

Policy on Management / Restructuring of MSME Stressed Assets

GUIDELINES FOR RESTRUCTURING OF MSME ADVANCES

Restructuring is an act in which a lender, for economic or legal reasons relating to the borrower's financial difficulty as appended below grants concessions to the borrower. Restructuring would normally involve modification of terms of the advances / securities, which would generally include, among others, alteration of repayment period / repayable amount / the amount of instalments / rate of interest / rollover of credit facilities / sanction of additional credit facility / enhancement of existing credit limits / compromise settlements where time for payment of settlement amount exceeds three months.

After introduction of Goods and Services Tax (GST) as tax reform measures, RBI has allowed certain relief for borrowers temporarily viz. 180 days delinquency norms in place of normal delinquency norms of 90 days for the purpose of IRAC under MSME sectors for formalisation of the sector under GST regime vide direction no. RBI/2017-18/129. DBR No.BP.BC.100/21.04.048 /2017-18 dated 07.02.2018. and followed up direction no RBI/2017-18/186 DBR No. BP.BC.108/21.04.048/2017-18 dated 06.06.2018.

Now RBI has further advised vide direction no. RBI/2018-19/100. DBR No.BP.BC.18/21.04.048 /2018-19 dated 01.01.2019 for restructuring of stressed accounts under MSME sector without down gradation of asset classification as one time measure.

Present policy is modified suitably taking above RBI directions in to consideration as under :

1. Eligibility:

The provisions made as on **January 1, 2019** in this framework shall be applicable to MSME having loan limits **up to 25 crore**. including accounts under multiple banking arrangements (MBA)

The borrower account is in default but is a **'Standard Asset'** as on **January 1,2019** and continues to be classified as a **'Standard Asset'** till the date of implementation of the restructuring.

The borrowing entity is GST-registered on the date of implementation of the restructuring. However, this condition will not apply to MSMEs that are exempt from GST-registration.

The restructuring of the borrower account is implemented on or **before March 31, 2020**. A restructuring would be treated as implemented if the following conditions are met:

all related documentation, including execution of necessary agreements between lenders and borrower / creation of security charge / perfection of securities are completed by all lenders; and
the new capital structure and / or changes in the terms and conditions of the existing loans get duly reflected in the books of all the lenders and the borrower.

2. Identification of incipient stress:

2.1 Identification by banks or creditors: Before a loan account of Micro, Small and medium Enterprises turns into Non performing assets (NPA) as per RBI framework, Banks and Creditors should identify incipient Stress in account by creating three sub categories under the special mention account(SMA) category given in the table below:

SMA Sub Category	Basis of Classification
SMA-0	Principal or interest payment overdue between 01-30 days
SMA-1	Principal or interest payment overdue between 31-60 days
SMA-2	Principal or interest payment overdue between 61-90 days

On the basis of the above early warning signals, the branch maintaining the account should consider the stressed MSME account for purpose resolution of stress within **5 working days** for a suitable Corrective action Plan (CAP) for disposal by delegated authority. In course of drawing resolution plan the restructuring of advance is to be suitably considered.

2.2 The accounts Identified as SMA should be examined for CAP by the branch itself under the authority of the branch manager. However, the cases, where the branch manager has decided the option, of recovery under CAP instead of rectification or restructuring, should be referred, to the Zonal Office for their concurrence.

2.3 Identification by the Borrower Enterprise - Any MSME borrower may voluntarily initiate proceedings under this Framework, if the enterprise reasonably apprehends failure of its business or its inability or likely inability to pay debts or there is erosion in the net worth due to accumulated losses to the extent of 50% of its net worth during the previous accounting year, by making an application to the branch. When such a request is received by lender, the account should be examined by Branch Manager at the earliest but **not later than, five working days** from the receipt of the application, to examine the account for a suitable CAP.

3. Application for a Corrective Action Plan(CAP):

The Bank branch, on identifying an MSME account as SMA or suitable for consideration under the Framework or on receipt of an application from the stressed enterprise, Branch shall evaluate the proposal to decide suitable CAP. In event of restructuring, the proposal should be processed immediately and to be placed before delegated authority for sanction.

The application formats should be submitted by the borrowers along with the following:

Latest audited accounts of the Enterprise including its Net worth;
Details of all liabilities of the enterprise, including the liabilities owed to the State or Central Government and unsecured creditors, if any;
Nature of stress faced by the enterprise; and suggested remedial actions;
The Borrower enterprise should disclose the details of all its liabilities, including the liabilities owed to the State or Central Government and unsecured creditors, if any.

Branch may examine the list of creditors for authenticity and determining the total liability of the Enterprise in order to arrive at a suitable CAP' and not for payments of the same by the banks/lenders.

If the corrective action plan decided by the branch /zonal office envisages restructuring of the debt of the enterprise, for the accounts with exposure of Rs.20.00 crore and above, TEV study is to be undertaken.

For restructuring proposal for exposure up to Rs.25.00 crore where only change in COD/ extension of repayment period/ rescheduling without additional funding is involved TEV study should not be insisted upon. However, sanctioning authority for resolution plan (RP) could stipulate TEV study for lesser exposure, If required. TEV study should be completed and report is to be submitted by consultants, within 20 working days (for accounts having aggregate exposure up to Rs.10 crore) and within 30 working days (for accounts having aggregate exposure above Rs.10 crore and up to Rs.25 crore). Upon finalization of the terms of the corrective action plan, the implementation of that plan shall be completed by the concerned within 30 days (if the CAP is Rectification) and within 90 days (If the CAP is restructuring). In case recovery is considered as CAP, the recovery measures should be initiated at the earliest.

During the period of operation of CAP, the enterprise shall be allowed to avail both secured and unsecured credit for its business operations as envisaged under the terms of CAP.

For MSME borrowers having credit facilities under a Consortium of Banks or Multiple Banking Arrangement (MBA), the consortium leader, or the bank having the largest exposure to the borrower under MBA, as the case may be, shall take lead role if the account is reported as stressed either by the borrower or any of the lenders under this Framework. Lead Lender will also coordinate between the different lenders. Branch shall communicate to lead lender status of account as default/stressed immediately on receipt of early warning signals and requisition for consortium meeting at earliest to explore suitable CAP under intimation to other members of consortium.

4. The options under CAP may include:

(a) Rectification:- Obtaining a commitment, specifying actions and timelines, from the borrower to regularize the account so that the account comes out of Special Mention Account status or does not slip into the Non-Performing Asset category and the commitment should be supported with identifiable cash flows within the required time period and without involving any loss or sacrifice on the part of the existing lenders. The rectification process should primarily be borrower driven. However, the branch may also consider providing need based additional finance



to the borrower, if considered necessary, as port of the rectification process. It should however be ensured that this need based additional finance is intended only for meeting, in exceptional cases, unavoidable increased working capital requirement. In all cases of additional finance for working capital, any diversion of funds will render the account as NPA. Further, such additional finance should ordinarily be an ad-hoc facility to be repaid or regularized within a maximum period of six months. Additional finance for any other purpose, as also any roll-over of existing facilities, or funding not in compliance with the above conditions, will tantamount- to restructuring. Further, repeated rectification with funding, within the space of one year, will be treated as a restructuring and no additional finance should be sanctioned under CAP, in cases where the account has been reported as fraud by any lender.

(b) Restructuring:- Consider the possibility of restructuring the account, if it is prima facie viable and the borrower is not a wilful defaulter, i.e., there is no diversion of funds, fraud or malfeasance, etc. Commitment from promoters for extending their personal guarantee along with their net worth statement supported by copies of legal titles to assets may be obtained along with a declaration that they would not undertake any transaction that would alienate assets without the permission of the Bank. Any deviation from the commitment by the borrowers affecting the security or recoverability of the loan may be treated as a valid factor for initiating recovery process. The lenders in the consortium may sign an Inter-Creditor Agreement and also require the borrower to sign the Debtor-Creditor Agreement which would provide the legal basis for any restructuring process. Further, a stand-still clause (as defined in extant guidelines on Restructuring of Advances) may be stipulated in the Debtor-Creditor Agreement to enable a smooth process of restructuring. The stand-still clause does not mean that the borrower is precluded from making payments to the lenders. The Inter-Creditor agreement may also stipulate that both secured and unsecured creditors need to agree to the final resolution.

c) Recovery:- Once the first two options at (a) and (b) above are seen as not feasible, due recovery process may be resorted to. The branch may decide the best recovery process to be followed, among the various legal and other recovery options available, with a view to optimizing the efforts and results. At this level, a senior executive from the Recovery Department will be involved in finalizing the recovery process.

5. The decisions agreed upon by a majority of the creditors (75% by value and 50% by number) in the consortium would be considered as the basis for proceeding with the restructuring of the account, and will be binding on all lenders under the terms of the Inter-Creditor Agreement. If the consortium decides to proceed with recovery, the minimum criteria .for binding decision, if any, under any relevant laws or Acts shall be applicable.

6. Time-lines

Detailed time-lines are given for carrying out various activities under the Framework. If the branch is not able to decide on CAP and restructuring package due to non-availability of information on statutory dues of the borrower, the branch may take additional time not exceeding 30 days for deciding CAP and preparing the restructuring package . However" they should not wait beyond this period and proceed with CAP.

7. Additional Finance

7.1 If the branch decides that the enterprise requires financial resources to restructure or revive, it may draw up a plan for provision of such finance. Any additional finance should be matched by contribution by the promoters in appropriate proportion, and this should not be less than the proportion at the time of original sanction of loans. Additional funding provided under restructuring / rectification as part of the CAP will have priority in repayment over repayment of existing debts. Therefore, instalments of the additional funding which fall due for repayment will have priority over the repayment obligations of the existing debt.

7.2 If the existing promoters ore not in a position to bring in additional funds the consortium may allow the enterprise to raise secured or unsecured loans.

7.3 Provided further, that the consortium may, with the consent of all creditors recognized, provide such loans higher priority than any existing debt.

8. If the Bank decides on options of either 'Rectification' or 'Restructuring', but the account fails to perform as per the agreed terms under these options, the bank shall initiate recovery under option

9. Restructuring by the consortium

9.1 Eligibility

Restructuring cases shall be taken up by the consortium only in respect of assets reported as Standard, Special Mention Account or Sub-Standard by one of more lenders of the consortium.

However, the consortium may consider restructuring of the debt, where the account is doubtful with one' or two lender/s but it is Standard or Sub-Standard in the books of majority of other lenders (by value).

Willful defaulters shall not be eligible for restructuring. However, the consortium may review the reasons for classification of the borrower as a willful defaulter and satisfy itself that the borrower is in a position to rectify the wilful default. The decision to restructure such cases shall have the approval of the Board of concerned bank within, the consortium who has classified the borrower as willful defaulter.

Cases of Frauds and Malfeasance remain ineligible for restructuring. However, in cases of fraud / malfeasance where the existing promoters are replaced by new promoters and the borrower company is totally delinked from such erstwhile promoters / management, banks and the consortium may take a view on restructuring of such accounts based on their viability, without prejudice to the continuance of criminal action against the erstwhile promoters / management. Further, such accounts may also be eligible for asset classification benefits available on refinancing after change in ownership, if such change in ownership is carried out under guidelines contained in circular no. RBI/2017-18/131 DBR.No. BP.BC.101/21.04. 048/ 2017-18 February 12, 2018 on Resolution of Stressed Assets – Revised Framework.

9.2. Viability

The viability of the account shall be determined by the Delegated authority Branch/Zone/Head Office as the case may be, based on acceptable viability benchmarks determined by them.

The parameters may, inter-alia. Include the' Debt Equity Ratio. Debt Service Coverage Ratio, Liquidity or Current Ratio, etc. which would be as per Bank's Domestic Lending Policy.

However, following broad benchmark of viability parameters may have to be borne in mind:

Present value of total available cash flow (ACF) during the loan life

LLR =
$$\frac{\text{period (including Interest and Principal).}}{\text{Maximum amount of loan.}}$$

The Debt Service Coverage Ratio should be greater than 1.25 within 5 years period in which the unit should become viable and on year to year basis the ratio should be above 1. The normal debt service coverage ratio for 10 years repayment period should be around 1.33.

Operating and Cash Break Even Points should be comparable with the industry norms.

Current ratio should be around 1.17:1 within period of 5 years. Sanctioning authority can relax up to 1:1

Debt Equity Ratio should be around 4:1 in five years. Leverage Ratio (TOL to TNW ratio) should be around 6:1 during said period.

Trends of the company based on historical data and future projections should be comparable with the industry. Thus, behaviour of past and future EBIDTA should be studied and compared with industry average.

Loan Life Ratio (LLR), as defined below should be 1.4, which would give a cushion of 40% to the amount of loan to be serviced.

9.3. Conditions relating to Restructuring under the Framework:

Under this Framework, the restructuring package shall stipulate the timeline during which certain viability milestones such as improvement in certain financial ratios after a period of 6 months may be achieved.

The Bank shall periodically (preferably half-yearly] review the account for achievement / non- achievement of milestones and shall consider initiating suitable measures including recovery measures as deemed appropriate

Any restructuring under this Framework shall be completed within the specified time periods.

The Bank shall optimally utilize the specified time periods so that the aggregate time limit is not breached under any mode of restructuring.

If the Bank takes a shorter time for an activity as against the prescribed limit then it can have the discretion to utilize the saved time for other activities provided the aggregate time limit is not breached.

The general principle of restructuring shall be that the stake holders bear the first loss of the enterprise rather than the lenders, In the case of a company, the Bank may consider the following options when a loan is restructured.

Possibility of transferring equity of the company by promoters to the lenders to compensate for their sacrifices:

Promoters infusing more equity into their companies; Transfer of the promoters' holdings to a security trustee or an escrow arrangement till turnaround of enterprise to enable a change in management control, if lenders favour it.

In case a borrower has undertaken diversification or expansion of the activities which has resulted in the stress on the core-business of the group, a clause for sale of non-core assets or other assets may be stipulated as a condition for restructuring the account if under the Techno-Economic Viability study, the account is likely to become viable on hiving off of non-core activities and other assets.

For restructuring of dues in respect of listed companies, lenders may be, ab-initio, compensated for their loss or sacrifice (diminution In fair value of account in net present value terms) by way of issuance of equities of the company upfront, subject to the extant regulations and statutory requirements.

If the lenders' sacrifice is not fully compensated by way of issuance of equities, the right of recompense clause may be incorporated to the extent of shortfall.

