



भारतीय रिज़र्व बैंक
RESERVE BANK OF INDIA
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RBI/2012-2013/140

DNBS (PD) CC. No. 297 / Factor / 22.10.91/ 2012-13

July 23, 2012

All NBFCs

Dear Sir,

The Non-Banking Financial Company –Factors (Reserve Bank) Directions, 2012

The Central Government has notified the Factoring Regulation Act, 2011 on January 22, 2012. The Act aims to regulate Factors and assignment of receivables in favour of Factors, as also delineate the rights and obligations of parties to assignment of receivables.

2. Under the Act, factoring companies other than banks, Government companies etc. (as provided in Section 5 of the Act) would be registered with the Reserve Bank as NBFCs and would be subject to prudential regulations by the Reserve Bank. In accordance with the above, it has been decided to introduce a new category of NBFCs viz; Non-Banking Financial Company–Factors and issue separate Directions to them.

3. A copy of the above Directions issued vide Notification.No.247/CGM (US) 2012 of date is enclosed for meticulous compliance.

Yours sincerely,

(Uma Subramaniam)
Chief General Manager-in-Charge
Encl: As above

**Reserve Bank of India
Department of Non-Banking Supervision
Central Office,
World Trade Centre, Centre-1
Cuffe Parade, Colaba
Mumbai**

Notification DNBS. PD.No. 247 /CGM(US)-2012, dated July 23, 2012

The Reserve Bank of India, having considered it necessary in the public interest, and being satisfied that, for the purpose of enabling the Reserve Bank to regulate the financial system to the advantage of the country and to prevent the affairs of any Non-Banking Financial Company –Factor (NBFC-Factor) from being conducted in a manner detrimental to the interest of investors or in any manner prejudicial to the interest of such NBFC–Factors, and in exercise of the powers conferred under section 3 of the Factoring Regulation Act, 2011, hereby issues to every NBFC–Factor, the Directions hereinafter specified.

Short title and commencement

1. (i) These Directions shall be known as ‘Non-Banking Financial Company –Factor (Reserve Bank) Directions, 2012’.

(ii) They shall come into force with immediate effect and any reference in these Directions to the date of commencement thereof shall be deemed to be a reference to the date of the Directions.

2. Applicability of the Directions

The provisions of these Directions shall apply to every Non-Banking Financial Company – Factor registered with the Reserve Bank of India under Section 3 of the Factoring Regulation Act, 2011.

3. Definitions

- (i) "Act" means the Factoring Regulation Act, 2011;
- (ii) "Bank" means the Reserve Bank of India constituted under Section 3 of the Reserve Bank of India Act, 1934;
- (iii) "Non-Banking Financial Company – Factor (NBFC-Factor)" means a non-banking financial company as defined in clause (f) of section 45-I of the RBI Act, 1934 which has its principal business as defined in para 6 of these directions and has been granted a certificate of registration under sub-section (1) of section 3 of the Act;
- (iv) Company means a company registered under Section 3 of the Companies Act, 1956;
- (v) Words or expressions used but not defined herein and defined in the Act shall have the same meaning as assigned to them in the Act. Any other words or expressions not defined in that Act shall have the same meaning as assigned to them in the RBI Act, 1934.

4. Registration and Matters Incidental Thereto

- (i) Every company intending to undertake factoring business shall make an application for grant of certificate of registration(CoR) as NBFC-factor to the Bank as provided under Section 3 of the Act;
- (ii) Existing NBFCs that satisfy all the conditions enumerated in these Directions may approach the Regional Office where it is registered, along with the original CoR issued by the Bank for change in their classification as NBFC-Factor within six months from the date of this notification. Their request must

- be supported by their Statutory Auditor's certificate indicating the asset and income pattern;
- (iii) An entity not registered with the Bank may conduct the business of factoring if it is an entity mentioned in Section 5 of the Act i.e. a bank or any corporation established under an Act of Parliament or State Legislature, or a Government Company as defined under section 617 of the Companies Act, 1956.
 - (iv) A new company that is granted CoR by the Bank as NBFC-Factor, shall commence business within six months from the date of grant of CoR by the Bank.

5. Net Owned Fund

- i. Every company seeking registration as NBFC-Factor shall have a minimum Net Owned Fund (NOF) of Rs. 5 crore.
- ii. Existing companies seeking registration as NBFC-Factor but do not fulfil the NOF criterion of Rs. 5 crore may approach the Bank for time to comply with the requirement.

6. Principal Business

- (i) An NBFC-Factor shall ensure that its financial assets in the factoring business constitute at least 75 percent of its total assets and its income derived from factoring business is not less than 75 percent of its gross income;
- (ii) An existing NBFC registered with the Bank and conducting factoring business that constitute less than 75 percent of total assets / income shall have to submit to the Bank within six months from the date of this notification, a letter of its intention either to become a Factor or to unwind the business totally, and a road map to this effect. However such NBFCs shall raise the asset/income percentage as required at 6(i) above or unwind the factoring business within a period of 2 years from the date of this notification. They will be granted CoR as NBFC-Factors only after they reach the required asset / income percentage.

7. Conduct of Business

The NBFC-Factors shall conduct the business of factoring in accordance with the Act and the rules and regulations framed under the Act from time to time.

8. Prudential Norms

The provisions of Non-Banking Financial (Non-deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2007 or Non-Banking Financial (Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2007, as the case may be and as applicable to a loan company shall apply to an NBFC-Factor.

9. Submission of Returns

The submission of returns to the Reserve Bank will be as specified presently in the case of registered NBFCs.

10. Export / Import Factoring

Foreign Exchange Department (FED) of the Reserve Bank gives authorization to Factors under FEMA, 1999. Therefore, NBFC-Factors, intending to deal in forex through export/import factoring, should make an application to FED for necessary authorization under FEMA, 1999 to deal in forex and adhere to the terms and conditions prescribed by FED and all the relevant provisions of the FEMA or Rules, Regulations, Notifications, Directions or Orders made thereunder from time to time.

11. Miscellaneous

- i. In terms of paragraph 15 of the Non-Banking Financial (Non-Deposit accepting or holding) Companies Prudential Norms (Reserve Bank) directions, 2007 and Non-Banking Financial (Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2007 all NBFCs are required to submit Statutory Auditors' Certificate with reference to the position of the company as at the end of the financial year ended March 31 every year. For an NBFC-Factor, such Certificate will indicate the requirement of holding the certificate under section 3 of the Factoring Act. The certificate will also indicate the percentage of factoring assets and income, the compliance that it fulfils all conditions stipulated under the Act to be classified as an NBFC-Factor and compliance to minimum capitalization norms, if FDI has been received.
- ii. Non-compliance to the provisions of these Directions shall invite penal action under the Act.

Yours sincerely

(Uma Subramaniam)
Chief General Manager-in-Charge