

# FIDC

## Finance Industry Development Council

(A Representative Body of NBFCs in India)

101/103, Sunflower, 1<sup>st</sup> Floor, Rajawadi Road No.2, Ghatkopar (East), Mumbai – 400 077

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[www.fidcindia.org.in](http://www.fidcindia.org.in)



12<sup>th</sup> August 2024

**Shri Pankaj Sharma,  
Joint Secretary,  
Department of Financial Services  
Ministry of Finance, Govt. of India  
JeevanDeep Building. Sansad Marg  
New Delhi – 110 001**

Respected Sir,

**SUB: NBFCs are Constrained to Depend on Indirect Means for Recovery of their Dues**

**Role of NBFCs**

As per a recent report by State Bank of India, NBFC sector in India has grown to be the 3<sup>rd</sup> largest in the world after USA and UK. The NBFC credit to GDP ratio is around 13% and the sector has grown to around 20% of the banking sector assets. Financing of MSMEs by NBFCs has grown 3 times more than that by banks. NBFCs have pioneered the art of funding the unbanked / under banked segment of the society and are today recognized to be the major players in financing small businesses thereby furthering the Govt's agenda on financial inclusion.

**Harmonization of Regulations for NBFCs with that for Banks and FIs by RBI – Need for Commensurate Harmonization in Provisions Related to Recovery**

RBI has harmonized the regulation of NBFCs with that for banks and FIs, especially, the prudential norms on income recognition, asset classification and provisioning. However, this harmonization has only resulted in making the regulations “more stringent”. Commensurate harmonization in provisions relating to Recovery and Taxation are still pending for long.

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Unfortunately, when it comes to recovery of our dues, NBFCs today do not have any direct recovery tool available to them like access to debt recovery tribunals and even though SARFAESI Act was amended to include NBFCs, but enforcing security under SARFAESI is restricted due to a minimum threshold limit prescribed.

### **Loan Amount Threshold for Enforcing Security Interest under The SARFAESI Act to be Reduced from 20 Lakhs to Rs. 1 Lakh for NBFCs**

NBFCs have faced challenges due to this limit being set at Rs. 20 lakhs as it takes abnormally longer time for resolution of stressed account in absence of SARFAESI which goes as high as 5 years which not only increases the number of stressed accounts on NBFCs balance sheet but also increases the legal and litigation cost of NBFCs. This cost gets unnecessarily loaded on the good MSME borrowers which are standard and making timely servicing.

The RBI has vide its notification dated November 12, 2021 implemented a key change of recognising delinquencies on a daily basis instead of on a monthly basis, irrespective of the loan size. This would have a significant impact on the level of systemic NPAs reported by the NBFCs. The recognition norms are thus harmonised across banks and NBFCs. Provision of speedier and effective recovery mechanism in the form of SARFAESI Act is critical to manage this additional burden.

It may be relevant to mention here that the average size of loans sanctioned by NBFCs is far lower at about Rs 5 lakhs, implying that most of the customers of NBFCs are out of the present threshold of Rs 20 lakhs. This effectively places the NBFCs at a disadvantage by preventing NBFCs from usage of a legally valid recovery tool available to banks, creating a piquant situation that in respect of the same customer a bank may resort to the provisions of the SARFAESI Act, while an NBFC cannot. There would be another dichotomy in the case of co-lending and it is not clear as to whether the participating bank can invoke the SARFAESI Act for its own share but the partner NBFC is not permitted to do so.

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NBFCs are also subject to a fair practice code and other safeguards to prevent misuse of such provisions to harass customers. NBFC ombudsmen have also been appointed to address any customer grievance in this matter, thus minimising risk of recalcitration.

***Request:***

**Since NBFCs do not have any effective tool available at their disposal for direct recovery of their dues, as explained above, they are constrained to depend on filing cheque bouncing cases u/s 138 of The Negotiable Instruments Act.**

**In view of the above submissions, the said threshold should be reduced from Rs. 20 lakhs to Rs. 1 lakh in order to bring NBFCs at par with HFCs, Banks, SFBs and other financial institutions. The same was also recommended by the Expert Committee on MSMEs setup by RBI under the Chairmanship of Sh. U.K. Sinha.**

***We look forward to positive consideration of our submissions and shall be happy to provide any other information / clarification on the abovesaid concerns.***

Thanking you,

Yours Faithfully,

For **FINANCE INDUSTRY DEVELOPMENT COUNCIL**

**MAHESH THAKKAR  
DIRECTOR GENERAL  
9820035553**