

Reserve Bank of India ('RBI') notifies regulatory restrictions on Non-Banking Financial Companies ('NBFC') in respect of loans and advances

Background

In October 2021, RBI introduced scale-based regulations (SBR), which apply to NBFCs in proportion of their size, activity, and risk profile. Certain regulatory restrictions on loans and advances to directors/their relatives/senior officers were placed then. W.e.f. 1 October 2022, a newly notified distinct set of regulations will govern the provisions of such loans and advances depending upon the layer of the NBFC.

Regulatory restrictions on loans and advances

A. Guidelines applicable to NBFC - Middle Layer (ML) and NBFC - Upper Layer (UL)

1. Loans to directors/relatives aggregating to INR 5 crore* and above

W.e.f. 1 October 2022, an NBFC-ML and NBFC-UL will be allowed to grant loans/advances to the following persons only with the prior sanction of its Board of Directors (BOD) / Committee of Directors

- a. Directors (including the Chairman / Managing Director) and relatives of the directors
- b. Firms and companies in which directors/relatives are partners / directors / major shareholders, managers, employees, guarantors.

2. Loans to senior officers of the NBFC

- a. Granting of loans to senior officers of NBFC shall be reported to the BOD
- b. If the loan/credit facility is to be disbursed to a relative of such senior officer, it should be ensured that the committee comprising the concerned senior officer does not sanction the same. In such a case, the next highest sanctioning authority will sanction the facility under the delegation of powers.

For loans/advances to directors/relatives/senior officers aggregating to INR 5 crore, the NBFC has to obtain a declaration from the borrower about the relation of the borrower with NBFC. The NBFC can recall the loan if it is found that the borrower has given a false declaration.

3. Loans to real estate sector

Real estate sector is considered as a sensitive sector. NBFCs can sanction loans to the real estate sector in their usual course, but the disbursement of loans must be made only if the borrower has obtained prior permission from government/ local government/ other statutory authorities for the project, wherever required.

B. Guidelines applicable to NBFC - Base Layer (BL)

NBFCs shall have a Board-approved policy on grant of loans to directors, senior officers and relatives of directors and to entities where directors or their relatives have a major shareholding. Such policy shall include a threshold beyond which loans to the above-mentioned persons shall be reported to the Board. Further, NBFCs shall disclose in their annual financial statement, the aggregate amount of such sanctioned loans and advances (as per template provided in the appendix to the notification.)

Weblink <https://rbidocs.rbi.org.in/rdocs/notification/PDFs/NOTI2987E2C200D1474DE2B85DE2A74B9EC579.PDF>

Therefore

To increase accountability, and responsible governance, RBI has introduced scale-based regulations for NBFCs. It aims to bring the norms of NBFCs at par with banks in a step-by-step manner and in proportion to the NBFC's risk profile. The SBR intend to continue with the 'light-touch regulation.' The focus is not to burden such entities with a higher level of prudential regulations but increase transparency by way of additional disclosures and improved governance standards.

*1 crore = 10 million

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