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FREQUENTLY ASKED QUESTIONS

(Last updated on 31st March 2021)

(Updated on 31st January 19, 2021)

A. Definitions

1. What is the Housing Finance Company (HFC)?

A Housing Finance Company (HFC) is a company engaged in the business of housing finance or providing finance to housing or any other activities, acceptable of being classified as housing finance companies, meant for housing purpose or any other activities as may be specified by the National Housing Bank (NHB) from time to time. The HFCs are required to be registered with the NHB and are required to comply with the prudential norms and other directions issued by the NHB from time to time. The HFCs are required to maintain a prudential framework of housing delivery and any others as prescribed in case such as it is mandatory to carry on prudential business. The HFCs are required to be registered with the NHB and are required to comply with the prudential norms.

2. What does combining the business of housing finance mean?

Housing finance company means a company which is a housing finance company or a company which is a housing finance company and any other activities, acceptable of being classified as housing finance companies, meant for housing purpose or any other activities as may be specified by the National Housing Bank from time to time.

3. What is the Housing Finance Company (HFC) and what is the purpose of the HFC?

HFC's are not and companies and cannot be used for any purpose other than for housing finance.

4. Who can be a promoter of a housing finance company?

HFC's are not and companies and cannot be used for any purpose other than for housing finance.

5. Is it necessary that every HFC should be registered with NHB?

Yes, it is necessary that every HFC should be registered with NHB. Registration enables the companies to carry on business in a non-banking manner. The HFC's are required to be registered with the NHB and are required to comply with the prudential norms and other directions issued by the NHB from time to time. The HFC's are required to be registered with the NHB and are required to comply with the prudential norms. The HFC's are required to be registered with the NHB and are required to comply with the prudential norms.

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69. Which is the authority that regulates Collective Investment Schemes (CIS)?

SEBI is the regulator of CIS. Information on such schemes and grievances against the promoters may be immediately forwarded to SEBI as well as to the EOW/Police Department of the State Government.

70. Is the conducting of Chit Fund business permissible under law?

The chit funds are governed by Chit Funds Act, 1982 which is a Central Act administered by state governments. Those chit funds which are registered under this Act can legally carry on chit fund business.

71. If Chit Fund companies are financial entities, why are they not regulated by RBI?

Chit Fund companies are regulated under the Chit Fund Act, 1982, which is a Central Act, and is implemented by the State Governments. RBI has prohibited chit fund companies from accepting deposits from the public in 2009. In case any Chit Fund is accepting public deposits, RBI can prosecute such chit funds.

G. Money Circulation/Multi-Level Marketing (MLM)/ Ponzi Schemes/ Unincorporated Bodies (UIBs)

72. There are some companies like Multi-Level Marketing companies, Direct Selling Companies, Online Selling Companies. Do they come under the purview of RBI?

No, Multi-Level Marketing companies, Direct Selling Companies, Online Selling Companies do not fall under the purview of RBI. Activities of these companies fall under the regulatory/administrative domain of respective state government. The list of regulators and the entities regulated by them are as provided in Annex I.

73. What are money circulation/Ponzi/multi-level marketing schemes?

Money circulation, multi level marketing / Chain Marketing or Ponzi schemes are schemes promising easy or quick money upon enrollment of members. Income under Multi level marketing or pyramid structured schemes do not come from the sale of products they offer as much as from enrolling more and more members from whom hefty subscription fees are taken. It is incumbent upon all members to enroll more members, as a portion of the subscription amounts so collected are distributed among the members at the top of the pyramid. Any break in the chain leads to the collapse of the pyramid, and the members lower in the pyramid are the ones that are affected the most. Ponzi schemes are those schemes that collect money from the public on promises of high returns. As there is no asset creation, money collected from one depositor is paid as returns to the other. Since there is no other activity generating returns, the scheme becomes unviable and impossible for the people running the scheme to meet the promised return or even return the principal amounts collected. The scheme inevitably fails and the perpetrators disappear with the money.

74. Is acceptance of money under Money Circulation/Multi-level Marketing/Pyramid structured schemes allowed? Does RBI regulates such schemes?

No. Acceptance of money under Money Circulation/Multi-level Marketing/Pyramid structured schemes and Ponzi schemes is not allowed as acceptance of money under those schemes is a cognizable offence under the Prize Chit and Money Circulation (Banning) Act 1978 and are hence banned. The Reserve Bank has no role in implementation of this Act, except advising and assisting the Central Government in framing the Rules under this Act.

75. Then who regulates entities that run such schemes?

Money Circulation/Multi-level Marketing /Pyramid structured schemes are an offence under the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. The Act prohibits any person or individual to promote or conduct any prize chit or money circulation scheme or enrol as member to its schemes or anyone to participate in it by either receiving or remitting any money in pursuance of such chit or scheme. Contravention of the provisions of this Act, is monitored and dealt with by the State Governments.

76. What if someone operates such a scheme?

Any information/grievance relating to such schemes should be given to the police / Economic Offence Wing (EOW) of the concerned State Government or the Ministry of Corporate Affairs. If brought to RBI notice – we will inform the same to the concerned State Government authorities.

77. What are Unincorporated Bodies (UIBs)? Has RBI any role to play in curbing illegal deposit acceptance activities of UIBs? Who has the power to take action against Unincorporated Bodies (UIBs) accepting deposits?

Unincorporated bodies (UIBs) include an individual, a firm or an unincorporated association of individuals. In terms of provision of section 45S of RBI act, these entities are prohibited from accepting any deposit. The Act makes acceptance of deposits by such UIBs punishable with imprisonment or fine or both. The State government has to play a proactive role in arresting the illegal activities of such entities to protect interests of depositors/investors.

UIBs do not come under the regulatory domain of RBI. Whenever RBI receives any complaints against UIBs, it immediately forwards the same to the state government police agencies (Economic Offences Wing (EOW)). The complainants are advised to lodge the complaints directly with the State government police authorities (EOW) so that appropriate action against the culprits is taken immediately and the process is hastened.

As per Section 45T of RBI Act, both the RBI and State Governments have been given concurrent powers. Nonetheless, in order to take immediate action against the offender, the information should immediately be passed on to the State Police or the Economic Offences Wing of the concerned State who can take prompt and appropriate action. Since the State Government machinery is widespread and the State Government is also empowered to take action under the provisions of RBI Act, 1934, any information on such entities accepting deposits may be provided immediately to the respective State Government's Police Department/EOW.

Many of the State Governments have enacted the State Protection of Interests of Depositors in Financial Establishments Act, which empowers the State Government to take appropriate and timely action.

RBI on its part has taken various steps to curb activities of UIBs which includes spreading awareness through advertisements in leading newspapers to sensitise public, organize various investors awareness programmes in various districts of the country, keeps close liaison with the law enforcing agencies (Economic Offences Wing).

78. There are some entities (not companies) which carry on activities like that of NBFCs. Are they allowed to take deposits? Who regulates them?

Any person who is an individual or a firm or unincorporated association of individuals cannot accept deposits except by way of loan from relatives, if his/its business wholly or partly includes loan, investment, hire-purchase or leasing activity or principal business is that of receiving of deposits under any scheme or arrangement or in any manner or lending in any manner.

79. What precautions have to be taken by the public to forewarn themselves about the likelihood of losing money in schemes that offer high rates of interest?

Before investing in schemes that promise high rates of return investors must ensure that the entity offering such returns is registered with one of the financial sector regulators and is authorized to accept funds, whether in the form of deposits or otherwise. Investors must generally be circumspect if the interest rates or rates of return on investments offered are high. Unless the entity accepting funds is able to earn more than what it promises, the entity will not be able to repay the investor as promised. For earning higher returns, the entity will have to take higher risks on the investments it makes. Higher the risk, the more speculative are its investments on which there can be no assured return. As such, the public should forewarn themselves that the likelihood of losing money in schemes that offer high rates of interest are more.

80. Who can the Depositor/Investor turn to in case of grievances?

The two Charts given at Annex I and II depict the activities and the regulators overseeing the same. Complaints may hence be addressed to the concerned regulator. If the activity is a banned activity, the aggrieved person can approach the State Police/Economic Offences Wing of the State Police and lodge a suitable complaint.

81. What constitutes Commercial Real Estate exposure?

An exposure to be classified as CRE, the essential feature would be that the funding will result in the creation/ acquisition of real estate (such as, office buildings to let, retail space, multifamily residential buildings, industrial or warehouse space, and hotels) where the prospects for repayment would depends primarily on the cash flows generated by the asset. Additionally, the prospect of recovery in the event of default would also depend primarily on the cash flows generated from such funded asset which is taken as security, as would generally be the case. The primary source of cash flow (i.e. more than 50% of cash flows) for repayment would generally be lease or rental payments or the sale of the assets as also for recovery in the event of default where such asset is taken as security.

These guidelines will also be applicable to certain cases where the exposure may not be directly linked to the creation or acquisition of CRE but the repayment would come from the cash flows generated by CRE. For example, exposures taken against existing commercial real estate whose prospects of repayments primarily depend on rental/ sale proceeds of the real estate should be classified as CRE. Other such cases may include: extension of guarantees on behalf of companies engaged in commercial real estate activities, exposures on account of derivative transactions undertaken with real estate companies, corporate loans extended to real estate companies and investment made in the equity and debt instruments of real estate companies.

Q 82. In terms of para 7.1 of the revised regulatory framework issued vide CC No. 002 dated November 10, 2014, total assets of NBFCs in a group including deposit taking NBFCs, if any, will be aggregated to determine if such consolidation falls within the asset sizes of the two categories viz., NBFCs-ND (those with assets of less than ₹ 500 crore) and NBFCs-ND-SI (those with assets of ₹ 500 crore and above). Regulations as applicable to the two categories will be applicable to each of the NBFC-ND within the group. Will this aggregation of assets apply to exempted category of CICs in the group?

No, the group requires to aggregate total assets of only those NBFCs which have been granted Certificate of Registration by the Bank. However, it must be ensured that the capital of the exempted category of CIC has not come, directly or indirectly, from an entity/ group company which has accessed public funds.

83. Whether LTV of 50% will also apply to lending against units of mutual funds?

Loans against units of mutual funds (except units of exclusively debt oriented mutual funds) would attract LTV requirements as are applicable to loans against shares. Further, the LTV requirement for loans/ advances against units of exclusively debt-oriented mutual funds may be decided by individual NBFCs in accordance with their loan policy.

84. Is prior written approval required in cases of merger of an NBFC 'A', with another NBFC/ entity 'B'?

In this case prior written approval of the Reserve Bank is to be obtained by 'A'. Where 'B' is an NBFC, as a result of merger if there is change in shareholding pattern of paid up equity capital of 'B' by 26% or more, prior written approval of the Reserve Bank is required. If 'B' is not an NBFC but is likely to meet PBC post-merger, it would also need to approach the Reserve Bank for prior written approval as well as registration as an NBFC.

85. Is prior written approval required in cases of merger of an entity (not an NBFC) with an NBFC?

Where a non-NBFC mergers with an NBFC, prior written approval of the Reserve Bank would be required if such a merger satisfies any one or both the conditions viz., (i) any change in the shareholding of the NBFC consequent on the merger which would result change in shareholding pattern of 26 per cent or more of the paid up equity capital of the NBFC (ii) any change in the management of the NBFC which would result in change in more than 30 per cent of the directors, excluding independent directors.

86. Is prior written approval required in cases of amalgamation of an NBFC 'A', with another NBFC/ entity 'B'?

The NBFC's being amalgamated will require to obtain prior written approval of the Reserve Bank.

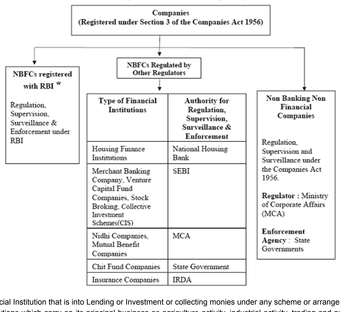
87. Is prior written approval of the Reserve Bank required before approaching any Court or Tribunal for seeking orders for merger/ amalgamation?

Yes, prior approval of the Reserve Bank would have to be obtained before approaching any Court or Tribunal seeking orders for merger/ amalgamation in all such cases which would ordinarily fall under the scenarios explained in FAQs 84, 85 or 86.

ANNEX-I

CHART - I

Overview of Regulators of Non-Banking Companies

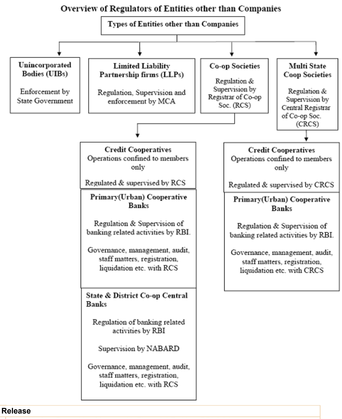


* NBFC is a financial Institution that is into Lending or Investment or collecting monies under any scheme or arrangement but does not include any institutions which carry on its principal business as agriculture activity, industrial activity, trading and purchase or sale of immovable properties. A company that carries on the business of accepting deposits as its principal business is also a NBFC.

ANNEX-II

CHART II

Overview of Regulators of Entities other than Companies



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