

AN OVERVIEW OF REGULATORY FRAMEWORK OF NON BANKING FINANCIAL INSTITUTIONS



CA. Rajkumar S. Adukia
B.Com (Hons.), FCA, ACS, ACWA, LL.B,
DIPR, DLL & LP, MBA, IFRS(UK)
098200 61049/09323061049
email id: rajkumarradukia@caaa.in
Website: www.caaa.in

To download information on various subjects visit www.caaa.in

To receive regular updates kindly send test email to

rajkumarfca-subscribe@yahoogroups.com

rajkumarfca+subscribe@googlegroups.com

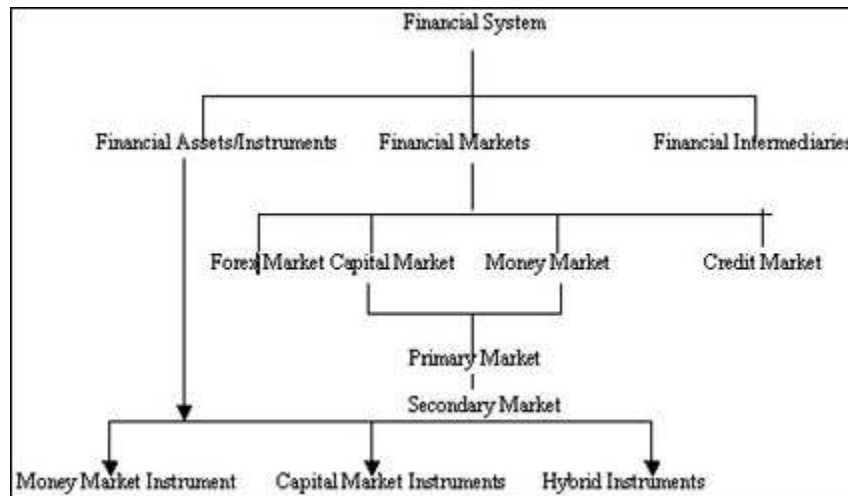
INTRODUCTION

Non Banking Finance Institutions is a constituent of the institutional structure of the organized financial system in India

The term "Finance" is often understood as being equivalent to "money". However, finance exactly is not money; it is the source of providing funds for a particular activity. Providing or securing finance by itself is a distinct activity or function, which results in Financial Management, Financial Services and Financial Institutions. Finance therefore represents the resources by way funds are needed for a particular activity. We thus speak of 'finance' only in relation to a proposed activity. Finance goes with commerce, business, banking etc. Finance is also referred to as "Funds" or "Capital", when referring to the financial needs of a corporate body.

The Financial System of any country consists of financial markets, financial intermediation and financial instruments or financial products. All these items

facilitate transfer of funds and are not always mutually exclusive. Inter-relationships between these are a part of the system e.g. Financial Institutions operate in financial markets and are, therefore, a part of such markets. The word system, in the term financial system, implies a set of complex and closely connected or inter-linked Institutions, agents, practices, markets, transactions, claims, and liabilities in the economy.



The Financial Intermediaries in the Financial System can broadly be said to comprise of:

- Banks; and
- NBFCs

And NBFCs can be further classified into different types depending on their nature of business.

Further, total Finance sector in India may be classified into Formal and Informal Finance.

The informal sector of finance may be said to refer to all economic activities that fall outside the formal sector that is regulated by economic and legal institutions e.g money lenders, some channels of micro finance and the other not necessarily regulated sectors. Landlords, local shopkeepers, traders, suppliers and professional money lenders, and relatives are the informal sources of micro-finance for the poor, both in rural and urban areas.

The Formal sector can be said to comprise of the Formal and necessarily regulated channels of financing like, finance provided by Banks, Financial Institutions, Non-Banking Financial Institutions, and Micro finance institutions.

NON BANKING FINANCIAL INSTITUTIONS AND INTERNATIONAL REGULATORY SYSTEM

In most countries, the financial system extends beyond traditional banking institutions to include Non Banking Financial Intermediaries like insurance companies, mutual funds, market makers and other financial service providers.

There has been tremendous growth worldwide in the mobilization of financial resources outside traditional banking systems. Channeled mainly through capital markets, such rapid financial diversification is posing new challenges for regulators in many emerging markets.

These non-banks financial institutions provide services that are not necessarily suited to banks, serve as competition to banks, and specialize in sectors or groups. Having a multi-faceted financial system, which includes non-bank financial institutions, can protect economies from financial shocks. However, in developing countries that lack a coherent policy framework and effective regulations, non-bank financial institutions can exacerbate the fragility of the financial system.

To summarize:

- NBFIs have much to contribute, but they also bring some risks;
- Those risks are best contained by sound regulation that seeks to create a generally level playing field, without stifling either the growth or individuality of NBFIs;
- These objectives notwithstanding, NBFIs regulation is generally underdeveloped throughout most of the world;
- The three areas in which improvements are most needed are:
 1. In the legal powers granted to NBFIs regulators
 2. In the prudential standards, regulations and rules which, in general, need to become more risk-based to catch up with banking standards;
 3. In the internal practices and processes of regulators where there is a general need for stronger governance standards and for a greater commitment to enforcement among prudential regulators and conduct regulators alike.

What is a Non Banking Financial Institution (NBFI)?

A Non Banking Financial Institution/ Non Banking Financial Intermediary has different definitions in different countries:

- Any institution which is not a bank but is involved in finance
- Financial institutions not taking demand deposits
- Financial institutions not taking any deposit

NBFIs are different types of financial institutions that provide the following types of services:

- Payments
- Liquidity / credit
- Divisibility: break up large denomination and aggregate small denomination
- Store of value
- Information: processing and assessing risks
- Risk pooling: lower the risks of investors

Many NBFIs provide services that are also provided by banks, hence the distinction between banks and NBFIs has become blurred. Many NBFIs belong to supervised conglomerates (or conglomerates that should be supervised).

Types of NBFIs

NBFIs can be classified by the main services they provide:

- Deposit taking institutions (e.g Thrifts, credit unions, savings & loans.)
- Risk-pooling institutions (e.g insurance co.)
- Contractual savings institutions (e.g Mutual funds, pension funds, other investment institutions)
- Market makers (e.g Investment banks, stockbrokers.)
- Specialized sectoral financiers (e.g leasing companies, real state finance co., micro-finance institutions.)
- Financial service providers (e.g Brokers, investment advisers.)

Contributions by NBFIs and Banks

Financial institutions, including banks and non-banks, provide some or all of the following core financial services. These services are often provided in combinations:

1. Some financial institutions provide payments services – by issuing claims that have the capacity to be used in settling transactions. To serve as an effective means of payments, a claim must have a highly stable and reliable value, be widely accepted in exchange and must be linked to the arrangements for ultimate settlement of value.
2. Liquidity is the ease with which an asset's full market value can be realized once a decision to sell has been made. Financial institutions enhance liquidity through specialization and scale.
3. Divisibility - Divisibility is the extent to which an asset can be traded in small denominations. Financial institutions break up large denomination (lumpy) claims and aggregate small denomination claims to meet divisibility preferences of the community.
4. Store of value is the extent to which an asset provides a reliable store of purchasing power over time – this is fundamental to satisfying savings preferences.
5. Information is costly to access and process. Providing economies of scale in processing and assessing risks is an important role of financial institutions.
6. Risk pooling is the extent to which an asset spreads the default risk of the underlying promises by pooling. By pooling assets, financial institutions have much more scope to risk pool than do individuals.

Banks provide an attractive bundle of most of the core financial services in their deposit product:

- Ability to write cheques on deposits means that banks offer payments services and liquidity equal to that of currency.
- Deposits also offer exceptionally high divisibility (at least to the same level as currency).
- The store of value service is that of a debt promise in that deposits promise repayment at (nominal) face value plus interest.
- Banks resolve the information conflict faced by borrowers and generally enjoy substantial economies of scale in processing and analyzing information.
- Finally, banks risk pool borrowers' promises into a single promise by the intermediary itself.

Rationale for NBFIs

Banks offer all of the services that NBFIs offer, then why do we Need NBFIs? The Answer to this question emerges if we analyse the differences between Banks and NBFIs.

Difference between Banks and NBFIs in India:

NBFCs are doing functions akin to that of banks, however there are a few differences:

- (i) a NBFC cannot accept demand deposits;
- (ii) it is not a part of the payment and settlement system and as such cannot issue cheques to its customers; and
- (iii) deposit insurance facility of Deposit Insurance and Credit Guarantee Corporation (DICGC) is not available for NBFC depositors unlike in case of banks.

1. Inefficiency of Banks

In principle, there is no reason why banks can't provide all services – indeed to an extent they do. However they are extremely inefficient in providing some services and even face conflicting incentives in providing all services.

In short, the way in which banks provide their core services means that they cannot provide all services equally efficiently.

In order to provide certainty of value for payments, bank deposits must be low risk. This limits the range and nature of assets that banks can hold on the asset side of their balance sheets and thereby the extent to which they can offer risk pooling. It also limits their ability to offer a wide range of store of value services, especially equity type stores of value services.

More generally, NBFIs play a range of roles that are not suitable to banks:

- through the enhancement of equity promises (adding liquidity, divisibility, informational efficiencies and risk pooling services), NBFIs broaden the spectrum of risks available to investors;
- in this way they encourage investment and savings and improve the efficiency of investment and savings;
- through the provision of contingent promises they foster a risk management culture by encouraging those who are least able to bear risk to sell those risks to those better able to manage them; and
- they can enhance the resilience of the financial system to economic shocks

NBFIs complement banks by providing services that are not well suited to banks; they fill the gaps in financial services that otherwise occur in bank-based financial systems.

2. Serve as Competition for Banks

Equally important, NBFIs provide competition for banks in the provision of financial services. NBFIs unbundle bank services and compete with them as providers. They specialize in particular sectors and target particular groups.

3. Economic Development

There is a growing body of hard evidence to suggest that:

- The development of financial intermediaries contributes strongly to economic growth;
- That contribution is increased where intermediation is provided through a balanced combination of NBFIs and banks – in particular, there is a strong correlation between the depth and activeness of non-banks and stock markets on the one hand, and economic development on the other.

In the first place, banks offer assets (deposits) that claim to be capital certain. If this promise is to be honored, then there must be limits to the range and nature of assets that a bank can reasonably take on to its balance sheets.

Notwithstanding the existence of universal banking in many parts of the world (i.e., banks also engaged in securities market activities), this consideration implies that bank-based financial system will tend to have a smaller range of equity-type assets than those with a more broadly based structure including a wide range of NBFIs. More generally, NBFIs play range of roles that are not suitable for banks and through their provision of liquidity, divisibility, informational efficiencies, and risk pooling services, they broaden the spectrum of risks available to investors. In this way, they encourage and improve the efficiency of investment and savings. Through the provision of a broader range of financial instruments, they are able to foster a risk management culture by attracting customers who are least able to bear risks and fill the gaps in financial services that otherwise occur in bank-based financial systems.

4. Financial Stability

In a financial sector in which NBFIs are comparatively undeveloped, banks will inevitably be required to assume risks that otherwise might be borne by the stock market, collective investment schemes or insurance companies. However, there

is basic incompatibility between the kinds of financial contracts offered by the banks and those offered by the financial institutions. Thus, banks are more likely to fail as a result. One way of minimizing financial fragility in the developing economies may be to encourage a diversity of financial markets and institutions, where investors are able to assume a variety of risks outside the banking system itself. Without this diversity, there is a tendency for all risks to be bundled within the balance sheet of the banking system, which may lead to severe financial crises more likely. This point was widely noted by policymakers in their analysis of the lessons of the Asian currency crisis, for instance.

As Alan Greenspan (1999) pointed out, the impact of the currency crisis in Thailand might have been significantly less severe if some of the risks borne by the Thai banks had instead been borne by the capital markets.

Risks Associated with NBFIs And Why they Need to be Regulated:

While NBFIs can contribute to the economy, they also bring risks and the only way to control these risks is through proper regulation. Risk will vary depending upon the economic functions performed by NBFIs.

The challenge for regulation is striking the right balance between the risks and benefits.

On the one hand, too little or no regulation can lead to crisis and severely impact the vulnerable and the economy. This has been a major attribute to the Asian crisis in the late 90s - finance companies in Thailand and merchant banks in Korea. On the other hand, too strict or inappropriate regulation can hinder innovation and development. The call for 'deregulation' in developed economies reflects this.

Getting the right balance is a perpetual challenge for financial regulators and supervisors, not only in the developing countries, but also in developed and advanced economies.

1. To Prevent Systemic Risk

'Systemic' means, - affecting the entire body or organization (the complex whole.) Systemic Risk means the market risk or the risk that cannot be diversified away, as opposed to "idiosyncratic risk", which is specific to individual stocks. It refers to the movements of the whole economy.

A systemic problem can be said to arise when a failure of one institution creates large social costs (contagion, generalized panic, interruption of the payments system, etc):

The essence of systemic risk is therefore the correlation of losses. For example, if one bank goes bankrupt and sells all its assets, the drop in asset prices may induce liquidity problems of other banks, leading to a general banking panic.

Regulation of NBFIs to prevent systemic risk is necessary because NBFIs tend not to adequately internalize systemic risks.

2. Guard against 'regulatory arbitrage' - when different institutions subject to different regulatory constraints can offer the same type of products.

NBFIs can be used as a means of outwitting or evading the intent of regulations imposed on banks.

Competition between NBFIs and banks in providing financial services is healthy. But competition based on lax regulation is unhealthy - and can have disastrous consequences that may affect economic growth and financial stability for years.

This effect has been clearest where NBFIs have been either totally or largely unregulated and have thereby gained a competitive advantage in competing with regulated banks on their own territory.

The fallout from this type of behaviour was widely experienced in the Asian region in the late 1990s.

- In Thailand, finance companies issued high-yielding promissory notes and borrowed offshore, then loaned the funds in local currency to high-risk borrowers who could not meet banking standards - when the crisis hit in mid 1997, the Government was forced to close 69 insolvent finance companies;
- Malaysia experienced similar problems with finance companies that had extended hire -purchase loans;
- In Korea, NBFIs grew very strongly in the pre-97 period precisely because they competed directly with banks, but with a regulatory advantage. The problem re-emerged in a different guise between '97 and '99 when poorly regulated Investment Trust Companies took over as the primary source of corporate finance.
- China has also had problems associated with Investment Trust Companies.

The business in which NBFIs are permitted to engage is ultimately a matter of choice. To illustrate the point, following the crisis in 1997, the Korean Authorities accepted that Merchant Banks in Korea effectively are in the same business as banks and have changed their regulatory requirements so that their merchant banks now face essentially the same capital, provisioning, liquidity, large exposure and foreign exchange requirements as banks.

In contrast, in Australia the decision was taken that Merchant Banks should not be allowed to do the business of banks (defined as taking deposits from the public) and so they are regulated much more lightly than banks.

To prevent regulatory arbitrage between banks and NBFIs there is a need to have a coherent regulatory framework that covers the whole of the financial system and which regulates similar risks in similar ways – regardless of which institutions offer the particular services.

3. Conglomerate Contamination

A major risk with NBFIs arises from their association with banks through conglomerates.

While many countries have quite sound regulatory frameworks for supervising banks, very few have either the legal power or the policy framework for adequately supervising conglomerate groups in which banks own and operate large non-bank subsidiaries.

This problem was also a contributor to the crisis in the late 1990s, most particularly in Korea and Indonesia. But the problem is by no means confined to emerging markets. Australia has lost only two banks through outright failure in the past century. Both failed because of high-risk activities carried out through their unregulated and very large subsidiaries.

4. To Protect consumers against market misconduct

This is one of the primary reasons for NBFIs supervision and regulation – that depositors are protected against the NBFIs failure to repay.

In a perfect market, we would expect individual depositors, policy holders and investors to have information based on which they can assess the institutions before they enter into any deals. The reality is information is not always reliable and customers lack expertise to analyse the information to determine the value of promises made to them by financial institutions. The regulator's role is to ensure

that those promises are reasonable, understandable and adequately backed by capital reserves.

To protect the consumers, the regulators need to lay down certain Rules of Conduct for the NBFIs which will help to prevent insider trading, conflict of interest, false advertisement etc. For this purpose the Regulators generally have certain norms like:

- Certain Entry restrictions like licensing etc.
- Disclosure of information
- Financial strength (minimum capital etc.)
- Governance of the NBFIs (responsibilities etc.)
- Rules for conduct of business

5. To enhance efficiency of NBFIs:

To enhance the efficiency of NBFIs and to prevent anti-competitive behavior, the Regulators need to lay down Rules that deal with structure of industries (merger or anti-trust laws), Rules that prevent anti-competitive behavior (collusion; free entry and exit).

6. To Prevent Asymmetric information

Asymmetric Information arises where products and services are sufficiently complex that disclosure itself is not enough to allow consumers to make informed choices (buyers and sellers not equally informed)

In economics and contract theory, information asymmetry deals with the study of decisions in transactions where one party has more or better information than the other. This creates an imbalance of power in transactions which can sometimes cause the transactions to go awry. Information asymmetry models assume that at least one party to a transaction has relevant information whereas the other(s) do not.

To prevent from creating a situation of asymmetric information, Regulators need to specify norms with respect to the following:

- Entry and exit rules
- Minimum capital or liquidity requirements
- Restrictions to operations and limits
- Risk management requirements and accountability

7. Social objectives

NBFIs have an important role to play in financial and economic development of a country.

International experience with government sponsored entities or rules goes to show that it is not clear that the solution is always better than the problem. The Government has to consider various issues like- Not enough financing for a sector? Housing? Agriculture? Others? Are interest rates too high? Etc.

However, under negative (or positive) externalities, private decisions of an organization provide less (or more) than the socially desirable outcome of a service. Therefore regulation by the Government is most essential so that the NBFI does not overlook its importance and the necessity of fulfilling its social objectives

8. NBFIs can be popular vehicles for money laundering and financing of terrorism and hence the need for regulation on that front is also in place.

Regulatory Authorities for NBFIs in some Countries

The structure of the regulator can and does take different forms in different jurisdictions. A recent trend has been a shift towards more integrated supervision with banking, insurance and capital market regulation being brought within one organisation.

The United Kingdom's Financial Services Authority is an example of integrated supervision while Australia's twin regulators (ASIC and APRA) focus on prudential and market conduct functions, respectively.

1. United Kingdom :

Financial Services Authority (FSA)

FSA is the Regulator of all providers of financial services in the UK

However, Bank of England retains responsibility for systemic risk.

2. Australia:

Twin regulators

1. Australian Securities and Investments Commission (ASIC):

ASIC is the corporates, markets conduct and financial services regulator. ASIC

regulates Australian companies, financial markets, financial services organisations and professionals who deal and advise in investments, superannuation, insurance, deposit taking and credit.

2. Australian Prudential Regulation Authority (APRA):

APRA is the prudential regulator of the Australian financial services industry. APRA oversees banks, credit unions, building societies, general insurance and reinsurance companies, life insurance, friendly societies, and most members of the superannuation industry.

3. Singapore:

Monetary Authority of Singapore (MAS)

MAS covers both prudential supervision of the banking and insurance sectors, capital market regulation and business conduct regulation across the financial system.

4. United States:

Principal Regulatory Agencies of the US Financial System

Regulatory Agency:	Regulatory Areas:
Securities and Exchange Commission SEC	Organized exchanges and financial markets, market participants, mutual funds and investment companies, Section 20 affiliates
Commodities, Futures Trading Commission CFTC	Derivatives markets and participants
Office of Comptroller of the Currency OCC	Federally chartered commercial banks
Federal Reserve System	All member banks, bank holding companies, Section 20 affiliates
Federal Deposit Insurance Corporation FDIC	State chartered commercial and cooperative banks, insured industrial banks
National Credit Union Administration NCUA	Federally chartered credit unions
Office of Thrift Supervision OTS	Savings and loan associations, savings banks
State Banking and Insurance Commissions	State chartered banks (deposit institutions) and insurance companies

Source: Background paper prepared by Terry M. Chuppe, *Non-Bank Financial Institutions Regulation*, 1996. Mimeo, Washington, D.C.

5. India:

Reserve Bank of India (RBI)

6. Mauritius:

Financial Services Commission (FSC).

7. Malaysia:

Bank Negara Malaysia (BNM), the Central Bank

8. Bangladesh:

Bangladesh Bank (the Central Bank)

9. Phillipines:

The Bangko Sentral ng Pilipinas (Central Bank of the Philippines)

MEANING OF NON BANKING FINANCIAL COMPANY

Non-banking financial companies (NBFCs) engaged in varied financial activities are part of the Indian financial system providing a range of financial services.

Although the terms Non Banking Financial Institution (NBFI) and Non Banking Financial Company (NBFC) is generally used interchangeably in India and when referring to each the meaning implied is the same, however technically there lies a difference in the as the terms have been defined in specific terms in the Reserve Bank of India Act (RBI Act) 1934 and hence the necessity for a separate chapter on the subject.

A Non Banking Financial Institution/ Non Banking Financial Intermediary (NBFI) is prevalent in most countries and may have different forms and different definitions in different countries. NBFI will thus serve the purpose of description of a more universal class while we will use the term NBFC as more suited to India as the definition of NBFC inherently incorporates the fact that it is a company incorporated under the Companies Act, 1956.

NBFC is 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 which should have a minimum net owned fund of Rs 200 lakh w.e.f April 21, 1999.

A Non-Banking Financial Company (NBFC) is a company registered under the Companies Act, 1956 and is engaged in the business of loans and advances, acquisition of shares/ stock/ bonds/ debentures/ securities issued by Government or local authority or other securities of like marketable nature, leasing, hire-purchase, insurance business, chit business but does not include any institution whose principal business is that of agriculture activity, industrial activity, sale/purchase/construction of immovable property.

'NBFC', is defined under sec. 45-I(f) of the Act, as under

"non-banking financial company" means-

- (i) a financial institution which is a company;
- (ii) a non banking institution which is a company and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner;
- (iii) such other non-banking institution or class of such institutions, as the bank may, with the previous approval of the Central Government and by notification in the Official Gazette, specify.

For this purpose, the definition of 'Principal Business' given, vide Press Release 1998-99/1269 dated April 8, 1999 may be followed:

"The company will be treated as a non-banking financial company (NBFC) if its financial assets are more than 50 per cent of its total assets (netted off by intangible assets) and income from financial assets is more than 50 per cent of the gross income. Both these tests are required to be satisfied as the determinant factor for principal business of a company."

Classification of NBFCs

Non-banking financial institutions (NBFIs) are an important part of the Indian financial system. The NBFIs at present consist of a heterogeneous group of institutions that cater to a wide range of financial requirements.

However, there is a lacuna in the form of a classification problem of NBFIs. The RBI has identified as many as 12 categories of NBFIs. Five of them are regulated by the RBI; one – chit funds – jointly by the RBI and the Registrar of Chits and two – mutual benefit funds including nidhis and micro finance companies – by the Department of Company Affairs, Government of India. The National Housing Bank (NHB) regulates housing finance companies. The RBI has also included insurance companies, stock broking companies and merchant banking companies among NBFCs. The last two are regulated by the Securities and Exchange Board of India while insurance companies come under the Insurance

Regulatory and Development Authority. Other than the fact that all these come under the category of "non-banks," there are not many common features.

1. NBFCs are also classified in terms of activities into:

- Asset Finance Companies (AFC),
- Investment Companies (IC),
- Loan Companies (LC),
- Infrastructure Finance Companies (IFC),
- Core Investment Companies (CIC),
- Infrastructure Debt Fund - Non-Banking Financial Companies (IDF-NBFC),
- Non-Banking Financial Company- Micro Finance Institutions (NBFC-MFI)
- NBFC-Factors.

During 2011-12, two new categories of NBFCs, viz., Infrastructure Debt Funds – NBFC (NBFC-IDF) and Micro Finance Institution (NBFC-MFI) – were created and brought under separate regulatory framework. In addition, a new category of NBFC-Factors was introduced in September 2012. Earlier in April 2010, a regulatory framework for Systemically Important Core Investment Companies (CIC NDSI) was created for companies with an asset size of ₹1 billion and above, whose business is investment for the sole purpose of holding stakes in group concerns, are not trading in these securities and are accepting public funds. Prudential requirements in the form of Adjusted Net Worth and leverage were also prescribed for CIC-ND-SIs as they were given exemption from NOF, capital adequacy and exposure norms.

An NBFC-MFI is defined as a non-deposit-taking NBFC (other than a company licensed under Section 25 of the Indian Companies Act, 1956) that fulfils the following conditions: (i) Minimum Net Owned Funds of ₹5 crore (₹2 crore for the North-eastern Region), (ii) Not less than 85 per cent of its net assets are in the nature of “qualifying assets”, (iii) the income it derives from the remaining 15 per cent assets in accordance with the regulations specified in that behalf. An NBFC which does not qualify as an NBFC-MFI shall not extend loans to the micro finance sector, in excess of 10 per cent of its total assets. Given the functional hardship faced by the MFI sector following the Andhra Pradesh Micro Finance Institutions (Regulations of Money Lending) Ordinance, 2010 and to give reprieve to the sector, the Reserve Bank modified the regulatory framework for MFIs to allow for time for compliance to regulations and allow them to register with the Bank as NBFC-MFI early. Considering the importance of this sector for the development and regulation of micro-finance institutions to promote

financial inclusion, the Micro-Finance Institutions (Development and Regulation) Bill, 2012 was introduced in the Lok Sabha on May 22, 2012.

2. NBFCs are classified into two categories, based on the liability structure, viz.:

- Category 'A' companies (NBFCs accepting public deposits or NBFCs-D);
- Category 'B' companies (NBFCs not raising public deposits or NBFCs-ND).

NBFCs-D are subject to requirements of capital adequacy, liquid assets maintenance, exposure norms (including restrictions on exposure to investments in land, building and unquoted shares), ALM discipline and reporting requirements; in contrast, until 2006 NBFCs-ND were subject to minimal regulation. Since April 1, 2007, non-deposit taking NBFCs with assets of `1 billion and above are being classified as Systemically Important Non-Deposit taking NBFCs (NBFCs-ND-SI), and prudential regulations, such as capital adequacy requirements and exposure norms along with reporting requirements, have been made applicable to them. The asset liability management (ALM) reporting and disclosure norms have also been made applicable to them at different points of time

Systemically important NBFCs

International Monetary Fund has framed principles for regulation of the financial sector, where it suggests that institutions performing similar functions should be subject to similar regulations. Accordingly, All NBFCs-ND with an asset size of Rs.100 crore and more as per the last audited balance sheet are now considered as systemically important NBFCs-ND (NBFC-ND-SI). NBFCs-ND- SI are required to maintain a minimum CRAR of 10 per cent. No NBFC-ND-SI is allowed to (i) lend to any single borrower/ group of borrowers exceeding 15 per cent / 25 per cent of its owned fund; (ii) invest in the shares of another company/ single group of companies exceeding 15 per cent / 25 per cent of its owned fund; and (iii) lend and invest (loans/investments taken together) exceeding 25 per cent of its owned fund to a single party and 40 per cent of its owned fund to a single group of parties.

This classification is in addition to the present classification of NBFCs into deposit-taking, and non-deposit-taking NBFCs. [RBI on Financial Regulation of Systemically Important NBFCs and Banks' Relationship with them- dated 12.12.2006]

3. Residuary non-banking companies (RNBCs)

A separate category of NBFCs called the Residuary non-banking companies (RNBCs) also exists as they could not be categorised into any one of the above three categories.

RNBCs are a category of NBFCs whose principal business is acceptance of deposits and investing in approved securities. 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 mobilisation of deposits and requirement of deployment of depositors' funds. However, Prudential Norms Directions are applicable to these companies also.

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 secured instruments viz. Central/State Government securities, fixed deposit of scheduled commercial banks (SCB), Certificate of deposits of SCB/FIs, units of Mutual Funds, etc.

4. Miscellaneous non-banking companies MNBCs (Chit Fund),

The Chit Companies, although governed by the Miscellaneous Non-banking Companies (MNBCs) (Reserve Bank) Directions, 1977, issued by the Reserve Bank with regard to acceptance of deposits, are regulated by the Registrar of Chits of the respective State Governments.

Furthermore, MNBCs, not accepting public deposits have been exempted from submitting returns to the Reserve Bank since December 27, 2005.

5. Mutual benefit financial companies (Nidhis and unnotified Nidhis)

Mutual benefit funds including Nidhi companies are not regulated by the Reserve Bank (except as pertaining to deposit taking activities) as they come under the regulatory purview of the Ministry of Corporate Affairs

6. Housing finance companies.

The National Housing Bank (NHB) regulates housing finance companies

7. Insurance companies

Insurance Companies are regulated by the Insurance Regulatory and Development Authority.

8. Stock broking companies and Merchant banking companies

These companies are regulated by the Securities and Exchange Board of India.

9. Mortgage Guarantee Companies

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

Supervision of NBFCs by Reserve Bank

The supervisory framework for NBFCs is based on three criteria, viz.,

- (a) the size of NBFC,
- (b) the type of activity performed, and
- (c) the acceptance or otherwise of public deposits.

Towards this end, a four-pronged supervisory strategy comprising –

- (a) on-site inspection based on CAMELS (capital, assets, management, earnings, liquidity, systems and procedures) methodology,
- (b) computerised off-site surveillance through periodic control returns,
- (c) an effective market intelligence network, and
- (d) a system of submission of exception reports by auditors of NBFCs, has been put in place.

The regulation and supervision is comprehensive for companies accepting or holding public deposits to ensure protection of interests of depositors.

Companies holding or accepting public deposits are required to comply with all the directions on acceptance of public deposits, prudential norms and liquid assets, and should submit periodic returns to the Reserve Bank. They are supervised using all the supervisory tools indicated above.

Companies not holding or accepting public deposits are regulated and supervised in a limited manner. They are required to comply only with prudential norms relating to income recognition, accounting standards, asset classification and provisioning against bad and doubtful debts. They are less frequently inspected. Such companies are now required to submit a monthly return to the Reserve Bank.

PRE-REQUISITES FOR CARRYING ON BUSINESS OF NBFC

The company desiring to be registered as a NBFC is required to submit its application for registration in the prescribed format along with necessary documents for RBI's consideration. RBI issues Certificate of Registration after satisfying itself that the conditions as enumerated in Section 45-IA of the RBI Act, 1934 are satisfied.

The following pre-requisites mentioned below are cumulative and not alternative.

1. Registration Requirement

In terms of Section 45-IA of the RBI Act, 1934, it is mandatory that every NBFC should be registered with RBI to commence or carry on any business of non-banking financial institution as defined in clause (a) of Section 45 I of the RBI Act, 1934.

The registration is compulsory for all NBFCs, irrespective of their holding of public deposits. The RBI (Amendment) Act, 1997, which introduced comprehensive changes in Chapter III-B, III-C and V, provides for an entry point norm of Rs.25 lakh as the minimum net owned fund (NOF). Subsequently, for new NBFCs seeking registration with the Reserve Bank to commence business on or after April 21, 1999, the requirement of minimum level of NOF was revised upwards to Rs.2 crore. No NBFC can commence or carry on business of a financial institution including acceptance of public deposit without obtaining a Certificate of Registration (CoR) from the Reserve Bank.

The company is required to submit its application for registration in the prescribed format along with necessary documents for RBI's consideration. The Bank issues Certificate of Registration after satisfying itself that the conditions as enumerated in Section 45-IA of the RBI Act, 1934 are satisfied

Requirements to be complied with and documents to be submitted to RBI by NBFCs for obtaining certificate and Registration from RBI

*An indicative list of documents/information to be furnished along with the application.
All documents/information is to be submitted in duplicate.*

1.	Minimum NOF requirement Rs. 200 lakh.
2.	Application to be submitted in two separate sets tied up properly in two separate files.
3.	Annex II to the Application Form to be submitted duly signed by the director/ Authorized signatory and certified by the statutory auditors.

4.	Annex III (directors' profile) to the Application Form to be separately filled up for each director. Care should be taken to give details of bankers in respect of firms/companies/entities in which directors have substantial interest.
5.	In case the directors are associated or have substantial interest in other companies, indicate clearly the activity of the companies (whether NBFC or not).
6.	Board Resolution specifically approving the submission of the application and its contents and authorising signatory.
7.	Board Resolution to the effect that the company has not accepted any public deposit, in the past (specify period)/does not hold any public deposit as on the date and will not accept the same in future without the prior approval of Reserve Bank of India in writing.
8.	Board resolution stating that the company is not carrying on any NBFC activity/stopped NBFC activity and will not carry on/commence the same before getting registration from RBI.
9.	Auditors Certificate certifying that the company is/does not accept/is not holding Public Deposit.
10.	Auditors Certificate certifying that the company is not carrying on any NBFC activity.
11.	Net owned fund as on date.
12.	Certifying compliance with section 45S of Chapter IIIC of the RBI Act, 1934 in which director/s of the company has substantial interest.
13.	Details of changes in the Memorandum and Articles of Association duly certified.
14.	Last three years Audited balance sheet along with directors & auditors report.
15.	Details of clauses in the memorandum relating to financial business.
16.	Details of change in the management of the company during last financial year till date if any and reasons thereof.
17.	Details of acquisitions, mergers of other companies if any together with supporting documents.
18.	Details of group companies/associate concerns/subsidiaries/holding companies.
19.	Details of infusion of capital if any during last financial year together with the copy of return of allotment filed with Registrar of Companies.
20.	Details of the bank balances/bank accounts/complete postal address of the branch/bank, loan/credit facilities etc. availed.

21.	Business plan for next three years indicating market segment to be covered without any element of public deposits.
22.	Cash flow statement, asset/income pattern statement for next three years.
23.	Brief background note on the activities of the company during the last three years and the reasons for applying for NBFC registration.
24.	II(b) is the company engaged in any capital market activity? If so, whether there has been any non-compliance with SEBI Regulations? (Statement to be certified by Auditors).
25.	Whether any prohibitory order was issued in the past to the company or any other NBFC/RNBC with which the directors/promoters etc. were associated? If yes, details there of.
26.	Whether the company or any of its directors was/is involved in any criminal case, including under section 138(1) of the Negotiable Instruments Act? If yes, details thereof.
27.	Whether the company was granted any permission by ECD to function as Full-fledged Money Changers?
28.	Whether the company was/is authorised by ECD to accept deposits from NRIs.
29.	Whether "Fit and Proper" Norms for Directors have been fulfilled.

NBFCs exempted from Registration with RBI

However, to obviate dual regulation, certain category 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 or Housing Finance Companies regulated by National Housing Bank.

As laid down in RBI Master Circular RBI/2012-13/29 DNBS.PD.CC.No. 282/03.02.004/2012-13 dated July 2nd, 2012 the following are some exemptions from the provisions of RBI Act, 1934 but subject to certain conditions:

(i) A Housing Finance Institutions has been exempted from provisions of Chapter III B of the RBI Act, 1934

- (ii) A merchant banking company has been exempted from the provisions of Section 45-IA [Requirement of registration and net owned fund], Section 45-IB [Maintenance of liquid assets] and 45-IC [Creation of Reserve Fund] of the RBI Act, 1934, Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998 and Non-Banking Financial Companies Prudential Norms (Reserve Bank) Directions, 1998
- (iii) In the case of Micro Finance Companies, Sections 45-IA, 45-IB and 45-IC of the Reserve Bank of India Act, 1934 shall not apply to certain micro finance companies
- (iv) Mutual Benefit Companies - Sections 45-IA, 45-IB and 45-IC of the Reserve Bank of India Act, 1934 shall not apply to certain Mutual Benefit Companies
- (v) In the case of Government Companies- Sections 45-IB and 45-IC of the Reserve Bank of India Act, 1934 paragraphs 4 to 7 of the Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998 and Non-Banking Financial Companies Prudential Norms (Reserve Bank) Directions, 1998 except paragraph 13 A of the said directions relating to submission of information to Reserve Bank in regard to change of address, directors, auditors, etc shall not apply
- (vi) In the case of Venture Capital Fund Companies Section 45-IA and Section 45-IC of the Reserve Bank of India Act, 1934 shall not apply
- (vii) In the case of Insurance/Stock Exchange/Stock Broker/Sub-Broker-The provisions of Section 45-IA, 45-IB, 45-IC, 45MB and 45MC of the Reserve Bank of India Act, 1934 and provisions of Non-Banking Financial Companies Acceptance of Public Deposit (Reserve Bank) Directions contained in Notification No. DFC.118 / DG(SPT)-98 dated January 31. 1998, the Non-Banking Financial Companies Prudential Norms (Reserve Bank) Directions, 1998 dated January 31, 1998 shall not apply
- (viii) In the case of Nidhi Companies, the provisions of Sections 45-IA, 45-IB and 45-IC of the Reserve Bank of India Act, 1934 shall not apply
- (ix) Chit Companies doing the business of chits exclusively are exempted
- (x) Securitisation or Reconstruction Companies registered with the Reserve Bank of India under Section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.
- (xi) Mortgage Guarantee Companies
- (xii) Core Investment Companies - The provisions of section 45-IA of the Act 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, which is not a Systemically Important Core Investment Company, as defined in clause (h) of sub-paragraph (1) of paragraph 3 of the Core Investment Companies (Reserve Bank) Directions, 2011. The provisions of section 45-IA (1)(b) of the Act also shall not apply subject to the condition that it meets with the capital requirements and leverage ratio as specified in the said directions. The Non-Banking Financial (Non- Deposit Accepting or Holding)

Companies Prudential Norms (Reserve Bank) Directions, 2007" shall also not apply to a non-banking financial company being a Core Investment Company referred to in the Core Investment Companies (Reserve Bank) Directions, 2011 (hereinafter referred to as CIC Directions), which is not a systemically important Core Investment Company as defined in clause (h) of sub-paragraph (1) of paragraph 3 of the CIC Directions." The provisions of paragraphs 15, 16 and 18 of these Directions shall not apply to a Systemically Important Core Investment Company as defined in the CIC Directions, subject to the condition that it submits the Annual Auditors Certificate and meets with the capital requirements and leverage ratio, as specified in the CIC Directions".

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

2. Incorporation under The Companies Act 1956

It should be 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

3. Minimum Net Owned Fund

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 have a minimum net owned fund of Rs 25 lakh raised to Rs 200 lakh w.e.f April 21, 1999 Vide Notification no DNBS 132/CGM (VSNM)-99, dated 20-4-1999, by the RBI for an NBFC which commences the business of an NBFC after 21st April 1999. Thus, this specification of higher "net owned fund" is not applicable to NBFCs that commenced business before 21 April 1999.

Net Owned Fund is defined in the Explanation to Section 45-IA of the RBI Act 1934 as follows

(a) The aggregate of the paid-up equity capital and free reserves as disclosed in the latest balance sheet of the company after deducting therefrom-

- (i) accumulated balance of loss;
- (ii) Deferred revenue expenditure; and
- (iii) Other intangible assets; and

(b) Further reduced by the amounts representing-

(1) Investments of such company in shares of-

(i) Its subsidiaries;

(ii) Companies in the same group;

(iii) All other non-banking financial companies; and

(2) The book value of debentures, bonds, outstanding loans and advances (including hire-purchase and lease finance) made to, and deposits with-

(i) Subsidiaries of such company; and

(ii) Companies in the same group,

to the extent such amount exceeds ten per cent, of (a) above

General Compliance Requirements

All NBFCs, being companies registered under the Companies Act, have to fulfill compliance relating to the Board of Directors, Share Capital, Management Structure, Audits, Meetings, maintenance as well as publication of books of accounts and general conduct as per the requirements of the Companies Act 1956.

In addition, they have to fulfill the specific requirements of the Reserve Bank of India (RBI) as set out in the Directions and various notifications and amendments by the RBI. The RBI also prescribes a set of compliance norms for all NBFCs. The Prudential Norms for NBFCs accepting public deposits are more rigorous.

REGULATORY FRAMEWORK FOR NBFCs IN INDIA

The NBFC sector is characterised by its heterogeneity. It is heterogeneous in term of size, business, spread and ownership. It is more than three decades since RBI has started regulating and supervising the functioning of the NBFC sector in India. RBI presently regulates the NBFCs whether undertaking, exclusively or in

combination, the activities of asset financing, loaning and investment as their principal business, irrespective of whether they accept public deposits or not.

The scheme of regulation of the deposit acceptance activities of the Non-Banking Companies was conceived in the sixties as an adjunct to monetary and credit policy of the country and also to provide an indirect protection to the depositors by insertion in the year 1963, of a new Chapter III B in the Reserve Bank of India Act, 1934. The regulations till 1997 empowered the Reserve Bank of India, only to regulate or prohibit issue of prospectus or advertisement soliciting deposit, collect information as to deposits and to give directions on matters relating to deposits.

During the nineties a spurt was observed in the number of non-banking companies and the volume of deposits accepted. Proliferation of institutions both financial and non-financial depending mainly or wholly on deposits from public was viewed with concern by the authorities. Further in the absence of any prudential ceiling, the NBFCs deployed their funds where they had little experience and expertise as also lent to those sectors with high risks. The resultant high level of Non Performing Assets aggravated the liquidity crunch faced by many companies and led to significant failures

Amendments to RBI Act and New Regulatory Framework

Various committees, which went into these aspects, strongly recommended that there should be an appropriate regulatory framework over NBFCs and that more powers should be vested with RBI to regulate NBFCs in a better manner. Chapters III-B, III-C and V of the RBI Act were comprehensively amended in January 1997 for vesting more powers with the RBI and providing, *inter alia*, for minimum entry point norm, compulsory registration with the Reserve Bank of all existing and newly incorporated NBFCs for carrying on and commencement of financial business. RBI put in place in January 1998 a new regulatory framework involving prescription of prudential norms for NBFCs, regulation of deposit taking activity to ensure that the NBFCs function on sound and healthy lines and strengthen the financial system of the country. Regulatory and supervisory attention was focused on NBFCs -D which accept public deposits so as to enable RBI to efficiently discharge its responsibilities to protect the interests of the depositors. The process has helped in ensuring consolidation of NBFC sector as a whole.

With the amendment, any company seeking to commence/carry on business of NBFIs was required to obtain Certificate of Registration from the Bank under Section 45-IA of the RBI Act, 1934 and also have a minimum Net Owned Fund (NOF) of Rs 25 lakhs. The NOF requirement was increased to Rs 200 lakhs w.e.f. April 21, 1999. While giving registration, an evaluation of the quality of management is undertaken by applying 'fit and proper' norm based on the information furnished by the company in respect of the promoters/directors, bankers' report, report from other regulators like SEBI/IRDA etc. (in case the promoters/directors are involved in activities regulated by these institutions). New Companies are not allowed to raise public deposits for period of two years from the date of registration. For allowing these companies to raise public deposits after a period of two years, detailed appraisal/review is undertaken by the Bank.

Further two sets of detailed directions on Prudential norms were issued by RBI in 2007. 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.

Regulatory Framework of NBFC

1. Reserve Bank of India

Governing Body: Department of Non-Banking Supervision of the Reserve Bank of India (DNBS-RBI)

Governing Laws:

- a. CHAPTER IIIB, III-C and V of Reserve Bank of India (RBI) Act 1934;
- b. RBI Directions
- c. RBI Circulars ; Notifications and Guidelines issued from time to time

a. CHAPTER IIIB OF RBI ACT 1934

Provisions relating to Non banking Institutions receiving deposits and Financial Institutions

45H : Chapter IIIB not to apply in certain cases

45 I : Definitions

45-IA : Requirement of Registration and Net owned Fund

45-IB: Maintenance of percentage of assets
45-IC: Reserve Fund
45J: Regulation by Bank on Prospectus
45JA: Power of RBI to determine Policy and issue Directions
45K: Power of RBI to collect information from NBI as to deposits and give Directions
45L: Power of RBI to call information from FI and give Directions
45M: Duty of NBI to furnish statements etc. required by Bank
45MA: Powers & Duties of Auditors
45MB: Power of RBI to prohibit acceptance of deposit and alienation of assets
45MC: Power of RBI to file winding up petition
45N: Inspection
45NA: Deposits not to be solicited by unauthorized person
45NB: Disclosure of Information
45NC: Power of Bank to exempt
45Q: Chapter IIIB to override other laws
45QA: Power of CLB to offer repayment of deposit
45QB: Nomination by Depositors

b. RBI Directions

- i. Non Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions 1998
- ii. Non Banking Financial (Deposit Accepting or holding) Companies Prudential Norms (Reserve Bank) Directions 2007
- iii. Non Banking Financial (Non Deposit Accepting or holding) Companies Prudential Norms (Reserve Bank) Directions 2007
- iv. Non-Banking Financial Companies Auditor's Report (Reserve Bank) Directions, 2008
- v. Reserve Bank of India (Non Banking Financial Companies) Returns Specifications 1997
- vi. Residuary Non Banking Companies (Reserve Bank) Directions 1987
- vii. Miscellaneous Non Banking Companies (Reserve Bank) Directions 1977
- viii. Securitisation Companies and Reconstruction Companies (Reserve Bank) Guidelines and Directions, 2003
- ix. Mortgage Guarantee Companies Investment (Reserve Bank) Directions, 2008
- x. Mortgage Guarantee Companies Prudential Norms (Reserve Bank) Directions, 2008
- xi. Non Banking Financial Company-Micro Finance Institutions' (NBFC-MFIs) (Reserve Bank) Directions 2011
- xii. Non-Banking Financial Company -Factors (Reserve Bank) Directions, 2012

c. RBI Circulars, Notifications and Guidelines Issued from time to time

Master Circulars issued on July 02,2012

1. 'Know Your Customer' (KYC) Guidelines – Anti Money Laundering Standards (AML) -'Prevention of Money Laundering Act, 2002 - Obligations of NBFCs in terms of Rules notified thereunder
2. Miscellaneous Instructions to All Non-Banking Financial Companies
3. Returns to be submitted by NBFCs
4. Introduction of New Category of NBFCs - 'Non Banking Financial Company-Micro Finance Institutions' (NBFC-MFIs) - Directions
5. Regulatory Framework for Core Investment Companies (CICs)
6. Exemptions from the provisions of RBI Act, 1934
7. Opening of Branch-Subsidiary-Joint Venture-Representative office or Undertaking Investment Abroad by NBFCs
8. Fair Practices Code
9. Miscellaneous Instructions to NBFC- ND-SI
10. Corporate Governance
11. Allied activities- entry into insurance business, issue of credit card and marketing and distribution of certain products
12. Frauds – Future approach towards monitoring of frauds in NBFCs

RBI notifications (2011 and 2012) pertaining to NBFC

Nov 08, 2012 - Readiness of major service providers to migrate from IPv4 to IPv6

Nov 06, 2012 - Standardisation and Enhancement of Security Features in Cheque Forms - Migrating to CTS 2010 Standards

Oct 16, 2012 - NBFCs/RNBCs - Uploading of Reports in 'Test Mode' on FINnet Gateway Reporting

Sep 17, 2012 - NBFCs/RNBCs - Anti-Money Laundering/Combating of Financing of Terrorism – Standards

Aug 03, 2012 - Non Banking Financial Company-Micro Finance Institutions (NBFC-MFIs) - Directions – Modifications

Jul 26, 2012 - KYC Norms/ AML Standards/Combating Financing of Terrorism - Risk Categorisation and Updation of Customer Profiles

Jul 23, 2012 - The Non-Banking Financial Company –Factors (Reserve Bank) Directions, 2012

Jul 05, 2012 -

1. Implementation of Section 51-A of UAPA, 1967 - Updates of the UNSCR 1267 (1999) /1989 (2011) Committee's Al Qaida Sanctions List
2. Implementation of Section 51-A of UAPA, 1967 - Updates of the UNSCR

Committee's Al Qaida Sanctions List – Primary (Urban) Co-operative Banks
May 30, 2012 - Uniformity in Risk weight for assets covering PPP and post COD projects

May 29, 2012 - Know Your Customer (KYC) guidelines - accounts of proprietary concerns

May 11, 2012 -

1. Core Investment Companies (Reserve Bank) Directions, 2011 – Clarification on CICs Issuing Guarantees

2. NBFCs - Rating of Fixed Deposits by Brickwork Ratings Pvt Ltd

3. Infrastructure Finance Companies - Eligible Credit Rating Agencies - Brickwork Ratings India Pvt. Ltd.

Mar 26, 2012 -

1. Guidelines on Fair Practices Code for NBFCs

2. Implementation of Section 51-A of UAPA, 1967-Updates of the UNSCR 1267 (1999) /2989 (2011) Committee's Al Qaida Sanctions List

Mar 21, 2012 -

1. NBFCs - KYC Norms/ AML Standards/Combating Financing of Terrorism/Obligation of banks under PMLA, 2002- Assessment and Monitoring of Risk

2. NBFCs - Lending Against Security of Single Product – Gold Jewellery

Mar 15, 2012-

1. Implementation of Section 51-A of UAPA, 1967- Splitting of UNSC 1267 Committee's list of individuals and entities linked to Al-Qaida and Taliban

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

Mar 14, 2012 -

1. Implementation of UNSCR 1929 (2010) on Non-proliferation –Government of India Order of November 04, 2011

2. Anti-Money Laundering (AML)/Combating of Financing of Terrorism (CFT) - Standards

Mar 02, 2012 - Monitoring of frauds

Dec 30, 2011 -

1. Revised Capital Adequacy Framework for Off-Balance Sheet Items for NBFCs- Clarification

2. Issuance of Non-Convertible Debentures (NCDs)

Dec 02, 2011 - Introduction of New Category of NBFCs - 'Non Banking Financial Company-Micro Finance Institutions' (NBFC-MFIs) - Directions

Nov 21, 2011 - NBFCs - Infrastructure Debt Funds

Oct 28, 2011 -

1. Implementation of Green Initiative of the Government
2. KYC Guidelines - AML Standards - Prevention of Money Laundering Act, 2002 - Obligations of NBFCs - Revised Reporting Format
3. List of Terrorist Individuals / Organisations- under UNSCR 1267 (1999) and 1822(2008) on Taliban / AL-Qaida Organisation - NBFCs/RNBCs

Sep 27, 2011 - Attempt to defraud using fake bank guarantee-modus operandi

Aug 02, 2011 - List of Terrorist Individuals / Organisations- under UNSCR 1267 (1999) and 1822(2008) on Taliban / AL-Qaida Organisation

Jul 22, 2011 - NBFCs/RNBCs - List of Terrorist Individuals / Organisations- under UNSCR 1267 (1999) and 1822(2008) on Taliban / AL-Qaida Organisation

May 27, 2011 - Review of Guidelines on entry of NBFCs into Insurance Business

May 25, 2011 - Setting up of Central Electronic Registry under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002

May 20, 2011 - NBFCs/RNBCs - List of Terrorist Individuals / Organisations- under UNSCR 1267 (1999) and 1822(2008) on Taliban / AL-Qaida Organisation

May 04, 2011 - NBFCs/RNBCs - Anti- Money Laundering/Combating Financing of Terrorism Standards

May 02, 2011 -

1. KYC Norms/ Anti- Money Laundering Standards/Combating Financing of Terrorism - NBFCs/RNBCs
2. List of terrorist individuals/organisations - NBFCs/RNBCs

Apr 05, 2011 - Operation of deposit account with NBFCs and money mules

Mar 08, 2011 - Know Your Customer (KYC) norms / Anti-Money Laundering (AML) standards/Combating of Financing of Terrorism (CFT) Obligation of NBFCs under PMLA, 2002

Feb 17, 2011 - All Deposit Taking NBFCs - CRAR Fifteen percent w.e.f March 31, 2012

Jan 28, 2011 - NBFCs/RNBCs - Anti- Money Laundering/Combating Financing of Terrorism Standards

Jan 27, 2011 - Services to Persons with Disability - Training Programme for Employees

Jan 17, 2011 - Provision of 0.25% for standard assets of NBFCs

Jan 05, 2011 - Regulatory Framework for Core Investment Companies

2. State Laws on protection of interests of depositors in financial establishments

Some State Laws -

- a. Tamil Nadu Protection of Interest of Depositor's (Financial Establishments) Act 1997 [Tamil Nadu is the first state to enact such an act in the country]
- b. Maharashtra Protection of Interests of Depositors (In Financial Establishments) Act 1999
- c. The Delhi Protection Of Interests Of Depositors (In Financial Establishments) Act, 2001
- d. Bihar Protection of Interests of Depositors (In Financial Establishments) Act 2002
- e. Gujarat Protection of Interests of Depositors (In Financial Establishments) Act 2003
- f. The Madhya Pradesh protection of Depositor's Interest Act 2000

3. The Companies Act 1956

Some applicable sections include:

Section 3 : Definitions of "Company"; "existing company"; "private company"; and "public company"

Section 4: Meaning of "holding company" and "subsidiary"

Section 4A: Public Financial Institutions

Section 43A: Private Company to become public company in certain cases

Section 58A: Deposits not to be invited without issuing an advertisement

Section 58AA: Small Depositors

Section 58AAA: Default in acceptance or refund of deposits to be cognizable

Section 209(1): Books of Accounts to be kept by company

Section 217(1) : Director's Report
Section 227: Powers and Duties of Auditors
Section 252: Minimum Number of Directors
Section 292A: Audit Committee
Section 370(1B): Loans etc. to companies under the same management
Section 372 (11) : Purchase by company of shares etc. of other companies
Section 620A: Power to modify Act in its application to Nidhis etc.
Section 637A: Power of Central Government or Tribunal to accord approval etc.
subject to conditions and to prescribe fees on applications

4. Company's Rules

- i. Companies (Acceptance of Deposit) Rules, 1975
- ii. Companies (Acceptance of Deposits Amendment) Rules, 1997
- iii. Companies (Application for Extension of time or Exemption under sub-section (8) of section 58A) Rules, 1979

5. Foreign Exchange Regulations

- i. Foreign Exchange Management (Deposit) Regulations 2000
- ii. Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000

6. Securities Contracts (Regulation) Act 1956

Some applicable sections include:

Section 2(h): Definition of "Securities"

Section 2(j): Definition of "Stock Exchange"

Section 4: Grant of Recognition to Stock Exchanges

7. Housing Finance Companies

The Housing Finance Companies (NHB) Directions 2001

8. Mortgage Guarantee Companies

Mortgage Guarantee Companies Investment (Reserve Bank) Directions, 2008

Mortgage Guarantee Company (Reserve Bank) Guidelines, 2008

Notification No. DNBS (MGC)1/CGM(PK) -2008 dated January 15, 2008

Notification No. DNBS (MGC) 2 /CGM(PK) -2008 dated January 15, 2008

9. Securitisation Companies and Reconstruction Companies

- i. The Securitisation Companies and Reconstruction Companies (Reserve Bank)

Guidelines and Directions, 2003

- ii. Exemption to Securitisation or Reconstruction Companies from RBI Act- August 28, 2003
- iii. Quarterly Statement to be submitted by Securitisation Companies/ Reconstruction Companies registered with the Reserve Bank of India under Section 3(4) of the SARFAESI Act – September 26,2008
- iv. Guidelines on declaration of Net Asset Value of Security Receipts issued by Securitisation Company/ Reconstruction Company- May 28, 2007
- v. Master Circular on directions/instructions issued to the Securitisation Companies and Reconstruction Companies – July 01,2008
- vi. Regulation of SCs/RCS-submission of returns and audited balance sheet by SCs/RCS - March 5, 2008

10. Miscellaneous Non-Banking Companies

- i. Non-banking Financial Companies and Miscellaneous Non-Banking Companies (Advertisement) Rules, 1977.
- ii. Miscellaneous Non Banking Companies (Reserve Bank) Directions, 1977
- iii. Chit Funds Act,1982

11. Residuary Non Banking Companies

Residuary Non Banking Companies (Reserve Bank) Directions, 1987

12. Micro Finance Institutions (Development and Regulation) Bill, 2012

13. Reports on Money Lending and Nidhis

About the Author

Rajkumar S. Adukia

B. Com (Hons.), FCA, ACS, AICWA, LL.B, M.B.A, Dip IFRS (UK), Dip LL & LW

Senior Partner, Adukia & Associates, Chartered Accountants

Meridien Apts, Bldg 1, Office no. 3 to 6

Veera Desai Road, Andheri (West)

Mumbai 400 058

Mobile 098200 61049/093230 61049

Fax 26765579

Email rajkumarfca@gmail.com

Mr. Rajkumar S Adukia is an eminent business consultant, academician, writer, and speaker. A senior partner of Adukia & Associates he has authored more than 34 books on a wide range of subjects. His books on IFRS namely, "Encyclopedia on IFRS (3000 pages) and The Handbook on IFRS (1000 pages) has served number of professionals who are on the lookout for a practical guidance on IFRS. The book on "Professional Opportunities for Chartered Accountants" is a handy tool and ready referencer to all Chartered Accountants.

In addition to being a Chartered Accountant, Company Secretary, Cost Accountant, MBA, Dip IFR (UK), Mr. Adukia also holds a Degree in Law and Diploma in Labor Laws. He has been involved in the activities of the Institute of Chartered Accountants of India (ICAI) since 1984 as a convenor of Kalbadevi CPE study circle. He was the Chairman of the Western Region of Institute of Chartered Accountants of India in 1997 and has been actively involved in various committees of ICAI. He became a member of the Central Council in 1998 and ever since he has worked tirelessly towards knowledge sharing, professional development and enhancing professional opportunities for members. He is a regular contributor to the various committees of the ICAI. He is currently the Chairman of Committee for Members in Industry and Internal Audit Standard Board of ICAI.

Mr. Adukia is a rank holder from Bombay University. He did his graduation from Sydenham College of Commerce & Economics. He received a Gold Medal for highest marks in Accountancy & Auditing in the Examination. He passed the Chartered Accountancy with 1st Rank in Inter CA & 6th Rank in Final CA, and 3rd Rank in Final Cost Accountancy Course in 1983. He started his practice as a Chartered Accountant on 1st July 1983, in the three decades following which he left no stone unturned, be it academic expertise or professional development. His level of knowledge, source of information, professional expertise spread across a wide range of subjects has made him a strong and sought after professional in every form of professional assignment.

He has been coordinating with various professional institutions, associations' universities, University Grants Commission and other educational institutions. Besides he has actively participated with accountability and standards-setting organizations in India and at the international level. He was a member of J.J. Irani committee which drafted Companies Bill 2008. He is also member of Secretarial Standards Board of ICSI. He represented ASSOCHAM as member of Cost Accounting Standards Board of ICWAI. He was a member of working group of Competition Commission of India, National Housing Bank, NABARD, RBI, CBI etc.

He has served on the Board of Directors in the capacity of independent director at BOI Asset management Co. Ltd, Bharat Sanchar Nigam Limited and SBI Mutual Funds Management Pvt Ltd. He was also a member of the London Fraud Investigation Team.

Mr. Rajkumar Adukia specializes in IFRS, Enterprise Risk Management, Internal Audit, Business Advisory and Planning, Commercial Law Compliance, XBRL, Labor Laws, Real Estate, Foreign Exchange Management, Insurance, Project Work, Carbon Credit, Taxation and Trusts. His clientele include large corporations, owner-managed companies, small manufacturers, service businesses, property management and construction, exporters and importers, and professionals. He has undertaken specific assignments on fraud investigation and reporting in the corporate sector and has developed background material on the same.

Based on his rich experience, he has written numerous articles on critical aspects of finance-accounting, auditing, taxation, valuation, public finance. His authoritative articles appear regularly in financial papers like Business India, Financial Express, Economic Times and other professional / business magazines. He has authored several accounting and auditing manuals. He has authored books on vast range of topics including IFRS, Internal Audit, Bank Audit, Green Audit, SEZ, CARO, PMLA, Antidumping, Income Tax Search, Survey and Seizure, Real Estate etc. His books are known for their practicality and for their proactive approaches to meeting practice needs.

Mr. Rajkumar is a frequent speaker on trade and finance at seminars and conferences organized by the Institute of Chartered Accountants of India, various Chambers of Commerce, Income Tax Offices and other Professional Associations. He has also lectured at the S.P. Jain Institute of Management, Intensive Coaching Classes for Inter & Final CA students and Direct Taxes Regional Training Institute of CBDT. He also develops and delivers short courses, seminars and workshops on changes and opportunities in trade and finance. He has extensive experience as a speaker, moderator and panelist at workshops and conferences held for both students and professionals both nationally and internationally.. Mr. Adukia has delivered lectures abroad at forums of International Federation of Accountants and has travelled across countries for professional work.

Professional Association: *Mr. Rajkumar S Adukia with his well chartered approach towards professional assignments has explored every possible opportunity in the fields of business and profession. Interested professionals are welcome to share their thoughts in this regard.*