APPENDIX-I

*NATIONAL HOUSING BANK (NHB)

Promotion and Development

One of the fundamental ideas behind the inception of NHB in 1988 as the apex institution for the housing finance sector of the country was to facilitate the development of a sound, healthy and sustainable housing finance system. Since its initiation, NHB took very determined steps towards achieving this goal. The number of housing finance companies approved for NHB's refinance assistance increased by almost 10 fold during a decade of NHB's effective operation, with 29 such HFCs operating all over the country with a network of 524 branches as at the end of June 2000.

NHB provides refinance to primary lending institutions (PLIs) through its refinance schemes. The various categories of PLIs are as under:-

(a) Housing Finance Company (HFCs)

* Based on the commentaries of "Home Loan Counseling", by Indian Institute of Banking & Finance, Taxman Publishers, New Delhi, Nov. 2007.
(b) Co-operative sector viz. (i) State Level Apex Co-operative Housing Finance Societies (ACHFS) (ii) State Co-operative Agriculture and Rural Development Banks (ARDBs).

(c) Schedule Banks which includes Commercial banks, State Co-operative Banks, Primary Urban Co-op. Banks, Regional Rural Banks.

NHB has introduced a Liberalized Refinance Scheme in February, 2003 under which refinance assistance in respect of direct lending up to Rs. 50 Lakhs to individuals are covered. Under Golden Jubilee Rural Housing Finance Scheme individual housing loans up to Rs. 15 Lakhs extended by HFCs in rural area are eligible for refinance under this scheme. NHB also offers subscription to Special Rural Housing Debentures of ARDBs.

The details of regarding NHB’s equity participation in HFCs till June 30, 2000 are given below:
NHB's participation in equity of HFCs

(Rs. in Crore)

<table>
<thead>
<tr>
<th>Name of HFC</th>
<th>Face Value</th>
<th>Investment as on 30-06-2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Can Fin Homes Ltd.</td>
<td>0.50</td>
<td>1.75</td>
</tr>
<tr>
<td>2. Centbank Home Finance Ltd.</td>
<td>3.20</td>
<td>3.20</td>
</tr>
<tr>
<td>3. GRUH Finance Ltd.</td>
<td>0.45</td>
<td>0.85</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>4.15</strong></td>
<td><strong>5.80</strong></td>
</tr>
</tbody>
</table>

NHB signed an agreement of co-operation with Canada Mortgage & Housing Corporation (a crown corporation established and owned by the Government of Canada), which would include mortgage credit guarantee, and development of innovative debt instruments for funding housing activities by the country. The general areas of co-operation will include mortgage insurance, mortgage backed securities, regulatory and supervisory framework for housing finance system, rating/registration of builders, role of mortgage banks, development of secondary mortgage market, product development & marketing, capacity building and development of market oriented initiatives for the housing finance system.
The International Finance Corporation (IFC), an affiliate of the World Bank, had approached NHB, seeking assistance in the execution of their Technical Assistance (TA) programme in Bangladesh and Sri Lanka. The objective was to prepare a report suggesting measures and recommendations that could lead to development of a supervisory and regulatory framework for promoting a competitive, integrated and marked based housing finance system in these countries.

**Refinance Policy**

In order to maintain the parity with the increased cost of construction in both rural and urban area, RBI revised the ceiling of housing loans under priority sector to Rs. 15 lakhs in the rural areas and Rs. 50 lakhs in urban areas. Accordingly, the loan size for refinance under the 'Golden Jubilee Rural Housing Refinance Scheme' was also revised upwards to Rs. 15 lakhs for all eligible institutions. The maximum individual loan size eligible for refinance in respect of Regional Rural Banks was also revised Rs. 15 lakhs. In respect of individual housing loans for Primary [Urban] Co-operative Banks and Scheduled State Co-operative Banks, the maximum loan size eligible for refinance has been revised to Rs. 50 lakhs per individual.
Amendment to the NHB Act

In the context of larger outlay envisaged in the 9th five year plan and since accessibility of credit by the economically weaker sections and affordability continues to be the critical aspects of the housing sector, there was a need felt to instill requisite thrust to the sector so as to enable it to respond better to the changing environment NHB has also been entrusted with responsibilities to regulate the deposit acceptance activities of Housing Finance Companies (HFCs) under the NHB Act. The provisions of the NHB Act pertaining to regulation of the deposit acceptance activities of HFCs were analogous to the provisions contained in the Reserve Bank of India Act, 1934 concerning the regulation of Non-Banking Financial Companies (NBFCs). The RBI Act was amended in January 1997 strengthening the regulatory and control provisions.

The 'National Housing & Habitat Policy' and both the 8th and 9th five-year plans have focused on the need to augment larger resources for the housing sectors through asset securitization. Further, the Housing & Habitat Policy has ascribed a lead role a NHB in initiating the process of mortgage securitization and development of a secondary mortgage market. In order to enable NHB to set up appropriate institutional mechanism for this purpose,
certain amendments to the existing Act were required. Accordingly, the National Housing Bank (Amendment) Act has come into force from June 12, 2000.

The salient features of the amendment to the NHB Act are as under:-

- Regulation of Deposit Acceptance activities: Amendments have been carried out with a view to safeguard public interest by introducing registration of HFCs, maintenance of liquid assets, creation of reserve fund etc.;
- Asset securitisation and development of a secondary mortgage market by NHB in the country;
- A simple, speedy and cost effective method of recovery of overdues by the housing finance institutions by providing for the sale of property charged as security for the loan assistance granted by such institutions;
- Enhancement of the authorised capital of the National Housing Bank to rupees two thousand crores: The amendment also provides for broader share-holding in the equity of NHB by public sector institutions and other institutions owned or controlled by the Central Government with the provision that the aggregate shareholding by these
institutions shall, at any time, by not less than fifty-one per cent;

• Restructuring of the Board of Directors of NHB; and

• Authorizing NHB to undertake certain additional business of financing agriculture and rural development banks or any other institution or group of institutions as may be notified by the Central Government; giving of loans and advances for residential township-cum-housing development projects, undertaking securitization of loans, setting up of mutual funds and undertaking or participating in housing mortgage insurance business, and promoting mortgage banks.

In concurrence with financial sector reforms, the amendments to the NHB Act, 1987 are expected to encourage healthy competition among various players of the housing sector, to result in easier availability of better quality products of affordable prices to the borrower.

In order to facilitate augmented flow of resources to the housing sector, the Reserve Bank of India, during the year 1999-2000, extended permission to the commercial banks for granting term loans to Housing Intermediary agencies against the direct loans sanctioned/proposed to the sanctioned (including advances to NRIs)
by the latter, irrespective of the size of the loan per borrower extended by these intermediaries. The finance extended to Housing Finance Intermediaries [excluding NRI advances] is treated as housing finance extended by commercial banks under their yearly housing finance allocation for the year. The Reserve Bank of India also stipulated that, henceforth, direct housing loans upto Rs. 10 lakhs given by banks for construction of houses by individuals in urban/metropolitan areas as well as for subscription to NHB/HUDCO bonds, are eligible for inclusion under priority sector finance. All these initiatives, resulted in a considerable spurt in bank's lending for housing. Besides, the low-risk nature of housing finance business and lack of alternative avenues for deployment of funds, have also induced the banking sector to take a keen interest in the sector in the recent times.

**Important Provisions of National Housing Bank (Amendment) Act, 2000**

The National Housing Bank (Amendment) Act, 2000 was passed by the Parliament during the year and after receiving President's assent it come into effect from the 12\textsuperscript{th} of June 2000. The amendments provide NHB with greater regulatory powers over the
HFCs, increased scope for mobilization of additional resources for the housing sector through introduction of mortgage backed securities and creation of a secondary mortgage market. As a significant measure, the amendments also provide speedier mechanism for recovery of loans from defaulting borrowers. The additional regulatory powers given to NHB are akin to those vested with Reserve Bank of India relating to Non-Banking Financial Companies.

The Amendments to the NHB Act can be classified under four broad head and these are discussed below:-

**A. Regulation of Deposit Acceptance Activities:-**

Regulation of deposit taking activities of HFCs is a statutory responsibility of the NHB. The NHB (Amendment) Act has given additional power to NHB in respect of its regulatory functions. Relevant features of the Act having a bearing on the regulatory role of NHB are as follows:-

a. Requirement of registration and Net Owned Fund (Section 29A) : Housing Finance Companies with Net Owned Funds (NOF) of Rs. 25 lakhs and above, shall commence or carry on the business of a housing finance institution without obtaining a certificate of registration from NHB. Existing HFCs having NOF below Rs. 25
lakhs have been allowed to carry on the business for three years for the purpose of enabling them to fulfill the requirement of the NOF.
b. Maintenance of percentage of assets (Section 29B) : The requirement of maintaining liquid assets as a percentage of the outstanding deposits, has been made a part of the Act.
c. Reserve Fund (Section 29C) : Every housing Finance Company shall create a reserve fund and transfer least 20% of its net profit to the fund every year. No appropriation from the reserve fund can be made, except for, the purpose as may be specified by NHB and every such appropriation should be reported to NHB within 21 days.
d. Power to determine policy and issue directions (Section 30A) : NHB has been given the power to Housing Finance Institutions to determine the policy and give directions relating to income recognition, accounting standards, and provision for bad and doubtful debts, capital adequacy and also deployment of funds.
e. Powers and duties of auditors (Section 33) : NHB may issue directions to any HFI or to the auditors of HFIs relating to balance sheet, profit and loss account, disclosure of liabilities in the books of account, etc. NHB may direct a special audit of a HFI in relation to
any transaction/any period and may appoint an auditor for such special audit.

f. Power to prohibit acceptance of deposit and alienation of assets (Section 33A) : NHB may prohibit any Housing Finance Institution from accepting deposit if it violates the provisions of any section or fails to comply with any direction or order given under any provision of Chapter V of the NHB Act. NHB also vests the HFCs with the power to direct any order prohibiting from accepting deposit has been issued not to sell, transfer, create charge or mortgage or deal in any manner with its property and assets without prior permission of the Bank for a period not exceeding six months.

g. Power to file winding up petition (Section 33B) : NHB may file an application for winding up a Housing Finance Company under the Companies Act, if it is satisfied that the company is unable to pay its debt, or has become disqualified to carry on business by virtue of section 29A, or has been prohibited from accepting deposits and the prohibitory order has been in force for at least three months, or continuance of the company is detrimental to public interest or to the interest of the depositors.

h. Power to order repayment of deposit (Section 36A) : If an HFC fails to repay a deposit in accordance with the terms and
conditions of the deposit, an authorized officer of NHB may, either on his own motion or on any application of the depositor, direct the HFC to make repayment of the deposit.

f. Nomination by depositors (Section 36B) : A depositor of a Housing Finance Institution may nominate one person to whom the amount of deposit may be returned by the institution in event of the death of the depositor. The nomination shall be made in the manner prescribed by the rules made by the Central Government under section 45ZA of the Banking Regulation Act, 1949.

B. Mobilization of Additional Funds for Housing Through Secondary Market :

NHB has been authorized to purchase, sell, or otherwise deal in any loans or advances secured by mortgage, or charge on the immovable property relating to scheduled banks or HFCs. NHB has also been allowed to create trusts and act as a trustee. To facilitate transfer to securities, while undertaking this function, NHB has been exempted from compulsory registration under the Registration Act, both, at the time of issue of securities by NHB and at the time of their transfer by the investors. Further, in order to instill confidence among the investors in the securities issued by NHB, the Bank, acting as a
trustee or otherwise, in the transaction relating to securitization of loans, has been authorized to recover the dues as arrears of land revenue.

C. Introduction of Speedier Recovery Mechanism for Housing Loans:

To provide for introduction of a speedier recovery mechanism, a new chapter has been added to the NHB Act. This chapter provides for appointment of officers of approved institutions as recovery officers, the procedure to make application and hearing by such recovery officers and the procedure for promulgation and enforcement of orders by recovery officers. This chapter also propose for establishment of appellate tribunal to hear appeals against the orders of recovery officers. The composition, qualification for presiding officers, salaries, allowances and other terms and conditions of the presiding officers and the staff of appellate tribunals have also been specified.

D. Other Amendments:

The amendment of the Act has enlarged the scope of lending for housing by NHB. NHB can extend refinance assistance to
agriculture and rural development banks instead of subscribing to the Special Rural Housing Debentures floated by these institutions. NHB can also grant financial assistance for housing or residential townships-cum-housing projects or slum clearance projects. The amended Act has also permitted NHB to undertake additional business activities like mortgage insurance and to set up mutual funds.

Considering the difficulty experienced by NHB in obtaining mortgage of the properties from its borrowing institutions, a simple method of creation of charge in favour of NHB by declaration, has been provided for. Further, any sums received by a borrowing institution in repayment or realization of loans and advances, financed or refinanced, either wholly or partly, by the National Housing Bank shall be to the extent of the accommodation granted by NHB and remaining outstanding and that would be deemed to have been received by the borrowing institution in trust for NHB.

In terms of the amended Act, NHB can borrow money from scheduled banks, financial institutions and mutual funds. Further, NHB can also borrow money for a period less than 12 months.

NHB was established with an authorized and paid-up capital of Rs. 100 crores which was fully subscribed and paid up by RBI.
The said authorized capital was increased by the Central Government, by issuing notifications from time to time, to Rs. 350 crores. RBI also paid the additional increased capital. Due to increase in business in the last 10 years and keeping in view the expected increase in the scope of business of NHB, the Central Government can increase the authorized capital by means of notifications up to Rs. 2000 crores as against Rs. 500 crores subscribed by the Central Government, scheduled banks, public financial institutions, HFIs and other institutions approved by the Central Government, besides RBI. However, the share of RBI, Central Government and the institutions controlled by the Central Government cannot at any point of time, fall below 51% of the paid-up capital of NHB. Simultaneously, the Act has also been amended to provide for representation by institutions holding equity on the Board of NHB.
Housing Finance Policy, Allocation and Achievement of Target

National Housing Policy

As a part of the strategy to overcome the colossal housing shortage, the Central Government has adopted a comprehensive National Housing Policy which, among other things, envisages-

(i) development of a viable and accessible institutional system for the provision of housing finance;

(ii) establishing a system where housing boards and development authorities would concentrate on acquisition and development of land and infrastructure; and

(iii) creation of conditions in which access to institutional finance is made easier and affordable for individuals for construction/buying of houses/flats. This may include outright purchase of houses/flats constructed by or under the aegis of public agencies.

Banks, with their vast branch network throughout the length and breadth of the country, occupy a very strategic position in the financial system and have an important role to play in providing
credit to the housing sector in consonance with the National Housing Policy. Therefore, the banks should gear up to deliver the requisite 'housing finance'.

HOUSING FINANCE ALLOCATION

RBI announces the policy relating to housing finance allocation and other related matters, annually.

Every year, banks will need to achieve the prescribed target of 'housing finance'.

(i) Each financial year, banks are required to compute its share of the housing finance allocation at 3% of the incremental deposits at the end of previous year. For example, for a financial year (i.e. April 2002 to March 2003), each bank is required to compute its share of the housing finance allocation at 3% of its incremental deposits as on the last reporting Friday of March 2002 over the corresponding figure of the last reporting Friday of March 2001.

(ii) This is the minimum housing finance allocation and there is not objection to the banks exceeding this level, having regard to their resources' position.
(iii) By the end of April each year, banks should submit to RBI, the final figures of deposits as on the last reporting Friday of March of the preceding two financial years and the amount of housing finance allocation computed at the prescribed rate of the current financial year.

**TARGET ACHIEVEMENT BY BANKS**

Banks may deploy their funds under the housing finance allocation in any of the four categories, i.e.

(i) direct finance,

(ii) indirect finance,

(iii) investment in bonds of NHB/HUDCO, or combination thereof, or

(iv) investment in rated securitized debt instruments issued by any Special Purpose Vehicle (SPV) or entity, representing housing loans granted by approved Housing Finance Companies (under the supervision of National Housing Bank).
CONSTRUCTION ACTIVITIES

Classification

The Working Group appointed by RBI to examine the role of banking system in providing finance for housing schemes, has classified the construction activities into the following three categories:

(i) Construction activities eligible for bank credit as 'housing finance' and inclusion in the yearly allocation.

(ii) Construction activities eligible for bank credit but not to be included in the 'housing finance' allocation.

(iii) Construction activities not eligible for bank credit.

Bank Credit eligible for inclusion in the Housing Finance Target under Annual Housing Finance Allocation

The following types of bank credit will be eligible for being treated as 'housing finance' under the Annual Housing Finance Allocation:

(i) Direct housing finance upto Rs. 15 lakhs provided per dwelling irrespective of location, as against the limit of Rs. 10 lakhs till Oct, 2004.
(ii) Finance provided for construction of residential houses by public housing agencies like HUDCO, Housing Boards, local bodies, individuals, co-operative societies, employers, etc., excepting the housing finance of the nature mentioned in paragraph 2.3 below, priority being accorded to financing the construction of houses meant for people from economically weaker sections, low income group and middle income group.

(iii) Finance for construction of educational, health, social, cultural or other institutions/centres, which are part of a housing project and which are necessary for the development of settlements or townships.

(iv) Finance for shopping complexes, markets and such other centres catering to the day to day needs of the residents of the housing colonies and forming part of a housing project.

(v) Finance for construction meant for improving the conditions in slum areas for which credit may be extended directly to the slum-dwellers on the guarantee of the Government, or indirectly to them through the State Government agencies.
(vi) Bank credit given for slum improvement schemes to be implemented by Slum Clearance Boards and other public agencies.

(vii) **Finance provided to** –

(a) the bodies constituted for undertaking repairs to houses, and

(b) the owners of building/house/flat, whether occupied by themselves or by tenants, to meet the need-based requirements for their repairs/additions, after satisfying themselves regarding the estimated cost (for which requisite certificate should be obtained from an Engineer/Architect, wherever necessary) and obtaining such security as deemed appropriate;

(viii) Housing finance provided by banks for which refinance is availed of from National Housing Bank (NHB);

(ix) Investment in the guaranteed/non-guaranteed bonds and debentures of NHB/HUDCO in the primary market, provided investment in non-guaranteed bonds is made only if guaranteed bonds are not available.
Bank Credit not eligible for inclusion in the Housing Finance Allocation:

The following types of bank credit for construction will not reckoned for the purpose of achievement of housing finance allocation:

(i) Housing finance granted by banks to their own employees.

(ii) Housing finance granted to Non-Resident Indians (NRIs) directly or through Housing Finance Institutions.

(iii) Direct housing loans in excess of Rs. 15 lakhs per dwelling unit.

(iv) Housing loans taken over by banks from other banks. Some banks, of late, have devised schemes for sanction of finance for takeover of housing loans granted by other banks/housing finance institutions. RBI advised that since the bank has originally sanctioned the housing loan to an individual borrower by way of direct housing loan or to a housing finance, the bank which takes over housing loans would not be entitled to include such disbursements for purpose of achieving housing finance allocation of that bank.

(v) Industries manufacturing building material for construction.
(vi) Construction of warehouses, including those to constructed for Food Corporation of India, godowns and cold storages.

(vii) Buildings, which do not form a part of housing project, like hospitals, clinics, schools, colleges, markets, shopping centres and cinema houses.

(viii) Construction of hotels and accommodation for tourist and commercial offices.

(ix) Construction of hostels.

**Construction activities not eligible for bank credit**

Banks should not grant finance for construction of buildings meant purely for Government/Semi-Government offices, including Municipal and Panchayat office. However, banks may grant loans for activities, which will refinanced by institutions like NABARD.

Project undertaken by public sector entities which are not corporate bodies (i.e. public sector undertakings which are not registered under Companies Act or which are not corporations established under the relevant statute) may not be financed by banks. Even in respect of projects undertaken by corporate bodies, as defined above, banks should satisfy themselves that the project is run on commercial lines and that bank finance is not in lieu of or to
substitute budgetary resources envisaged for the project. The loan could, however, supplement budgetary resources if such supplementing was contemplated in the project design. However, in the case of a housing project, where the project is run on commercial lines, and the Government is interested in promoting the project either for the benefit of the weaker sections of the society, or otherwise, and a part of the project cost is met by the Government through subsidies made available and/or through contributions to the capital of the institutions taken up the project, the bank finance should be restricted to an amount arrived at after reducing from the total project cost the amount of subsidy/capital contribution receivable from the Government and any other resources proposed to be made available by the Government.

Banks had, in the past, sanctioned term loans to corporations set by Government, like State Police Housing Corporation, for construction of residential quarters for allotment to employees where the loans were envisaged to be repaid out of budgetary allocations. As these projects cannot be considered to be run on commercial lines, it would not be in order for banks to grant loans to such projects.
Indirect housing loans granted by banks to housing intermediary agencies, against the direct loans sanctioned/proposed to be sanctioned by the latter, are reckoned as part of their housing finance allocation, provided the loan per borrower by such intermediary agencies does not exceed Rs. 15 lakhs irrespective of location. In order to enhance the flow of resources to housing sector, banks have not been permitted to grant term loans to housing intermediary agencies against the direct loans sanctioned/proposed to be sanctioned (including those to Non-Resident Indians) by the latter, irrespective of the per borrower size of the loan extended by these agencies. However, term loans extended by the commercial banks to housing intermediary agencies against the latest on lending to Non-Resident Indians will not be treated as Housing Finance for the purpose of scheme of yearly allocation of housing finance applicable to banks.

The term loans may be granted by the banks to housing intermediary agencies against direct loans sanctioned/proposed to be sanctioned by the latter, irrespective of the per borrower size of the loan extended by these agencies.

Banks can grant term loans to housing intermediary agencies against the direct loans sanctioned/proposed to be sanctioned by
them to the Non-Resident Indians also. However, the banks should ensure that housing finance intermediary agencies being financed by them are authorized by RBI to grant housing loans to NRIs.

**Guidelines on Direct Housing Finance**

Direct Housing Finance refers to the finance provided to individuals or group of individuals including co-operative societies.

Banks are free to evolve their own guidelines with the approval of their Boards, on aspect such as security, margin, age of dwelling units, repayment schedule, etc.

(i) Bank finance extended to a person who already owns a house in the town/village where he resides, for buying/constructing a second house in the same or other town/village for the purpose of self-occupation.

(ii) Bank finance extended for purchase of a house by a borrower who proposes to let it out on rental basis on account of his posting outside the headquarters or because he has been provided accommodation by his employer.

(iii) Bank finance extended to a person who proposes to buy an old house where he is presently residing as a tenant.
(iv) Bank finance granted only for purchase of plot, provided a declaration is obtained from the borrower that he intends to construct a house on the said plot, with the help of bank finance or otherwise, within the period as fixed by the financing institution (as against the earlier norm of 2 years) from the availment of the said finance.

Supplementary Finance

(i) Banks may consider requests for additional finance within the overall ceiling for carrying out alteration/additions/repairs to the house/flat already financed by them.

(ii) In the case of individuals who might have raised funds for construction/acquisition of accommodation from other sources and need supplementary finance banks may extend such finance after obtaining pari passu or second mortgage charge over the property mortgaged in favour of other lenders and/or against such other security, as they may deem appropriate.
Indirect Housing Finance

General

Banks should ensure that their indirect housing finance is channeled by way of term loans to housing finance institutions, housing boards, other public housing agencies etc., primarily for augmenting the supply of serviced land and constructed units. It should also be ensured that the supply of plots/houses is time bound and public agencies do not utilize the bank loans merely for acquisition of land. Similarly, serviced plots should be sold by these agencies to co-operative societies, professional developers and individuals, with a stipulation that, the houses should be constructed thereon within a reasonable time, not exceeding three years. For this purpose, the banks may make use of various guidelines issued by NHB for augmenting the supply of serviced land and constructed units.

Lending to Housing Intermediary Agencies

Lending to Housing Finance Institutions

(i) Banks may grant term loans to housing finance institutions taking into account (long-term) debt-equity ratio, track record, recover performance and other relevant factors.
(ii) In terms of NHB guidelines, housing finance companies' total borrowings, whether by way of deposits, issue of debentures/bonds, loans and advances from banks or from financial institutions but excluding any loans obtained from NHB, should not exceed 16 times of their net owned funds (i.e. paid-up capital and free reserve minus accumulated balance of loss, deferred revenue expenditure and intangible assets).

(iii) In respect of housing finance companies, which are eligible to draw refinance from NHB, the quantum of term loan to be sanctioned to them will not be lined to net owned funds, as, NHB has already prescribed the above referred ceiling on total borrowings of housing finance companies. The banks may obtain a list of housing finance companies approved by NHB for the purpose of getting refinance directly from NHB.

(iv) The quantum of term loans to be granted by banks to other housing finance institutions, together with outstanding balances in the existing term loans, if any, from the banking system, should not exceed three times of their net
owned funds as per the last audited balance sheet, within the overall ceiling fixed by NHB.

**Financing of Land Acquisition:**

In view of the need to increase the availability of land and house sites, banks may extend finance to public agencies for acquisition and development of land, provided it is a part of the complete project, including development of infrastructure such as water systems, drainage, roads, provision of electricity, etc. Such credit may be extended by way of term loans. The project should be completed as early as possible and, in any case, within three years, so as to ensure quick re-cycling of banks funds for optimum results. If the project covers construction of houses, credit extended therefore in respect of individual beneficiaries should be on the same terms and conditions as stipulated for direct finance. Banks have freedom to charge interest rates to housing intermediary agencies without reference to Prime Lending Rate (PLR).

**Term Loans to Private Builders**

In view of the important role played by professional builders as providers of construction services in the housing field, especially
where land is acquired and developed by State Housing Boards and other public agencies, commercial banks may extend credit to private builders on commercial terms by way of loans linked to each specific project. The period of credit for loans extended by banks to private builders may be decided by banks themselves, based on their commercial judgment subject to usual safeguards and after obtaining such security as banks may deem appropriate. Such credit may be extended to builders of repute, employing professionally qualified personnel. It should be ensured, through close monitoring, that no part of such funds is used for any speculation in land. Care should be taken to see that prices charged from the ultimate beneficiaries do not include any speculative element that is, prices should be based only on the documented price of land, the actual cost of construction and a reasonable profit margin.

**Housing Loans under Priority Sector**

The following housing finance limits will considered as Priority Sector Advances

(1) Direct Finance

(a) Loans upto Rs. 15 lakhs for construction of houses by individuals, irrespective of location.
(b) Loans upto Rs. 1 lakh in rural/semi-urban areas and Rs. 2 lakhs in urba/metro area for repairs/additions/alteration to houses by individuals.

(2) Indirect Finance:

(i) Assistance given to any governmental agency for construction of houses or for slum clearance and rehabilitation of slum dwellers, subject to a ceiling of Rs. 5 lakhs per housing unit.

(ii) Assistance given to non-governmental agency approved by the National Housing Bank for the purpose of refinance for construction of houses or for slum clearance and rehabilitation of slum dwellers, subject to a ceiling of Rs. 5 lakhs per housing unit.

(3) Investment in Bonds

Investment by banks in bonds issued by NHB/HUDCO exclusively for financing of housing, irrespective of the loan size dwelling unit, will be reckoned for inclusion under Priority Sector Advances.

Reporting

Banks should compile the data relating to Housing Finance at half-yearly intervals and keep it ready for being made available to the bank's internal inspectors/RBI's inspectors.
For the purpose of monitoring, the macro-level performance of the commercial banks in disbursement of housing finance vis-a-vis their housing finance allocation, which is done by RBI, banks should submit, on a quarterly basis, details of disbursements made by them towards housing finance, within 20 days from the closure of the respective quarter.

Housing loans taken over from other banks should not be included in the quarterly statement for showing the achievement of housing finance allocation.

**Opening of Specialized Housing Finance Branches**

In view of the priority accorded to the development of housing, as also, to achieve greater professionalism, there is a need for establishment of specialized branches at certain centres exclusively to cater to Housing Finance needs; but this can be brought about gradually, based on the policies and perceptions for greater involvement of commercial banks.

Initially, the opening of such specialized branches is restricted to semi-urban/urban centres and the number of the such branches to be allowed depends on the size and spread of the bank. Requests for this kind of branch in rural area will also be considered where there
is a clear need and assured viability. While formulating their proposals, banks may, therefore, keep in view the following aspects:

The housing finance branch of a bank should be in any of the districts for which the bank has lead responsibility or, in the case of banks having very nominal lead responsibility, the branch should be in districts where they have a large presence.

Banks should avoid opening such housing finance branches at metropolitan centres, which are served by quite a few specialized Housing Finance Companies like HDFC, or housing finance subsidiaries of the commercial banks.

The housing finance branches may be set up in areas where there is a concentration of branches of the same bank designated to handle housing finance business, so that the expertise available in the specialized branch could be used for servicing the other designated branches too.

Banks should, as far as possible, give preference to smaller urban and semi-urban centres where there is enough potential for opening such branches.

The proposals should cover all the States to ensure a wider geographical dispersion of housing finance branches.
The applicant bank should also explore the feasibility of converting any of its loss-making branches at the centre, into a proposed housing finance branches. Apart from this, banks could designate one of their normal banking functions. The availability of housing finance services at specialised branches should also be widely publicised. In the interest of effecting economy in expenditure, the proposed housing finance branches, as far as possible, may be accommodated in any of the existing premises, of the bank at the centre.

National Housing Bank will be prepared to take up the task of training the staff to be posted in the specialized housing finance branches so that they are equipped with the necessary skills for the work.

**Housing Loan Account Scheme (HLAS) of NHB**

Foreclosure of Loans obtained from other sources

Under the HLAS, a member of HLAS is eligible for a loan after subscription to the scheme for a minimum period of 5 years. The member has to declare while joining the scheme/availing loan that he/she does not own a house/flat. However, a member may acquire a house or a flat from a public agency/co-operative/private builder by obtaining a loan from a bank at the normal rate of interest
or from friends and relatives or through a hire-purchase scheme of Housing Board/Development Authority. Thereafter, when the member becomes eligible for a loan under HLAS, he/she may approach the bank for such a loan, to repay the loan(s) raised earlier from other sources.

There is no objection to bank loans under HLAS being utilized for foreclosing loans secured earlier from other sources, as a special case.

**Classification of Deposits/Loans under HLAS**

Under HLAS, the participating bank is required to accept deposits on behalf of NHB and make use of these deposits by of refinance under any scheme approved by NHB from time to time. The surplus funds, if any, not so utilized (i.e. excess of deposits over refinance) can either be remitted by the participating bank to NHB or retained by it, subject to compliance with the statutory reserve requirements as under:

(i) The deposits under the HLA scheme are on a recurring basis; and they should be treated as 'time' liabilities, subject to reserve requirements under section 42(1) of the Reserve Bank of India Act, 1934 as also under section 24 of the Banking
Regulation Act, 1949 and included under item II (a) (ii) of 'A'.

(ii) In terms of sub-clause (ii) of clause (c) of the Explanation to Sub-section (1) of section 42 of the RBI Act, as amended by clause 3 of the Second Schedule to the National Housing Bank Act, 1987, 'liabilities' will not include any loan taken from NHB. Hence, the deposits utilized as refinance from NHB should be deducted from the total deposits received under the HLA Scheme.

Relaxations of Risk Weight on Housing Finance for Capital Adequacy Ratio:

With a view to further improve the flow of credit to the housing sector, it has been decided to liberalise the prudential requirement on risk weight for housing finance by banks and encourage investments by banks in Mortgage Backed Securities (MBS) of Housing Finance Companies (HFCs) which are recognized and supervised by NHB. Accordingly, banks extending housing loans to individuals against the mortgage of residential housing properties would be permitted to assign risk weight of 75%. Loans against the security of commercial real estate would attract
150% risk weight. The investment in MBS of residential assets of HFCs would be eligible for risk weight of 75% for the purpose of Capital Adequacy.

**Terms and Conditions for Bank's Investment in Mortgage Backed Securities (MBS)**

Bank's investments in MBS should satisfy the following terms and conditions:

1. **The right, title, and interest of a Housing Finance Company in securitized housing loans and receivables thereunder should irrevocably be assigned in favour of a Special Purpose Vehicle (SPV) Trust.**

2. **Mortgaged securities underlying the securitized housing loans should be held exclusively on behalf of and for the benefit of the investors by the SPV/Trust.**

3. **The SPV or Trust should be entitled to the receivables under the securitized loans with an arrangement for distribution of the same to the investors as per the terms of the issue of MBS. Such an arrangement may provide for appointment of the originating HFC as the servicing and paying agent. However, the originating HFC participating**
in a securitization transaction as a seller, manager, servicer
or provider of credit enhancement of liquidity facilities:-

(a) Shall not own any share capital in the SPV or be the
beneficiary of the Trust used as a vehicle for the
purchase and securitisation of assets. Share capital for
this purpose shall include all classes of common and
preferred share capital.

(b) Shall not name the SPV in such manner as to imply any
connection with the bank.

(c) Shall not have any directors, officers, or employees on
the board of the SPV unless the board is made of at
least three members and where there is a majority of
independent directors. In addition, the official(s)
representing the bank will not have veto powers.

(d) Shall not directly or indirectly control the SPV, or

(e) Shall not support any losses arising from the
securitization transactions or by investors involved in it
or bear any of the recurring expenses of the transaction.

(iv) The loans to be securitized, should be loans advanced to
individuals for acquiring/constructing residential houses
which should have been mortgaged to the HFC by way of exclusive first charge.

(v) The loans to be securitized should be accorded on Investment Grade Credit Rating by any of the Credit Rating Agencies at the time of assignment to the SPV.

(vi) The investors should be entitled to call upon the issuer – that is SPV-to take steps for recovery in the event of default and distribute the net proceeds to the investors, as per the terms of issues of MBS.

(vii) The SPV undertaking the issue of MBS should not be engaged in any business other than the business of issue and administration of MBS of individual housing loans.

(viii) The SPV or Trustees appointed to manage the issue of MBS should be governed by the provisions of Indian Trust Act, 1882.
NHB's Revised Guidelines on 'Know your Customer' Norms and Anti-Money Laundering Measures

'Know Your Customer' Standards

The objective of 'KYC guidelines' is to prevent HFCs from being used, intentionally or unintentionally, by criminal elements for money laundering activities. KYC procedures also enables HFCs to know/understand their customers and their financial dealings better which in turn help them manage their risks prudently. HFCs should frame their KYC policies incorporating the following four key elements.

(i) Customer Acceptance Policy;
(ii) Customer Identification Procedures;
(iii) Monitoring of Transactions;
(iv) Risk Management; and
(v) For the purpose of KYC policy, a 'Customer' may be defined as:

* Based on the commentaries of "Home Loan Counseling", by Indian Institute of Banking & Finance, Taxman Publishers, New Delhi, Nov. 2007.
• a person or entity that maintains an account and/or has business relationship with the HFC;
• one on whose behalf the account is maintained (i.e. the beneficial owner);
• beneficiaries of transactions conducted by professional intermediaries, such as Stock Brokers, Chartered Accountants, Solicitors, etc. as permitted under the law, and
• Any person or entity connected with a financial transaction which can pose significant reputational or other risk to the HFC, say, a wire transfer or issue of a high value demand draft as a single transaction.

Customer Acceptance Policy (CAP)

(i) HFCs should develop a clear Customer Acceptance Policy laying down explicit criteria for acceptance of customers. The Customer Acceptance Policy must ensure that explicit guidelines are in place on the following aspects of customer relationship in the HFC.

(ii) No account is opened in anonymous or fictitious/benami name(s);
(iii) Parameters of risk perception are clearly defined in terms of the location of customer and his clients and mode of payments;

(iv) volume of turnover, social and financial status, etc. to enable categorization of customers into low, medium and high risk (HFCs may choose any suitable nomenclature, viz level I, level II, level III etc.); customers requiring very high level of monitoring, e.g. Politically Exposed Persons (PEPs – as explained in Annex I) may, if considered necessary, be elevated even higher;

(v) Documentation requirements and other information to be collected in respect of different categories of customers depending on perceived risk and keeping in mind the requirements of PML Act, 2002 and guidelines issued from time to time;

(vi) Not to open an account or close an existing account where the HFC is unable to apply appropriate customer due diligence measures, i.e. HFC is unable to verify the identity and/or obtain documents required as per the risk assessed due to non co-operation of the customer or non reliability of the data/information furnished to the HFC. It
may, however, be necessary to have suitable built-in safeguards to avoid harassment of the customer. For example, decision to close an account may be taken at a reasonable high level after giving due notice to customer explaining the reasons for such a decision;

(vii) Circumstances, in which a customer is permitted to act on behalf of another person/entity, should be clearly spelt out in conformity with the established law and practices, as there could be occasions when an account is operated by a mandate holder or where an account may be opened by an intermediary in a fiduciary capacity, and

(viii) Necessary checks before opening a new account so as to ensure that the identity of the customer does not match with any person with known criminal background or with banned entities such as individual terrorists or terrorist organizations, etc.

4. HFCs may prepare a profile for each new customer based on risk assessed. The customer profile may contain information relating to the customer's identity, social/financial status, nature of business activity, information about his clients' business and their
location, etc. The nature and extent of due diligence will depend on risk perceived by the HFC. However, while preparing customer profile the HFCs should take care to seek only such information from the customer which is relevant to the risk category and is not intrusive. The customer profile will be a confidential document and details contained therein shall not be divulged for cross selling or any other purposes.

5. For the purpose of risk assessed, individuals (other than High Net Worth) and entities whose identities and sources of wealth can be easily identified and transactions in whose accounts by and large conform to the known profile, may be assessed as low risk. Illustrative examples of low risk customers could be salaried employees whose salary structures are well defined, people belonging to lower economic strata of the society whose accounts show small balances and low turnover, Government departments & Government owned companies, regulators and statutory bodies, etc. In such cases, the policy may require that only the basic
requirements of verifying the identity and location of the customer are to be met.

6. Customers that are likely to pose a higher than average risk to the HFC may be categorized as medium or high risk depending on customer's background, nature and location of activity, country of origin, sources of funds and his client profile, etc. HFCs may apply enhanced due diligence measures based on the risk assessment, thereby requiring intensive 'due diligence' for higher risk customers, especially those for whom the sources of funds are not clear. Examples of customers requiring higher due diligence may include:

(i) non-resident customers,

(ii) high net worth individuals,

(iii) trusts, charities, NGOs and organizations receiving donations,

(iv) companies having close family shareholding or beneficial ownership,

(v) firms with 'sleeping partners',

(vi) politically exposed persons (PEPs) of foreign origin,

(vii) non-face to face customers, and
(viii) those with dubious reputation as per public information available, etc.

(7) It is important to bear in mind that the adoption of customer acceptance policy and its implementation should not become too restrictive and must not result in denial of housing finance companies' service to general public, especially to those, who are financially or socially disadvantaged.

**Customer Identification Procedure (CIP)**

The policy approved by the Board of an HFC should clearly spell out the Customer Identification Procedure to be carried out at different stages, i.e. while establishing a relationship carrying out a financial transaction or when the HFC has a doubt about the authenticity/veracity or the adequacy of the previously obtained customer identification data. Customer identification means identifying the customer and verifying his/her identity by using reliable, independent source documents, data or information. HFCs need to obtain sufficient information necessary to establish, to their satisfaction, the identity of each new customer, whether regular or occasional and the purpose of the intended nature of relationship.
Being satisfied means that the HFC must be able to satisfy the competent authorities that due diligence was observed based on the risk profile of the customer in compliance with the extant guidelines in place. Such risk based approach is considered necessary to avoid disproportionate cost of HFCs and a burdensome regime for the customers. Besides risk perception, the nature of information/documents required would also depend on the type of customer (individual, corporate etc.). For customers that are natural persons, the HFCs should obtain sufficient identification data to verify the identity of the customer, his address/location, and also his recent photograph. For customers that are legal persons or entities, the HFC should

(i) verify the legal status of the legal person/entity through proper and relevant documents

(ii) verify that any person purporting to act on behalf of the legal person/entity is so authorized and identify and verify the identity of that person and

(iii) understand the ownership and control structure of the customer and determine who are the natural persons who ultimately control the legal person.
Customer identification requirements in respect of a few typical cases, especially, legal persons requiring an extra element of caution are given in Annex-I for guidance of HFCs. HFCs may, however, frame their own internal guidelines based on their experience of dealing with such persons/entities, normal prudence and the legal requirements as per established practices. If the HFC decides to accept such accounts in terms of the Customer Acceptance Policy, the HFC should take reasonable measures to identify the beneficial owner(s) and verify his/her/their identity in a manner so that it is satisfied that it knows who the beneficial owner(s) is/are. An indicative list of the nature and type of documents/information that may be relied upon for customer identification is given in the Annex-II.

**Monitoring of Transactions**

Ongoing monitoring is an essential element of effective KYC procedures. HFCs can effectively control and reduce their risk only if they have an understanding of the normal and reasonable activity of the customer so that they have the means of identifying transactions that fall outside the regular pattern of activity. However, the extent of monitoring will depend on the risk sensitivity of the
account. HFCs should pay special attention to all complex, usually large transactions and all unusual patterns which have no apparent economic or visible lawful purpose. The HFC may prescribe threshold limits for a particular category of accounts and pay particular attention to the transactions which exceed these limits. Transactions that involve large amount of cash inconsistent with the normal and expected activity of the customer should particularly attract the attention of the HFC. Very high account turnover inconsistent with the size of the balance maintained may indicate that funds are being 'washed' through the account. High-risk accounts have to be subjected to intensified monitoring. Every HFC should set key indicators for such accounts, taking note of the background of the customer, such as the country of origin, sources of funds, the type of transactions involved and other risk factors. HFCs should put in place a system of periodical review of risk categorization of accounts and the need for applying enhanced due diligence measures. HFCs should ensure that a record of transactions in the accounts is preserved and maintained as required in terms of section 12 of the PML Act, 2002. It may also be ensured that transactions of suspicious nature and/or other type of transaction
notified under section 12 of the PML Act, 2002, is reported to the appropriate law enforcement authority.

HFCs should ensure that their branches continue to maintain proper record of all cash transactions (deposits and withdrawals) of Rs. 10 lakh and above. The internal monitoring system should have an inbuilt procedure for reporting of such transactions and those of suspicious nature to controlling/head office on a fortnightly basis.

**Risk Management**

The Board of Directors of the HFC should ensure that an effective KYC programme is put in place by establishing appropriate procedures and ensuring their effective implementation. It should cover proper management oversight, systems and controls, segregation of duties, training and other related matters. Responsibility should be explicitly allocated within the HFC for ensuring that the housing finance companies policies and procedures are implemented effectively. HFCs may, in consultation with their Boards, devise procedures for creating Risk Profiles of their existing and new customers and apply various Anti Money Laundering measures keeping in view the risk involved in a transaction, account or business relationship.
HFCs' internal audit and compliance functions have an important role in evaluating and ensuring adherence to the KYC policies and procedures. As a general rule, the compliance function should provide an independent evaluation of the HFC's own policies and procedures, including legal and regulatory requirements. HFCs should ensure that their audit machinery is staffed adequately with individuals who are well-versed in such policies and procedures. Concurrent/Internal Auditors should specifically check and verify the application of KYC procedures at the branches and comment on the lapses observed in this regard. The compliance in this regard may be put up before the Audit Committee of the Board at quarterly intervals.

HFCs must have an ongoing employee training programme so that the members of the staff are adequately trained in KYC procedures. Training requirements should have different focuses for frontline staff, compliance staff and staff dealing with new customers. It is crucial that all those concerned fully understand the rationale behind the KYC policies and implement them consistently.
Customer Education

Implementation of KYC procedures requires HFCs to demand certain information from customers which may be of personal nature or which has hitherto never been called for. This can sometimes lead to a lot of questioning by the customer as to the motive and purpose of collecting such information. There is, therefore, a need for HFCs to prepare specific literature/pamphlets, etc. so as to educate the customer on the objectives of the KYC programme. The front desk staff needs to be specially trained to handle such situations while dealing with customers.

Introduction of New Technologies

HFCs should pay special attention to any money laundering threats that may arise from new or developing technologies including on-line transactions that might favour anonymity, and take measures, if needed, to prevent their use in money laundering schemes.

KYC for Existing Accounts

HFCs were advised, vide our circular NHB(ND)/DRS/Pol-No.02/2004-05 dated August 25, 2004 to apply the KYC norms to
all the existing customers in a time bound manner. While the revised guidelines will apply to all new customers, HFCs should apply the same to the existing customers on the basis of materiality and risk. However, transactions in existing accounts should be continuously monitored and any unusual pattern in the operation of the account should trigger a review. It may, however, be ensured that all the existing accounts of companies, firms, trusts, charities, religious organizations and other institutions are subjected to minimum KYC standards which would establish the identity of the natural/legal person and those of the 'beneficial owners'. HFCs may also ensure that term/recurring deposit accounts or accounts of similar nature are treated as new accounts of the time of renewal and subjected to revised KYC procedures.

Where the HFC is unable to apply appropriate KYC measures due to non-furnishing of information and/or non-cooperation by the customer, the HFC may consider closing the account or terminating the business relationship after issuing due notice to the customer explaining the reasons for taking such a decision. Such decisions need to be taken at a reasonably senior level.
Applicability to branches and subsidiaries outside India

The above guidelines shall also apply to the branches and majority owned subsidiaries located abroad, especially, in countries which do not or insufficiently apply the FATF recommendations, to the extent local laws permit. When local applicable laws and regulations prohibit implementation of these guidelines, the same should be brought to the notice of National Housing Bank and RBI.

Appointment of Principal Officer

HFCs may appoint a senior management officer to be designated as 'Principal Officer'. Principal Officer shall be located at the head/corporate office of the HFC and shall be responsible for monitoring and reporting of all transactions and sharing of information as required under the law. He will maintain close liaison with enforcement agencies, HFCs and any other institution which are involved in the fight against money laundering and combating financing of terrorism. It should also be ensured that there is proper system of fixing accountability for serious lapses and intentional circumvention of prescribed procedures and guidelines.
Maintenance of records of transactions

HFCs should introduce a system of maintaining proper record of transactions prescribed under Rule 3 of the Prevention of Money-Laundering and value of transactions, the procedure and manner of maintaining and verification and maintenance of records of the identity of the clients of the Banking Companies, Financial Institutions and Intermediaries Rules, 2005, as mentioned below:-

(i) all cash transactions of the value of more than rupees ten lakh or its equivalent in foreign currency;

(ii) all series of cash transactions integrally connected to each other which have been valued below rupees ten lakh or its equivalent in foreign currency where such series of transactions have taken place within a month and the aggregate value of such transactions exceeds rupees ten lakh;

(iii) all cash transactions where forged or counterfeit currency notes or bank notes have been used as genuine and where any forgery of a valuable security has taken place;

(iv) all suspicious transactions whether or not made in cash and by way of as mentioned in the Rules.
Information to be preserved

HFCs are required to maintain the following information in respect of transactions referred to in Rule 3:

(i) the nature of the transactions;
(ii) the amount of the transaction and the currency in which it was denominated;
(iii) the date on which the transaction was conducted; and
(iv) the parties to the transaction.
(v) the amount of the transaction.

Maintenance and Preservation of records

HFCs should take appropriate steps to evolve a system for proper maintenance and preservation of account information in a manner that allows data to be retrieved easily and quickly whenever required or whenever required or when requested by the competent authorities. Further, HFCs should maintain for at least ten years from the date of cessation of transaction between the bank and the client, all necessary records of transactions, both domestic or international, which will permit reconstruction of individual transactions (including the amounts and types of currency involved)
if any) so as to provide, if necessary, evidence for prosecution of persons involved in criminal activity.

HFCs should ensure that records pertaining to the identification of the customer and his address (e.g. copies of documents like passports, identity cards, driving licenses, PAN, utility bills etc.) obtained while opening the account and during the course of business relationship, are properly preserved for at least ten years after the business relationship is ended. The identification records and transaction data should be made available to the competent authorities upon request.

**Reporting to Financial Intelligence Unit-India**

It is advised that in terms of PMLA rules, HFCs are required to report information (format will be sent to HFCs shortly) relating to cash and suspicious transaction to the Director, Financial Intelligence Unit-India (FIU-IND) at the following address:

Director, FIU-IND,

Financial Intelligence Unit-India,

6th Floor, Hotel Samrat,

Chanakyapuri,

New Delhi-110021