



FREQUENTLY ASKED QUESTIONS

Non-Banking Financial Companies

Update as April 10, 2015

FOREWORD

The Reserve Bank of India is entrusted with the responsibility of regulating and supervising the Non-Banking Financial Companies by virtue of powers vested in Chapter III B of the Reserve Bank of India Act, 1934. The regulatory and supervisory objective, is to:

- ensure healthy growth of the financial companies;
- ensure that these companies function as a part of the financial system within the policy framework, in such a manner that their existence and functioning do not lead to systemic aberrations; and that
- the quality of surveillance and supervision exercised by the Bank over the NBFCs is sustained by keeping pace with the developments that take place in this sector of the financial system.

It has been felt necessary to explain the rationale underlying the regulatory changes and provide clarification on certain operational matters for the benefit of the NBFCs, members of public, rating agencies, Chartered Accountants etc. To meet this need, the clarifications in the form of questions and answers, is being brought out by the Reserve Bank of India (Department of Non-Banking Supervision) with the hope that it will provide better understanding of the regulatory framework.

The information given in the FAQ is of general nature for the benefit of depositors/public and the clarifications given do not substitute the extant regulatory directions/instructions issued by the Bank to the NBFCs.

Frequently Asked Questions on NBFCs

1. What is a Non-Banking Financial Company (NBFC)?

A Non-Banking Financial Company (NBFC) is a company registered under the Companies Act, 1956 engaged in the business of loans and advances, acquisition of shares/stocks/bonds/debentures/securities issued by Government or local authority or other marketable securities of a like nature, leasing, hire-purchase, insurance business, chit business but does not include any institution whose principal business is that of agriculture activity, industrial activity, purchase or sale of any goods (other than securities) or providing any services and sale/purchase/construction of immovable property. A non-banking institution which is a company and has principal business of receiving deposits under any scheme or arrangement in one lump sum or in installments by way of contributions or in any other manner, is also a non-banking financial company (Residuary non-banking company).

2. NBFCs are doing functions similar to banks. What is difference between banks & NBFCs ?

NBFCs lend and make investments and hence their activities are akin to that of banks; however there are a few differences as given below:

- NBFC cannot accept demand deposits;
- NBFCs do not form part of the payment and settlement system and cannot issue cheques drawn on itself;
- deposit insurance facility of Deposit Insurance and Credit Guarantee Corporation is not available to depositors of NBFCs, unlike in case of banks.

3. Is it necessary that every NBFC should be registered with RBI?

In terms of Section 45-IA of the RBI Act, 1934, no Non-banking Financial company can commence or carry on business of a non-banking financial institution without a) obtaining a certificate of registration from the Bank and without having a Net Owned Funds of Rs. 25 lakhs (Rs two crore since April 1999). However, in terms of the powers given to the Bank, to obviate dual regulation, certain categories of NBFCs which are regulated by other regulators are exempted from the requirement of registration with RBI viz. Venture Capital Fund/Merchant Banking companies/Stock broking companies registered with SEBI, Insurance Company holding a valid Certificate of Registration issued by IRDA, Nidhi companies as notified under Section 620A of the Companies Act, 1956, Chit companies as defined in clause (b) of Section 2 of the Chit Funds Act, 1982, Housing Finance Companies regulated by National Housing Bank, Stock Exchange or a Mutual Benefit company.

4. What are the different types/categories of NBFCs registered with RBI?

NBFCs are categorized a) in terms of the type of liabilities into Deposit and Non-Deposit accepting NBFCs, b) non deposit taking NBFCs by their size into systemically important and other non-deposit holding companies (NBFC-NDSI and NBFC-ND) and c) by the kind of activity they conduct. Within this broad categorization the different types of NBFCs are as follows:

- Asset Finance Company (AFC)** : An AFC is a company which is a financial institution carrying on as its principal business the financing of physical assets supporting productive/economic activity, such as automobiles, tractors, lathe machines, generator sets, earth moving and material handling equipments, moving on own power and general purpose industrial machines. Principal business for this purpose is defined as aggregate of financing real/physical assets supporting economic activity and income arising therefrom is not less than 60% of its total assets and total income respectively.
- Investment Company (IC)** : IC means any company which is a financial institution carrying on as its principal business the acquisition of securities,
- Loan Company (LC)**: LC means any company which is a financial institution carrying on as its principal business the providing of finance whether by making loans or advances or otherwise for any activity other than its own but does not include an Asset Finance Company.
- Infrastructure Finance Company (IFC)**: IFC is a non-banking finance company a) which deploys at least 75 per cent of its total assets in infrastructure loans, b) has a minimum Net Owned Funds of Rs. 300 crore, c) has a minimum credit rating of 'A' or equivalent d) and a CRAR of 15%.
- Systemically Important Core Investment Company (CIC-ND-SI)**: CIC-ND-SI is an NBFC carrying on the business of acquisition of shares and securities which satisfies the following conditions:-

(a) it holds not less than 90% of its Total Assets in the form of investment in equity shares, preference shares, debt or loans in group companies;

(b) its investments in the equity shares (including instruments compulsorily convertible into equity shares within a period not exceeding 10 years from the date of issue) in group companies constitutes not less than 60% of its Total Assets;

(c) it does not trade in its investments in shares, debt or loans in group companies except through block sale for the purpose of dilution or disinvestment;

(d) it does not carry on any other financial activity referred to in Section 45I(c) and 45I(f) of the RBI act, 1934 except investment in bank deposits, money market instruments, government securities, loans to and investments in debt issuances of group companies or guarantees issued on behalf of group companies.

(e) Its asset size is Rs 100 crore or above and

(f) It accepts public funds

vi. **Infrastructure Debt Fund:** Non-Banking Financial Company (IDF-NBFC) : IDF-NBFC is a company registered as NBFC to facilitate the flow of long term debt into infrastructure projects. IDF-NBFC raise resources through issue of Rupee or Dollar denominated bonds of minimum 5 year maturity. Only Infrastructure Finance Companies (IFC) can sponsor IDF-NBFCs.

vii. **Non-Banking Financial Company - Micro Finance Institution (NBFC-MFI):** NBFC-MFI is a non-deposit taking NBFC having not less than 85% of its assets in the nature of qualifying assets which satisfy the following criteria:

a. loan disbursed by an NBFC-MFI to a borrower with a rural household annual income not exceeding Rs. 60,000 or urban and semi-urban household income not exceeding Rs. 1,20,000;

b. loan amount does not exceed Rs. 35,000 in the first cycle and Rs. 50,000 in subsequent cycles;

c. total indebtedness of the borrower does not exceed Rs. 50,000;

d. tenure of the loan not to be less than 24 months for loan amount in excess of Rs. 15,000 with prepayment without penalty;

e. loan to be extended without collateral;

f. aggregate amount of loans, given for income generation, is not less than 75 per cent of the total loans given by the MFIs;

g. loan is repayable on weekly, fortnightly or monthly instalments at the choice of the borrower

viii. **Non-Banking Financial Company – Factors (NBFC-Factors):** NBFC-Factor is a non-deposit taking NBFC engaged in the principal business of factoring. The financial assets in the factoring business should constitute at least 75 percent of its total assets and its income derived from factoring business should not be less than 75 percent of its gross income.

5. What are the requirements for registration with RBI?

A company incorporated under the Companies Act, 1956 and desirous of commencing business of non-banking financial institution as defined under Section 45 I(a) of the RBI Act, 1934 should comply with the following:

i. it should be a company registered under Section 3 of the companies Act, 1954

ii. It should have a minimum net owned fund of Rs 200 lakh. (The minimum net owned fund (NOF) required for specialized NBFCs like NBFC-MFIs, NBFC-Factors, CICs is indicated separately in the FAQs on specialized NBFCs)

6. What is the procedure for application to the Reserve Bank for Registration?

The applicant company is required to apply online and submit a physical copy of the application along with the necessary documents to the Regional Office of the Reserve Bank of India. The application can be submitted online by accessing RBI's secured website <https://cosmos.rbi.org.in>. At this stage, the applicant company will not need to log on to the COSMOS application and hence user ids are not required. The company can click on "CLICK" for Company Registration on the login page of the COSMOS Application. A window showing the Excel application form available for download would be displayed. The company can then download suitable application form (i.e. NBFC or SC/RC) from the above website, key in the data and upload the application form. The company may note to indicate the correct name of the Regional Office in the field "C-8" of the "Annex-Identification Particulars" in the Excel application form. The company would then get a Company Application Reference Number for the CoR application filed on-line. Thereafter, the company has to submit the hard copy of the application form (indicating the online Company Application Reference Number, along with the supporting documents, to the concerned Regional Office. The company can then check the status of the application from the above mentioned secure address, by keying in the acknowledgement number.

7. What are the essential documents required to be submitted along with the application form to the Regional Office of the Reserve Bank?

A hard copy of the application form is available at www.rbi.org.in → Site Map → NBFC List → Forms and Returns. An indicative checklist of the documents required to be submitted along with the application can be accessed from www.rbi.org.in → Site Map → NBFC List → Forms and Returns → Documents required for registration as NBFCs.

8. Where can one find list of Registered NBFCs and instructions issued to NBFCs?

The list of registered NBFCs is available on the web site of Reserve Bank of India and can be viewed at www.rbi.org.in → Sitemap → NBFC List. The instructions issued to NBFCs from time to time are also hosted at www.rbi.org.in → Sitemap → NBFC List. → NBFC Notifications, besides, being issued through Official Gazette notifications and press releases.

9. Can all NBFCs accept deposits?

All NBFCs are not entitled to accept public deposits. Only those NBFCs to which the Bank had given a specific authorisation are allowed to accept/hold public deposits.

10. Is there any ceiling on acceptance of Public Deposits? What is the rate of interest and period of deposit which NBFCs can accept?

Yes, there is a ceiling on acceptance of Public Deposits by NBFCs authorized to accept deposits. An NBFC maintaining required minimum NOF./Capital to Risk Assets Ratio (CRAR) and complying with the prudential norms can accept public deposits as follows:

Category of NBFC having minimum NOF of Rs 200 lakhs	Ceiling on public deposit
AFC* maintaining CRAR of 15% without credit rating	1.5 times of NOF or Rs 10 crore whichever is less
AFC with CRAR of 12% and having minimum investment grade credit rating	4 times of NOF
LC/IC** with CRAR of 15% and having minimum investment grade credit rating	1.5 times of NOF

* AFC = Asset Finance Company
** LC/IC = Loan company/Investment Company

As has been notified on June 17, 2008 the ceiling on level of public deposits for NBFCs accepting deposits but not having minimum Net Owned Fund of Rs 200 lakh is revised as under:

Category of NBFC having NOF more than Rs 25 lakh but less than Rs 200 lakh	Revised Ceiling on public deposits
AFCs maintaining CRAR of 15% without credit rating	Equal to NOF
AFCs with CRAR of 12% and having minimum investment grade credit rating	1.5 times of NOF
LCs/ICs with CRAR of 15% and having minimum investment grade credit rating	Equal to NOF

Presently, the maximum rate of interest an NBFC can offer is 12.5%. The interest may be paid or compounded at rests not shorter than monthly rests

The NBFCs are allowed to accept/renew public deposits for a minimum period of 12 months and maximum period of 60 months. They cannot accept deposits repayable on demand.

11. What are the salient features of NBFCs regulations which the depositor may note at the time of investment?

Some of the important regulations relating to acceptance of deposits by NBFCs are as under:

- The NBFCs are allowed to accept/renew public deposits for a minimum period of 12 months and maximum period of 60 months. They cannot accept deposits repayable on demand.
- NBFCs cannot offer interest rates higher than the ceiling rate prescribed by RBI from time to time. The present ceiling is 12.5 per cent per annum. The interest may be paid or compounded at rests not shorter than monthly rests.
- NBFCs cannot offer gifts/incentives or any other additional benefit to the depositors.
- NBFCs (except certain AFCs) should have minimum investment grade credit rating.
- The deposits with NBFCs are not insured.
- The repayment of deposits by NBFCs is not guaranteed by RBI.
- Certain mandatory disclosures are to be made about the company in the Application Form issued by the company soliciting deposits.

12. What is 'deposit' and 'public deposit'? Is it defined anywhere?

The term 'deposit' is defined under Section 45 I(bb) of the RBI Act, 1934. 'Deposit' includes and shall be deemed always to have included any receipt of money by way of deposit or loan or in any other form but does not include:

- amount raised by way of share capital, or contributed as capital by partners of a firm;
- amount received from a scheduled bank, a co-operative bank, a banking company, Development bank, State Financial Corporation, IDBI or any other institution specified by RBI;
- amount received in ordinary course of business by way of security deposit, dealership deposit, earnest money, advance against orders for goods, properties or services;
- amount received by a registered money lender other than a body corporate;
- amount received by way of subscriptions in respect of a 'Chit'.

Paragraph 2(1)(xii) of the Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998 defines a ' public deposit' as a 'deposit' as defined under Section 45 I(bb) of the RBI Act, 1934 and further excludes the following:

- amount received from the Central/State Government or any other source where repayment is guaranteed by Central/State Government or any amount received from local authority or foreign government or any foreign citizen/authority/person;
- any amount received from financial institutions specified by RBI for this purpose;
- any amount received by a company from any other company;
- amount received by way of subscriptions to shares, stock, bonds or debentures pending allotment or by way of calls in advance if such amount is not repayable to the members under the articles of association of the company;
- amount received from shareholders by private company;
- amount received from directors or relative of the director of an NBFC;
- amount raised by issue of bonds or debentures secured by mortgage of any immovable property or other asset of the company subject to conditions;
- the amount brought in by the promoters by way of unsecured loan;
- amount received from a mutual fund;
- any amount received as hybrid debt or subordinated debt;
- any amount received by issuance of Commercial Paper.
- any amount received by a systemically important non-deposit taking non-banking financial company by issuance of 'perpetual debt instruments'
- any amount raised by the issue of infrastructure bonds by an Infrastructure Finance Company

Thus, the directions exclude from the definition of public deposit, amount raised from certain set of informed lenders who can make independent decision.

13. Are Secured debentures treated as Public Deposit? If not who regulates them?

Debentures secured by the mortgage of any immovable property of the company or by any other asset or with an option to convert them into shares in the company, if the amount raised does not exceed the market value of the said immovable property or other assets, are excluded from the definition of 'Public Deposit' in terms of Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998. Secured debentures are debt instruments and are regulated by Securities & Exchange Board of India.

14. Whether NBFCs can accept deposits from NRIs?

Effective from April 24, 2004, NBFCs cannot accept deposits from NRIs except deposits by debit to NRO account of NRI provided such amount does not represent inward remittance or transfer from NRE/FCNR (B) account. However, the existing NRI deposits can be renewed.

15. Is nomination facility available to the Depositors of NBFCs?

Yes, nomination facility is available to the depositors of NBFCs. The Rules for nomination facility are provided for in section 45QB of the Reserve Bank of India Act, 1934. Non-Banking Financial Companies have been advised to adopt the Banking Companies (Nomination) Rules, 1985 made under Section 45ZA of the Banking Regulation Act, 1949. Accordingly, depositor/s of NBFCs are permitted to nominate one person to whom the NBFC can return the deposit in the event of the death of the depositor/s. NBFCs are advised to accept nominations made by the depositors in the form similar to one specified under the said rules, viz Form DA 1 for the purpose of nomination, and Form DA2 and DA3 for cancellation of nomination and change of nomination respectively.

16. What else should a depositor bear in mind while depositing money with NBFCs?

While making deposits with an NBFC, the following aspects should be borne in mind:

- i. Public deposits are unsecured.
- ii. A proper deposit receipt is issued, giving details such as the name of the depositor/s, the date of deposit, the amount in words and figures, rate of interest payable and the date of repayment of matured deposit along with the maturity amount. Depositor/s should insist on the above and also ensure that the receipt is duly signed and stamped by an officer authorised by the company on its behalf.
- iii. In the case of brokers/agents etc collecting public deposits on behalf of NBFCs, the depositors should satisfy themselves that the brokers/agents are duly authorized by the NBFC.
- iv. The Reserve Bank of India does not accept any responsibility or guarantee about the present position as to the financial soundness of the company or for the correctness of any of the statements or representations made or opinions expressed by the company and for repayment of deposits/discharge of the liabilities by the company.
- v. Deposit Insurance facility is not available to the depositors of NBFCs.

17. It is said that rating of NBFCs is necessary before it accepts deposit? Is it true? Who rates them?

An unrated NBFC, except certain Asset Finance companies (AFC), cannot accept public deposits. An exception is made in case of unrated AFC companies with CRAR of 15% which can accept public deposit without having a credit rating up to a certain ceiling depending upon its Net Owned Funds (refer answer to Q 10). NBFC may get itself rated by any of the five rating agencies namely, CRISIL, CARE, ICRA and FITCH, Ratings India Pvt. Ltd and Brickwork Ratings India Pvt. Ltd

18. What are the symbols of minimum investment grade rating of different companies?

The symbols of minimum investment grade rating of the Credit rating agencies are:

Name of rating agencies	Nomenclature of minimum investment grade credit rating (MIGR)
CRISIL	FA- (FA MINUS)
ICRA	MA- (MA MINUS)
CARE	CARE BBB (FD)
FITCH Ratings India Pvt. Ltd.	tA-(ind)(FD)
Brickwork Ratings India Pvt. Ltd.	BWR FBBS
SMERA	SMERA A

It may be added that A- is not equivalent to A, AA- is not equivalent to AA and AAA- is not equivalent to AAA.

19. Can an NBFC which is yet to be rated accept public deposit?

No, an NBFC cannot accept deposit without rating (except an Asset Finance Company complying with prudential norms and having CRAR of 15%, as explained above in answer to Q 10).

20. When a company's rating is downgraded, does it have to bring down its level of public deposits immediately or over a period of time?

If rating of an NBFC is downgraded to below minimum investment grade rating, it has to stop accepting public deposits, report the position within fifteen working days to the RBI and bring within three years from the date of such downgrading of credit rating, the amount of public deposit to nil or to the appropriate extent permissible under paragraph 4(4) of Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998.

21. In case an NBFC defaults in repayment of deposit what course of action can be taken by depositors?

If an NBFC defaults in repayment of deposit, the depositor can approach Company Law Board or Consumer Forum or file a civil suit in a court of law to recover the deposits.

22. What is the role of Company Law Board in protecting the interest of depositors? How can one approach it?

When an NBFC fails to repay any deposit or part thereof in accordance with the terms and conditions of such deposit, the Company Law Board (CLB) either on its own motion or on an application from the depositor, directs by order the Non-Banking Financial Company to make repayment of such deposit or part thereof forthwith or within such time and subject to such conditions as may be specified in the order. After making the payment, the company will need to file the compliance with the local office of the Reserve Bank of India.

As explained above, the depositor can approach CLB by mailing an application in prescribed form to the appropriate bench of the Company Law Board according to its territorial jurisdiction along with the prescribed fee.

23. Can you give the addresses of the various benches of the Company Law Board (CLB) indicating their respective jurisdiction?

The details of addresses and territorial jurisdiction of the bench officers of CLB are as under:

ADDRESSES OF REGIONAL COMPANY LAW BOARD				
S. No.	Region	Jurisdiction	Telephone No.	Fax No.
1.	Company Law Board Principal Bench Paryavaran Bhawan B-Block, 3rd Floor C.G.O. Complex	All States & Union Territories	011 - 24366126 011- 24363451 011 - 24366125 011 - 24366123	011 - 24366126

	Lodhi Road, New Delhi – 110 003			
2.	Company Law Board New Delhi Bench Paryavaran Bhawan B-Block, 3rd Floor C.G.O. Complex Lodhi Road, New Delhi – 110 003	States of Delhi, Haryana, Himachal Pradesh, Jammu & Kashmir, Punjab, Rajasthan, Uttar Pradesh, Uttaranchal and Union Territories of Chandigarh.	011 – 24363671 011- 24363451 011 – 24366125 011 – 24366123	011 – 24366126
3.	Company Law Board Kolkata Bench 9 Old Post Office Street 6th Floor, Kolkata – 700 001	States of Arunachal Pradesh, Assam, Bihar, Manipur, Meghalaya, Nagaland, Orissa, Sikkim, Tripura, West Bengal, Jharkhand and Union Territories of Andaman and Nicobar Island and Mizoram.	033 – 22486330	033 – 22621760
4.	Company Law Board Mumbai Bench N.T.C. House, 2nd Floor, 15 Narottam Morarjee Marg, Ballard Estate, Mumbai – 400 038	States of Goa, Gujarat, Madhya Pradesh, Maharashtra, Chhattisgarh and (Union Territories of Dadra and Nagar Haveli and Daman and Diu)	022 – 22619636/ 022 – 22611456	022 – 22619636
5.	Company Law Board Chennai Bench Corporate Bhawan (UTI Building), 3rd Floor, No. 29 Rajaji Salai, Chennai – 600001.	States of Andhra Pradesh, Karnataka, Kerala, Tamil Nadu and Union Territories of Pondicherry and Lakshadweep Island.	044 – 25262793	044 – 25262794

24. We hear that in a number of cases Official Liquidators have been appointed on the defaulting NBFCs. What is the procedure adopted by the Official Liquidator?

An Official Liquidator is appointed by the court after giving the company reasonable opportunity of being heard in a winding up petition. The liquidator performs the duties of winding up of the company and such duties in reference thereto as the court may impose. Where the court has appointed an official liquidator or provisional liquidator, he becomes custodian of the property of the company and runs day-to-day affairs of the company. He has to draw up a statement of affairs of the company in prescribed form containing particulars of assets of the company, its debts and liabilities, names/residences/occupations of its creditors, the debts due to the company and such other information as may be prescribed. The scheme is drawn up by the liquidator and same is put up to the court for approval. The liquidator realizes the assets of the company and arranges to repay the creditors according to the scheme approved by the court. The liquidator generally inserts advertisement in the newspaper inviting claims from depositors/investors in compliance with court orders. Therefore, the investors/depositors should file the claims within due time as per such notices of the liquidator. The Reserve Bank also provides assistance to the depositors in furnishing addresses of the official liquidator.

25. The Consumer Court plays useful role in attending to depositors problems. Can one approach Consumer Forum, Civil Court, CLB simultaneously?

Yes, a depositor can approach any or all of the redressal authorities i.e consumer forum, court or CLB.

26. Is there an Ombudsman for hearing complaints against NBFCs?

No, there is no Ombudsman for hearing complaints against NBFCs. However, in respect of credit card operations of an NBFC, if a complainant does not get satisfactory response from the NBFC within a maximum period of thirty (30) days from the date of lodging the complaint, the customer will have the option to approach the Office of the concerned Banking Ombudsman for redressal of his grievance/s.

All NBFCs have in place a Grievance Redressal Officer, whose name and contact details have to be mandatorily displayed in the premises of the NBFCs. The grievance can be taken up with the Grievance Redressal Officer. In case the complainant is not satisfied with the settlement of the complaint by the Grievance Redressal Officer of the NBFC, he/she may approach the nearest office of the Reserve Bank of India with the complaint. The details of the Office of the Reserve Bank has also to be mandatorily displayed in the premises of the NBFC.

27. What are various prudential regulations applicable to NBFCs?

The Bank has issued detailed directions on prudential norms, vide Non-Banking Financial Companies Prudential Norms (Reserve Bank) Directions, 1998. The directions inter alia, prescribe guidelines on income recognition, asset classification and provisioning requirements applicable to NBFCs, exposure norms, constitution of audit committee, disclosures in the balance sheet, requirement of capital adequacy, restrictions on investments in land and building and unquoted shares, loan to value (LTV) ratio for NBFCs predominantly engaged in business of lending against gold jewellery, besides others. Deposit accepting NBFCs have also to comply with the statutory liquidity requirements. Details of the prudential regulations applicable to NBFC holding deposits and those not holding deposits is available in the DNBS section of master Circulars in the RBI website www.rbi.org.in → sitemap → Master Circulars.

28. Please explain the terms 'owned fund' and 'net owned fund' in relation to NBFCs?

'Owned Fund' means aggregate of the paid-up equity capital, preference shares which are compulsorily convertible into equity, free reserves, balance in share premium account and capital reserves representing surplus arising out of sale proceeds of asset, excluding reserves created by revaluation of asset, after deducting therefrom accumulated balance of loss, deferred revenue expenditure and other intangible assets. 'Net Owned Fund' is the amount as arrived at above, minus the amount of investments of such company in shares of its subsidiaries, companies in the same group and all other NBFCs and the book value of debentures, bonds, outstanding loans and advances including hire purchase and lease finance made to and deposits with subsidiaries and companies in the same group, to the extent it exceeds 10% of the owned fund.

29. What are the responsibilities of the NBFCs accepting/holding public deposits with regard to submission of Returns and other information to RBI?

The NBFCs accepting public deposits should furnish to RBI

- i. Audited balance sheet of each financial year and an audited profit and loss account in respect of that year as passed in the annual general meeting together with a copy of the report of the Board of Directors and a copy of the report and the notes on accounts furnished by its Auditors;
- ii. Statutory Quarterly Return on deposits - NBS 1;
- iii. Certificate from the Auditors that the company is in a position to repay the deposits as and when the claims arise;
- iv. Quarterly Return on prudential norms-NBS 2;
- v. Quarterly Return on liquid assets-NBS 3;
- vi. Annual return of critical parameters by a rejected company holding public deposits – NBS4
- vii. Half-yearly ALM Returns by companies having public deposits of Rs. 20 crore and above or asset size of Rs. 100 crore and above irrespective of the size of deposits holding
- viii. Monthly return on exposure to capital market by deposit taking NBFC with total assets of Rs 100 crore and above-NBS6; and
- ix. A copy of the Credit Rating obtained once a year

30. What are the documents or the compliance required to be submitted to the Reserve Bank of India by the NBFCs not accepting/holding public deposits?

The NBFCs having assets of Rs. 100 crore and above but not accepting public deposits are required to submit:

- (i) Quarterly statement of capital funds, risk weighted assets, risk asset ratio etc., for the company – NBS 7
- (ii) Monthly Return on Important Financial Parameters of the company
- (iii) Asset- Liability Management (ALM) returns:
- (iv) Statement of short term dynamic liquidity in format ALM [NBS-ALM1] -Monthly,
- (v) Statement of structural liquidity in format ALM [NBS-ALM2] Half Yearly
- (vi) Statement of Interest Rate Sensitivity in format ALM -[NBS-ALM3], Half yearly

B. The non deposit taking NBFCs having assets of more than Rs.50 crore and above but less than Rs 100 crore are required to submit Quarterly return on important financial parameters of the company. Basic information like name of the company, address, NOF, profit / loss during the last three years has to be submitted quarterly by non-deposit taking NBFCs with asset size between Rs 50 crore and Rs 100 crore

All companies not accepting public deposits have to pass a board resolution to the effect that they have neither accepted public deposit nor would accept any public deposit during the year.

However, all the NBFCs (other than those exempted) are required to be registered with RBI and also make sure that they continue to be eligible to retain the Registration. Further, all NBFCs (including non-deposit taking) should submit a certificate from their Statutory Auditors every year to the effect that they continue to undertake the business of NBF requiring holding of CoR under Section 45-IA of the RBI Act, 1934

NBFCs are also required to furnish the information in respect of any change in the composition of its Board of Directors, address of the company and its Directors and the name/s and official designations of its principal officers and the name and office address of its Auditors. With effect from April 1, 2007, non-deposit taking NBFCs with assets of Rs 100 crore and above were advised to maintain minimum CRAR of 10% and also comply with single/group exposure norms. As on date, such NBFCs are required to maintain a minimum CRAR of 15%.

31. The NBFCs have been made liable to pay interest on the overdue matured deposits if the company has not been able to repay the matured public deposits on receipt of a claim from the depositor. Please elaborate the provisions.

As per Reserve Bank's Directions, overdue interest is payable to the depositors in case the company has delayed the repayment of matured deposits, and such interest is payable from the date of receipt of such claim by the company or the date of maturity of the deposit whichever is later, till the date of actual payment. If the depositor has lodged his claim after the date of maturity, the company would be liable to pay interest for the period from the date of claim till the date of repayment. For the period between the date of maturity and the date of claim it is the discretion of the company to pay interest.

32. Can a company pre-pay its public deposits?

An NBFC accepts deposits under a mutual contract with its depositors. In case a depositor requests for pre-mature payment, Reserve Bank of India has prescribed Regulations for such an eventuality in the Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998 wherein it is specified that NBFCs cannot grant any loan against a public deposit or make premature repayment of a public deposit within a period of three months (lock-in period) from the date of its acceptance. However, in the event of death of a depositor, the company may, even within the lock-in period, repay the deposit at the request of the joint holders with survivor clause / nominee / legal heir only against submission of relevant proof, to the satisfaction of the company

An NBFC, (which is not a problem company) subject to above provisions, may permit after the lock-in period, premature repayment of a public deposit at its sole discretion, at the rate of interest prescribed by the Bank

A problem NBFC is prohibited from making premature repayment of any deposits or granting any loan against public deposit/deposits, as the case may be. The prohibition shall not, however, apply in the case of death of depositor or repayment of tiny deposits i.e. up to Rs. 10000/- subject to lock in period of 3 months in the latter case.

33. What is the liquid assets requirement for the deposit taking companies? Where are these assets kept? Do depositors have any claims on them?

In terms of Section 45-IB of the RBI Act, 1934, the minimum level of liquid assets to be maintained by NBFCs is 15 per cent of public deposits outstanding as on the last working day of the second preceding quarter. Of the 15%, NBFCs are required to invest not less than ten percent in approved securities and the remaining 5% can be in unencumbered term deposits with any scheduled commercial bank. Thus, the liquid assets may consist of Government securities, Government guaranteed bonds and term deposits with any scheduled commercial bank.

The investment in Government securities should be in dematerialised form which can be maintained in Constituents' Subsidiary General Ledger (CSGL) Account with a scheduled commercial bank (SCB) / Stock Holding Corporation of India Limited (SHCIL). In case of Government guaranteed bonds the same may be kept in dematerialised form with SCB/SHCIL or in a dematerialised account with depositories [National Securities Depository Ltd. (NSDL)/Central Depository Services (India) Ltd. (CDSL)] through a depository participant registered with Securities & Exchange Board of India (SEBI). However in case there are Government bonds which are in physical form the same may be kept in safe custody of SCB/SHCIL.

NBFCs have been directed to maintain the mandated liquid asset securities in a dematerialised form with the entities stated above at a place where the registered office of the company is situated. However, if an NBFC intends to entrust the securities at a place other than the place at which its registered office is located, it may do so after obtaining the permission of RBI in writing. It may be noted that liquid assets in approved securities will have to be maintained in dematerialised form only.

The liquid assets maintained as above are to be utilised for payment of claims of depositors. However, deposits being unsecured in nature, depositors do not have direct claim on liquid assets.

34. Please tell us something about the companies which are NBFCs, but are exempted from registration?

Housing Finance Companies, Merchant Banking Companies, Stock Exchanges, Companies engaged in the business of stock-broking/sub-broking, Venture Capital Fund Companies, Nidhi Companies, Insurance companies and Chit Fund Companies are NBFCs but they have been exempted from the requirement of registration under Section 45-IA of the RBI Act, 1934 subject to certain conditions.

Housing Finance Companies are regulated by National Housing Bank, Merchant Banker/Venture Capital Fund Company/stock-exchanges/stock brokers/sub-brokers are regulated by Securities and Exchange Board of India, and Insurance companies are regulated by Insurance Regulatory and Development Authority. Similarly, Chit Fund Companies are regulated by the respective State Governments and Nidhi Companies are regulated by Ministry of Corporate Affairs, Government of India.

It may also be mentioned that Mortgage Guarantee Companies have been notified as Non-Banking Financial Companies under Section 45 I(f)(iii) of the RBI Act, 1934.

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

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

36. What is a Residuary Non-Banking Company (RNBC)? In what way it is different from other NBFCs?

Residuary Non-Banking Company is a class of NBFC which is a company and has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner and not being Investment, Asset Financing, Loan Company. These companies are required to maintain investments as per directions of RBI, in addition to liquid assets. The functioning of these companies is different from those of NBFCs in terms of method of mobilization of deposits and requirement of deployment of depositors' funds as per Directions. Besides, Prudential Norms Directions are applicable to these companies also.

37. We understand that there is no ceiling on raising of deposits by RNBCs, then how safe is deposit with them?

It is true that there is no ceiling on raising of deposits by RNBCs but every RNBC has to ensure that the amounts deposited and investments made by the company are not less than the aggregate amount of liabilities to the depositors

To secure the interest of depositor, such companies are required to invest in a portfolio comprising of highly liquid and secure instruments viz. Central/State Government securities, fixed deposits with scheduled commercial banks (SCB), Certificate of deposits of SCB/FIs, units of Mutual Funds, etc. to the extent of 100 per cent of their deposit liability.

38. Can RNBC forfeit deposit if deposit installments are not paid regularly or discontinued?

No Residuary Non-Banking Company shall forfeit any amount deposited by the depositor, or any interest, premium, bonus or other advantage accrued thereon.

39. Please tell us something on rate of interest payable by RNBCs on deposits and maturity period of deposits

The amount payable by way of interest, premium, bonus or other advantage, by whatever name called by a RNBC in respect of deposits received shall not be less than the amount calculated at the rate of 5% (to be compounded annually) on the amount deposited in lump sum or at monthly or longer intervals; and at the rate of 3.5% (to be compounded annually) on the amount deposited under daily deposit scheme. Further, a RNBC can accept deposits for a minimum period of 12 months and maximum period of 84 months from the date of receipt of such deposit. They cannot accept deposits repayable on demand.

40. There are some companies like Multi-Level Marketing companies, Chit funds etc. Do they come under the purview of RBI?

No, Multi-Level Marketing companies, Direct Selling Companies, Online Selling Companies don't fall under the purview of RBI. Activities of these companies fall under the regulatory/administrative domain of respective state government. A list of such companies and their regulators are as follows:

Category of Companies	Regulator
Chit Funds	Respective State Governments
Insurance companies	IRDA
Housing Finance Companies	NHB
Venture Capital Fund /	SEBI
Merchant Banking companies	SEBI
Stock broking companies	SEBI
Nidhi Companies	Ministry of corporate affairs, Government of India

41. What are Unincorporated Bodies (UIBs)? Has RBI any role to play in curbing illegal deposit acceptance activities of UIBs?

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

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

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

42. Companies registered with MCA but not registered with RBI as NBFCs also sometimes default in repayment of deposit/amounts invested with them? What is the recourse available to the investors in such an event? Does RBI have any role to play in such cases?

Companies registered with MCA but not required to be registered with RBI as NBFC are not under the regulatory domain of RBI. Whenever RBI receives any such complaints about the companies registered with MCA but not registered with RBI as NBFCs, it forwards the complaints to the Registrar of Companies (ROC) of the respective state for any action. The complainants are advised that the complaints relating to irregularities of such companies should be promptly lodged with ROC concerned for initiating corrective action. However, in case it comes to the knowledge of RBI those companies were required to be registered with the RBI, but have not done so and have accepted deposits as defined under RBI Act, such action as is deemed necessary under the provisions of the RBI Act will be taken.

43. Whether the circular on Lending against shares dated August 21, 2014 is applicable to existing loans also?

The Circular is applicable from the date of the circular and therefore the Circular shall not apply on those transactions which have been entered into prior to the date of the Circular. However, the guidelines will be applicable in case of roll-over/ renewal of loans. Guidelines will not apply to transactions where documents have been executed prior to the date of the circular and disbursement is pending.

44. Will the circular be applicable on restructured accounts?

No. the Circular will not be applicable on restructured accounts

45. Will the Circular be applicable on those loans where the primary security is not shares?

Loans which are against the collateral of multiple securities and it is specifically agreed to in the agreement that primary security would be something other than shares, LTV would not be applicable. However, reporting requirements shall remain. In cases where such differentiation is not made (thereby NBFCs can off-load shares at the instance of a default), LTV would be applicable.

46. Whether LTV is to be computed at scrip level or at portfolio level?

LTV would be computed at portfolio level.

47. Whether PoA/ Non-Disposal undertaking structure by whatever name called is covered under the Circular?

Yes, the Circular would be applicable and the type of encumbrance created is immaterial.