

RBI rationalises NBFC Regulations

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Considering the request from the industry, the Reserve Bank of India has decided to include loans against hypothecation of automobiles, aircrafts and ships registered with the concerned authority for the purpose of classification of a non-banking financial company into equipment leasing and hire purchase finance company. The Reserve Bank of India has also underlined a greater role for statutory auditors by reiterating its directions to report directly to the Reserve Bank the violations or irregularities, if any, noticed by them in the course of their audit of NBFCs. It has, for this purpose, reminded NBFCs to include, in their letter of appointment to the auditors, a clause regarding their responsibility to the Reserve Bank.

These amendments are a part of the overall rationalisation announced by the Reserve Bank of India today of its regulations for non-banking financial companies (NBFCs) and residuary non-banking companies (RNBCs).

The Reserve Bank of India has also asked companies whose applications for certificate of registration have been rejected or companies whose certificate of registration has been cancelled, to continue to repay their deposits, if any, on due dates and dispose of their financial assets or convert into non-banking non-financial companies within three years from the date of rejection/ cancellation.

Giving flexibility to the NBFCs and RNBCs, the Reserve Bank of India has also now permitted them to keep their mandated securities under the RBI directions with a depository participant registered with Securities Exchange Board of India, Stock Holding Corporation of India Ltd. or in constituent's SGL account in addition to the designated banker. For this purpose, however, NBFCs or RNBCs will have to take prior written approval of the Reserve Bank.

While rationalising its regulations for NBFCs and RNBCs, the Reserve Bank has also brought about some changes to align these regulations with those provided in the Companies Act as amended by the Companies Amendment Act, 2000. These changes include reporting to the Company Law Board in case of default in repayment of matured deposits or interest of small depositors and the requirement of constituting an audit committee for companies with paid up capital of not less than Rs. 5 crore or asset size of Rs. 50 crore and above. Further, NBFCs, which were so far a private limited company but have now become public limited company under the Companies Act because of their holding public deposits, have been advised to approach the Reserve Bank of India for change in the certificate of registration to reflect their new name as a public limited company.

The details of rationalisation announced in regulations are :

(i) The Reserve Bank of India has directed companies, whose application for certificate of registration have been rejected or companies whose certificate of registration have been cancelled, to continue to repay their deposits, if any, on due dates and dispose of their financial assets or convert into non-banking non-financial companies within three years from date of rejection / cancellation.

(iv) NBFCs, which were so far private limited companies but have become public limited companies under the Companies Act because of their holding public deposits, have been advised to approach the Reserve Bank of India for change in the certificate of registration to reflect the new name as public limited company.

(v) The safe custody of securities mandated under Reserve Bank of India directions are required to be entrusted by NBFCs and RNBCs to a scheduled commercial bank. They may also be kept with a Depository Participant registered with the Securities and Exchange Board of India, Stock Holding Corporation of India Ltd. or in constituent's SGL account, with the prior written approval of the Reserve Bank of India.

(vi) Considering the requests from the industry, the Reserve Bank of India has decided to include loans against hypothecation of all types of automobiles registered with the Road Transport Authority and charge is recognised under Motor Vehicles Act, aircrafts registered with Director general of Civil Aviation and ships registered with Director General of Shipping along with other equipment leasing and hire purchase assets for the purpose of classification of an NBFC as equipment leasing or hire purchase finance company.

(vii) Reexamining the issue of valuation of investments in the light of AS-13 of the Institute of Chartered Accountants of India, companies have been directed to frame investment policy, classify each investment into current and long term at the time of making the investment, make inter-class transfer at the lower of book value or market value without taking advantage of block valuation. Further, such transfer would be permissible only at the beginning of half-year and not on an ad-hoc basis.

(viii) The Reserve Bank of India has once again advised NBFCs to include in the letter of appointment to Statutory Auditors about their responsibility to report directly to the Reserve Bank the violations or irregularities, if any, noticed by them in the course of their audit of the NBFC.

(ix) The Reserve Bank has reiterated that every NBFC which is required to maintain the prescribed minimum capital ratio should maintain such ratio not only as on reporting dates but on an on-going basis.

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