

RBI Press Release

RBI issues Final Guidelines and Directions for SCRCs (April 23, 2003)

The Reserve Bank of India today issued the final guidelines and directions to Securitisation Companies and Reconstruction Companies (SCRCs). The guidelines have been finalised taking into account the feedback received from banks, financial institutions and others. It may be recalled that the Reserve Bank had issued draft guidelines on December 18, 2002, soliciting views of all concerned.

The regulations would facilitate the smooth formation and functioning of Securitisation Companies and Reconstruction Companies. The guidelines and directions cover the aspects concerning asset reconstruction and securitisation as also those relating to registration, owned funds, permissible business, operational structure for giving effect to the business of securitisation and asset reconstruction, deployment of surplus funds, internal control systems, prudential norms, disclosure requirements, etc., for these companies.

In terms of the provisions of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, securitisation companies are required to raise funds through the instrument of security receipts. The Reserve Bank has, however, clarified that the Securitisation Company and Reconstruction Company can raise funds through the instrument of security receipts by the trust/s set up by them.

In addition to the guidelines and directions, which are mandatory, the Reserve Bank has also issued guidance notes of recommendatory nature covering aspects relating to acquisition of assets, issue of security receipts etc.

The Reserve Bank is in the process of framing a set of standard guidelines in the matter of takeover of the management, sale or lease of whole or part of the business of the borrower. The Reserve Bank has cautioned the Securitisation Companies and Reconstruction Companies against exercising the measures of take over of management, sale or lease of the borrowers' business as provided for in Section 9 of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, until guidelines in this regard are notified by the Reserve Bank of India. As regards enforcement of security interest, Securitisation Companies and Reconstruction Companies may follow the Security Interest (Enforcement) Rules, 2002 notified by the Government of India as also the relevant provisions in The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

The Reserve Bank had already issued the format of the application form for issue of a Certificate of Registration earlier on March 7, 2003, as the last date for making application to the Reserve Bank for existing companies was March 20, 2003. Companies desirous of commencing the business of securitisation and reconstruction have to apply in the prescribed format, which can be downloaded from the Reserve Bank of India's website www.rbi.org.in

Background

The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 was enacted by the Government of India on June 21, 2002 for regulation of securitisation and reconstruction of financial assets and enforcement of security interest by secured creditors, including Securitisation or Reconstruction Companies (SC/RC). The Act extends to the whole of India. The Act envisaged a new class of companies, Securitisation Companies or Reconstruction Companies, which as provided in the Act, should not undertake any activity other than that of securitisation and asset reconstruction.

The Act has vested with the Reserve Bank the powers to register such companies and frame regulations to oversee their functioning covering areas such as registration, owned fund, prudential norms, capital adequacy, aggregate value and type of assets to be acquired, etc. The Reserve Bank had issued draft guidelines on December 18, 2002, soliciting views of all concerned. The Reserve Bank may, if it considers it necessary for avoiding any hardship to Securitisation Company or Reconstruction Company or for any other just and sufficient reason exempt all Securitisation Companies or Reconstruction companies or a particular Securitisation Company or Reconstruction Company or class of Securitisation Companies or Reconstruction Companies, from all or any of the provisions of these regulations and directions either generally or for any specified period, subject to such conditions as it may impose.