

**By Registered Post**

NHB(ND)/DRS/**POL-No.04**/2004-05  
September 06, 2004.



राष्ट्रीय  
आवास बैंक  
NATIONAL  
HOUSING BANK

**All Registered Housing Finance Companies (HFCs)**

Dear Sir,

**Contravention of regulatory requirements by HFCs –  
Guidelines for levying penalty.**

As you are aware, the provisions of the National Housing Bank Act, 1987 and the Housing Finance Companies (NHB) Directions framed thereunder are to be strictly observed by the HFCs and their compliance ensured. It is, however, observed during the off-site surveillance and on site supervision, that some of the HFCs are not paying adequate attention to this mandatory compliance and continue to contravene the provisions of both National Housing Bank Act and Directions. Housing Finance Companies are advised to ensure compliance with these provisions and prevent recurrence of any contraventions.

In this context, attention of the HFCs is also invited to Section 52A of the Act *ibid* in accordance with which NHB is empowered to impose penalty on a housing finance company for any contravention of the Act or the Directions made thereunder. It has been decided by the Bank that these penal provisions for non-compliance shall become effective from October 1, 2004.

The penalty for such contraventions in respect of various regulatory norms is given in the Annexure. The guidelines for levying penalty shall be as under:

- a) A show-cause notice will be issued by NHB to the company concerned clearly specifying the nature of contravention and the penalty payable by the company within the reasonable time period not exceeding twenty one days from the date of issue of letter and seeking reasons for non-compliance with the regulatory requirement.

भारतीय रिज़र्व बैंक के संपूर्ण स्वामित्व में  
कोर-5-ए, तृतीय तल, इंडिया हैबिटाट सेंटर, लोधी रोड, नई दिल्ली-110003  
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- b) Once a decision is taken by NHB to levy the penalty, a notice demanding penalty shall be issued to the Company concerned allowing time of thirty days for paying the penalty.
- c) In the event of the company not furnishing a reply to the show cause notice issued, within five working days after the stipulated time, a notice demanding penalty shall be issued to the company by the NHB.
- d) If the company fails to pay the penalty within the prescribed period stipulated in the demand notice, one more opportunity will be given by issuing reminder giving seven more days for the company to pay the penalty. In the event of failure of payment, the penalty will be levied on a direction made by a principal civil court having jurisdiction of the area where the Registered or the Head Office of the company is situated.

Please acknowledge receipt.



Assistant General Manager  
Department of Regulation & Supervision

Encl: a/a

**PENALTY FOR CONTRAVENTION OF VARIOUS REGULATORY REQUIREMENTS****A. Provisions relating to the National Housing Bank Act, 1987**

| (1)<br>Nature of contravention to regulatory requirement                                | (2)<br>Penalty  | (3)<br>Penalty under section |
|---|---|------------------------------|
| 1. For shortfall in maintenance of liquid assets as a percentage to public deposits.    | Penalty as specified in the Act.  | 29B(4)                       |
| 2. Not creating reserve fund in terms of section 29C of the Act                         | Penalty not exceeding rupees five thousand, each time the lapse occurs, shall be levied.  | 52A(1) (a)                   |
| 3. Appropriation of reserve fund and not reporting to NHB within the stipulated period. | Penalty not exceeding rupees two thousand, each time the lapse occurs, shall be levied.   | 52A(1) (a)                   |
| 4. Appropriation of reserve fund for purposes not specified by NHB                      | Penalty of rupees five thousand for the first time offence shall be levied.<br>For second and subsequent contraventions, a maximum fine of rupees five thousands shall be levied. | 52A(1) (a)                   |

**B. Provisions of Housing Finance Companies (NHB) Directions, 2010 relating to acceptance of public deposits**

| (1)<br>Nature of contravention to regulatory requirement | (2)<br>Penalty recommended under the policy  | (3)<br>Penalty proposed under section |
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| 5. Exceeding ceiling on public deposits                  | For first time contravention, penalty not exceeding rupees one lakh or twice the amount involved in such contravention whichever is more shall be levied. If not regularized within 30 days from the date on which notice demanding penalty is issued, the contravention shall be treated as continuing one and further penalty not exceeding rupees ten thousand for every day, after | 52A (1) (b)                           |



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|  | <p>the first, during which the contraventions continues shall be levied.</p> <p>For second and subsequent contraventions, the maximum penalty as prescribed in the Act, i.e. , penalty not exceeding rupees five lakhs or twice the amount involved in such contravention whichever is more, shall levied and if the contravention is continuing, further penalty not exceeding rupees twenty-five thousand for every day, after the first, during which the contravention continues shall be levied.</p> <p>[ If the excess deposit is due to down gradation of credit rating or the company becoming ineligible to accept/hold public deposits, no penalty is applicable as long as the company reduces the excess deposit in terms of the relevant provisions of the Directions]</p>                              |             |
| 6. Exceeding ceiling on total borrowings | <p>For first time contravention, a penalty not exceeding rupees two thousand shall be levied and time up to ninety days from the date of issuing notice demanding penalty shall be allowed for regularizing the contravention. If not regularized within such time a penalty not exceeding Rs. 50/- shall be levied for every day till the overall borrowing is brought within the ceiling.</p> <p>For second and subsequent contraventions, a penalty not exceeding rupees five thousand shall be levied and time up to ninety days from the date of issuing notice demanding penalty may be allowed for regularizing the contravention. If not regularized within such time a penalty not exceeding rupees one hundred shall be levied for every day till the overall borrowing is brought within the ceiling.</p> | 52A (1) (b) |

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| 7. Not reporting down gradation of credit rating below the minimum prescribed rating within 15 days.  | Penalty not exceeding rupees five thousand shall be levied every time the contravention takes place.  | 52A (1) (a) |
| 8. Accepting public deposits for less than 1 year or more than 10 years   | Penalty not exceeding rupees five lakhs or twice the amount involved in such contravention, whichever is more; and where such contravention or default is a continuing one, further penalty not exceeding rupees twenty-five thousand for every day, after the first, during which the contravention or default continues | 52A (1) (b) |
| 9. Failure to specify complete information as specified in the Directions in deposit application forms  | Penalty not exceeding rupees two thousand shall be levied.  | 52A (1) (a) |
| 10. Accepting deposits without introduction   | A penalty not exceeding rupees five thousand shall be levied for each such deposit which has been accepted without introduction   | 52A (1) (a) |
| 11. Not maintaining deposit registers   | Penalty not exceeding rupees five thousand shall be levied.   | 52A (1) (a) |
| 12. Maintaining deposit register without furnishing all the information specified in the Directions   | Penalty not exceeding rupees two thousand shall be levied.  | 52A (1) (a) |
| 13. Keeping the consolidated deposit register for all the branches at a place other than the registered office without complying with the provision of sub- paragraph (2) of paragraph 9 of the Directions. | Penalty not exceeding rupees five thousand shall be levied  | 52A (1) (a) |
| 14. Not including information specified in the Directions in the Board's Report   | A Penalty not exceeding rupees two thousand shall be levied   | 52A (1) (a) |
| 15. Exceeding the ceiling on interest rate  | A Penalty not exceeding rupees five thousand shall be levied  | 52A (1) (a) |
| 16. Exceeding the ceiling on brokerage  | A Penalty not exceeding rupees five thousand shall be levied  | 52A (1) (a) |
| 17. Contravening provisions relating to   | A penalty not exceeding rupees five thousand shall be   | 52A (1) (a) |



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| payment of interest on overdue deposit  | levied  |             |
| 18. Contravention of provisions relating to premature withdrawal of deposits and loans against deposits.                      | A penalty not exceeding rupees five thousand shall be levied  | 52A (1) (a) |
| 19. Contravening provisions relating to renewal of deposit before maturity  | A penalty not exceeding rupees five thousand shall be levied  | 52A (1) (a) |
| 20. Not entrusting securities to the designated scheduled commercial bank excluding regional rural bank or a cooperative bank | A penalty not exceeding rupees five thousand shall be levied  | 52A (1) (a) |
| 21. Entrusting securities with other approved agencies without obtaining approval from NHB in writing                         | A penalty not exceeding rupees five thousand shall be levied  | 52A (1) (a) |
| 22. Not filling SILA for soliciting deposits  | Penalty not exceeding rupees five lakhs or twice the amount involved in such contravention where the amount is quantifiable, whichever is more; and where such contravention or default is a continuing one, further penalty not exceeding rupees twenty-five thousand for every day, after the first, during which the contravention or default continues shall be levied. | 52A (1) (b) |
| 23. Delayed filing of SILA.   | A penalty not exceeding rupees five thousand shall be levied.   | 52A (1) (a) |
| 24. Not fully specifying information as provided for in the Directions in the advertisement or SILA.                          | Penalty not exceeding rupees five thousand shall be levied.   | 52A (1) (a) |
| 25. Accepting deposits after expiry of the validity period of SILA.   | Penalty not exceeding rupees one lakh or twice the amount involved in such contravention where the amount is quantifiable, whichever is more; and where such contravention or default is a continuing one, further penalty not exceeding rupees twenty – five thousand for every day, after the first, during which the contravention or default continues.                 | 52A (1) (b) |
| 26. Giving incomplete/ wrong information in SILA or advertisement.  | Penalty not exceeding rupees five thousand shall be levied.   | 52A (1) (a) |

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| 27. Not informing in writing the intention to open branch or office before opening.                                | Penalty not exceeding rupees two thousand shall be levied.  | 52A (1) (a) |
| 28. Failing to inform opening a branch or office even after opening the same.                                      | Penalty not exceeding rupees five thousand shall be levied. | 52A (1) (a) |
| 29. Closing branch/ office without publishing such intention in news papers before 90days of the proposed closure. | Penalty not exceeding rupees five thousand shall be levied. | 52A (1) (a) |
| 30. Closing branch / office without advising NHB such intention before 90 days of the proposed closure             | Penalty not exceeding rupees five thousand shall be levied. | 52A (1) (a) |



## C. Provisions of Housing Finance Companies (NHB) Directions, 2010 relating to prudential norms

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| 31. Contravening income recognition norms   | Penalty not exceeding rupees five thousand shall be levied for each such contravention. | 52A (1) (a) |
| 32. Contravening classification norm for investments  | Penalty not exceeding rupees five thousand shall be levied for each such contravention. | 52A (1) (a) |
| 33. Contravening valuation norm for investments   | Penalty not exceeding rupees five thousand shall be levied for each such contravention. | 52A (1) (a) |
| 34. Contravening asset classification norm  | Penalty not exceeding rupees five thousand shall be levied for each such contravention. | 52A (1) (a) |
| 35. Wrong classification of rescheduled loans   | Penalty not exceeding rupees five thousand shall be levied for each such contravention. | 52A (1) (a) |
| 36. Shortfall in provisioning.  | Penalty not exceeding rupees five thousand shall be levied for each such contravention. | 52A (1) (a) |
| 37. Contravening norms relating to disclosure in balance sheets   | Penalty not exceeding rupees five thousand shall be levied for each such contravention. | 52A (1) (a) |
| 38. Assigning wrong risk weights to assets while computing CAR resulting in inflated CAR.                                   | Penalty not exceeding rupees five thousand shall be levied for each such contravention. | 52A (1) (a) |
| 39. Exceeding ceiling on investment in real estates other than for own use.   | Penalty not exceeding rupees five thousand shall be levied.                             | 52A (1) (a) |
| 40. Exceeding exposure to capital market  | Penalty not exceeding rupees five thousand shall be levied.                             | 52A (1) (a) |
| 41. Contravening credit concentration norm.   | Penalty not exceeding rupees five thousand shall be levied. .                           | 52A (1) (a) |
| 42. Lending against own shares.   | Penalty not exceeding rupees five thousand shall be levied.                             | 52A (1) (a) |
| 43. Not constituting Audit Committee  | Penalty not exceeding rupees five thousand shall be levied.                             | 52A (1) (a) |
| 44. Constituting Audit Committee contravening provisions of the Directions relating to Audit Committee.                     | Penalty not exceeding rupees two thousand shall be levied.                              | 52A (1) (a) |
| 45. Not Furnishing audited accounts within due dates (If prior permission has been obtained from ROC for extending the time | Penalty not exceeding rupees five thousand shall be levied.                             | 52A (1) (a) |



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| frame as per the Companies Act, 1956, no penalty is to be levied since the due date also gets shifted automatically)   |   |             |
| 46. Not furnishing Director's Report along with audited accounts   | Penalty not exceeding rupees five thousand shall be levied.   | 52A (1) (a) |
| 47. Deposit accepting company not furnishing Auditor's certificate in terms of paragraph 43 of the Directions  | Penalty not exceeding rupees two thousand shall be levied if the certificate is not made available within the due date i.e. 30th September of every year.                                 | 52A (1) (a) |
| 48. HFC not furnishing to NHB the auditor's report containing matters specified in paragraph 34 & 35 of the directions in the auditor's report.  | Penalty not exceeding rupees five thousand shall be levied.   | 52A (1) (a) |
| 49. Non-submission of returns.   | If return due are not furnished by the time the next such return is due, it shall be treated as non-submission of the return. Penalty not exceeding rupees five thousand shall be levied. | 52A (1) (a) |
| 50. Delayed submission of returns  | Penalty not exceeding rupees one thousand shall be levied if returns are not submitted within 15 days the due date specified in the return  | 52A (1) (a) |
| 51. Submission of incomplete returns or submission of returns in out dated formats   | Penalty not exceeding rupees one thousand shall be levied for the first offence which may be increased to a maximum of rupees two thousand for subsequent lapses.                         | 52A (1) (a) |
| 52. Not Furnishing information regarding change of address, change of directors, specimen signature of directors & principal officers etc., in terms of paragraph 44(2) of the directions. | Penalty not exceeding rupees one thousand shall be levied for the first lapse which may be increase to a maximum of rupees five thousand for subsequent each lapses.                      | 52A (1) (a) |

**D. Provisions relating to Guidelines on Know Your Customer and Anti Money Laundering Measures:**

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| 1. Not having Board approved Guidelines on Know Your Customer and Anti Money Laundering Measures  | Penalty not exceeding rupees five thousand shall be levied. | 52A (1) (a) |
| 2. Not Keeping/Maintaining on record the valid KYC documents of its Customers   | Penalty not exceeding rupees five thousand shall be levied. | 52A (1) (a) |
| 3. Not verifying Customer Identification, internally  | Penalty not exceeding rupees five thousand shall be levied. | 52A (1) (a) |
| 4. Not preparing the profile of each customer, based on risk categorization   | Penalty not exceeding rupees five thousand shall be levied. | 52A (1) (a) |
| 5. Not implementing the system for periodical review of risk categorization of customers  | Penalty not exceeding rupees five thousand shall be levied. | 52A (1) (a) |
| 6. Not capturing the KYC and AML compliances in the Internal Audit Report   | Penalty not exceeding rupees five thousand shall be levied. | 52A (1) (a) |
| 7. Not placing the compliances on Internal Audit Report's observations with regard KYC & AML system in place to the Audit Committee, at quarterly intervals   | Penalty not exceeding rupees five thousand shall be levied. | 52A (1) (a) |
| 8. Not having any other provisions of Guidelines on Know Your Customer and Anti Money Laundering Measures, like training of its employees, customer awareness, maintenance/preservation of records of transactions, etc | Penalty not exceeding rupees five thousand shall be levied. | 52A (1) (a) |