

[TO BE PUBLISHED IN THE GAZETTE OF INDIA: EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (ii)]

Ministry of Micro, Small and Medium Enterprises

Dated: 29th May, 2015

NOTIFICATION

S.O.(E).....In exercise of the powers conferred in section 9 of the Micro, Small and Medium Enterprises Development Act, 2006, the Central Government, for the purpose of facilitating the promotion and development of Micro, Small and Medium Enterprises, hereby notifies the instructions for the Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises (hereinafter referred to as the "Framework"), which shall come into force on the date of its publication in the official Gazette, namely the **Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises**.

1. Identification of incipient stress

(1) Identification by Banks or creditors - Before a loan account of a Micro, Small and Medium Enterprise turns into a Non-Performing Asset (NPA), banks or creditors are required to identify incipient stress in the account by creating three sub-categories under the Special Mention Account (SMA) category as given in the Table below:

| Special Mention Account | Basis for classification |
|--------------------------------|---|
| Sub-categories | |
| (1) | (2) |
| SMA-0 | Principal or interest payment not overdue for more than 30 days but account showing signs of incipient stress |
| SMA-1 | Principal or interest payment overdue between 31-60 days |
| SMA-2 | Principal or interest payment overdue between 61-90 days |



(2) Identification by the Enterprise - Any Micro, Small or Medium Enterprise may voluntarily initiate proceedings under this Framework if enterprise reasonably apprehends failure of its business or its inability or likely inability to pay debts and before the accumulated losses of the enterprise equals to half or more of its entire net worth.

(3) The application for initiation of the proceedings under this Framework shall be verified by an affidavit of authorised person.

(4) When such a request is received by lender, the account should be processed as SMA-0 and the Committee under this Framework should be formed immediately.

2. Committees for Stressed Micro, Small and Medium Enterprises.

(1) Subject to any regulations prescribed by the Reserve Bank of India for this Framework, all banks shall constitute one or more Committees at such locations as may be considered necessary by the board of directors of such bank to provide reasonable access to all eligible Micro, Small and Medium enterprises which have availed of credit facilities from such bank.

(2) Subject to inclusion in categories referred to in paragraph 1, stressed Micro, Small and Medium Enterprises shall have access to the Committee for stressed Micro, Small and Medium Enterprises for deciding on a corrective action plan and determining the terms thereof in accordance with regulations prescribed in this Framework:

Provided that where the Committee decides that recovery is to be made as part of the corrective action plan, the manner and method of recovery shall be in accordance with the existing policies approved by the board of directors of the bank which has extended credit facilities to the enterprise, subject to any regulations prescribed by the Reserve Bank of India.

3. Composition of Committee for Stressed Micro, Small and Medium Enterprises.

(1) The constitution of the Committee shall be as under:

(a) The regional or zonal head of the bank, who shall be the Chairperson of the Committee;



- (b) Officer in charge of the Micro, Small and Medium Enterprises Credit Department of the bank at the regional or zonal office level, who shall be the member and convener of the Committee;
 - (c) One independent external expert with expertise in Micro, Small and Medium Enterprises related matters to be nominated by bank.
 - (d) One representative from the concerned State Government
- (2) The composition of the Committee, the terms of appointment of its members, the manner of filling vacancies, and the procedure to be followed in the discharge of the Committee's functions shall be as may be prescribed by the board of directors of the bank.

4. Application to the Committee for a Corrective Action Plan

(1) Any eligible stressed Micro, Small or Medium Enterprise or a bank or creditor which has provided credit facilities to such enterprise may file an application to the Committee in the manner specified by the Bank for a decision on a corrective action plan and the terms thereof.

Provided that if a Micro, Small or Medium Enterprise has availed of credit facilities from more than one bank, —

- (a) the application shall be made to the Committee of that bank to which the enterprise owes the maximum amount of debt;
 - (b) the Committee shall include representatives from other concerned banks in such proportion as maybe specified in the regulations prescribed by the Reserve Bank of India;
- (2) The participating banks or affected creditors shall cooperate with each other in all proceedings of the Committee.
- (3) In case of disagreement between the participating banks or affected creditors on any issue before the Committee or any matter contemplated in this Framework, such disagreement shall be resolved in accordance with regulations prescribed by the Reserve Bank of India.

9

(4) The eligibility criteria and the grounds for filing an application and the time limits within which such application shall be made will be in accordance with the regulations prescribed by the Reserve Bank of India and only applications meeting the said eligibility criteria and grounds shall be admitted by the Committee.

(5) Where an application is filed by a Micro, Small or Medium Enterprise, such application shall be -

(a) filed in a form prescribed by the bank in consultation with the Reserve Bank of India; and

(b) accompanied by details of all liabilities of the enterprise, including the liabilities owed to the State or Central Government and unsecured creditors, if any.

(6) Where an application is filed by a bank and admitted by the Committee, the Committee shall notify the concerned enterprise about such application within the time limit prescribed by the Reserve Bank and require the enterprise to -

(a) respond to the application or make a representation before the Committee; and

(b) disclose the details of all its liabilities, including the liabilities owed to the State or Central Government and unsecured creditors, if any, within fifteen working days of receipt of such notice:

Provided that if the enterprise does not respond within the above period, the Committee may proceed *ex-parte* .

(7) On receipt of information relating to the liabilities of the enterprise, the Committee may send notice to such creditors of the enterprise as it may deem fit, informing them about the application and permit them to make a representation before the Committee within fifteen working days of receipt of such notice.

(8) On admitting an application received, the Committee shall take a decision on the option to be adopted under the corrective action plan in accordance with the regulations prescribed by the Reserve Bank of India and notify the enterprise about such a decision, within the time limit prescribed by the Reserve Bank of India.



(9) If the corrective action plan decided by the Committee envisages revival of the enterprise, the Committee shall finalise the terms of such a plan in accordance with the regulations prescribed by the Reserve Bank of India and notify the enterprise about such terms, within the time limit prescribed by the Reserve Bank of India.

(10) Upon finalisation of the terms of the corrective action plan for revival, the implementation of that plan shall be completed by the concerned bank within the time limit prescribed by the Reserve Bank of India.

(11) On and from the date of the coming into operation of the corrective action plan the plan shall be binding on all the parties to the corrective action plan.

(12) Where an application has been admitted by the Committee in respect of a Micro, Small or Medium Enterprise, the enterprise shall continue to perform contracts essential to its survival but the Committee may impose such restrictions as it may deem fit for future revival of the enterprise.

(13) On admitting the application, the Committee shall notify the enterprise within a period of seven working days from the date of admittance of such application, stating that such an application is under consideration by the Committee.

(14) The Committee shall make suitable provisions for payment of tax or any other statutory dues in the corrective action plan and the enterprise shall take necessary steps to submit such plan to the concerned taxation or statutory authority and obtain approval of such payment plan.

5. Corrective Action Plan by the Committee

(1) The Committee may explore various options to resolve the stress in the account.

(2) The Committee shall not endeavour to encourage a particular resolution option for restructuring or recovery of the enterprise but shall endeavour to arrive at an early and feasible solution to preserve the economic value of the underlying assets as well as the lenders' loans and also to allow the enterprise to continue with its business.



(3) During the period of operation of Corrective Action Plan, the enterprise shall be allowed to avail both secured and unsecured credit for its business operations.

(4) The options under Corrective Action Plan by the Committee may include:

(i) Rectification - Obtaining a specific commitment from the borrower to regularise 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 Committee may also consider providing need based additional finance to the borrower, if considered necessary, as part of the rectification process. It shall be ensured by the bank that additional financing is not provided with a view to ever-greening the account.

(ii) Restructuring - Consider the possibility of restructuring the account if it is prima facie viable and the borrower is not a willful defaulter, i.e., there is no diversion of funds, fraud or malfeasance, etc. Commitment from promoters for extending their personal guarantees 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 Committee. 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 Committee 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. The formats used by the Corporate Debt Restructuring mechanism for Inter Creditor Agreement and Debtor Creditor Agreement could be considered, if necessary with appropriate changes for Enterprise Debt Restructuring as may be prescribed by Reserve bank of India. Further, a stand-still clause 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.

(iii) Recovery - Once the first two options at (a) and (b) above are seen as not feasible, due recovery process may be resorted to. The Committee may decide the



best recovery process to be followed, among the various legal and other recovery options available, with a view to optimising the efforts and results.

6. The decisions agreed upon by a majority of the creditors by value in the Committee 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 Committee decides to proceed with recovery, the minimum criteria for binding decision, if any, under any relevant laws or Acts shall be applicable.

7. (1) The Committee shall arrive at an agreement on the option to be adopted for Corrective Action Plan within thirty days from, (i) the date of an account being reported as SMA-2 by one or more lender, or (ii) receipt of request from the borrower to form a Committee, with substantiated grounds, if it senses imminent stress.

(2) The Committee shall sign a detailed final Corrective Action Plan within the next thirty days from the date of arriving at such an agreement.

8. (1) If the Committee decides that the enterprise requires financial resources to restructure or revive, it may draw up a plan for provision of such finance.

(2) If the existing promoters are not in a position to bring in additional funds the Committee may allow the enterprise to raise secured or unsecured loans and create charge on its assets for such loans:

Provided further, the Committee may, with the consent of all creditors recognised under Paragraph 4 (7), provide such loans higher priority than any existing debt

9. If the Committee decides on options (4) (i) or (ii), but the account fails to perform as per the agreed terms under option (4) (i) or (ii), the Committee shall initiate recovery under option (4) (iii).

10. If the Committee decides restructuring of the account as Corrective Action Plan, it will have the option of either referring the account to Enterprise Debt Restructuring Cell after a decision to restructure is taken or restructure the same independent of the Enterprise Debt Restructuring mechanism.

11. Restructuring by Committee



- (1) If the Committee decides to restructure an account independent of the Enterprise Debt Restructuring mechanism, the Committee shall carry out the detailed Techno-Economic Viability study, and if found viable, finalise the restructuring package within thirty days from the date of signing off the final Corrective Action Plan as mentioned above.
- (2) For accounts with Aggregate Exposure of less than Rs.10 crore, the above-mentioned restructuring package shall be approved by the Committee and conveyed by the lenders to the borrower within the next fifteen days for implementation.
- (3) For accounts with Aggregate Exposure of Rs.10 crore and above, the above-mentioned Techno-Economic Viability study and restructuring package shall have to be subjected to an evaluation by an Independent Evaluation Committee of experts fulfilling certain eligibility conditions.
- (4) The Independent Evaluation Committee shall look into the viability aspects after ensuring that the terms of restructuring are fair to the lenders.
- (5) The Independent Evaluation Committee shall give their recommendation in these cases to the Committee within a period of thirty days.
- (6) Thereafter, considering the views of Independent Evaluation Committee, if the Committee decides to go ahead with the restructuring, the restructuring package including all terms and conditions as mutually agreed upon between the lenders and borrower, shall be approved by all the lenders and communicated to the borrower within next fifteen days for implementation.
- (7) Asset Classification benefit as applicable under the extant guidelines shall accrue to such restructured accounts as if they were restructured under Enterprise Debt Restructuring mechanism and for this purpose, the asset classification of the account as on the date of formation of Committee shall be taken into account.
- (8) The above-mentioned time limits are maximum permitted time periods and the Committee shall try to arrive at a restructuring package as soon as possible in cases of simple restructuring.
- (9) Restructuring cases shall be taken up by the Committee only in respect of assets reported as Standard, Special Mention Account or Sub-Standard by one or more lenders of the Committee.

9

(10) The Committee shall have the discretion to consider restructuring of the debt, where the debt is doubtful i.e., the account is Standard or Sub-Standard in the books of majority of creditors (by value).

(11) Willful defaulters shall not be eligible for restructuring:

Provided that the Committee 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 willful default and the decision to restructure such cases shall have the approval of the board of concerned bank within the Committee who has classified the borrower as willful defaulter.

(12) (a) The viability of the account shall be determined by the Committee based on acceptable viability benchmarks determined by them.

(b) The parameters may include the Debt Equity Ratio, Debt Service Coverage Ratio, Liquidity or Current Ratio and the amount of provision required in lieu of the diminution in the fair value of the restructured advance, etc.

(c) The Committee may consider the benchmarks for the viability parameters adopted by the Enterprise Debt Restructuring mechanism and adopt the same with suitable adjustments taking into account the fact that different sectors of the economy have different performance indicators.

12. Restructuring Referred by the Committee to the Enterprise Debt Restructuring Cell

(1) If the Committee decides to refer the account to Enterprise Debt Restructuring Cell after a decision to restructure is taken the following procedure may be followed.

(a) As the preliminary viability of account has already been decided by the Committee, Corporate Debt Restructuring / Enterprise Debt Restructuring Cell shall directly prepare the Techno-Economic Viability study and restructuring plan in consultation with Committee within thirty days from the date of reference to it by the Committee.



- (b) For accounts with Aggregate Exposure of less than Rs.10 crore, the above-mentioned restructuring package should be submitted to Enterprise Debt Restructuring Empowered Group for approval.
- (c) Under extant instructions, Enterprise Debt Restructuring Empowered Group can approve or suggest modifications but ensure that a final decision is taken within a total period of ninety days, which can be extended up to a maximum of one hundred and eighty days from the date of reference to Enterprise Debt Restructuring Cell.
- (d) The cases referred to Enterprise Debt Restructuring Cell by Committee shall have to be finally decided by the Enterprise Debt Restructuring Empowered Group within the next thirty days. If approved by Enterprise Debt Restructuring Empowered Group, the restructuring package shall be approved by all lenders and conveyed to the borrower within the next thirty working days for implementation.
- (2) For accounts with Aggregate Exposure of Rs.10 crore and above, the Techno-Economic Viability study and restructuring package prepared by Enterprise Debt Restructuring Cell will have to be subjected to an evaluation by an Independent Evaluation Committee of experts.
- (3) The composition and other details of the Independent Evaluation Committee would be communicated separately by Indian Banks Association to banks. The Independent Evaluation Committee will look into the viability aspects after ensuring that the terms of restructuring are fair to the lenders.
- (4) The Independent Evaluation Committee shall give their recommendation in these aspects to the Enterprise Debt Restructuring Cell under advice to Committee within a period of thirty days.
- (5) Considering the views of Independent Evaluation Committee if the Committee decides to go ahead with the restructuring, the same shall be communicated to Enterprise Debt Restructuring Cell and Enterprise Debt Restructuring Cell shall submit the restructuring package to Enterprise Debt Restructuring Empowered Group within a total period of seven days from receiving the views of Independent Evaluation Committee.
- (6) Thereafter, Enterprise Debt Restructuring Empowered Group should decide on the approval or modification or rejection within the next thirty working days.



(7) If approved by Enterprise Debt Restructuring Empowered Group, the restructuring package shall be approved by all lenders and conveyed to the borrower within the next thirty working days for implementation.

13. Conditions Relating to Restructuring by Committee and Enterprise Debt Restructuring Cell

(1) 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.

(2) The Committee shall periodically review the account for achievement/non-achievement of milestones and shall consider initiating suitable measures including recovery measures as deemed appropriate.

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

(4) The Committee and Enterprise Debt Restructuring Cell shall optimally utilise the specified time periods so that the aggregate time limit is not breached under any mode of restructuring.

(5) If the Committee or the Enterprise Debt Restructuring Cell takes a shorter time for an activity as against the prescribed limit, then it can have the discretion to utilise the saved time for other activities provided the aggregate time limit is not breached.

(6) The general principle of restructuring shall be that the stakeholders bear the first loss rather than the debt holders. The Committee or Enterprise Debt Restructuring Cell may consider the following options, when a loan is restructured—

- (a) possibility of transferring equity of the company by promoters to the lenders to compensate for their sacrifices;
- (b) promoters infusing more equity into their companies;
- (c) 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.



(7) 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.

(8) 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.

(9) 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.

(10) In order to distinguish the differential security interest available to secured lenders, partially secured lenders and unsecured lenders, the Committee or Enterprise Debt Restructuring may consider various options, such as—

- (a) prior agreement in the Inter Creditor Agreement among the above classes of lenders regarding repayments;
- (b) a structured agreement stipulating priority of secured creditors;
- (c) appropriation of repayment proceeds among secured, partially secured and unsecured lenders in certain pre-agreed proportion.

(11) The Committee shall, on request by the enterprise or any creditor recognised under paragraph 4(7), provide information relating to the proceeding as requested by the enterprise or such creditor.

14. Prudential Norms on Asset Classification and Provisioning

(1) While a restructuring proposal is under consideration by the Committee or Enterprise Debt Restructuring Cell, the usual asset classification norm shall continue to apply.

(2) The process of re-classification of an asset shall not stop merely because restructuring proposal is under consideration.



(3) The special asset classification benefit on restructuring of accounts as per extant instructions shall be available for accounts undertaken for restructuring under this Framework.

15. Review.

(1) In case the Committee decides that recovery action is to be initiated against an enterprise, such enterprise may request for a review of the decision by the Committee within a period of thirty working days from the date of receipt of the decision of the Committee.

(2) The request for review shall be on the following grounds:


- (a) a mistake or error apparent on the face of the record; or
- (b) discovery of new and relevant fact or information which could not be produced before the Committee earlier despite the exercise of due diligence by the enterprise.

(3) A review application shall be decided by the Committee within a period of thirty days from the date of filing and if as a consequence of such review, the Committee decides to pursue a fresh corrective action plan, it may do so.

16. Removal of difficulties

If any difficulty arises during the course of implementation of this Framework, the same shall be clarified by the Central Government.

F.No. NCEUS Cell/4/2010-Pt.


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