

Permitted Businesses for an NBFC:

An interpretation of Clause c of Section 45-I of RBI Act, 1934 indicates that an NBFC can undertake wholly or as part of their business, any of the following activities listed below:

- a. Finance, extend loans or advances for any activity other than its own
- b. Invest in Government securities or Marketable Securities
- c. Undertake Leasing or hire purchase activity as defined in Section 2(c) of Hire Purchase Act, 1972
- d. Undertake insurance business
- e. Manage, conduct or supervise as foreman, agent or in any other capacity, chits or kuries as defined in any State law in force
- f. Collect for any purpose or under any scheme/ arrangement by whatever name called, monies in lump sum or otherwise, by way of subscriptions or by sale of units, or other instruments or in any other manner and awarding prizes or gifts, whether in cash or kind, or disbursing monies in any other way, to persons from whom monies are collected or to any other person.

Prohibited activities for an NBFC

Clause c of Section 45-I of Act also indicates that the following businesses cannot be carried on as principal business:

- a. agricultural operations; or
- b. industrial activity; or
- c. purchase or sale of any goods (excluding Marketable Securities); or
- d. the providing of any services; or the purchase, construction or sale of immovable property .

Unlike Section 6(2) of Banking Regulation Act, 1949 which restricts activities other than those stipulated in Section 6(1), as being prohibited activities for a Banking Company, there are no such prohibitions stipulated for NBFCs in the RBI Act, 1934. The prohibition indicated above is only for conducting these activities as 'principal business' or for fulfilling the 'Principal business criterion' but not a prohibition per se. Certain businesses like Chit funds, insurance business etc have already been hived off the RBI regulations ambit, whereas activities like factoring, securitization etc have been included as NBFC activities. The regulator has also prescribed various products and services that NBFCs can offer which have not been incorporated in RBI Act, 1934. It is therefore reckoned by RBI that it is time for revisiting these definitions and amending

the RBI Act, 1934 to suit the current needs and changing scenario based on the ambit of operations of NBFCs.

We may however not see a prohibitive list for NBFCs, given that the regulator believes that whether a Company proposes to be in financial sector or in any other sector is the discretion of the Board, its management and its stakeholders. However if they crossover to the financial sector as their principal business or accept public deposits, they pose serious risk to the financial markets and economy; and hence need to be regulated by RBI. The spirit of regulations need to be upheld and the onus lies on the NBFCs and the regulator. Non Banking Institutions other than Companies however have a defined role to play in the financial sector.