

FIDC

Finance Industry Development Council

(A body incorporated as a Self Regulatory Organization for Registered NBFCs)

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

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December 07, 2017

Mr. Sathyan David

Chief General Manager

Department of Non-Banking Supervision

Reserve Bank of India

World Trade Center

Colaba

Mumbai

Dear Sir,

Reg: Leasing & Hire Purchase of Movable Assets and Financing of Second Hand Assets are Part of Asset Financing – Request For Clarification

We would like to draw your kind attention to the fact that some of our member NBFCs have reported that RBI officials at the regional level are refusing to treat Lease of new assets and Financing of Second Hand (used) Assets as Asset Financing. In this regard we would like to state the following:

1. Financial Lease & Hire Purchase are Favored Modes of Asset Financing by NBFCs

NBFCs have been engaged in financing of tangible movable assets like automobiles, earth moving equipment etc through hire purchase and leasing mode since many years. However, in 2001, Service tax was imposed on lease rentals/ hire purchase installments. This was in addition to the prevailing levy of VAT. This led to Lease & Hire Purchase being an unviable mode as compare to loans against hypothecation.

Accepting the demand of the NBFC sector RBI vide Circular DNBS.PD.CC No.85/03.02.089/2006-07 dated 6th December 2006 had introduced the category of Asset Financing NBFCs (NBFC-AFC) as a substitute to the category of Equipment Leasing (EL) & Hire Purchase (HP) NBFCs.

Post 01st July 2017, with the introduction of GST, the issue of dual taxation on Lease & Hire Purchase has been addressed. This has resulted in some of the NBFCs restarting financing of movable assets through Financial Lease & Hire Purchase. The key advantage of doing a

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Financial Lease or a Hire Purchase is retaining the title of ownership of the asset during the entire tenure of the transaction.

However, some of the RBI officials at the regional level are refusing to treat financing of movable assets by way of Financial Lease as Asset Financing, which is imprudent and not in line with the spirit of the above said RBI circular dated 6th December 2006.

Request

We therefore, request you to kindly clarify that financial leasing of movable assets like earthmoving equipment, automobiles, tractors etc are part of asset financing and should therefore be included in the total pool of assets arising out of Asset Financing for the purpose of classification of a NBFC as Asset Financing Company.

2. Financing of Second Hand Assets is also part of Asset Financing

It is a well-known and established fact that NBFCs were the originators and are the pioneers in financing of second hand (used) assets like vehicles, earthmoving equipment etc. Majority of the large number of small & medium NBFCs and some of the leading NBFCs are primarily engaged in this activity as their principal business.

India has a big and vibrant market for second hand vehicles and earthmoving equipment. Financing of these assets by NBFCs have played an important role in the overall growth of transport and infrastructure sectors over the past many years. Further, even during the global economic crisis in 2008 it was this activity which not only sustained the NBFC sector but also enabled growth in the prevailing adverse scenario.

However, some of the RBI officials at the regional level are not treating Financing of Second Hand Assets as part of Asset Financing which again is unjustifiable, imprudent and against the letter and spirit of the above said RBI circular dated 6th December 2006.

Para 4 (ii) of the circular states “AFC would be defined as any company which is a financial institution carrying on as its principal business the financing of physical assets supporting productive/ economic activity, such as automobiles, tractors, lathe machines, generator sets, earth moving and material handing equipment, moving on own power and general purpose industrial machines.....”. Clearly there is no distinction made between new and second-hand assets

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Request

We therefore, request you to kindly clarify that financing of second hand (used) assets is very much part of Asset Financing as defined in the RBI circular dated 6th December 2006

We look forward to receiving a positive reply from your end. Assuring of you of our full cooperation always and thanking in you in anticipation.

Yours Faithfully

For Finance Industry Development Council



Raman Aggarwal

Chairman

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