

September 4, 2007

All deposit taking NBFCs (including RNBCs)

Dear Sirs,

Frauds – Future approach towards monitoring of frauds in NBFCs

Please refer to Company Circular 59 dated October 26, 2005 on the captioned subject. It was advised in terms of paragraph 3.1.4 thereof that FMR-1, in cases where the amount involved in fraud is Rs 25 lakhs and above shall be submitted to Fraud Monitoring Cell, DBS, CO only. It has now been decided that a copy of FMR-1 where the amount involved in the fraud is Rs 25 lakhs and above should also be submitted to the Regional Office of the Department of Non-Banking Supervision of Reserve Bank of India under whose jurisdiction the Registered Office of the NBFC falls. Accordingly, paragraph 3.1.4 has been modified. Further, the Quarterly return in form FMR-3 has now been rechristened as 'Quarterly Progress Report on Fraud of Rs 1.00 lakh & above.

2. These instructions are being issued in exercise of powers vested in the Bank under Section 45K and 45L of the RBI Act, 1934.

3. A copy of the updated guidelines is enclosed for meticulous compliance.

Yours faithfully

(P. Krishnamurthy)
Chief General Manager In-Charge

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INTRODUCTION

1.1 Incidence of frauds in NBFCs is a matter of concern. While the primary responsibility for preventing frauds lies with NBFCs themselves, a reporting system for frauds is prescribed in the following paragraphs, which may be adopted by NBFCs.

1.2 It is possible that frauds are, at times, detected in NBFCs long after their perpetration. NBFCs should, therefore, ensure that a reporting system is in place so that frauds are reported without any delay. NBFCs should fix staff accountability in respect of delays in reporting of fraud cases to the Reserve Bank.

1.3 Delay in reporting of frauds and the consequent delay in alerting other NBFCs about the modus operandi and issue of caution advices against unscrupulous borrowers could result in similar frauds being perpetrated elsewhere. NBFCs may, therefore, strictly adhere to the timeframe fixed in this circular for reporting fraud cases to the Reserve Bank failing which NBFCs would be liable for penal action as prescribed under the provisions of Chapter V of the RBI Act, 1934.

1.4 NBFCs should specifically nominate an official of the rank of General Manager or equivalent who will be responsible for submitting all the returns referred to in this circular.

1.5 It may be noted that NBFCs are not required to submit 'Nil' reports to Frauds Monitoring Cell/Regional Offices of Department of Non-Banking Supervision. At the same time enough precautions may be taken by deposit-taking NBFCs to ensure that the cases reported by them are duly received by Frauds Monitoring Cell/Regional Offices of Department of Non-Banking Supervision as the case may be.

2. CLASSIFICATION OF FRAUDS

2.1 In order to have uniformity in reporting, frauds have been classified as under based mainly on the provisions of the Indian Penal Code:

(a) Misappropriation and criminal breach of trust.

(b) Fraudulent encashment through forged instruments, manipulation of books of account or through fictitious accounts and conversion of property.

(c) Unauthorised credit facilities extended for reward or for illegal gratification.

(d) Negligence and cash shortages.

(e) Cheating and forgery.

(f) Irregularities in foreign exchange transactions.

(g) Any other type of fraud not coming under the specific heads as above.

2.2 Cases of 'negligence and cash shortages' and 'irregularities in foreign exchange transactions' referred to in item (d) and (f) above are to be reported as fraud if the intention to cheat/defraud is suspected/ proved. Cases of cash shortage up to Rs. 1,000/- reported on the same day by persons handling the cash and where there is no suspicion of fraud, need not be reported as fraud. However, cases of cash shortage involving more than Rs. 1,000/- and those detected by the management/ inspecting officer, irrespective of the amount, may be reported as fraud.

2.3 NBFCs having overseas branches/offices should report all frauds perpetrated at such branches/offices also to the Reserve Bank as per the format and procedure detailed under Paragraph 3 below.

3. REPORTING OF FRAUDS TO RESERVE BANK OF INDIA

3.1 Frauds involving Rs. 1 lakh and above

3.1.1 Fraud reports should be submitted in all cases of fraud of Rs. 1 lakh and above perpetrated through misrepresentation, breach of trust, manipulation of books of account, fraudulent encashment of FDRs unauthorised handling of securities charged to the NBFC, misfeasance, embezzlement, misappropriation of funds, conversion of property, cheating, shortages, irregularities, etc.

3.1.2 Fraud reports should also be submitted in cases where central investigating agencies have initiated criminal proceedings suo moto and/or where the Reserve Bank has directed that they be reported as frauds.

3.1.3 Wherever information is available, NBFCs may also report frauds perpetrated in their subsidiaries and affiliates/joint ventures. Such frauds should, however, not be included in the report on outstanding frauds and the quarterly progress reports referred to in paragraph 4 below.

3.1.4 The fraud reports in the prescribed format should be sent to the Central Office (CO) of the Reserve Bank of India, Department of Banking Supervision, Frauds Monitoring Cell where the amount involved in fraud is Rs 25 lakhs and above and to Regional Office of the Reserve Bank of India, Department of Non-Banking Supervision under whose jurisdiction the Registered Office of the NBFC falls where the fraud amount involved in fraud is less than Rs 25 lakh, in the format given in FMR – 1, within three weeks from the date of detection.

A copy of FMR-1 where the amount involved in the Fraud is Rs 25 lakhs and above should also be submitted to the Regional Office of the Department of Non-Banking Supervision of Reserve Bank of India under whose jurisdiction the Registered Office of the NBFC falls.

3.2 Frauds committed by unscrupulous borrowers

3.2.1 It is observed that a large number of frauds are committed by unscrupulous borrowers including companies, partnership firms/proprietary concerns and/or their directors/partners by various methods including the following:

(i) Fraudulent discount of instruments.

(ii) Fraudulent removal of pledged stocks/disposing of hypothecated stocks without the NBFC's knowledge/inflating the value of stocks in the stock statement and drawing excess finance.

(iii) Diversion of funds outside the borrowing units, lack of interest or criminal neglect on the part of borrowers, their partners, etc. and also due to managerial failure leading to the unit becoming sick and due to laxity in effective supervision over the operations in borrowal accounts on the part of the NBFC functionaries rendering the advance difficult of recovery.

3.2.2 In respect of frauds in borrowal accounts involving an amount of Rs. 5 lakh and above, additional information as prescribed under Part B of FMR – 1 may also be furnished.

3.3 Frauds involving Rs. 25 lakh and above

In respect of frauds involving Rs. 25 lakh and above, in addition to the requirements given at paragraphs 3.1 and 3.2 and above, NBFCs may report the fraud by means of a D.O. letter addressed to the Chief General Manager-in-charge of the Department of Banking Supervision, Reserve Bank of India, Frauds Monitoring Cell, Central Office and a copy endorsed to the Chief General Manager-in-charge of the Department of Non-Banking Supervision, Reserve Bank of India, Central Office within a week of such frauds coming to the notice of the NBFC. The letter may contain brief particulars of the fraud such as amount involved, nature of fraud, modus operandi in brief, name of the branch/office, names of parties involved (if they are proprietorship/partnership concerns or private limited companies, the names of proprietors, partners and directors), names of officials involved, and whether the complaint has been lodged with the Police. A copy of the D.O. letter should also be endorsed to the Regional Office of Reserve Bank, Department of Non-Banking Supervision under whose jurisdiction the Registered Office of the NBFC is functioning.

3.4 Cases of attempted fraud

Cases of attempted fraud, where the likely loss would have been Rs. 25 lakh or more, had the fraud taken place, should be reported to the Central Office of the Reserve Bank, Department of Banking Supervision, Frauds Monitoring Cell and a copy endorsed to Central Office of the Reserve Bank, Department of Non-Banking Supervision indicating the modus operandi and how the fraud was detected. Such cases should not be included in the other returns to be submitted to the Reserve Bank.

4. QUARTERLY RETURNS

4.1 Report on Frauds Outstanding

4.1.1 NBFCs should submit a copy of the Quarterly Report on Frauds Outstanding in the format given in FMR – 2 to the Regional Office of the Reserve Bank of India, Department of Non-Banking Supervision under whose jurisdiction the Registered Office of the NBFC falls irrespective of amount within 15 days of the end of the quarter to which it relates.

4.1.2 Part – A of the report covers details of frauds outstanding as at the end of the quarter. Parts B and C of the report give category-wise and perpetrator-wise details of frauds reported during the quarter respectively. The total number and amount of fraud cases reported during the quarter as shown in Parts B and C should tally with the totals of columns 4 and 5 in Part – A of the report.

4.1.3 NBFCs should furnish a certificate, as part of the above report, to the effect that all individual fraud cases of Rs. 1 lakh and above reported to the Reserve Bank in FMR – 1 during the quarter have also been put up to the NBFC's Board and have been incorporated in Part – A (columns 4 and 5) and Parts B and C of FMR – 2.

4.2 Progress Report on Frauds

4.2.1 NBFCs should furnish case-wise quarterly progress reports on frauds involving Rs. 1 lakh and above in the format given in FMR – 3 to the Central Office (CO) of the Reserve Bank of India, Department of Banking Supervision, Frauds Monitoring Cell where the amount involved in fraud is Rs 25 lakhs and above and to Regional Office of the Reserve Bank of India, Department of Non-Banking Supervision under whose jurisdiction the Registered Office of the NBFC falls where the fraud amount involved in fraud is less than Rs 25 lakh within 15 days of the end of the quarter to which it relates.

4.2.2 In the case of frauds where there are no developments during a quarter, a list of such cases with a brief description including name of branch and date of reporting may be furnished as per FMR – 3.

5. REPORTS TO THE BOARD

5.1 Reporting of Frauds

5.1.1 NBFCs should ensure that all frauds of Rs. 1 lakh and above are reported to their Boards promptly on their detection.

5.1.2 Such reports should, among other things, take note of the failure on the part of the concerned officials, and consider initiation of appropriate action against the officials responsible for the fraud.

5.2 Quarterly Review of Frauds

5.2.1 Information relating to frauds for the quarters ending March, June and September may be placed before the Board of Directors during the month following the quarter to which it pertains.

5.2.2 These should be accompanied by supplementary material analysing statistical information and details of each fraud so that the Board would have adequate material to contribute effectively in regard to the punitive or preventive aspects of frauds.

5.2.3 All the frauds involving an amount of Rs 25 lakh and above should be monitored and reviewed by the Audit Committee of the Board (ACB) or if ACB is not there, other Committee of the Board of NBFCs. The periodicity of the meetings of the Committee may be decided according to the number of cases involved. However, the Committee should meet and review as and when a fraud involving an amount of Rs 25 lakh and above comes to light.

5.3 Annual Review of Frauds

5.3.1 NBFCs should conduct an annual review of the frauds and place a note before the Board of Directors for information. The reviews for the year-ended December may be put up to the Board before the end of March the following year. Such reviews need not be sent to RBI. These may be preserved for verification by the Reserve Bank's inspecting officers.

5.3.2 The main aspects which may be taken into account while making such a review may include the following:

- (a) Whether the systems in the NBFC are adequate to detect frauds, once they have taken place, within the shortest possible time.
- (b) Whether frauds are examined from staff angle.
- (c) Whether deterrent punishment is meted out, wherever warranted, to the persons found responsible.
- (d) Whether frauds have taken place because of laxity in following the systems and procedures and, if so, whether effective action has been taken to ensure that the systems and procedures are scrupulously followed by the staff concerned.
- (e) Whether frauds are reported to local Police, as the case may be, for investigation.

5.3.3 The annual reviews should also, among other things, include the following details:

- (a) Total number of frauds detected during the year and the amount involved as compared to the previous two years.
- (b) Analysis of frauds according to different categories detailed in Paragraph 2.1 and also the different business areas indicated in the Quarterly Report on Frauds Outstanding (vide FMR – 2).
- (c) Modus operandi of major frauds reported during the year along with their present position.
- (d) Detailed analyses of frauds of Rs. 1 lakh and above.
- (e) Estimated loss to the NBFC during the year on account of frauds, amount recovered and provisions made.
- (f) Number of cases (with amounts) where staff are involved and the action taken against staff.
- (g) Time taken to detect frauds (number of cases detected within three months, six months and one year of their taking place).
- (h) Position with regard to frauds reported to Police.
- (i) Number of frauds where final action has been taken by the NBFC and cases disposed of.
- (j) Preventive/punitive steps taken by the NBFC during the year to reduce/minimise the incidence of frauds.

6. GUIDELINES FOR REPORTING FRAUDS TO POLICE

NBFCs should follow the following guidelines for reporting of frauds such as unauthorised credit facilities extended by the NBFC for illegal gratification, negligence and cash shortages, cheating, forgery, etc. to the State Police authorities:

- (a) In dealing with cases of fraud/embezzlement, NBFCs should not merely be actuated by the necessity of recovering expeditiously the amount involved, but should also be motivated by public interest and the need for ensuring that the guilty persons do not go unpunished.
- (b) Therefore, as a general rule, the following cases should invariably be referred to the State Police:
 - (i) Cases of fraud involving an amount of Rs. 1 lakh and above, committed by outsiders on their own and/or with the connivance of NBFC staff/officers.
 - (ii) Cases of fraud committed by NBFC employees, when it involves NBFC funds exceeding Rs. 10,000/-.

Report on Actual or Suspected Frauds in NBFCs

(Vide Paragraph 3)

Part A: Fraud Report

1.	Name of the NBFC	
2.	Fraud number ⁱ	
3.	Details of the branch ⁱⁱ	
	(a) Name of the branch	
	(b) Branch type	
	(c) Place	
	(d) District	
	(e) State	
4.	Name of the Principal party/account ⁱⁱⁱ	
5.a	Area of operation where the fraud has occurred ^{iv}	
5.b	Whether fraud has occurred in a borrowal account ?	Yes/No
6.a	Nature of fraud ^v	
6.b	Whether computer is used in committing the fraud?	
6.c	If yes, details thereof	
7.	Total amount involved ^{vi} (Rs. In lakh)	
8.a	Date of occurrence ^{vii}	
b	Date of detection ^{viii}	
c	Reasons for delay, if any, in detecting the fraud	
d	Date on which reported to RBI ^{ix}	
e	Reasons for delay, if any, in reporting the fraud to RBI	

9.a	Brief history	
b	modus operandi	
10.	Fraud committed by	
A	Staff	Yes/No
B	Customers	Yes/No
C	Outsiders	Yes/No
11.a	Whether the controlling office (Regional/Zonal) could detect the fraud by a scrutiny of control returns, if any	Yes/No
b	Whether there is need to improve the information system?	Yes/No
12.a	Whether internal inspection/ audit (including concurrent audit) was conducted at the branch(es) during the period between the date of first occurrence of the fraud and its detection?	Yes/No
b	If yes, why the fraud could not have been detected during such inspection/audit.	
C	What action has been taken for non-detection of the fraud during such inspection/audit	
13.	Action taken/proposed to be taken	
a	Complaint with Police	
	i)Whether any complaint has been lodged with the Police?	Yes/No
	ii)If yes, name of the Police Station.	
	Date of reference	
	Present position of the case	
	Date of completion of Police investigation	
	Date of submission of investigation report by Police	
	iii) If not reported to Police, reasons therefore	
b	Recovery suit with Court/Others	
	i) Date of filing	

	ii) Present position								
c	Insurance claim								
	i) Whether any claim has been lodged with an insurance company				Yes/No				
	ii) If not, reasons therefor								
d	Details of staff-side action								
	i) Whether any internal investigation has been/is proposed to be conducted				Yes/No				
	ii) If yes, date of completion								
	iii) Whether any departmental enquiry has been/is proposed to be conducted								
	iv) If yes, give details as per format given below:								
	v) If not, reasons therefor								
No.	Name	Desgn.	Whether suspended/Dt. of suspension	Date of issue of charge sheet	Date of commencement of domestic inquiry	Date of completion of inquiry	Date of issue of final orders	Punishment awarded	Details of prosecution/conviction/acquittal, etc.
e	Steps taken/proposed to be taken to avoid such incidents								
14.	Total amount recovered								
	i) Amount recovered from party/parties concerned								
	ii) From insurance								
	iii) From other sources								
	Extent of loss to the NBFC								
	Provision held								
	Amount written off								
15.	Suggestions for consideration of RBI								

Part B: Additional Information on Frauds in Borrowal Accounts

(This part is required to be completed in respect of frauds in all borrowal accounts involving an amount of Rs. 5 lakh and above)

Sr. No.	Type of party	Name of party/account	Party Address

Borrowal accounts details:

Party Sr. No.	Name of party/account	Borrowal account Sr. No.	Nature of Account	Date of Sanction	Sanctioned limit	Balance outstanding

Borrowal account Director/proprietor details:

Name of party/account	Sr.No.	Name of Director/Proprietor	Address

Associate Concerns:

Name of party/account	Sr. No. Associate Concern	Name of Associate Concern	Address

Associate Concern Director/proprietor details:

Name of Associate Concern	Sr. No.	Name of Director	Address

Instructions for compiling the Fraud Report (FMR 1):

¹ **Fraud number:** This has been introduced with a view to facilitate computerisation and cross-reference. The number will be an alphanumeric field consisting of the following: four alphabets (to indicate name of NBFC), two digits for the year (02, 03, etc.), two digits for the quarter (01 for January – March quarter, etc.) and the final four digits being a distinctive running number for the fraud reported during the quarter.

¹ **Name of the branch:** In case the fraud relates to more than one branch, indicate the name of only one branch where the amount involved has been the highest and/or which is mainly involved in following up the fraud. The names of the other branches may be given in the brief history/modus operandi against item number 9.

¹ **Name of party:** A distinctive name may be given to identify the fraud. In the case of frauds in borrowal accounts, name of the borrowers may be given. In the case of frauds committed by employees, the name(s) of the employee(s) could be used to identify the fraud. Where fraud has taken place, say, inter-branch account, and if it is not immediately possible to identify the involvement of any particular employee in the fraud, the same may be identified merely as “Fraud in inter-branch account”.

¹ **Area of operation where the fraud has occurred:** Indicate the relevant area out of those given in column 1 of statement FMR 2 (Part A) (Cash; Deposits (Term); Non-resident accounts; Advances (Cash Credit/Term Loans/Bills/Others); Foreign exchange transactions; Inter-branch accounts; Cheques/demand drafts, etc.; accounts; Off-balance sheet (Letters of credit/Guarantee/Co-acceptance/Others); Others)

¹ **Nature of fraud:** Select the number of the relevant category from the following which would best describe the nature of fraud: (1) Misappropriation and criminal breach of trust, (2) Fraudulent encashment through forged instruments/manipulation of books of account or through fictitious accounts and conversion of property, (3) Unauthorised credit facilities extended for reward or for illegal gratification, (4) Negligence and cash shortages, (5) Cheating and forgery, (6) Irregularities in foreign exchange transactions, (7) Others.

¹ **Total amount involved:** Amounts should, at all places, be indicated in Rs. lakh up to two decimal places.

¹ **Date of occurrence:** In case it is difficult to indicate the exact date of occurrence of fraud (for instance, if pilferages have taken place over a period of time, or if the precise date of a borrower’s specific action, subsequently deemed to be fraudulent, is not ascertainable), a notional date may be indicated which is the earliest likely date on which the person is likely to have committed the fraud (say, January 1, 2002, for a fraud which may have been committed anytime during the year 2002). The specific details, such as the period over which the fraud has occurred, may be given in the history/modus operandi.

¹ **Date of detection:** If a precise date is not available (as in the case of a fraud detected during the course of an inspection/audit or in the case of a fraud being reported such on the directions of the Reserve Bank), a notional date on which the same may be said to have been recognised as fraud may be indicated.

¹ **Date of reporting to RBI:** The date of reporting shall uniformly be the date of sending the detailed fraud report in form FMR 1 to the RBI and not any date of fax or DO letter that may have preceded it.

Quarterly Report on Frauds Outstanding
(Vide Paragraph 4.1)

Name of the NBFC _____

Report for the quarter ended _____

Overseas

Domestic

Part – A: Frauds Outstanding

(Amount in Rs. lakh)

Category	Cases outstanding as at the end of the previous quarter		New cases reported during the current quarter		Cases closed during the current quarter		Cases outstanding as at the end of the quarter		Total amount recovered	Provision held for cases outstanding as at the end of the Qtr.	Amount Recovered during the current Qtr.	Amount Written off during the current quarter
	No.	Amount	No.	Amount	No.	Amount	No. (2+4-6)	Amount (3+5-7)	Amount	Amount	Amount	Amount
1	2	3	4	5	6	7	8	9	10	11	12	13
Cash												
Deposits Recurring Daily Term Others												

Category	Cases outstanding as at the end of the previous quarter		New cases reported during the current quarter		Cases closed during the current quarter		Cases outstanding as at the end of the quarter		Total amount recovered	Provision held for cases outstanding as at the end of the Qtr.	Amount Recovered during the current Qtr.	Amount Written off during the current quarter
	No.	Amount	No.	Amount	No.	Amount	No. (2+4-6)	Amount (3+5-7)	Amount	Amount	Amount	Amount
1	2	3	4	5	6	7	8	9	10	11	12	13
Non-resident accounts												
Advances Cash credit Term Loans Bills Others												
Inter-branch accounts												
Off-balance sheet Letters of credit Guarantees Co-acceptance Others												
Others												
Total												

Note: For Indian NBFCs with overseas offices/branches, the above figures relate to the domestic position. The figures in respect of overseas branches/offices may be shown in a separate sheet in the same format as above.

Part – B: Category-wise classification of frauds reported during the quarter _____

Name of the NBFC _____

Category	Misappropriation and criminal breach of trust		Fraudulent encashment/ manipulation of books of account and conversion of property		Unauthorised credit facility extended for illegal gratification		Negligence and cash shortages		Cheating and forgery		Irregularities in foreign exchange transactions		Others		Total	
	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.
Less than Rs. 1 lakh																
Rs. 1 lakh and above but less than Rs. 25 lakh																
Rs. 25 lakh and above																
Total																

Part – C: Perpetrator-wise classification of frauds reported during the quarter _____

Name of the NBFC _____

Category	Staff		Customers		Outsiders		Staff and Customers		Staff and Outsiders		Customers and Outsiders		Staff, Customers and Outsiders		Total	
	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.
Less than Rs. 1 lakh																
Rs. 1 lakh and above but less than Rs. 25 lakh																
Rs. 25 lakh and above																
Total																

Note: 1. The above category-wise classification is mostly based on various provisions of the Indian Penal Code.

2. All amounts may be furnished in Rs. lakh up to two decimals.

Certificate

Certified that all frauds of Rs. 1 lakh and above reported to the Reserve Bank during the last quarter have also been reported to the NBFC's Board and have been incorporated in Part A (Columns 4 and 5) and Parts B and C above.

Signature:

Name and Designation:

Place:

Date:

Part – C: Case-wise details of progress

Name of party/account: _____

Name of branch/office: _____

Amount involved

(Rs in lakh) _____

Fraud No : _____

1.	Date of first reporting	
2.a	Date of filing recovery suit with DRT/Others	
b	Present position	
3.	Recoveries made up to the end of the last quarter (Rs. in lakh)	
4.	Recoveries made during the quarter (Rs. In lakh)	
	a) From party/parties concerned	
	b) From insurance	
	c) From other sources	
5.	Total recoveries (3+4) (Rs. in lakh)	
6.	Loss to the NBFC (Rs in lakh)	
7.	Provision held (Rs in lakh)	
8.	Amount written off (Rs in lakh)	
9.	a) Date of reporting case to Police	
	b) Date of completion of Police investigation	
	c) Date of submission of investigation report by Police	

10.	Details of staff-side action									
	No.	Name	Design.	Whether suspended/Dt. of suspension	Date of issue of charge sheet	Date of commencement of domestic inquiry	Date of completion of inquiry	Date of issue of final orders	Punishment awarded	Details of prosecution/conviction/acquittal, etc.
	1.									
	2.									
	3.									
	4.									
11.	Other developments									
12.	Whether case closed during the quarter					Yes/No				
13.	Date of closure:									