June 12, 2019

Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions, 2019

- The RBI has formulated a new framework for resolution of stressed assets, vide its Circular dated 7th June 2019 (**"Directions"**). The framework has been proposed with a view to providing for early recognition, reporting and time bound resolution of stressed assets.
- This framework would apply to Scheduled Commercial Banks, All India Term Financial Institutions, Small Finance Banks and Systematically Important Non-Deposit Taking NBFCs and deposit taking NBFCs.
- According to the proposed framework under these Directions, lenders shall classify accounts which have defaulted, as Special Mention Accounts. Further, lenders shall report credit information, including classification of an account as SMA to Central Repository on Large Credits ("**CRILC**") on all borrowers having aggregate exposure of Rs.50 million (i.e. Rs. 5 crores) and above, with them. CRILC-Main Report shall be submitted on a monthly basis. Weekly report shall also be submitted by the lenders, with respect to instances of default by all borrowers having aggregate exposure of Rs.50 million (i.e. Rs. 5 crores) and above.
- All lenders must put in place Board-approved policies for resolution of stressed assets including the timeline for resolution and for implementation of a resolution plan (**"RP"**). Lenders are expected to initiate the process of implementing the RP, well before a default. [1]Lenders shall also be required to take a review of the defaulting borrower's account within 30 days from such default (**"Review Period"**).
- In cases where RP is to be implemented, all the lenders would be required to enter into an inter-creditor agreement (**"ICA"**) within the Review Period, providing for ground rules for finalisation and implementation of the RP in respect of borrowers with credit facilities from more than one lender. The ICA shall provide that any decision agreed by lenders representing 75% by value of total outstanding credit facilities (fund based and non- fund based) and 60% of lenders by number, shall be binding upon all lenders. ICA may *inter alia* provide for rights and duties of majority lenders, protection of rights of dissenting lenders, etc.
- For accounts with aggregate exposure above the following threshold with the lenders, on or after the 'reference date', RP shall be implemented within 180

[1] This is applicable only in case of lenders being Scheduled Commercial Banks, All India Term Financial Institutions and Small Finance Banks.

days from the end of Review Period. The Review Period shall commence not later than-

(a) The reference date, if in default as on the reference date; or

(b) The date of first default after the reference date.

The 'reference date' for the above, would be as under:

Aggregate exposure of the borrower to lenders mentioned at 3(a), 3(b) and 3(c)	**Reference Date**
Rs. 20 billion (i.e. Rs. 2,000 crores) and above	June 7, 2019
Rs.15 billion (i.e. Rs. 1,500 crores) and above, but less than Rs. 20 billion (i.e. Rs. 2,000 crores)	January 1, 2020
Less than Rs.15 billion (i.e. Rs. 1,500 crores)	To be announced in due course

- The RP may involve any actions/ plan/ reorganization, which are clearly documented by the concerned lenders.
- If the implementation of an RP involves restructuring/ change in ownership in respect of accounts having an aggregate exposure of lenders of Rs. 1 billion (i.e. Rs. 100 crores) and above, it shall require independent credit evaluation (**"ICE"**) of the residual debt by credit rating agencies specifically authorized by the RBI for this purpose.
- Various implementation conditions for RP have also been prescribed. Essentially, the implementation of RP shall be contingent upon following three factors: (i) exposure to credit, (ii) whether restructuring/change in ownership is involved and (iii) whether assignment of exposures to a third party is involved.
- The Directions also provide for timelines and additional provisioning to be made by the lenders (based on % of total outstanding) in case of delayed implementation of RP.
- Prudential norms applicable to any restructuring/ change in ownership, whether under the Insolvency and Bankruptcy Code, 2016 (**"IBC"**) or otherwise, have been prescribed under the Directions.
- Any action by lenders with intent to conceal the actual status of accounts or evergreen the stressed accounts will be subject to stringent supervisory/ enforcement actions deemed appropriate by the RBI.

- Lenders shall be required to make appropriate disclosures in their financial accounts under 'Notes on Accounts', with respect to RPs implemented.
- The following have been excluded from complying with the framework/ norms prescribed under the Directions, either in whole or with respect to certain specified sections:
  (i) Restructuring in respect of projects under implementation, involving deferment of date of commencement of commercial operations.
  (ii) Revival and rehabilitation of MSMEs covered by prescribed circulars dated 17th March 2016 and 1st January 2019.
  (iii) Restructuring of loans in the event of natural calamities.
  (iv) Borrower entities in respect of which specific instructions have been issued by RBI for initiation of insolvency proceedings under the IBC.

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