

Type I NBFC exemption proposals

Draft RBI Amendment Directions



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Outline of PPT

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- What will happen to Type 1 NBFCs now?
- Change of control and then move back to Type 1
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- Will investment in NCDs be said to be customer interface?
- Can an exempt NBFC act as LSP?
- Will the 50:50 test become irrelevant?

Conditions Precedent: Deregistration Conditions as per Para 38A



Asset Size: Less than ₹1,000 crores



Public Funds : Must not be accepting or intending to accept “public funds”, including from within the group.



Customer Interface: Must not have or intend to have any customer interface. This includes lending or providing guarantees to group entities.



Statutory Auditors Certificate: SAC certifying that the company does not have public funds and also not have customer interface as on date.



Governance: a. The Board must pass an upfront resolution, as also annually thereafter, confirming the entity will not avail PF or have CI during the year
b. Undertaking from the Board that the NBFC shall disclose its status of being ‘Unregistered Type I NBFC’ and status of PF and CI as part of Notes to Accounts to the FS



Business Model: Non-acceptance of funds and having no customer interface.



Other Documents: Original CoR, Audited Financial Statements (last 3 FYs), Report on the status of public funds and customer interface (last 3 FYs)



No overseas investment in financial services sector

Conditions Subsequent: Para 66A for Unregistered Type I NBFCs



Business Model: Operates without public funds and without customer interface, as their conscious and durable business model on a long-term basis.



Asset Size: Asset size is less than ₹1,000 crore.



Board Resolution: Passes an annual Board Resolution that it will not avail public funds and not have customer interface during the year.



Disclosure in Financials: Discloses in its Notes to Accounts to the financial statements that it is an 'Unregistered Type I NBFC', along with the status of public funds and customer interface



Exception Report: Statutory Auditors shall submit Exception Report to the Reserve Bank in case of violation of conditions on public funds and/or customer interface



Other Compliances: Compliance with Chapter IIIB of RBI Act and any other conditions that the RBI may lay down

Conditions for Exemption and Conditions Subsequent

- Assets less than Rs 1000 crores
 - Aggregation required?
- Liability side - no public funds
 - Directly or "indirectly"
 - Indirectly elaborated to say borrowings "through associates and group entities"
 - Meaning of "through"
 - Even borrowings from shareholders and directors
- Asset side - no customer interface
 - CI defined in FAQs. says includes loans to group entities; however does not include employee loans
 - Includes activities like MF distribution, credit cards, etc., since these activities entail interaction with customers
- Last 3 years financial statements
 - Does it mean, at no stage in the last 3 years, these conditions should be breached?
 - Meaning of "Statutory Auditors Certificate certifying that the company does not have public funds and also not have customer interface as on date"
 - Implies these should not be as on date; however if there is any isolated breach, that should not disentitle.

Is it mandatory to opt out or apply for deregistration?

- No, it is optional to apply for deregistration
- Company may weigh the pros and cons
 - Pros
 - If the Company is thinking of growing the asset size, it will not have to go through the rigour of a fresh application
 - Some of the exemptions are linked with NBFC registration
 - Con
 - Compliance burden

Analysis of options available to Type I NBFCs

Type of NBFC	Options Available
NBFCs holding Type I Registration as on April 1, 2026	Option 1: Apply for deregistration Option 2: Continue to remain as Type I NBFC
Entities that fulfil the conditions for Unregistered Type I NBFC, after April 1, 2026	Option 1: Satisfy the conditions under 66A and remain unregistered [see box on Conditions Subsequent] Option 2: Apply for registration as Type I NBFC
NBFCs not having a customer interface and public funds and having an asset size below ₹1000 crores, but not registered as Type I	Option 1: Apply for deregistration Option 2: Apply for registration as Type I NBFC to avail regulatory exemption Option 3: Maintain status quo
NBFCs not having a customer interface and public funds and having asset size above ₹1000 crores, but not registered as Type I	Option 1: Apply for registration as NBFC Type I Option 2: Apply for registration as NBFC Type II, in case of changes in business model

Moving from Type 1 to Type 2

- Regulator has consistently said that if the company have either of public funds or customer interface, move to Type 2
- How to move to type 2?
 - Surrender registration for Type 1 to RBI
 - Apply for registration as Type 2

What will happen to Type I NBFCs now?

- With the stringent conditions, if there is a type I NBFC, with either less than 1000 crores or more, expect regulations to be quite light touch.
- Existing exemptions:
 - Section 186(2) of the CA, which deals with the limits on loans and investments, provided exemption to NBFCs registered under Chapter III-B of the Reserve Bank of India Act, 1934. However, an exemption is also provided separately to investment companies and therefore unregistered type I NBFCs will fall under this category.
 - Section 73 of the CA which deals with deposits provides exemption to NBFCs as defined under the RBI Act. Hence, the exemption will continue to apply for unregistered type I NBFCs
 - Section 36(1)(viiia) of IT Act provides that NBFCs can claim a deduction of up to 5% of their total income for provision made for bad and doubtful debts. However, it refers to NBFC as defined in the RBI Act..
 - Section 42 of CA r.w sub-rule (2) of rule 14 of PAS Rules which sets the limit on number of offerees in case of a private placement is not applicable to a NBFC registered with the RBI. Therefore, unregistered Type I NBFCs will not be able to avail this exemption.
 - Section 17(4) of the CGST Act allows NBFCs to avail 50% of eligible ITC in a tax period, with the balance to be reversed. While the provision uses the term “NBFC”, it does not expressly state “registered under the RBI Act”.

Will it be a good idea to seek exemption, do a change of control and then go to Type I registration?

- Possibly yes, but then at the time of registration, the rigour applied may be the same

Can unregistered Type I NBFC invest in an LLP?

- Where does the bar come from? Are we saying only the provisions of the statute will be applicable?

Will investment in NCDs be said to be customer interface?

- In view of FAQ 8, it is neither a lending relationship nor an account-based relationship. Unless the debenture is a structured credit instrument, it should not be seen as customer interface, as the debenture issuer cannot be regarded as “customer”.

Can an exempt NBFC act as LSP?

- If it is “NBFC”, it cannot have customer interface at all - hence, it cannot carry any customer centric activity
- However, if it is not an NBFC at all, then the question of any nbfc-related regulations does not apply

Will the 50:50 test become irrelevant?

- The 50: 50 test is the very starting point of RBI regulations. If the entity is not an NBFC at all, the question of it falling under the scope of RBI regulations does not apply.
- Hence, the conditionalities in the exemption notification apply only if the entity is an NBFC

Comparative Analysis (1/2)

Basis	Type 1 unregistered	Type 1 registered	Type 2 registered
Asset Size	Less than ₹1000	₹1000 or more	No prescription
Registration	Not required	Required	Required
Classification as BL/ML	Does not arise	Base layer	May be BL or ML (based on asset size)
Maintenance of NOF	Not Applicable	Applicable (2 Crs)	Applicable (10 Cr by March 2027)
Disclosures in financial statements/ NTA	<p>Applicable to the extent they come from the CA 2013.</p> <p>In addition, the declaration that the Company is an unregistered type I NBFC along with the status of public funds and customer interface.</p>	Applicable as per CA and RBI Directions	Applicable as per CA and RBI Directions

Comparative Analysis (2/2)

Basis	Type I unregistered	Type I registered	Type 2 registered
Transfers of profits to reserves under section 45-IC RBI Act	Applicable	Applicable	Applicable
Exception report by the auditor	Applicable	Applicable	Not Applicable
Customer interface	No	No	Yes
Public funds	No	No	Yes
Fair lending practices	Not Applicable	Not Applicable	Applicable, if has customer interface
Prudential Regulations	Not Applicable	Not Applicable	Applicable, for Base Layer if having “public funds”
Capital adequacy requirement	Not Applicable	Not Applicable	Applicable, if Middle layer