

Guidance Notes for Securitisation Companies and Reconstruction Companies

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As you are aware, 'The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002' has come into effect from June 21, 2002. In exercise of the powers conferred therein, the Bank has framed Guidelines and Directions to Securitisation Companies and Reconstruction Companies relating to registration and other matters pertaining to their working viz; prudential norms relating to income recognition, classification of assets, provisioning, accounting standards, capital adequacy, measures for asset reconstruction, deployment of funds and acquisition of financial assets.

2 The Bank recognizes the fact that since the asset reconstruction activity mainly centers around non-performing loan assets, the whole process of asset reconstruction and matters related thereto has to be initiated with due diligence and care warranting the existence of a set of clear instructions which shall be complied with by all Securitisation Companies or Reconstruction Companies so that the process of asset reconstruction proceeds on smooth and sound lines. In addition, there is a need for specific guidance to these companies on certain matters. Accordingly, the Bank has framed a set of guidance notes listed below in certain matters, which are recommendatory in nature. The words and expressions used in these notes shall have the same meaning as in the Act.

3. (1) Acquisition of Financial Assets

- (i) The Asset Acquisition Policy shall provide that the transactions take place in a transparent manner and at a fair price in a well informed market, and the transactions are executed at arm's length in exercise of due diligence;
- (ii) The share of financial assets to be acquired from the bank /FI should be appropriately and objectively worked out keeping in view the provision in the Act requiring consent of

- secured creditors holding not less than 75% of the amount outstanding to a borrower for the purpose of enforcement of security interest;
- (iii) For easy and faster realisability, all the financial assets due from a single debtor to various banks / FIs may be considered for acquisition. Similarly, financial assets having linkages to the same collateral may be considered for acquisition to ensure relatively faster and easy realisation. However, in these cases, a balanced approach, taking into the account the risk in such acquisitions, may be adopted while deciding on the assets for acquisition;
 - (iv) Both fund and non-fund based financial assets may be included in the list of assets for acquisition. Standard Assets in the books of originator likely to face distress prospectively may also be acquired;
 - (v) Acquisition of funded assets should not include takeover of outstanding commitments, if any, of any bank/FI to lend further. Terms of acquisition of security interest in non-fund transactions, should provide for the relative commitments to continue with bank/FI, till demand for funding arises;
 - (vi) Loans not backed by proper documentation should be avoided;
 - (vii) As far as possible, the valuation process should be uniform for assets of same profile and should ensure that the valuation of the financial assets is done in scientific and objective manner. Valuation may be done internally or by engaging an independent agency, depending upon the value of the assets. Ideally, valuation may be entrusted to the committee authorised to approve acquisition of assets, which may carry out the task in line with an Asset Acquisition Policy laid down by the board of directors in this regard;
 - (viii) A record indicating therein the details of deviations made from the prescriptions of the Board of Directors in the matter of asset acquisition, pricing, etc. and the reasons therefor should be maintained;
 - (ix) To ensure functioning of Securitisation Companies or Reconstruction Companies on healthy lines, the operations and activities of such companies may be subjected to periodic audit and checks by internal / external agencies.

(2) Issue of security receipts

- (i) The parties in question may finalise the price at which financial assets will be sold and security receipt will be issued therefor as per the mutually agreed terms and on assessment of the risks involved;
- (ii) The issuer may consider obtaining credit rating of the Security Receipt from any of the recognised credit rating agencies.
- (iii) The matters relating to charging of management fee and expenses by the Securitisation Company or Reconstruction Company, for managing schemes floated by it, may be as per the mutually agreed terms.

(3) Committees of the Board of Directors

For approving the proposals relating to asset reconstruction contained in paragraphs 7(1),7(3) and 7(5) in the guidelines and directions, the Board of Directors may constitute one or more committees.