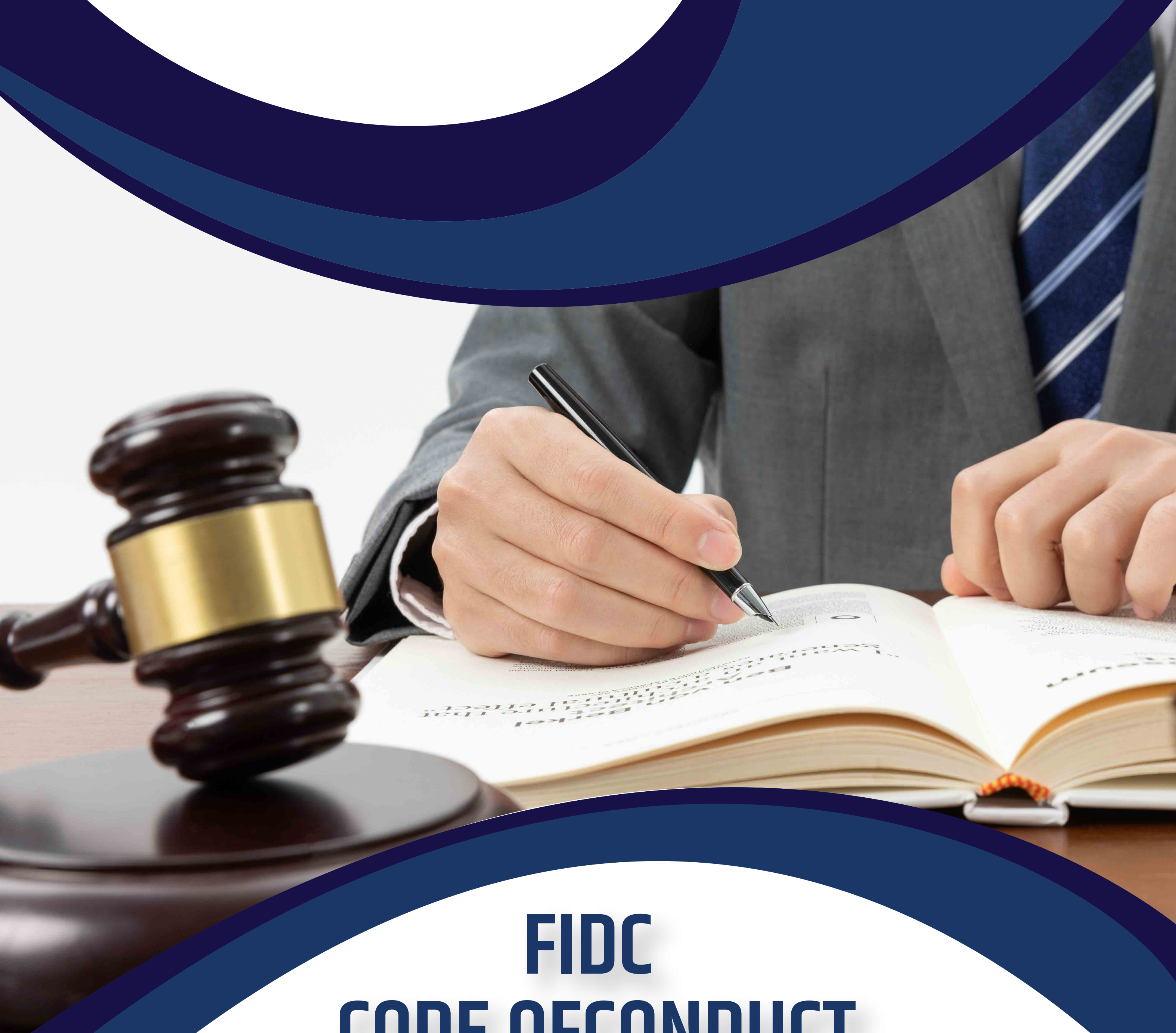
FIDC

Finance Industry Development Council

(A Representative Body of NBFCs in India)



FIDC
CODE OFCONDUCT
FOR
NON-BANKING FINANCIAL COMPANIES

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PREFACE

The history of Non-Banking Finance Companies (NBFCs) in India dates back to the early part of the 20th century. The financing to the social sector was largely done by NBFCs till banks, after nationalisation, started lending to this sector. NBFCs continue to play a major role in financing the social sector.

Investment and Credit Companies (NBFC-ICCs)

Non-Banking Finance Companies (NBFCs) are regulated by Reserve Bank of India under Chapter-III B of Reserve Bank of India Act, 1934 as amended by Reserve Bank of India (Amendment) Act, 1997 and also by way of periodical circulars issued by the RBI from time to time. Under this Act, all NBFCs have to mandatorily obtain a certificate of registration from the RBI.

With a view to provide NBFCs with greater operational flexibility, the RBI had also harmonized 3 categories of NBFCs, namely: (i) asset finance companies; (ii) loan companies; and (iii) investment companies, into a single category called 'investment and credit companies' ("NBFC-ICCs"). Other categories of NBFCs for retail lending include housing finance companies and Peer to Peer lending platforms, for which there are separate set of RBI regulations.

SCALE BASED REGULATORY FRAMEWORK

In a major development to the NBFC regulatory framework, the RBI had issued a revised regulatory framework for NBFCs dated 22nd October 2021 ("Scale Based Framework") which came into force on 1st October 2022, basis which existing NBFCs have been categorized into 4 different categories depending on size, perceived risk and type of activity conducted, as follows:

1. NBFC – Base Layer ("NBFC-BL") with an asset size below INR 1,000 Crore
2. NBFC – Middle Layer ("NBFC-ML") with an asset size of INR 1,000 Crore and above
3. NBFC – Upper Layer ("NBFC-UL"), specifically identified by the RBI as NBFC-UL (currently consists of 16 NBFCs) Crore
4. NBFC – Top Layer, which shall ideally remain empty unless the RBI identifies any NBFC with a substantial increase in systemic risk

FINANCE INDUSTRY DEVELOPMENT COUNCIL (FIDC)

The NBFCs registered with Reserve Bank of India have joined hands and formed the Association under the name of Finance Industry Development Council (FIDC). FIDC is an All-India body and is registered as a Company U/s. 25 of Companies Act, 1956 (S. 8 of the Companies Act, 2013). FIDC is a Representative Body of the NBFCs registered with the Reserve Bank of India. FIDC was formed 19 years ago and is the recognized face of the NBFC sector. FIDC has been engaged in regular interaction both with Reserve Bank of India and Govt. of India, which include pre-budget meetings and also important policy related meetings with RBI. Almost all the leading NBFCs and a large number of small and medium sized NBFCs are the members of FIDC.

The role of FIDC being the only national level representative body of NBFCs also casts certain responsibilities on FIDC as also its constituents and particularly all the members. FIDC has also been impressing upon all its members periodically and during all interactions that the NBFCs have responsibility to ensure regulatory compliances in letter and spirit.

MISSION

Ensuring sustainable growth of NBFC-ICCs in India, while pursuing fair conduct policies and ensuring adherence to the regulatory prescriptions

VISION

To contribute to the development of the non-banking financial sector in India by promoting self-regulation, compliance and governance among members and to act as a bridge between lending NBFCs and the regulators.

BACKGROUND

Further to RBI's communication dated 7th September 2021 to FIDC enumerating specific violations/non-compliances of FPC and Outsourcing Guidelines, where RBI has found some violations in their inspection, RBI has advised FIDC to inform the NBFCs concerned to take necessary measures to ensure high standards of customer service and compliance with other RBI guidelines. FIDC has also taken up with the members concerned individually. FIDC has also been sounding to all members in general to review implementation of their FPC and Outsourcing guidelines with an aim at plugging the gaps.

During one of the statements of the RBI Governor in August 2022, the Governor had also mentioned about Managing Risks and Code of Conduct in Outsourcing of Financial Services, further to receipt of number of serious complaints against the outsourcing agents for various services, particularly for recovery of dues and redressal of customer grievances. In this regard, FIDC had also suggested certain steps vide its communication dated 14th October 2022.

FIDC is issuing this Code of Conduct for all its members emphasizing the need to enhance responsible lending behaviour and practices and to ensure ethical practices in conduct of business. This Code of Conduct shall be a step in the right direction to restore the confidence in the Non-Bank lending community, as this shall bring better discipline and harmony among the NBFC-ICCs.

1. PURPOSE

The purpose of this Code of Conduct is to ensure that the members take effective measures aimed at compliance with regulatory requirements and maintain standards of fair business conduct.

2. APPLICABILITY

- This Code of Conduct is a set of principles and guidelines that are binding on every member of the FIDC ("Member") in order to ensure ethical and responsible behaviour by all Members.
- This Code of Conduct is applicable to all Members, who are Regulated Entities of RBI. The Members are required to adhere to all legal and regulatory requirements as stipulated by RBI, SEBI and such other applicable Central and State Governments Acts.
- This Code of Conduct is in addition to the compliances as stipulated by the statutory/ regulatory authorities and does not substitute them. All such future circulars/guidelines as issued by the statutory/ regulatory authorities shall be applicable and shall prevail therein.
- This Code of Conduct is subject to review by FIDC from time to time.

3. ADHERENCE TO CODE OF CONDUCT

- Members must agree, in writing, at the time of membership and renewal of membership, to adhere to the Code of Conduct.
- Members will also be required to provide, in writing, their immediate acceptance of the Code of Conduct for continuation of their membership.

4. APPLICABILITY OF THE CODE OF CONDUCT

- Each member will comply with all the provisions of all applicable laws and regulations, including, but not limited to:
  - Applicable laws and regulations concerning financial services and consumer protection, including without limitation all directions, guidelines, circulars and notifications issued by the Reserve Bank of India and other relevant statutory, regulatory or government bodies
  - Applicable laws and regulations in the field of communication and informatics related to the protection of personal data in electronic systems
  - Any other applicable law and regulations relating to business, operations and practices of such Member.
- All provisions in this Code of Conduct are complementary and in addition to the obligations of each Member under laws and regulations applicable to the Member. Each Member is individually and solely responsible for its compliance with applicable laws, regulations and this Code of Conduct.
- FIDC has been issuing various Advisory circulars from time to time, on operational/procedural aspects relating to adherence to various guidelines of the RBI (e.g., FIDC's Handbook relating to repossession of assets (published in 2009) or FIDC's advisory relating to grant of moratorium to customers & offer of ECLGS loans to customers (issued in 2020). These advisory circulars shall be deemed to be part of this Code of Conduct till superceded by revised guidelines of the RBI/advisory circulars of FIDC.

5. CORPORATE GOVERNANCE

- To ensure fit and proper status of the directors on an on-going basis
- To ensure fit and proper status of the investors
- To ensure strict adherence to KYC / AML framework
- To appoint independent directors on the key board level committees
- To ensure to file all their returns in time and after validation of the inputs in the returns
- Not to allow use of the NBFC licence to be used by anyone else, in whatever manner
- To secure prior approvals of RBI wherever applicable
- To ensure mandated and desirable disclosures in the financial statements, etc.

6. CODE OF CONDUCT

RISK MANAGEMENT

For risk management to be effective, Members need to be focussed on the sources of uncertainty around the achievement of objective and is integrated into the organisational processes. Accordingly, Members to ensure the following:

COMPLIANCE ASPECTS

For risk management to be effective, Members need to be focussed on the sources of uncertainty around the achievement of objective and is integrated into the organisational processes. Accordingly, Members to ensure the following

- Members shall put strong systems and promote good governance practices within the organization
- Members shall create awareness among the borrowers about its recovery agency and its authorised agents as per RBI guidelines
- Members shall ensure that all employees are trained and instructed to follow fair practices as per RBI prescribed guidelines in all their dealings with the customers
- As required, Members shall update training materials and arrange retraining of staff on various topics like Fair Practice Code, fees and charges, Bureau updation, Repayment and Soft Skills, etc. to ensure consistency across the organisation
- Members to practice good faith in the collection, storage, use and sharing of personal data of customers as per the applicable laws. Members to develop consent-based architecture for capturing data provided by the customer along with details of the data being captured and used (including sharing of such data with third parties). The Member shall ensure to preserve such records of customer consent(s)

STATUTORY/ REGULATORY COMPLIANCE

Members to conduct regular review of compliances through internal as well as external compliance audit

RISK ASSESSMENT

Members should undertake an independent risk assessment for the purpose of formulating a risk-based audit plan which considers the inherent business risks emanating from an activity / location and the effectiveness of the control systems for monitoring such inherent risks

RISK MANAGEMENT COMMITTEE

All categories of NBFCs are required to appoint a risk management committee at the board or executive level, which shall report to the board of directors

APPOINTMENT OF CHIEF RISK OFFICER

NBFC-ICCs, NBFC-IFCs, NBFC-MFIs, NBFC-Factors, IDF-NBFCs and CICs with asset size of more than ₹5000 crore are required to appoint a chief risk officer (CRO) with clearly specified roles and responsibilities

AUDIT REQUIREMENTS

Members should have in place an audit methodology that links its overall risk management framework and provide an assurance to the Board of Directors and the Senior Management on the quality and effectiveness of the organisation's internal controls, risk management and governance related systems and processes.

GRIEVANCE REDRESSAL MECHANISM

Members to put in place a board approved policy for addressing customer complaints in a fair and prompt manner thereby putting in place an effective grievance redressal mechanism and ensure that the same is communicated to all customers and also made available on the website of the Member. Members to strengthen the evaluation methodologies in order to classify the complaints, request, inquiry, escalations etc. appropriately and ensure effective resolution.

DELINQUENCY MANAGEMENT

The Member shall not resort to any abusive, violent, unethical methods of collection or coercive recovery practices and all recovery efforts shall be in accordance with the RBI guidelines, Member company's policy and Fair Practices Code

WHISTLE BLOWER/ FRAUD PREVENTION POLICY

Member to encourage all its employees to report any non-compliance of defined company processes or policies without fear on a "no-retaliation" basis. Member should also ensure that the policy details the manner in which such issues are handled – background investigation, holding a hearing by a committee, and ensuring that action as per the committee's recommendations is carried out. The Member shall maintain records of the entire case history of all issues reported, which is signed off by Senior Management on closure

EDUCATION

Members to fix responsibilities for compliance with the RBI Guidelines, within their organisation

OUTSOURCING ARRANGEMENTS

- **MASTER DIRECTION ON OUTSOURCING OF INFORMATION TECHNOLOGY SERVICES**

  The RBI has released the Master Direction on Outsourcing of Information Technology Services on 10th April 2023, which shall come into effect from 1st October 2023. These directions regulate the outsourcing of IT services by NBFCs and state that the responsibility for compliance with respect to outsourced services lies with the NBFC

- **STRINGENT SELECTION CRITERIA**

  Selection of vendors, employees and other associates shall be as per the stringent criteria prescribed by the Member's board approved policy

- **REFERENCE CHECK**

  Members to carry out detailed reference checks for all the vendors prior to commencement of any outsourcing

- **LEGAL OBLIGATIONS**

  Members to ensure that all vendors and associates sign legal contracts and the agreement should be sufficiently flexible to allow the Member to retain an appropriate level of control over the outsourcing with the right to intervene and implement appropriate measures to meet legal and regulatory obligations

- **REVIEW**

  Members to conduct review of the performance of each of the vendors at periodical intervals

- **AUDITS**

  Members to arrange for regular audits by either the internal auditors or external auditors to assess the adequacy of the risk management practices adopted in overseeing and managing the outsourcing arrangement, Member's compliance with its risk management framework and the requirements of RBI guidelines. There is also requirement of audit of the vendors about their adherence to the outsourcing agreements

- **CONTROL**

  In order to mitigate the risk of unexpected termination of the outsourcing agreement or liquidation of the service provider, Members should retain an appropriate level of control over their outsourcing and the right to intervene with appropriate measures to continue its business operations in such cases without incurring prohibitive expenses and without any break in the operations of the Members and its services to the customers

ENGAGEMENT OF RECOVERY AGENTS/ COLLECTION AGENCIES

- Members to introduce exhaustive dos and don'ts for the agencies and the agents with respect to the adopted principles of fair means of treating customers are in line with adoption of Fair Practice Code and RBI Guidelines, as amended from time to time

- Members should ensure that recovery agents / collection agencies are properly trained to handle their responsibilities, particularly in relation to privacy of customer information, conveying the correct terms and conditions of the product, etc

- The board approved Code of Conduct and "Dos and Don'ts" should be made part of the standard agency agreement through execution of appropriate addendums. The updated Code of Conduct specifically may include following key points:

  - No customer details are to be disclosed to any third-party including family members by collection agencies
  - Institute audit process wherein the Members can undertake a periodic review of the agency and their agents
  - Identify the particular errant agent or agency in default of the Code of Conduct and take corrective / penal measures
  - Adopt a practice of running customer awareness campaigns
  - In order to effectively address the customer grievances, there should be multiple touch points and channels for communication as well as escalations
  - Members to ensure that no external collection agencies working with them indulges in using social media for collecting details of the family / friends of the customers
  - Members to keep check on recovery agencies from any non-adherence to the Code of Conduct, introduce graded penalty clause for repetition of similar breach instances including termination of the agencies / agents
  - Add penalty / claw back clauses to agreements with all the collection agencies
  - Members to seek reports on adherence to the Code of Conduct by each of the agents and corrective action taken in case of deficiency
  - Members must adhere to the detailed guidelines published by FIDC earlier from time to time in respect of collection activities including appointment and management of collection/recovery agents

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