भारतीय रिज़र्व बैंक

RESERVE BANK OF INDIA

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All Scheduled Commercial Banks
(excluding RRBs)
All-India Term-lending and Refinancing Institutions
(Exim Bank, NABARD, NHB and SIDBI)

Dear Sir,

Prudential Norms on Change in Ownership of Borrowing Entities (Outside Strategic Debt Restructuring Scheme)

Please refer to our circular DBR.BP.BC.No.101/21.04.132/2014-15 dated June 8, 2015 on "Strategic Debt Restructuring Scheme (SDR)", in terms of which certain exemptions from extant asset classification norms of the Reserve Bank of India were provided to banks while effecting change in ownership of borrowing entities which are under stress primarily due to operational/ managerial inefficiencies of the existing promoters. The SDR also contained exemptions from certain clauses of Securities and Exchange Board of India (SEBI) (Issue of Capital and Disclosure Requirements) Regulations, 2009 with regard to equity conversion price, and, Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, when conversion of debt into equity of borrowing entities is carried out under the conditions specified in SDR guidelines.

2. In order to further enhance banks' ability to bring in a change in ownership of borrowing entities which are under stress primarily due to operational/ managerial inefficiencies despite substantial sacrifices made by the lending banks, it has been decided to allow banks to upgrade the credit facilities extended to borrowing entities whose ownership has been changed outside SDR, to 'Standard' category upon such change in ownership, subject to the following guidelines:

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(i) Change in ownership may be by way of sale by the lenders, to a new promoter, of shares acquired by invocation of pledge or by conversion of debt of the borrower into equity outside SDR, or bringing in a new promoter by issue of fresh shares by the borrowing entity or acquisition of the borrowing entity by another entity. However, the exemptions from SEBI regulations permitted under SDR guidelines as detailed in paragraph 1 of this circular will not be available;

(ii) On such change in ownership of the borrowing entities, credit facilities of the concerned borrowing entities may be upgraded as 'Standard'. However, the quantum of provision held by the bank against the said account as on the date of change in ownership of the borrowing entities shall not be reversed except as permitted at (v) below;

(iii) The upgrade in the asset classification is subject to the following conditions:

    a. The 'new promoter' should not be a person/entity/subsidiary/associate etc. (domestic as well as overseas), from/belonging to the existing promoter/promoter group. Banks should clearly establish that the acquirer does not belong to the existing promoter group; and

    b. The new promoter should have acquired at least 51 per cent of the paid up equity capital of the borrower company. If the new promoter is a non-resident, and in sectors where the ceiling on foreign investment is less than 51 per cent, the new promoter should own at least 26 per cent of the paid up equity capital or up to applicable foreign investment limit, whichever is higher, provided banks are satisfied that with this equity stake the new non-resident promoter controls the management of the company.

(iv) At the time of takeover of the borrowing entity by a 'new promoter', banks may refinance the existing debt of the borrowing entities, considering the changed risk profile, without treating the exercise as 'restructuring' subject to banks making provisions for any diminution in fair value of the existing debt on account of the refinance;

(v) Banks may reverse the provision held against the said account only when all the outstanding loan/facilities of the borrowing entities perform satisfactorily during the ‘specified period’ (as defined in the extant norms on restructuring of advances), i.e., principal and interest on all facilities in the account are serviced as per terms of payment during that period;

(vi) In case satisfactory performance during the specified period is not evidenced, the asset classification of the restructured account would be governed by the the extant asset classification norms with reference to the repayment schedule that existed before the change in ownership as envisaged at (ii) above and assuming that upgrade in asset classification had not been given. However, in cases where the bank exits the account completely, i.e. no longer has any exposure to the borrower, the provision may be reversed/absorbed as on the date of exit.

Yours faithfully,

(Sudarshan Sen)
Principal Chief General Manager