



## **Bussan Auto Finance India Pvt. Ltd.**

(Registered & Head Office)

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### **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal)** **Committee Charter**

*Approval Authority: Board of Directors*

*Date of Approval: June 26, 2013*

*Effective Date: July 01, 2013*

*Date of 1<sup>st</sup> Revision: April 27, 2018*

*Date of 2<sup>nd</sup> Revision: September 26, 2019*

*Date of 3<sup>rd</sup> Revision: June 29, 2020*

#### **Article 1 (Background, Appointment & Purpose)**

Government of India (GOI) through its official Gazette of India make it mandatory for Companies to form an Internal Complaints Committee to redress the issues related to sexual harassment of women at workplace. In this regard, GOI formulated a new Act named as “The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred to as “Act”) which has received the President of India assent on April 22, 2013 and published in the official Gazette of India on April 23, 2013 read with “The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 (hereinafter referred to as “Rules”).

The objective of the Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

In line with the directions under the said Act, Bussan Auto Finance India Private Limited formulates the present Committee under the name and style as “Prevention of Sexual Harassment Committee” (hereinafter referred to as “POSH Committee”) which shall act as an Internal Complaints Committee as prescribed to cater the objectives of the Act.

#### **Article 2 (Definitions)**

##### **1. Employee**

Employee means a person employed at a Workplace for any work on regular, temporary, ad-hoc or daily wage basis, either directly or through an agent, including a contractor, with or, without the knowledge of the Principal Employer (BAF India), whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name.

##### **2. Sexual Harassment**

- a) It includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely:

- i) Physical contact or advances; or
  - ii) A demand or request for sexual favours; or
  - iii) Making sexually coloured remarks; or
  - iv) Showing pornography; or
  - v) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature;
- b) The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behavior of sexual harassment may amount to sexual harassment:
- i) Implied or explicit promise of preferential treatment in her employment; or
  - ii) Implied or explicit threat of detrimental treatment in her employment; or
  - iii) Implied or explicit threat about her present or future employment status; or
  - iv) Interference with her work or creating an intimidating or offensive or hostile work environment for her; or
  - v) Humiliating treatment likely to affect her health or safety.

### **3. Workplace**

- a) It includes BAF India Head Office, Zonal office, Regional Office, Area office or any other office including Satellite or spoke locations.
- b) Any place visited by the employee arising out of or during the course of employment including transportation provided by the Company for undertaking such journey.

### **Article 3 (Membership and Constitution of the POSH Committee)**

The members of POSH Committee shall represent staff of the company and shall be selected by the Ethics & Disciplinary Committee. The nomination of the members of the POSH Committee is based on the following criteria:

- ✓ Maturity in their outlook and demeanour.
- ✓ Clarity and demonstrated sensitivity on gender issues.
- ✓ Ability to advocate and promote gender issues in the workplace.
- ✓ Capability to work in a collective and inclusive manner.
- ✓ Sensible and Fairness.

The POSH Committee shall be constituted comprising of such number of members, as may be recommended by the Ethics & Disciplinary Committee of the Company. A gender balance will be ensured when constituting the POSH Committee provided that at least one-half of the total members so nominated shall be women. The Chairperson of the POSH Committee who shall act as a Presiding Officer shall be a woman employed at a senior level in the Company.

The POSH Committee at Head Office shall consist of 4 members as follows:

- Chairperson (F) – 1 Person
- Employee Members (F) – 1 Person
- Employee Members (M) – 1 Person
- External Advisor – 1 Person

Provided that the external Advisor is nominated from amongst non-governmental organizations or associations committed to the cause of women or a person familiar with the issues relating to Sexual Harassment.

Provided further that the POSH Committee shall also be formed at all Regional Offices of the Company which shall include Head of the respective Regional Office in addition to the above 4 members.

#### **Article 4 (Tenure)**

The Presiding officer and every member of the POSH Committee shall hold office for such period, not exceeding 3 (three) years, from the date of their nomination.

#### **Article 5 (Duties of the BAF India)**

1. Provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;
2. Display at any conspicuous place in the workplace, the penal consequences of sexual harassment; and constitution of the POSH Committee with name and details of the Presiding Officer along with other members of the POSH Committee as suggested by the Compliance Officer.
3. Ethics & Disciplinary Committee or Compliance Officer of the Company shall organize workshops and awareness programmes at regular intervals for sensitizing the employees with the provisions of the Act and orientation programmes for the members of the POSH Committee in the manner as may be prescribed.
4. Provide necessary facilities to the POSH Committee for dealing with the complaint and conducting an inquiry;
5. Assist in securing the attendance of respondent and witnesses before the POSH Committee;
6. Make available such information to the POSH Committee as may be requiring under the Act;
7. Provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code (I.P.C.) or any other law for the time being in force;
8. Cause to initiate action, under the I.P.C. or any other law for the time being in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place;
9. Treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;
10. Monitor the timely submission of reports by the POSH Committee.
11. Any other duty as prescribed under the Act or Rules.

#### **Article 6 (Complaint)**

##### **A. Complaint of Sexual Harassment**

1. Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the POSH Committee at [posh@bafindia.com](mailto:posh@bafindia.com) within a period of three months from the date of the incident and in case of series of incidents, within a period of three months from the date of last incident. POSH Committee may extend the time not exceeding three months for the reasons to be recorded in writing.
2. The aggrieved woman must be asked to prepare a detailed statement of incidents; a reasonable assistance shall be provided by the Presiding Officer or POSH Committee member(s) for writing the complaint, in the event that the aggrieved woman is not in a position to do so.

3. (i) Where the aggrieved woman is unable to make a complaint on account of her physical incapacity, a complaint may be filed by:
  - a) her legal heir; or
  - b) her relative or friend; or
  - c) her co-worker; or
  - d) an officer of the National Commission for Women or State Women's Commission; or
  - e) any person who has knowledge of the incident, with the written consent of the aggrieved women.
- (ii) Where the aggrieved woman is unable to make a complaint on account of her mental incapacity, a complaint may be filed by:
  - a) her legal heir; or
  - b) her relative or friend; or
  - c) a special educator; or
  - d) a qualified psychiatrist or psychologist; or
  - e) a guardian or authority under whose care she is receiving treatment or care; or
  - f) any person who has knowledge of the incident jointly with any of the persons specified in (a) to (e) above.
- (iii) Where the aggrieved woman is unable to make a complaint for any other reason, a complaint may be filed by any person who has knowledge of the incident, with her written consent.
- (iv) Where the aggrieved woman is dead, a complaint may be filed by any person who has knowledge of the incident, with the written consent of her legal heir.

#### **B. Conciliation**

4. The POSH Committee may before initiating an inquiry and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation: Provided that no monetary settlement shall be made as a basis of conciliation.
5. Where a settlement has been arrived as above, the POSH Committee shall record the settlement so arrived and forward the same to the Ethics & Disciplinary Committee to take action as specified in the recommendation.
6. The POSH Committee shall provide the copies of the settlement as recorded above to the aggrieved women and the respondent.
7. Where a settlement is arrived as above, no further inquiry shall be conducted by the POSH Committee.

#### **C. Inquiry into Complaint**

8. Subject to the above provisions of conciliation and settlement, the POSH Committee shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the Code of Conduct of the Company provided the POSH Committee may also refer Rules as prescribed under the Act.
9. Where the aggrieved woman informs the POSH Committee that any term or condition of the settlement arrived above, has not been complied with by the respondent, the POSH Committee shall proceed to make an inquiry into the complaint.
10. Where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the POSH Committee.
11. For the purpose of making an inquiry, the POSH Committee shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters:
  - a) Summoning and enforcing the attendance of any person and examining on oath;
  - b) Requiring the discovery and production of documents; and

- c) Any other matter as prescribed under Act/Rules.
12. The inquiry shall be completed as soon as possible but not later than of 90 (Ninety) days from the date of receipt of complaint.
  13. The POSH Committee shall ensure that a detailed documentation of all the processes related to the activities on issues of sexual harassment within the company is maintained.

## **Article 7 (Inquiry into Complaint)**

### **A. Action during pendency of Inquiry**

1. During the pendency of an inquiry, on a written request made by the aggrieved women, the POSH Committee may recommend to the Ethics & Disciplinary Committee to -
  - a) Transfer the aggrieved woman or the respondent to any other workplace; or
  - b) Grant leave to the aggrieved woman upto a period of three months; or
  - c) Restrain the respondent from reporting on the work performance of the aggrieved woman or writing her confidential report, and assign the same to another officer;
2. The leave granted to the aggrieved woman as above shall be in addition to the leave she would be otherwise entitled.
3. On the recommendations of the POSH Committee, Company through its Ethics & Disciplinary Committee shall implement the recommendations made above and send the report of such implementation to the POSH Committee.

### **B. Inquiry Report**

4. On completion of an inquiry, the POSH Committee shall provide a report of its findings to the Ethics & Disciplinary Committee within a period of 10 days from the date of completion of the inquiry and such report be made available to the concerned parties.
5. Where the POSH Committee arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the Ethics & Disciplinary Committee that no action is required to be taken in the matter.
6. Where the POSH Committee arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the Ethics & Disciplinary Committee.
  - i) To take action for sexual harassment as a misconduct in accordance with the Code of Conduct of the Company.
  - ii) To deduct, notwithstanding anything in the Code of Conduct of the respondent, from salary of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or her legal heirs, as it may determine.

Provided that in case the Company is unable to make such deduction from the salary of the respondent due to his absent from duty or cessation of employment it may direct to the respondent to pay such sum to the aggrieved woman.

Provided further that in case the respondent fails to pay the sum referred above, the POSH Committee subject to the approval of the Ethics & Disciplinary Committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer of the area.

7. Ethics & Disciplinary Committee shall act upon the recommendation within 60 days of its receipt.

### **C. Punishment for false or malicious complaint and false evidence**

8. Where the POSH Committee arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to

be false or any aggrieved woman or any other person making the complaint has produced any forged or misleading documents, it may recommend to the Ethics & Disciplinary Committee to take action against the woman or the person who has made the complaint in accordance with the Code of Conduct of the Company.

Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant.

Provided further that the malicious intent on part of the complainant shall be established after an inquiry in accordance with the procedure prescribed, before any action is recommended.

9. Where the POSH Committee arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the Ethics & Disciplinary Committee or the employer of the witness, as the case may be, to take action in accordance with the provisions of the service rules applicable to the said witness or where no such service rule exist, in such manner as prescribed under Rule 10.

#### **D. Determination of Compensation**

10. For the purposes of determining the sums to be paid to the aggrieved woman, the POSH Committee shall have regard to –
  - a) The mental trauma, pain, suffering and emotional distress caused to the aggrieved woman;
  - b) The loss in the career opportunity due to the incident of the sexual harassment;
  - c) Medical expenses incurred by the victim for physical or psychiatric treatment;
  - d) The income and the financial status of the respondent;
  - e) Feasibility of such payment in lump sum or in instalments

#### **E. Prohibition of publication or making known contents of complaint and inquiry proceedings**

11. Notwithstanding anything contained in the Right to Information Act, 2005, the content of the complaint, the identity and the addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the POSH Committee and action taken by the Ethics & Disciplinary Committee shall not be published, communicated or made known to the public, press and media in any manner.

Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses.

12. Where any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action to be taken contravenes the above, he shall be liable for penalty in accordance with the Code of Conduct of the Company.

#### **F. Appeal**

13. Any person aggrieved from the recommendations elsewhere mentioned or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the Code of Conduct of the Company. The appeal shall be preferred within a period of 90 (Ninety) days of the recommendations.

### **Article 8 (Annual Report)**

1. POSH Committee shall in each calendar year prepare, in such form and at such time as prescribed under Act/Rules, an Annual Report and submit the same to the Ethics & Disciplinary Committee and the District Officer.
2. Ethics & Disciplinary Committee shall include in its report the number of cases filed, if any, and their disposal in the Annual Report of the Company.

## **Article 9 (Procedure of Convocation)**

### **a) Calling of Meeting**

Meeting can be called by the Presiding Officer of the POSH Committee or by any member as may be authorized.

### **b) Notice**

Meeting shall be called by giving not less than 2 days' notice in advance to all the members by way of email, phone call or any other mode as he may deem fit and proper to members as well as observers to meeting. Notice of the meeting shall be sent to all members along with draft proposal and agenda of meeting. However, meeting can also be called on a shorter notice provided consent of all the members is obtained by way of email, phone call or any other mode as the Presiding Officer may deem fit and proper.

### **c) Number of meetings**

The POSH Committee shall meet at least once in a financial year. However, Meeting can also be called on any other day as and when required.

### **d) Quorum of the meeting**

Not less than 50% of the total members including Presiding Officer shall be quorum of the meeting. Members who are not present but sent their decision on acceptance or non-acceptance of the proposal in advance to the Presiding Officer by way of email or any other mode in writing, shall also be counted for ascertaining the Quorum.

## **Article 10 (Minutes of the Meeting)**

A summary of the proceedings of meeting of the POSH Committee and the results thereof shall be recorded in the minutes of the meeting. The Company shall keep the minutes in the Company's Head Office. Minutes of the POSH Committee shall be placed before the next Ethics & Disciplinary Committee Meeting for taking note of the same.

## **Article 11 (Administrative Office)**

- a) The administration of the POSH Committee concerning service of Notice, receiving of Draft proposals, convening the meetings, preparation and circulation of the minutes, and other matters relating thereof shall be handled by the Presiding Officer or any other member as may be authorized by the Presiding Officer.
- b) POSH Committee members may send any notice, proposal or any other document to POSH Committee Members by way of email, fax, or any other mode in writing or otherwise as the Presiding Officer may be deem fit and proper.
- c) Any proposal or document to be sent by the member(s) of the POSH Committee shall be sent to Presiding Officer by way of email, Fax or any other mode in writing.

## **Article 12 (Amendment of Regulation)**

The POSH Committee shall have no right to alter, amend, abolish and extend these regulations but may recommend the same to the Ethics & Disciplinary Committee for approval of the Board of Directors.

**Article 13 (Enforcement)**

These regulations shall come into force from the date of approval by the Board of Directors.

**Article 14 (Interpretation)**

In case of any inconsistency or contradiction between the provisions of these regulations and the Act/Rules, the provisions of the Act/Rules shall prevail.

***For Bussan Auto Finance India Private Limited***

**Sd/-**

**Kota Odagiri  
Managing Director**