



RBI/2012-13/560

DNBD(PD) CC No. 330 /03.10.001/2012-13

June 27, 2013

All NBFCs (including PDs)

Dear Sirs

Raising Money through Private Placement by NBFCs-Debentures etc.

NBFCs raise money by issuing capital/debt securities including debentures by way of public issue or private placement. In the case of public issue of such securities, institutions and retail investors can participate. Private placement, on the other hand, may involve institutional investors. It has however been observed that NBFCs have lately been raising resources from the retail public on a large scale, through private placement, especially by issue of debentures.

2. As certain adverse features have come to the notice of the Reserve Bank in private placements by certain NBFCs, it has been decided to put in place a minimum set of guidelines (given in the annex) for compliance by all NBFCs. The Guidelines require NBFCs to space out such issuances and also aim to bring NBFCs at par with other financial entities as far as private placement is concerned by restricting the maximum number of subscribers to forty nine (currently the ceiling of investors stipulated by the Companies Act 1956 for private placement is not applicable for NBFCs). It may be noted that all other extant guidelines on private placement remain unchanged. The provisions of these guidelines will however override other instructions in this regard, wherever contradictory.

3. In addition, certain clarifications are also made with regard to security cover for any debenture issue and the treatment of unsecured debentures as public deposits.

4. These instructions come into effect immediately.

Yours faithfully,

(N. S. Vishwanathan)
Principal Chief General Manager

A. Guidelines on Private Placement by NBFCs:

1. Definitions:

- i. "Preferential Allotment" or "Private placement" means an issue of capital made by an NBFC in pursuance of a resolution passed under sub-section (1A) of section 81 of the Companies Act, 1956.
- ii. "Public issue" means an invitation by an NBFC to public to subscribe to the securities offered through a prospectus.
- iii. A Non-Banking Financial Company (NBFC) means an NBFC as defined in Section 45 I (f) read with Section 45 I (c) of the RBI Act, 1934.

2. Regulations

- i. The offer document for private placement should be issued within a maximum period of 6 months from the date of the Board Resolution authorizing the issue. The offer document should include the names and designations of the officials who are authorised to issue the offer document. The Board Resolution and the offer document must contain information on purpose for which the resources are being raised.
- ii. The offer document may be printed or typed "For Private Circulation Only". General information including the address of the registered office of the NBFC, date of opening / closing of the issue etc. shall be clearly mentioned in the offer document.
- iii. An NBFC shall only issue debentures for deployment of funds on its own balance sheet and not to facilitate resource requests of group entities/ parent company / associates.
- iv. Private placement by all NBFCs shall be restricted to not more than 49 investors, identified upfront by the NBFC.
- v. The minimum subscription amount for a single investor shall be Rs. 25 lakh and in multiples of Rs.10 lakh thereafter.

vi. There should be a minimum time gap of at least six months between two private placements.

vii. An NBFC shall not extend loans against the security of its own debentures (issued either by way of private placement or public issue).

viii. All other extant instructions with regard to private placement remain unchanged.

ix. The provisions of the Guidelines shall override other instructions wherever contradictory.

B. Security cover for debentures (by private placement or public issue):

NBFCs shall ensure that at all points of time the debentures issued, including short term NCDs, are fully secured. Therefore in case, at the stage of issue, the security cover is insufficient /not created, the issue proceeds shall be placed under escrow until creation of security, which in any case should be within one month from the date of issue.

C. Amendment to Directions:

- (i) Para 2(xii)(f) and (i) of the Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998 has been amended to clarify that only those debentures that are either compulsorily convertible into equity or fully secured would be exempted from the definition of public deposits. Hybrid / subordinated debt with a maturity not less than sixty months would continue to be exempted from the definition of public deposits provided there is no option for recall by the issuer within the period.
- (ii) Notification No.DNBS.(PD).257/PCGM(NSV)-2013 of date amending the Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998 is enclosed for meticulous compliance.

**RESERVE BANK OF INDIA
DEPARTMENT OF NON-BANKING SUPERVISION
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Notification No. DNBS.(PD) 257 / PCGM(NSV)-2013 dated June 27, 2013

The Reserve Bank of India, having considered it necessary in public interest and being satisfied that, for the purpose of enabling the Bank to regulate the credit system to the advantage of the country, it is necessary to amend the Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, contained in Notification No. DFC. 118/DG(SPT)-98 dated January 31, 1998 in exercise of the powers conferred by section 45J, 45K, 45L and 45 MA of the Reserve Bank of India Act, 1934 (2 of 1934) and of all the powers enabling it in this behalf, hereby directs that the said Directions shall be amended with immediate effect as follows, namely-

1. In paragraph 2(1) (xii) (f) of the said Directions, the words "with an option to convert them into shares" may be replaced with "which would be compulsorily convertible into equity".
2. In paragraph 2(1) (xii) (i) of the said Directions, the words "provided there is no option for recall by the issuer within the period" may be added after the words, "sixty months".

(N. S. Vishwanathan)
Principal Chief General Manager