

NHB(ND)/DRS/REG/MC-04/2017
July 01, 2017

All Housing Finance Companies

Dear Sir/Madam,

Master Circular- Miscellaneous Instructions to all Housing Finance Companies

In order to have all current instructions on the subject at one place, the National Housing Bank has updated the circulars. The instructions related to the captioned subject contained in various circulars issued by NHB have been updated as on June 30, 2017 and are reproduced below. The updated circular has also been placed on the NHB web-site (<http://nhb.org.in>).

Yours faithfully,

(A. P. Saxena)
General Manager

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1. ¹Guidelines for uniform accounting for Repo / Reverse repo transactions

In order to ensure uniform accounting treatment in respect of repo transactions and to impart an element of transparency, it has been decided to lay down uniform accounting principles for repo/reverse repo transactions undertaken by HFCs. The uniform accounting principles is applicable from the financial year 2003-04. On implementation, market participants may undertake repos from any category of investments.

2. ²Appropriation of Reserve Fund created as per section 29C of the National Housing Bank Act, 1987

It has been decided to permit the HFCs, with effect from the financial year 2004-05, to withdraw from the said reserve fund, the excess amount credited in the previous years for any business purposes subject to suitable disclosure in the balance sheet and in the case of HFCs which have transferred only the statutory minimum in the previous years to selectively permit them to withdraw from the reserve fund only for the purpose of provisioning for NPAs. In the latter case, prior permission of NHB need to be obtained before appropriation.

If any such appropriation made is not informed to NHB, it would be construed as a violation of the regulatory provisions and appropriate penalty would be levied for such contravention.

3. ³Contravention of regulatory requirement by HFCs – Guidelines for levying penalty

In accordance with Section 52A of the National Housing Bank Act, 1987, NHB is empowered to impose penalty on a housing finance company for any contravention of the Act or the Directions made thereunder. It has been decided by the Bank that these penal provisions for non-compliance shall become effective from October 1, 2004. The penalty for contraventions in respect of various regulatory norms is given in the Annexure (updated as on 05-08-2013) attached to the referred Circular.

4. ⁴Maintenance of Register by the Branches of HFCs in respect of public deposits accepted by them – Clarification

It is clarified that the HFCs which maintain the particulars / details of the deposits, as required under the Directions, on centralised computer database may continue to do so provided the authenticated particulars of public deposits are sent to the respective branches, updating the information on quarterly basis i.e. as on March 31, June 30, September 30 and December 31, every year irrespective of the fact that the branches do not open deposit accounts. The information pertaining to a quarter should reach the branch concerned before 10th of the succeeding quarter.

¹ Details in NHB(ND)/DRS/REPO/POL/1170/2003 dated April 4, 2003

² Details in NHB(ND)/DRS/Pol-No.03/2004-05 dated August 26, 2004

³ Details in NHB(ND)/DRS/Pol-No.04/2004-05 dated September 6, 2004

⁴ Details in NHB(ND)/DRS/Pol-No.06/2004-05 dated January 31, 2005

5. ⁵Calculation of Tier-I Capital (Net Owned Fund) - Treatment of Deferred Tax Assets

It is clarified that creation of Deferred Tax Asset results in an increase in Tier-I Capital of a housing finance company without any tangible asset being added to its Balance Sheet. Therefore, DTA should not be considered for the purpose of calculation of Tier-I Capital / Net Owned Fund.

6. ⁶HFC (NHB) Directions, 2010- Disclosure in the Balance Sheet

In terms of Paragraph 29(2) of the Housing Finance Companies (NHB) Directions, 2010, the provisions made as per paragraph 28 of the said Directions are required to be distinctly indicated under separate heads of account for housing and non-housing finance business and individually for each type of asset in the balance sheet as under:

- (a) provisions for substandard, doubtful and loss assets; and
- (b) provisions for depreciation in investments.

It has been observed that this stipulation is not being followed by many HFCs resulting in contravention of the said Directions. HFCs are advised to scrupulously follow the Directions. For the sake of convenience, an illustrative list of loans which can be classified as housing/ non housing loans is annexed with the referred Circular.

7. ⁷Rotation of Partners of the Statutory Auditors Audit Firm – HFCs with Public Deposits / Deposits of ₹50 crore and above

It would be desirable if HFCs with public deposits / deposits of ₹50 crore and above, stipulate rotation of partners of audit firms appointed for auditing the company every three years.

8. ⁸Exposure to Real Estate Sector

While appraising loan proposals involving real estate, HFCs should ensure that the borrowers should have obtained prior permission from Government / Local Government / Statutory Authorities for the project, wherever required. In order that the loan approval process is not hampered on account of this, while the proposals could be sanctioned in the normal course, the disbursements should be made only after the borrower has obtained the requisite clearances from the Government authorities.

⁵ Details in NHB(ND)/DRS/Pol-No.07/2004-05 dated March 28, 2005

⁶ Details in NHB(ND)/DRS/Pol. No. 09/2004-05 dated May 18, 2005 and NHB(ND)/DRS/Pol-No.41/ 2011-12 dated September 26, 2011

⁷ Details in NHB(ND)/DRS/Pol-No.11/2006 dated March 3, 2006

⁸ Details in NHB(ND)/DRS/Pol-No.12/2006 dated March 16, 2006

9. ⁹Monthly Returns

In order to have information on basic operational parameters of HFCs on an on-going basis, it was decided that the requisite information should be shared with NHB by way of a monthly return. The information in the format provided in the referred circular, as on the last day of each month, may be furnished so as to reach NHB by 15th of the succeeding month.

10. ¹⁰Housing Loans – Orders of the Delhi High Court-Writ Petition by Kalyan Sanstha Welfare Organisation against Union of India and Others-Implementation of Directions

The Monitoring Committee constituted by the Hon'ble High Court of Delhi regarding unauthorised construction, misuse of properties and encroachment on public land, has issued the certain directions as laid down in the referred circular for immediate compliance by the banks/financial institutions. HFCs are advised to strictly comply with the said directions with immediate effect.

¹¹[Monitoring Committee has observed that some home loans are still being extended without complying with the instructions issued in this regard. It is once again reiterated that all HFCs should strictly comply with the instructions issued in this regard by NHB.]

11. ¹²Suggestions made by the participants at the meeting of principal officers at Bangalore on September 15, 2006 – Clarifications

A meeting of the Principal Officers of HFCs, in the context of operationalization of the system of reporting to the Financial Intelligence Unit-India (FIU-IND) in terms of the Prevention of Money Laundering Act, 2002, had been conducted on September 15, 2006 at Bangalore. The queries / suggestions made by the participants at the captioned meeting were forwarded to FIU-IND for clarification and advice. A copy of the reply received from them is enclosed with the referred circular for information and guidance in the matter.

12. ¹³Creation of a floating charge on the assets invested in terms of sub-sections (1) & (2) of Section 29B of the National Housing Bank Act, 1987, by the HFCs in favour of their depositors

All HFCs holding / accepting public deposits shall create a floating charge in favour of their depositors through the mechanism of a "Trust Deed". The charge so created shall also be registered with the Registrar of Companies and the information in this regard shall be furnished to the Trustees and to Department of Regulation & Supervision,

⁹ Details in NHB(ND)/DRS/Pol-No.15/2006 dated July 25, 2006

¹⁰ Details in NHB(ND)/DRS/Pol-No.18/2006 dated November 23, 2006

¹¹ Details in NHB(ND)/DRS/Pol-No.22/2007 dated October 9, 2007

¹² Details in NHB(ND)/DRS/Pol-No.19/2006 dated November 27, 2006

¹³ Details in NHB(ND)/DRS/Pol-No.21/2006 dated April 13, 2007

National Housing Bank, New Delhi. The instructions contained in this circular may be placed before the Board of Directors and the system may be put in place.

13. ¹⁴Terms and conditions applicable to Debt Capital Instruments to qualify for inclusion as Upper Tier II Capital

With a view to provide the HFCs with additional options for raising capital funds to meet their increasing business requirements as well as to further shore up their capital funds to meet market risk, HFCs can augment their capital funds by issue of debt capital instruments eligible for inclusion as Upper Tier II capital. It has, therefore, been decided to stipulate terms and conditions for debt capital instruments to qualify for inclusion as upper Tier II capital. HFCs should ensure that the instruments issued by them are in strict conformity with the guidelines.

14. ¹⁵Model Code of Conducts for Direct Selling Agents (DSAs)

It has been observed that the HFCs are engaging the services of DSAs for marketing their products. In this regard, NHB has formulated a Model Code of Conduct covering the operations of agents marketing the financial products of HFCs. HFCs are advised to adopt the Code with the approval of their respective Board.

15. ¹⁶Guidelines for Recovery Agents engaged by Housing Finance Companies

It has been observed that HFCs are engaging the services of Recovery Agents for recovery of their dues from the customers. In this regard, NHB has formulated the guidelines for engaging Recovery Agents for adoption by the HFCs with the approval of their respective Boards.

16. ¹⁷Rating of Housing Finance Companies

It has been decided that all HFCs having assets of ₹100 crore and above and issuing financial products like Commercial Paper, Debentures, etc. to which rating is assigned by rating agencies shall, hereafter, furnish the information about downgrading / upgrading of assigned rating of any financial product issued by them to NHB, within fifteen day of such a change in rating.

¹⁴ Details in NHB(ND)/DRS/Pol-No.23/2008 dated April 24, 2008

¹⁵ Details in NHB(ND)/DRS/Pol-No.24/2008 dated July 14, 2008

¹⁶ Details in NHB(ND)/DRS/Pol-No.25/2008 dated July 14, 2008

¹⁷ Details in NHB(ND)/DRS/Pol-No.27/2009 dated April 13, 2009

17. ¹⁸Banking Companies (Nomination) Rules, 1985 – Acknowledgement of Nomination

HFCs which are accepting public deposits are advised to strictly comply with the provision of the Banking Companies (Nomination) Rules, 1985 and devise a proper system of acknowledging the receipt of duly completed form of nomination, cancellation and / or variation of the nomination. Such acknowledgement should be given to all the customers irrespective of whether the same is demanded by the customers or not. HFCs are also advised to introduce the practice of recording on the face of the RD passbook/FDRs the position regarding availment of nomination facility with the legend “Nomination Registered” and they should also indicate the name of the Nominee in the RD Pass Book/FDRs, in case the customer is agreeable to the same.

18. ¹⁹Excessive interest charged by Housing Finance Companies on Housing Loans

NHB has been receiving complaints from the borrowers about the excess interest and charges being levied by the HFCs. HFCs are advised to ensure adequate disclosure about interest rates and charges keeping in view the guidelines indicated in the ‘Fair Practices Code’. HFCs are also advised to put in place an internal mechanism to monitor the process and the operations so as to ensure adequate transparency in communications with the borrowers.

19. ²⁰Finance for Housing Projects-Incorporating clause in the terms and conditions to disclose in Pamphlets / Brochures / Advertisements information regarding mortgage of property to the HFC

In one of the case, Hon’ble High Court of judicature at Bombay has taken a decision that the bank granting finance to housing / development projects should insist on disclosure of the charge / or any other liability on the plot, in the brochure, pamphlets, etc. which may be published by developer/ owner inviting public at large to purchase flats and properties. Keeping in view this, while granting finance to specific housing / development projects, HFCs are also advised to stipulate as part of the terms and conditions as laid down in the referred circular. HFCs are advised to ensure compliance of the said terms and conditions and funds should not be released unless the builder / developer / company fulfils the same.

20. ²¹Definition of public deposits to include bonds / debentures issued by HFCs on the basis of Negative Lien or Power of Attorney - Clarification

It is clarified that no security is created in favour of the debenture holder/ bond holder on the basis of letter of negative lien and / or power of attorney and, therefore, raising

¹⁸ Details in NHB(ND)/DRS/Pol-No.28/2009 dated April 15, 2009

¹⁹ Details in NHB(ND)/DRS/Pol-No.29/2009 dated June 2, 2009

²⁰ Details in NHB(ND)/DRS/Pol-No.30/2009 dated September 23, 2009

²¹ Details in NHB(ND)/DRS/Pol-No.31/2009-10 dated October 27, 2009

of money by issue of such debentures / bonds should not be excluded from the purview of the definition of 'public deposit' as defined under paragraph 2(1)(y) of the Housing Finance Companies (NHB) Directions, 2010

21. ²²Furnishing of Annual Financial Statements, Auditor's Report etc.

In terms of paragraph 37 of the Housing Finance Companies (HFC) Directions, 2001, every HFC shall deliver to National Housing Bank an audited balance sheet and profit and loss account together with a copy of the report of the Board of Directors of the company as required in terms of Section 217(1) of the Companies Act, 1956 and report and notes on accounts furnished by the auditors of the company. Further, in terms of Paragraph 38 of the said Directions, HFCs holding / accepting public deposits are also required to furnish a copy of the Auditor's Report to the Board of Directors containing matters specified in Paragraph 30 and 31 of the Directions and a certificate from its Auditor's to the effect that the full amount of liabilities to the depositors of the company are properly reflected in the balance sheet and that the company is in a position to meet the amount of such liabilities to the depositors.

It is observed that in many cases all the prescribed documents are not submitted in accordance with the above Directions and the documents does not contain all the matters specified in the Directions. HFCs are, therefore, advised to look into the matter and ensure strict compliance of the above Directions.

22. ²³Guidelines on 'Know Your Customer' & 'Anti Money Laundering Measures' for HFCs

NHB Issued a revised guidelines on 'Know Your Customer & Anti Money Laundering Measures for HFCs. HFCs should ensure that the provisions of PML, Rules framed thereunder and the Foreign Contribution and Regulation Act, 1976, wherever applicable, are adhered to strictly.

Where the HFC is unable to apply appropriate KYC measures due to non- furnishing of information and / or non-cooperation by the customer, the HFC may consider closing the account or terminating the business relationship after issuing due notice to the customer explaining the reasons for taking such a decision. Such decisions need to be taken at a reasonably senior level. These guidelines are issued under the National Housing Bank Act and any contravention of or non-compliance with the same may attract penal consequences under the said Act.

²⁴[The Bank has observed following common violations / deficiencies in the matter of implementation of the said Guidelines by HFCs, namely:-

1. Preparation of profile of each customer, based on risk categorization is not being done by the companies.
2. Customer verification are not being done internally.

²² Details in NHB(ND)/DRS/Misc. Cir No. 2/2009-10 dated April 9, 2010

²³ Revised vide NHB/ND/DRS/Pol-No.33/2010-11 dated October 11, 2010

²⁴ Details in NHB(ND)/DRS/Misc. Circular-No.4/2010-11 dated May 6, 2011

3. System to detect those account through which funds are being "washed" have not been put in place.
4. No system in existence for periodical review of risk categorization of accounts.
5. Internal audit report on KYC Compliance to the Audit Committee of the Board, at quarterly intervals are not being submitted.

HFCs are advised to take note of the above and ensure compliance of the referred Guidelines.]

²⁵[The letter issued by the Unique Identification Authority of India containing details of name, address and Aadhaar number is an officially valid document within the meaning of Rule 2(1)(d) of the Prevention of Money-laundering (Maintenance of Records) Rules, 2005 and therefore, can be relied upon by a HFC for the purpose of Rule 9 of the said Rules.]

²⁶[In order to reduce the risk of identity fraud, document forgery and have paperless KYC verification, UIDAI has launched its e-KYC service. Accordingly, it has been decided to accept e-KYC service as a valid process for KYC verification under Prevention of Money Laundering (Maintenance of Records) Rules, 2005. Further, the information containing demographic details and photographs made available from UIDAI as a result of e-KYC process ("which is in an electronic form and accessible so as to be usable for a subsequent reference") may be treated as an officially valid document under PML Rules.]

23. ²⁷Asset Liability Management (ALM) System for HFCs – Guidelines

The Bank had introduced an Asset Liability Management System for the Housing Finance Companies (HFCs), as part of their overall system for effective risk management in their various portfolios, in 2002. The said guidelines was subsequently revised in 2010.

The abovementioned guidelines would be applicable to all HFCs irrespective of whether they are accepting / holding public deposits or not. All HFCs are required to put in place the ALM System. HFCs meeting the criteria of asset base of ₹100 crore (whether accepting / holding public deposits or not) or holding public deposits of ₹20 crore or more (irrespective of their asset size) as per the audited balance sheet as of March 31, 2010 would be required to submit the quarterly statement of short-term dynamic liquidity and half-yearly statements of structural liquidity & Interest rate sensitivity. The quarterly statement shall be submitted within 10 days of the close of the quarter and half yearly statements within 20 days of the close of the half year. Further, all HFCs shall disclose certain particulars in the Balance sheet as detailed in the referred Guidelines.

²⁵ Inserted vide NHB(ND)/DRS/Pol. Circular No. 60/2013-14 dated February 6, 2014

²⁶ Inserted vide NHB(ND)/DRS/Policy Circular No. 72/2014-15 dated April 23, 2015

²⁷ Details in NHB/ND/DRS/Pol-No. 35/2010-11 dated October 11, 2010

24. ²⁸Levy of foreclosure charges/prepayment penalties on floating rate term loans-Clarification

The issue of levying pre-payment penalty or pre-payment charges by HFCs on pre-closure of housing loans by the borrowers out of their own sources has been considered by NHB and it is advised that pre-payment levy or penalty should not be collected from the borrowers when the housing loan is pre-closed by the borrowers out of their own sources. All HFCs are advised to ensure compliance of the above with immediate effect.

²⁹[It has been decided that hereafter HFCs should not charge pay-payment levy or penalty on pre-closure of housing loans under the following situations:-

- a) Where the housing loan is on floating interest rate basis and the loan is pre-closed through any source.
- b) Where the housing loans is on fixed interest rate basis and the loan is pre-closed by the borrower out of their own sources.

The expression “own sources” for the purpose means any source other than by borrowing from a bank/HFC/NBFC and /or a financial institution.]

³⁰[The instruction applicable to fixed interest rate housing loans referred above shall apply to the housing loans given on Special Rate basis under different names and on various occasions carrying certain fixed rate of interest in the initial period of the loan followed by floating rate of interest.]

³¹[All dual / special rate (combination of fixed and floating) housing loans will attract the pre-closure norms applicable to fixed/floating rate. In case of a dual / special rate housing loans, the pre-closure norm for floating rate will apply once the loan has been converted into floating rate loan, after the expiry of the fixed interest rate period. This applied to all such dual / special rate housing loans being foreclosed hereafter. It is also clarified that a fixed rate loan is one where the rate is fixed for entire duration of the loan.]

³²[As a measure of customer protection and also in order to bring the uniformity with regard to prepayment of various loans by borrowers of banks, NBFCs and HFCs, it is advised that HFCs shall not charge foreclosure charges/pre-payment penalties on all floating rate term loans sanctioned to individual borrowers, with immediate effect.]

³³[It is clarified that the provisions of the Circular are applicable in respect of all floating rate term loans sanctioned to individual borrowers by HFCs, irrespective of the date of sanction, and prepaid on or after August 14, 2014. The provisions of the above Circular dated August 14, 2014 cover both part as well as full pre-payment. Further, the applicability of the said Circular is on foreclosure charges / pre-payment penalties

²⁸ Details in NHB(ND)/DRS/Pol.No.36/2010 dated October 18, 2010

²⁹ Details in NHB(ND)/DRS/Pol.No.43/2011-12 dated October 19, 2011

³⁰ Clarification in NHB(ND)/DRS/Pol.No.48/2011-12 dated April 4, 2012

³¹ Details in NHB(ND)/DRS/Pol.No.51/2012-13 dated August 7, 2012

³² Inserted vide NHB(ND)/DRS/Policy Circular No.63/2014-15 dated August 14, 2014

³³ Clarified vide NHB(ND)/DRS/Policy Circular 66/2014-15 dated September 3, 2014

in respect of all floating rate term loans sanctioned to individual borrowers. Loan in which company, firm, etc. is a borrower or co-borrower is excluded from its purview.]

25. ³⁴Submission of Data to Credit Information Companies

In terms of Section 2(f) (v) of the Credit Information Companies (Regulation) Act, 2005, a Housing Finance company has also been included as "credit institution". Further, the Credit Information Companies (Regulation) Act provides that every credit institution in existence shall become a member of at least one credit information company and provide them the current data in accordance with the provisions of the said Act and the Rules / Regulations framed thereunder. Such, HFCs may also provide historical data in order to enable the new CICs to validate their software and develop a robust database. In this connection, we advised that following Credit Information Companies have been granted certificate of registration by RBI.

- a) Credit Information Bureau (India) Ltd.
- b) Equifax Credit Information Services Pvt. Ltd.
- c) Experian Credit Information Company of India Private Limited
- d) High Mark Credit Information Services Private Ltd.

25.1 ³⁵Membership of Credit Information Companies (CICs) and Submission of Data to CICs

In terms of Section 15 of the Credit Information Companies (Regulation) Act, 2005 (CICRA), every Credit Institution shall become a member of at least one CIC. Further, Section 17 of CICRA stipulates that a CIC may seek and obtain credit information from its members (Credit Institution / CIC) only. Consequently, when a Specified User, as defined in CICRA and Credit Information Companies Regulations, 2006, obtains credit information on a particular borrower/client from a CIC, it gets only such information that has been provided to the CIC by its members. This does not include credit history related to those non-member Credit Institutions with which the borrower/client has a current or a past exposure. To overcome the above problem of incomplete/inaccurate credit information, it has been decided to mandate all Housing Finance Companies to become members of all CICs and moderate the membership and annual fees suitably. A directive NHB(ND)/DRS/7151/2015-16 dated July 17, 2015, in this regard attached with the referred Circular. For the purpose of data format for furnishing credit information and other regulatory measures to CICs, HFCs are advised to follow the relevant instructions as applicable in this context issued by RBI vide Circular DNBS(PD).CC.No. 407/03.10.01/2014-15 dated August 20, 2014 for meticulous compliance. Accordingly, all HFCs are directed to comply with the directive and become member of all CICs and submit data (including historical data) to them.

26. ³⁶Housing Finance Companies (NHB) Directions, 2010 - Submission of Returns

The Bank issued the revised Housing Finance Companies (NHB) Directions, 2010,

³⁴ Details in NHB(ND)/DRS/Misc. Circular-2/8792/2010 dated December 28, 2010

³⁵ Details in NHB(ND)/DRS/Misc. Circular No.15/2015-16 dated July 17, 2015

³⁶ Details in NHB(ND)/DRS/Misc-Cir No.3/3986/2010-11 dated April 7, 2011

after incorporating the amendments. However, it is observed that in some cases, HFC's have submitted their returns in the old format. Further, it is observed that information furnished in the returns by certain HFC's were incomplete. It is advised that all HFCs may exercise due care in submission of returns and provide complete information by strictly adhering to the prescribed formats as per the captioned Directions. The updated format of all returns are available on Bank's website.

³⁷[It is observed that, despite above instructions few HFC's are still continuing to submit their returns in the old format. It is also observed that many HFCs and their Auditors are altering the format of the returns and/ or certificates appended to such returns. It is, therefore, advised that all HFC may exercise proper caution in this connection and ensure furnishing of such certificates including auditor's certificate only in the formats specified under the said Directions.]

27. ³⁸National Disaster Management Guidelines on ensuring Disaster Resilient construction of Building and Infrastructure

The National Disaster Management Authority (NDMA) has formulated guidelines for ensuring disaster resilient construction of buildings and infrastructure financed through the financing institutions, viz. banks, HFCs and other lending institutions. In consultation with the Reserve Bank of India and the NDMA, it is considered that adoption of the NDMA guidelines would be in the interest of the lenders and borrowers. Accordingly, it is advised that HFCs should adopt the NDMA guidelines and suitably incorporate them as a part of their loan policies, procedures and documentations. A copy of NDMA guidelines is enclosed with the referred circular.

28. ³⁹Net Owned Fund (NOF) Requirement

In exercise of the powers conferred by clause (b) of sub-section (1) of Section 29A of the National Housing Bank Act, 1987 (53 of 1987), the National Housing Bank, hereby specifies the minimum of net owned funds required to be achieved by a housing finance institutions which is a company and carries on the business of housing finance institutions, viz.

- (i) ₹4 crore by June 30, 2012
- (ii) ₹7 crore by June 30, 2013, and
- (iii) ₹10 crore by March 31, 2014.

29. ⁴⁰Need for ensuring due diligence in the matter of deployment of funds by HFCs

It has been observed that loans are being sanctioned by HFCs without proper credit appraisals and without security / adequate security and also without ensuring permissions / clearances from Government / Local Authorities. In many cases, there is

³⁷ Details in NHB/ND/DRS/MiscCirNo.09/Sup.2012 dated August 3, 2012

³⁸ Details in NHB(ND)/DRS/Pol.No.40/2010-11 dated May 20, 2011

³⁹ Details in NHB.HFC.REG-5/CMD/2011 dated June 28, 2011

⁴⁰ Details in NHB(ND)/DRS/Misc. Circular No. 5/2011 dated July 28, 2011

lack of system of independent verification of third party certification such as property valuation certificate, title certificates etc. Instances of disbursements having taken place without reference to the stage of construction / physical progress of the projects have also come to light. Such acts/practices are considered prejudicial to the development of a healthy housing finance system in the country.

With a view to ensure housing finance system on healthy and sound lines, it is advised that HFC should take adequate security for the loan and sanction of loans on unsecured basis should be in accordance with Board approved policy of the HFC. HFC's should review and strengthen their credit appraisal system. Any relaxation in terms and conditions either at the time of sanctions or anytime thereafter should be in accordance with Board approved Policy of the HFC as also in conformity with NHB Directions and Guidelines.

30. ⁴¹Electronic mode of Settlements: e-payments and e-receipts by HFC's

HFCs are advised to make maximum use of e-banking facilities like, ECS, EFT, RTGS, net banking, etc. and extend the same to the customer/ clients wherever such facilities are available. Sustained efforts should be undertaken to expand the coverage to bring more and more borrowers in the e-payment and e-receipt mode. HFC's should ensure that borrowers/ users of this facility are not charged any additional amount for the same.

⁴²[This is being accorded high priority by the Government of India and therefore, HFCs must endeavor to achieve 100% success in settlement of the transactions by the above mode by October 30, 2012.]

31. ⁴³Computation of Loan to Value (LTV) Ratio

HFCs are advised to compute the LTV ratio as a percentage with total outstanding in the account (viz. "principal + accrued interest + other charges pertaining to the loan" without any netting) in the numerator and the realizable value of the residential property mortgaged to the HFCs in the denominator.

⁴⁴[HFCs are also advised not include stamp duty, registration and other documentation charges in the cost of the housing property they finance so that the effectiveness of LTV norms is not diluted. However, with a view to encourage availability of affordable housing to borrowers like economically weaker sections (EWS) and low income groups (LIG), it has been decided that in cases where the cost of the house/ dwelling unit does not exceed ₹10 lakh, HFCs may add stamp duty, registration and other documentation charges to the cost of the house/ dwelling unit for the purpose of computing LTV ratio.]

⁴¹ Details in NHB(ND)/DRS/Misc. Circular No. 6/2011-12 dated August 29, 2011

⁴² Inserted vide NHB(ND)/DRS/ Misc. Circular No. 10/2012 dated August 21, 2012

⁴³ Details in NHB(ND)/DRS/Pol-No.49/2011-12 dated April 9, 2012

⁴⁴ Modified vide NHB(ND)/DRS/Policy Circular No. 69/2014-15 dated April 8, 2015

32. ⁴⁵Foreign Exchange Management Act, 1999 - Providing Housing Loan in Rupees to NRIs/PIO

It is clarified that the term “housing finance institution in India approved by the National Housing Bank” in Regulation 8 of Notification No. FEMA 4/2000 – RB dated May 3, 2010 may be interpreted as a housing finance institution regulated by NHB and for the purpose is registered with NHB.

33. ⁴⁶List of Terrorist Individuals / Organisations – under UNSCR 1267 (1999), 1988 (2011) and 1989 (2011) on Taliban, Al-Qaida, and Associated Individuals and Entities

The Chairman of the UN Security has been issuing notes regarding changes made in the Sanctions List i.e. list of individuals and entities linked to Al-Qaida and Taliban. Accordingly, NHB is issuing circulars to HFCs from time to time updating them in the matter. All HFCs are advised to update the list of individuals / entities, from time to time, and before opening any new account should ensure that the name/s of the proposed customer does not appear in the list. Further, HFCs should scan all existing accounts to ensure that no account is held by or linked to any of the entities or individuals included in the list. The complete details of the consolidated list are available on the UN website as provided in the referred Circular.

34. ⁴⁷Participation of HFCs in Ready Forward Contracts in Corporate Debt Securities

It has been decided that HFCs not accepting / holding public deposits, having assets size of ₹100 crore and above can participate in repo transactions in corporate debt securities as per the Directions / Guidelines issued by RBI from time to time subject to certain conditions stipulated therein.

⁴⁸[HFCs are requested to inform NHB whether the company has participated in repo transactions in corporate debt securities]

35. ⁴⁹Display of Information by HFCs & Most Important Terms and Conditions

To facilitate quick and good understanding of the major terms and conditions of housing loan agreed upon between HFC and the individual borrower, it has been decided that the HFCs shall henceforth obtain a document containing the most important terms and conditions of such loan in all cases in the suggestive format. The document will be in addition to the existing loan and security documents being obtained by the HFCs. HFCs are advised to prepare the said document in duplicate and in the language

⁴⁵ Details in NHB(ND)/DRS/Misc. Circular No. 8/2012 dated June 5, 2012

⁴⁶ Details in NHB(ND)/DRS/Pol-No.52/2012-13 dated September 26, 2012

⁴⁷ Details in NHB(ND)/DRS/Pol-No.53/2012-13 dated October 26, 2012

⁴⁸ Inserted vide NHB(ND)/DRS/Misc. Circular No. 11/2012 dated December 18, 2012

⁴⁹ Details in NHB(ND)/DRS/Pol-No. 54/2012-13 dated April 5, 2013

understandable by the borrower. Duplicate copy duly executed between the HFC and the borrower should be handed over to the borrower under acknowledgement.

⁵⁰[HFCs are advised to upload the MITC on their website and confirm the compliance in this regard.]

⁵¹[In order to promote transparency in the operations of HFCs, various instructions have been given by NHB to HFCs towards display of various key aspect such as service charges, interest rates, services offered, product information, time norms for various transactions and grievance redressal mechanism, etc. However, it was observed that many HFCs were not displaying the required information due to space constraints, lack of standardization of instructions etc. Accordingly, instructions are issued to HFCs on Notice Board, Booklets/Brochures, Website, Other Modes of Display and on Other Issues. The above additional guidelines will come into force with effect from 01-07-2015.]

36. ⁵²Definition of sub-standard Asset - Clarification

It is clarified that the asset is to be treated as sub-standard in all cases except in the case of natural calamity as provided in the Directions. However, extension in repayment tenor of a floating rate loan on reset of interest rate, so as to keep the EMI unchanged provided it is applied to a class of accounts uniformly, will not render the account to be classified as re-negotiated or rescheduled account. In other words, extension or deferment of EMIs to individual borrowers as against to an entire class, would render the accounts to be classified as re-negotiated or rescheduled accounts.

37. ⁵³Advance Guaranteed by Credit Risk Guarantee Fund Trust for Low Income Housing – Risk Weights and Provisioning

HFCs may assign zero risk weight for the guaranteed portion of the loan guaranteed by 'Credit Risk Guarantee Fund Trust'. The balance outstanding loan in excess of the guaranteed portion would attract a risk-weight as appropriate to the counter-party. Further, In case of loan covered by 'Credit Risk Guarantee Fund Trust' and guarantee becomes non-performing, no provision need to be made towards the guaranteed portion. The amount outstanding in excess of the guaranteed portion should be provided for as per the extant guidelines on provisioning for non-performing assets.

38. ⁵⁴Ready Forward Transactions in Government Securities and Accounting thereof

⁵⁰ Inserted NHB(ND)/DRS/Misc. Circular No. 12/2013 dated May 8, 2013

⁵¹ Amended vide NHB(ND)/DRS/Policy Circular No. 70/2014-15 dated April 20, 2015

⁵² Details in NHB(ND)/DRS/Pol. No.55/2012-13 dated April 16, 2013

⁵³ Details in NHB(ND)/DRS/Pol-No.56/2012-13 dated June 24, 2013

⁵⁴ Details in NHB(ND)/DRS/Pol-No.57/2013-14 dated July 4, 2013

All HFCs are advised to follow the revised guidelines for accounting of repo and reverse repo transactions both in government securities and in corporate debts securities as issued by RBI vide its Circular IDMC/4135/11.08.43/2009-10 dated March 23, 2010 or any subsequent modification thereof.

39. ⁵⁵Disbursement of housing loan to individual linked to the stages of construction

As the higher risk associated with lump-sum disbursement of sanctioned housing loan and customer suitability issues, HFCs are advised that disbursement of housing loans sanctioned to individuals should be closely linked to the stages of construction of the housing projects / houses and upfront disbursement should not be made in case of incomplete/under-construction / green field housing project / houses. HFCs while introducing any kind of product should take into account the customer suitability and appropriateness issues and also ensure that the borrowers / customers are made fully aware of the risk and liabilities under such products.

⁵⁶HFCs are advised that in cases of projects sponsored by Government/Statutory Authorities, they may disburse the loans as per the payment stages prescribed by such authorities, even where payments sought from house buyers are not linked to the stages of construction, provided such authorities have no past history of non-completion of projects¹

⁵⁷It has been brought to our notice that some of the HFCs are making upfront disbursement without linking the same to the stages of construction of housing projects. Further, some HFCs have approved certain projects for the advance disbursement facility. HFCs are once again advised that disbursement of housing loans should be strictly linked to the stages of construction and no upfront disbursement should be made in case of incomplete/un-constructed projects. The prevalent schemes of HFCs, if any, need to be reviewed on the above lines in order to remove inappropriateness of funding exposure with concomitant risk of diversion of funds. Any non-compliance in this regard will be viewed seriously and may attract penal provisions under the National Housing Bank Act, 1987. HFCs are also advised to bring the said contents to the notice of their Board and submit a resolution of the Board on the above lines to the NHB.

40. ⁵⁸Central Know Your Customer Registry

In order to have Common KYC Templates for central depository for CKYCR, the Ministry of Finance, Department of Financial Services advised that the said template will be finalized in consultation with all regulators and the Ministry of Finance, with RBI taking a lead role in the same. The final Common KYC Templates and other modalities of availing the services of CKYCR will be intimated to HFCs in due course, in accordance with the final decision in the matter. Further, HFCs are requested to take necessary steps and measures required to be in a state of preparedness for on-line

⁵⁵ Details in NHB(ND)/DRS/Pol-No.58/2013-14 dated November 18, 2013

⁵⁶ Reviewed vide NHB(ND)/DRS/Policy Circular No.69/2014-15 dated April 8, 2015

⁵⁷ Reviewed vide NHB(ND)/DRS/Policy Circular No.75/2016-17 dated July 1, 2016

⁵⁸ Details in NHB(ND)/DRS/Pol. Circular No.59/2013-14 dated January 24, 2014

uploading of the KYC particulars and documents on the CKYCR portal / website, as and when, the same is advised by NHB.

⁵⁹The Government of India has authorised the Central Registry of Securitisation Asset Reconstruction and Security Interest of India (CERSAI), to act as, and to perform the functions of the Central KYC Record Registry vide the Gazette Notification No. S.O. 3183(E) dated November 26, 2015. The 'live run' of the Central KYC Record Registry has started with effect from July 15, 2016 in phased manner beginning with new '**individual accounts**'.

HFCs are hereby advised to upload the Know Your Customer (KYC) data with CERSAI in respect of new individual accounts opened on or after the date of this Circular. HFCs shall capture the KYC information for sharing with the Central KYC Record Registry in the manner mentioned in the "Prevention of Money-Laundering (Maintenance of Records) Rules, 2005" (and amendments thereto), as required by the revised KYC templates prepared for individuals and non-individuals/legal entities, as the case may be.

HFCs which are not yet ready to join Central KYC Record Registry process immediately, shall take steps to prepare their systems for uploading the KYC data in respect of new individual accounts so that the same is completed as soon as possible in a time bound manner.

HFCs shall prepare a plan for uploading the data in respect of existing individual accounts and also include the same in their KYC Policy. Operational Guidelines (version 1.1) for uploading the KYC data has been released by CERSAI. Guidelines in this regard are annexed with the referred Circular. Further, 'Test Environment' has also been made available by CERSAI for use by the HFCs.¹

41. ⁶⁰Sharing of information on some irregularities and take corrective steps preventing frauds in housing loans

NHB regularly shares information with HFCs on fraudulent transaction relating to housing finance, along with modus operandi and causative factors involved that have been brought to our notice by different constituents. It has come to the notice of NHB that a large number of frauds have been committed in borrower accounts where the documents were handed over to borrowers for verification. Accordingly, it is suggested the HFCs to ensure that the documents are not given directly to the customers for verification, etc. to obviate any frauds.

42. ⁶¹Reserve Fund under Section 29C of the NHB Act, 1987

It is observed that there is no uniformity in the matter of presentation of the Reserve Fund in the annual accounts of the housing finance companies. Consequently, need

⁵⁹ Details in NHB(ND)/DRS/Policy Circular No.76/2016-17 dated November 1, 2016

⁶⁰ Details in NHB(ND)/DRS/Misc. Circular No. 13/2012 dated January 20, 2014

⁶¹ Details in NHB(ND)/DRS/Pol. Circular No.61/2013-14 dated April 7, 2014

is felt to provide for the manner in which this item is to be presented in the annual accounts which brings more clarity and uniformity. Keeping this in view, the format is devised for such presentation in the annual accounts under the heading 'Notes forming part of the financial statements' from the financial year 2013-14.

43. ⁶²Loans under Rural Housing Funds Scheme / Urban Housing Fund Scheme- Clarification

It is clarified that loans under Rural Housing Funds Scheme / Urban Housing Funds Schemes are not to be regarded as loans given at teaser/special rates within the meaning of item (iv) of sub-paragraph (1) of paragraph 28 of the Housing Finance Companies (NHB) Directions, 2010.

44. ⁶³Creation of Deferred Tax Liability on Special Reserve maintained by Housing Finance Companies under Section 36(1) (viii) of the Income Tax Act, 1961

HFCs are advised that, as a matter of prudence, Deferred Tax Liability (DTL) should be created on Special Reserve created and maintained under Section 36(1)(viii) of the Income Tax Act, 1961. For this purpose, HFCs may take the course of action as defined in the referred Circular.

45. ⁶⁴Inter-Government Agreement (IGA) with United States of America (US) under Foreign Accounts Tax Compliance Act (FATCA) – Registration

Government of India has advised that India and US have reached an agreement in substance on the terms of an Inter-Governmental Agreement (IGA) to implement FATCA and India is now treated as having an IGA in effect from April 11, 2014. Subsequently the Reserve Bank of India issued the Circular DBOD.AML.No.20472/14.07.018/2013-14 dated June 27, 2014. The contents of the circular may be noted by HFCs for compliance.

46. ⁶⁵Guidelines for Entry of Housing Finance Companies into Insurance Business

The Guidelines for Entry of Housing Finance Companies into Insurance Business issued by NHB vide our Circular No. NHB (ND)/DRS/Policy Circular No.67 /2014-15 dated January 14, 2015 have been reviewed by the National Housing Bank in the light of subsequent developments and the revised Guidelines for Entry of Housing Finance Companies into Insurance Business is enclosed with the referred circular.

⁶² Details in NHB(ND)/DRS/Misc. Circular No. 14/2014 dated May 15, 2014

⁶³ Details in NHB(ND)/DRS/Pol. Circular No.65/2014-15 dated August 22, 2014

⁶⁴ Details in NHB(ND)/DRS/Pol-No.68/2014-15 dated January 14, 2015

⁶⁵ Details in NHB(ND)/DRS/Policy Circular 71/2014-15 dated April 22, 2015

47. ⁶⁶Loan facility to physically challenged by HFCs

HFCs are advised that there shall be no discrimination in extending products, services, facilities, etc. including loan facilities to the physically challenged applicants on the ground of disability. HFCs may also advise their branches/offices to render all possible assistance to such persons for availing of the various products / services offered by them.

48. ⁶⁷Loan facility to visually impaired persons by HFCs

HFCs are advised to ensure that there shall be no discrimination in extending products, services, facilities, etc., including loan facilities to the visually impaired person on the grounds of disability. HFCs may also advise their branches / offices to render all possible assistance to the visually impaired for availing the various product / services offered by them. An Illustrative guidelines in this regard are annexed to the referred Circular.

49. ⁶⁸Guidelines on Wilful Defaulters

To put in place a system to disseminate credit information pertaining to willful defaulters by HFCs to all CICs, so as to ensure that further finance is not made available to them, it has been decided to put in place the mechanism of reporting the information on wilful defaults of ₹25 lakhs and above by HFCs to all CICs. A detailed guidelines in this regard are annexed to the referred Circular.

50. ⁶⁹Prudential Norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances

It has been represented to us that consequent upon withdrawal of the legal tender status of the existing ₹500 and ₹1,000 notes (SBN) small borrowers may need some more time to repay their loan dues. Taking these representations into consideration, it has been decided to provide an additional 60 days beyond what is applicable for the Housing Finance Companies (HFCs) for recognition of a **loan account** as substandard in the case of:

“Term loans (including the one granted to an agriculturist or to a person whose income is dependent on the harvest of crops), whether business or personal, secured or otherwise, the original sanctioned amount whereof is ₹ 1 crore or less, on books of Housing Finance Companies (HFCs).”

The above dispensation will be subject to following conditions:

- (i) It applies to dues payable between November 1, 2016 and December 31, 2016. HFCs shall note to ensure that this is a short-term deferment of classification as substandard due to delay in payment of dues arising during the period specified above and does not result in restructuring of the loans.

⁶⁶ Details in NHB(ND)/DRS/Misc. Circular No. 16/2015-16 dated December 3, 2015

⁶⁷ Details in NHB(ND)/DRS/Policy Circular No.73/2015-16 dated December 3, 2015

⁶⁸ Details in NHB(ND)/DRS/Policy Circular No.74/2015-16 dated December 31, 2015

⁶⁹ Details in NHB(ND)/DRS/Policy Circular No.77/2016-17 dated November 21, 2016

- (ii) Dues payable before November 1 and after December 31, 2016, will be covered by the extant instruction with regard to recognition of NPAs.
- (iii) The additional time given shall only apply to defer the classification of an existing standard asset as substandard and not for delaying the migration of an account across sub-categories of NPA.

51. ⁷⁰Online Reporting Management Information System (ORMIS)

NHB, as part of its green initiatives and paperless approach and as part of its e-governance initiatives, had developed a system, Online Reporting Management Information System (ORMIS), for online submission of returns and various other information by Housing Finance Companies (HFCs). This system has been designed envisaging submission of such information in a secured and effective manner over internet and to facilitate HFCs in submitting information using user credentials [User-id/password with Digital Signature (DS) integration]. This online portal was made available to HFCs from June 27, 2016 at the link <https://ormis.nhbonline.org.in/hfc> initially to run parallelly along with the manual system of filing returns and other information. Now, the ORMIS is being made fully operational from January 1, 2017.

In view of operationalization of ORMIS, the manual system of submission of following returns/information is being discontinued from January 1, 2017:

- (i) The returns as prescribed under paragraph 44 subparagraph 1, of the Housing Finance Companies (NHB) Directions, 2010;
- (ii) Opening of branches/ offices in India as prescribed under paragraph 37 subparagraph (1) of the Housing Finance Companies (NHB) Directions, 2010;
- (iii) Closure of branches/ offices as prescribed under paragraph 21 sub-paragraph (1) of the Housing Finance Companies (NHB) Directions, 2010 (*the copy of the publication done in both newspaper will be sent by HFCs offline*);
- (iv) The ALM statements as prescribed in the policy circular No. NHB/ND/DRS/Pol-No.35/2010-11 dated October 11, 2010;
- (v) Return on Asset & Liabilities of large HFCs, Return on HFCs 10 Major Exposures to Corporates/Companies/Other Entities etc., New monthly return, Flow of funds, Details of key officials, SARFAESI Return and Other returns as may be prescribed from time to time.

In this context, HFCs are advised to furnish online, the above returns/information, falling due on or after January 1, 2017, through ORMIS only. New HFCs can submit the request for their registration in ORMIS by filing the registration form at the url <https://ormis.nhbonline.org.in/hfc/registrationhfcform.aspx>.

HFCs are also advised to take all such steps which may be necessary to ensure that they get themselves registered on the ORMIS portal, complete the HFC master sheet etc. as early as possible, in case of any difficulties being faced relating to ORMIS, the dedicated support to the ORMIS portal is available on the E-mail ID:

⁷⁰ Details in NHB(ND)/DRS/Policy Circular No.78/2016-17 dated November 30, 2016

ormis.support@nhb.org.in. The ORMIS help desk phone number is available on ORMIS login page and the User manual for ORMIS also can be downloaded from the homepage of the ORMIS portal.]

