FAIR PRACTICES CODE [AS PER RBI MASTER CIRCULAR]

NBFCs having customer interface shall adopt the following guidelines:

1. APPLICATIONS FOR LOANS AND THEIR PROCESSING

- All communications to the borrower shall be in the vernacular language or a language as understood by the borrower.

- Loan application forms shall include necessary information which affects the interest of the borrower, so that a meaningful comparison with the terms and conditions offered by other NBFCs can be made and informed decision can be taken by the borrower. The loan application form shall indicate the documents required to be submitted with the application form.

- NBFCs shall devise a system of giving acknowledgement for receipt of all loan applications. Preferably, the time frame within which loan applications will be disposed of shall also be indicated in the acknowledgement.

2. LOAN APPRAISAL AND TERMS/ CONDITIONS

- NBFCs shall convey in writing to the borrower in the vernacular language as understood by the borrower by means of sanction letter or otherwise, the amount of loan sanctioned along with the terms and conditions including annualized rate of interest and method of application thereof and keeps the acceptance of these terms and conditions by the borrower on its record. As complaints received against NBFCs generally pertain to charging of high interest/penal charges, NBFCs shall mention the penalties charged for late repayment in bold in the loan agreement.

- Borrowers may not be fully aware of the terms and conditions of the loans including rate of interest at the time of sanction of loans, either because the NBFC does not provide details of the same or the borrower has no time to look into detailed agreement. Not furnishing a copy of the loan agreement or enclosures quoted in the loan agreement is an unfair practice and this could lead to disputes between the NBFC and the borrower with regard to the terms and conditions. NBFCs, shall furnish a copy of the loan agreement as understood by the borrower along with a copy each of all enclosures quoted in the loan agreement to all the borrowers at the time of sanction/disbursement of loans.

3. PENAL CHARGES IN LOAN ACCOUNTS

- Penalty, if charged, for non-compliance of material terms and conditions of loan contract by the borrower shall be treated as 'penal charges' and shall not be levied in the form of 'penal interest' that is added to the rate of interest charged on the advances. There shall be no capitalisation of penal charges i.e., no further interest computed on such charges. However, this will not affect the normal procedures for compounding of interest in the loan account.

- NBFCs shall not introduce any additional component to the rate of interest and ensure compliance to these guidelines in both letter and spirit.

- NBFCs shall formulate a Board approved policy on penal charges or similar charges on loans, by whatever name called.

- The quantum of penal charges shall be reasonable and commensurate with the non-compliance of material terms and conditions of loan contract without being discriminatory within a particular loan/product category.

- The penal charges in case of loans sanctioned to 'individual borrowers, for purposes other than business, shall not be higher than the penal charges to non-individual borrowers for similar non-compliance of material terms and conditions.

- The quantum and reason for penal charges shall be clearly disclosed by NBFCs to the customers in the loan agreement and most important terms & conditions/Key Fact Statement (KFS) as, in addition to being displayed on websites of NBFCs under Interest rates and Service Charges.

- Whenever reminders for non-compliance of material terms and conditions of loan are sent to borrowers, the penal charges shall be communicated. Further, any instance of levy of penal charges and the reason therefor shall also be communicated.

- The instructions shall come into effect from January 1, 2024. NBFCs may carry out appropriate revisions in their policy framework and ensure implementation of the instructions in respect of all the fresh loans availed/ renewed from the effective date. In the case of existing loans, the switchover to new penal charges regime shall be ensured on next review or renewal date or six months from the effective date of these instructions, whichever is earlier.

4. DISBURSEMENT OF LOANS INCLUDING CHANGES IN TERMS AND CONDITIONS

- NBFCs shall give notice to the borrower in the vernacular language or a language as understood by the borrower of any change in the terms and conditions including disbursement schedule, interest rates, service charges, prepayment charges etc. NBFCs shall also ensure that changes in interest rates and charges are affected only prospectively. A suitable condition in this regard must be incorporated in the loan agreement.

- Decision to recall/accelerate payment or performance under the agreement shall be in consonance with the loan agreement.

- NBFCs shall release all securities on repayment of all dues or on realisation of the outstanding amount of loan subject to any legitimate right or lien for any other claim they may have against borrower. If such right of set off is to be exercised, the borrower shall be given notice about the same with full particulars about the remaining claims and the conditions under which NBFCs are entitled to retain the securities till the relevant claim is settled/ paid.

5. RESPONSIBLE LENDING CONDUCT – RELEASE OF MOVABLE/IMMOVABLE PROPERTY DOCUMENTS ON REPAYMENT/ SETTLEMENT OF PERSONAL LOANS

It has been observed that the NBFCs follow divergent practices in release of movable/immovable property documents upon receiving full repayment and closure of loan account leading to customer grievances and disputes. To address the issues faced by the borrowers and towards promoting responsible lending conduct among the NBFCs, the following instructions are issued:

- Release of movable/immovable property documents
    - NBFCs shall release all the original movable / immovable property documents and remove charges registered with any registry within a period of 30 days after full repayment/settlement of the loan account.
    - The borrower shall be given the option of collecting the original movable/ immovable property documents either from the banking outlet/branch where the loan account was serviced or any other office of the NBFC where the documents are available, as per her/his preference.
    - The timeline and place of return of original movable/immovable property documents shall be mentioned in the loan sanction letters issued on or after the effective date.
    - In order to address the contingent event of demise of the sole borrower or joint borrowers, NBFCs shall have a well laid out procedure for return of original movable/immovable property

documents to the legal heirs. Such procedure shall be displayed on the website of NBFCs along with other similar policies and procedures for customer information.

- Compensation for delay in release of movable/immovable property documents
  - In case of delay in releasing of original movable/immovable property documents or failing to file charge satisfaction form with relevant registry beyond 30 days after full repayment/settlement of loan, NBFCs shall communicate to the borrower reasons for such delay. In case where the delay is attributable to the NBFC, it shall compensate the borrower at the rate of ₹5,000 for each day of delay.
  - In case of loss/damage to original movable/immovable property documents, either in part or in full, NBFCs shall assist the borrower in obtaining duplicate/certified copies of the movable/immovable property documents and shall bear the associated costs, in addition to paying compensation as indicated at clause above. However, in such cases, an additional time of 30 days will be available to the NBFCs to complete this procedure and the delayed period penalty will be calculated thereafter (i.e., after a total period of 60 days).
  - The compensation provided under these directions shall be without prejudice to the rights of a borrower to get any other compensation as per any applicable law.

- Applicability
  - The instructions in "responsible Landing Conduct" shall be applicable to all cases where release of original movable/ immovable property documents falls due on or after December 01, 2023.

6. RESET OF FLOATING INTEREST RATE ON EQUATED MONTHLY INSTALMENTS (EMI) BASED PERSONAL LOANS

- At the time of sanction of EMI based floating rate personal loans, NBFCs are required to take into account the repayment capacity of borrowers to ensure that adequate headroom/margin is available for elongation of tenor and/or increase in EMI, in the scenario of possible increase in the external benchmark rate during the tenor of the loan. However, in respect of EMI based floating rate personal loans, in the wake of rising interest rates, several consumer grievances related to elongation of loan tenor and/or increase in EMI amount, without proper communication with and/or consent of the borrowers have been received. In order to address these concerns, NBFCs are advised to put in place an appropriate policy framework meeting the following requirements for implementation and compliance:
  - At the time of sanction, NBFCs shall clearly communicate to the borrowers about the possible impact of change in benchmark interest rate on the loan leading to changes in EMI and/or tenor or both. Subsequently, any increase in the EMI/ tenor or both on account of the above shall be communicated to the borrower immediately through appropriate channels.
  - At the time of reset of interest rates, NBFCs shall provide the option to the borrowers to switch over to a fixed rate as per their Board approved policy. The policy, *inter alia*, may also specify the number of times a borrower will be allowed to switch during the tenor of the loan.
  - The borrowers shall also be given the choice to opt for
    (a) Enhancement in EMI or elongation of tenor or for a combination of both options; and
    (b) To prepay, either in part or in full, at any point during the tenor of the loan. Levy of foreclosure charges/ prepayment penalty shall be subject to extant instructions.
  - All applicable charges for switching of loans from floating to fixed rate and any other service charges/ administrative costs incidental to the exercise of the above options shall be transparently disclosed in the sanction letter and also at the time of revision of such charges/ costs by the NBFCs from time to time.
  - NBFCs shall ensure that the elongation of tenor in case of floating rate loan does not result in negative amortisation.
  - NBFCs shall share/ make accessible to the borrowers, through appropriate channels, a statement at the end of each quarter which shall at the minimum, enumerate the principal and interest recovered till date, EMI amount, number of EMIs left and annualized rate of

interest/Annual Percentage Rate (APR) for the entire tenor of the loan. NBFCs shall ensure that the statements are simple and easily understood by the borrower.

- Apart from the equated monthly instalment loans, these instructions would also apply, mutatis mutandis, to all equated instalment based loans of different periodicities.

- NBFCs shall ensure that the instructions in paragraph 6 are extended to the existing as well as new loans suitably by December 31, 2023. All existing borrowers shall be sent a communication, through appropriate channels, intimating the options available to them.

7. GENERAL

- NBFCs shall refrain from interference in the affairs of the borrower except for the purposes provided in the terms and conditions of the loan agreement (unless information, not earlier disclosed by the borrower, has been noticed).

- In case of receipt of request from the borrower for transfer of borrower account, the consent or otherwise i.e., objection of the NBFC, if any, shall be conveyed within 21 days from the date of receipt of request. Such transfer shall be as per transparent contractual terms in consonance with law.

- In the matter of recovery of loans, an NBFC shall not resort to undue harassment viz., persistently bothering the borrowers at odd hours, use muscle power for recovery of loans etc. As complaints from customers also include rude behavior from the staff of the companies, NBFCs shall ensure that the staff are adequately trained to deal with the customers in an appropriate manner.

- As a measure of customer protection and also in order to bring in uniformity with regard to prepayment of various loans by borrowers of banks and NBFCs, NBFCs shall not charge foreclosure charges/ pre-payment penalties on any floating rate term loan sanctioned for purposes other than business to individual borrowers, with or without co-obligant(s).

8. RESPONSIBILITY OF BOARD OF DIRECTORS

- The Board of Directors of NBFCs shall also lay down the appropriate grievance redressal mechanism within the organization. Such a mechanism shall ensure that all disputes arising out of the decisions of lending institution's functionaries are heard and disposed of at least at the next higher level.

- The Board of Directors shall also provide for periodical review of the compliance of the Fair Practices Code and the functioning of the grievances redressal mechanism at various levels of management. A consolidated report of such reviews shall be submitted to the Board at regular intervals, as may be prescribed by it.

9. RESERVE BANK – INTEGRATED OMBUDSMAN SCHEME, 2021

NBFCs covered under the Reserve Bank – Integrated Ombudsman Scheme, 2021 (RBIOS, 2021) shall comply with the directions provided under the said Scheme.

10. LANGUAGE AND MODE OF COMMUNICATING FAIR PRACTICE CODE

Fair Practices Code (which shall preferably be in the vernacular language or a language as understood by the borrower) based on the guidelines outlined hereinabove shall be put in place by all NBFCs with the approval of their Boards. NBFCs will have the freedom of drafting the Fair Practices Code, enhancing the scope of the guidelines but in no way sacrificing the spirit underlying the above guidelines. The same shall be put up on their website, for the information of various stakeholders.

11. REGULATION OF EXCESSIVE INTEREST CHARGED BY NBFCS

- The Board of each NBFC shall adopt an interest rate model taking into account relevant factors such as cost of funds, margin and risk premium and determine the rate of interest to be charged for loans and advances. The rate of interest and the approach for gradations of risk and rationale for charging different rate of interest to different categories of borrowers shall be disclosed to the borrower or customer in the application form and communicated explicitly in the sanction letter.

- The rates of interest and the approach for gradation of risks shall also be made available on the website of the companies or published in the relevant newspapers. The information published on the website or otherwise published shall be updated whenever there is a change in the rates of interest.

- The rate of interest must be annualised rate so that the borrower is aware of the exact rates that would be charged to the account.

12. COMPLAINTS ABOUT EXCESSIVE INTEREST CHARGED BY NBFCS

- The Reserve Bank has been receiving several complaints regarding levying of excessive interest and charges on certain loans and advances by NBFC. Though interest rates are not regulated by the Reserve Bank, rates of interest beyond a certain level may be seen to be excessive and can neither be sustainable nor be conforming to normal financial practice.

- Boards of NBFCs shall lay out appropriate internal principles and procedures in determining interest rates and processing and other charges. In this regard, the guidelines indicated in the Fair Practices Code about transparency in respect of terms and conditions of the loans are to be kept in view.

13. REPOSSESSION OF VEHICLES FINANCED BY NBFCS

- NBFCs must have a built-in re-possession clause in the contract/loan agreement with the borrower which must be legally enforceable. To ensure transparency, the terms and conditions of the contract/loan agreement shall also contain provisions regarding:
    - Notice period before taking possession;
    - Circumstances under which the notice period can be waived;
    - The procedure for taking possession of the security;
    - A provision regarding final chance to be given to the borrower for repayment of loan before the sale/ auction of the property;
    - The procedure for giving repossession to the borrower; and
    - The procedure for sale/auction of the property.

- A copy of such terms and conditions must be made available to the borrower. NBFCs shall invariably furnish a copy of the loan agreement along with a copy each of all enclosures quoted in the loan agreement to all the borrowers at the time of sanction/ disbursement of loans, which forms a key component of such contracts/ loan agreements.

14. LENDING AGAINST COLLATERAL OF GOLD JEWELLERY

While lending to individuals against collateral of gold jewellery, NBFCs shall adopt the following in addition to the general guidelines as above.

- They shall put in place Board approved policy for lending against gold that shall inter alia, cover the following:
    - Adequate steps to ensure that the KYC guidelines stipulated by the Reserve Bank are complied with and to ensure that adequate due diligence is carried out on the customer before extending any loan,
    - Proper assaying procedure for the jewellery received,

- Internal systems to satisfy ownership of the gold jewellery,
- Adequate systems for storing the jewellery in safe custody, reviewing the systems on an on-going basis, training the concerned staff and periodic inspection by internal auditors to ensure that the procedures are strictly adhered to. Normally, such loans shall not be extended by branches that do not have appropriate facility for storage of the jewellery,
- The jewellery accepted as collateral shall be appropriately insured,
- Transparent auction procedure in case of non-repayment with adequate prior notice to the borrower. There shall be no conflict of interest and the auction process must ensure that there is arm's length relationship in all transactions during the auction including with group companies and related entities,
- The auction shall be announced to the public by issue of advertisements in at least two newspapers, one in vernacular and another in national daily newspaper,
- As a policy, the NBFCs themselves shall not participate in the auctions held,
- Gold pledged shall be auctioned only through auctioneers approved by the Board,
- The policy shall also cover systems and procedures to be put in place for dealing with fraud including separation of duties of mobilisation, execution and approval.

- The loan agreement shall also disclose details regarding auction procedure.

- Other Instructions
  - NBFCs financing against the collateral of gold must insist on a copy of the PAN Card of the borrower for all transaction above ₹5 lakh.
  - Documentation across all branches must be standardized.
  - NBFCs shall not issue misleading advertisements like claiming the availability of loans in a matter of 2-3 minutes.

15. LOAN FACILITIES TO THE PHYSICALLY/VISUALLY CHALLENGED BY NBFCS

NBFCs shall not discriminate in extending products and facilities including loan facilities to physically/visually challenged applicants on grounds of disability. All branches of NBFCs shall render all possible assistance to such persons for availing of the various business facilities. NBFCs shall include a suitable module containing the rights of persons with disabilities guaranteed to them by the law and international conventions, in all the training programmes conducted for their employees at all levels. Further, NBFCs shall ensure redressal of grievances of persons with disabilities under the Grievance Redressal Mechanism already set up by them.