FIDC

Finance Industry Development Council

(A body incorporated as a Self Regulatory Organisation for Registered NBFCs –AFCs)
101/103, Sunflower, 1st Floor, Rajawadi Road No.2, Ghatkopar (East), Mumbai – 400 077 (India)
Tel: 022 21027324/9820035553 ● E-mail:maheshthakkar45@yahoo.inwebsite: www.fidcindia.org

September 08, 2016

Shri Arun Jaitley
Minister of Finance
Government of India
North Block
New Delhi 110 001

Hon'ble Finance Minister Sir,

Re: **Notification Extending Coverage to NBFCs under the SARFAESI Act- Request to Delete the Requirement of Minimum Loan Ticket Size of Rs 1crore**

At the outset we convey our sincere thanks to you for having accepted our demand in extending the coverage of SRFAESI Act to NBFCs having asset base of Rs 500cr and above, as announcedin your budget speech for the Union Budget 2015-16, last year.

Finance Industry Development Council (FIDC) is a Self-Regulatory Organization (SRO) cum Representative Body of the NBFCs, registered with the Reserve Bank of India and engaged in Asset Financing. FIDC was formed 12 years ago, and is the recognized face of NBFCs, specially, those engaged in asset financing. We have been engaged in regular interactions both with Reserve Bank of India and Govt. of India, which include pre-budget meetings and also important policy related meetings with RBI. Almost all the leading NBFCs and a large number of small and medium sized NBFCs are our members.

NBFC Sector

- As per the Financial Stability Report (FSR) dated June 2016:
  - Asset quality of NBFCs improved during the year 2015-16 and is better than the banks
  - The performance of the NBFC sector in terms of RoE and RoA is much better as compared to that of banks
  - NBFCs can support the drive towards promoting inclusive growth by catering to diverse financial needs, specially of MSMEs and individuals.
- NBFCs have mastered the art of lending to the "unbanked" segment thereby furthering the Government's agenda on financial inclusion for the last seventy years now.
- NBFCs have been the pioneers in asset backed retail lending thereby playing an instrumental role in the development of important sectors like transport , infrastructure and SMEs/ MSMEs
- Recent studies done by credit rating agencies show that few of the leading NBFCs have overtaken some of the scheduled commercial banks in terms of their balance sheet size
- In spite of the fact that bank funding is one of the major sources of funds for NBFCs, none of

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the NBFCs have defaulted in meeting their liabilities towards the banks in the recent past

- NBFCs have a regulation history of more than 19 years and all the key parameters of our activities are well regulated, almost at par with banks
- 100% FDI is permitted in the NBFC sector which has projected this as an important attraction for FDI investment
- The report of the RBI Committee on Mid Term Path on Financial Inclusion has recommended building of strong linkages between banks and NBFCs

Rider of Minimum Ticket Size of Rs 1crore Added to Enforce the Security Interest under the ACT

It was after a long wait of 15months that the notification giving effect to the budget announcement made by your goodself was issued on 5th August, 2016. A clause has been added in the notification, whereby sections 13 to 19 of the SARFAESI Act, which cater to the "enforcement of security interest", shall be applicable only in cases where the minimum ticket size of lending is Rs 1crore.

This has come as a big surprise to the NBFC sector.

The Underlying Need to Bring Parity with Banks, Housing Finance Companies (HFCs) and Other Financial Institutions (FIs) is not Fully Addressed

The prime objective of giving NBFCs coverage under the SARFAESI Act was to bring parity with banks, HFCs and other FIs, and providing NBFCs with an all important tool of recovery. This has been done in the light of the Revised Regulatory Framework for NBFCs, issued by RBI which is aimed to "address regulatory gaps and arbitrage arising from differential regulations, both within the NBFC sector as well as vis a vis other financial institutions". As a result, the Asset Classification (NPA classification norms) were brought at par with banks.

However, the above said rider of Rs 1crore does not fully justify the objective of bringing parity, since no such clause exists for banks, HFCs and other FIs.

Size of the Loan should not be the Criteria

As per the Prudential Norms for Asset Classification (NPA Classification) for banks, HFCs and NBFCs, it is the duration of the overdue period of a loan,and not the ticket size, which determines whether the loan (Asset) is to be classified as "nonperforming" or not. It is therefore, imprudent and unjustified to make the ticket size of the loan as a determining factor for use of tools of recovery of that particular loan.

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The Deterrence Factor Gets Diluted

In addition to enable Financial Institutions make recoveries, such recovery tools play a very important role of being a “deterrent to default”. The above said rider of minimum ticket size of Rs1crore, dilutes the deterrence factor of an important recovery tool like the SARFAESI Act.

NBFCs Strictly Follow the Code of Fair Business Practices

Based on the model Code prescribed by RBI, All NBFCs have drafted and strictly enforced a Code of Fair Business Practices, duly ratified by their Board of Directors. The code includes ethical practices to be followed in the recovery processes to prevent any undue harassment. In addition to this, playing the role of a responsible Self Regulatory Organization (SRO), FIDC had prepared the “FIDC Handbook on Repossession” in 2009, which is a one of its kind document, spelling the Dos and Donts of Repossession, and the same is being followed by our members.

Suggestion

1. *Based on the facts explained above we hereby request you to kindly do full justice by bringing complete parity with banks, housing finance companies and FIs in matters relating to recovery.*

2. *For this , kindly delete the following words from the Notification dated 5th August 2016:*
   “…….with the exception that the provisions of Sections 13-19 shall apply only to such security interest which is obtained for securing repayment of secured debt with principal amount of Rs 1crore and above”

We hope that the above said issue and our suggestion thereon shall be considered favorably.
Assuring you of our full co-operation always and thanking you in anticipation

With Warm Regards
For **FINANCE INDUSTRY DEVELOPMENT COUNCIL**

Raman Aggarwal
Chairman
Mobile: 9810016667