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**STANDING COMMITTEE ON FINANCE  
(2012-13)**

**FIFTEENTH LOK SABHA**

**Ministry of Finance  
(Department of Financial Services)**

**THE NATIONAL HOUSING BANK  
(AMENDMENT) BILL, 2012**

**SIXTY-FIFTH REPORT**



**LOK SABHA SECRETARIAT  
NEW DELHI**

**March, 2013/Phalguna, 1934 (Saka)**

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**Ministry of Finance  
(Department of Financial Services)**

## **THE NATIONAL HOUSING BANK (AMENDMENT) BILL, 2012**

**Presented to Hon'ble Speaker on 16 February, 2013**

***Presented to Lok Sabha on 5 March, 2013***

***Laid in the Rajya Sabha on 5 March, 2013***



**LOK SABHA SECRETARIAT  
NEW DELHI**

**March, 2013/Phalguna, 1934 (Saka)**

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## **COMPOSITION OF STANDING COMMITTEE ON FINANCE ( 2012-13)**

**Shri Yashwant Sinha - Chairman**

### **MEMBERS**

#### **LOK SABHA**

2. Shri Suwendu Adhikari
3. Dr. Baliram
4. Shri Udayanraje Bhonsle
5. Shri Sudip Bandyopadhyay\*
6. Shri Nishikant Dubey
7. Shri Gurudas Dasgupta
8. Shri Rahul Gandhi
9. Shri Deepender Singh Hooda
10. Shri Chandrakant Khaire
11. Shri Bhartruhari Mahtab
12. Dr. Chinta Mohan
13. Shri Sanjay Brijkishorlal Nirupam
14. Shri Prem Das Rai
15. Shri S.S. Ramasubbu
16. Dr. Kavuru Sambasiva Rao
17. Shri Adv. A. Sampath
18. Shri Thakur Anurag Singh
19. Dr. M. Thambidurai
20. Shri Shivkumar Udasi
21. Shri Dharmendra Yadav

#### **RAJYA SABHA**

22. Shri Naresh Agrawal
23. Shri Rajeev Chandrasekhar
24. Smt. Renuka Chowdhury
25. Shri Piyush Goyal
26. Shri Satish Chandra Misra
27. Dr. Mahendra Prasad
28. Shri Ravi Shankar Prasad
29. Shri P. Rajeeve
30. Shri Praveen Rashtrapal
31. Dr. Yogendra P. Trivedi

#### **SECRETARIAT**

- |    |                              |   |                     |
|----|------------------------------|---|---------------------|
| 1. | Shri A.K. Singh              | - | Joint Secretary     |
| 2. | Shri Ramkumar Suryanarayanan | - | Additional Director |
| 3. | Shri Sanjay Sethi            | - | Under Secretary     |
| 4. | Shri Kh. Ginlal Chung        | - | Committee Officer   |

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*\*Nominated as Member of the Standing Committee on Finance w.e.f 13<sup>th</sup> December, 2012*

## INTRODUCTION

I, the Chairman of the Standing Committee on Finance, having been authorized by the Committee, present this Sixty-fifth Report on the National Housing Bank (Amendment) Bill, 2012.

2. The National Housing Bank (Amendment) Bill, 2012 introduced in Lok Sabha on 30 April, 2012, was referred to the Committee on 16 May, 2012 for examination and report thereon, by the Speaker, Lok Sabha under rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee obtained written information on various provisions contained in the aforesaid Bill from the Ministry of Finance (Department of Financial Services).

4. Written views/memoranda were received from Reserve Bank of India (RBI), Life Insurance Corporation of India (LIC), Value & Budget Housing Corporation Pvt. Ltd. and Shri P.P. Vora, Former CMD, National Housing Bank & Former Chairman, IDBI.

5. The Committee, at their sitting held on 9 November, 2012 took evidence of the representatives of the Ministry of Finance (Department of Financial Services) and National Housing Bank (NHB).

6. The Committee, at their sitting held on 11 January, 2013 considered and adopted the draft report and authorized the Chairman to finalise the same and present it to the Hon'ble Speaker/Parliament.

7. The Committee wish to express their thanks to the officials of the Ministry of Finance (Department of Financial Services) and the National Housing Bank (NHB) for appearing before the Committee and furnishing the requisite material and information which were desired in connection with the examination of the Bill.

8. The Committee also wish to express their thanks to Reserve Bank of India (RBI), Life Insurance Corporation of India (LIC), Value & Budget Housing Corporation Pvt. Ltd. and Shri P.P. Vora, Former CMD, National Housing Bank & Former Chairman, IDBI for placing before them their considered views on the Bill in the form of memoranda.

9. For facility of reference, the observations/recommendations of the Committee have been printed in thick type in the body of the Report.

**New Delhi;**  
**23 January, 2013**  
**03 Magha, 1934 (Saka)**

**YASHWANT SINHA**  
**Chairman,**  
**Standing Committee on Finance**

## REPORT

### I. BACKGROUND

The National Housing Bank Act, 1987 (the NHB Act) was enacted in December, 1987 to establish the National Housing Bank to operate as a principal agency to promote housing finance institutions both at local and regional levels and to provide financial and other support to such institutions. The NHB Act was last amended in 2000 to enable the Central Government to increase the authorised capital of the Bank in consultation with the Reserve Bank of India up to two thousand crore rupees and issue the increased authorised capital to the Reserve Bank, the Central Government, scheduled banks, public financial institutions, housing finance institutions or such other institutions as may be approved by the Central Government in such manner that the institutions owned and controlled by the Central Government shall hold in aggregate at any time not less than fifty per cent. of the issued capital of the National Housing Bank.

2. The issued capital of the Bank as on date is four hundred fifty crore rupees and is fully subscribed by the Reserve Bank. **In order to enable the Reserve Bank to focus on its regulatory and supervisory functions and to avoid conflict of ownership and regulatory role**, it is proposed to transfer the shareholding of the Reserve Bank in the National Housing Bank to the Central Government. It is also proposed to provide for transfer of surplus by the National Housing Bank to the Central Government in place of the Reserve Bank consequent upon the transfer of ownership. Further, it is proposed to confer power upon the Central Government to increase the authorised capital of the National Housing Bank to such amount, as may be specified by notification, from time to time. **It raises resources through** issue of bonds and debentures, term loans from LIC, banks, deposits from public etc. NHB has also been allowed in the past to issue capital gain bonds. It also gets allocation from the Government for its Rural Housing Fund.

3. The NHB Act contained provisions about the establishment of NHB, its management by a Board of Directors, its business which included promotion of housing finance companies, extension of financial and other support for housing activities to such companies and banks, borrowing in rupee and foreign currency in

domestic and foreign markets, regulation and supervision of housing finance companies, its accounts and audit etc. NHB helps central and State Governments in formulation of policies related to housing and also helps in implementation of such policies. NHB is mainly engaged in refinancing the housing loans granted by housing finance companies, banks, Regional Rural Banks, Urban Co-operative Banks etc. NHB is also regulator and supervisor of housing finance companies and presently regulating and supervising the activities of 57 housing finance companies in the country. **To ensure uniform control over non-banking financial companies including housing finance companies, the registration and regulation related powers over housing finance companies are proposed to be transferred to the Reserve Bank. The National Housing Bank will henceforth concentrate on supervision and financing of such institutions.**

4. The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (the said Act), was enacted to provide for recovery of the dues of the scheduled banks, public financial institutions and other notified financial institutions. The Central Government has notified number of housing finance institutions which are companies registered under the NHB Act as financial institutions under the said Act. It is proposed to amend the said Act as to make a provision to cover all the housing finance institutions which are companies registered under the NHB Act for the purposes of the said Act to provide them level playing field.

5. NHB has its head office at New Delhi. NHB also has one Regional Office at Mumbai and 8 other Representative offices at various places in the country.

6. In the light of the experience gained in the operations of the National Housing Bank, it is felt necessary to make certain amendment in the NHB Act for the smooth working of the National Housing Bank and to authorise it to undertake certain other business of financing non-banking financial companies for their housing activities, for securitisation of loans and advances and to promote mortgage guarantee companies, credit information companies, etc.

## **A. AMENDMENT OF NHB ACT IN 2000**

7. The NHB Act was last amended in 2000, *inter alia*, to enable the Central Government to increase NHB's authorized capital to Rs. 2000 crore, to enable it to promote securitization in the country for making resources available to the housing sector, to strengthen its regulatory and supervisory role over housing finance companies by making registration of such companies compulsory with NHB and conferring powers of imposition of fine, winding up etc. on the lines of powers vested in RBI over NBFCs. NHB Act was also amended to confer powers on HFCs to enforce security interest without intervention of the Courts.

## **B. CHANGES PROPOSED IN THE BILL**

8. The National Housing Bank (Amendment) Bill, 2012 *inter alia*, provides for—

- (a) insertion of new sections 4A and 4B in the NHB Act to enable the transfer of the issued capital subscribed by the Reserve Bank to the Central Government as mentioned in paragraph 2 above and payment by the Central Government to the Reserve Bank an amount equal to the face value of the said subscribed capital;
- (b) amendment of section 6 of the NHB Act for the purpose of nomination of one director by the Reserve Bank instead of two directors and to dispense with the requirement of consultation with the Reserve Bank in appointment of the directors other than the Chairman and the Managing Director;
- (c) amendment of section 14 of the NHB Act, to insert the expression "nonbanking financial companies" in clause (b) thereof so as to extend refinancing facilities to these companies; define the expression "housing activities" and in clause (f) insert the expressions "including mortgage guarantee companies, securitisation companies, reconstruction companies and credit information companies" so as to enable the National Housing Bank to do business in relation to such companies;
- (d) conferring of powers relating to registration, maintenance of certain percentage of assets in liquid assets, creation of a reserve fund, regulate or prohibit issue of prospectus or advertisement, to determine policy and issue direction under sections 29A, 29B, 29C, 30 and 30A of the NHB Act upon the Reserve Bank in place of the National Housing Bank;



(e) conferring of powers, relating to, power and duties of auditors of housing finance companies, to prohibit acceptance of deposit and alienation of assets, inspection of housing finance companies and impose penalties under sections 33, 33A, 34 and 52A of the NHB Act, upon the Reserve Bank in addition to the National Housing Bank;

(f) confer powers upon the Company Law Board constituted under section 10E of the Companies Act, 1956 to direct housing finance institution to make repayment of such deposit or part thereof forthwith or within such time and subject to such conditions as may be specified in the order;

(g) omission of Chapter VA relating to recovery of dues of the approved institutions consequent upon the proposed amendments in the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(h) to enable the Board of the National Housing Bank to cause the books and accounts of the National Housing Bank to be balanced and closed as on the thirty-first day of March of each year in place of thirtieth day of June of each year;

(i) insertion of new sub-clause (iiia) in clause (m) of sub-section (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 so as to extend the provisions of the said Act to any housing finance institution which is a company and is registered under the NHB Act.

To sum up, once the Bill is enacted:

- *The paid up capital of NHB of Rs. 450 crores will be transferred from RBI to the Central Government at book value.*
- *The power of registration and regulation of housing finance companies presently vesting in NHB will stand transferred to RBI. NHB will continue to supervise the housing finance companies.*
- *The Company Law Board will have the powers to order repayment of deposits by a housing finance company in case of failure of a housing finance company to do so.*
- *NHB will be able to close its books of accounts as on 31<sup>st</sup> March each year instead of closing twice in a year i.e. on 31<sup>st</sup> March and 30<sup>th</sup> June.*
- *All companies registered under NHB Act will get covered under SARFAESI Act, instead of notification of such companies on case to case basis by the Central Government.*
- *NHB will be able to refinance housing loan portfolio of NBFCs and also promote mortgage guarantee companies, securitization companies etc.*

### **C. CONCURRENT POWERS OF SUPERVISION**

9. The supervision of HFCs is proposed to be continued with NHB with enabling powers of such supervision with RBI.

Amendments proposed to give effect to the above are :

*Appropriation of reserve funds by HFCs to be reported to NHB as well as RBI {Clause 14 of the Bill}.*

- *Prohibit acceptance of deposits by HFCs if it fails to comply with the direction given by RBI. {Clause 17 of the Bill} ;Statements, information or particulars required to be furnished under Sec.31 by HFCs shall be submitted to both NHB as well as RBI (Clause 17 of the Bill).*
- *Order special audit of HFCs in certain circumstances. {Clause 19 of the Bill}; Obligation on the auditors of HFCs to enquire from such companies whether they have furnished the required information under Chapter V to the Reserve Bank in addition to the National Housing Bank and if not, also to report the same to both.{Clause 19 of the Bill*
- *Prohibit acceptance of deposits by HFCs if it fails to comply with any order given or provisions of Chapter V. {Clause 20 of the Bill}*
- *File application for winding up of HFC. {Clause 21 of the Bill}*
- *Inspect all HFCs irrespective of companies accepting public deposits. {Clause 22 of the Bill}.*

#### **D. HOUSING SECTOR SCENARIO IN THE COUNTRY**

10. Brief profile of housing scenario in the country as furnished to the Committee by the Ministry of Finance( Department of Financial Services) is stated as under:

“ The Total Urban Housing shortage is estimated at 18.78 million units in urban areas (M/HUPA, Gol, Report of the Technical Group,12<sup>th</sup> Five Year

Plan ) of which 95.6% of the urban housing shortage exists in EWS / LIG segments (Low Cost Housing). Majority of the housing requirements are expected to be with the low income households. To mitigate the housing problems in urban areas during the 11<sup>th</sup> Plan Period, the investment requirements were estimated as ₹ 4 lakh crore which is likely to go upto ₹ 6 lakh crores during 2012-17.

As per draft report of the Working Group on Rural Housing for the 12<sup>th</sup> Five Year Plan (2012-17), housing requirements for BPL families in rural areas is estimated to be 43.93 million units which is about 90% of the total housing requirement in rural areas. To meet this requirement, an estimated funds requirement of ₹ 2.70 lakh crore is projected.

Thus, to meet the housing requirements of poor, EWS/LIG segments both in rural and urban areas, a total investment of about ₹ 8-9 lakh crores will be required during the 12<sup>th</sup> FYP period i.e. 2012-17.”

11. On housing finance scenario in the country, the Ministry of Finance (Department of Financial Services) furnished to the Committee as stated as under:

“ On an average, the Public Sector Banks (PSBs) and Housing Finance Companies (HFCs) are disbursing housing loans of Rs.1.20 lakh crores per annum. Of the total loan disbursements, the loans in the loan size category upto Rs. 5 lakh constitute about 17% i.e. about Rs.20,000 crore per annum while loans upto Rs. 10 lakh constitute about 31% of the total yearly disbursements i.e. about Rs. 40,000 crores. This indicates that **during the 5 years’ period i.e. 2007-12, a total of about Rs. 2,00,000 crores has been the flow of credit from PSBs and HFCs to low income segments availing loan upto Rs. 10 lakhs. In case of loans upto Rs. 5 lakh, the total flow of credit is estimated as Rs. 1,00,000 crore during 2007-12. Thus there is gap of about Rs. 2,00,000 crore for low income housing for EWS/LIG/median income.**”

12. While deposing before the Committee, the Chairman and Managing Director of NHB made the following oral submission as stated under:

“As far as NHB is concerned, it was set up by an Act of Parliament in 1988, and today we are performing three broad functions. One is regulation / supervision; second is financing activities; and thirdly, promotional activities.

As a result of our regulatory and supervisory roles, the number of housing finance companies in the country has gone up from three -- at the time when the NHB was set up -- to a total of 57 housing finance companies in the country now.

The housing finance system in the country is broadly being served by two broad categories of institutions. **One is commercial banks**, and the **second is specialised housing finance institutions**,

and we have seen a growth in the retail housing finance scheme over the years averaging around 20 per cent. The composition of the market in terms of the market share is 70 per cent, which is occupied by the commercial banks and about 30 per cent is housing finance companies.”

13. He added:

“The **NPAs in the retail housing finance sector** for the housing finance companies today is only **0.48 per cent, as on 31<sup>st</sup> March, 2012 and it was 0.53 per cent last year**. The overall depth in the market has improved both for the housing finance companies and the commercial banks.”

14. He further submitted before the Committee that:

“...**there have been interest subvention scheme** of the Government of India, which is for the **middle income category borrowers**. There has been interest subsidy scheme for housing the urban poor, which is also in operation today, and we see good amount of interest from the lending institutions to a large number of EWS and LIG borrowers. These risk mitigants, which have been introduced through more innovative products.”

15. In reply to a query on the benefits for NHB from the proposed amendments in the Bill, the Ministry of Finance (Department of Financial Services) furnished the following as stated under:

“There are certain amendments which relate to functioning of NHB which include new definition of housing finance institutions, definition of housing activities, inclusion of NBFCs for extending refinance assistance, power to collect information from institutions for preparation of report on trend and progress in housing in the country, change in accounting year to coincide with financial year to avoid preparation of two balance sheet in a year

..... After the amendment, registration and regulations related activities will be transferred to RBI. **Supervision will continue with NHB. However, other functions viz, finance and promotion will continue to be with NHB and will be further enlarged.** “

16. In reply to a specific query whether NHB would be able to supervise 57 HFCs with staff strength of only 95, the Ministry of Finance (Department of Financial Services) furnished the following as stated under:

“From its inception, NHB is a very lean officer oriented organization. The small complement of staff has been very effectively and efficiently utilised for all functions of the NHB. NHB hitherto has been able to register, regulate and supervise these 57 companies with the said strength and robust IT support systems. **It may be mentioned that its other function is primarily refinance. The Bank has developed an elaborate IT enabled monitoring mechanism through submission of various returns by the HFCs.** The staffs are also trained in analysis of the returns submitted by the regulated entities. Thus the Bank has been able to discharge its regulatory and supervisory functions quite effectively, despite the growth in the number of HFCs registered with NHB.”

17. Regarding the capacity NHB has built-up to regulate housing finance market in the country, the Ministry of Finance (Department of Financial Services) made the following written submission as stated under:

“NHB is regulating and supervising HFCs for the last 25 years. During this period, the number of HFCs has increased from 3 to 57. The total lending by such institution is now about Rs. 3,25,000 crore. During this period NHB has issued various guidelines and directions and put in place legal framework for registration and regulation of such companies. Over the last 25 years, NHB has developed in-house expertise to monitor the operations of HFCs and have got trained staff. **The NHB undertakes its supervisory roles through its on-site Inspections and off-site surveillance and monitoring** through regular submission of Returns and statements by the HFCs. There are also regular Meetings held with the HFCs at various levels, and their CEOs for assessment of the developments in the market and the health of the Companies.”

18. On the rate of interest charged by refinanced institutions from the ultimate borrowers it was submitted as below:

“On-lending rate of interest is determined by PLIs based on their own cost of fund and market interest rate structure. However, with regard to refinance under Rural Housing Fund NHB has instructed PLIs to keep

the interest rate low as compared to normal lending rate to allow benefit of lower cost fund to ultimate beneficiary. NHB keeps track on on-lending rate of PLIs under RHF.”

19. The total amount of refinance disbursed by NHB annually in the last 5 years is shown as below:

2011-12 ₹ 14389 cr

2010-11 ₹ 11722 cr

2009-10 ₹ 8108 cr

2008-09 ₹ 10854 cr.

2007-08 ₹ 8587 cr.

20. The Committee understand that the National Housing Bank (NHB) is mandated with business which includes promotion of housing finance companies, extension of financial and other support for housing activities to such companies and banks, borrowing in rupee and foreign currency in domestic and foreign markets, regulation and supervision of housing finance companies, etc. NHB, which hitherto, has been entrusted with the dual roles of regulation and supervision of 57 housing finance companies in the country, also helps Central and State Governments in formulation of policies related to housing and the implementation of such policies. NHB is refinancing the housing loans granted by housing finance companies, banks, Regional Rural Banks, Urban Co-operative Banks etc. The Committee are of the view that the Bill, proposing to transfer the registration and regulation of housing finance companies from NHB to RBI, is an expedient move, which would enable the NHB to give undivided attention to supervision of housing finance companies and ensuring better credit flow to the housing sector in the country. With their experience in the housing and home loan sector, the Committee would expect

that with enactment of this Bill, NHB will be well placed to bring about qualitative progress while addressing the acute shortage of housing in the country, particularly keeping in view the increasing migration to urban areas.

21 . The Committee note that during 2007-12 a total of about Rs. 2,00,000 crore has been disbursed by Public Sector Banks and Housing Finance Companies to low income segments availing loan upto Rs. 10 lakh; and about Rs. 1,00,000 crore for those availing loan upto Rs.5 lakh. The Ministry of Finance (Department of Financial Services) has stated that there was a gap of about Rs. 2,00,000 crore for low income housing for EWS/LIG/Medium Income Group and that the projected requirements for 2012-17 period is estimated to be Rs. 6 lakh crore. In this regard, the Committee expect Government to make efforts to mobilise resources to meet the requirement for housing credit in the current plan period i.e. 2012-17. The Committee further desire the Government to give special focus and attention to the lower income group/economically weaker sections of the society by way of putting in place a mechanism to stipulate specific percentage of lending by HFCs to lower income group/economically weaker sections of the society on the lines similar to the stipulations made for agriculture lending or priority sector lending by PSBs. The Committee also desire that the NHB must implement the Government housing schemes with greater commitment, especially where interest subventions are attached with the schemes and ensure that the intended beneficiaries are fully covered.

22. The Committee note that after the enactment of the Bill, as stated by the Ministry of Finance, 'supervision will continue with NHB. .... other functions viz. finance and promotion will also continue to be with NHB and will be further

enlarged.’ In view of its mandate to promote housing finance institutions both at local and regional levels and to reach out to all regions of the country equitably and to carry out on-site inspection/surveillance etc., the Committee are of the view that NHB, with small compliment of Staff of 95 in all, with one registered Office at Mumbai and mere 8 representative Offices at various places in the country needs to be expanded. The Committee would, therefore, recommend that NHB be strengthened to build up its capacity – both manpower as well as technological – so that it can fulfill its mandate and perform its assigned role of promoting housing finance activities more effectively and fruitfully.

23. The Committee find it pertinent to point out that a number of Clauses in the Bill viz., Clauses 14, 17, 19, 20, etc. propose to give concurrent powers of supervision to both NHB and RBI on the issues such as reporting of appropriation of reserve funds by Housing Finance Companies (HFCs), power to collect information from housing finance institutions as to deposits and give directions, furnishing of statements on deposits received by housing finance institutions to both NHB and RBI, prohibiting acceptance of deposits by HFCs if they fail to comply with the directions given by NHB/RBI etc. The Committee perceive such mandate would mean parallel regulations or duplication of work for housing finance institutions. The Committee would recommend the Government to rephrase these clauses appropriately, so that HFCs are not subjected to unnecessary dual or parallel supervision.



**24. The Committee note that there is no definite mechanism available for regulating interest rates on home loans. In this regard, the Committee desire that a proper system be put in place to enable NHB/Government to fix a ceiling on interest rates chargeable by HFCs and other institutions lending for housing and related activities.**

## **II. Clause 4 - Amendment of Section 4 - Authorised Capital**

25. This clause seeks to amend Section 4 of the Act relating to capital of the National Housing Bank. Under the existing provision, the Central Government in consultation with the Reserve Bank is authorised to increase the authorised capital of the National Housing Bank up to two thousand crores rupees. It is proposed to substitute proviso to subsection (1) of section 4 of the Act to provide that the Central Government may, by notification, increase the authorised capital to such amount as may be specified in the notification, from time to time.

26. Section 4 sub-section (1), the proviso of the principal Act reads as:

“Provided that the Central Government may, in consultation with the Reserve Bank, by notification, increase the authorized capital up to two thousand crores of rupees.”

27. Clause 4 of the Bill proposes the following changes as stated below:

“In section 4 of the principal Act, in sub-section (1), for the proviso, the following proviso shall be substituted, namely:—

“Provided that the Central Government may, by notification, increase the authorised capital to such amount as may be specified in the notification, from time to time.””

28. A written view/suggestion furnished to the Committee has observed as stated under:

“The equity ownership is now being shifted from RBI to Government of India (Ministry of Finance). While the authorised capital is Rs. 2000 crores, the paid up capital has been Rs.450 crores. With the massive housing needs for “Refinancing” and “Direct Lending”, the NHB’s net owned funds have to be expanded, so that the borrowing (10 times of NOF) can be increased. The authorised capital should be doubled and increased to Rs.3500 to Rs.4000 crores and paid up capital to Rs.1000 – Rs.1500 crores.”

29. The Ministry of Finance (Department of Financial Services) furnished the following comments on the above observation as stated under:

“The proposed amendment removes the cap on the authorized capital and enables the Central Government to issue notification to increase the authorize capital depending upon the requirement. Hence, the suggestion has been taken care of in the proposed amendment (Clause 4 of the Bill).”

**30. The Committee feel that this amendment to remove the cap on the authorized capital will enable NHB to meet the massive fund requirements for both direct lending and refinancing for housing and related activities as specified in the Bill. With this enabling provision, the Committee look forward to seeing NHB effectively addressing the housing shortage of the country in the near future.**

**IIA Clause 5 – Insertion of new Sections 4A and 4B - Transfer of Capital to Central Government & Payment Amount**

**30A. The Bill, in clause 5, proposes to insert new sections after section 4 of the principal Act i.e. insertion of new section 4A relating to transfer of capital to Central Government and a new section 4B relating to payment of amount to the Reserve Bank. Clause 5 the Bill reads as the following:**

“4A. The issued capital of the National Housing Bank, which has been subscribed by the Reserve Bank as on the date immediately preceding the commencement of section 5 of the National Housing Bank (Amendment) Act, 2012, shall, on such commencement, stand transferred to, and vest in, the Central Government.

4B. The Reserve Bank shall be given by the Central Government, in cash, for the transfer to, and vesting in, the Central Government of the issued capital of the National Housing Bank which has been subscribed by the Reserve Bank, an amount equal to the face value of the said subscribed capital.”.

**30B The Committee understand that transferring an amount equal to the “face value” of subscribed capital from RBI in NHB to the Central Government will not**

include transferring of other surplus and resources of NHB. However if the said transfer is done on the “book value” of NHB, it will mean transferring of the capital as well as the other resources or surplus of the NHB to the Central Government. In this regard, the Committee, therefore, suggest that in Section 4B of Clause 5, the words “face value” be substituted with the words “book value”.

### **III. Clause 6 – Amendment of sub-section (1) (d) of Section 6**

#### **– issue pertaining to Board of Directors**

31. This Clause seeks to amend Section 6 of the Act relating to composition of Board of Directors.

Section 6 sub-section (1) (d) of the principal Act reads as under

“The Board of Directors of National Housing Bank shall consist of the following, namely:-

(d) two directors out of the directors of the Reserve Bank;”

32. The NHB (Amendment) Bill, 2012 proposes the following amendment in Section 6 sub-section (1) (d):

“ in sub-section (1), for clause (d), the following clause shall be substituted, namely:—

“(d) one director to be nominated by the Reserve Bank;”;

Clause 7 – Amendment of sub-section (5), in the proviso, of Section 7 of the principal Act

33. This Clause seeks to amend Section 7 of the Act relating to terms and conditions of appointment of Chairman and Managing Director and other Directors.

. Section 7 sub-section (5), in the proviso, of the principal Act reads as:

“The directors shall be paid such fees and allowances as may be prescribed for attending the meetings of the Board or of any of its

committees and for attending to any other work of the National Housing Bank:

Provided that no such fee shall be payable to any director, who is an official of the Government or a director of the Reserve Bank.”

34. The NHB (Amendment) Bill, 2012 proposes the following amendment in Section 7 sub-section (5):

“In section 7 of the principal Act, in sub-section (5), in the proviso, for the words “or a director of the Reserve Bank”, the words “or an official of the Reserve Bank”, shall be substituted.”

35. Written views/suggestions submitted to the Committee by an expert include the following points:

“Section 6 and 7 of the Amendment Bill- While it is noted that instead of 2 Directors, Reserve Bank of India shall have the powers to nominate one Director on the Board of Directors of National Housing Bank, it is felt that substitution of the word ‘or an official of the Reserve Bank of India’ is not warranted, and therefore, the original word ‘or a Director of the Reserve Bank of India may be retained in Section 7 of the principal act.

The reason for the above suggestion is that the housing finance activity deserves considerable importance at the highest level even from the Reserve Bank of India because the growth in the housing activity may directly lead to a higher multiplier growth in the GDP of the Country. .... to dilute this provision by appointing an officer of Reserve Bank of India and not a Director would not be in keeping with the importance of the housing finance activity which Reserve Bank of India may attach to the importance of this sector.”

36. On being asked to furnish comments on the above written views, the Ministry of Finance (Department of Financial Services) submitted the following reply as stated under:

“The proposed amendment (Clause 6(a) of the Bill) would enable RBI to nominate a director on the Board of NHB who can also be a director on the Central Board of RBI. The option remains with RBI to appoint its Director or an official to the Board of NHB. However, the provision also enables RBI to appoint any other person as director on the Board of NHB. (This amendment has been proposed by the RBI). In case the proposal of the Expert is accepted, then the relevant section will need to be modified.”

37. As per the existing provisions of the Act, two directors from out of the directors of RBI are nominated on the Board of Directors of NHB by RBI. It is now proposed to nominate one director instead of two directors and such a director needs to be a director of RBI. However, the Ministry in their reply have submitted that the proposed amendment in Clause 6(a) would enable RBI to nominate a director on the NHB Board who can also be a director on the Central Board of RBI and that RBI has the option to appoint its Director or an official to the NHB Board. With a view to giving due importance to housing finance activities, the Committee feel that Clauses 6 & 7 be suitably modified to spell out clearly, without any ambiguity, that one person from amongst the officials of RBI not below the rank of Director will be nominated by RBI on the Board of Director of NHB.

#### **IV. Clause 12 –Amendment of Section 29A sub-section (2) - Requirement of registration and net owned fund**

38. This clause seeks to amend section 29A of the Act relating to requirement of registration and net owned fund of housing finance companies. It is proposed to confer powers relating to registration of housing finance companies which hitherto vested in the National Housing Bank to the Reserve Bank.

39. Section 29A sub-section (2) of the principal Act reads as :

“(2) Every such housing finance institution shall make an application for registration to the National Housing Bank in such form as may be specified by the National Housing Bank:

Provided that a housing finance institution which is a company in existence on the commencement of the National Housing Bank (Amendment) Act, 2000, shall make an application for registration to the National Housing Bank before the expiry of six months from such commencement and notwithstanding anything contained in sub-section (1), may continue to carry on the business of housing finance institution until a certificate of registration is issued to it or rejection of application for registration is communicated to it.

40. Clause 12 of the Bill reads as:

“In section 29A of the principal Act,—

for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Every housing finance institution which is a company shall make an application for registration to the Reserve Bank in such form as may be specified by the Reserve Bank:

Provided that an application made by a housing finance institution which is a company under this sub-section to the National Housing Bank and pending for consideration with the National Housing Bank as on the date of commencement of the National Housing Bank (Amendment) Act, 2012, shall be transferred by the National Housing Bank to the Reserve Bank and thereupon the application shall be deemed to have been made under the provisions of this sub-section and shall be dealt with accordingly:

Provided further that the provisions of this sub-section shall not apply to the housing finance institution which is a company having a valid registration certificate granted under sub-section (5) on the date of commencement of the National Housing Bank (Amendment) Act, 2012 and such housing finance institution shall be deemed to have been granted a certificate of registration under the provision of this Act.”;

41. Written views/suggestions received from the LIC housing Finance Ltd. on the above issue stated as under:

“The proposal to transfer regulatory power from NHB to RBI should ensure no dual regulation and overlapping of compliances. Similarly, the rebate, concession and relaxations available to the banks should also be extended to HFIs.

The existing investment by HFIs in other NBFC should not be reduced while calculating the Net worth of HFIs.”

**42. The Committee note that it is proposed to confer powers relating to registration of housing finance companies to the RBI, which hitherto has been vested in the National Housing Bank. The Committee, while agreeing to the suggestions of a stakeholder, desire the Government to incorporate provisions in this Bill providing for concession / relaxations to HFIs that the existing investment by HFIs in other NBFC should not be reduced while calculating the Net worth of HFIs as this would enable the number of institutions providing**

**institutional credit for housing in the country and also that rebate, concession and relaxations available to the banks should also be extended to HFIs.**

## **V. Clause 38 - Amendment of Section 51 – Cognizance of offences**

43. This clause seeks to amend section 51 of the Act relating to cognizance of offences. It is proposed to include the application to be made by the officers authorised by the Reserve Bank. It is further proposed to provide that the Magistrate may dispense with the personal attendance of the officers of the Reserve Bank as in the case of the National Housing Bank.

44. Section 51 of the principal Act reads as:

“(1) No court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by an officer of the National Housing Bank, generally or specially authorized in writing in this behalf by the National Housing Bank, and no court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class or a court superior thereto shall try any such offence.

(2) Notwithstanding any contained in the Code of Criminal Procedure, 1973, a Magistrate may, if he sees reasons so to do, dispense with the officer of the National Housing Bank filing the complaint but the Magistrate may in his discretion, at any stage of the proceedings, direct the personal attendance of the complainant.”

45. Clause 38 of the Bill reads as under:

“In section 51 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “the National Housing Bank, generally”, the words “the National Housing Bank or the Reserve Bank, generally” shall be substituted;

(ii) for the words “in this behalf by the National Housing Bank,”, the words “in this behalf by the National Housing Bank or the Reserve Bank, as the case may be,” shall be substituted;

(b) in sub-section (2), for the words “of the National Housing Bank”, the words

“of the National Housing Bank or the Reserve Bank, as the case may be,” shall be substituted.”

46. On this issue, the Reserve Bank of India have pointed out that:

“There have been several instances where the Bank has initiated criminal proceedings against companies for non-payment of deposits or violation of regulations, but subsequently, the company may have repaid the deposits in full and may have rectified the violations. Having initiated criminal proceedings, there is no provision under the

RBI Act for the Bank to withdraw the same or stop the proceedings, leading to avoidable wastage of energy and time for both the regulator and the company. Hence there should be an avenue available for the regulator to apply for discontinuance of the proceedings in public interest. And therefore, for the sake of public interest, the Bank is of the view that the following clause may be inserted in the Bill, by suitable amending section 51:

*“ (3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a Magistrate may, where deposits have been repaid in full by the company and contravention or default of the nature referred to in section 49 committed by it has been rectified or remedied to the satisfaction of the National Housing Bank or the Reserve Bank, as the case may be and it is not in the public interest to continue with the proceedings and where the imposition of penalty under section 52A of this Act would meet the end of justice, for the reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment.*

*(4) Where the proceedings are stopped after the evidence of the principal witnesses have been recorded, a judgment of acquittal may be pronounced and in any other case the accused shall be discharged.”*

47. In respect of “power to stop proceedings in certain cases” Section 258 of the Code of Criminal Procedure, 1973 reads as stated below:

“In any summons- case instituted otherwise than upon complaint, a Magistrate of the first class or, with the previous sanction of the Chief Judicial Magistrate, any other Judicial Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment and where such stoppage of proceedings is made after the evidence of the principal witnesses has been recorded, pronounce a judgment of acquittal, and in any other case, release the accused, and such release shall have the effect of discharge.”

**48. The Committee observe that the suggestion for making appropriate additions/modifications to Section 51 of the principal Act to enable the Magistrate to stop the criminal proceedings against any company that had initially defaulted/contravened but had subsequently fully paid the dues or rectified the violations referred in Section 49 of the Act may be considered by the Government for inclusion. The Committee believe that this proposal, which is in**



tune with Section 258 of the Code of Criminal Procedure, 1973, would serve public interest and relieve both the regulator and the company of needless hardship.

49. The Committee, having dwelt upon the various provisions of the Bill, recommend for enactment of the Bill, with modifications as recommended in the preceding paragraphs.

New Delhi;  
23 January, 2013  
03 Magha, 1934 (Saka)

YASHWANT SINHA  
Chairman  
Standing Committee on Finance

# MINUTES OF THE FOURTH SITTING OF THE STANDING COMMITTEE ON FINANCE (2012-13)

The Committee sat on Friday, the 9<sup>th</sup> November, 2012 from 1100 hrs to 1530 hrs.

## PRESENT

Shri Yashwant Sinha – Chairman

## MEMBERS

### LOK SABHA

2. Dr. Baliram
3. Shri Nishikant Dubey
4. Shri Gurudas Dasgupta
5. Shri Bhartruhari Mahtab
6. Dr. Chinta Mohan
7. Shri Prem Das Rai
8. Shri S.S. Ramasubbu
9. Shri Adv. A. Sampath
10. Shri Thakur Anurag Singh
11. Dr. M. Thambidurai
12. Shri Shivkumar Udasi

### RAJYA SABHA

13. Shri Naresh Agrawal
14. Shri Rajeev Chandrasekhar
15. Smt. Renuka Chowdhury
16. Shri Piyush Goyal
17. Shri Satish Chandra Misra
18. Shri P. Rajeeve
19. Shri Praveen Rashtrapal

### SECRETARIAT

- |    |                              |   |                     |
|----|------------------------------|---|---------------------|
| 1. | Shri A. K. Singh             | – | Joint Secretary     |
| 2. | Shri Ramkumar Suryanarayanan | – | Additional Director |
| 3. | Shri Sanjay Sethi            | – | Under Secretary     |
| 4. | Shri Kulmohan Singh Arora    | – | Under Secretary     |

## Part I (1100 hrs. to 1330 hrs.)

### WITNESSES

2.	XX	XX	XX	XX
	XX	XX	XX	XX
3.	XX	XX	XX	XX
	XX	XX	XX	XX

4. XX XX XX XX  
XX XX XX XX

The witnesses then withdrew.

**Part II**  
**(1400 hrs. to 1530 hrs.)**

**WITNESSES**

**Ministry of Finance (Department of Financial Services)**

1. Shri D.K. Mittal, Secretary
2. Shri Sunil Soni, Additional Secretary
3. Shri Arvind Kumar, Joint Secretary

**National Housing Bank (NHB)**

1. Shri R.V. Verma, Chairman & Managing Director
2. Shri R.S. Garg, Executive Director

**Small Industries Development Bank of India (SIDBI)**

1. Shri Sushil Muhnot, Chairman & Managing Director
2. Shri N.K. Maini, Deputy Managing Director
3. Shri T.R. Bajalia, Deputy Managing Director

5. The Committee thereafter took oral evidence of the representatives of Ministry of Finance (Department of Financial Services), National Housing Bank (NHB) and Small Industries Development Bank of India (SIDBI) on the (i) National Housing Bank (Amendment) Bill, 2012 and (ii) Small Industries Development Bank of India (Amendment) Bill, 2012. The major issues discussed regarding the National Housing Bank (Amendment) Bill, 2012 included the rural housing, performance of NHB in the north eastern region, credit facility to the economically weaker sections of the society for housing construction, housing price index, land acquisition, minority housing schemes, reasons for clause on foreign currency in the Bill, state of NPAs pertaining to housing loans, secondary mortgage market, etc.

6. The major issues that came up during the discussion regarding the Small Industries Development Bank of India (Amendment) Bill, 2012 included overall functioning of SIDBI, problems of Small Scale Industries (SSI), assistance to Micro and SSI in rural areas and their indebtedness, institutional accessibility in the North Eastern region, sufficiency of this

amendment Bill to address various issues. Members also raised questions on percentage of sick units which are awaiting assistance from SIDBI, relevance of repayment of foreign currency loans in foreign currency and co-ordination of SIDBI with the State Governments, etc. The Chairman then directed the representatives of the Ministry of Finance (Department of Financial Services), National Housing Bank (NHB) and Small Industries Development Bank of India (SIDBI) to furnish replies to the points raised by the Members during the discussion within a week's time.

A verbatim record of the proceedings was kept.

The witnesses then withdrew.

The Committee then adjourned.

## MINUTES OF THE EIGHTH SITTING OF THE STANDING COMMITTEE ON FINANCE (2012-13)

The Committee sat on Friday, the 11<sup>th</sup> January, 2013 from 1130 hrs to 1440 hrs.

### PRESENT

Shri Yashwant Sinha – Chairman

### MEMBERS

#### LOK SABHA

2. Dr. Baliram
3. Shri Nishikant Dubey
4. Shri Bhartruhari Mahtab
5. Dr. Chinta Mohan
6. Shri Sanjay Brijkishorlal Nirupam
7. Shri S.S. Ramasubbu
8. Shri Adv. A. Sampath
9. Dr. M. Thambidurai

#### RAJYA SABHA

10. Shri Naresh Agrawal
11. Shri Rajeev Chandrasekhar
12. Shri Piyush Goyal
13. Shri Satish Chandra Misra
14. Dr. Mahendra Prasad
15. Shri P. Rajeeve

#### SECRETARIAT

1. Shri A. K. Singh – Joint Secretary
2. Shri Sanjay Sethi – Under Secretary

### Part I (1130 hrs. to 1220 hrs.)

2. The Committee took up the following draft Reports for consideration and adoption:

- (i) Small Industries Development Bank of India (Amendment) Bill, 2012;  
and.
- (ii) National Housing Bank (Amendment) Bill, 2012.

3. The Committee adopted the above draft reports with some minor modifications as suggested by Members. The Committee authorised the Chairman to finalise these

Reports in the light of the modifications suggested and present the same to Hon'ble Speaker / Parliament.

**Part II  
(1230 hrs. to 1440 hrs.)**

**WITNESSES**

4.	XX	XX	XX	XX
	XX	XX	XX	XX
5.	XX	XX	XX	XX
	XX	XX	XX	XX

A verbatim record of the proceedings was kept.

The witnesses then withdrew.

The Committee then adjourned.