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Ministry of Corporate Affairs

Circulation and filing of Financial Statement under the provisions of the Companies Act, 2013

Ministry of Corporate Affairs ("MCA") vide [notification on July 21, 2015 issued clarification with regards to circulation and filing of financial statement](#) under the Companies Act, 2013 ("ACT").

It is now to be noted that the Companies holding its general meeting pursuant to section 101(1) of the Act, i.e conducting meeting on shorter notice can also circulate on shorter notice the financial statements which are to be laid or considered at the time of such meeting.

In case of a foreign subsidiary, which is not required to get its accounts audited as per legal requirements prevalent in the country of its incorporation and which does not get such accounts audited, the holding/parent Indian may place/file such unaudited accounts to comply with requirements of Section 136(1) which deals with the Right of the parties to receive copies of audited financial statement and 137(1) which deals with filing of financial statement with the

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Right of the parties to receive copies of audited financial statement and 137(1) which deals with filing of financial statement with the Registrar. However, such statements need to be translated in English, if the original accounts are not in English. Further, the format of accounts of foreign subsidiaries should be, as far as possible, in accordance with requirements under Act, in case this is not possible, a statement indicating the reasons for deviation may be placed/filed along with such accounts.

For further information, please visit the link provided herein

INTELLECTUAL PROPERTY RIGHTS

Indian Performing Rights Society V/s Sanjay Dalia & Anr

Vide order dated July 1, 2015 the Hon'ble Supreme Court of India pronounced order in [Civil Appeal Nos. 10643 and 10644 of 2010 with CA. No.4912 of 2015 and SLP \(C\) No. 8253 of 2013 between Indian Performing Rights Society Limited \(IPRS/Appellant\) v/s Sanjay Dalia & Anr \(Respondents\)](#)

The two Appeals were filed owing to similar factual circumstances. The first was a case where the Appellants sued in Delhi for infringement of their copyright by the defendants/respondents who owned theatres in Maharashtra . This was despite the fact that the head office of the Plaintiffs was situated in Mumbai, and that the cause of action had ostensibly arisen in Maharashtra. The Respondents had raised this contention before the High Court of Delhi, where both the Single Judge and the Division Bench considered Mumbai to be the better jurisdiction for this suit.

The other suit was filed for TM infringement where the registered office of the Plaintiff was in Mumbai. They sued in Delhi for infringement however did not clarify in their pleadings that the allegedly infringing magazine was being distributed in Delhi and therefore that a cause of action arose in Delhi. In denying their application to amend the pleadings, the Single Judge noted that an amended pleading does not confer jurisdiction. This order was however reversed by the Division Bench and subsequently went up in appeal to the Supreme Court.

The question presented in both cases is essentially the same – when the cause of action arises in a place where the plaintiff has an office (head or subordinate), can they sue in another jurisdiction?

The Plaintiffs set up the argument that both Section 62 of the Copyright Act of 1957 (Jurisdiction of Court over matters arising under this Chapter) and Section 134 of the Trademarks Act, 1999 (Suit for infringement) granted an additional remedy over and above the provisions of Section 20 of the Code of Civil Procedure and that therefore the restrictions imposed by the Explanation in S.20 are not attracted in this case. The defendants on the other hand argue that S.20 which explains the phrase “carrying on business” cannot be inapplicable in this case, leading to a subjective definition for the phrase and that the *Heydon’s* rule must be applied to cure the harassment caused by the apparently prevailing interpretation of this rule.

The analysis of the court should therefore depend on three questions:

1. Whether the Heydon’s rule should be applied in this case, and if so in what manner?
2. Whether S.20 of the Code of Civil Procedure is applicable?
3. If so, how does this provision interact with the provisions of S.134 and S.62?

It was held by the Hon’ble Supreme Court that the provisions of section 62 of the Copyright Act and section 134 of the Trade Marks Act have to be interpreted in the purposive manner. No doubt about it that a suit can be filed by the plaintiff at a place where he is residing or carrying on business or personally works for gain. He need not travel to file a suit to a place where defendant is residing or cause of action wholly or in part arises. However, if the plaintiff is residing or carrying on business etc. at a place where cause of action, wholly or in part, has also arisen, he has to file a suit at that place. Appeals are hereby dismissed.

For further information, please visit the link provided herein

RESERV BANK OF INDIA

Master Circular on Import of Goods and Services

The Reserve Bank of India (“RBI”) released its master circular dated July 1, 2015 vide [RBI/2015-16/82 Master Circular No.13 /2015-16 dated July 01, 2015](#) on Import of Goods and Services into India. It is to be noted that the said circular deals with the provisions relating to exports of goods and services, as given in circular dated July 1, 2015 .

The changes as incorporated / amended have been specified below. The remainder has not been modified by RBI and the provisions as specified in the [Circular dated July 1, 2014](#) have been unchanged.

Receipt of import documents by the importer directly from overseas suppliers in case of specified sectors

As a sector specific measure, AD Category - I banks are permitted to allow remittance for imports up to USD 300,000 where the importer of rough diamonds, rough precious and semi-precious stones has received the import bills / documents directly from the overseas supplier and the documentary evidence for import is submitted by the importer at the time of remittance. AD Category - I banks may undertake such transactions subject to the following conditions:

- The import would be subject to the prevailing Foreign Trade Policy.
- The transactions are based on their commercial judgment and they are satisfied about the bonafides of the transactions.\
- AD Category - I banks should do the KYC and due diligence exercise and should be fully satisfied about the financial standing / status and track record of the importer customer. Before extending the facility, they should also obtain a report on each individual overseas supplier from the overseas banker or reputed overseas credit rating agency .

Receipt of import documents by the AD Category – I bank directly from overseas suppliers

- At the request of importer clients, AD Category – I bank may receive bills directly from the overseas supplier as above, provided the AD Category – I bank is fully satisfied about the financial standing/status and track record of the importer customer.
- Before extending the facility, the AD Category – I bank should obtain a report on each individual overseas supplier from the overseas banker or a reputed overseas credit agency. However, such credit report on the overseas supplier need not be obtained in cases where the invoice value does not exceed USD 300,000 provided the AD Category – I bank is satisfied about the bonafides of the transaction and track record of the importer constituent.

Import of / Platinum / Silver on Unfixed Price Basis

The nominated agency/bank may import platinum and silver, on outright purchase basis subject to the condition that although ownership of the same shall be passed on to the importer at the time of import itself, the price of shall be fixed later, as and when the importer sells to the users but within the permissible time period for settling the transaction.

For further information, please visit the link provided herein

Master Circular on Infrastructure Debt Fund Non-Banking Financial Companies (Reserve Bank) Directions, 2011

RBI vide Master Circular No. [RBI/2015-16/18 dated July 01, 2015](#) provides for Infrastructure Debt Fund-Non-Banking Financial Companies (Reserve Bank) Directions, 2011 (“Directions”).

RBI states that these directions shall apply to every infrastructure Debt Fund Non-Banking Financial Company (“IDF-NBFC”), which shall mean a non-deposit taking NBFC that has net owned fund of Rs.300 crores or more and which invests only in Public Private Partnership (“PPP”) and post commencement operations (“COD”) infrastructure projects which have completed one year of satisfactory commercial operation and becomes a party to a Triparte Agreement. RBI provides for the following directions:-

1. **Credit Rating & Capital Adequacy**:-IDF-NBFC shall have a minimum credit rating grade of A or a equivalent rating issued by other agencies and shall have minimum CRAR of 15 percent.
2. **Investment**:- IDF-NBFCs can invest in post COD infrastructure projects which have completed at least one year of satisfactory commercial operation that are:-
 - PPP projects and party to a Triparte Agreement
 - Non-PPP Projects and PPP projects without a project authority.
3. **Credit Concentration Norms**:-
 - The maximum exposure that in IDF-NBFC can take on individual projects will be 50 percent of total capital funds
 - Additional exposure upto 10percent could be taken at the discretion of the board of IDF-NBFC
 - RBI may permit additional exposure of 15 percent subject to conditions on being satisfied about the financial position of IDF-NBFC
4. **Risk Weights for the Purpose of capital Adequacy**:- For the purpose of computing capital adequacy of the IDF-NBFC
 - Assets covering PPP and COD infrastructure projects in existence

over a year of commercial operation shall have risk weight of 50 per cent;

- All other assets shall be risk weighted as per the extant regulations;
- All other prudential norms as specified in Systemically Important Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015 including income recognition, asset classification and provisioning norms will be applicable for IDF-NBFCs .

Master Circular- Exemptions from the provisions of RBI Act, 1934

The Reserve Bank of India (“RBI”) vide Master Circular No. [RBI/2015-2016/15 dated July 01, 2015](#) provides for Exemptions from the provisions of the RBI Act, 1934.

RBI has issued notifications from time to time exempting some entities from the requirements of Chapter III B of the RBI Act, 1934 or part thereof. RBI has exempted the following from the provision of Chapter IIIB of the RBI Act, 1934:-

- Non-Banking Financial Companies (“NBFC”) which is a housing finance institution as defined in Section 2(d) of the National Housing Bank Act, 1987.
- Merchant Banking Company has been exempted from the provisions of Section 45 IA , IB and IC of the RBI Act, 1934 subject to the following conditions:-
 - a. If registered with the Securities Exchange Board of India (“SEBI”) as a Merchant Banker
 - b. acquires security only as a part of its merchant banking transaction
 - c. does not carry any other financial activity

does not accept or hold public deposits

- Provisions of Section 45 IA , IB and IC of the RBI Act, 1934 shall not apply to NBFC which is:-
 - a. engaged in micro financing activities
 - b. licensed under Section 25 of the Companies Act 1956
 - c. not accepting public deposits
- Mutual Benefit Companies has been exempted from the provisions of Section 45 IA , IB and IC of the RBI Act, 1934
- Section 45-IB and 45-IC of the RBI Act, 1934 shall not apply to NBFC being a Government Company
- Section 45-IB and 45-IC of the RBI Act, 1934 shall not apply to NBFC which is venture capital fund company holding a certificate of registration obtained under Section 12 of SEBI Act, 1992 and is not holding a public deposit
- Provisions of Section 45 IA , IB and IC of the RBI Act, 1934 shall not apply to NBFC not holding or accepting public deposit and doing the business of insurance, being a stock exchange and doing business of stock broker
- Provisions of Section 45 IA , IB and IC of the RBI Act, 1934 shall not apply to :-
 - a. NBFC notified under Section 620A of the Companies Act, 1956 known as Nidhi Companies
 - b. Chit Companies doing the business of chits as defined in Section 2(b) of Chit Funds Act, 1982
 - c. Securitisation company or Reconstruction company registered with RBI
 - d. Mortgage Guarantee Companies notified as NBFC as per Section 45 i(f)(iii) of RBI Act, 1934

Provisions of Section 45-IA shall not apply to NBFC being a Core Investment Company

Provisions of Chapter III B of RBI Act, 1934 shall not apply to non-banking institution which is authorised to operate a payment system and to issue prepaid payment instruments

For further information, please visit the link provided herein

MASTER CIRCULAR ON EXPORTS OF GOODS AND SERVICES

RBI released its Master Circular [RBI/2015-16/83 Master Circular No.14/2015-16 \(Updated as on July 16, 2015\) dated July 1, 2015](#) on Exports of Goods and Services. It is to be noted that the said circular deals with the provisions relating to exports of goods and services, as given in circular dated July 1, 2015. The changes as incorporated / amended have been specified below. The remainder has not been modified by RBI and the provisions as specified in the [Circular dated July 1, 2014](#) have been unchanged.

a. EDF approval for Export of Goods for re-imports

Re-export of unsold rough diamonds from Special Notified Zone of Customs without Export Declaration Form (EDF) formality

- In order to facilitate re-export of unsold rough diamonds imported on free of cost basis at SNZ, it is clarified that the unsold rough diamonds, when re-exported from the SNZ (being an area within the Customs) without entering the Domestic Tariff Area (DTA), do not require any EDF formality.
- Entry of consignment containing different lots of rough diamonds into the SNZ should be accompanied by a declaration of notional value by way of an invoice and a packing list indicating the free cost nature of the consignment. Under no circumstance, entry of such rough diamonds is permitted into DTA

- For the lot/ lots cleared at the Precious Cargo Customs Clearance Centre, Mumbai, Bill of Entry shall be filed by the buyer. AD bank may permit such import payments after being satisfied with the bona-fides of the transaction. Further, AD bank shall also maintain a record of such transactions.

b. Export factoring on non-recourse basis

Taking into account the recommendation made by the Technical Committee on Facilities and Services to the Exporters (Chairman: Shri G. Padmanabhan), it has been decided to permit AD banks to factor the export receivables on a non-recourse basis, so as to enable the exporters to improve their cash flow and meet their working capital requirements subject to conditions as under:

- AD banks may take their own business decision to enter into export factoring arrangement on non-recourse basis. They should ensure that their client is not over financed. Accordingly, they may determine the working capital requirement of their clients taking into account the value of the invoices purchased for factoring. The invoices purchased should represent genuine trade invoices.
- In case the export financing has not been done by the Export Factor, the Export Factor may pass on the net value to the financing bank/ Institution after realising the export proceeds.
- AD bank, being the Export Factor, should have an arrangement with the Import Factor for credit evaluation & collection of payment.
- Notation should be made on the invoice that importer has to make payment to the Import Factor.
- After factoring, the Export Factor may close the export bills and report the same in the Export Data Processing and Monitoring System (EDPMS) of the Reserve Bank of India.

- In case of single factor, not involving Import Factor overseas, the Export Factor may obtain credit evaluation details from the correspondent bank abroad.
- KYC and due diligence on the exporter shall be ensured by the Export Factor.

c. Operational Guidelines for AD Category – I banks

EDF Form – the said provisions have been amended as follows:

- The procedure relating to the exports of goods through EDI ports will remain the same. However, the requirement of declaring the exports of goods / software in the SDF in case of exports taking place through the EDI ports has been dispensed with as the mandatory statutory requirements contained in the erstwhile SDF have been subsumed in the Shipping Bill format.
- The EDF will be used for declaration of export of Goods at Non-EDI ports. EDF forms should be completed by the exporter in duplicate and both the copies submitted to the Customs at the port of shipment along with the shipping bill.
- Customs will give their running serial number on both the copies after admitting the corresponding shipping bill. The Customs serial number will have ten numerals denoting the code number of the port of shipment, the calendar year and a six- digit running serial number.
- Customs will certify the value declared by the exporter on both the copies of the EDF form at the space earmarked and will also record the assessed value.
- They will then return the duplicate copy of the form to the exporter and retain the original for transmission to the Reserve Bank.

- Exporters should submit the duplicate copy of the EDF form again to Customs along with the cargo to be shipped.
- After examination of the goods and certifying the quantity passed for shipment on the duplicate copy, Customs will return it to the exporter for submission to the AD Category – I banks for negotiation or collection of export bills.
- Within 21 days from the date of export, exporter should lodge the duplicate copy together with relative shipping documents and an extra copy of the invoice with the AD Category – I banks named in the EDF form.
- After the documents have been negotiated / sent for collection, the AD Category – I banks should report the transaction through Export Data Processing and Monitoring System (EDPMS) to the Reserve Bank.
- The duplicate copy of the form together with a copy of invoice etc. shall be retained by the AD Category – I banks and may not be submitted to the Reserve Bank.
- In the case of exports made under deferred credit arrangement or to joint ventures abroad against equity participation or under rupee credit agreement, the number and date of the Reserve Bank approval and/or number and date of the relative RBI circular should be recorded at the appropriate place on the EDF form.
- Where Duplicate copy of EDF form is misplaced or lost, AD Category – I banks may accept another copy of duplicate EDF form duly certified by Customs.

d. **Export Bills Register:**

AD Category – I banks should maintain Export Bills Register, in physical or electronic form aligned with Export Data Processing and Monitoring System (EDPMS). The bill number should be given to all type of export transactions on a financial year basis (i.e. April to March) and same should be reported in EDPMS.

e. **Follow-up of Overdue Bills:**

- AD Category – I banks should closely watch realization of bills and in cases where bills remain outstanding, beyond the due date for payment from the date of export, the matter should be promptly taken up with the concerned exporter. If the exporter fails to arrange for delivery of the proceeds within the stipulated period or seek extension of time beyond the stipulated period, the matter should be reported to the Regional Office concerned of the Reserve Bank stating, where possible, the reason for the delay in realizing the proceeds.
- The duplicate copies of EDF/SOFTEX Forms should, continue to be held by AD Category – I banks until the full proceeds are realized, except in case of undrawn balances.
- AD Category – I banks should follow up export outstanding with exporters systematically and vigorously so that action against defaulting exporters does not get delayed. Any laxity in the follow up of realization of export proceeds by AD Category – I banks will be viewed seriously by the Reserve Bank, leading to the invocation of the penal provision under FEMA, 1999.
- With operationalization of EDPMS on March 01, 2014, realization of all export transaction for shipping documents after February 28, 2014 should be reported in EDPMS and old outstanding shipping bills prior to March 01, 2014 should continue to be reported in XOS

till completion of the cycle.

f. Extension of Time

The Reserve Bank of India has permitted the AD Category – I banks to extend the period of realization of export proceeds beyond 12 months has been changed to “stipulated period of realization” from the date of export, up to a period of six months, at a time, irrespective of the invoice value of the export subject to the same conditions.

AD banks should report write off of export bills through EDPMS to the Reserve Bank.

g. Write-off – Relaxation

The AD Category – I banks are advised not to insist on the surrender of proportionate export incentives, other than under the Duty Drawback Scheme, if availed of, by the exporter under any of the Export Promotion Schemes under FTP 2009-14 , subject to fulfilment of conditions as stated above. The drawback amount has to be recovered even if the claim is settled by the Export Credit Guarantee Corporation of India Limited (ECGC) or the write –off is allowed by the Reserve Bank” has been deleted. The remainder has been held to be the same.

For further information, please visit the link provided herein

MASTER CIRCULAR ON FOREIGN INVESTMENT IN INDIA

RBI released its Master Circular [RBI/2015-16/96 \(Updated upto July 16, 2015\) dated July 1, 2015](#) on Foreign Investment in India. The provisions relating to Foreign Direct Investment in India vide notification dated July 1, 2015) have been amended as follows. The changes as incorporated / amended have been specified below. The remainder of the circular has not been modified by RBI and the provisions as specified in the [Circular dated July 1, 2014](#) have been unchanged.

a. **Provisions relating to Eligibility for Investment in India:**

- A person resident outside India or an entity incorporated outside India can invest in India, according to the FDI Policy of the Government of India and Foreign Exchange Management (Transfer or issue of security by a person resident outside India) Regulations, 2000. It may be noted that a person who is a citizen of or an entity incorporated in Bangladesh/ Pakistan can invest in India under the FDI Scheme with the prior approval of the FIPB subject to terms and conditions mentioned in FDI Policy and Foreign Exchange Management (Transfer or issue of security by a person resident outside India) Regulations, 2000.
- NRIs, resident in Nepal and Bhutan as well as citizens of Nepal and Bhutan are permitted to invest in shares and convertible debentures of Indian companies under FDI Scheme on repatriation basis, subject to the condition that the amount of consideration for such investment shall be paid only by way of inward remittance in free foreign exchange through normal banking channels.
- Overseas Corporate Bodies (OCBs) have been de-recognised as a class of investor in India with effect from September 16, 2003. Erstwhile OCBs which are incorporated outside India and are not under adverse notice of the Reserve Bank can make fresh investments under the FDI Scheme as incorporated non-resident entities, with the prior approval of the Government of India if the investment is through the Government Route; and with the prior approval of the Reserve Bank, if the investment is through the

Automatic Route. However, before making any fresh FDI under the FDI scheme, an erstwhile OCB should through their AD bank, take a one-time certification from RBI that it is not in the adverse list being maintained with the Reserve Bank of India.

b. Prohibition on foreign investment in India:

Foreign investment in any form is prohibited in a company or a partnership firm or a proprietary concern or any entity, whether incorporated or not (such as, Trusts) which is engaged or proposes to engage in the following activities:

- Business of chit fund, or
- Nidhi company, or
- Agricultural or plantation activities, or
- Real estate business, or construction of farm houses, or
- Trading in Transferable Development Rights (TDRs).

However, it is clarified that only NRIs are eligible to subscribe to the chit funds on non- repatriation basis subject to the following conditions:

- The Registrar of Chits or an officer authorised by the State Government in accordance with the provisions of the Chit Fund Act in consultation with the State Government concerned, may permit any chit fund to accept subscription from Non-Resident Indians on non-repatriation basis;
- The subscription to the chit funds shall be brought in through normal banking channel, including through an account maintained with a bank in India.

c. Issue of shares under Employees Stock Option Scheme (ESOPs)

An Indian company may issue “employees’ stock option” and/or “sweat equity shares” to its employees/directors or employees/directors

of its holding company or joint venture or wholly owned overseas subsidiary/subsidiaries who are resident outside India, provided that:

- The scheme has been drawn either in terms of regulations issued under the Securities Exchange Board of India Act, 1992 or the Companies (Share Capital and Debentures) Rules, 2014 notified by the Central Government under the Companies Act 2013, as the case may be.
- The “employee’s stock option”/ “sweat equity shares” issued to non-resident employees/directors under the applicable rules/regulations are in compliance with the sectoral cap applicable to the said company.
- Issue of “employee’s stock option”/ “sweat equity shares” in a company where foreign investment is under the approval route shall require prior approval of the Foreign Investment Promotion Board (FIPB) of Government of India.
- Issue of “employee’s stock option”/ “sweat equity shares” under the applicable rules/regulations to an employee/director who is a citizen of Bangladesh/Pakistan shall require prior approval of the Foreign Investment Promotion Board (FIPB) of Government of India.

d. Reporting of ESOPs for allotment of equity shares

An Indian company issuing sweat equity shares / employees’ stock option / shares issued against exercise of stock option to its employees/directors or employees/directors of its holding company or joint venture or wholly owned overseas subsidiary/subsidiaries who are resident outside India shall furnish to the Regional Office concerned of the Reserve Bank of India under whose jurisdiction the registered office of the company operates, within 30 days from the date of issue of employees’ stock option or sweat equity shares, as per the Form-ESOP (Annex -13).

MASTER CIRCULAR ON MISCELLANEOUS REMITTANCES FROM INDIA – FACILITIES FOR RESIDENTS

RBI vide its Master Circular [RBI/2015-16/91 dated July 1, 2015](#) stated that Miscellaneous remittance facilities for residents are allowed in terms of section 5 of the Foreign Exchange Management Act, 1999, read with Government of India Notification No. G.S.R 381(E) dated May 3, 2000, as amended from time to time.

It is to be noted that the said circular deals with the provisions relating to remittances from India, as given in Circular dated July 1, 2015. The changes as incorporated / amended have been specified below. The remainder has not been modified by RBI and the provisions as specified in the Circular [dated July 1, 2014](#) have been unchanged.

Release of Foreign Exchange by Authorised Dealers:

a. Sale of Exchange

- Authorised Persons may release foreign exchange for travel purposes on the basis of a declaration given by the traveller regarding the amount of foreign exchange availed of during the financial year. It is not mandatory for Authorised Dealers to endorse the amount of foreign exchange sold for travel abroad on the passport of the traveller. However, if requested by the traveller, they may record under their stamp, date, signature and details of foreign exchange sold for travel.
- In case of issue of travellers cheques, the traveller should sign the cheques in the presence of an authorised official and the purchaser's acknowledgement for receipt of the travellers cheques should be held on record. Authorised Dealers may, if requested by the traveller, record under their stamp and signature details of foreign exchange sold for travel, other than the private visit abroad. In case of a child travelling on a parent's passport, the endorsement should be made on the joint passport.

- Out of the overall foreign exchange (USD 250, 000) being sold to a traveller, exchange in the form of foreign currency notes and coins may be sold up to the limit as indicated in the said circular.
 - A resident Indian is allowed to take INR of denomination of Rs.100 or lesser denomination, to Nepal and Bhutan, without any limits. For denominations of Rs 500 and Rs1,000, the limit is Rs 25,000.
 - The form A2 relating to sale of foreign exchange should be retained for a period of one year by the Authorised Persons, together with the related documents, for the purpose of verification by their Internal ACCEPTIs. For effecting current account remittances not exceeding USD 25,000 Authorised Dealers need only a simple letter from the applicant containing the basic information, viz., names and the addresses of the applicant and the beneficiary, amount to be remitted and the purpose of remittance. However, this is subject to the condition that the payment is made by a cheque drawn on the applicant's bank account or by a Demand Draft. AD banks shall prepare dummy A-2 so as to enable them to provide purpose of remittance for statistical inputs for Balance of Payment.
- b. Cultural Tours**
- For private visits abroad, other than to Nepal and Bhutan, any resident individual can obtain foreign exchange up to an aggregate amount of USD 2,50,000, from an Authorised Dealer or FFMC, in any one financial year, irrespective of the number of visits undertaken during the year. This limit has been subsumed under the Liberalised Remittance Scheme w.e.f. May 26, 2015. If an individual has already remitted any amount under the Liberalised Remittance Scheme in a financial year, then the applicable limit for travelling purpose for such individual would be reduced from USD 250,000 by the amount so remitted.
 - The resident individual shall have to fill Form A2 and 'Application cum declaration for purchase of foreign exchange under Liberalised Remittance Scheme of USD 250,000' while availing foreign exchange for travelling purposes from AD banks and FFMCs.

c. Gift/ donation

- Any resident individual/entity (trust; company; partnership firm, etc.), may remit up-to USD 2,50,000 in one financial year as gift to a person residing outside India or as donation to an organization outside India. Remittances exceeding the limit of USD 2,50,000 will require prior permission from the Reserve Bank. For a resident individual, this limit has been subsumed under the Liberalised Remittance Scheme w.e.f. May 26, 2015. If an individual remits any amount under the Liberalised Remittance Scheme in a financial year, then the applicable limit for such individual would be reduced from USD 250,000 by the amount so remitted.
- General permission is available to persons other than individuals' to remit towards donations up-to one per cent of their foreign exchange earnings during the previous three financial years or USD 5,000,000, whichever is less, for (a) creation of Chairs in reputed educational institutes, (b) contribution to funds (not being an investment fund) promoted by educational institutes; and (c) contribution to a technical institution or body or association in the field of activity of the donor Company. Any additional remittance in excess of the same shall require prior approval of the Reserve Bank of India.

d. Going abroad on employment

A person going abroad for employment can draw foreign exchange up to USD 2,50,000 per financial year from any Authorised Dealer in India on the basis of self-declaration in Form A2 and 'Application cum declaration for purchase of foreign exchange under LRS of USD 250,000'. This limit has been subsumed under the Liberalised Remittance Scheme w.e.f. May 26, 2015. If an individual remits any amount under the Liberalised Remittance Scheme in a financial year, then the applicable limit for such individual would be reduced from USD 250,000 by the amount so remitted.

e. Emigration

A person going abroad on emigration can draw foreign exchange from AD Category I bank and AD Category II bank up to the amount prescribed by the country of emigration or USD 250,000. This amount is only to meet the incidental expenses in the country of emigration. Further, this remittance

is not for undertaking any capital account transactions such as overseas investment in government bonds; land; commercial enterprise; etc. No amount of foreign exchange can be remitted outside India to become eligible or for earning points or credits for immigration.

f. Maintenance of close relatives abroad

A resident individual can remit up-to USD 250,000 per financial year towards maintenance of close relatives [‘relative’ as defined in Section 6 of the Indian Companies Act, 1956] abroad. This limit has been subsumed under the Liberalised Remittance Scheme w.e.f. May 26, 2015. If an individual remits any amount under the Liberalised Remittance Scheme in a financial year, then the applicable limit for such individual would be reduced from USD 250,000 by the amount so remitted.

g. Business trip

- For business trips to foreign countries, resident individuals/ individuals having proprietorship firms can avail of foreign exchange up to USD 2,50,000 in a financial year irrespective of the number of visits undertaken during the year. This limit has been subsumed under the Liberalised Remittance Scheme w.e.f. May 26, 2015.
- Visits in connection with attending of an international conference, seminar, specialised training, apprentice training, etc., are treated as business visits. Release of foreign exchange exceeding USD 2,50,000 for business travel abroad, irrespective of the period of stay, by residents require prior permission from the Reserve Bank.
- However, if an employee is being deputed by a company and the expenses are borne by the company, then such expenses shall be treated as residual current account transactions and may be permitted by the AD bank, without any limit, subject to verifying the bonafides of the transaction.

h. Medical treatment abroad

- With a view to enable resident individuals to avail of foreign exchange for medical treatment abroad without any hassles and any loss of time, Authorised Dealers may release foreign exchange up to an amount of USD 2,50,000 or its equivalent, on the basis of self-declaration in Form A2 and 'Application cum declaration for purchase of foreign exchange under LRS of USD 250,000' without insisting on any estimate from a hospital/doctor.
- For amount exceeding the above limit, estimate from the doctor in India or hospital/ doctor abroad, is required to be submitted to the Authorised Dealers.
- A person who has fallen sick after proceeding abroad may also be released foreign exchange by an Authorised Dealer for medical treatment outside India.
- In addition to the above, an amount up to USD 250,000 per financial year is allowed to a person for accompanying as attendant to a patient going abroad for medical treatment/check-up.

i. Facilities available to students for pursuing their studies abroad.

- AD Category I banks and AD Category II, may release foreign exchange up to USD 2,50,000 or its equivalent to resident individuals for studies abroad on self-declaration basis in Form A2 and 'Application cum declaration for purchase of foreign exchange under LRS of USD 250,000', without insisting on any estimate from the foreign University. However, AD Category I bank and AD Category II may allow remittances exceeding USD 250,000 based on the estimate received from the institution abroad.
- Students going abroad for studies are treated as Non-Resident Indians (NRIs) and are eligible for all the facilities available to NRIs under FEMA, 1999. Educational and other loans availed of by students as residents in India can be allowed to continue. A student holding NRO account may withdraw and repatriate up to USD 1 million per financial year from his NRO account. USD 3000 or its equivalent may be carried by the student in the form of foreign currency (which shall be within the overall limit of USD 2,50,000 or the estimate received from the institution abroad) while going for study abroad.

j. Any other current account transaction’ as given at item no. (ix) of para 1 of Schedule III to FEM (CAT) Amendment Rules, 2015

“Any other current account transaction” as given at item no. (ix) of Rules ibid is to cover any other current account transactions which were available to individuals in the erstwhile Schedule III to FEM (CAT) Rules, 2000 dated May 3, 2000, and which do not appear in Schedule III to FEM (CAT) Amendment Rules, 2015.

k. Unspent Foreign Exchange

- As stated above, unspent foreign exchange brought back to India by a resident individual should be surrendered to an Authorised Person within 180 days from the date of return of the traveller.
- However, a returning traveller is permitted to retain with him, foreign currency; travellers cheques and currency notes up to an aggregate amount of USD 2000 and foreign coins without any ceiling beyond 180 days. Foreign exchange so retained, can be utilized by the traveller for his subsequent visit abroad.
- A resident individual in India can open, hold and maintain with an Authorised Dealer in India, a Resident Foreign Currency (Domestic) Account, out of foreign exchange acquired in the form of currency notes, bank notes and travellers cheques. The eligible credits to the Resident Foreign Currency (Domestic) Account, are as under :-
 - i. while on a visit to any place outside India by way of payment for services not arising from any business in or anything done in India; or
 - ii. from any person not resident in India and who is on a visit to India, as honorarium or gift or for services rendered or in settlement of any lawful obligation; or
 - iii. by way of honorarium or gift while on a visit to any place outside India; or

- iv. represents the unspent amount of foreign exchange acquired by him from an authorised person for travel abroad.
 - v. as gift from a close relative;
 - vi. Explanation: For the purpose of this clause, "close relative" means relative as defined in Section 6 of the Indian Companies Act, 1956.
 - vii. by way of earning through export of goods/services, or as royalty, honorarium or by any other lawful means;
 - viii. representing the disinvestment proceeds received by the resident accountholder on conversion of shares held by him to ADRs/GDRs under the Sponsored ADR/GDR Scheme approved by the Foreign Investment Promotion Board of Government of India.
 - ix. by way of earnings received as the proceeds of life insurance policy claims/maturity/surrender values settled in foreign currency from an insurance company in India permitted to undertake life insurance business by the Insurance Regulatory and Development Authority
- Debits to the account shall be for payments towards a current account transaction in accordance with the provisions of the Foreign Exchange Management (Current Account Transactions) Rules, 2000, as amended from time to time and towards a capital account transaction permissible under the Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2000.
- I. **Liberalised Remittance Scheme (LRS) of USD 2,50,000 for Resident individuals**
 - The limit of USD 2,50,000 under the Scheme also includes remittances for current account transactions available to resident individuals under Para 1 of Schedule III to Foreign Exchange Management (Current Account Transactions) Amendment Rules, 2015. If an

individual remits any amount under the said Liberalised Remittance Scheme in a financial year, then the applicable limit for such individual would be reduced from USD 250,000 by the amount so remitted.

- Remittances under the Scheme can be used for purchasing objects of art subject to the provisions of other applicable laws such as the extant Foreign Trade Policy of the Government of India.
- The Scheme can also be used for remittance of funds for acquisition of ESOPs. The Scheme is in addition to acquisition of ESOPs linked to ADR / GDR and acquisition of qualification shares.
- A resident individual can invest in units of Mutual Funds, Venture Capital Funds, unrated debt securities, promissory notes, etc. under this Scheme. Further, the resident can invest in such securities out of the bank account opened abroad under the Scheme (see 12.13).
- An individual who has availed of a loan abroad while as a non-resident can repay the same on return to India under the Scheme as a resident.
- The Scheme can be used for outward remittance in the form of a DD either in the resident individual's own name or in the name of beneficiary with whom he intends putting through the permissible transactions at the time of private visit abroad, against self-declaration of the remitter in the format prescribed.
- With effect from August 05, 2013, this Scheme, can be used by Resident individuals to set up Joint Ventures (JV)/ Wholly Owned Subsidiaries (WOS) outside India for bonafides business activities within the limit of USD 2,50,000 subject to the terms & conditions as stipulated. Individuals can also open, maintain and hold foreign currency accounts with a bank outside India for making remittances under the Scheme without prior approval the Reserve Bank. The foreign currency accounts may be used for putting through all transactions connected with or arising from remittances eligible under this Scheme.

- Banks should not extend any kind of credit facilities to resident individuals to facilitate capital account remittances under the Scheme.
- The scheme is not available for remittances for any purpose specifically prohibited under Schedule I or any item restricted under Schedule II of Foreign Exchange Management (Current Account Transaction) Rules, 2000.
- The Scheme is not available for capital account remittances to countries identified by Financial Action Task Force (“FATF”) as non-cooperative countries and territories as available on FATF website or as notified by the Reserve Bank.
- For undertaking transactions under the Scheme, resident individuals may use the Form A-2 as at Annex-2 and Application-cum-Declaration Form as at Annex-3. It is mandatory to have PAN number to make remittances under the Scheme.
- Investor, who has remitted funds under LRS can retain, reinvest the income earned on the investments.
- AD Category – I banks are required to furnish the information on remittances made under this scheme on a monthly basis, on or before the fifth of the following month to which it relates through Online Returns Filing System (“ORFS”) for which purpose they have been given user ID and password by the Reserve Bank. Where there is no data to furnish, AD banks are advised to upload ‘nil’ figures in the ORFS system.

m. Facility to grant loan to NRI/ PIO close relative under Liberalised Remittance Scheme (“LRS”)

Resident individual is permitted to lend to a Non-resident Indian (“NRI”)/ Person of Indian Origin (“PIO”) close relative [means ‘relative’ as defined in Section 6 of the Indian Companies Act, 1956] by way of crossed cheque/ electronic transfer subject to the following conditions:

- the loan is free of interest and the minimum maturity of the loan is one year;
- the loan amount should be within the overall limit under the Liberalised Remittance Scheme of USD 2,50,000 per financial year available for a resident individual. It would be the responsibility of the lender to ensure that the amount of loan is within the Liberalised Remittance Scheme limit of USD 2,50,000 during the financial year;
- the loan shall be utilized for meeting the borrower's personal requirements or for his own business purposes in India.
- the loan shall not be utilized, either singly or in association with other person for any of the activities in which investment by persons resident outside India is prohibited, namely:
 - i. The business of chit fund, or
 - ii. Nidhi Company, or
 - iii. Agricultural or plantation activities or in real estate business, or construction of -farm houses, or
 - iv. T-rading in Transferable Development Rights (TDRs).
 - v. For the purpose of item above, real estate business shall not include development of townships, construction of residential/commercial premises, roads or bridges.
- the loan amount should be credited to the NRO a/c of the NRI / PIO. Credit of such loan amount may be treated as an eligible credit to NRO a/c;
- the loan amount shall not be remitted outside India; and
- repayment of loan shall be made by way of inward remittances through normal banking channels or by debit to the Non-resident Ordinary (NRO) / Non-resident External (NRE) / Foreign Currency Non-resident (FCNR) account of the borrower or out of the sale proceeds of the

Master Circular on Interest Rates on Deposits held in Foreign Currency Non-Resident Accounts (FCNR).

This circular consolidates the directives on [Interest Rates on FCNR \(B\) Deposits](#) issued by Reserve Bank of India from time to time. The definition of term deposit has been amended under the scheme the “term deposits” received by the bank for a fixed period and withdrawable only after the expiry of the said fixed period and includes Reinvestment Deposits and Cash Certificates or other deposits of similar nature

- The Maturity period has now been amended and the deposits should be accepted under the Scheme for the following maturity periods:
 - i. One year and above but less than two years
 - ii. Two years and above but less than three years
 - iii. Three years and above but less than four years
 - iv. Four years and above but less than five years
 - v. Five years only
- The circular also prohibits the acceptance of the Recurring Deposits under the FCNR (B) Scheme. The circular further requires bank to obtain prior approval of its Board of Directors for the interest rates that it will offer on deposits of various maturities, within the ceiling prescribed by Reserve Bank of India. The Board of Directors of a bank may authorise the Asset Liability Management Committee to fix interest rates on deposits subject to reporting to the Board immediately thereafter.
- The manner of payment of interest on the deposits are mentioned below
- The interest on the deposits accepted under the scheme should be paid on the basis of 360 days to a year.
- The interest on FCNR (B) deposits should be calculated and paid at intervals of 180 days each and thereafter for the remaining actual number of

- shares or securities or immovable property against which such loan was granted.

n. Endorsement on Passport

- All the facilities (including private/business visits) for release of exchange/remittances for current account transactions available to resident individuals under Para 1 of Schedule III to FEM (CAT) Amendment Rules, 2015, have been subsumed under the overall limit of USD 250,000. However, for emigration; expenses in connection with medical treatment abroad and studies abroad, individuals may avail of exchange facility for an amount in excess of the overall limit prescribed under the LRS, if it is so required by a country of emigration; medical institute offering treatment or the university respectively.
- The resident individuals shall be required to fill up Form A2 and Application cum declaration for purchase of foreign exchange under LRS of USD 250,000.

o. Acquisition of foreign securities under Employees Stock Option (ESOP)

Resident individuals who are either employees or director of an Indian office or branch of a foreign company in which foreign holding is not less than 51 per cent are permitted to acquire foreign securities under ESOP Scheme without any monetary limit. They are also permitted to freely sell the shares provided the proceeds thereof are repatriated to India.

p. Income- tax clearance

Reserve Bank of India will not issue any instructions under the FEMA, regarding the procedure to be followed in respect of deduction of tax at source while allowing remittances to the non-residents. It shall be mandatory on the part of Authorised Dealers to comply with the requirement of the tax laws, as applicable.

- days. However, the depositor will have the option to receive the interest on maturity with compounding effect.
- In order to have uniformity and for the sake of operational convenience, the interest rates FCNR(B) deposits should be rounded off to the nearest two decimal points.
- In respect of a term deposit maturing for payment on a Saturday / Sunday or a holiday or a non-business working day, banks should pay interest at the originally contracted rate on the original principal deposit amount for the Saturday / Sunday / holiday / non- business working day intervening between the date of expiry of the specified term of the deposit and the date of payment of the proceeds of the deposit on the succeeding working day.
- In case of reinvestment deposits, banks should pay interest for the intervening Saturday/Sunday/holiday/non-business working day on the maturity value.
- Banks may, at their discretion, renew an overdue deposit or a portion thereof provided the overdue period from the date of maturity till the date of renewal (both days inclusive) does not exceed 14 days. The rate of interest payable on the amount of the deposit so renewed should be the appropriate rate of interest for the period of renewal as prevailing on the date of maturity or on the date when the depositor seeks renewal, whichever is lower. In the case of overdue deposits where the overdue period exceeds 14 days and if the depositor places the entire amount of overdue deposit or a portion thereof as a fresh FCNR (B) deposit, banks may fix their own interest rates for the overdue period on the amount so placed as a fresh term deposit. Banks will have the freedom to recover the interest so paid for the overdue period if the deposit is withdrawn before completion of the minimum stipulated period under the Scheme, after renewal.

- In the case of a term deposit standing in the name/s of -a deceased individual depositor, or two or more joint depositors, where one of the depositors has died, interest should be paid in the manner indicated below :
 - i. at the contracted rate on the maturity of the deposit;
 - ii. in the event of the payment of the deposit being claimed before the maturity date, the bank should pay interest at the rate applicable to the period for which the deposit remained with the bank and not at the contracted rate, without charging penalty;
 - iii. in the event of death of the depositor before the date of maturity of the deposit and the amount of the deposit being claimed after the date of maturity, the bank should pay interest at the contracted rate till the date of maturity. From the date of maturity to the date of payment, the bank should pay simple interest at the applicable rate operative on the date of maturity, for the period for which the deposit remained with the bank beyond the date of maturity. However, in the case of death of the depositor after the date of maturity of the deposit, the bank should pay interest at a rate operative on the date of maturity in respect of savings deposits held under Resident Foreign Currency (RFC) Account Scheme, from the date of maturity till the date of payment;
 - iv. if, on request from the claimant/s, the bank agrees to split the amount of term deposit and issues two or more receipts individually in the name/s of the claimant/s, it should not be construed as premature withdrawal of the term deposit for the purpose of levy of penalty provided the period and aggregate amount of the deposit do not undergo any change.
- Banks may allow FCNR (B) deposits of persons of Indian nationality/origin who return to India for permanent settlement to continue till maturity at the contracted rate.

- Banks are prohibited from payment of additional interest on non-resident deposits of senior citizens including FCNR (B) deposits.
- When a loan or an advance is granted against an FCNR (B) term deposit which stands in the name of a borrower either singly or jointly, a bank would be free to charge a rate of interest without reference to its own Base Rate.

In case of Conversion of FCNR (B) Accounts of Returning Indians into RFC Account

- The penal provisions would not be applicable in the case of premature conversion of balances held in FCNR (B) deposits into RFC Accounts by Non-Resident Indians on their return to India.
- A bank should pay interest at its discretion at the time of conversion of FCNR(B) Account into RFC/Resident Rupee Account even if the same has not run for a minimum maturity period, subject to the condition that the rate of interest should not exceed the rate payable on savings bank deposits held under RFC Account Scheme.

Prohibitions

- No bank should:
 - i. accept or renew a deposit over five years.
 - ii. discriminate in the matter of rate of interest paid on the deposits, between one deposit and another accepted on the same date and for the same maturity, whether such deposits are accepted at the same office or at different offices of the bank, except on the size group basis. The permission to offer varying rates of interest based on size of the deposits will be subject to the following conditions:
 - iii. pay brokerage, commission or incentives on deposits mobilized under FCNR(B) Scheme in any form to any individual, firm, company, association, institution or any other person.

Master Circular on Priority Sector Lending Targets and Classification.

RBI Vide the said Master Circular RBI/[2015-16/53 FIDD.CO.Plan.BC.04/04.09.01/2015-16](#) dated July 01, 2015 the below mentioned categories are placed in the priority sector:-Agriculture, Micro-Small and Medium Enterprises, Export Credit, Education, Housing, Social Infrastructure, Renewable Energy, Others

The computation of priority sector targets/sub-targets achievement will be based on the Adjusted Net Bank Credit (“ANBC”) or Credit Equivalent Amount of Off-Balance Sheet Exposures, whichever is higher, as on the corresponding date of the preceding year. For the purpose of priority sector lending, ANBC denotes the outstanding Bank Credit in India [As prescribed in item No.VI of Form ‘A’ under Section 42 (2) of the RBI Act, 1934] minus bills rediscounted with RBI and other approved Financial Institutions plus permitted non SLR bonds/debentures under Held to Maturity (HTM) category plus other investments eligible to be treated as part of priority sector lending (e.g. investments in securitised assets). The outstanding deposits under RIDF and other funds with NABARD, NHB, SIDBI and MUDRA Ltd. in lieu of non-achievement of priority sector lending targets/sub-targets will form part of ANBC. For the purpose of calculation of Credit Equivalent Amount of Off-Balance Sheet Exposures, banks may be guided by the Master Circular on Exposure Norms issued by our Department of Banking Regulation. All types of loans, investments or any other items which are treated as eligible for classification under priority sector target/sub-target achievement should also form part of Adjusted Net Bank Credit.

1. Agriculture

The lending to agriculture sector has been defined to include (i) Farm Credit (which will include short-term crop loans and medium/long-term credit to farmers) (ii) Agriculture Infrastructure and (iii) Ancillary Activities.

2. Micro, Small and Medium Enterprises (MSMEs)

The limits for investment in plant and machinery/equipment for manufacturing / service enterprise, as notified by Ministry of Micro, Small and Medium Enterprises.

- In case of Manufacturing Sector Enterprises Limits for Investment in plant and machinery wise classification is provided:-

- i. For Micro Enterprises Does not exceed twenty five lakh rupees
 - ii. For Small Enterprises More than twenty five lakh rupees but does not exceed five crore rupees
 - iii. For Medium Enterprises More than five crore rupees but does not exceed ten crore rupees
- In case of Service Sector Enterprises Limits for Investment in Equipment wise classification is provided:-
 - i) For Micro Enterprises Does not exceed ten lakh rupees
 - ii) For Small Enterprises More than ten lakh rupees but does not exceed two crore rupees
 - iii) For Medium Enterprises More than two crore rupees but does not exceed five crore rupees
 - Bank loans to Micro, Small and Medium Enterprises, for both manufacturing and service sectors are eligible to be classified under the priority sector.

3. Manufacturing Enterprises

The Micro, Small and Medium Enterprises engaged in the manufacture or production of goods to any industry specified in the first schedule to the Industries (Development and Regulation) Act, 1951 and as notified by the Government from time to time. The Manufacturing Enterprises are defined in terms of investment in plant and machinery.

4. Service Enterprises

Bank loans up to ₹5 crore per unit to Micro and Small Enterprises and ₹10 crore to Medium Enterprises engaged in providing rendering of services and defined in terms of investment in equipment under MSMED Act, 2006.

5. Khadi and Village Industries Sector (KVI)

All loans to units in the KVI sector will be eligible for classification under the sub-target of 7 percent /7.5 percent prescribed for Micro Enterprises under priority sector.

6. Other Finance to MSMEs

- Loans to entities involved in assisting the decentralized sector in the supply of inputs to and marketing of outputs of artisans.

- Loans to co-operatives of producers in the decentralized sector viz. artisans, village and cottage industries.
- Loans sanctioned by banks to MFIs for on-lending to MSME sector as per the conditions specified in paragraph IX of this circular.
- Credit outstanding under General Credit Cards (including Artisan Credit Card, Laghu Udyami Card, Swarojgar Credit Card, and Weaver's Card etc. in existence and catering to the non-farm entrepreneurial credit needs of individuals).
- Outstanding deposits with SIDBI and MUDRA Ltd. on account of priority sector shortfall.
- Considering that the MSMED Act, 2006 does not provide for any sub-categorization within the definition of micro enterprises and that the sub-target for lending to micro enterprises has been fixed, the current sub-categorization within the definition of micro enterprises in the existing guidelines is dispensed with.
- To ensure that MSMEs do not remain small and medium units merely to remain eligible for priority sector status, the MSME units will continue to enjoy the priority sector lending status up to three years after they grow out of the MSME category concerned.

6. Export Credit

- The Export Credit extended as per the details below would be classified as priority sector.

i. Domestic banks

Incremental export credit over corresponding date of the preceding year, up to 2 percent of ANBC or Credit Equivalent Amount of Off-Balance Sheet Exposure, whichever is higher, effective from April 1, 2015 subject to a sanctioned limit up to ₹25 crore per borrower to units having turnover of up to ₹100 crore.

effective from April 1, 2017 (As per their approved plans, foreign banks with 20 branches and above are allowed to count certain percentage of export credit limit as priority sector till March 2017).

iii. Foreign banks with less than 20 branches

Export credit will be allowed up to 32 percent of ANBC or Credit Equivalent Amount of Off-Balance Sheet Exposure, whichever is higher.

- Export credit includes pre-shipment and post shipment export credit (excluding off-balance sheet items) as defined in Master Circular on Rupee / Foreign Currency Export Credit and Customer Service to Exporters issued by our Department of Banking Regulation.

7. Education

Loans to individuals for educational purposes including vocational courses upto ₹10 lakh irrespective of the sanctioned amount will be considered as eligible for priority sector.

8. Housing

Loans to individuals up to ₹28 lakh in metropolitan centres (with population of ten lakh and above) and loans up to ₹20 lakh in other centres for purchase/construction of a dwelling unit per family provided the overall cost of the dwelling unit in the metropolitan centre and at other centres should not exceed ₹35 lakh and ₹25 lakh respectively. The housing loans to banks' own employees will be excluded. As housing loans which are backed by long term bonds are exempted from ANBC, banks should either include such housing loans to individuals up to ₹28 lakh in metropolitan centres and ₹20 lakh in other centres under priority sector or take benefit of exemption from ANBC, but not both.

- Loans for repairs to damaged dwelling units of families up to lakh in metropolitan centres and up to ₹2 lakh in other centres.

- Bank loans to any governmental agency for construction of dwelling units or for slum clearance and rehabilitation of slum dwellers subject to a ceiling of ₹10 lakh per dwelling unit.
- The loans sanctioned by banks for housing projects exclusively for the purpose of construction of houses for economically weaker sections and low income groups, the total cost of which does not exceed ₹10 lakh per dwelling unit. For the purpose of identifying the economically weaker sections and low income groups, the family income limit of ₹2 lakh per annum, irrespective of the location, is prescribed.
- Bank loans to Housing Finance Companies (HFCs), approved by NHB for their refinance for on-lending for the purpose of purchase/construction reconstruction of individual dwelling units or for slum clearance and rehabilitation of slum dwellers, subject to an aggregate loan limit of ₹10 lakh per borrower.
- The eligibility under priority sector loans to HFCs is restricted to five per cent of the individual bank's total priority sector lending, on an ongoing basis. The maturity of bank loans should be co-terminus with average maturity of loans extended by HFCs. Banks should maintain necessary borrower-wise details of the underlying portfolio.
- Outstanding deposits with NHB on account of priority sector shortfall.

9. Social infrastructure

Bank loans up to a limit of ₹5 crore per borrower for building social infrastructure for activities namely schools, health care facilities, drinking water facilities and sanitation facilities in Tier II to Tier VI centres.

10. Renewable Energy

Bank loans up to a limit of ₹15 crore to borrowers for purposes like solar based power generators, biomass based power generators, wind mills, micro-hydel plants and for non-conventional energy based public utilities viz. street lighting systems,

11. Others

- Loans not exceeding ₹50,000/- per borrower provided directly by banks to individuals and their SHG/JLG, provided the individual borrower's household annual income in rural areas does not exceed ₹100,000/- and for non-rural areas it does not exceed ₹1,60,000/-.
- Loans to distressed persons [other than farmers already included under III (1.1) A (v)] not exceeding ₹100,000/- per borrower to prepay their debt to non-institutional lenders.
- Overdrafts extended by banks upto ₹5,000/- under Pradhan Mantri Jan-DhanYojana (PMJDY) accounts provided the borrowers household annual income does not exceed ₹100,000/- for rural areas and ₹1,60,000/- for non-rural areas.
- Loans sanctioned to State Sponsored Organisations for Scheduled Castes/ Scheduled Tribes for the specific purpose of purchase and supply of inputs and/or the marketing of the outputs of the beneficiaries of these organisations.

12. Common guidelines for priority sector loans

Banks should comply with the following common guidelines for all categories of advances under the priority sector.

- The rates of interest on bank loans will be as per directives issued by our Department of Banking Regulation from time to time.
- No loan related and adhoc service charges/inspection charges should be levied on priority sector loans up to ₹25,000.
- A register/ electronic record should be maintained by the bank, wherein the date of receipt, sanction/rejection/disbursement with reasons thereof, etc., should be recorded. The register/electronic record should be made available to all inspecting agencies.

RBI : Non- Systemically Important Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015.

RBI vide its [Master Circular No. RBI/2015-16/23](#) dated July 01, 2015 updated Non-Systemically Important Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015. Accordingly, following Directions has been updated:

- a. The provisions of these Directions, shall apply to every non-banking financial company not accepting/ holding public deposits which is non-systematically important as defined in Systemically important non-deposit taking non-banking financial company of these directions.
- b. These Directions except the provision 15 consisting requirement of submission of a certificate from Statutory Auditor to the Bank shall not apply to non-banking financial company having asset size of less than Rs. 500 crore **Provided** that, it does not accept/ hold any public funds.
- c. These Directions, except the provisions consisting in Paragraph 26 in regards to the communication of Information with respect to change of address, directors, auditors, etc. to be submitted to the Regional Office of the Department of Non- Banking Supervision of the Reserve Bank of India shall not apply to non-banking financial company being a Government company as defined under clause (45) of Section 2 of the Companies Act, 2013 (18 of 2013) and not accepting / holding public deposit.
- d. These Directions shall not apply to a non-banking financial company being a Core Investment Company referred to in the Core Investment Companies (Reserve Bank) Directions, 2011 (CIC Directions), which is not a systemically important Core Investment Company as defined in clause (h) of subparagraph (1) of paragraph 3 of the CIC Directions.

- e. The provisions of Paragraph 15, 16 and 17 of these Directions shall not apply to a Systemically Important Core Investment Company (between asset size Rs. 100 crore and Rs. 500 crore) as defined in clause (h) of subparagraph (1) of paragraph 3 of the CIC Directions.
- f. The provisions of paragraph 8, 9 and 17 of these Directions shall not apply to an NBFC-MFI as defined in the Non-Banking Financial Company- Micro Finance Institutions (Reserve Bank) Directions, 2011.

For further information, please visit the link provided herein

RBI : Non-Banking Financial (Deposits Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2007



RBI vide its [Master Circular No. RBI/2015-16/22](#) dated July 06, 2015 updated Non-Banking Financial (Deposits Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2007 (hereinafter referred to as the said Directions), in exercise of the powers conferred by section 45J OF the Reserve Bank of India Act, 1932. Accordingly, the said Directions has been amended and revised namely :-

- a. The following proviso has been inserted at the end of the definition of “doubtful asset” at Paragraph 2 (1) (iv) which reads as under :

“Provided that the period ‘exceeding 18 months’ stipulated in this clause shall be ‘exceeding 16 months’, for the financial year ending March 31, 2016; ‘exceeding 14 months’, for the financial year ending March 31, 2017 and ‘exceeding 12 months’, for the financial year ending March 31, 2018 and thereafter.”

- b. The following proviso has been inserted after sub clause (f) in clause (xiii) defining 'non-performing asset' for any dues on account of sale of assets or services rendered or reimbursement of expenses incurred, which remained overdue for a period of six months or more; which reads as under :

“Provided that the period of ‘six months or more’ stipulated in sub-clauses (a) to (f) of this clause shall be ‘five months or more’ with for the financial year ending March 31, 2016; ‘four months or more’ for the financial year ending March 31, 2017 and ‘three months or more’ for the financial year ending March 31, 2018 and thereafter.”

- c. The following proviso has been inserted after sub clause (g) in clause (xiii) for lease rental and hire purchase instalment, which has become overdue for a period of twelve months or more which reads as under :

“Provided that the period of ‘twelve months or more’ stipulated in this sub-clause shall be ‘nine months or more’ for the financial year ending March 31, 2016; ‘six months or more’ for the financial year ending March 31, 2017 and ‘three months or more’, for the financial year ending March 31, 2018 and thereafter.”

- d. The following proviso has been inserted after sub clause (a) in clause (xvi) which provides definition for 'sub-standard asset'.

“Provided that the period ‘not exceeding 18 months’ stipulated in this sub-clause shall be ‘not exceeding 16 months’ for the financial year ending March 31, 2016; ‘not exceeding 14 months’ for the financial year ending March 31, 2017 and ‘not exceeding 12 months’ for the financial year ending March 31, 2018 and thereafter”.

- e. After Paragraph 9A for provisioning requirements, the following proviso has been inserted –

“Provided that the provision for standard assets shall be 0.30 percent as on March 31, 2016; 0.35 percent as on March 31, 2017; 0.40 percent as on March 31, 2018 and thereafter.”

- f. Paragraph 16 of the said Directions states requirement as to capital adequacy. The following shall be substituted for sub-paragraph (1) and (2), namely –

“(1) Every non-banking financial company shall maintain a minimum capital ratio consisting of Tier I and Tier II capital which shall not be less than 15 percent of its aggregate risk weighted assets on-balance sheet and of risk adjusted value of off-balance sheet items.”.

“(2) The total Tier I capital, at any point of time shall not be less than 8.5 percent by March 31, 2016 and 10 percent by March 31, 2017.”

- g. In paragraph 16 of the said Directions, after sub-paragraph (2) in the table of the Explanation (1) on Balance Sheet assets after (ii) (d) the following has been inserted under the heading Investments i.e. All assets covering PPP and post commercial operations date (COD) infrastructure projects in existence over a year of commercial operation having operation weight of 50.

- h. The said Directions provide for standardization of value of gold accepted as collateral in arriving at LTV Ratio. Vide notification dated May 21, 2015 RBI has amended and added at the end of the Paragraph 17C (1) (i) of the Directions:

“or the historical spot gold price data publicly disseminated by a commodity exchange regulated by the Forward Markets Commission.”

- i. Whereas, the paragraph 17C (2) (b) of the Directions has been replaced as follows:

“(b) While auctioning the gold, the NBFC should declare a reserve price for the pledged ornaments. The reserve price for the pledged ornaments should not be less than 85 per cent of the previous 30 day average closing price of 22 carat gold as declared by the Bombay Bullion Association Ltd. (BBA) or the historical spot gold price data publicly disseminated by a commodity exchange regulated by the Forward Markets Commission and value of the jewellery of lower purity in terms of carats should be proportionately reduced.”

- i. RBI vide its notification dated April 10, 2015 made amendment to the Direction and has revised Paragraph 17 F which provides for Loan against security of shares as under:

“17 F. Loans against security of shares

All NBFCs with asset size of `100 crore and above, lending against the collateral of listed shares shall,

- maintain a Loan to Value (LTV) ratio of 50% for loans granted against the collateral of shares. LTV ratio of 50% is required to be maintained at all times. Any shortfall in the maintenance of the 50% LTV occurring on account of movement in the share prices shall be made good within 7 working days.*
- in case where lending is being done for investment in capital markets, accept only Group 1 securities (specified in SMD/ Policy/ Cir - 9/ 2003 dated March 11, 2003 as amended from time to time, issued by SEBI) as collateral for loans of value more than ` 5 lakh, subject to review by the Bank.*
- report on-line to stock exchanges on a quarterly basis, information on the shares pledged in their favour, by borrowers for availing loans*

- j. RBI has vide their notification dated July 2, 2015 has added a proviso in Paragraph 20 (1) which states ceiling on concentration of credit/ investment , as under:

“Provided further that nothing contained in paragraph 20(1) shall apply to

- *investments of NBFC in shares of*
- *its subsidiaries;*
- *companies in the same group,*
- *to the extent they have been reduced from Owned Funds for the calculation of NOF and*
- *the book value of debentures, bonds, outstanding loans and advances (including hire-purchase and lease finance) made to, and deposits with, -*
- *subsidiaries of the NBFC; and*
- *companies in the same group,*
- *to the extent they have been reduced from Owned Funds for the calculation of NOF”.*

- k. Pursuant to such amendment, RBI has vide its notification dated January 19,2015 has inserted a new paragraph 23B which reads as under:

“23B. Flexible Structuring of Long Term Project Loans to Infrastructure and Core Industries-

- *Norms for Flexible Structuring of Long Term project loans to Infrastructure and Core Industries by NBFCs shall be on the lines of the norms specified by the Reserve Bank of India for banks as modified*

- k. The following point (v) (a) has been inserted after point (v) of sub-para 3.3 of Paragraph 3 -

“Multiple revisions of the DCCO and consequential shift in repayment schedule for equal or shorter duration (including the start date and end date of revised repayment schedule) will be treated as a single event of restructuring provided that the revised DCCO is fixed within the respective time limits as stated in above points and all other terms and conditions of the loan remained unchanged.

If deemed fit, NBFCs may extend DCCO beyond the respective time limits quoted at (iii)(a) to (b) above; however, in that case, NBFCs will not be able to retain the ‘standard’ asset classification status of such loan accounts.”

For further information, please visit the link provided herein

Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998

RBI vide it's Master Circular No. RBI/2015-16/21 dated July 01, 2015 updated Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998 (hereinafter referred to as the said Directions), in exercise of the powers conferred by sections of the Reserve Bank of India Act, 1932.

Accordingly, the said Directions has been amended and revised namely -

SME Rating Agency of India Ltd., an approved credit rating agency has been added in the name of agency and 'SMERA A' has been added under Minimum Investment Grade Rating.

Vide a notification dated February 20, 2015 a new clause (fa) in Paragraph 2, of the said Directions, was inserted in sub. Paragraph (1), after clause (xii)(f) namely :-

“(fa) any amount raised by issuance of non-convertible debentures with a maturity more than one year and having the minimum subscription per investor at Rs.1 crore and above, provided that such debentures have been issued in accordance with the guidelines issued by the Reserve Bank as in force from time to time in respect of such non-convertible debentures.

Vide an notification dated March 27, 2015 the existing proviso to clause (i) in sub paragraph (1) in paragraph 4, providing minimum credit rating for restrictions on acceptance of public deposits by non-banking financial companies shall be substituted by the following new proviso, namely-

“Provided that in case of an unrated asset finance company, it shall obtain the minimum investment grade or other specified credit rating on or before March 31, 2016. Those AFCs that do not get a minimum investment grade rating by March 31, 2016, shall not renew existing deposits or accept fresh deposits thereafter. In the intervening period, i.e. till March 31, 2016, unrated Asset Finance Companies or those with a sub-investment grade rating shall only renew the existing deposits on maturity, and shall not accept fresh deposits, till they obtain an investment grade rating”.

Sub Paragraph (4) providing for ceiling on quantum of deposit has been modified as below :-

“an asset finance company or a loan company or an investment company having minimum NOF as stipulated by the Reserve Bank, and

(b) complying with all the prudential norms,

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.”

all existing deposits should runoff to maturity; and report the position within fifteen working days, to the concerned Regional Office of the Reserve Bank of India where the NBFC is registered.”

Notification as Amended upto June 30, 2015 'Mortgage Guarantee Company (Reserve Bank) Guidelines, 2008'.

RBI vide Circular [RBI/2015-16/73 DNBR.\(PD-MGC\).C.C.No.03/23.11.001/2015-16 July 1, 2015](#) provides for the updated instructions for Mortgage Guarantee Company (Reserve Bank) Guidelines, 2008' till June 30, 2015.

The following clauses have been amended:

Clause 18 Creation and maintenance of Reserves Contingency Reserves:

(c) a lower percentage of the premium or fee earned may be appropriated during any accounting year subject to a minimum of at least 24 % of the premium or fee earned when the provisions made each year towards losses on account of settlement of mortgage guarantee claims exceeds thirty five percent (35 %) of the premium or fee earned during that accounting year

(f) the Contingency Reserve without the prior approval of the Reserve Bank of India shall be utilized solely for the purpose of meeting and making good the losses suffered by the mortgaged guarantee holders only after exhausting all other avenues and options to recoup the losses; in all other cases of utilization, prior approval of Reserve Bank of India shall be obtained.

Clause 20

20. A mortgage guarantee company is exposed to a potential loss when its guarantee is invoked. Mortgage guarantee companies shall hold provisions for losses in respect of such invoked guarantees pending recovery of assets. The amount of provisions required to be held shall be equal to the contract wise aggregate of 'amount of invocation' after adjusting the realisable value of the assets held by the company in respect of each housing loan where the guarantee has been invoked. In case the realisable value of the assets held in respect of any invoked guarantee is more than the amount of invocation, the excess shall not be adjusted against the shortfall in other invoked guarantee



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In case the amount of provisions already held is in excess of the amount as computed above, the excess provision may be reversed after full recovery or closure of the invoked guarantee amount or after the account becomes standard.

The amount of provisions made each year shall be shown as a separate line item in the Profit and Loss Account. The amount of provision held for losses on settlement of invoked guarantees shall be shown as a separate line item on the liability side of the balance sheet.

Notification as Amended upto June 30, 2015 "Mortgage Guarantee Companies Investment (Reserve Bank) Directions, 2008".

RBI vide Circular [RBI/2015-16/72 DNBR.\(PD-MGC\).C.C.No.02/23.11.001/2015-16 dated July 1, 2015](#) provides for the updated instructions for Mortgage Guarantee Companies Investment (Reserve Bank) Directions, 2008 till June 30, 2015.

The following Clause 6(ii) has been added

“(ii) Quoted investments for each category except Government Securities including treasury bills, Government guaranteed bonds or securities shall be valued at cost or market value whichever is lower. The investments made towards Government securities, quoted or otherwise, government guaranteed securities and bonds not exceeding the capital may be treated as “held to maturity” for the purpose of valuation and accounted for accordingly. The company is allowed to effect the transfer of the government security from HTM category to AFS category at the beginning of each half year, on April 01 or October 01, with the approval of the Board, provided the principal amount is reinvested in another Government security. Investments classified under “Held to Maturity” need not be marked to market and will be carried at acquisition cost, unless it is more than the face value, in which case the premium should be amortised over the period remaining to maturity.



The book value of the security should continue to be reduced to the extent of the amount amortised during the relevant accounting period. However, if any security out of this bouquet is traded before maturity the entire category will be treated as securities held for trade and will have to be marked to market to as detailed in clause (iii) herein below.”

Master' Circular on Non-Resident Ordinary Rupee (NRO) Account

RBI Vide [RBI/2015-16/78 Master Circular No. 2/2015-16 dated July 1, 2015](#) (“**NRO Account 2015 Circular**”) provides for Non-Resident Ordinary Rupee (NRO) Account.

Under the Circular RBI/2014-15/7 Master Circular No. 2 /2014-15 July 1, 2014 (“**NRO Account 2014 Circular**”) Clause 5 B Debts sub Clause (iii) ‘Remittance up to USD one million, per financial year (April- March), for all bona fide purposes, to the satisfaction of the Authorised Dealer bank’ has been replaced with ‘Remittance up to USD one million, per financial year (April- March), by NRI, subject to payment of tax, as applicable.

Further Clause 6.2-6.4 and 13 of the NRO Account 2014 Circular has been deleted in the NRO Account 2015 Circular.

‘Clause 6.2 Remittance of assets by an NRI/PIO (a) NRI/PIO may remit an amount, not exceeding USD one million per financial year, out of the balances held in NRO accounts / sale proceeds of assets / the assets in India acquired by him by way of inheritance / legacy on production of documentary evidence in support of acquisition, inheritance or legacy of assets by the remitter, subject to payment of taxes as prescribed by CBDT from time to time. (b) NRI/PIO may also, within the overall limit of USD one million, as stated above, remit sale proceeds of assets acquired under a deed of settlement made by either of his parents or a close relative (as

defined in Section 6 of the Companies Act, 1956) and the settlement taking effect on the death of the settler, on production of the original deed of settlement, subject to payment of taxes as prescribed by CBDT from time to time.

Clause 6.3 Assets acquired in India out of Rupee funds NRI/PIO may remit sale proceeds of immovable property purchased by him as a resident or 6 out of Rupee funds as NRI/PIO, without any lock-in-period, subject to the above limit of USD 1 million, per financial year

Clause 6.4 Restrictions (a) The remittance facility in respect of sale proceeds of immovable property is not available to citizens of Pakistan, Bangladesh, Sri Lanka, China, Afghanistan, Iran, Nepal and Bhutan. A person or his successor who has acquired immovable property in accordance with Section 6(5) of FEMA, 1999 cannot repatriate sale proceeds of such property outside India except with prior permission of the Reserve Bank. (b) The facility of remittance of sale proceeds of other financial assets is not available to citizens of Pakistan, Bangladesh, Nepal and Bhutan.

Clause 13 Facilities to a person going abroad for studies Persons going abroad for studies are treated as Non-Resident Indians (NRIs) and are eligible for all the facilities available to NRIs. Educational and other loans availed of by them as residents in India will continue to be available to them as per FEMA Regulations'

The above clauses have been deleted in the NRO Account 2015 Circular.

Master Circular on Cash Reserve Ratio and Statutory Liquidity Ratio

The Reserve Bank of India (“RBI”) released its [Master Circular dated July 1, 2015 on Cash Reserve Ratio \(“CRR”\) and Statutory Liquidity Ratio \(“SLR”\)](#). This Master Circular prescribes the broad details of the Reserve Requirements and is classified as a statutory guideline issued by the RBI under Section 35A of the Banking Regulation Act, 1949 and is applicable to all Scheduled Commercial Banks (SCBs) excluding Regional Rural Banks. The guidelines issued under the said circular are as follows:

With a view to monitoring compliance of maintenance of statutory reserve requirements viz. CRR and SLR by the SCBs, the Reserve Bank of India has prescribed statutory returns that is Form A Return (for CRR) under Section 42(2) of the Reserve Bank of India Act, 1934 and Form VIII Return (for SLR) under Section 24 of the Banking Regulation Act, 1949.

1. Cash Reserve Ratio (CRR):

In terms of Section 42(1) of the RBI Act, 1934 the Reserve Bank, having regard to the needs of securing the monetary stability in the country, prescribes the CRR for SCBs without any floor or ceiling rate. At present, effective from the fortnight beginning February 09, 2013, the CRR is prescribed at 4.00 per cent of a bank's total of DTL adjusted. In terms of Section 42(1A) of RBI Act, 1934, the SCBs are required to maintain, in addition to the balances prescribed under Section 42(1) of the Act, an additional average daily balance, the amount of which shall not be less than the rate specified by the Reserve Bank in the notification published in the Gazette of India from time to time

- Provisions relating to computation have also been let down in the said circular
- Provisions relating to Demand Liabilities, Time Liabilities and Other Demand and Time Liabilities have been specified including their meanings.
- Loans/borrowings from abroad by banks in India will be considered as 'liabilities to others' and will be subject to reserve requirements. Upper Tier II instruments raised and maintained abroad shall be reckoned as liability for the computation of DTL for the purpose of reserve requirements.
- The amount received by correspondent banks has to be shown as 'Liability to the Banking System' by them and not as 'Liability to others' and this liability could be netted off by the correspondent banks against the inter-bank assets. Likewise sums placed by banks issuing drafts/interest/dividend warrants are to be treated as 'Assets with banking system' in their books and can be netted off from their inter-bank liabilities.
- All SCBs are required to maintain minimum CRR balances up to 95 per cent of the average daily required reserves for a reporting fortnight on all days of the fortnight with effect from the fortnight beginning September 21, 2013.
- Under Section 42(2) of the RBI Act, 1934, all SCBs are required to submit to Reserve Bank a provisional Return in Form 'A' within 7 days from the expiry of the relevant fortnight which is used for preparing press communiqué. The final Form 'A' Return is required to be submitted to RBI within 20 days from expiry of the relevant fortnight. Based on the recommendation of the Working Group on Money Supply. The present practice of calculation of the proportion of demand liabilities and time liabilities by SCBs in respect of their savings bank deposits on the basis of the position as at the close of business on 30th September and 31st March every year shall continue in the new system of interest application on savings bank deposits on a daily product basis.
- Penalties have also been specified in the said circular

2. Statutory Liquidity Ratio (SLR)

- Consequent upon amendment to the Section 24 of the Banking Regulation Act, 1949 through the Banking Regulation (Amendment) Act, 2007 replacing the Regulation (Amendment) Ordinance, 2007, effective January 23, 2007, the Reserve Bank can prescribe the SLR for SCBs in specified assets.
- Reserve Bank has specified notification DBR.No.Ret.BC.69/12.02.001/2014 -15 dated February 03, 2015 that w.e.f. the fortnight beginning February 07, 2015, every SCB shall continue to maintain in India assets as detailed below, the value of which shall not, at the close of business on any day, be less than 21.5 per cent of the total NDTL as on the last Friday of the second preceding fortnight valued in accordance with the method of valuation specified by the Reserve Bank of India from time to time:
 - (a) Cash or (b) in Gold valued at a price not exceeding the current market price, or (c) Investment in the specified instruments which will be referred to as "Statutory Liquidity Ratio (SLR) securities"
- The procedure to compute total NDTL for the purpose of SLR under Section 24 (2A) of Banking Regulation Act, 1949 is broadly similar to the procedure followed for CRR.
- If a banking company fails to maintain the required amount of SLR, it shall be liable to pay to RBI in respect of that default, the penal interest for that day at the rate of three per cent per annum above the Bank Rate on the shortfall and if the default continues on the next succeeding working day, the penal interest may be increased to a rate of five per cent per annum above the Bank Rate for the concerned days of default on the shortfall.

Miscellaneous Instructions to all Non-Banking Financial Companies

The Reserve Bank of India (“RBI”) released its [Master Circular dated July 1, 2015 on Miscellaneous Instructions to all Non-Banking Financial Companies](#). The instructions issued under the said circular are as follows:

1. Asset Liability Management (ALM) System for Non-Banking Financial Companies (NBFCs) – Guidelines

It is decided to introduce an ALM System for the NBFCs, as part of their overall system for effective risk management in their various portfolios. The guidelines would be applicable to all the NBFCs irrespective of whether they are accepting / holding public deposits or not. NBFCs meeting the criteria of asset base of Rs.100 crore or holding public deposits of Rs. 20 crore or more as per their audited balance sheet as of March 31, 2001 would be required to put in place the ALM System.

2. Nomination rules under Section 45QB of RBI Act for NBFC Deposits

In terms of Section 45QB of the RBI Act, the depositor/s of NBFCs may nominate, in the manner prescribed under the rules made by the Central Government under Section 45ZA of the Banking Regulation Act, 1949 one person to whom, in the event of death of the depositor/s, the amount of deposit may be returned by the NBFC.

3. Safe Custody of Liquid Assets / Collection of Interest on SLR Securities

NBFCs are required to maintain liquid assets in the form of Government securities / guaranteed bonds as per the provisions of Section 45-IB of the RBI Act, 1934 and lodge such securities in any of the specified accounts such as the Stock Holding Corporation of India Ltd., (SHCIL) or in a demat account with a depository through a depository participant (DP) registered with Securities & Exchange Board of India (SEBI) etc.

4. Non- Reckoning Fixed Deposits with Banks as Financial Assets

Investments in fixed deposits cannot be treated as financial assets and receipt of interest income on fixed deposits with banks cannot be treated as income from financial assets as these are not covered under the activities mentioned in the definition of “financial Institution” in Section 451(c) of the RBI Act 1934. In addition, the NBFC which is in receipt of a CoR from the Bank must necessarily commence NBFC business within six months of obtaining CoR, and in case of failure, the CoR will stand withdrawn automatically.

5. Need for public notice before Closure of the Branch / Office by any NBFC

NBFCs should give at least three months public notice prior to the date of closure of any of its branches / offices in, at least, one leading national newspaper and a leading local (covering the place of branch / office) vernacular language newspaper indicating therein the purpose and arrangements being made to service the depositors etc.

6. Unsolicited Commercial Communications - National Do Not Call Registry

Telecom Regulatory Authority of India (TRAI) has framed the Telecom Unsolicited Commercial Communications (UCC) Regulations for curbing UCC. Further, the Department of Telecommunications (DoT) has issued relevant guidelines for telemarketers along with the registration procedure on June 6, 2007. These guidelines have made it mandatory for telemarketers to register themselves with DoT or any other agency authorized by DoT. The detailed procedure in this regard is also available on TRAI's website.

7. Investment through Alternative Investment Funds-Clarification on Calculation of NOF of an NBFC

It is clarified that while arriving at the NOF figure, investment made by an

NBFC in entities of the same group concerns shall be treated alike, whether the investment is made directly or through an AIF / VCF, and when the funds in the VCF have come from the NBFC to the extent of 50% or more; or where the beneficial owner, in the case of Trusts is the NBFC, if 50% of the funds in the Trusts are from the concerned NBFC.

8. Accounting for taxes on income - Accounting Standard 22 - Treatment of deferred tax assets (DTA) and deferred tax liabilities (DTL) for computation of capital

It is clarified that the regulatory treatment to be given to these issues are as under:

- a. The balance in DTL account will not be eligible for inclusion in Tier I or Tier II capital for capital adequacy purpose as it is not an eligible item of capital.
- b. DTA will be treated as an intangible asset and should be deducted from Tier I Capital.
- c. NBFCs may keep the above clarifications in mind for all regulatory requirements including computation of CRAR and ensure compliance with effect from the accounting year ending March 31, 2009.

9. Introduction of Interest Rate Futures – NBFCs

NBFCs can participate in the designated interest rate futures exchanges recognized by SEBI, as clients, subject to RBI / SEBI guidelines in the matter, for the purpose of hedging their underlying exposures. NBFCs participating in IRF exchanges may submit the data in this regard half yearly, in the prescribed format.

10. Finance for Housing Projects - Incorporating clause in the terms and conditions to disclose in pamphlets / brochures / advertisements, information regarding mortgage of property to the NBFC

While granting finance to housing / development projects, NBFCs also should stipulate as a part of the terms and conditions that:

- a. the builder / developer / owner / company would disclose in the Pamphlets / Brochures / advertisements etc., the name(s) of the entity to which the property is mortgaged.
- b. the builder / developer / owner / company should indicate in the pamphlets / brochures, that they would provide No Objection Certificate (NOC) / permission of the mortgagee entity for sale of flats / property, if required.

NBFCs should ensure compliance with the above stipulations and funds should not be released unless the builder / developer / owner / company fulfil the above requirements.

11. Loan facilities to the physically / visually challenged by NBFCs

NBFCs shall not discriminate in extending products and facilities including loan facilities to the physically / visually challenged applicants on grounds of disability.

12. Participation in Currency Futures

All NBFCs excluding RNBCs are allowed to participate in the designated currency futures exchanges recognized by SEBI as clients, subject to RBI (Foreign Exchange Department) guidelines in the matter.

13. Attempt to defraud using fake bank guarantee-modus operandi

NBFCs are advised to take notice of the names of the beneficiaries / representative of beneficiaries and applicants of BGs in order to exercise due caution while handling cases involving the firms/individuals cited in the circular

14. Credit Default Swaps – NBFCs as Users

NBFCs shall only participate in CDS market as users. As users, they would be permitted to buy credit protection only to hedge their credit risk on corporate bonds they hold but not permitted to sell protection. However, they are permitted to exit their bought CDS positions by unwinding them with the original counterparty or by assigning them in favour of buyer of the underlying bond.

15. Checklist for NBFCs, Non-Banking Financial Company-Micro Finance Institutions (NBFC-MFIs), Non-Banking Financial Company-Factoring Institutions (NBFC-Factors) and Core Investment Companies (CICs)

Five checklists with respect to Application for seeking Certificate of Registration from the Reserve Bank have been uploaded in the RBI website.

16. Raising Money through Private Placement by NBFCs-Debentures etc.

Detailed provisions regarding the same have been set out at length in the said master circular.

Master Circular on Applicability of Credit Concentration Norms

The Reserve Bank of India (“RBI”) vide its [Master Circular dated July 02, 2015 on Applicability of Credit Norms](#) states that in terms of section 45IA(7)(I) of the Reserve Bank of India Act, 1934, for calculation of Net Owned Fund (NOF), the loans given to or investments made in companies in the same group or subsidiaries by NBFCs, inter alia, shall be reduced to the extent such amount exceeds 10 per cent of the Owned Funds. Such exposures are subject to the Concentration of Credit or Investment norms as per the Systemically Important Non-Banking Financial (Non-Deposit Accepting or Holding) Companies

Prudential Norms (Reserve Bank) Directions, 2015 dated March 27, 2015 and Non-Banking Financial (Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2007 dated February 22, 2007.

The following shall be excluded in determining Concentration of Credit/ Investment:

- investments of NBFC in shares of:-
 - i) its subsidiaries;
 - ii) companies in the same group,
 - iii) to the extent they have been reduced from Owned Funds for the calculation of NOF and the book value of debentures, bonds, outstanding loans and advances (including hire-purchase and lease finance made to, and deposits with,
 - i. subsidiaries of the NBFC; and
 - ii. companies in the same group,to the extent they have been reduced from Owned Funds for the calculation of NOF.

Requirement for obtaining prior approval of RBI in cases of acquisition/ transfer of control of Non-Banking Financial Companies (NBFCs)

The Reserve Bank of India (“RBI”) vide its notification dated July 09, 2015 has issued revised directions on the requirements for obtaining [approval of RBI in cases of acquisition/ transfer of control of NBFCs](#).

It has been specified that a prior written permission of RBI shall be required for

- any takeover or acquisition of control of an NBFC, which may or may not result in change of management;
- any change in the shareholding of an NBFC (as specified)
- 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.

However, notwithstanding the above the NBFCs shall continue to inform the RBI of any changes as required in the specified NBFC directions issued previously.

Application for prior approval:

NBFCs shall submit the application to the Regional Office of the Department of Non-Banking Supervision in whose jurisdiction the Registered Office of the NBFC is located, on company letter head, along with the following documents for obtaining the said approvals:

- Information about the proposed directors/ shareholders
- Sources of funds of the proposed shareholders acquiring the shares in the NBFC
- Declarations by the proposed directors/ shareholders as specified in the said detailed circular
- Bankers' Report on the proposed directors/ shareholders

Requirement of Prior Public Notice about change in control/ management:

A public notice of at least 30 days shall be given before effecting the sale of, or transfer of the ownership by sale of shares, or transfer of control, whether with or without sale of shares. Such public notice shall be given by the NBFCs and also by the other party or jointly by the parties concerned, after obtaining the prior permission of the Reserve Bank.

The public notice shall indicate the intention to sell or transfer ownership/ control, the particulars of transferee and the reasons for such sale or transfer of

ownership/ control. The notice shall be published in at least one leading national and in one leading local (covering the place of registered office) vernacular newspaper.

Any violation of the aforementioned directions would result in adverse regulatory action including cancellation of Certificate of Registration.

Further, The Reserve Bank of India, for the purpose of enabling it to regulate the credit system to the advantage of the country, has given directions as set out in Notification No. DNBS.(PD) 029/CGM(CDS)-2015 dated July 09, 2015 , in exercise of the powers conferred by sections 45K and 45L of the Reserve Bank of India Act, 1934 (2 of 1934).

Returns to be submitted by NBFCs (Asset Size below Rs. 500 crore)

The Reserve Bank of India (“RBI”) vide its [circular dated July 09, 2015 on Returns submitted by NBFC’s](#) stated the revised guidelines over the returns to be submitted by NBFCs. In pursuance to the Notification DNBR (PD) CC.No. 002/03.10.001/2014-15 dated November 10, 2014 on revised regulatory framework issued by the RBI, it has been stated vide its Notification dated July 09, 2015 that all non-deposit taking NBFCs (NBFCs-ND), with asset less than Rs. 500 Crore are required to submit an Annual Return.

Two new Return formats have also been created for financial parameters i.e.

- NBS 8 for NBFCs-ND with assets size between Rs.100-500 crore, and
- NBS 9 for NBFCs-ND with assets size below Rs. 100 crore

The said return formats are also available on the website <https://cosmos.rbi.org.in>.

The Annual Return should be submitted within 30 days of closing of the financial year, i.e. by 30th April of every year. It is further specified that Annual Return for the Year ending March 31, 2015 may be filed by September 30, 2015. Also, NBFCs (50-500 crore) who have already submitted the Annual Returns for the quarter ending March 31, 2015 are not required to re-file the same again.

Master Circular on Compounding of Contraventions under FEMA, 1999.

Reserve Bank of India on July 1, 2015 issued a [Master Circular on Compounding of Contraventions under FEMA, 1999](#).

The Government of India has, in consultation with the Reserve Bank placed the responsibility of administering compounding of contraventions with the Reserve Bank, except contraventions under Section 3(a) of Foreign Exchange Management Act, 1999 (“FEMA”). Accordingly, Foreign Exchange (Compounding Proceedings) Rules, 2000 have been framed by the Government of India empowering the Reserve Bank to compound contraventions under FEMA, 1999 with a view to provide comfort to individuals and corporate community by minimizing transaction costs, while taking severe view of willful, malafide and fraudulent transactions. The Reserve Bank and the Directorate of Enforcement (DoE), are entrusted with compounding powers. Reserve Bank has been empowered to compound the contraventions of all the Sections of FEMA, 1999, except clause (a) of Section 3 of the Act.

For effective implementation of compounding process under FEMA, 1999, the Government of India has framed the procedure for compounding of contraventions.

Once a contravention has been compounded by the Compounding Authority, no proceeding or further proceeding will be initiated or continued, as the case may be, against the contravener. For Compounding of Contraventions as per FEMA vide this circular RBI provides information and provides guidelines for:

- Process of Compounding.
- Scope and Manner of Compounding
- Issue of Compounding Order
- Post Compounding Procedure
- Pre-requisites for compounding process

Foreign Exchange Compounding Proceeding Rules 2000 have been framed which deals with process for Compounding Contraventions.

Master Circular on Non-Banking Financial Companies- Corporate Governance (Reserve Bank) Directions, 2015

RBI vide [Master Circular No. RBI/2015-16/12 dated July 01, 2015 provides for Non-Banking Financial Companies- Corporate Governance \(Reserve Bank\) Directions, 2015.](#)

The Non-Banking Financial Companies- Corporate Governance (Reserve Bank) Directions, 2015 inter-alia provides the following directions:-

1. Extent of Directions:-

These directions shall apply to every non-deposit accepting NBFC with asset size of Rs.500 crore and above and deposit accepting NBFC. These directions shall not apply to a systematically important Core Investment Company.



2. Constitution of Committee of the Board:-

All applicable NBFCs shall constitute an Audit Committee, consisting not less than three members of its board of Directors and Nomination Committee to ensure fit and proper status of proposed/existing directors. NBFCs shall also form a Risk Management Committee

3. Fit and Proper Criteria:-

All applicable NBFCs shall put a policy for ascertaining the fit and proper criteria of the directors at the time of appointment and on a continuing basis and obtain a declaration and undertaking from the directors giving additional information on the directors and obtain a deed of Covenant signed by the directors and to furnish to RBI quarterly statement on change of directors and a certificate from the managing director of NBFC that fit and proper criteria for directors has been followed.

4. Disclosure and transparency:-

All NBFC shall put up to the board of Directors, at regular intervals the progress of the risk management system and policy followed by NBFC and conformity with corporate Governance Standards. NBFC shall also disclose information about registration/license/authorisations obtained from financial sector regulators, ratings assigned by credit rating agencies, penalties, and other information in the Annual Financial Statement

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Warm Regards,
Dipali Sarvaiya Sheth
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