total investment portfolio in Central and State Government securities.

(ii) The remaining investments may be invested as the Board considers prudent, but with a ceiling of 25% in any one category i.e. listed and rated corporate bonds and debentures or debt oriented mutual fund units, etc.

(iii) The Board may fix an appropriate sub-limit for individual investments within each category of instruments as specified in paragraph 3(i) above of these directions.

(iv) The Minimum Investment Grade Rating (MIGR) assigned by the SEBI registered Rating Agencies would be the requirement for investment by MGC in bonds/debentures and debt oriented Mutual Funds.

#### **Income recognition**

5. (i) Mortgage Guarantee Companies may book income on accrual basis on securities of corporate bodies/public sector undertakings in respect of which the payment of interest and repayment of principal have been guaranteed by the Central Government or a State Government, provided interest is serviced regularly and as such is not in arrears.

(ii) Mortgage Guarantee Companies may book income from dividend on shares of corporate bodies on accrual basis provided dividend on the shares has been declared by the corporate body in its Annual General Meeting and the owner's right to receive payments is established.

(iii) Mortgage Guarantee Companies may book income from Government securities and bonds and debentures of corporate bodies on accrual basis, where interest rates on these instruments are pre-determined and provided interest is serviced regularly and as such is not in arrears.

(iv) Mortgage Guarantee Companies should book income from units of mutual funds on cash basis.

## **Accounting of investments**

6. (1) All investments shall be marked to market;

Quoted investments shall, for the purposes of valuation, be grouped into the following categories, viz.,

- (a) Government securities including treasury bills,
- (b) Government guaranteed bonds/securities;
- (c) bonds of banks/ PFIs;
- (d) debentures/bonds of corporates; and
- (e) Units of mutual fund.

Quoted investments for each category shall be valued at cost or market value whichever is lower. For this purpose, the investments in each category shall be considered scrip-wise and the cost and market value aggregated for all investments in each category. If the aggregate market value for the category is less than the aggregate cost for that category, the net depreciation shall be provided for or charged to the profit and loss account. If the aggregate market value for the category exceeds the aggregate cost for the category, the net appreciation shall be ignored. Depreciation in one category of investments shall not be set off against appreciation in another category.

(2) Investments in unquoted Government securities or Government guaranteed bonds shall be valued at carrying cost.

(3) Unquoted investments acquired in satisfaction of its debts shall be valued as under:

- (a) Unquoted investments in the units of mutual funds shall be valued at the net asset value declared by the mutual fund in respect of each particular scheme;
- (b) Unquoted equity shares shall be valued at cost or break up value, whichever is lower. However, mortgage guarantee companies may substitute fair value for the break up value of the shares, if considered necessary. Where the balance sheet of the investee company is not available for two years, such shares shall be valued at Rupee one per company;
- (c) Unquoted preference shares shall be valued at cost or face value, whichever is lower.

**Note:** Unquoted debentures shall be treated as term loans or other type of credit facilities depending upon the tenure of such debentures for the purpose of income recognition and asset classification.

7. The MGC with the approval of the Board shall frame an investment policy in tune with these directions.

(P. Krishnamurthy)  
Chief General Manager-in-Charge

**FORM OF APPLICATION FOR CERTIFICATE OF REGISTRATION TO COMMENCE THE  
BUSINESS OF A MORTGAGE GUARANTEE COMPANY**

Name and address of Registered Office of the company  
(in block letters)

To  
The Chief General Manager -in-Charge  
Department of Non-Banking Supervision  
Reserve Bank of India  
Central Office  
Centre I, World Trade Centre  
Cuffe Parade  
**Mumbai - 400005**

Dear Sir,

*Application for Certificate of Registration to commence the business of a Mortgage  
Guarantee Company*

The company makes this application in terms of paragraph 4 of the Guidelines on Registration and Operations of Mortgage Guarantee Company contained in Notification DNBS.(PD) MGC No. 3 /CGM(PK)-2008 dated February 15, 2008 for grant of a Certificate of Registration. The documents/ information required to be submitted as per the instructions are furnished.

The company is desirous of commencing the business of a Mortgage Guarantee Company. The company hereby, requests the Bank to issue the necessary Certificate of Registration in terms of paragraph 3 of the Guidelines on Operations of Mortgage Guarantee Companies read with Notification DNBS.(PD) MGC No. 3 /CGM(PK)-2008 dated February 15, 2008 to enable the company to commence the business of a Mortgage Guarantee Company.

The company solemnly declares that to the best of its knowledge and belief, the information furnished in the application and the annex hereto and statements enclosed are correct, complete and true. The company is aware that if any of the information furnished herein is found to be incorrect/incomplete/untrue, the application for grant of Certificate of Registration is liable to be rejected and the Certificate of Registration, if granted, is liable to be cancelled.

Yours faithfully,

	Signature of Authorized Official:
	Name:
Date:	Designation:
Place:	Company Common Seal:

**DOCUMENTS REQUIRED TO BE ENCLOSED TO THE APPLICATION FORM**



1. Identification particulars of the company (**Annex I**).
2. Statement on Net Owned Fund (**Annex II**).
3. Information about the management (**Annex III**).
4. Information about shareholders with substantial interest (**Annex IV**).
5. Information about related parties as defined in the Accounting Standards and Guidance Notes of ICAI (**Annex V**).
6. Certified copies of up-to-date Memorandum and Articles of Association of the company (evidencing therein that the company has been formed for the purpose of undertaking mortgage guarantee business).
7. Certified copies of Certificate of Incorporation and Certificate of Commencement of Business, if available (in case of public limited companies).
8. A certified copy each of the Board of Directors Resolutions (i) specifically approving the submission of the application to the Reserve Bank of India and its contents and names of authorized officials, (ii) stating that the company has not accepted any deposit (as defined in Section 45 I (bb) of the Reserve Bank of India Act, 1934) (iii) stating whether or not the directors of the company have adequate professional experience in relevant areas of mortgage guarantee (iv) stating that none of the directors are disqualified to be appointed as directors as per the provisions of the Companies Act, 1956.
9. A certified copy of Board of Directors Resolution and Auditor's Certificate (in original) to the effect that-
  - (i) any of the shareholders having substantial interest is not a holding company of the mortgage guarantee company or does not otherwise hold any controlling interest in such Mortgage Guarantee Company;
  - (ii) the Board of Directors of the mortgage guarantee company does not consist of more than half of its total member of directors who are either nominees of any shareholder who has substantial interest or associated in any manner with the shareholder who has substantial interest or any of its subsidiaries if the shareholder with substantial interest is a company or any other firm where the shareholder with substantial interest is a partner.
10. A copy of the profit and loss account and audited balance sheet for the last 3 years or for such shorter period as are available.
11. Business plan of the company for the next three years giving details of its (a) identified business opportunities, (b) projection of business volume and income, (c) projected statement of Financial Assets and Liabilities and (d) organizational structure.

## INSTRUCTIONS

*(Application form should be filled up strictly in accordance with these instructions)*

### (A) GENERAL INSTRUCTIONS

- (1) Application should be made in this form only. Wherever space is insufficient, information may be furnished in separate sheet/s.
- (2) Application along with enclosures duly completed should be submitted in duplicate to the Department of Non-Banking Supervision, Reserve Bank of India, Central Office, Centre I, 2<sup>nd</sup> Floor, World Trade Centre, Cuffe Parade, Colaba, Mumbai-400005.
- (3) A photocopy of the application together with enclosures / Annex as submitted may be kept with the company for its record.
- (4) Application should be signed by any of the following officials authorised by the Board of Directors in this behalf viz., Chairman, Managing Director, Director, Chief Executive Officer, Company Secretary, hereinafter known as the Authorised Official.
- (5) Application should bear common seal of the company.
- (6) An acknowledgement for having submitted the application may be obtained from the Reserve Bank of India, Department of Non-Banking Supervision, Central Office, Colaba, Cuffe Parade, Mumbai-400005.
- (7) Application can be submitted through web. The application will be processed only after receipt of signed document.

### (B) SPECIFIC INSTRUCTIONS

#### ANNEX I

- (1) In case the company has changed its name earlier, a list of all the earlier names of the company and date/s of change together with the names of Chief Executive Officer and Chairman at the time of change of name should be furnished.
- (2) The company should submit the address of its website, if any, in case of change in the same the Bank should be kept informed. It should also submit e-mail address at which all official communication from the Bank may be mailed.
- (3) Full name of the directors alongwith e-mail id, if any may be given against item no. 9.
- (4) In case the company/ its group company(ies) / subsidiary/associates or related parties has /have committed default in repayment of loans to banks/ Financial Institutions (FIs), the details of such default may be listed against item No. 14.
- (5) 'Related Party' means related parties as per the Accounting Standards and guidance notes issued by the Institute of Chartered Accountants of India.

(6) In case of a company incorporated with FDI, partly or fully, disciplinary action taken, if any, by any regulatory authority abroad against the foreign investor or its Parent entities/ directors may be given against item no. 19.

#### ANNEX II

(7) 'Substantial interest' means holding of beneficial interest by an individual or his spouse or minor child, whether singly or taken together, in shares of a company, the amount paid-up on which exceeds 10 per cent of the paid-up capital of the company or the capital subscribed by all the partners of a partnership firm.

(8) The particulars/information to be furnished in Annex II of the application should be based on the balance sheet as on a date falling within thirty days preceding the date of application.

(9) The contents of Annex II should be certified by Statutory Auditor, if appointed or Chartered Accountant.

#### ANNEX III

(10) The information about chairman, managing director, director and the chief executive officer of the company must be certified by individual concerned and counter signed by the Authorised Official of the applicant company.

(11) Separate forms should be submitted in this format in respect of each of such functionaries.

#### ANNEX IV

(12) Separate forms should be submitted in respect of each of the shareholder with substantial interest.

#### ANNEX V

(13) Separate forms should be submitted in respect of each of the related party.

(14) The particulars/ information should be based on figures of the balance sheet used for Annex II.

#### ANNEX VI

(15) Separate forms should be submitted in respect of each of the shareholder with substantial interest.

(16) Annex VI (i) and (ii) to be filled up if the shareholder with substantial interest is an individual.

(17) Annex VI (iii) and (iv) to be filled up if the shareholder with the substantial interest is a company.

IDENTIFICATION PARTICULARS OF THE COMPANY

COMPANY CODE

(to be filled by RBI)

.....  
 .....

1.	Name of the company	:	
2.	Whether the company has changed its name after incorporation? If yes, give details.	:	
3.	Date of incorporation	:	
4.	Date of commencement of business, if available	:	
5.	State in which the company is registered	:	
6.	Full address of the company	:	

i. Registered Office

-----  
 - -----  
 -----

PIN No. -----

Phone No. -----  
 -----

Fax No. -----  
 -----

Official e-mail -id  
 (any change in the same in future to be notified to the Bank)

ii Corporate/ Administrative Office -----

-----  
 -----

PIN No. -----

Phone No. -----  
 -----

Fax No. -----  
 -----

email-id -----

7.	Address of the website of the company, if any.	:	
8.	Status of the company (a) Public (b) Private	:	
9.	List containing Names, educational qualifications and postal e-mail address of directors	1. ----- 2. ----- 3. ----- 4. -----	
10.	Whether the company was transacting any business, If yes, since when, give current position	:	
11.	Name/s of statutory auditor/s, if appointed, with address/es  Phone number ----- Fax Number ----- E-Mail address -----	:	----- ----- ----- -----
12.	Name(s) and address(es) of all the bankers  Phone number ----- Fax Number ----- E-Mail address -----		----- ----- ----- -----
13.	Whether the company or its related party(s) has/have committed any default in repayment of any loan, advance or any other credit facility availed of from any bank/any other financial institution including NBFCs? (See Instruction No. 4)	:	
14.	If yes, furnish full details, such as name and branch of the lending institution including NBFCs, type of facility, period and quantum of default etc. (See Instruction No. 4)	:	
15.	Whether the company/its related party(s) has/have committed any default in repayment of redeemable debentures /preference shares/ deposits?	:	
16.	If yes, furnish full details of such defaults.	:	
17.	Whether company / its promoter/ group companies/related party/ directors are	:	

	complying with the prescriptions of other regulatory authorities like SEBI, IRDA, stock exchanges etc. If not details of action taken by the regulatory authorities and present status of enquiry / proceedings etc., if any, in the matter.		
18.	If a foreign entity is intending to set up a mortgage guarantee company in India, is that entity subject to supervisory review in its home country? If so, details thereof, including the name of the regulator abroad with complete address.	:	
19.	Any disciplinary action against the foreign entities its/their parent /directors? If yes, details thereof.	:	
20.	If any group/ associate company of the foreign entity is operating in India, details may be furnished regarding its activities, including information regarding partners, associates, regulators, etc.	:	
21.	Whether any group company of the mortgage guarantee company is NBFC / bank / insurance company / housing finance company / etc.	:	
22.	If yes, whether it has applied for registration to RBI / other regulators for grant of a Certificate of Registration.	:	
23.	If yes, whether registered/rejected.	:	
24.	If registered <ul style="list-style-type: none"> <li>• Registration Number</li> <li>• Date of issue of Certificate of Registration</li> </ul>	: :	
25.	Name and Designation of CEO / Authorised Official	:	

Signature of the Authorized Official

Name of the Authorized Official

Designation

Date:

Place:

Company Common Seal:

## STATEMENT OF NET OWNED FUND AS ON.....

(Rs. in lakhs)

## PART I

<i>Item Name</i>	<i>Item Code</i>	<i>Amount Rs.</i>
(i) Paid-up Equity Capital	111	
Out of which FDI (see Note 2)	111A	
(ii) Free reserves (Please see note below) :		
(a) General Reserves	112	
(b) Share Premium	113	
(c) Capital Reserves (representing surplus on sale of assets held in separate account)	114	
(d) Debentures Redemption Reserve	115	
(e) Capital Redemption Reserve	116	
(f) Credit Balance in P & L Account	117	
(g) Contingency Reserve	118	
(h) Other free reserves (to be specified)	119	
(iii) Total (111 to 119)	110	
(iv) Accumulated balance of loss	121	
(v) Deferred Revenue Expenditure	122	
(vi) Other Intangible Assets	123	
(vii) Total (121 to 123)	120	
(viii) Owned funds (110 - 120)	130	

**Note** : 1. 'Free reserves' shall include balance in share premium account, capital and debenture redemption reserves, contingency reserve (created in terms of paragraph 18 of the Guidelines on Registration and Operations of Mortgage Guarantee Companies) and any other reserves shown in the balance sheet and created through an allocation out of profits but not being (a) a reserve created for repayment of any future liability or for depreciation of assets or for bad debts, or (b) a reserve created by revaluation of the assets of the company.

2. Details of FDI may be separately furnished with the name of the investor entity, percentage of shareholding, amount of investment in foreign currency and information about the regulator of the investor entity, if any (copy of FIPB approval may be enclosed)..

<i>Item Name</i>	<i>Item Code</i>	<i>Amount Rs.</i>
(ix) Investment in shares of: [please see Note (1) below] :		
(a) Subsidiaries	141	
(b) Companies in the same group	142	
(c) all other non-banking financial companies	143	
(x) The book value of debentures, bonds, outstanding loans and advances (including hire-purchase and lease finance) made to and deposits with [please see note (2) below] :		
(a) Subsidiaries	144	
(b) Companies in the same group	145	
(xi) Total (141 to 145)	140	
(xii) Amount of item 140 in excess of 10 per cent of item 130 above	150	
(xiii) Capital: Net Owned Fund (130 - 150)	151	

**Notes :**

- Investments in shares include investment in fully convertible debentures and/or convertible portion of partially convertible debentures. Investments held either in investment account or stock-in-trade should be included under this item.
- Debentures whether held in investment account or by way of stock-in-trade should be included under this item. Non-convertible debentures, non-convertible portion of partially convertible debentures and optionally convertible debentures should also be included under this item.

For and on behalf of

	( Signature of the Authorised Official)
Date :	Name :
	Designation :
Place :	Company Common Seal:

**AUDITOR'S REPORT**

We have examined the books of account and other records maintained by.....Limited in respect of its Net Owned Fund as on.....and report that to the best of our knowledge and according to the information and explanations given to us and as shown by the records examined by us, the figures shown in the statement of Net Owned Fund are correct.

Place:

Date :

*Statutory Auditors\*/ Chartered Accountants*

\* Certificate to be signed by statutory auditors, if appointed.





7.	Permanent Account Number as given by Income Tax Authorities or equivalent of PAN in case of foreigner Directors	:	
8.	Director Identification Number (DIN) as given by the Ministry of Company Affairs	:	
9.	Telephone/ fax no. Telephone no. ----- Fax No. ----- Mobile No. -----		
10.	E-mail address of the Director	:	-----
11.	Educational/ Professional qualifications	:	-----
12.	Present line of business or vocation	:	-----
13.	Name(s) of other companies in which the person has held/holds the post of Chairman/ Managing Director/Director /Chief Executive Officer.	:	
14.	Whether associated as promoter, managing director, chairman or director with any NBFC including a Residuary Non-Banking Company. If yes, name(s) of the company (ies) (separate sheet may be attached, if necessary).	:	
15.	(i) Whether prosecuted/convicted for an offence involving moral turpitude or for any economic offence either in the individual capacity or as a partner/director of any firm /company	:	Yes/No
	(ii) If yes, particulars thereof		
16.	(i) Whether barred by SEBI in the past from becoming Director in any company	:	Yes/No
	(ii) If yes, particulars thereof		
17.	(i) Whether disqualified in the past to be director of a company under the Companies Act, 1956		Yes/No
	(ii) If yes, particulars thereof		

18.	Whether prosecuted/convicted for an offence under Section 138 of the Negotiable Instruments Act either in individual capacity or as a partner of any firm/director of any company. If yes, details thereof with present status of such proceedings.	:	
19.	Experience in the field of finance and mortgage guarantee (details) (a separate sheet may be attached, if necessary)	:	
20.	Equity shareholding in the applicant company (i) No. of shares (ii) Face Value (iii) Percentage of total paid-up equity share capital of the company	: : :	
21.	Whether nominee of or associated with any of the shareholder with substantial interest in the company	:	
22.	All Bank details : A/c Nos., all Bankers' names & addresses	:	
23.	Whether committed any default in repayment of any loan, advance or any other credit facility availed from any bank/any other financial institution including NBFCs	:	Yes / No
24.	If yes, furnish full details, such as name and branch of lending institution, type of facility, period and quantum of default, etc.	:	
25.	Names of companies/ firms in which the person holds substantial interest.	:	

I solemnly declare that to the best of my knowledge and belief, the information furnished in the statement above is correct, complete and truly stated.

Signature of the person furnishing information

Name

Designation

Date:

Place:

I solemnly declare that to the best of my knowledge and belief, the information furnished in the statement above is correct, complete and truly stated.

Signature of the Authorised Official of the  
Company

Name

Designation

Company Common Seal

Date:

Place:

**INFORMATION ABOUT THE SHAREHOLDER WITH SUBSTANTIAL INTEREST IN THE COMPANY**

1.	Name	:	
2.	Business Address	:	
3.	Residential Address	:	
4.	Income Tax PAN No. or equivalent of PAN in case of foreign individual/entity	:	
5.	Line of business or vocation	:	
6.	Names of the companies in which the person holds post of Chairman/ Managing Director/ Director/Chief Executive Officer	:	
7.	Names of the companies/firms in which the person holds substantial interest	:	
8.	Bank A/c No.(s), Banker(s)' name & address	:	
9.	Whether related to any promoter / director/ other shareholder of the proposed mortgage guarantee company either in individual capacity or as director / partner / employee of such shareholder's company or its group company / subsidiary / firm, give details.	:	
10.	Whether committed any default in repayment of any loan, advance or any other credit facility availed from any bank / any other financial institution including NBFCs.	:	Yes/No
11.	If yes, furnish full details, such as name and branch of lending institution, type of facility, period and quantum of default, etc.	:	
12.	If the shareholder with substantial interest is a company whether the company / subsidiary / other companies in the same group has/have committed any default in repayment of redeemable debentures / preference shares / deposits.	:	Yes/No
13.	If the shareholder with substantial interest is a company, whether object clause in its Memorandum and Articles of Association permits investment in proposed mortgage guarantee company	:	Yes/No

14.	Extent of investment in mortgage guarantee company (i) No. of shares (ii) Face Value (iii) Percentage of total paid-up equity share capital of the company	:	
15.	If the shareholder with substantial interest is a company, whether it is a holding company of the proposed mortgage guarantee company	:	Yes/No
16.	Whether the shareholder with substantial interest, is holding controlling interest in the proposed mortgage guarantee company	:	Yes/No

I solemnly declare that to the best of my knowledge and belief the information furnished in the statement above is correct, complete and truly stated.

	Signature of the shareholder with substantial interest furnishing information	:	
	Name	:	
	Designation (in case such shareholder is a company)	:	
Date :			
Place :			

I solemnly declare that to the best of my knowledge and belief the information furnished in the statement above is correct, complete and truly stated.

	Signature of Authorised Official of the applicant company	:	
	Name	:	
Date :		Designation	:
Place :		Company Common Seal	:

**INFORMATION ABOUT RELATED PARTIES**

1.	Name of related party	:
2.	Full Address	
3.	Line of business	:
4.	Status: (a) Individual (b) Firm (c) Public Limited company (d) Private Limited Company	:
5.	Relationship with applicant company	:
6.	<b>DETAILS OF EXPOSURE</b>	
	<b>ITEM</b>	<b>Amount (Rs. in lakh)</b>
	_____	
	Investment in capital shares, bonds / debentures	
	Outstanding loans and advances	
	Deposits	
	<b>Total</b>	

I solemnly declare that to the best of my knowledge and belief the information furnished in the statement above is correct, complete and truly stated.

		Signature of Authorised Official of the applicant company	:	
		Name	:	
Date	:	Designation	:	
Place	:	Company Common Seal	:	

[ This format is applicable where shareholder with substantial interest is an individual ]

[To be submitted by each individual who is a shareholder with substantial interest of the Applicant Company (AC)]

Name of the Applicant Company (AC):

Name of the shareholder with substantial interest

furnishing the confirmation:

I confirm that none of the individuals named below who are directors in the AC is my nominee director in the AC or associated in any manner with me, including as my relative, my employee or my partner in any firm.

['Relative' as defined in Section 45S of the RBI Act, 1934; 'employee' includes any one in employment in a firm or company which is within the shareholder with substantial interest control]

- 1
- 2
- 3
- 4

Signature :

Name :  
Countersigned by the Applicant Company  
.....Ltd

Authorised Signatory

Place :  
Date :



[This format is applicable where shareholder with substantial interest is an individual ]

[Information to be furnished by each individual, who is a shareholder with substantial interest of the Applicant Company (AC)]

Name of the Applicant Company [AC] :  
Name of the shareholder with substantial interest  
furnishing the information :  
Percentage of shareholding of the shareholder  
with substantial interest in the AC :

1. Name of any shareholder of the AC, whose voting rights on the shareholding are vested with the shareholder with substantial interest.
2. Name of any company, which is a shareholder of the AC and in which the shareholder with substantial interest holds a majority shareholding or otherwise has control over the company.
3. Name of any shareholder of the AC, who is an employee of the shareholder with substantial interest or is in the employment of any firm or company, which is within the shareholder with substantial interest control.
4. Name of any shareholder of the AC who is a relative of the shareholder with substantial interest ['Relative' as defined in Section 45S of the RBI Act, 1934]
5. Name of any shareholder of the AC who is under a financial obligation to the shareholder with substantial interest and the extent of such obligation, if any.
6. Name of any shareholder of the AC who, along with the shareholder with substantial interest, is a partner in any firm.

Signature:

Name :

Countersignature by Applicant Company  
..... Ltd

Authorised Signatory

Place:

Date:

[This format is applicable where shareholder with substantial interest is a company]

[To be submitted by each company which is a shareholder with substantial interest of the Applicant Company (AC)]

Name of the Applicant Company (AC):

Name of the shareholder with substantial interest  
furnishing the confirmation:

We confirm that none of the individuals named below who are directors in the AC is our nominee director in the AC or associated in any manner with our company, including as a director or employee.

2. We also confirm that none of the individuals is associated in any manner including as a director or employee with any of our subsidiary companies.

(or)

We confirm that our company has no subsidiary.

['Employee' includes any one in employment in a firm or company, which is within the shareholder with substantial interest control]

- 1
- 2
- 3
- 4

Signature :

Name :

Countersigned by the Applicant Company  
.....Ltd

Authorised Signatory

Place :

Date :

[This format is applicable where shareholder with substantial interest is a company]

[Information to be furnished by each company which is a shareholder with substantial interest of the Applicant Company (AC)]

Name of the Applicant Company [AC]:

Name of the shareholder with substantial interest

furnishing the information:

Percentage of shareholding of the shareholder

with substantial interest in the AC:

1. Name of any shareholder of the AC, whose voting rights on the shareholding are vested with the shareholder with substantial interest.
2. Name of any company which is a shareholder of the AC and in which the shareholder with substantial interest holds a majority shareholding or otherwise has control over the company.
3. Name of any shareholder of the AC, who is an employee of the shareholder with substantial interest or any subsidiaries of the shareholder with substantial interest or is in the employment of any firm or company, which is within the shareholder with substantial interest control.
4. Name of any shareholder of the AC who is a director of the shareholder with substantial interest or any subsidiary of the shareholder with substantial interest
5. Name of any shareholder of the AC who is under a financial obligation to the shareholder with substantial interest and the extent of such obligation.

Signature:

Name:

Countersignature by Applicant Company

.....Ltd

Authorised Signatory

Place:

Date: