

NHB(ND)/DRS/REG/MC-01/2015
September 09, 2015

All Housing Finance Companies

Dear Sir/Madam,

Master Circular - The Housing Finance Companies (NHB) Directions, 2010

In order to have all current instructions on the subject at one place, the National Housing Bank has updated the circulars / notifications. The instructions related to the captioned subject contained in various circulars/notifications issued by NHB have been updated as on June 30, 2015 and are reproduced below. The updated circular has also been placed on the NHB web-site (<http://nhb.org.in>).

Yours faithfully,

(Dr. Sanjeev Sharma)
Executive Director

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NATIONAL HOUSING BANK

New Delhi, the 10th June, 2010

¹The Housing Finance Companies (NHB) Directions, 2010

Notification No. NHB.HFC.DIR.1/CMD/2010

Whereas the National Housing Bank had issued Housing Finance Companies (NHB) Directions, 2001 in respect of matters relating to acceptance of deposits by housing finance companies, prudential norms for income recognition, accounting standards, asset classification, provision for bad and doubtful assets, capital adequacy and concentration of credit / investments to be observed by the housing finance companies and matters to be included in the Auditors Report by the auditors of such housing finance companies and matters ancillary and incidental thereto and amended the said Directions from time to time.

2. And whereas it is considered desirable to issue consolidated Directions incorporating the amendments made from time to time.

3. Now therefore, the National Housing Bank having considered it necessary in the public interest and being satisfied that for the purpose of enabling the National Housing Bank to regulate the housing finance system of the country to its advantage, it is necessary to give the Directions mentioned below, hereby in exercise of the powers conferred, by sections 30, 30A, 31 and 33 of the National Housing Bank Act, 1987 (53 of 1987) and of all the powers enabling it in this behalf, and in supersession of the aforementioned directions gives the Directions hereinafter specified.

CHAPTER I – PRELIMINARY

Short title, commencement and applicability of the Directions

1. (1) These Directions shall be known as the Housing Finance Companies (NHB) Directions, 2010. They shall come into force from the date of publication in the Official Gazette and any reference in these Directions to the date of commencement thereof shall be deemed to be a reference to that date.

¹ Supersession of Directions, 2001 vide Notification No. NHB.HFC.DIR.1/CMD/2010 dated June 10, 2010

(2) Unless otherwise directed by the National Housing Bank, these Directions except the Directions contained in Chapter IV shall be applicable to every housing finance company registered under section 29A of the National Housing Bank Act, 1987 (53 of 1987). Directions contained in Chapter IV shall be applicable to every auditor of a housing finance company.

Definitions

2. (1) In these Directions, unless the context otherwise requires,

(a) “banking company” means a banking company as defined in Section 5(c) of the Banking Regulation Act, 1949 (10 of 1949);

(b) “breakup value” means the equity capital and reserves as reduced by intangible assets and revaluation reserves, divided by the number of equity shares of the investee company;

(c) “carrying cost” means book value of the assets and interest accrued thereon but not received;

(d) “company” means a company as defined in Section 45 I (aa) of the Reserve Bank of India Act, 1934 (2 of 1934) but does not include a company which is being wound up under any law for the time being in force;

(e) "control" shall have the same meaning as is assigned to it under clause (e) of sub-regulation (1) of regulation 2 of ²[Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011;]

(f) “current investment” means an investment which is by its nature readily realisable and is intended to be held for not more than one year from the date on which such investment is made;

(g) “deposit” shall have the same meaning as assigned to it in Section 45 I (bb) of the Reserve Bank of India Act, 1934 (2 of 1934);

(h) “depositor” means any person who has made a deposit with the housing finance company or a heir, legal representative, administrator or assignee of the depositor;

(i) “doubtful asset” means a term loan, or a leased asset, or a hire purchase asset, or any other asset, which remains a sub-standard asset for a period exceeding twelve months;

(j) “earning value” means the value of an equity share computed by the average of profits after tax as reduced by the preference dividend and adjusted for extra ordinary and non-recurring items, for the immediately preceding three years and further divided by the number of equity shares of the investee company and capitalised at the following rate:-

(i) in case of predominantly manufacturing company, eight percent;

(ii) in case of predominantly trading company, ten percent; and

² Substituted vide Notification No. NHB.HFC.DIR.11/CMD/2014 dated June 13, 2014

- (iii) in case of any other company, including a Housing Finance Company, twelve percent;

Note:

If an investee company is a loss making company, the earning value will be taken as zero;

- (k) “fair value” means the mean of the earning value and the breakup value;
- (l) “free reserves” shall include the balance in the share premium account, capital and debenture redemption reserves and any other reserve shown or published in the balance sheet of the company and created through an allocation of profits, not being (1) a reserve created for repayment of any future liability or for depreciation in assets or for bad debt or (2) a reserve created by revaluation of the assets of the company;
- (m) “housing finance company” means a company incorporated under the Companies Act, 1956 (1 of 1956) which primarily transacts or has as one of its principal objects, the transacting of the business of providing finance for housing, whether directly or indirectly;
- (n) “hybrid debt” means capital instrument which possesses certain characteristics of equity as well as of debt;
- (o) “Innovative perpetual debt” means hybrid debt issued in accordance with the terms and conditions stipulated in the Circular issued by National Housing Bank in this regard.
- (p) “lending public financial institution” means –
 - (i) a public financial institution specified in or under section 4A of the Companies Act, 1956 (1 of 1956); or
 - (ii) a State Financial Corporation or a State Industrial Investment Corporation; or
 - (iii) a scheduled commercial bank; or
 - (iv) the General Insurance Corporation of India established in pursuance of the provisions of section 9 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972); or
 - (v) any other Institution which the National Housing Bank may, by notification, specify in this behalf;
- (q) “long term investment” means an investment other than a current investment;
- (r) “loss asset” means –
 - (i) an asset which has been identified as loss asset by the housing finance company or its internal or external auditor or by the National Housing Bank, to the extent it is not written off by the housing finance company; and
 - (ii) an asset which is adversely affected by a potential threat of non-recoverability due to any one of the following, namely:-
 - (a) non-availability of security, either primary or collateral, in case of secured loans and advances;

- (b) erosion in value of security, either primary or collateral, is established;
- (c) insurance claim, if any, has been denied or settled in part;
- (d) fraudulent act or omission on the part of the borrower;
- (e) the debt becoming time barred under Limitation Act, 1963 (36 of 1963);
- (f) inchoate or defective documentation.

Explanation:

For the removal of doubt, it is clarified that mere right of the housing finance company to file suit against the borrower/guarantor for recovery of dues does not debar the National Housing Bank or the auditors to consider the asset or part thereof as loss asset due to aforesaid reasons;

(s) “net asset value” means the latest declared net asset value by the concerned mutual fund in respect of that particular scheme;

(t) “net book value” means -

(i) in the case of hire purchase asset, the aggregate of overdue and future installments receivable as reduced by the balance of the unmatured finance charges and further reduced by the provisions made as per paragraph 24(2)(i) of these directions;

(ii) in the case of leased assets, aggregate of capital portion of overdue lease rentals accounted as receivable and depreciated book value of the lease asset as adjusted by the balance of lease adjustment account;

(u) “net owned fund” means net owned fund as defined under section 29A of the National Housing Bank Act, 1987 including paid up preference shares which are compulsorily convertible into equity capital.

³[(v) “non-performing asset” (referred to in these directions as “NPA”) means:-

(i) an asset, in respect of which, interest has remained overdue for a period of more than ninety days.

(ii) a term loan (other than the one granted to an agriculturist or to a person whose income is dependent on the harvest of crops) inclusive of unpaid interest, when the installment is overdue for a period of more than ninety days or on which interest amount remained overdue for a period of more than ninety days;

(iii) a demand or call loan, which remained overdue for a period of more than ninety days from the date of demand or call or on which interest amount remained overdue for a period of more than ninety days;

(iv) a bill which remains overdue for a period of more than ninety days;

(v) the interest in respect of a debt or the income on receivables under the head ‘other current assets’ in the nature of short term loans/advances, which facility remained overdue for a period of more than ninety days;

³ Substituted vide Notification No. NHB.HFC.DIR.9/CMD/2013 dated September 6, 2013

- (vi) any dues on account of sale of assets or services rendered or reimbursement of expenses incurred, which remained overdue for a period of more than ninety days;
- (vii) the lease rental and hire purchase installment, which has become overdue for a period of more than ninety days;
- (viii) an inter corporate deposit, in respect of which interest or principal has remained overdue for a period of more than ninety days.
- (ix) a term loan granted to an agriculturist or to a person whose income is dependent on the harvest of crops if the installment of principal or interest thereon remains unpaid:
 - (a) for two crop seasons beyond the due date if the income of the borrower is dependent on short duration crops, or
 - (a) for one crop season beyond the due date if the income of the borrower is dependent on long duration crop.

Explanation:

- (1) For the purpose of this sub-clause “long duration” crops would be crops with crop season longer than one year and crops, which are not “long duration” crops, would be treated as “short duration” crops.
- (2) The crop season for each crop means the period up to harvesting of the crops raised, would be as determined by the State Level Bankers’ Committee in each State.

In respect of loans, advances and other facilities (including bill purchased and discounted), the balance outstanding under the credit facilities (including accrued interest) made available to the same borrower / beneficiary when any of the credit facilities becomes non-performing assets:

Provided that in the case of lease and hire transactions, a housing finance company may classify each such accounts on the basis of its record of recovery.]

(w) “owned fund” means paid up capital including preference shares compulsorily convertible into equity shares, free reserves, balance in share premium account and capital reserves representing surplus arising out of sale proceeds of asset, excluding reserves created by revaluation of asset, as reduced by accumulated loss balance, book value of intangible assets and deferred revenue expenditure, if any;

(x) “past due” means an amount of income or interest which remains unpaid for a period of thirty days beyond the due date;

(y) “public deposit” means a deposit but does not include the following, namely:-

- (i) any amount received from the Central Government or a State Government or any amount received from any other source and whose repayment is guaranteed by the Central Government or a State Government or any amount received from a local authority or any public housing agency, or a foreign Government or any other foreign citizen, authority or person;

- (ii) any amount received from the National Housing Bank, established under the National Housing Bank Act, 1987 (53 of 1987), or the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964) or the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956) or the General Insurance Corporation of India and its subsidiaries established in pursuance of the provisions of section 9 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) or the Small Industries Development Bank of India established under the Small Industries Development Bank of India Act, 1989 (39 of 1989) or the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963) or National Bank for Agriculture and Rural Development established under the National Bank for Agriculture and Rural Development Act, 1982 or an Electricity Board constituted under the Electricity (Supply) Act, 1948 or the Tamil Nadu Industrial Investment Corporation Ltd., or the National Industrial Development Corporation of India Ltd., or the Industrial Credit & Investment Corporation of India Ltd., or the Industrial Finance Corporation of India Ltd., or the Industrial Investment Bank of India Ltd., or State Trading Corporation of India Ltd., or the Rural Electrification Corporation Ltd., or the Minerals and Metals Trading Corporation of India Ltd., or the Agricultural Finance Corporation Ltd., or the State Industrial and Investment Corporation of Maharashtra Ltd., or the Gujarat Industrial Investment Corporation Ltd., or Asian Development Bank or International Finance Corporation or ⁴[Japan Bank for International Cooperation (JBIC)] or Kreditanstalt für Wiederaufbau (KfW) or any other institution that may be specified by the National Housing Bank in this behalf;
- (iii) any amount received by a housing finance company from another company;
- (iv) any amount received by way of subscription to any share, stock, bonds or debentures pending the allotment of the said shares, stock, bonds or debentures and any amount received by way of calls in advance on shares, in accordance with the Articles of Association of the housing finance company so long as such amount is not repayable to the members under the Articles of Association of the housing finance company;
- (v) any amount received from a person who at the time of receipt of the amount was a Director of the housing finance company or any amount received from its shareholders by a private housing finance company or by a private housing finance company which has become a public housing finance company under section 43A of the Companies Act, 1956 and continues to include in its Articles of Association provisions relating to the matters specified in clause (iii) of sub-section (1) of section 3 of the Companies Act, 1956 (1 of 1956):

Provided that the Director or shareholder, as the case may be, from whom the money is received furnishes to the housing finance company at the time of giving the money, a declaration in writing to the effect that the amount is not being given out of funds acquired by him by borrowing or accepting from others;

⁴ Substituted vide Notification No. NHB.HFC.DIR.4/CMD/2012 dated January 19, 2012

Provided further that in the case of joint shareholders of a private limited company, money received from or in the name of the joint shareholders except the first named shareholder shall not be eligible to be treated as the receipt of money from the shareholder of the company;

(vi) any amount raised by the issue of bonds or debentures secured by the mortgage of any immovable property of the housing finance company; or by any other asset or ⁵[which would be compulsorily convertible into equity] in the housing finance company provided that in the case of such bonds or debentures secured by mortgage of any immovable property or secured by other assets, the amount of such bonds or debentures shall not exceed the market value of such immovable property / other assets;

⁶[(vi)(a) any amount raised by issuance of non-convertible debentures with a maturity more than one year and having the minimum subscription per investor at Rs.1 crore and above, provided that such debentures have been issued in accordance with the guidelines issued by the National Housing Bank as in force from time to time in respect of such non-convertible debentures.]

(vii) any amount brought in by the promoters by way of unsecured loan in pursuance of stipulations of lending institutions subject to the fulfillment of the following conditions, namely:-

(a) the loan is brought in pursuance of the stipulation imposed by the lending public financial institution in fulfillment of the obligation of the promoters to contribute such finance,

(b) the loan is provided by the promoters themselves and/or by their relatives, and not from their friends and business associates, and

(c) the exemption under this sub-clause shall be available only till the loan of the lending public financial institution is repaid and not thereafter;

(viii) any amount received from a mutual fund which is governed by the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996;

(ix) any amount received as hybrid debt or subordinated debt the minimum maturity period of which is not less than sixty months ⁷[provided there is no option for recall by the issuer within the period.]

(x) any amount received from a relative of a director of a housing finance company;

Note:

The deposit shall be accepted only on an application made by the depositor containing therein a declaration that as on the date of deposit, he is related to the specific director in the capacity of a relative as defined under Companies Act, 1956 (1 of 1956);

⁵ Substituted vide Notification No. NHB.HFC.DIR.10/CMD/2014 dated March 19, 2014

⁶ Substituted vide Notification No. NHB.HFC.DIR.15/CMD/2015 dated March 13, 2015

⁷ Substituted vide Notification No. NHB.HFC.DIR.10/CMD/2014 dated March 19, 2014

⁸[(xi) any amount received by issuance of commercial paper, in accordance with the guidelines issued by the Reserve Bank of India, vide Circular No. IECD.3/08.15.01/2000-2001 dated October 10, 2000.]

(z) “public housing agency” shall include any authority, constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages or for both.

(za) “securities” means securities as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(zb) “standard asset” means the asset in respect of which, no default in repayment of principal or payment of interest is perceived and which does not disclose any problem nor carry more than normal risk attached to the business;

(zc) “sub-standard asset” means -

- (i) an asset, which has been classified as non-performing asset for a period not exceeding twelve months;
- (ii) an asset, where the terms of the agreement regarding interest and/or principal have been re-negotiated or rescheduled after release of any instalment of loan or an inter-corporate deposit which has been rolled over, until the expiry of one year of satisfactory performance under the re-negotiated or rescheduled terms:

Provided that where a delay in completion of a project is caused on account of factors beyond the control of the project implementing agency, terms of the loan agreement regarding interest and/ or principal may be rescheduled once before the completion of the project and such loans may be treated as standard asset, subject to the condition that such reschedulement shall be permitted only once by the Board of Directors of the concerned housing finance company and that interest on such loan is paid regularly and there is no default;

Provided further that where natural calamities impair the repaying capacity of a borrower, terms of the loan agreement regarding interest and/ or principal may be rescheduled and such loans shall not be classified as sub-standard; the classification of such loans would thereafter be governed by the revised terms and conditions;

(zd) “subordinated debt” means a fully paid up capital instrument, which is unsecured and is subordinated to the claims of other creditors and is free from restrictive clauses and is not redeemable at the instance of the holder or without the consent of the supervisory authority of the housing finance company. The book value of such instrument shall be subjected to discounting as provided hereunder:

⁸ Inserted vide Notification No. NHB.HFC.DIR.4/CMD/2012 dated January 19, 2012

<i>Remaining maturity of the instruments</i>	<i>Rate of discount (%)</i>
(i) up to one year	100
(ii) More than one year but upto two years	80
(iii) More than two years but upto three years	60
(iv) More than three years but upto four years	40
(v) More than four years but upto five years	20

to the extent such discounted value does not exceed fifty percent of the Tier-I capital;

(ze) “substantial interest” means holding of a beneficial interest by an individual or his spouse or minor child, whether singly or taken together in the shares of a company, the amount paid up on which exceeds ten percent of the paid up capital of the company; or the capital subscribed by all the partners of a partnership firm;

(zf) “tier-I capital” means owned fund as reduced by investment in shares of other housing finance companies and in shares, debenture, bonds, outstanding loans and advances including hire purchase and lease finance made to and deposits with subsidiaries and companies in the same group exceeding, in aggregate, ten percent of the owned fund;

(zg) “tier-II capital” includes the following:-

- (i) preference shares (other than those compulsorily convertible into equity);
- (ii) revaluation reserves at discounted rate of fifty five percent;
- (iii) ⁹[general provisions (including that for standard assets) and loss reserves to the extent these are not attributable to actual diminution in value or identifiable potential loss in any specific asset and are available to meet unexpected losses, to the extent of one and one fourth percent of risk weighted assets];
- (iv) hybrid debt;
- (v) subordinated debt

to the extent the aggregate does not exceed Tier-I capital; and

(zh) ‘Tiny deposit’ means the aggregate amount of public deposits not exceeding Rs.10,000/- standing in the name of the sole or the first named depositor in the same capacity in all the branches of the housing finance company.

(2) Words or expressions used but not defined herein and defined in the National Housing Bank Act, 1987 shall have the same meaning as assigned to them therein. Any other words or expressions not defined herein or in the National Housing Bank Act, 1987 shall have the same meaning as assigned to them in the Reserve Bank of India Act, 1934 (2 of 1934), Banking Regulation Act, 1949 (10 of 1949) and the Companies Act, 1956 (1 of 1956);

⁹ Substituted vide Notification No. NHB.HFC.DIR.3/CMD/2011 dated August 5, 2011

(3) (a) If any question arises as to whether a company is a financial institution or not, such question shall be decided by the National Housing Bank in consultation with the Central Government.

(b) If any question arises as to whether a company is a housing finance company, the same shall be decided by the National Housing Bank.

CHAPTER II - ACCEPTANCE OF PUBLIC DEPOSITS

Restriction on acceptance of deposits

3. (1) No housing finance company shall accept or renew public deposits unless the housing finance company has obtained minimum investment grade rating for its fixed deposits from any one of the approved rating agencies, at least once a year and a copy of the rating is sent to the National Housing Bank and it is complying with all the prudential norms, provided that:

- (i) a housing finance company having obtained credit rating for its fixed deposits not below the minimum investment grade rating as above and complying with all the prudential norms, may accept public deposits not exceeding five times of its NOF.
- (ii) a housing finance company which does not have the requisite rating for its fixed deposits shall obtain the same within a period of six months' time from the date of notification or such extended period as may be permitted by the National Housing Bank, to obtain the prescribed rating for its fixed deposits.

¹⁰[Approved Credit Rating Agencies and the Minimum Investment Grade Credit Rating

The names of approved credit rating agencies and the minimum credit rating shall be as follows:-

Name of the Agency	Minimum Investment Grade Rating
(a) The Credit Rating Information Services of India Ltd. (CRISIL)	FA- (FA Minus)
(b) ICRA Ltd.	MA- (MA Minus)
(c) Credit Analysis & Research Ltd. (CARE)	CARE BBB(FD)
(d) FITCH Ratings India Private Ltd.	tA-(ind)(FD)
(e) Brickwork Ratings India Pvt. Ltd.	BWR FA]

(2) No housing finance company shall have deposits inclusive of public deposits, the aggregate amount of which together with the amounts, if any, held by it which are referred in clauses (iii) to (vii) of sub-section (bb) of Section 45 I of the Reserve Bank of India Act, 1934 (2 of 1934) as also loans or other assistance from the National Housing Bank, is in excess of sixteen times of its NOF.

¹⁰ Substituted vide Notification No. NHB.HFC.DIR.6/CMD/2012 dated August 1, 2012

(3) Where a housing finance company holds as on the date of commencement of these directions public deposits in excess of the limits specified in (1) above and as applicable to it or deposits inclusive of the items mentioned in (2) above in excess of the limits specified in (2) above, it shall-

- (i) not accept fresh deposit or open new deposit account; or
- (ii) not renew the existing deposit or where the deposits are received under any recurring scheme, receive installments under such scheme after the expiry of the scheme period;
- (iii) reduce such excess deposit by repayment on maturity.

(4) In the event of down gradation of the credit rating to any level below investment grade, the housing finance company shall

- (i) report the position within fifteen working days to the National Housing Bank;
- (ii) with immediate effect stop accepting fresh public deposit and
- (iii) reduce such excess deposit by repayment on maturity.

Period of deposits

4. No housing finance company shall accept or renew any public deposit:

- (a) which is repayable on demand or on notice; or
- (b) unless such deposit is repayable after a period of twelve months or more but not later than ¹¹[one hundred and twenty months] from the date of acceptance or renewal of such deposits.

Explanation

Where a public deposit is in Instalments, the period of such deposit shall be computed from the date of receipt of first Installment.

Joint deposit

5. Where so desired, deposits may be accepted in joint names with or without any of the clauses, namely, "Either or Survivor", "Number One or Survivor/s", "Anyone or Survivor/s".

Particulars to be specified in application form soliciting public deposits

6. (i) No housing finance company shall accept or renew any public deposit except on a written application from the depositors in the form to be supplied by the housing finance company, which form shall contain all the particulars specified in the Non-Banking Financial Companies and Miscellaneous

¹¹ Substituted vide Notification No. NHB.HFC.DIR.9/CMD/2013 dated September 6, 2013

Non-Banking Companies (Advertisement) Rules, 1977, made under section 58A of the Companies Act, 1956 (1 of 1956) and also contain the particulars of the specific category of the depositors, i.e. whether the depositor is a shareholder or a director or a promoter of the housing finance company or a member of public or a relative of a director of the company.

(ii) The application form shall also contain the following:-

- (a) the credit rating assigned for its deposits and the name of the credit rating agency which rated the housing finance company;
- (b) a statement to the effect that in case of any deficiency of the housing finance company in servicing its deposits, the depositor may approach the National Consumers Disputes Redressal Forum, the State Level Consumers Disputes Redressal Forum or the District Level Consumers Dispute Redressal Forum for relief;
- (c) a statement to the effect that in case of non-repayment of the deposit or part thereof in accordance with the terms and conditions of the deposit, the depositor may make an application to authorised officer of the National Housing Bank;
- (d) a statement to the effect that the financial position of the housing finance company as disclosed and the representations made in the application form are true and correct and that the housing finance company and its Board of Directors are responsible for the correctness and veracity thereof;
- (e) a statement to the effect that the housing finance company is within the regulatory framework of the National Housing Bank. It must, however, be distinctly understood that the National Housing Bank does not undertake any responsibility for the financial soundness of the housing finance company or for the correctness of any of the statements or the representations made or opinions expressed by the housing finance company; and for repayment of deposit/ discharge of liabilities by the housing finance company;
- (f) the information relating to and the aggregate dues from the facilities, both fund and non-fund based, extended to, and the aggregate dues from companies in the same group or other entities or business ventures in which the directors and/or the housing finance company are/is holding substantial interest and the total amount of exposure to such entities;
- (g) at the end of application form but before signature of the depositor, the following verification clause by the depositor shall be appended. "I have gone through the financial and other statements / particulars / representations furnished / made by the housing finance company and after careful consideration I am making the deposit with the housing finance company at my own risk and volition.

Introduction of depositors

7. Every housing finance company shall obtain proper introduction of new depositors before opening their accounts and accepting the deposits, and shall keep on its record the evidence on which it has relied for the purpose of such introduction.

Explanation:

For the purpose of this paragraph, introduction shall mean identification of the prospective depositor and may be done either by one of the existing depositors or on the basis of any one of Income Tax Permanent Account Number (PAN), Election Identity Card, Passport, or Ration Card.

Furnishing of receipts to depositors

8. (1) Every housing finance company shall furnish to every depositor or his agent, unless, it has done so already, a receipt for every amount which has been or which may be received by the housing finance company by way of deposit before or after the date of commencement of these Directions.

(2) The said receipt should be duly signed by an officer entitled to act for the housing finance company in this behalf and shall state the date of deposit, the name of depositor, the amount in words and figures received by the housing finance company by way of deposit, rate of interest payable thereon and the date on which the deposit is repayable.

Provided that, if such receipts pertain to Installments subsequent to the first installment of a recurring deposit it may contain only name of the depositor/s, date and amount of deposit.

Register of deposits

9. (1) Every housing finance company shall keep one or more registers in which shall be entered separately in the case of each depositor or group of joint depositors the following particulars, namely,

- (a) name and address of the depositor or group of joint depositors, their nominees,
- (b) date and amount of each deposit,
- (c) duration and due date of each deposit,
- (d) date and amount of accrued interest or premium on each deposit,
- (e) date and amount of each repayment, whether of principal, interest or premium,
- (f) date of claim made by the depositor,
- (g) the reasons for delay in repayment beyond five working days, and
- (h) any other particulars relating to the deposits.

(2) The register or registers aforesaid shall be kept at each branch in respect of the deposit accounts opened by that branch of the housing finance company and a consolidated register for all the branches taken together at the registered office of the housing finance company and shall be preserved in good order for a period of not less than eight years following the financial year in which the latest entry is made of the repayment or renewal of any deposit of which particulars are contained in the register:

Provided that, if the housing finance company keeps the books of account referred to in sub-section (1) of Section 209 of the Companies Act, 1956 (1 of 1956) at any place other than its Registered Office in accordance with the provisions to that sub-section, it shall be sufficient compliance with this sub-paragraph if the register aforesaid is kept at such other place, subject to the condition that the housing finance company delivers to the National Housing Bank a copy of the notice filed with the Registrar under the proviso to the said sub-section within seven days of such filing.

Information to be included in the Board's Report

10. (1) In every report of the Board of Directors laid before the housing finance company in a general meeting under sub-section (1) of Section 217 of the Companies Act, 1956 (1 of 1956) after the date of commencement of these Directions there shall be included, the following particulars or information, namely:

- (a) the total number of accounts of public deposit of the housing finance company which have not been claimed by the depositors or not paid by the housing finance company after the date on which the deposit became due for repayment; and
- (b) the total amounts due under such accounts remaining unclaimed or unpaid beyond the dates referred to in clause (a) as aforesaid.

(2) The said particulars or information shall be furnished with reference to the position as on the last date of the financial year to which the report relates and if the amounts remaining unclaimed or undisbursed as referred to in clause (b) of the preceding sub-paragraph exceed in the aggregate the sum of rupees five lakhs, there shall also be included in the report a statement on the steps taken or proposed to be taken by the Board of Directors for the repayment of the amounts due to the depositors or group of joint depositors and remaining unclaimed or undisbursed.

Ceiling on the rate of interest and brokerage and interest on overdue public deposits

11.(1) (a) On and from 6th July, 2007 no housing finance company shall invite or accept or renew any public deposit at a rate of interest exceeding twelve and half per cent per annum such interest being payable or compounded at rests which should not be shorter than monthly rests.

(b) On and from 20th September 2003, no housing finance company shall invite or accept or renew repatriable deposits from non-resident Indians in terms of Notification No. FEMA.5/2000-RB dated May 03, 2000 under Non-Resident (External) Account Scheme at a rate exceeding the rates specified by the Reserve Bank of India for such deposits with scheduled commercial banks.

Explanation:

The period of deposits shall not be less than one year and not more than three years.

(c) No housing finance company shall pay to any broker on public deposit collected by or through him,

- (i) brokerage, commission, incentive or any other benefit by whatever name called in excess of two per cent of the deposit so collected;
- (ii) expenses by way of reimbursement on the basis or relative vouchers/bills produced by him, in excess of 0.5% of the deposit so collected.

(2) *Payment of interest on overdue deposit* - A housing finance company may, at its discretion, allow interest on an overdue public deposit or a portion of the said overdue deposit from the date of maturity of the deposit subject to the conditions that-

- (i) the total amount of overdue deposit or the part thereof is renewed in accordance with other relevant provisions of these Directions, from the date of its maturity till some future date, and
- (ii) the interest allowed shall be at the appropriate rate operative on the date of maturity of such overdue deposit which shall be payable only on the amount of deposit so renewed:

Provided that where a housing finance company fails to repay the deposit along with interest on maturity on the claim made by the depositor, the housing finance company shall pay interest from the date of claim till the date of repayment at the rate as applicable to the deposit.

¹²[(3) In regard to the payment of interest on such deposits which have either been seized by the government authorities, and/or have been frozen till further clearance is received by the concerned government authorities, the housing finance companies are advised to follow the procedure mentioned below:

- (i) A request letter may be obtained from the depositor on maturity. While obtaining the request letter from the depositor for renewal, housing finance companies should also advise him to indicate the term for which deposit is to be renewed. In case the depositor does not exercise his option of choosing the term for renewal, housing finance companies may renew the same for a term equal to the original term.

¹² Inserted vide Notification No. NHB.HFC.DIR.9/CMD/2013 dated September 6, 2013

- (ii) No new receipt is required to be issued. However, suitable note may be made regarding renewal in the deposit record.
- (iii) Renewal of deposit may be advised by registered letter/ speed post/ courier services to the concerned government authorities under advice to the depositor. In the advice to the depositor, the rate of interest at which the deposit is renewed should also be mentioned.
- (iv) If overdue period does not exceed 14 days on the date of receipt of the request letter, renewal may be done from the date of maturity. If it exceeds 14 days, housing finance company may pay interest for the overdue period as per the policy adopted by them, and keep it in a separate interest free sub-account which should be released when the original fixed deposit is released.

However the final repayment of the principal and the interest so accrued should be done only after the clearance regarding the same is obtained by the housing finance companies from the respective government authorities.]

General provisions regarding repayment of deposits

- 12. (i) No housing finance company shall repay any public deposit within a period of three months from the date of its acceptance.
- (ii) Where a housing finance company at the request of depositor/s repays a public deposit after the period indicated in clause (i) above but before its maturity, it shall pay interest at the following rate:

(a) minimum lock in period	Three months
(b) after three months but before six months	¹³ [The maximum interest payable shall be four percent per annum for individual depositor, and no interest in case of other depositors]
(c) after six months but before the date of maturity.	The interest payable shall be ¹⁴ [one percent] lower than the interest rate applicable to a public deposit for the period for which the deposit has run or if no rate has been specified for that period, then ¹⁵ [two percent] lower than the minimum rate at which the public deposits are accepted by that Housing Finance Company.

- (iii) A housing finance company may grant a loan up to seventy-five percent of the amount of public deposit to a depositor after the expiry of three months from the date of public deposit at a rate of interest two percentage points above the interest rate payable on the public deposit.

¹³ Substituted vide Notification No. NHB.HFC.DIR.12/CMD/2014 dated August 25, 2014

¹⁴ Substituted vide Notification No. NHB.HFC.DIR.12/CMD/2014 dated August 25, 2014

¹⁵ Substituted vide Notification No. NHB.HFC.DIR.12/CMD/2014 dated August 25, 2014

- (iv) It is obligatory on the part of a housing finance company to intimate the details of maturity of the deposit to the depositor at least ¹⁶[fourteen days] before the date of maturity of the deposit.
- (v) all deposit accounts standing to the credit of sole/first named depositor in the same capacity shall be clubbed and treated as one deposit account for the purpose of premature repayment ¹⁷[or grant of loan by a problem housing finance company, subject to sub-paragraph (vii) below.]
- (vi) Provided that in the event of death of a depositor, the public deposit may be paid prematurely to the surviving depositor/s in the case of joint holding with the survivor clause, or to the nominee or legal heir/s with interest at the contracted rate up to the date of repayment.
- (vii) For the purpose, housing finance companies are classified into two categories viz. a problem housing finance company and a normally run housing finance company. A housing finance company, which is normally run housing finance company, with effect from the date of this notification, can permit premature repayment of a public deposit after the lock-in period at its sole discretion only and premature closure cannot be claimed as a matter of right by the depositors. The problem housing finance companies have been prohibited from making premature repayment of any public deposits or granting any loan against public deposits except in the case of death of the depositor or in the case of tiny deposit up to Rs.10,000/- in entirety or to enable the depositor to meet expenses of an emergent nature up to an amount not exceeding Rs.10,000/-.

A problem housing finance company is one which:

- (i) has refused or failed to meet within five working days any lawful demand for repayment of the matured public deposits; or
- (ii) intimates the Company Law Board under section 58AA of the Companies Act, 1956, about its default to a small depositor in repayment of any public deposit or part thereof or any interest thereupon; or
- (iii) approaches the Bank for withdrawal of the liquid asset securities to meet its deposit obligations; or
- (iv) approaches the Bank for any relief or relaxation or exemption from the provisions of these directions for avoiding default in meeting public deposit or other obligations; or
- (v) has been identified by the National Housing Bank to be a problem housing finance company either *suo moto* or based on the complaints from the depositors about non-repayment of public deposits or on complaints from the company's lenders about non-payment of dues.

¹⁶ Substituted vide Notification No. NHB.HFC.DIR.9/CMD/2013 dated September 6, 2013

¹⁷ Substituted vide Notification No. NHB.HFC.DIR.10/CMD/2014 dated March 19, 2014

Renewal of public deposit before maturity

13. Where any housing finance company permits an existing depositor to renew his public deposit before maturity for availing the benefit of higher rate of interest, such company shall pay the depositor the increase in the rate of interest provided,

- (i) the public deposit is renewed in accordance with the other provisions of these directions and for a period longer than the remaining period of the original contract; and
- (ii) the interest on the expired period of the public deposit is reduced by one percentage point from the rate at which the housing finance company would have ordinarily paid, had the deposit been accepted for the period for which such public deposit had run; any interest paid earlier in excess of such reduced rate is recovered/adjusted.

Safe custody of approved securities

14. (1) Every housing finance company shall entrust to one of the scheduled commercial banks designated by it on that behalf, in the place where the registered office of the housing finance company is situated, the unencumbered approved securities required to be maintained by it in pursuance of Section 29B of the National Housing Bank Act, 1987;

Provided that where a housing finance company intends to entrust these securities to the Stock Holding Corporation of India Ltd. or to its designated bankers at a place other than the place at which its registered office is situated or to keep them in the form of Constituent's Subsidiary General Ledger Account with a schedule commercial bank, or with a depository participant registered with Securities and Exchange Board of India established under Securities and Exchange Board of India Act, 1992 (15 of 1992), it shall obtain the prior approval in writing, of the National Housing Bank.

(2) the securities mentioned in sub-paragraph (1) above shall continue to be entrusted to such designated banker or to the Stock Holding Corporation of India Ltd. or the depository participant or held in the constituent's subsidiary General Ledger Account with the scheduled commercial bank for the benefit of the depositors and shall not be withdrawn or encashed or otherwise dealt with by the housing finance company except for repayment to the depositors.

Provided that,

(1) a housing finance company shall be entitled to withdraw a portion of such securities proportionate to the reduction of its deposits duly certified to that effect by its auditors;

(2) where the housing finance company intends to substitute such securities, it may do so by entrusting substitute securities of equal value to the designated bank before such withdrawal.

Explanation:

'scheduled commercial bank' means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934) excluding a Regional Rural Bank or a Co-operative Bank.

Creation of Floating Charge in favour of the Depositors

15. All Housing Finance Companies accepting/holding public deposits shall create floating charge on the assets invested by them in terms of sub-sections (1) and (2) of Section 29B of the National Housing Bank Act, 1987 in favour of their depositors in a manner as may be prescribed by National Housing Bank from time to time, in this behalf.

Employee Security Deposit

16. A housing finance company receiving any amount in the ordinary course of its business as security deposit from any of its employees for due performance of his duties shall keep such amount in an account with a scheduled commercial bank or in a post office in the joint names of the employee and the housing finance company on the conditions that –

- (1) it shall not withdraw the amount without the consent in writing of the employee; and
- (2) the amount shall be repayable to the employee along with interest payable on such deposit account unless such amount or any part thereof is liable to be appropriated by the housing finance company for the failure on the part of the employee for due performance of his duties.

Advertisements and statement in lieu of advertisement

17. (1) Every housing finance company soliciting public deposits shall comply with the provisions of the Non-Banking Financial Companies and Miscellaneous Non-Banking Companies (Advertisement) Rules, 1977 and shall also specify in every advertisement to be issued thereunder, the following :

- a. the actual rate of return by way of interest, premium, bonus or other advantage to the depositors;
- b. the mode of payment to the depositors;
- c. maturity period of deposits;
- d. the interest payable on a specified deposit;
- e. the rate of interest which will be payable to the depositors in case the depositor withdraws the deposit prematurely;
- f. the terms and conditions subject to which a deposit will be renewed;

- g. any other special features relating to the terms and conditions subject to which the deposits are accepted/ renewed;
- h. the information, relating to the aggregate dues (including the non-fund based facilities) provided to/ from companies in the same group or other entities or business ventures in which the directors and/ or the housing finance company are holding substantial interest and the total amount of exposure to such entities; and
- ¹⁸[i. the deposits solicited by it are not insured.

(1)(A) Where a housing finance company displays any advertisement in electronic media such as TV, even without soliciting deposits, it should incorporate a caption/ band in such advertisements indicating the following:

As regards deposit taking activity of the company, the viewers may refer to the advertisement in the newspaper / information furnished in the application form for soliciting public deposits;

The company is having a valid Certificate of Registration dated xx-xx-xxxx issued by the National Housing Bank under Section 29A of the National Housing Bank Act, 1987. However, the National Housing Bank does not accept any responsibility or guarantee about the present position as to the financial soundness of the company or for the correctness of any of the statements or representations made or opinions expressed by the company and for repayment of deposits/discharge of the liabilities by the company.]

(2) Where a housing finance company intends to accept public deposits without inviting or allowing or causing any other person to invite such deposits, it shall, before accepting deposits, deliver to the office of the National Housing Bank at New Delhi for registration, a statement in lieu of advertisement containing all the particulars required to be included in the advertisement pursuant to the Non-Banking Financial Companies and Miscellaneous Non-Banking Companies (Advertisement) Rules, 1977 as also the particulars stated in sub-paragraph (1) hereinabove, duly signed in the manner provided in the aforesaid Rules.

(3) A statement, delivered under sub-paragraph (2) shall be valid till the expiry of six months from the date of closure of the financial year in which it is so delivered, or until the date on which the balance sheet is laid before the annual general meeting, or where the annual general meeting for any year has not been held, the latest day on which that meeting should have been held in accordance with the provisions of the Companies Act, 1956(1 of 1956), whichever is earlier and a fresh statement shall be delivered in each succeeding financial year before accepting deposits in that financial year.

¹⁸ Substituted vide Notification No. NHB.HFC.DIR.10/CMD/2014 dated March 19, 2014

Full cover for public deposits

18. HFCs should ensure that at all times there is full cover available for public deposits accepted by them. While calculating this cover the value of all debentures (secured and unsecured) and outside liabilities other than the aggregate liabilities to depositors may be deducted from the total assets. Further, the assets should be evaluated at their book value or realizable/market value whichever is lower for this purpose.

¹⁹[Requirement to obtain prior approval of National Housing Bank for acquisition or transfer of control of housing finance companies

- 19.** The prior written permission of the National Housing Bank shall be required for–
- (i) any takeover or acquisition of control of a housing finance company, whether by acquisition of shares or otherwise;
 - (ii) any merger/amalgamation of a housing finance company with another entity or any merger/amalgamation of an entity with a housing finance company that would give the acquirer/another entity control of the housing finance company;
 - (iii) any merger/amalgamation of a housing finance company with another entity or any merger/amalgamation of an entity with a housing finance company which would result in acquisition/transfer of shareholding in excess of 10 per cent of the paid up capital of the housing finance company.
 - (iv) prior written approval of the National Housing Bank would also be required before approaching the Court or Tribunal under Section 391-394 of the Companies Act, 1956 or Section 230-233 of Companies Act, 2013 seeking order for mergers or amalgamations with other companies or housing finance companies.]

Application of other laws not barred

20. The provisions of paragraph 19 shall be in addition to, and not in derogation of the provisions of any other law, rules, regulations or directions, for the time being in force.

Closure of Branches

21. No housing finance company accepting deposits shall close its branch/office without publishing such intention in any one national level newspaper and in one vernacular newspaper in circulation in the relevant place and without advising National Housing Bank, before ninety days of the proposed closure.

¹⁹ Substituted vide Notification No. NHB.HFC.DIR.11/CMD/2014 dated June 13, 2014

CHAPTER III - PRUDENTIAL NORMS

Income recognition

22.(1) Income recognition shall be based on recognised accounting principles.

(2) Income including interest/discount or any other charges on NPA shall be recognised only when it is actually realised. Any such income recognised before the asset became non-performing and remaining unrealised shall be reversed.

(3) In respect of hire purchase assets, where instalments are overdue for more than twelve months, income shall be recognised only when hire charges are actually received. Any such income taken to the credit of profit and loss account before the asset becoming non-performing and remaining unrealised, shall be reversed.

(4) In respect of lease assets, where lease rentals are overdue for more than twelve months, the income shall be recognised only when lease rentals are actually received. The net lease rentals taken to the credit of profit and loss account before the asset became non-performing and remaining unrealised shall be reversed.

Explanation:

For the purpose of this paragraph, 'net lease rentals' mean gross lease rentals as adjusted by the lease adjustment account debited/credited to the profit and loss account and as reduced by depreciation at the rate applicable under schedule XIV of the Companies Act, 1956

Income from investments

23.(1) Income from dividend on shares of corporate bodies and units of mutual funds shall be taken into account on cash basis:

Provided that the income from dividend on shares of corporate bodies may be taken into account on accrual basis when such dividend has been declared by the corporate body in its annual general meeting and the housing finance company's right to receive payment is established.

(2) Income from bonds and debentures of corporate bodies and from Government securities/bonds may be taken into account on accrual basis:

Provided that the interest rate on these instruments is predetermined and interest is serviced regularly and is not in arrears.

(3) Income on securities of corporate bodies or public sector undertakings, the payment of interest and repayment of principal of which have been guaranteed by the Central Government or a State Government may be taken into account on accrual basis.

Accounting standards

24. Accounting Standards and Guidance Notes issued by the Institute of Chartered Accountants of India (referred to in these directions as "ICAI") shall be followed insofar as they are not inconsistent with any of these directions.

Accounting for investments

25.(1) (a) The board of directors of every housing finance company shall frame investment policy for the company and implement the same;

(b) The criteria to classify the investments into current and long term investments shall be spelt out by the Board of the company in the investment policy;

(c) Investment in securities shall be classified into current and long term, at the time of making each investment;

(d) (i) There shall be no inter-class transfer on ad-hoc basis;

(ii) The inter-class transfer, if warranted, shall be effected only at the beginning of each half year, on April 1 or October 1, with the approval of the Board;

(v) The investments shall be transferred scrip wise, from current to long-term or vice-versa, at book value or market value, whichever is lower; and

(vi) The depreciation, if any, in each scrip shall be fully provided for and appreciation, if any, shall be ignored;

(vii) The depreciation in one scrip shall not be set off against appreciation in another scrip at the time of such inter-class transfer, even in respect of the scrip of same category.

(2) A long term investment shall be valued in accordance with the Accounting Standard issued by ICAI.

(3) Quoted current investments shall, for the purpose of valuation, be grouped into the following categories, viz.

(a) equity shares,

(b) preference shares,

(c) debentures and bonds,

(d) Government securities including treasury bills,

(e) units of mutual fund, and

(f) others

Quoted current investments for each category shall be valued at cost or market value, whichever is lower. For this purpose, the investments in each category shall be considered scrip-wise and the cost and market value aggregated for all investments in each category. If the aggregate market value for the category is less

than the aggregate cost for that category, the net depreciation shall be provided for or charged to the profit and loss account. If the aggregate market value for the category exceeds the aggregate cost for the category, the net appreciation shall be ignored. Depreciation in one category of investments shall not be set off against appreciation in another category.

(4) Unquoted equity shares in the nature of current investments shall be valued at cost or breakup value, whichever is lower. Where the balance sheet of the investee company is not available for two years, such shares shall be valued at one rupee only.

(5) Unquoted preference shares in the nature of current investments shall be valued at cost or face value or the net asset value whichever is less. In case the net asset value is negative or the balance sheet of the investee company is not available for two years, it should be valued at rupees one per company.

(6) Investments in unquoted Government securities or Government guaranteed bonds shall be valued at carrying cost.

(7) Unquoted investments in the units of mutual funds in the nature of current investments shall be valued at the net asset value declared by the mutual fund in respect of each particular scheme.

(8) Commercial papers shall be valued at carrying cost.

Note:

Unquoted debentures shall be treated as term loans or other type of credit facilities depending upon the tenure of such debentures for the purpose of income recognition and asset classification.

Need for Policy on Demand/Call Loans

26. (1) The Board of Directors of every housing finance company granting/intending to grant demand/call loans shall frame a policy for the company and implement the same.

(2) Such policy shall, inter alia, stipulate the following -

- (i) A cutoff date within which the repayment of demand or call loan shall be demanded or called up;

- (ii) The sanctioning authority shall, record specific reasons in writing at the time of sanctioning demand or call loan, if the cutoff date for demanding or calling up such loan is stipulated beyond a period of one year from the date of sanction;
- (iii) The rate of interest which shall be payable on such loans;
- (iv) Interest on such loans, as stipulated shall be payable either at monthly or quarterly rests;
- (v) The sanctioning authority shall, record specific reasons in writing at the time of sanctioning demand or call loan, if no interest is stipulated or a moratorium is granted for any period;
- (vi) A cut-off date, for review of performance of the loan, not exceeding six months commencing from the date of sanction;
- (vii) Such demand or call loans shall not be renewed unless the periodical review has shown satisfactory compliance with the terms of sanction.

Asset classification

27. (1) Every housing finance company shall, after taking into account the degree of well defined credit weaknesses and extent of dependence on collateral security for realisation, classify its lease/hire purchase assets, loans and advances and any other forms of credit into the following classes, namely :-

- (i) Standard assets;
- (ii) Sub-standard assets;
- (iii) Doubtful assets; and
- (iv) Loss assets.

(2) The class of assets referred to above shall not be upgraded merely as a result of rescheduling, unless it satisfies the conditions required for the upgradation.

²⁰[Loan to Value (LTV) Ratio

27A. (1) No housing finance company shall grant housing loans to individuals:

- (a) up to Rs.20 lakhs with LTV ratio exceeding 90%
- (b) above Rs.20 lakhs and up to Rs.75 lakhs with LTV ratio exceeding 80%, and,
- (c) above Rs.75 lakhs with LTV ratio exceeding 75%.

²⁰ Inserted vide Notification No. NHB.HFC.DIR.2/CMD/2010 dated December 24, 2010 and substituted vide Notification No. NHB.HFC.DIR.9/CMD/2013 dated September 6, 2013

Note:

In case of point no. (c), if LTV ratio is currently above the ceiling prescribed for any reason, effort should be made to bring it within the above limits.

(2) All housing finance companies shall maintain a LTV ratio not exceeding 60% percent for loans granted against the collateral of gold jewellery.]

Provisioning requirement

28. Every housing finance company shall, after taking in to account the time lag between an account becoming non-performing, its recognition as such, the realisation of the security and the erosion over time in the value of security charged, make provision against sub-standard assets, doubtful assets and loss assets as provided hereunder:-

²¹[Loans, Advances and Other Credit Facilities Including Bills Purchased and Discounted

(1) The provisioning requirement in respect of loans, advances and other credit facilities including bills purchased and discounted shall be as under:-

(i) Loss Assets	The entire assets shall be written off. If the assets are permitted to remain in the books for any reason, 100% of the outstanding shall be provided for.	
(ii) Doubtful Assets	(a) 100% provision to the extent to which the advance is not covered by the realisable value of the security to which the housing finance company has a valid recourse shall be made. The realisable value is to be estimated on a realistic basis;	
	(b) in addition to item (a) above, depending upon the period for which the asset has remained doubtful, provision to the extent of 25% to 100% of the secured portion (i.e. estimated realisable value of the outstanding) shall be made on the following basis:-	
	<i>Period for which the asset has been considered as doubtful</i>	<i>% of provision</i>

²¹ Substituted vide Notification No. NHB.HFC.DIR.3/CMD/2011 dated August 5, 2011

	Up to one year	25
	One to three years	40
	More than three years	100
(iii) Sub-standard Assets	A general provision of 15% of total outstanding shall be made]	
(iv) Standard Assets		
²² [(a) Standard Assets in respect of housing loans at teaser / special rates i.e. housing loans at comparatively lower rates of interest in the first few years after which rates are re-set at higher rates.	2% provision on the total outstanding amount of such loans. The provisioning of these loans to be reset after one year at the applicable rates from the date on which the rates are reset at higher rates if the accounts remain 'standard'.]	
²³ [(b)(i) Standard Assets in respect of Commercial Real Estates (Residential Housing)	0.75% on the total outstanding amount of such loans	
(b)(ii) Standard Assets in respect of all other Commercial Real Estates (CRE)	1.00% on the total outstanding amount of such loans]	
²⁴ [(c) Standard Assets in respect of all loans other than (a) & (b) above	A general provision of 0.4% of the total outstanding amount of loans which are standard assets shall be made]	

²⁵[Provided that no provision need be made towards the portion of housing loan guaranteed by Credit Risk Guarantee Fund for Low Income housing (hereinafter referred as 'Credit Risk Guarantee Fund Trust') created by Declaration of Trust dated May 1, 2012 executed by Government of India and registered as document no. 1984 dated May 1, 2012 with the Sub-Register V, New Delhi, in case the housing loan guaranteed by Credit Risk Guarantee Fund Trust becomes non-performing. However, the amount outstanding in excess of the guaranteed portion should be provided for as per the extent directions on provisioning requirement.]

²⁶[Note:

1. Commercial Real Estate – Residential Housing (CRE–RH) would consist of loans to builders/developers for residential housing projects (except for captive

²² Substituted vide Notification No. NHB.HFC.DIR.3/CMD/2011 dated August 5, 2011

²³ Substituted vide Notification No. NHB.HFC.DIR.9/CMD/2013 dated September 6, 2013

²⁴ Substituted vide Notification No. NHB.HFC.DIR.4/CMD/2012 dated January 19, 2012

²⁵ Inserted vide Notification No. NHB.HFC.DIR.8/CMD/2013 dated June 24, 2013

²⁶ Substituted vide Notification No. NHB.HFC.DIR.9/CMD/2013 dated September 6, 2013

consumption) under CRE segment. Such project should ordinarily not include non-residential commercial real estate. However integrated housing project comprising of some commercial spaces (e.g. shopping complex, school etc.) can also be specified under CRE-RH, provided that the commercial area in the residential housing project does not exceed 10% of the total Floor Space Index (FSI) of the project. In case the FSI of the commercial area in the predominantly residential housing complex exceed the ceiling of the project loans, the entire loan should be classified as CRE and not CRE-RH.

2. Other commercial real estate would consist of loan to builders / developers / other for office building, retail space, multi-purpose commercial premises, multi-tenanted commercial premises, industrial or warehouse space, hotels, land acquisition, development and construction etc. other than those covered by Note 1 above. Loans for third dwelling unit onwards to an individual will also be treated as CRE exposure.]

Lease and hire purchase assets

(2) The provisioning requirements in respect of hire purchase and leased assets shall be as under:-

Hire purchase assets

(i) In respect of hire purchase assets, the total dues (overdue and future installments taken together) as reduced by the finance charges not credited to the profit and loss account and carried forward as unmatured finance charges and the depreciated value of the underlying asset, shall be provided for.

Explanation

For this purpose, the depreciated value of the asset shall be notionally computed as the original cost of the asset to be reduced by depreciation at the rate of 20 percent per annum on a straight line method. In the case of second hand asset, the original cost shall be the actual cost incurred for acquisition of such second hand asset.

Additional provision for Hire Purchase and Leased assets

(ii) In respect of hire purchase and leased assets, additional provision shall be made as under:

(a) Where any amounts of hire charges or lease rentals are overdue up to 12 months	Nil
(b) Where any amounts of hire charges or lease rentals are overdue for more than 12 months but up to 24 months	10% of the net book value
(c) Where any amounts of hire charges or lease rentals are overdue for more than 24 months but up to 36 months	40% of the net book value

(d) Where any amounts of hire charges or lease rentals are overdue for more than 36 months but upto 48 months	70% of the net book value
(e) Where any amounts of hire charges or lease rentals are overdue for more than 48 months	100% of the net book value

(iii) On expiry of a period of 12 months after the due date of the last installment of hire purchase/leased asset, the entire net book value shall be provided for.

Notes:

(1) The amount of caution money/margin money or security deposits kept by the borrower with the housing finance company in pursuance of the hire purchase agreement may be deducted against the provisions stipulated under clause (i) above, if not already taken into account while arriving at the equated monthly installments under the agreement. The value of any other security available in pursuance to the hire purchase agreement may be deducted only against the provisions stipulated under clause (ii) above.

(2) The amount of security deposits kept by the borrower with the housing finance company in pursuance to the lease agreement together with the value of any other security available in pursuance to the lease agreement may be deducted only against the provisions stipulated under clause (ii) above.

(3) It is clarified that income recognition on and provisioning against NPAs are two different aspects of prudential norms and provisions as per the norms are required to be made on NPAs on total outstanding balances including the depreciated book value of the leased asset under reference after adjusting the balance, if any, in the lease adjustment account. The fact that income on NPA has not been recognised cannot be taken as reason for not making provision.

(4) An asset which has been re-negotiated or rescheduled as referred to in paragraph 2(1)(zc) of these directions shall be a sub-standard asset or continue to remain in the same category in which it was prior to its re-negotiation or rescheduling as a doubtful asset or a loss asset as the case may be. Necessary provision is required to be made as applicable to such asset till it is upgraded. In case where an asset has been rescheduled on account of natural calamities having impaired the repaying capacity of the borrower as provided in second proviso to paragraph 2(1)(zc), any provisioning made prior to such rescheduling shall neither be written back nor adjusted against any provisioning requirements that may arise in future.

(5) All financial leases written on or after April 1, 2002 attract the provisioning requirements as applicable to hire purchase assets.

²⁷[(6) The general provision of 0.4% of the total outstanding amount of loans shall not be reckoned for arriving at net NPAs.

(7) The provisions towards Standard Assets need not be netted from gross advances but shown separately as 'Contingent Provisions against Standard Assets' in the balance sheet.]

Disclosure in balance sheet

29. (1) Every HFC shall, separately disclose in its balance sheet the provisions made as per paragraph 28 above without netting them from the income or against the value of assets.

(2) ²⁸[The outstanding amount and the provisions shall be distinctly indicated under separate heads of accounts and individually for each type of assets as under:-

(a) for standard, sub-standard, doubtful and loss assets separately for housing and non-housing finance business along with total; and

(b) for depreciation in investments.]

(3) Such provisions shall not be appropriated from the general provisions and loss reserves held, if any, by the housing finance company.

(4) Such provision for each year shall be debited to the profit and loss account. The excess of provisions, if any, held under the heads general provisions and loss reserves may be written back without making adjustment against them.

²⁹[(5) Every housing finance company shall disclose in their balance sheet the percentage of outstanding loans granted against the collateral gold jewellery to their outstanding total assets.]

(6) Every housing finance company shall, separately disclose, in the 'Notes on Accounts' to the Balance Sheet in its next Annual Report,

(a) the details of the levy of penalty, if any, imposed on the housing finance company by the National Housing Bank; and

²⁷ Inserted vide Notification No. NHB.HFC.DIR.3/CMD/2011 dated August 5, 2011

²⁸ Substituted vide Notification No. NHB.HFC.DIR.9/CMD/2013 dated September 6, 2013

²⁹ Inserted vide Notification No. NHB.HFC.DIR.9/CMD/2013 dated September 6, 2013

- (b) adverse comments, if any, on the housing finance company made in writing by the National Housing bank on regulatory compliances, with a specific communication to the housing finance company to disclose the same to the public.

Requirement as to Capital Adequacy

30. (1) Every housing finance company shall, maintain a minimum capital ratio consisting of Tier-I and Tier-II capital which shall not be less than-

- (i) ten percent on or before March 31, 2001; and
- (ii) twelve percent on or before March 31, 2002 and thereafter of its aggregate risk weighted assets and of risk adjusted value of off-balance sheet items.

(2) The total Tier-II capital, at any point of time, shall not exceed one hundred percent of Tier-I capital.

Explanations:

On balance sheet assets

(1) In these Directions, degree of credit risk expressed as percentage weightages have been assigned to balance sheet assets. Hence, the value of each asset/item requires to be multiplied by the relevant risk weights to arrive at risk adjusted value of assets. The aggregate shall be taken in to account for reckoning the minimum capital ratio. The risk weighted asset shall be calculated as the weighted aggregate of funded items as detailed hereunder:

		<i>Weighted risk assets - On balance Sheet items</i>	<i>% Weight</i>
(1)		Cash and bank balances including fixed deposits and certificates of deposits with banks	0
(2)		Investments:	
	a)	Approved securities as defined in the National Housing Bank Act, 1987	0
	b)	Bonds of public sector banks and fixed deposits/certificates of deposits/bonds of public financial institutions	20
	c)	Units of Unit Trust of India	20
	d)	Mortgage backed security, receipt or other security evidencing the purchase or acquisition by a housing finance company of an undivided right, title or interest in any debt or receivable originated by a housing finance company recognised and supervised by National Housing Bank or a scheduled commercial bank and secured by mortgage of residential immovable property,	50

		provided the conditions specified below in Note (4) are fulfilled.	
	e)	Shares of all companies and debentures/bonds/commercial papers of companies other than in b) above/units of mutual funds other than in c) above.	100
	f)	HFC's investments in innovative perpetual debt of other HFCs/ banks/ financial institutions.	100
(3)	a)	Housing/ Project Loans guaranteed by Central / State Governments. <i>Note: Where guarantee has been invoked and the concerned Government has remained in default for a period of more than 90 days after the invocation of the guarantee, a risk weight of 100% should be assigned.</i>	0
	³⁰ [b)	(b)(i) Housing loans sanctioned to individuals up to Rs.20 lakhs secured by mortgage of immovable property, which are classified as standard assets with LTV Ratio is = or < 90%	50
		(b)(ii) Housing loans sanctioned to individuals above Rs.20 lakhs but upto Rs.75 lakhs secured by mortgage of immovable property which are classified as standard assets with LTV ratio is = or < 80%	50
		(b)(iii) Housing loans sanctioned to individuals above Rs.75 lakhs secured by mortgage of immovable property which are classified as standard assets with LTV ratio is =< 75%	75
		(b)(iv) Loans given for the purpose of insurance of the property /borrower in case of individual housing loans	Same as applicable to the respective housing loan]
	c)	³¹ [Other housing loans	100]
		³² [<i>Note : Housing loans referred to in item b) and c) above are excluding any portion of such housing loans guaranteed by (i) a mortgage guarantee company registered with the Reserve Bank of India in accordance with the Reserve Bank of India Guidelines for Mortgage Guarantee Companies; and / or (ii) the Credit Risk Guarantee Fund Trust.</i>]	
		³³ [ca) Any portion of housing loans referred to in item b) and c) of sub-explanation (3) guaranteed by mortgage guarantee company registered with the Reserve Bank of India, the risk weight assets for such guaranteed portion shall be calculated as % weight mentioned against the rating of the mortgage guarantee company as below:	

³⁰ Substituted vide Notification No. NHB.HFC.DIR.9/CMD/2013 dated September 6, 2013

³¹ Substituted vide Notification No. NHB.HFC.DIR.5/CMD/2012 dated May 28, 2012

³² Substituted vide Notification No. NHB.HFC.DIR.8/CMD/2013 dated June 24, 2013

³³ Substituted vide Notification No. NHB.HFC.DIR.5/CMD/2012 dated May 28, 2012

		Long term ratings of the mortgage guarantee company by the approved credit rating agencies referred to in paragraph 3 of the principal Directions	
		AAA	20
		AA	30
		Below AA or unrated	As applicable to unguaranteed portion
		Where '+' or '-' notation is attached to the rating, the corresponding main rating category risk weight should be used. When a guaranteed exposure is classified as non-performing in accordance with the applicable directions, the guarantee will cease to be a credit risk mitigant and no adjustment would be permissible under this provision.]	
		³⁴ [cb) Any portion of housing loans referred to in item (b)(b)(i) and (c) and guaranteed by Credit Risk Guarantee Fund Trust	0]
	³⁵ [d)	(d)(i)(a) Fund based and non-fund based exposures to Commercial Real Estate-Residential Building	75
		(d)(i)(b) Fund based and non-fund based exposures to all other Commercial Real Estate	100]
		(ii) Investments in Mortgage Backed Securities (MBS) and other securitised exposures backed by exposures as at (i) above	125
	³⁶ [e)	Restructured housing loans	An additional risk weight of 25% to the risk weight prescribed above]
(4)		Current Assets:	
	a)	Stock on hire (please see Note 2 below)	100
	b)	Inter corporate loans/ deposits	100
	c)	Loans and advances fully secured by company's own deposits	0
	d)	Loan to staff	0
	e)	Other secured loans and advance considered good	100
	f)	Bills purchased/ discounted	100
	g)	Others (to be specified)	100
(5)		Fixed Assets (net of depreciation):	
	a)	Assets leased out (net book value)	100

³⁴ Inserted vide Notification No. NHB.HFC.DIR.8/CMD/2013 dated June 24, 2013

³⁵ Substituted vide Notification No. NHB.HFC.DIR.9/CMD/2013 dated September 6, 2013

³⁶ Inserted vide Notification No. NHB.HFC.DIR.9/CMD/2013 dated September 6, 2013

	b)	Premises	100
	c)	Furniture & Fixtures	100
	d)	Other Fixed Assets(to be specified)	100
(6)		Other Assets:	
	a)	Income tax deducted at source (net of provision)	0
	b)	Advance tax paid (net of provision)	0
	c)	Interest due on Government Securities and approved securities	0
	d)	Others(to be specified)	100

Notes:

(1) Netting may be done only in respect of assets where provisions for depreciation or for bad and doubtful debts have been made.

(2) Stock on hire should be shown net of finance charges i.e. interest and other charges recoverable.

(3) Assets which have been deducted from owned fund to arrive at tier-I capital pursuant to paragraph 2(1)(zf) will have a weightage of "0".

(4) For being eligible for risk weight of 50%, investments in mortgage backed security, receipt or other security referred to in item (d) of sub-Explanation (2) should fulfill the following terms and conditions, namely :-

- (a) The assignment of debt together with the securities therefor and the receivables there under by the originating housing finance company or scheduled commercial bank in favour of the trust or the securitization company as defined in Clause (za) of sub-section (1) of section 2 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002(54 of 2002) issuing such receipt or other security is complete and irrevocable.
- (b) The trust or the securitization company is holding the debt together with the securities therefor exclusively for the benefit of the investors in such receipt or other security.
- (c) The originating housing finance company or scheduled commercial bank participating in the securitization transaction, in which such mortgage backed security, receipt or other security has been issued, as a seller, manager, servicer or provider of credit enhancement or liquidity facilities;
 - (i) does not own any equity or preference share in the capital of the securitisation company or is the beneficiary of the trust;
 - (ii) has not named the trust or the securitisation company in such manner which implies any connection with it;

- (iii) does not have any of its director, officer or employee on the Board of securitisation company unless the Board is made up of at least three members and there is a majority of independent directors and the official representing the originating institution in the Board of the securitisation company does not have veto powers;
 - (iv) does not directly or indirectly control the trust or the securitisation company; and
 - (v) has not agreed to support any losses arising out of the securitisation transaction or to be suffered by the investors involved in it or agreed to bear recurring expenses of the transaction.
- (d) Each debt securitised is a loan advanced to an individual for the acquisition/ construction of residential immovable property which has been mortgaged in favour of the originating housing finance company or scheduled commercial bank on exclusive basis.
 - (e) Securitised debt had investment grade credit rating by any of the credit rating agencies at the time of assignment to the trust/ securitisation company.
 - (f) The investors are entitled to call upon the issuer – the trust / Securitization Company to take steps for recovery in the event of default and distribute the net proceeds to the investors as per the terms of issue of receipt or other security.
 - (g) The trust or the securitisation company undertaking the issue in which investment has been made is not engaged in any business other than the business of issue and administration of securitisation of housing loans.
 - (h) The trustees appointed to manage the issue is governed by the provisions of Indian Trusts Act, 1882 (2 of 1882).

³⁷[(2) *Off-Balance Sheet item*

A. General

HFCs will calculate the total risk weighted off-balance sheet credit exposure as the sum of the risk-weighted amount of the market related and non-market related off-balance sheet items. The risk-weighted amount of an off-balance sheet item that gives rise to credit exposure will be calculated by means of a two-step process:

- i. the notional amount of the transaction is converted into a credit equivalent amount, by multiplying the amount by the specified credit conversion factor or by applying the current exposure method; and
- ii. the resulting credit equivalent amount is multiplied by the risk weight applicable, viz, zero percent for exposure to Central Government/State Governments, 20 percent for exposure to banks and 100 percent for others.

³⁷ Substituted vide Notification No. NHB.HFC.DIR.7/CMD/2013 dated March 21, 2013

B. Non-market-related off- balance sheet items

The credit equivalent amount in relation to a non-market related off-balance sheet item will be determined by multiplying the contracted amount of that particular transaction by the relevant credit conversion factor (CCF).

Item No.	Item Description	Credit Conversion Factor
i.	Undistributed amount of housing loans/other loans	50
ii.	Financial & other guarantees	100
iii.	Share/ debenture underwriting obligations	50
iv.	Partly-paid shares / debentures	100
v.	Bills discounted / rediscounted	100
vi.	Lease contracts entered into but yet to be executed	100
vii.	Sale and repurchase agreement and asset sales with recourse, where the credit risk remains within the HFC	100
viii.	Forward assets purchases, forward deposits and partly paid shares and securities, which represents commitments with certain draw down	100
ix.	Lending of HFC securities or posting of securities as collateral by HFC, including instances where these arise out of repo style transactions.	100
x.	Other commitments (e.g., formal standby facilities and credit lines(including project loans)) with an original maturity of Up to one year Over one year	20 50
xi.	Similar commitments that are unconditionally cancellable at any time by the HFC without prior notice or that effectively provide for automatic cancellation due to deterioration in a borrower's creditworthiness	0
xii.	Take-out finance in the books of taking-over institutions	
	(a) Unconditional take-out finance	100
	(b) Conditional take-out finance	50
	Note: <i>As the counter party exposure will determine the risk weight, it will be 100 percent in respect of all borrowers or zero percent if covered by government Guarantee.</i>	
xiii.	Commitment to provide liquidity facility for securitization of standard asset transactions	100
xiv.	Second loss credit enhancement for securitization of standard asset transactions provided by the third party	100

xv.	Other contingent liabilities(To be specified)	50
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Note:

- i. Cash margins/deposits shall be deducted before applying the conversion factor.
- ii. Where the non-market related off-balance sheet item is an undrawn or partially undrawn fund-based facility, the amount of undrawn commitment to be included in calculating the off-balance sheet non-market related credit exposures is the maximum unused portion of the commitment that could be drawn during the remaining period to maturity. Any drawn portion of a commitment forms a part of HFC's on-balance sheet credit exposure.

For example:

A term loan of Rs.100 cr. is sanctioned for a large housing project which can be drawn down in stages over a three year period. The terms of sanction allow draw down in three stages – Rs.25 cr. in Stage I, Rs.25 cr. in Stage II and Rs.50 cr. in Stage III, where the borrower needs the HFC's explicit approval for draw down under Stages II and III after completion of certain formalities. If the borrower has drawn already Rs.10 cr. under Stage I, then the undrawn portion would be computed with reference to Stage I alone i.e., it will be Rs.15 cr. If Stage I is scheduled to be completed within one year, the CCF will be 20 percent and if it is more than one year then the applicable CCF will be 50 per cent.

C. Market Related Off-Balance Sheet Items

- i. HFCs should take into account all market related off-balance sheet items (OTC derivatives and Securities Financing Transactions such as repo / reverse repo/ CBLO etc.) while calculating the risk weighted off-balance sheet credit exposures.
- ii. The credit risk on market related off-balance sheet items is the cost to an HFC of replacing the cash flow specified by the contract in the event of counterparty default. This would depend, among other things, upon the maturity of the contract and on volatility of rates underlying the type of instrument.
- iii. Market related off-balance sheet items would include:
 - a. interest rate contracts – including single currency interest rate swaps, basis swaps, forward rate agreements, and interest rate futures;
 - b. foreign exchange contracts, including contracts involving gold, - includes cross currency swaps (including cross currency interest rate swaps), forward foreign exchange contracts, currency futures, currency options;
 - c. Credit Default Swaps; and
 - d. any other market related contracts specifically allowed by the National Housing Bank which give rise to credit risk.
- a. Exemption from capital requirements is permitted for –

- a. foreign exchange (except gold) contracts which have an original maturity of 14 calendar days or less; and
 - b. instruments traded on futures and options exchanges which are subject to daily mark-to-market and margin payments.
- b. The exposures to Central Counter Parties (CCPs), on account of derivatives trading and securities financing transactions (e.g. Collateralised Borrowing and Lending Obligations – CBLOs, Repos) outstanding against them will be assigned zero exposure value for counterparty credit risk, as it is presumed that the CCPs’ exposures to their counterparties are fully collateralized on a daily basis, thereby providing protection for the CCP’s credit risk exposures.
- c. A CCF of 100 per cent will be applied to the corporate securities posted as collaterals with CCPs and the resultant off-balance sheet exposure will be assigned risk weights appropriate to the nature of the CCPs. In the case of Clearing Corporation of India Limited (CCIL), the risk weight will be 20 per cent and for other CCPs, the risk weight will be 50 percent.
- d. The total credit exposure to a counterparty in respect of derivative transactions should be calculated according to the current exposure method as explained below.

D. Current Exposure Method

The credit equivalent amount of a market related off-balance sheet transaction calculated using the current exposure method is the sum of i) current credit exposure and ii) potential future credit exposure of the contract.

- i. Current credit exposure is defined as the sum of the gross positive mark-to-market value of all contracts with respect to a single counterparty (positive and negative marked-to-market values of various contracts with the same counterparty should not be netted). The Current Exposure Method requires periodical calculation of the current credit exposure by marking these contracts to market.
- ii. Potential future credit exposure is determined by multiplying the notional principal amount of each of these contracts, irrespective of whether the contract has a zero, positive or negative mark-to-market value by the relevant add-on factor indicated below according to the nature and residual maturity of the instrument.

Credit Conversion Factors for interest rate related, exchange rate related and gold related derivatives		
	Credit Conversion Factors (%)	
	Interest Rate Contracts	Exchange Rate Contracts & Gold
One year or less	0.50	2.00
Over one year to five years	1.00	10.00
Over five years	3.00	15.00

- a. For contracts with multiple exchanges of principal, the add-on factors are to be multiplied by the number of remaining payments in the contract.
- b. For contracts that are structured to settle outstanding exposure following specified payment dates and where the terms are reset such that the market value of the contract is zero on these specified dates, the residual maturity would be set equal to the time until the next reset date. However, in the case of interest rate contracts which have residual maturities of more than one year and meet the above criteria, the CCF or add-on factor is subject to a floor of 1.0 per cent.
- c. No potential future credit exposure would be calculated for single currency floating / floating interest rate swaps; the credit exposure on these contracts would be evaluated solely on the basis of their mark-to-market value.
- d. Potential future exposures should be based on 'effective' rather than 'apparent notional amounts'. In the event that the 'stated notional amount' is leveraged or enhanced by the structure of the transaction, the 'effective notional amount' must be used for determining potential future exposure. For example, a stated notional amount of USD 1 million with payments based on an internal rate of two times the lending rate of the HFC would have an effective notional amount of USD 2 million.

E. Credit conversion factors for Credit Default Swaps (CDS):

A CDS creates a notional short position for specific risk in the reference asset/ obligation for the protection buyer. This position will attract a Credit Conversion Factor of 100 and a risk weight of 100. The Add on factor may be fixed as 10 percent (of notional principal of CDS) in relation to potential future exposure.]

Restrictions on investment in real estate, exposure to and engagement of brokers

31. (1) INVESTMENT IN LAND OR BUILDINGS

No housing finance company, shall invest in land or buildings, except for its own use, an amount exceeding twenty per cent of its capital fund,

Provided that such investment over and above ten percent of its owned fund shall be made only in residential units.

Note:

'Capital fund' means the aggregate of 'tier-I capital' and 'tier-II capital'.

Provided that the land or buildings acquired in satisfaction of its debts shall be disposed of by the housing finance company within a period of three years or within such a period as may be extended by the National Housing Bank, from the date of such acquisition if the investment in these assets together with such assets already held by the housing finance company exceeds the above ceiling.

(2) EXPOSURE TO CAPITAL MARKET:

(a) Limits on housing finance companies' exposure to capital market

The aggregate exposure of a housing finance company to the capital market in all forms (both fund based and non-fund based) should not exceed 40 per cent of its net worth as on March 31 of the previous year. Within this overall ceiling, direct investment in shares, convertible bonds / debentures, units of equity-oriented mutual funds and all exposures to Venture Capital Funds (VCFs) [both registered and unregistered] of the housing finance company should not exceed 20 per cent of its networth.

Net worth for the purpose of this sub-paragraph would comprise of Paid-up capital plus Free Reserves including Share Premium but excluding Revaluation Reserves, plus Investment Fluctuation Reserve and credit balance in Profit & Loss account, less debit balance in Profit and Loss account, Accumulated Losses and Intangible Assets. No general or specific provisions should be included in computation of net worth. Infusion of capital through equity shares, either through domestic issues or overseas floats after the published balance sheet date, may also be taken into account for determining the ceiling on exposure to capital market. Housing Finance Company shall furnish to the National Housing Bank, statutory auditor's certificate on completion of the augmentation of capital before reckoning the same for above purpose.

(b) Components of Capital Market Exposure

Capital market exposure of housing finance company shall include both their direct exposures and indirect exposures. The aggregate exposure (both fund and non-fund based) of Housing Finance Company to capital markets in all forms shall include the following:

- i) direct investment in equity shares, convertible bonds, convertible debentures and units of equity-oriented mutual funds the corpus of which is not exclusively invested in corporate debt;
- ii) advances against shares/bonds/debentures or other securities or on clean basis to individuals for investment in shares (including Initial Public Offers/Employees Stock Options), convertible bonds, convertible debentures, and units of equity-oriented mutual funds;
- iii) advances for any other purposes where shares or convertible bonds or convertible debentures or units of equity oriented mutual funds are taken as primary security;
- iv) advances for any other purposes to the extent secured by the collateral security of shares or convertible bonds or convertible debentures or units of equity oriented mutual funds, i.e. where the primary security other than shares/convertible bonds/convertible debentures/units of equity oriented mutual funds does not fully cover the advances;

- v) secured and unsecured advances to stockbrokers and guarantees issued on behalf of stockbrokers and market makers;
- vi) loans sanctioned to corporates against the security of shares / bonds/ debentures or other securities or on clean basis for meeting promoter's contribution to the equity of new companies in anticipation of raising resources;
- vii) bridge loans to companies against expected equity flows/issues;
- viii) underwriting commitments taken up by the housing finance companies in respect of primary issue of shares or convertible bonds or convertible debentures or units of equity oriented mutual funds;
- ix) financing to stockbrokers for margin trading; and
- x) all exposures to Venture Capital Funds (both registered and unregistered). These will be deemed to be on par with equity and hence will be reckoned for compliance with the capital market exposure ceilings (both direct and indirect).

(c) Items excluded from Capital Market Exposure

The following items shall be excluded from the aggregate exposure ceiling of 40 per cent of networth and direct investment exposure ceiling of 20 per cent of networth (wherever applicable):

- i) Investment of a housing finance company in own subsidiaries, joint ventures, and investments in unlisted shares and convertible debentures, convertible bonds issued by institutions forming crucial financial infrastructure and other All India Financial Institutions as detailed below. After listing, the exposures in excess of the original investment (i.e. prior to listing) shall form part of the Capital Market Exposure.

1. National Securities Depository Ltd. (NSDL)
2. Central Depository Services (India) Ltd. (CDSL)
3. National Securities Clearing Corporation Ltd. (NSCCL)
4. National Stock Exchange (NSE)
5. Clearing Corporation of India Ltd., (CCIL)
6. Credit Information Bureau of India Ltd. (CIBIL)
7. Multi Commodity Exchange Ltd. (MCX)
8. National Commodity and Derivatives Exchange Ltd. (NCDEX)
9. National Multi-Commodity Exchange of India Ltd. (NMCEIL)
10. National Collateral Management Services Ltd. (NCMSL)

All India Financial Institutions

11. Industrial Finance Corporation of India, Ltd. (IFCI)
12. Tourism Finance Corporation of India Ltd. (TFCI)

13. Risk Capital & Technology Finance Corporation Ltd. (RCTC)
 14. Technology Development & Information Co. of India Ltd. (TDICI)
 15. National Housing Bank (NHB)
 16. Small Industries Bank of India (SIDBI)
 17. National Bank for Agriculture & Rural Development (NABARD)
 18. Export Import Bank of India (EXIM Bank)
 19. Industrial Investment Bank of India (IIBI)
 20. Life Insurance Corporation of India (LIC)
 21. General Insurance Corporation of India (GIC)
- ii) Tier I and Tier II debt instruments issued by other housing finance companies;
 - iii) Investment in Certificates of Deposit (CDs) of other housing finance companies;
 - iv) Preference Shares;
 - v) Non-convertible debentures and non-convertible bonds;
 - vi) Units of Mutual Funds under schemes where the corpus is invested exclusively in debt instruments;
 - vii) Shares acquired by housing finance companies as a result of conversion of debt/overdue interest into equity under a Corporate Debt Restructuring (CDR) mechanism.

(d) Computation of exposure

For computing the exposure to the capital markets, loans/advances sanctioned and guarantees issued for capital market operations would be reckoned with reference to sanctioned limits or outstanding, whichever is higher. Further, direct investment of a housing finance company in shares, convertible bonds, convertible debentures and units of equity oriented mutual funds shall be calculated at their cost price.

(3) ENGAGEMENT OF BROKERS

For engagement of brokers to deal in investment transactions, the housing finance companies should observe the following:

- (a) Transactions should not be put through the brokers' accounts. The brokerage on the deal payable to the broker, if any (if the deal was put through with the help of a broker), should be clearly indicated on the notes/memorandum put up to the top management seeking approval for putting through the

transaction and separate account of brokerage paid, broker-wise, should be maintained.

- (b) If a deal is put through with the help of a broker, the role of the broker should be restricted to that of bringing the two parties to the deal together.
- (c) While negotiating the deal, the broker is not obliged to disclose the identity of the counterparty to the deal. On conclusion of the deal, he should disclose the counterparty and his contract note should clearly indicate the name of the counterparty.
- (d) On the basis of the contract note disclosing the name of the counterparty, settlement of deals, viz. both fund settlement and delivery of security should be directly between the parties and the broker should have no role to play in the process.
- (e) With the approval of their top managements, housing finance companies should prepare a panel of approved authorized brokers which should be reviewed annually or more often if so warranted. Clear-cut criteria should be laid down for empanelment of brokers, including verification of their creditworthiness, market reputation, etc. A record of broker-wise details of deals put through and brokerage paid, should be maintained.
- (f) A disproportionate part of the business should not be transacted through only one or a few brokers. Housing finance companies should fix aggregate contract limits for each of the approved brokers. A limit of 5% of total transactions (both purchase and sales) entered into by a housing finance company during a year should be treated as the aggregate upper contract limit for each of the approved brokers. This limit should cover both, the business initiated by a housing finance company and the business offered / brought to the housing finance company by a broker. Housing finance companies should ensure that the transactions entered into through individual brokers during a year normally do not exceed this limit. However, if for any reason it becomes necessary to exceed the aggregate limit for any broker, the specific reasons therefore should be recorded, in writing, by the authority empowered to put through the deals. Further, the board should be informed of this, post facto. However, the norm of 5% would not be applicable (i) to a housing finance company whose total transactions in a year do not exceed Rs.20 crore; and (ii) to housing finance companies' dealings through Primary Dealers.
- (g) The auditors who audit the treasury operations should scrutinise the business done through brokers also and include it in their monthly report to the Chief Executive Officer of the housing finance company. Besides, the business put through any individual broker or brokers in excess of the limit, with the reasons therefor, should be covered in the half-yearly review to the Board of Directors.

- (h) Housing finance companies may undertake securities transactions through stock brokers only on National Stock Exchange/Bombay Stock Exchange/Over the Counter Exchange of India.

Concentration of credit/ investment

32. (1) No housing finance company shall,-

- (i) lend to-
 - (a) any single borrower exceeding fifteen percent of its owned fund; and
 - (b) any single group of borrowers exceeding twenty-five percent of its owned fund;

- (ii) invest in-
 - (a) the shares of another company exceeding fifteen percent of its owned fund;
 - (b) the shares of a single group of companies exceeding twenty-five percent of its owned funds;

- (iii) lend and invest(loans/investments together) exceeding –
 - (a) twenty-five percent of its owned fund to a single party; and
 - (b) forty percent of its owned fund to a single group of parties.

³⁸[Provided that within the overall ceiling prescribed under Sub- paragraph (1), investment of a housing finance company in the shares of another housing finance company (other than its subsidiary/ies) shall not exceed fifteen per cent of the equity capital of the investee company.]

(2) Where at the commencement of these provisions;

- (i) the lending of a housing finance company is in excess of the ceiling prescribed under sub-paragraph (1), such excess portion shall be brought down by the housing finance company as per the repayment schedule in due course; and
- (ii) the investment of a housing finance company is in excess of the ceiling prescribed under sub-paragraph (1), such excess portion shall be disposed of within a period not exceeding three years or within such period as may be extended by the National Housing Bank.

³⁸ Inserted vide Notification No. NHB.HFC.DIR.7/CMD/2013 dated March 21, 2013

Notes:

- (1) For determining the above mentioned limits, off-balance sheet exposures be converted in to credit risk by applying the conversion factors explained here in above.
- (2) The investment in debentures for the above purpose be treated as credit and not investment.
- (3) The above ceilings on credit/investments shall be applicable to the own group of the housing finance company as well as to the other group of borrowers/ investee companies.
- (4) "Shares" shall mean and include investment in various instruments such as Equity Shares, Preference Shares eligible for capital status, Subordinated Debt Instruments, Hybrid Debt Capital Instruments and any other instruments approved as in the nature of capital.
- (5) Investment of a housing finance company in the shares of its subsidiaries, companies in the same group and other housing finance companies, to the extent of ten per cent of its owned fund, shall carry a risk weight of 100% as prescribed at item (2) (e) of 'Weighted Risk Assets- on balance sheet items under 'Explanation' to Paragraph 30 of these directions. Such investment in excess of ten per cent of its owned fund shall continue to be deducted from the net owned fund of the housing finance company as prescribed at item.(I) of 'Explanation' to Section 29A of the National Housing Bank Act, 1987.

³⁹[Housing Finance Companies not to be partners in partnership firms

32A. (1) No housing finance company shall contribute to the capital of a partnership firm or become a partner of such firm.

(2) A housing finance company, which had already contributed to the capital of a partnership firm or was a partner of a partnership firm, shall seek early retirement from the partnership firm.]

⁴⁰[(3) In this connection it is further clarified that:

- (a) Partnership firms mentioned above will also include Limited Liability Partnerships (LLPs).
- (b) Further, the aforesaid prohibition will also be applicable with respect to Association of Persons; these being similar in nature to partnership firms.]

³⁹ Inserted vide Notification No. NHB.HFC.DIR.3/CMD/2011 dated August 5, 2011

⁴⁰ Inserted vide Notification No. NHB.HFC.DIR.9/CMD/2013 dated September 6, 2013

CHAPTER IV – DIRECTIONS TO AUDITORS

Auditor's report to contain specified matters

33. In addition to the report made by the auditor under section 227 of the Companies Act, 1956 (1 of 1956) on the accounts of a housing finance company after the commencement of these Directions, the auditor shall make a report to the Board of Directors of the company on the matters specified in paragraphs 34 and 35 below.

Matters to be included in the auditor's report

34. The auditor's report on the accounts of a housing finance company shall include a statement on the following matters, namely:-

- (i) where the housing finance company was incorporated before 12th June, 2000 –whether it has applied for registration as required under section 29A of the National Housing Bank Act, 1987 and whether it has received any communication from NHB about grant or refusal of certificate of registration to it;
- (ii) where the housing finance company was incorporated on or after 12th June, 2000 – whether it has obtained a certificate of registration from National Housing Bank;
- (iii) whether the housing finance company has complied with the liquidity requirements as specified under Section 29B of the National Housing Bank Act, 1987 and kept the securities with the designated bank;
- (iv) whether the housing finance company has complied with Section 29C of the National Housing Bank Act, 1987;
- (v) whether the housing finance company has complied with the provisions of these Directions;
- (vi) whether the capital adequacy ratio as disclosed in the return submitted to National Housing Bank has been correctly determined and whether such ratio is in compliance with the minimum capital to risk weighted asset ratio as prescribed by the National Housing Bank in these Directions,
- (vii) where the housing finance company is accepting/ holding public deposits – whether
 - (a) public deposits accepted by the housing finance company are within admissible limits;
 - (b) total borrowings of the housing finance company i.e. deposits inclusive of public deposits together with the amounts referred to in sub-clauses (iii) to (vii) of sub-section (bb) of Section 45 I of the Reserve Bank of India Act, 1934 and loans or other assistance from the National Housing Bank are within the limit prescribed in these Directions;

- (c) the deposits in excess of the admissible limit held by the housing finance company have been regularised in the manner stipulated by National Housing Bank;
 - (d) the credit rating for deposits i.e _____ (mention the rating) assigned by the credit rating agency viz., _____ (name of the agency) on _____(the date) is in force and the aggregate amount of deposits outstanding as at any point during the year has exceeded the limit specified by the rating agency;
 - (e) the housing finance company has defaulted in paying to its depositors the interest and/or principal amounts of deposits after such interest and/or principal became due;
 - (f) in case of opening of new branches or offices for acceptance of public deposits or closure of branches or offices, the housing finance company has complied with the relevant provisions of these Directions.
- (viii) where the housing finance company is not accepting/ holding public deposits – whether
- (a) the Board of Directors has passed a resolution for non-acceptance of any public deposits;
 - (b) the company has accepted any public deposits during the relevant period/ year;
 - (c) the company has complied with prudential norms.

Reasons to be stated for unfavourable or qualified statement

35. Where, in the auditor's report, the statement regarding any of the items referred to in paragraph 34 above is unfavourable or qualified, the auditor's report shall also state the reasons for such unfavourable or qualified statement, as the case may be. Where the auditor is unable to express any opinion on any of the items referred to in paragraph 34 above, the auditor's report shall indicate such fact together with reasons therefor.

Obligation of auditor to report to the National Housing Bank

36. Where, in the case of a housing finance company, the statement regarding any of the items referred to in paragraph 34 above is unfavourable or qualified or in the opinion of the auditor the company has not complied with the provisions of these Directions or the provisions of chapter V of the National Housing Bank Act, 1987, it shall be the obligation of the auditor to make a report containing the details of such unfavourable or qualified statements and/or about the non-compliance, as the case may be, in respect of the company to head office of the National Housing Bank at New Delhi.

CHAPTER V – MISCELLANEOUS

⁴¹[Opening of Branches/Offices

37.(1) A housing finance company shall, before opening a branch or an office in India, inform the National Housing Bank in writing of its intention to open a branch or an office.

(2) No housing finance company shall open a branch outside India.

(3) No housing finance company shall open a representative office outside India without obtaining prior approval in writing from the National Housing Bank

The application from HFC seeking approval would be considered keeping in view the Non-Banking Financial Companies (Opening of Branch/Subsidiary/Joint Venture / Representative Office or Undertaking Investment Abroad by NBFCs) Directions, 2011, dated June 14, 2011, issued by the Reserve Bank of India and shall be subject to the following:-

- (i) The representative office can be set up outside India for the purpose of liaison work, undertaking market study and research but not undertaking any activity which involves outlay of funds, provided it is subject to regulation by a regulator in the host country. As it is not envisaged that such office would be carrying on any activity other than liaison work, no line of credit should be extended.
- (ii) The HFC shall obtain periodical reports about the business undertaken by the representative office outside India. If the representative office has not undertaken any activity or such reports are not forthcoming, the approvals given for the purpose shall be reviewed / recalled.]

Loans against HFC's own shares prohibited

38. (1) No housing finance company shall lend against its own shares.

(2) Any outstanding loan granted by a housing finance company against its own shares on the date of commencement of these directions shall be recovered by the housing finance company as per the repayment schedule.

⁴²[Loans for purchase of gold etc. prohibited

38A. No housing finance company shall grant any loan or advance:

- a. against bullion / primary gold and gold coins; and

⁴¹ Substituted vide Notification No. NHB.HFC.DIR.7/CMD/2013 dated March 21, 2013

⁴² Inserted vide Notification No. NHB.HFC.DIR.9/CMD/2013 dated September 6, 2013

- b. for purchase of gold in any form including primary gold, gold bullion, gold jewellery, gold coins, units of Exchange traded Funds (ETF) and units of gold mutual fund.]

HFC failing to repay public deposit prohibited from making loans and investments

39. A housing finance company which has failed to repay any public deposit or part thereof in accordance with the terms and conditions of such deposit, as provided in section 36A(1) of the National Housing Bank Act, 1987, shall not grant any loan or other credit facility by whatever name called or make any investment or create any other asset as long as the default exists.

Constitution of Audit Committee

40. A housing finance company having assets of Rs.50 crore and above as per its last audited balance sheet shall constitute an Audit Committee consisting of not less than three non-executive Directors of the Board.

Explanation

The Audit Committee constituted under this paragraph shall have the same powers, functions and duties as laid down in section 292A of the Companies Act, 1956 (1 of 1956).

Accounting year

41. Every housing finance company shall prepare its balance sheet and profit and loss account as on March 31 every year with effect from the accounting year ending on March 31, 2002:

Provided that if the accounting year of any housing finance company ends on any date other than March 31, 2002, such housing finance company shall prepare its balance sheet and profit and loss account for any fraction of the year ending on March 31, 2002.

Copies of balance sheet and accounts together with the Directors' report to be furnished to the National Housing Bank

42. Every housing finance company shall deliver to the National Housing Bank an audited balance sheet as on the last date of each financial year and audited profit and loss account in respect of that year as passed by the housing finance company in General Meeting together with a copy of the report of the Board of Directors laid before the housing finance company in such meeting in terms of Section 217(1) of

the Companies Act, 1956 (1 of 1956) within 15 days of such meeting as also a copy of the report and the notes on accounts furnished by its Auditors.

Auditor's Certificate

43. Every housing finance company holding/accepting public deposits shall furnish to the National Housing Bank, along with the copy of the audited balance sheet as provided under paragraph 42, a copy of the auditor's report to the Board of Directors and a certificate from its auditors to the effect that the full amount of liabilities to the depositors of the company including interest payable thereon 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.

Returns to be submitted to the National Housing Bank

44. (1) Without prejudice to the provisions of paragraph 42, every housing finance company shall submit to the National Housing Bank:

- (i) an annual return furnishing the information specified in Schedule I to these Directions with reference to its position as on 31st March every year and a half yearly return furnishing the information specified in Schedule II to these Directions with reference to its position as on 30th September and 31st March every year
 - (ii) further, housing finance companies accepting/holding public deposits, housing finance companies not accepting/holding public deposits but having an asset size of Rs.100 crore and more, shall submit to the National Housing Bank a quarterly return furnishing the information specified in Schedule III with reference to its position as at the end of every calendar quarter.
- (2) (i) Every housing finance company shall, within one month from the commencement of business, deliver to the National Housing Bank, a written statement containing a list of –
- (a) the names and official designations of its principal officers;
 - (b) the complete postal address, telephone number/s and fax number/s of the registered/ corporate office;
 - (c) the names and office address of the auditors of the company;
 - (d) the names and the residential addresses of the directors of the housing finance company; and
 - (e) the specimen signatures of the officers authorised to sign on behalf of the housing finance company, returns specified in sub-paragraph (1).

- (ii) any change in the list referred to in clause (i) of this sub-paragraph shall be intimated to the National Housing Bank within one month from the occurrence of such change.

Balance-sheet, returns, etc. to be submitted to the office of National Housing Bank at New Delhi

45. Any balance sheets, returns or information required to be submitted or furnished to the National Housing Bank in pursuance of these Directions shall be submitted or furnished to the office of National Housing Bank at New Delhi.

Exemptions

46. The National Housing Bank may, if it considers it necessary for avoiding any hardship or for any other just and sufficient reason, grant extensions of time to comply with or exempt any housing finance company or class of housing finance companies, from all or any of the provisions of these Directions either generally or for any specified period subject to such conditions as the National Housing Bank may impose.

Interpretations

47. For the purpose of giving effect to the provisions of these directions, the National Housing Bank may, if it considers necessary, issue necessary clarifications in respect of any matter covered herein and the interpretation of any provision of these directions given by the National Housing Bank shall be final and binding on all the parties concerned.

Saving of action taken or that may be taken for contravention of the Housing Finance Companies (NHB) Directions, 2001

48. It is hereby clarified that the supersession of the Housing Finance Companies (NHB) Directions, 2001, as amended from time to time, shall not in any way affect:

- (i) any right, obligation or liability acquired, accrued or incurred thereunder;
- (ii) any penalty, forfeiture, or punishment incurred in respect of any contravention committed thereunder;
- (iii) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceedings or remedy may be instituted, continued, or enforced and any such penalty, forfeiture or punishment may be imposed as if those Directions had not been superseded.