BOMBAY CHAMBER
Bombay Chamber
of Commerce & Industry

Bombay Chamber's Representation
at the
Pre-Policy Consultation Meeting on NBFC issues
October16, 2012

- **Securitization Guidelines should be modified with following changes:**

- Credit Enhancement should be permitted for Assignment Transaction.
- MHP should be kept at par at 3 months seasoning irrespective of frequency of installment and same should be permitted based on pool seasoning and not on individual asset level.
- Overall Capital Charge for Securitisation /Assignment Transaction should be capped at prevailing RBI defined capital adequacy requirement inclusive of all first loss, second loss, other charge on enhancement etc.
- Reset of Capital Charge should be permitted as pool run down.
- The pending Income Tax dispute on Securitisation Income for the transactions of a Pass Through Certificate nature.

- **Spread Cap of 8% for qualifying PSL to be removed**

We recommend that spread cap of 8% over Bank Base Rate should be removed , since NBFCs cater to rural and semi urban small and marginal farmer, weaker section of society customer whose cash flow are cyclical , seasonal and also operating cost for serving such customer is very high similar to that of MFI .

- **On lending by Banks to AFCs and HFC to be considered for PSL**

We recommend that AFCs and HFCs borrowing from banks should be considered as PSL subject to underlying loan receivables are lent to PSL category customer.

With introduction of sector cap of 30% by SEBI on Mutual Fund Industry for every investment in financial service sector continuance of this source for funding is critical for sustenance of NBFC-AFCs and HFCs since the corporate debt market is non-existent and the mutual fund industry is stagnant and has almost reached its ceiling in terms of exposure on NBFC sector. As NBFC-AFCs NBFCs cater to rural and semi urban customer segment hence such support will help us to further penetrate and serve such customers.

❖ **Bank Base Rate to be modified based on period**

We recommend that Bank Base Rate should be revised and set based on period and capital allocation matrix instead of same rate across the tenure, such regulation lending rates goes against the principle risk based pricing and also debt market works on annualized basis v/s Bank Base Rate is on monthly basis even existing Bond Market Rate and Bank Base Rate their huge difference in rates of 150 to 300bps based on tenure for example 90 days CP rates are 8.25% v/s Bank Base rate is 10.50%.

❖ **Risk Weighted Assets Ratio**

It is recommended that the risk Weight assigned to productive and real assets such as Commercial Vehicles / Construction Equipments / Tractors / Multi Utility Vehicles and Cars are appropriately reduced to 50% levels considering that the actual underlying risk is low as also to address the growing credit needs of the Transportation Segment in the country.

❖ **Perpetual Debt Instruments**

We recommend that AFCs should be allowed to access the debt market to augment their capital requirements in the form of perpetual debt instruments. This would benefit AFCs substantially in meeting their business growth aspirations, without diluting the equity. RBI in Oct 2008 permitted NBFCs-ND-SI to issue Perpetual Debt Instruments.

❖ **External Commercial Borrowing**

We request that AFCs should be allowed to access the External Commercial Borrowings. This would help diversify the source of borrowing & such long-term borrowings would lend stability to the Asset Liability profile of the AFC.

❖ **Liquidity Maintenance**

We request that AFCs should be allowed to access refinance facility from RBI through call money window or emergency recourse against receivables.

❖ **Core Investment Companies**

- It is understood that Core Investment Companies (CIC-ND-SI) are eligible for bank finance (within the allowed leverage of 2.5 times the Adjusted Net worth). Banks are awaiting clarifications from RBI in this regard.

- As per the current regulations, Bank Finance to NBFCs is not available for investment in Shares and Debentures. It is submitted that non-convertible debentures are straight-forward credit substitutes and should be treated on par with loans and advances to be considered eligible for bank finance.

- At present, access to ECBs & FII-Rupee Debt is restricted to operating project companies and infrastructure finance companies. It is submitted that many project companies and SPVs are unable to attract investors in view of typical project risks and the current risk aversion that is prevalent in the markets. However, the companies sponsoring these projects usually command higher credit rating and are in a position to raise foreign funds for infrastructure. It is therefore strongly recommended that eligibility to avail ECB/ FII-Rupee Debt (Infrastructure-limit) should include other CICs and NBFCs. Since CIC's leverage is regulated, it should be allowed to guarantee an ECB.

- At present, sponsor participation in a project SPV through any form of share capital is considered as a capital market exposure and is not eligible for being financed through ECB. Considering that Lenders and Rating Agencies closely look at risk exposures and overall leverage in a holistic manner, it is suggested that unlisted equity and mezzanine finance structures in the Infrastructure Sector be allowed as an end-use of ECB proceeds.

- RBI's regulations do not permit issuance of NCDs of less than one year and with Call/Put of less than 3 months. In order to provide efficient Short Term Instruments for NBFCs as also to improve monetary transmission of Repo Rate, it is imperative that a market linkage be established between Inter-Bank Rates and Corporate Rates. This can be achieved by allowing NCD issuance with call/ put of, say, not less than one week (to be in sync with CP regulation).

- In the interests of development of efficient and integrated money market and market price based monetary transmission, it is submitted that Banks should be encouraged to introduce separate base rates for short tenure loans.

- NBFCs are required to assign 100% risk weight to all assets (other than specified categories). It is suggested that this requirement be aligned similar to the requirement for banks, permitting lower risk weights for superior rated assets. This would provide an incentive for improvement in asset quality.

- Bank loans to NBFCs attract 100% risk weight irrespective of Credit Rating. It is suggested that this penal disposition be removed and rating based weightage permitted.

- Securitized Paper pertaining to Infrastructure Facility attracts risk weight of 50% subject to certain conditions. It is suggested that this provision be extended to Infrastructure Facility for other instruments as well viz., Term Loans, Debentures etc.

- In view of the special advantages of the Limited Liability Partnership (LLP) structure as a SPV for domiciling of Infrastructure Projects, it is suggested that RBI should consider registered LLPs in addition to companies under Companies Act for the purpose of reckoning 90% of investment in Group Companies by CICs.

- At present NBFCs are allowed to transact in currency futures market only for hedging specific risks. This restriction is not present for any other entity. Individuals and all types of corporate bodies can deal freely in this market. In the light of increasing global linkages, need for integrated approach in management including management of indirect risks within the group entities, NBFCs and CICs should be allowed to transact in currency futures market subject to an internal risk management framework.

- The Income-tax Act allows Banks and FIs a deduction of 7.5% of total income for provision of Bad and Doubtful Debts made in accordance with RBI regulation. It is suggested that RBI recommends similar treatment for NBFCs.

- Since G-secs carry nil risk weight, and as they are considered as efficient in managing structural liquidity, RBI is requested to exclude G-Secs from Net Asset Calculation as is provided for CICs for Money Market instruments. CICs should also be allowed to participate in CBLO and Repo markets.

❖ **Fair Value:**

The definition of "Fair Value" as per the NBFC Prudential Norms is restrictive. It is suggested that fair value may also include valuation as arrived by an Independent valuer such as Category I Merchant Banker registered with SEBI or an Independent Chartered Accountant.

❖ **Owned Funds:**

It is suggested that the definition of "Owned Funds" as per the Prudential Norms should include Bonds and Debentures that are compulsorily convertible into equity shares within a specified period.

❖ **Overseas Investments by CICs:**

The Draft directions for Overseas Investment by CICs require approval for all investments irrespective of target sector. This needs to be aligned to the extant guidelines on ODI. Investments by CICs are also proposed to be restricted to fund based commitments only. Given that Promoter support by way of guarantee may be warranted from time to time, flexibility to provide the same within overall limit needs to be introduced.

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