

**Draft of the directions proposed to be issued to  
Securitisation Companies / Reconstruction Companies in the matter of  
asset reconstruction and matters related thereto**

Reserve Bank of India  
Department of Non-Banking Financial Companies  
Central Office  
World Trade Centre, Mumbai

**The Securitisation Companies/ Reconstruction  
Companies (Reserve Bank) Directions, 2002**

The Reserve Bank of India, having considered it necessary in the public interest, and being satisfied that, for the purpose of enabling the Bank to regulate the financial system to the advantage of the country and to prevent the affairs of any securitisation company or reconstruction company from being conducted in a manner detrimental to the interest of investors or in any manner prejudicial to the interest of such securitisation company or reconstruction company, it is necessary to issue the directions relating to the measures of asset reconstruction and matters related thereto, as set out below hereby, in exercise of the powers conferred by Section 12(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (Second) Ordinance, 2002, issues to every Securitisation Company/ Reconstruction Company, the directions hereinafter specified.

**Short title and commencement of the directions**

1. These directions shall be known as ‘The Securitisation Companies/ Reconstruction Companies (Reserve Bank) Directions, 2002’. They shall come into force with effect from ..... and any reference in these directions to the date of commencement thereof shall be deemed to be a reference to that date.

**2. Definitions**

- (i) “Ordinance” means the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Ordinance, 2002”.
- (ii) “Bank” means the Reserve Bank of India constituted under Section 3 of the Reserve Bank of India Act, 1934.
- (iii) The words and expressions used in these directions shall have the same meaning as in the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Ordinance, 2002.

**3. Registration, Asset Acquisition and matters incidental thereto**

- (i) Every Securitisation Company / Reconstruction Company shall obtain a certificate of registration from the Bank as provided under Section 3(1) of the Ordinance;
- (ii) Every Securitisation Company / Reconstruction Company seeking the Bank’s registration under Section 3(1) of the Ordinance, shall have a minimum Owned Fund of Rs. 2 crore ;
- (iii) A Securitisation / Reconstruction Company, which has obtained a certificate of

registration issued by the Bank under Section 3(4) of the Ordinance, may undertake both securitisation and asset reconstruction activities.

#### **4. Operational Structure**

- (i) A Securitisation Company / Reconstruction Company, which has obtained a certificate of registration issued by the Bank under Section 3(4) of the Ordinance, shall, for the purpose of raising resources as provided for in Section 5(2) of the Ordinance, set up one or more trust/s which shall issue Security Receipts to Qualified Institutional Buyers under Section 7 of the Ordinance;
- (ii) The trusteeship of such trust/s shall vest in the Board of Directors of the Securitisation Company/ Reconstruction Company.

#### **5. Permissible Business**

- (i) No Securitisation Company / Reconstruction Company shall commence / undertake any activity other than securitisation and asset reconstruction and those provided for in Section 10(1) of the Ordinance, except with the prior approval of the Bank.
- (ii) A Securitisation Company / Reconstruction Company, which is carrying on any other business, shall cease to do such business within one year from the commencement of the Ordinance i.e. by June 20, 2003.
- (iii) A Securitisation Company / Reconstruction Company, may form a different company as a joint venture with any other investor for the purpose of asset reconstruction of impaired assets. The newly formed company shall commence business only after receiving a Certificate of Registration from the Reserve Bank of India in terms of the Ordinance.

#### **6. Methods of asset reconstruction**

No Securitisation Company / Reconstruction Company shall change or take over the management of or sell or lease, the whole or part of the business of the borrower. They may, however, take recourse to any of the measures to recover the secured debt as provided for in sub section (4) of section 13 of the Ordinance.

#### **7. Rescheduling of Debts**

- (i) Every Securitisation Company/Reconstruction Company shall frame a policy, duly approved by the Board, in the matter of rescheduling of debts payable by the borrower;
- (ii) A committee of the Board shall be constituted, which may approve each proposal in line with the policy laid down by the Board;
- (iii) All proposals should be in line with and supported by an acceptable business plan, projected earnings and cash flows;
- (iv) The proposal should not materially affect the asset liability management of the Securitisation Company/Reconstruction Company or the commitments given to investors in the schemes announced; and
- (v) Deviation from the policy should be made only with the approval of the Board.

#### **8. Settlement of dues payable by the borrower**

- (i) Every Securitisation Company/Reconstruction Company shall frame a policy duly approved by the Board detailing the circumstances under which settlement may be done;
- (ii) The policy may, inter alia, cover aspects such as cut-off date, formula for computation of realisable amount and settlement of account, payment terms and conditions, and borrower's capability to pay the amount settled;
- (iii) A committee of the Board shall be constituted, which may approve each proposal in line with the policy laid down by the Board;
- (iv) All proposals should be in line with and supported by an acceptable business plan, projected earnings and cash flows;
- (v) The proposal should not materially affect the asset liability management of the Securitisation Company/Reconstruction Company or the commitments given to investors in the schemes announced; and
- (vi) Deviation from the policy should be made only with the approval of the Board.

#### 9. **Asset Acquisition**

- (i) Every Securitisation Company/Reconstruction Company shall frame with the approval of its Board, a 'Financial Asset Acquisition Policy', within 90 days of grant of Certificate of Registration, which shall clearly lay down the policies and guidelines covering, inter alia,
  - (a) norms and procedure for acquisition;
  - (b) types and the desirable profile of the assets;
  - (c) valuation procedure ensuring that the assets acquired have realisable value which is capable of being reasonably estimated and independently valued;
  - (d) delegation of powers of various functionaries; and
  - (e) in the case of impaired Financial Assets, framing of plan for their realisation.
- (ii) The acquisition of assets by Securitisation Company/Reconstruction Company shall be in conformity with the principles of 'true sale' whereby the risks and rewards associated with the assets stand transferred to the transferee;
- (iii) Asset acquisition shall be made under the supervision of an Asset Acquisition Committee, which shall be a committee of the Board with independent directors (who are not nominees of the Sponsors) in majority.

#### 10. **Internal Control System**

Every Securitisation Company / Reconstruction Company shall put in place an effective 'Internal Control System' providing for periodical check and review of the asset acquisition measures and other matters related thereto as mentioned in the above paragraph.

#### 11. **Bar on purchase of assets**

A Securitisation Company/Reconstruction Company shall not itself purchase the secured assets put to sale in exercise of its right of enforcement of security interest through private treaty or by obtaining quotations from persons dealing with similar secured assets.

#### 12. **Deployment of Funds and Lending**

- (i) A Securitisation Company/Reconstruction Company may Invest its owned funds and temporary surpluses in Government securities and deposits with scheduled commercial banks and investments in other companies formed as Joint Ventures for asset reconstruction;
- (ii) A Securitisation Company/Reconstruction Company may not lend or invest otherwise than as specified in sub-paragraph (i) above any monies to the borrowers ;
- (iii) No Securitisation Company/Reconstruction Company shall invest in land or building an amount exceeding 50% of its owned fund.

### 13. **Issue of Security Receipts**

- (i) A Securitisation Company/Reconstruction Company proposing to issue Security Receipts, shall formulate a policy, duly approved by their Board, within 90 days of grant of the Certificate of Registration, providing for valuation of the assets under each scheme and declaration of Net Asset Value (NAV) of Security Receipt at the end of every quarter.
- (ii) Such policy shall provide for including in the offer document a specific clause to the effect that the security receipts issued under the Ordinance would be transferable / assignable only in favour of other Qualified Institutional Buyers.

### 14. **Disclosure**

Every Securitisation Company/Reconstruction Company intending to issue Security Receipts to Qualified Institutional Buyers shall make disclosures as mentioned below :

#### (1) **Disclosure in Offer Document**

##### **A Relating to the Issuer of Security Receipts**

- i. Name, place of Registered Office, date of incorporation, date of commencement of business;
- ii. Particulars of sponsors, shareholders and a brief profile of the Board of Directors of Securitisation Company/Reconstruction Company with their qualifications and experience;
- iii. Summary of financial information for the last three years; and
- iv. Details of Securitisation / Asset Reconstruction activities handled, if any, in the last three years

##### **B Terms of Offer**

- i. Objects of offer and proposed end use of funds;
- ii. Description of the instrument and extent of management fee charged by Securitisation Company/Reconstruction Company;
- iii. Interest rate / probable yield;
- iv. Due dates, if any, for payment of interest, date of maturity / redemption;
- v. Details of and rationale for credit rating, if any;
- vi. Details of assets being securitised, changes effected to the pool, if any.
- vii. Geographical distribution of asset pool;
- viii. Residual maturity, interest rate, outstanding principal of the asset pool;

- ix. Nature and value of underlying security, expected cash flows, quantum and timing, credit enhancement measures;
- x. Policy for acquisition of assets and valuation methodology adopted;
- xi. Details of terms of acquisition of assets from banks /FIs;
- xii. Risk profile of Financial Assets, details of performance record with the Originators;
- xiii. Statement of risk factors and steps taken to mitigate the same;
- xiv. Risk exposure to future cash flows, security left in Trust etc.;
- xv. Arrangements for implementing AR measures in case of default
- xvi. Method of valuation of security receipts;
- xvii. Role of Originator post acquisition;
- xviii. Disclosure about Trustees;
- xix. Duties of Trustee;
- xx. Dispute Redressal Mechanism;

**(2) Disclosure on continuing basis**

- i. Declaration of NAV on quarterly basis;
- ii. Defaults, prepayments, losses, if any, during the period;
- iii. Change in credit rating, if any;
- iv. Change in profile of the assets by way of accretion to or realisation of assets from the existing pool;
- v. Collection summary for previous corresponding period;
- vi. Any other material information, which has a bearing on the earning prospects affecting the QIBs;

**15. Exemptions**

The Bank may, if it considers necessary for avoiding any hardship to any Securitisation Company/Reconstruction Company or for any other just and sufficient reason, grant extension of time to comply with the directions or exempt any company or class of companies from all or any of the provisions of these directions either generally or for any specified period subject to such conditions as the Bank may impose.

Sd/-