

Credit Control and Other Measures February 2003

Selected circular issued by the Reserve Bank of India during February 2003 reproduced below:

Ref.UBD No.BPD.1298/09.140.00(OTS)/2002-03 dated February 12, 2003

The Chief Secretaries of the States

Revised guidelines for compromise settlement of chronic Non-Performing Assets (NPAs) of Primary (Urban) Co-operative Banks

Please refer to our letter UBD.No.BSD.I.CS.1/ 12.05.05/2001-2002 dated October 31, 2001 enclosing draft guidelines for One Time Settlement (OTS) of Non-Performing Assets (NPAs) of Primary (Urban) Co-operative Banks. We have been receiving representations from the urban co-operative banks and their Federations / Associations for extending the cut-off date for compromise settlement of NPAs under the One Time Settlement Scheme.

2. On a review, it has been decided that NPAs in all sectors irrespective of the nature of business/ activity / purpose of advances, which have become doubtful or loss assets as on March 31, 2000 with outstanding balance of Rs. 10.00 crore and below on the cut off date may be covered under a new scheme of One Time Settlement. The revised Scheme will also cover NPAs classified as substandard as on March 31, 2000, which have subsequently become doubtful or loss assets.
3. The draft guidelines in this regard are given in Annexure, which could be modified to be in line with the legal position obtaining as per the provisions of the Co-operative Societies Act / Rules. As in the case of the earlier draft guidelines referred to above, the present guidelines are also non-discretionary in as much as the banks should not deviate from the parameters indicated in the guidelines. Banks should also follow the guidelines for compromise settlement of all NPAs covered without discrimination among borrowers. The State Government may consider the scheme and issue necessary notification/ administrative orders to urban co-operative banks under their jurisdiction on the lines indicated.
4. A copy of the guidelines issued to banks may be forwarded to us for information.

Annexure

Draft Guidelines for One Time Settlement (OTS) of Non-Performing Assets (NPAs) of Primary (Urban) Co-operative Banks

(A) Compromise settlement of chronic NPAs up to Rs. 10.00 crore

1. Coverage

- a) The revised guidelines will apply to all Non-Performing Assets (NPAs) in all sectors irrespective of the nature of business / activity / purpose of advance, which have become

doubtful or loss as on March 31, 2000 with outstanding balance of Rs. 10.00 crore and below on the cut off date.

- b) The guidelines will also cover NPAs classified as Sub-Standard as on March 31, 2000, which have subsequently become doubtful or loss.
- c) The following categories of loans will **not be** covered by the Scheme:
 - (i) Cases of willful default, frauds and malfeasance.
 - (ii) Loans with tie-up arrangement for recovery (e.g. loans availed by salary earners).
 - (iii) Loans availed of or guaranteed by Directors or by close relatives of Directors or by firms / companies / institutions in which the Directors are interested or by ex-Directors of respective Urban Co-operative Banks.
 - (iv) Loans guaranteed by Government (including cases where Government guarantee has been invoked but not honoured by the Government).
 - (v) Loans due from Government Departments / Undertakings.
 - (vi) Loans under Government directed programmes.
- d) The last date for receipt of applications from borrowers would be as at the close of business on April 30, 2003. The processing of the applications received under the revised guidelines should be completed by October 31, 2003.
- e) These guidelines will also cover cases on which UCBs have initiated action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and also cases pending before Courts / BIFR subject to consent decree being obtained from the Courts / BIFR.

2. Settlement Formula - Amount and Cut off date

(a) NPAs classified as Doubtful or Loss as on March 31, 2000

The minimum amount that should be recovered under the revised guidelines in respect of compromise settlement of NPAs classified as doubtful or loss as on March 31, 2000 would be 100% of the outstanding balance in the account as on the date on which the account was categorised as doubtful or loss asset, whichever happened earlier, as the case may be.

(b) NPAs classified as Sub-Standard as on March 31, 2000 which became doubtful or loss subsequently

The minimum amount that should be recovered in respect of NPAs classified as Sub-Standard as on 31 March, 2000 which became doubtful or loss subsequently would be 100% of the outstanding balance in the account as on the date on which the account was categorised as doubtful asset, plus the minimum interest rate fixed by the bank on advances as per Directive UBD.No.DS.PCB. Cir.24 / 13.04.00 / 2002-03 dated October 29, 2002, from April 1, 2000 till the date of final payment.

(c) Penal interest, other charges and payment of settlement amount in instalments

The amount of settlement arrived at in both the above cases, should preferably be paid in one lump sum. In cases where the borrowers are unable to pay the entire amount in one lump sum, at least 25% of the amount of settlement should be paid upfront and the balance amount of 75% should be recovered in instalments within a period of one year together with interest at the existing minimum lending rate fixed by the bank on advances as per Directive UBD.No.DS.PCB. Cir.24 / 13.04.00 /2002-03 dated October 29, 2002 from the date of

settlement up to the date of final payment. Penal interest, legal charges and other charges could, however, be waived.

3. Competent Authority

The scheme is to be approved by the Board of Directors of the banks concerned, within the provisions of the Co-operative Societies Act / Rules/ Notification / Administrative Guidelines issued by the Registrar of Co-operative Societies concerned. A Settlement Advisory Committee should be constituted by the banks to review all applications received and to recommend eligible cases to the Competent Authority for sanction. The powers to sanction waiver/ remission of penal interest / charges and to take all related decisions may be vested with the Board within the provisions of the Co-operative Societies Acts / Rules / Notifications / Administrative Guidelines issued by the RCS concerned.

4. Non-discretionary and non-discriminatory treatment

The bank should follow the guidelines for compromise settlement of all NPAs covered, without discrimination among borrowers. The guidelines are non-discretionary in as much as the CEO/ Board of Directors should not deviate from the parameters indicated in the guidelines for compromise settlement of NPAs.

5. Settlement Advisory Committee (SAC)

(i) Constitution of SAC

The Board of Directors at the Head Office may constitute SAC comprising officials of the bank. The Committee may comprise of the Chairman, Directors, Chief Executive Officer of the bank, another Senior Official and/ or a Consultant who has experience in the field of banking, management or law. The official who had sanctioned the particular loan which has become NPA under his delegated authority should not participate in the SAC meeting where that loan account is under consideration for settlement. The SAC constituted as above may review requests for compromise settlements from eligible borrowers.

(ii) Functioning of SAC

- (a) The Boards of banks may draw broad guidelines and procedures for the functioning of SAC. The Committee may recommend eligible cases for approval of compromise settlements within the powers delegated under the Co-operative Societies Act / Rules / Administrative instructions. Powers for compromise proposals, wherever delegated to the Board of Directors of urban co-operative banks as per the Co-operative Societies Act / Rules should be exercised only on the recommendation of SAC.
- (b) The Board should review the decisions taken by the SAC every month and ensure that the process of settlement is complete within the stipulated period.

(B) Compromise settlement of chronic NPAs over Rs. 10.00 crore

The Board of Directors and the Chief Executive Officer should personally supervise the

compromise settlement of chronic NPAs on case to case basis, and should evolve policy guidelines regarding one time settlement of NPAs not covered under this guidelines as part of their loan recovery policy. Compromise settlement of such cases should be done only with the prior approval of the Registrar of Co-operative Societies.

7. Deviation only by RCS

Any deviation from the above settlement guidelines for any borrower should be made only by the Registrar of Co-operative Societies.

8. Action against other defaulters

In cases where restructuring is not feasible or defaulters have not come forward for compromise settlement, suits must be filed promptly for recovery of dues. Banks should follow up suit filed cases vigorously and effectively in the Courts to decide the cases and realisation of dues at the earliest.

9. General

- (i) In cases of NPAs where arbitration / execution petitions have been filed and/ or decree obtained and recovery certificates issued, the settlement as per these guidelines will be with the consent of the Competent Authority.
- (ii) A long term multi-pronged and effective NPA management strategy should be put in place in each institution to arrest the incidence of fresh NPAs.
- (iii) The waiver that may be allowed by the banks in terms of these guidelines will have to be on their own strength and no financial support from Government or RBI would be extended.
- (iv) The banks should submit a report on the progress in recovery of NPAs under the guidelines every quarter to the Board of Directors.
- (v) A copy of the final guidelines issued by the State Government may be sent to us for our information and record.