

# FIDC

## Finance Industry Development Council

*(A body incorporated as a Self Regulatory Organisation for Registered NBFCs)*  
101/103, Sunflower, 1<sup>st</sup> Floor, Rajawadi Road No.2, Ghatkopar (East), Mumbai – 400 077

Tel: [02221027324](tel:02221027324)/[9820035553](tel:9820035553); E-mail:[maheshthakkar45@yahoo.in](mailto:maheshthakkar45@yahoo.in); website:[www.fidcindia.org](http://www.fidcindia.org)

May 18, 2016

The Secretary  
Department of Financial Services  
Ministry of Finance  
Government of India  
New Delhi.

Email: [bo2@nic.in](mailto:bo2@nic.in), [sudhir.s@nic.in](mailto:sudhir.s@nic.in), [ssaksena@nic.in](mailto:ssaksena@nic.in).

**SUB: Representation on "Banning of Unregulated Deposit Schemes and Protection of Depositors' Interests Bill, 2015"**

Sir,

This is with reference to the “Banning of Unregulated Deposit Schemes and Protection of Depositors’ Interests Bill, 2015” – a draft of which has been circulated for public comments.

It is observed that the objective of the said Bill is to protect the interest of depositors by providing a comprehensive code to ban unregulated deposit schemes by deposit taking establishments.

The Bill provides that Deposit Taking Establishments are permitted to borrow as “Regulated Deposit Schemes”.

The definition of a Deposit Taking Establishment as proposed in the Bill includes all business entities / individuals, excluding a Bank. Hence, Non Banking Finance Companies (NBFCs) which are currently registered and governed by the Reserve Bank of India are also covered within the purview of Deposit Taking Establishments.

***NBFCs should also be excluded from the provisions of this Bill on par with Banks***

NBFCs are entities regulated and registered with the Reserve Bank of India.

Currently NBFCs are fully under the supervision of RBI and adequate monitoring is being done by RBI. RBI also conducts periodic inspection on NBFCs and they are also required to submit periodical returns to RBI.

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Further, all the moneys borrowed by an NBFC are all fully secured. As per the regulatory framework of RBI under which NBFCs are functioning, the NBFCs are required to create a full security over all their borrowings. Independent trustees are required to be appointed to monitor the level of security and to monitor and ensure repayment of the deposits / debentures. Further, the NBFCs are required to maintain a 15% SLR which is kept in the form of government securities. NBFCs are also required to adhere to the requirements of creating Debenture Redemption Reserve (DRR) in order to meet the redemption requirement of secured debentures. Hence, today all forms of deposit acceptance / debenture issuance by an NBFC from the public is only in the way of a secured borrowing.

In such a scenario, it is extremely onerous on the part of such NBFCs to again be subject to the supervision and control of another regulator “Competent Authority” as is being proposed under the Bill. Further, a reading of the Bill indicates that such Competent Authority is to be appointed by each State Government for activities in that State. Hence this would mean that an NBFC which has operations in several states will have to again be subjected to supervision / control by the Competent Authority in each State. This would increase the costs and management bandwidth of such NBFCs in each State. On a reading of the Bill it is also not clear if the Competent Authority to be appointed by the State Government would be a single authority for the entire State or whether it would be district wise – as the Bill refers to officers not below the rank of District Magistrate being eligible for being appointed as Competent Authority. If this would result in a district wise appointment, then, the NBFCs would be under significant pressure to comply with the requirements and mandates of each Competent Authority.

Though the objective of the Bill is to protect the interest of depositors, it may be noted that in the case of NBFCs registered with RBI, adequate depositor protection measures are already in force. The proposal in the Bill with regard to making NBFCs come under the supervision of the Competent Authority in each State may not serve the purpose as it may only lead to additional paperwork and harassment at the local level.

Considering that NBFCs are fully compliant with the RBI regulations which mandates that all deposits / debentures borrowed by NBFCs be fully secured, it is suggested that all NBFCs which are registered with the RBI be excluded from the definition of “Deposit Taking Establishment” at par with banking companies.

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The Bill may provide that such NBFCs could file a copy of the returns being filed by them with RBI periodically to each State Government and this could be treated as sufficient compliance under the Bill.

We trust that the above submission would receive your favourable consideration.

Thanking you,

Yours faithfully,

**For FINANCE INDUSTRY DEVELOPMENT COUNCIL**

**MAHESH THAKAKR**  
**Director General**