

**RESERVE BANK OF INDIA
DEPARTMENT OF FINANCIAL COMPANIES
CENTRAL OFFICE
15, NETAJI SUBHAS ROAD,
POST BOX NO.571
CALCUTTA-700 001.**

Notification No.DFC.118/DG(SPT)-98 dated January 31, 1998

(AS AMENDED UPTO October 1, 2002)

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 give the directions set out below, hereby, in exercise of the powers conferred by sections 45J, 45K, 45L and 45MA of the Reserve Bank of India Act, 1934 (2 of 1934) and of all the powers enabling it in this behalf, and in supersession of the earlier directions contained in Notification No.DFC.114/DG(SPT)-98 dated the January 2, 1998 gives to every non-banking financial company the directions hereinafter specified.

PART I - PRELIMINARY

Short title and commencement of the directions:

1. These directions shall be known as the "Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998". They shall come into force with effect from January 31, 1998 and any reference in these directions to the date of commencement thereof shall be deemed to be a reference to that date.

Definitions :

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

- (i) "depositor" means any person who has made a deposit with a company; or a heir, legal representative, administrator or assignee of the depositor;
- (ii) "equipment leasing company" means any company which is a financial institution carrying on as its principal business, the activity of leasing of equipment;
- (iii) "free reserves" means the aggregate of the balance in the share premium account, capital and debenture redemption reserves and any other reserve shown or published in the balance sheet of a company and created through an allocation of profits not being a reserve created for repayment of any future liability or for depreciation in assets or for bad debts or a reserve created by revaluation of the assets of the company;
- (iv) "hire-purchase finance company" means any company which is a financial institution carrying on as its principal business the activity of hire purchase transactions;
- (v) "insurance company" means any company registered under section 3 of the Insurance Act, 1938 (4 of 1938);

- (vi) "investment company" means any company which is a financial institution carrying on as its principal business the acquisition of securities;
- (vii) "lending public financial institution" means -
- (a) a public financial institution specified in or under section 4A of the Companies Act, 1956; (1 of 1956)
 - (b) a State Financial, Industrial or Investment Corporation; or
 - (c) a scheduled commercial bank ; or
 - (d) the General Insurance Corporation of India established in pursuance of the provisions of section 9 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972); or
 - (e) any other Institution which the Reserve Bank of India may, by notification, specify in this behalf;
- (viii) "loan company" means any company which is a financial institution carrying on as its principal business the providing of finance whether by making loans or advances or otherwise for any activity other than its own but does not include an equipment leasing company or a hire-purchase finance company;
- (ix) "mutual benefit financial company" means any company which is a financial institution notified by the Central Government under section 620A of the Companies Act, 1956 (1 of 1956);
- [(ixa) "mutual benefit company" means a company not notified under section 620A of the Companies Act, 1956 (1 of 1956) and carrying on the business of a non-banking financial institution, -*
- (a) on 9th January 1997; and*
 - (b) having the aggregate of net owned funds and preferential share capital of not less than ten lakhs of rupees; and*
 - (c) has applied for issue of certificate of registration to the Bank on or before 9th July 1997; and*
 - (d) is complying with the requirements contained in the relevant provisions of the Directions issued under Section 637A of the Companies Act, 1956 to Nidhi Companies by the Central Government ¹*
- (x) **'net owned fund' means net owned fund as defined under section 45 IA of the Reserve Bank of India Act, 1934 (2 of 1934) including the paid up preference shares which are compulsorily convertible into equity ;**

¹ Inserted vide notification No. 134 dated January 13, 2000

- (xi) "non-banking financial company" means only the non-banking institution which is a loan company or an investment company or a hire purchase finance company or an equipment leasing company or a mutual benefit financial company;
- (xii) 'public deposit', means a deposit as defined under section 45 I(bb) of the Reserve Bank of India Act, 1934 excluding the following :
- (a) any amount received from the Central Government or a State Government or any amount received from any other source and whose repayment is guaranteed by the Central Government or a State Government or any amount received from a local authority or a foreign Government or any other foreign citizen, authority or person;
 - (b) any amount received from the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964) or the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956) or the General Insurance Corporation of India and its subsidiaries established in pursuance of the provisions of section 9 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), or the Small Industries Development Bank of India established under the Small Industries Development Bank of India Act, 1989 (39 of 1989) or the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963) or National Bank for Agriculture and Rural Development established under the National Bank for Agriculture and Rural Development Act, 1982 or an Electricity Board constituted under the Electricity (Supply) Act, 1948 or the Tamil Nadu Industrial Investment Corporation Ltd., or the National Industrial Development Corporation of India Ltd., or the Rehabilitation Industries Corporation of India Ltd., or the Industrial Credit & Investment Corporation of India Ltd., or the Industrial Finance Corporation of India Ltd., or the Industrial Investment Bank of India Ltd. or the State Trading Corporation of India Ltd., or the Rural Electrification Corporation Ltd., or the Minerals and Metals Trading Corporation of India Ltd., or the Agricultural Finance Corporation Ltd., or the State Industrial and Investment Corporation of Maharashtra Ltd., or the Gujarat Industrial Investment Corporation Ltd., or Asian Development Bank or International Finance Corporation or any other institution that may be specified by the Reserve Bank of India in this behalf ;
 - (c) any amount received by a company from any other company;
 - (d) any amount received by way of subscriptions to any shares, stock, bonds or debentures pending the allotment of the said shares, stock, bonds or debentures and any amount received by way of calls in advance on shares, in accordance with the Articles of Association of the Company so long as such amount is not repayable to the members under the Articles of Association of the Company;
 - (e) any amount received from a person who at the time of receipt of the amount was a Director of the company or any amount received from its shareholders by a private company or by a private company which has become a public company under section 43A of the Companies Act, 1956 and continues to include in its Articles of Association provisions relating to

the matters specified in clause (iii) of sub-section (1) of section 3 of the Companies Act, 1956 (1 of 1956):

Provided that the Director or shareholder, as the case may be, from whom the money is received furnishes to the company at the time of giving the money, a declaration in writing to the effect that the amount is not being given out of funds acquired by him by borrowing or accepting from others;

[provided further, that in the case of joint shareholders of a private company, monies received from or in the name of the joint shareholders except the first named shareholder shall not be eligible to be treated as the receipt of money from the shareholder of the company]².

- (f) any amount raised by the issue of bonds or debentures secured by the mortgage of any immovable property of the company; or by any other asset or with an option to convert them into shares in the company provided that in the case of such bonds or debentures secured by the mortgage of any immovable property or secured by other assets, the amount of such bonds or debentures shall not exceed the market value of such immovable property/other assets;
- (g) any amount brought in by the promoters by way of unsecured loan in pursuance of stipulations of lending institutions subject to the fulfilment of the following conditions, namely:-
 - (i) the loan is brought in pursuance of the stipulation imposed by the lending public financial institution in fulfilment of the obligation of the promoters to contribute such finance,
 - (ii) the loan is provided by the promoters themselves and/or by their relatives, and not from their friends and business associates, and
 - (iii) the exemption under this sub-clause shall be available only till the loan of financial institution is repaid and not thereafter,
- [(h) any amount received from a Mutual Fund which is governed by the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996;*
- (i) any amount received as hybrid debt or subordinated debt the minimum maturity period of which is not less than sixty months;*
- (j) any amount received from a relative of a director of an NBFC*

Note : The deposit shall be accepted only on an application made by the depositor containing therein that as on the date of deposit, he is

² Inserted vide Notification No.134 dated January 13, 2000

related to the specific director in the capacity of a relative as defined under Companies Act, 1956 (1 of 1956).³

(k) *[any amount received by issuance of commercial paper, in accordance with the guidelines issued by the Bank vide Circular No. IECD.3/08.15.01/2000-20001 dated October 10, 2000.⁴]*

(xiii) "securities" means securities as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(xiv) "stock broking company" means a company doing the business of a stock-broker or sub-broker holding a valid certificate of registration obtained under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992); and

(xv) "stock exchange" means a company recognised as a stock exchange under section 4 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).

(2) Words or expressions used but not defined herein and defined in the Reserve Bank of India Act, 1934 (2 of 1934) or in the Companies Act, 1956 (Act No.1 of 1956) or Non-Banking Financial Companies Prudential Norms (Reserve Bank) Directions, 1998 or the Residuary Non-Banking Companies (Reserve Bank) Directions, 1987 shall have the same meaning as assigned to them in those Acts.

(3) (i) If any question arises as to whether a company is a financial institution or not, such question shall be decided by the Reserve Bank of India in consultation with the Central Government and such decision shall be final and be binding on all the parties concerned.

(ii) If any question arises as to whether a company which is a financial institution is a loan company or an investment company or a hire purchase finance company or an equipment leasing company, such question shall be decided by the Reserve Bank of India, having regard to the principal business of the company and other relevant factors and such decision shall be final and be binding on all the parties concerned.

NOTE :

The principal business of a financial company, engaged in both hire purchase financing as well as equipment leasing, will be decided by the Reserve Bank of India after taking together the volume of both these types of business and other related factors.

PART II - ACCEPTANCE OF PUBLIC DEPOSITS

**Restrictions on acceptance of public deposits
by mutual benefit financial companies:**

³ Inserted vide Notification No. 141 dated June 30, 2000

⁴ Inserted vide notification No. 148 dated June 27, 2001.

3. (1) On and from January 31, 1998, no mutual benefit financial company [*or mutual benefit company shall*]⁵,

- (i) accept or renew any public deposit except from its shareholders and such deposit shall not be in the nature of current account ;
- (ii) pay any brokerage, commission, incentive or any other benefit by whatever name called to any person for public deposits collected by it;
- iii) issue advertisement in any form and in any media like billboards, hoardings, newspapers, magazines, television, etc. for inviting or causing to invite deposits from its shareholders.

(2) The provisions contained in paragraphs 4 to 6 except sub-paragraphs (7), (15) and (16) of paragraph 4 of these directions shall not apply to a mutual benefit financial company [*and a mutual benefit company*]⁶.

Restrictions on acceptance of public deposits by non-banking financial companies

4. Minimum Credit Rating

(1) On and from January 31, 1998,

- (i) no non-banking financial company having Net Owned Fund (hereinafter referred to as `NOF') of twenty five lakh of rupees and above shall accept public deposit unless it has obtained minimum investment grade or other specified credit rating for fixed deposits from any one of the approved credit rating agencies at least once a year and a copy of the rating is sent to the Reserve Bank of India along with return on prudential norms;

*[Provided that this clause shall not apply to an Equipment Leasing or Hire Purchase Finance Company referred to in clause (a) of sub-paragraph (4) hereunder]*⁷.

- (ii) in the event of upgrading or downgrading of credit rating of any non-banking financial company to any level from the level previously held by the non-banking financial company, it shall within fifteen working days of its being so rated inform, in writing, of such upgrading/downgrading to the Reserve Bank of India.

Approved Credit Rating Agencies and Minimum Investment Grade Credit Rating

The names of approved credit rating agencies and the minimum credit rating shall be as follows:-

⁵ Inserted vide Notification No.134 dated January 13, 2000

⁶ Inserted vide Notification No.134 dated January 13, 2000

⁷ Inserted vide Notification No.134 dated January 13, 2000

<u>Name of the agency</u>	<u>Minimum investment Grade Rating</u>
(a) The Credit Rating Information Services of India Ltd. (CRISIL)	FA- (FA Minus)
(b) ICRA Ltd.	MA- (MA Minus)
(c) Credit Analysis & Research Ltd. (CARE)	CARE BBB(FD)
(d) [<i>Fitch Ratings India Private Ltd.</i> ⁹]	<i>tA-(ind)(FD)</i> ⁸

Prohibition from accepting demand deposit :

(2) On and from January 31, 1998, no non-banking financial company shall accept or renew any public deposit whether accepted before or after January 31, 1998, which is repayable on demand.

Period of Public Deposit

(3) On and from January 31, 1998, no non-banking financial company shall accept or renew any public deposit whether accepted before or after January 31, 1998 unless such deposit is repayable after a period of twelve months but not later than sixty months from the date of acceptance or renewal thereof.

CEILING ON QUANTUM OF DEPOSITS

**Equipment Leasing Company (ELC) and
Hire Purchase Finance Company (HPFC)/
Loan companies (LCs)/Investment companies (ICs)**

(4) **Ceiling on quantum of deposit**

**Equipment Leasing Company (ELC)
Hire Purchase Finance Company (HPFC)
Loan Company (LC) and Investment Company –
Acceptance of public deposit**

No equipment leasing company or hire purchase finance company or loan company or investment company shall, accept or renew public deposit except as provided hereunder -

EL/HPFC

- (a) An equipment leasing company or a hire purchase finance company -
- (i) having NOF of twenty five lakh of rupees or more; and

⁸ Substituted vide notification No. 159 dated October 1, 2002

⁹ Amended vide notification No. 148 dated June 27, 2001

- (ii) Complying with all the prudential norms with capital adequacy ratio of not less than fifteen percent as per last audited balance-sheet,

may, accept or renew public deposit, together with the amounts remaining outstanding in the books of the company as on the date of acceptance or renewal of such deposit, not exceeding one and one half times of its NOF or public deposit upto ten crore of rupees, which ever is lower.

- (b) An equipment leasing company or a hire purchase finance company, -
 - (i) having NOF of twenty five lakh of rupees or more;
 - (ii) complying with all the prudential norms; and
 - (iii) having minimum investment grade credit rating,

may, accept or renew public deposit, together with the amounts remaining outstanding in the books of the company as on the date of acceptance or renewal of such deposit, not exceeding four times of its NOF.

LC/IC

- (c) A loan company or an investment company, –
 - (i) having NOF of twenty five lakh of rupees or more;
 - (ii) having minimum investment grade credit rating; and
 - (iii) complying with all the prudential norms with capital adequacy ratio of not less than fifteen percent as per last audited balance-sheet,

may, accept or renew public deposit, together with the amounts remaining outstanding in the books of the company as on the date of acceptance or renewal of such deposit, not exceeding one and one half times of its NOF:

Provided that a loan company or an investment company which is complying with all the above conditions and having, as on the date of its coming into force of these directions, AAA (triple A) grade credit rating but not having capital adequacy ratio of fifteen percent may, so long it continues to maintain the same position of its credit rating, accept or renew public deposit only upto the extent of not exceeding the amount outstanding as at the close of business on December 18, 1998 or one and one-half time of its NOF, whichever is more, and shall bring down its public deposit to the level as specified in paragraph 4(6) of the directions and also attain the capital adequacy ratio of fifteen percent before March 31, 2000.

- (d) A loan company or an investment company which complies with all the prudential norms and having, as on the date of coming into force of these directions –
 - (i) NOF of twenty five lakh of rupees or more; and

- (ii) AA (double A) grade credit rating; but not having capital adequacy ratio of fifteen percent or above as per last audited balance-sheet

may, so long it continues to maintain the same position of its credit rating, accept or renew the public deposit together with the amounts outstanding in the books of the company on the date of acceptance or renewal of such deposit, not exceeding an amount equivalent to its NOF until it attains the capital adequacy ratio of fifteen percent but not later than March 31, 2000 (as per audited balance-sheet) with other stipulations remaining the same.

- (e) A loan company or an investment company which complies with all the prudential norms and having, as on the date of coming into force of these directions –

- (i) NOF of twenty five lakh of rupees or more; and

- (ii) A (single A) grade credit rating but not having capital adequacy ratio of fifteen percent or above as per last audited balance-sheet

may, so long it continues to maintain the same position of its credit rating, accept or renew the public deposit, together with the amounts outstanding in the books of the company as on the date of acceptance or renewal of such deposit not exceeding an amount equivalent to one-half of its NOF until it attains the capital adequacy ratio of fifteen percent but not later than March 31, 2000 (as per audited balance-sheet) with other stipulations remaining the same.

Downgrading of Credit Rating

- (5) In the event of downgrading of credit rating below the minimum specified investment grade as provided for in paragraph 4(4), a non-banking financial company shall regularise the excess deposit as provided hereunder :

ELC/HPFC

- (i) An equipment leasing company or a hire purchase finance company shall,
 - (a) with immediate effect, stop accepting public deposit, if it is already holding public deposit to the extent permissible under sub-clause (b) of paragraph 4(4) above;
 - (b) report the position within fifteen working days to the Reserve Bank of India; and
 - (c) reduce, within three years from the date of such downgrading of credit rating, the amount of excess public deposit to nil or the appropriate extent permissible under sub-clause (a) of paragraph 4(4) above as the case may be, to which it is entitled to accept, by repayment as and when such deposit falls due or otherwise.

LC/IC

- (ii) A loan company or an investment company shall,

- (a) with immediate effect, stop accepting public deposit;
- (b) report the position within fifteen working days to the Reserve Bank of India; and
- (c) reduce, within three years from the date of such downgrading of credit rating, the amount of excess public deposit to nil by repayment as and when such deposit falls due or otherwise.

Regularisation of the public deposits accepted earlier and held in excess of the permissible extent

- (6) Where an equipment leasing company or a hire purchase finance company or a loan company or an investment company holds, at the close of business on December 18, 1998 public deposit in excess of the appropriate extent to which it is entitled to accept under the above provisions of these directions, it shall,
 - (i) stop accepting public deposit; and
 - (ii) reduce, before December 31, 2001, the amount of excess public deposit to nil or the appropriate extent permissible under sub-clause (d) or (e) of paragraph 4(4) above as the case may be, by repayment as and when such deposit falls due or otherwise.

Note :

In the event of excess public deposits arising out of the regulatory ceiling or downgrading of credit rating, the NBFC may renew the maturing public deposit subject to the compliance of the repayment stipulations contained in sub-paragraph (5) and (6) of paragraph 4 and other provisions of these directions. It is to clarify that no matured public deposit shall be renewed without the express and voluntary consent of the depositor.

Ceiling on the rate of interest :

[(7) On and from April 1, 2001 no non-banking financial company shall invite or accept or renew public deposit at a rate of interest exceeding [twelve and a half]¹⁰ per cent per annum. Interest may be paid or compounded at rests which shall not be shorter than monthly rests.]¹¹

Payment of brokerage

(8) On and from January 31, 1998 no non-banking financial company shall pay to any broker on public deposit collected by or through him,

¹⁰ Amended vide notification No. 151 dated October 31, 2001.

¹¹ Amended vide notification No. 146 dated March 31, 2001

- (i) brokerage, commission, incentive or any other benefit by whatever name called, in excess of two per cent of the deposit so collected;
- (ii) expenses by way of reimbursement on the basis of relative vouchers/bills produced by him, in excess of 0.5 percent of the deposit so collected.

Renewal of public deposit

(9) Where a non-banking financial company permits an existing depositor to renew the deposit before maturity for availing of the benefit of higher rate of interest, such company shall pay the depositor the increase in the rate of interest provided that,

- (i) the deposit is renewed in accordance with the other provisions of these directions and for a period longer than the remaining period of the original contract; and
- (ii) the interest on the expired period of the deposit is reduced by one percentage point from the rate which the company would have ordinarily paid, had the deposit been accepted for the period for which such deposit had run; any interest paid earlier in excess of such reduced rate is recovered/adjusted.

Payment of interest on overdue public deposits

(10) A non-banking financial company may, at its discretion, allow interest on an overdue public deposit or a portion of the said overdue deposit from the date of maturity of the deposit subject to the conditions that:

- (i) the total amount of overdue deposit or the part thereof is renewed in accordance with other relevant provisions of these directions, from the date of its maturity till some future date; and
- (ii) the interest allowed shall be at the appropriate rate operative on the date of maturity of such overdue deposit which shall be payable only on the amount of deposit so renewed :

Provided that where an NBFC fails to repay the deposit along with interest on maturity on the claim made by the depositor, the NBFC shall be liable to pay interest from the date of claim till the date of repayment at the rate as applicable to the deposit.

Joint deposit

(11) Where so desired, deposits may be accepted in joint names with or without any of the clauses, namely, "Either or Survivor", "Number One or Survivor/s", "Anyone or Survivor/s".

Particulars to be specified in application form soliciting public deposits:

(12) (i) On and from January 31, 1998, no non-banking financial company shall accept or renew any public deposit except on a written application from the depositor in the form to be supplied by the company, which form shall contain all the particulars specified in the Non-Banking Financial Companies and Miscellaneous Non-Banking Companies (Advertisement) Rules, 1977, made under section 58A of the Companies Act, 1956 (1 of 1956) and also contain the specific category of the depositor, i.e. whether the depositor is a shareholder or a director or a promoter of the company or a member of public.

(ii) The application form should also contain the following :-

- (a) the credit rating assigned for its fixed deposit and the name of the credit rating agency which rated the company or a statement from the management if it is an equipment leasing or a hire purchase finance company that, the quantum of public deposit held by it is not exceeding one and one-half times of its NOF or not exceeding rupees ten crore whichever is less.”
- (b) in case of non-repayment of the deposit or part thereof as per the terms and conditions of such deposit, the depositor may approach the Eastern/Western/ Northern/Southern (delete which are inapplicable) Bench of Company Law Board whose full address is given hereunder:

Give here the full address of the Bench of the Company Law Board under whose jurisdiction the registered office of the company is located;

- (c) in case of any deficiency of the company in servicing its deposit, the depositor may approach the National Consumers Disputes Redressal Forum, the State Level Consumers Disputes Redressal Forum or the District Level Consumers Disputes Redressal Forum for relief;
- (d) a statement that the financial position of the company as disclosed and the representations made in the application form are true and correct and that the company and its Board of Directors are responsible for the correctness and veracity thereof;
- (e) the financial activities of the company are regulated by the Reserve Bank of India. It must, however, be distinctly understood that Reserve Bank of India does not undertake any responsibility for the financial soundness of the company or for the correctness of any of the statements or the representations made or opinions expressed by the company; and for repayment of deposit/discharge of liabilities by the company;
- (f) at the end of application form but before the signature of the depositor, the following verification clause by the depositor should be appended. “I have gone through the financials and other statements / particulars / representations furnished/made by the company and after careful consideration I am making the deposit with the company at my own risk and volition”.

[(g) the information relating to and the aggregate dues from the facilities, both fund and non-fund based, extended to, and the aggregate dues from companies in the same group or other entities or business ventures in which the directors and / or the non-banking financial company are holding substantial interest and the total amount of exposure to such entities]¹².

[(iii) Every non-banking financial company shall obtain proper introduction of the new depositors before opening their accounts and accepting the deposits and keep on its record the evidence on which it has relied upon for the purpose of such introduction]¹³.

Advertisement and statement in lieu of advertisement:

(13) (i) Every non-banking financial company soliciting public deposit shall comply with the provisions of the Non-Banking Financial Companies and Miscellaneous Non-Banking Companies (Advertisement) Rules, 1977 and shall also specify in every advertisement to be issued thereunder, the following :-

- (a) the actual rate of return by way of interest, premium, bonus other advantage to the depositor;
- (b) the mode of repayment of deposit;
- (c) maturity period of deposit;
- (d) the interest payable on deposit;
- (e) the rate of interest which will be payable to the depositor in case the depositor withdraws the deposit prematurely;
- (f) the terms and conditions subject to which a deposit will be renewed;
- (g) any other special features relating to the terms and conditions subject to which the deposit is accepted/renewed;
- (h) the information, relating to the aggregate dues (including the non-fund based facilities provided to) from companies in the same group or other entities or business ventures in which, the directors and/or the NBFC are holding substantial interest and the total amount of exposure to such entities; and

[(i) that the public deposits solicited by it are not insured.]¹⁴

(ii) Where a non-banking financial company intends to accept public deposit without inviting or allowing or causing any other person to invite such deposit, it

¹² Inserted vide Notification No.134 dated January 13, 2000

¹³ Inserted vide Notification No.134 dated January 13, 2000

¹⁴ Inserted vide notification No. 159 dated October 1, 2002

shall, before accepting such deposit, deliver to the Reserve Bank of India for record, a statement in lieu of advertisement containing all the particulars required to be included in the advertisement pursuant to the Non-Banking Financial Companies and Miscellaneous Non-Banking Companies (Advertisement) Rules, 1977 as also the particulars stated in clause (i) hereinabove, duly signed in the manner provided in the aforesaid Rules.

- (iii) A statement delivered under clause (ii) above shall be valid till the expiry of six months from the date of closure of the financial year in which it is so delivered or until the date on which the balance sheet is laid before the company in general meeting or where the annual general meeting for any year has not been held, the latest day on which that meeting should have been held in accordance with the provisions of the Companies Act, 1956(1 of 1956), whichever is earlier, and a fresh statement shall be delivered after the expiry of the validity of the statement, in each succeeding financial year before accepting public deposit in that financial year.

General provisions regarding repayment of public deposit:

- (14) (i) No non-banking financial company shall repay any public deposit within a period of three months from the date of its acceptance.
- (ii) Where a non-banking financial company at the request of depositor repays public deposit after the period indicated in clause (i) above but before its maturity, it shall pay interest at the following rate:
- | | | |
|---|---|---|
| (a) Three months but before expiry of six months | - | No interest |
| (b) Six months but before expiry of twelve months | - | Not exceeding ten per cent per annum |
| (c) Twelve months but before the date of maturity | - | One percentage point less than the rate which the company would have ordinarily paid, had the deposit been accepted for the period for which such deposit had run : |

Provided that in the event of death of a depositor, the deposit may be repaid prematurely to the surviving depositor/s in the case of joint holding with survivor clause, or to the nominee or to legal heir/s with interest at the rate which the company would have ordinarily paid, had such deposit been accepted for the period for which such deposit had run, upto the date of repayment.

- (iii) A non-banking financial company may grant a loan upto seventy-five per cent of the amount of public deposit to a depositor after the expiry of three months from

the date of deposit at a rate of interest two percentage points above the interest rate payable on the deposit.

Furnishing of receipt to depositor:

(15)(i) Every non-banking financial company shall furnish to every depositor or his agent or group of joint depositors, a receipt for every amount received by the company by way of deposit.

(ii) The said receipt shall be duly signed by an officer authorised by the company in that behalf and shall state the date of deposit, the name of the depositor, the amount in words and figures received by the company by way of deposit, rate of interest payable thereon and the date on which the deposit is repayable :

Provided that, if such receipts pertain to instalments subsequent to the first instalment of a recurring deposit it may contain only name of the depositor and date and amount of deposit.

Register of deposit :

- (16)(i) Every non-banking financial company shall keep one or more registers in respect of all deposits in which shall be entered separately in the case of each depositor the following particulars, namely -
- (a) name and address of the depositor,
 - (b) date and amount of each deposit,
 - (c) duration and the due date of each deposit,
 - (d) date and amount of accrued interest or premium on each deposit,
 - (e) date of claim made by the depositor,
 - (f) date and amount of each repayment, whether of principal, interest or premium,
 - (g) the reasons for delay in repayment beyond five working days and
 - (h) any other particulars relating to the deposit.
- (ii) The register or registers aforesaid shall be kept at each branch in respect of the deposit accounts opened by that branch of the company and a consolidated register for all the branches taken together at the registered office of the company and shall be preserved in good order for a period of not less than eight calendar years following the financial year in which the latest entry is made of the repayment or renewal of any deposit of which particulars are contained in the register;

Provided that, if the company keeps the books of account referred to in sub-section (1) of section 209 of the Companies Act, 1956 (1 of 1956) at any place other than its registered office in accordance with the proviso to that sub-section, it shall be deemed to be sufficient compliance with this clause if the register aforesaid is kept at such other place, subject to the condition that the company delivers to the Reserve Bank of India a copy of the notice filed with the Registrar of Companies under the proviso to the said sub-section within seven days of such filing.

[4A. Branches and appointment of agents to collect deposits

On and from January 13, 2000, no non-banking financial company shall open its branch or appoint agents to collect deposits except as provided hereunder :

- (i) a non-banking financial company having the certificate of registration issued under section 45-IA of the Reserve Bank of India Act, 1934 (2 of 1934) and otherwise entitled to accept public deposits as per paragraph 4(4) of these Directions, may open its branch or appoint agents if its*

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|--|--|
| (a) NOF is upto Rs. 50 crore | <i>Within the State where its registered office is situated; and</i> |
| (b) NOF is more than Rs. 50 crore and its credit rating is AA or above | <i>Anywhere in India</i> |
- (ii) (a) *for the purpose of opening a branch, a non-banking financial company shall notify to the Reserve Bank of its intention to open the proposed branch;*
- (b) *on receipt of such advice, the Reserve Bank may, on being satisfied that in the public interest or in the interest of the concerned non-banking financial company or for any other relevant reasons to be recorded, reject the proposal and communicate the same to the non-banking financial company;*
- (c) *if no advice of rejection of the proposal under (b) above is communicated by the Reserve Bank within 30 days from the receipt of such advice, the non-banking financial company may proceed with its proposal.*

4B Closure of branches

No non-banking financial company shall close its branch/office without publishing such intention in any one national level newspaper and in one vernacular newspaper in circulation in the relevant place and without advising Reserve Bank of India, before ninety days of the proposed closure¹⁵.

PART III - SPECIAL PROVISIONS

Information to be included in the Board's report:

5. (1) In every report of the Board of Directors laid before the company in a general meeting under sub-section (1) of section 217 of the Companies Act, 1956 (1 of 1956) there shall be included in the case of a non-banking financial company, the following particulars or information, namely :-

- (i) the total number of accounts of public deposit of the company which have not been claimed by the depositors or not paid by the company after the date on which the deposit became due for repayment; and
- (ii) the total amounts due under such accounts remaining unclaimed or unpaid beyond the dates referred to in clause (i) as aforesaid.

(2) The said particulars or information shall be furnished with reference to the position as on the last day of the financial year to which the report relates and if the amounts

¹⁵ Inserted vide Notification No.134 dated January 13, 2000

remaining unclaimed or undisbursed as referred to in clause (ii) of the preceding sub-paragraph exceed in the aggregate a sum of rupees five lakhs, there shall also be included in the report a statement on the steps taken or proposed to be taken by the Board of Directors for the repayment of the amounts due to the depositors remaining unclaimed or undisbursed.

Safe custody of approved securities

[6. (1) every non-banking financial company shall -

- (i) *open a Constituent's Subsidiary General Ledger (CSGL) account with a scheduled commercial bank, or the Stock Holding Corporation of India Ltd. (SHCIL) or a dematerialized account with a depository through a depository participant registered with the Securities and Exchange Board of India and keep the unencumbered approved securities required to be maintained by it in pursuance of Section 45-IB of the Reserve Bank of India Act, 1934 (2 of 1934) and the Notification No. DFC.121/ ED(G)-98 dated January 31, 1998 in such CSGL account or dematerialised account;*
- (ii) *designate one of the scheduled commercial banks, in the place where the registered office of the non-banking financial company is situated, as its designated banker and entrust, in physical form, to such bank or the SHCIL the unencumbered term deposits in any scheduled commercial bank maintained by it in pursuance of Notification No. DFC.121/ED(G)-98 dated January 31, 1998 and such unencumbered approved securities which have not been dematerialised;*

and intimate the name and address of such scheduled commercial bank where it has opened its CSGL account or has held the securities in physical form, or the location of the SHCIL where it has opened its CSGL account or has held the securities in physical form or the depository (and the depository participant) where it has held its dematerialised account, in writing, to the Regional Office of the Reserve Bank of India under whose jurisdiction the registered office of the company is situated, as specified in Second Schedule hereto:

Provided that where a non-banking financial company intends to entrust the securities specified in clause (ii) above with the designated banker or SHCIL, at a place other than the place at which its registered office is located, it may do so with the prior approval, in writing, of the Regional Office of the Reserve Bank of India under whose jurisdiction the registered office of the company is situated, as specified in Second Schedule hereto;

- (2) *The securities mentioned in sub-paragraph (1) above shall continue to be kept as specified therein for the benefit of the depositors and shall not be withdrawn or encashed or otherwise dealt with by the non-banking financial company except for repayment to the depositors with the prior approval of Reserve Bank of India :*

Provided that,

- (i) *a non-banking financial company may withdraw a portion of such securities in proportion to the reduction of its public deposits duly certified to that effect by its auditor;*
- (ii) *where the non-banking financial company intends to substitute such securities kept in physical form, it may do so by entrusting securities of equal value to the designated bank or SHCIL before such withdrawal;*
- (iii) *where the non-banking financial company sells or purchases or substitutes the securities kept in dematerialised form, it may do so by transactions undertaken through its CSGL account or dematerialized account with the depository; and*
- (iv) *the market value of these securities shall, at no point of time, be less than the percentage of public deposits as specified in Notification No.DFC.121/ED(G)-98 dated January 31, 1998.]¹⁶*

Employees Security Deposit

7. A non-banking financial company receiving any amount in the ordinary course of its business as security deposit from any of its employees for due performance of his duties shall keep such amount in an account with a scheduled commercial bank or in a post office in the joint names of the employee and the company on the conditions that -

- (1) it shall not withdraw the amount without the consent in writing of the employee; and
- (2) the amount shall be repayable to the employee along with interest payable on such deposit account unless such amount or any part thereof is liable to be appropriated by the company for the failure on the part of the employee for due performance of his duties.

Copies of balance sheet and accounts together with the Directors' report, auditors' report, notes on accounts and returns to be furnished to the Reserve Bank :

8. (1) Every non-banking financial company accepting/holding public deposit shall deliver to the Reserve Bank of India an audited balance sheet as on the last date of each financial year and an audited profit and loss account in respect of that year as passed by the company in general meeting together with a copy of the report of the Board of Directors laid before the company in such meeting in terms of section 217(1) of the Companies Act, 1956 (1 of 1956) within fifteen days of such meeting as also a copy of the report and the notes on accounts furnished by its Auditor.

Provision for submitting Auditor's Certificate :

(2) Every non-banking financial company holding/accepting public deposits shall furnish to the Reserve Bank of India along with a copy of the audited balance sheet as

¹⁶ Substituted vide notification No. 159 dated October 1, 2002

provided in the sub-paragraph (1) above, a copy of the Auditor's report to the Board of Directors and a certificate from its auditor, to the effect that the full amount of liabilities to the depositors of the company, including interest payable thereon, are properly reflected in the balance sheet, and that the company is in a position to meet the amount of such liabilities to the depositors.

Returns to be submitted to the Reserve Bank of India :

(3) Every non-banking financial company holding/accepting public deposits shall submit to the Reserve Bank of India a return furnishing the information specified in the [NBS-1]¹⁷ hereto, with reference to its financial position as on the date specified in the said Schedule.

(4) Every non-banking financial company shall, not later than one month from the occurrence of any change in the following matters, shall intimate to the Reserve Bank of India:

- (i) the complete postal address, telephone number/s and fax number/s of the registered/corporate office;
- (ii) the names and residential addresses of the directors of the company;
- (iii) the names and the official designations of its principal officers;
- (iv) the specimen signatures of the officers authorised to sign on behalf of the company; and
- (v) the names and office address of the auditors of the company;

Balance sheet, returns, etc. to be submitted to the Department of Non-Banking Supervision

(5) Any balance sheets, returns or information or intimation or statement required to be submitted or furnished to the Reserve Bank of India in pursuance of these directions shall be submitted or furnished to the Regional Office of the Department of Non-Banking Supervision of the Reserve Bank of India within whose jurisdiction the registered office of the company is situated, as specified in the Second Schedule hereto.

Non-applicability of the Directions to certain types of non-banking financial companies

9. Nothing contained in paragraphs 4 to 8 of these directions shall be applicable to:

- (1) an insurance company holding a valid certificate of registration issued under section 3 of the Insurance Act, 1938 (IV of 1938); or a stock exchange notified under section 4 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or a stock broking company defined in section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

¹⁷ Amended vide notification No. 141 dated June 30, 2000

- (2) a loan company, an investment company, a hire purchase finance company or an equipment leasing company not accepting/holding any public deposit;

Provided that the company passes in the meeting of its board of directors within thirty days of the issue of these directions and thereafter within thirty days of the commencement of the next financial year and each subsequent financial year, a resolution to the effect that the company has neither accepted public deposit nor would accept any public deposit during the year.

- (3) an investment company,

- (i) which has acquired shares/securities of its own group/holding/ subsidiary companies only and such acquisition is not less than ninety per cent of its total assets at any point of time;
- (ii) which does not trade in such shares/securities; and
- (iii) which does not accept/hold any public deposit :

Provided that the company passes in the meeting of its board of directors within thirty days of the issue of these directions and thereafter within thirty days of the commencement of each subsequent financial year a resolution to the effect that the company has invested or would invest/hold its investments in the shares/securities of its group/holding/subsidiary companies of not less than 90 per cent of its assets and (name of each company to be specified), that it would not trade in such shares/securities and that it has neither accepted nor would accept any public deposit during the year.

[9A *Nothing contained in paragraph 4 to 7 shall apply to an NBFC being a Government company as defined under section 617 of the Companies Act, 1956 (1 of 1956)]¹⁸.*

Exemptions :

10. 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 company or class of companies from all or any of the provisions of these directions either generally or for any specified period subject to such conditions as the Reserve Bank of India may impose.

Saving of action taken or that may be taken for contravention of the Non-Banking Financial Companies (Reserve Bank) Directions, 1998:

11. It is hereby clarified that the supersession of the Non-Banking Financial Companies (Reserve Bank) Directions 1998 contained in Notification No.DFC.114/DG (SPT)-98 dated January 2, 1998 shall not in any way affect -

- (i) any right, obligation or liability acquired, accrued or incurred thereunder;

¹⁸ Inserted vide Notification No.134 dated January 13, 2000

- (ii) any penalty, forfeiture or punishment incurred or suffered in respect of any contravention committed thereunder; and
- (iii) any investigation, legal proceeding or action in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment taken or arising under the said directions,

and any such investigation, legal proceeding or action may be instituted, continued, or enforced and any such penalty, forfeiture or punishment may be imposed as if those directions had not been superseded.

Applicability of the directions to companies other than those mentioned in paragraph 2(1) :

12. The provisions of these directions, as in force for the time being, shall apply to or in relation to every company which is a financial institution but does not belong to any of the categories of the companies mentioned in sub- paragraph (1) of paragraph 2 of these directions or is not a miscellaneous non-banking company within the meaning of the Miscellaneous Non-Banking Companies (Reserve Bank) Directions, 1977 or is not a Residuary Non-Banking Company within the meaning of Residuary Non-Banking Companies (Reserve Bank) Directions, 1987 as they apply to or in relation to a loan company.

Sd/-

(S.P. TALWAR)
DEPUTY GOVERNOR

Note : The format of First Schedule is supplied directly to NBFCs every year.