भारतीय रिज़र्व बैंक
RESERVE BANK OF INDIA
www.rbi.org.in

RBI/2022-23/03
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All Asset Reconstruction Companies

Dear Sir/Madam,

Master Circular - Asset Reconstruction Companies

In order to have all current instructions/guidelines on the subject at one place, the Reserve Bank of India issues updated circulars/guidelines. The instructions contained in The Asset Reconstruction Companies (Reserve Bank) Guidelines and Directions, 2003 (vide Notification No.DNBS.2/CGM(CSM)-2003, dated April 23, 2003) together with Guidance Notes updated as on March 31, 2022 are reproduced below.

Yours faithfully,

(J P Sharma)
Chief General Manager

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Reserve Bank of India
Department of Regulation
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Shahid Bhagat Singh Marg, Fort
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Master Circular - Asset Reconstruction Companies

1. Applicability of the Guidelines/ Instructions

(1) The provisions of these guidelines/ instructions shall apply to ARCs registered with the Reserve Bank of India under Section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. However, in respect of the trust/s mentioned in paragraph 7 herein, the provisions of paragraphs 3, 4, 5,8, 9(i), 9(iii) 11,12,13 and 14 shall not be applicable.

[1](2) ARCs covered by Rule 4 of the Companies (Indian Accounting Standards) Rules, 2015 are required to comply with Indian Accounting Standards (Ind AS) for the preparation of their financial statements. In order to promote a high quality and consistent implementation as well as facilitate comparison and better supervision, the Reserve Bank has issued regulatory guidance on Ind AS vide circular DOR (NBFC).CC.PD.No.109/22.10.106/2019-20 dated March 13, 2020 which alongwith subsequent instructions on the subject is applicable on such ARCs for preparation of their financial statements from financial year 2019-20 onwards.

2. Definitions

(1) (i) "Act" means the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(ii) "Bank" means the Reserve Bank of India constituted under Section 3 of the Reserve Bank of India Act (RBI Act), 1934;

(iii) "Break up Value" means the equity capital and reserves as reduced by intangible assets and revaluation reserves, divided by the number of equity shares of the investee company;

[1] Inserted vide Circular No.DOR (NBFC).CC.PD.No.109/22.10.106/2019-20 dated March 13, 2020

[2](iv) "Change in Management" means effecting change by the borrower at the instance of ARC in the person who has responsibility for the whole or substantially whole of the management of the business of the borrower and/ or other relevant personnel;

[3](v) "Date of acquisition" means the date on which the ownership of financial assets is acquired by ARC either on its own books or directly in the books of the trust;

(vi) "Deposit" means deposit as defined in the Companies (Acceptance of Deposits) Rules 2014 framed under Section 73 of the Companies Act, 2013;

(vii) “Earning value” means the value of an equity share computed by taking the average of profits after tax as reduced by the preference dividend and adjusted for extra-ordinary and non-recurring items, for the immediately preceding three years and further divided by the number of equity shares of the investee company and capitalised at the following rate:

(a) in case of predominantly manufacturing company, eight per cent;
(b) in case of predominantly trading company, ten per cent; and
(c) in case of any other company, including non-banking financial company, twelve per cent;

Note: If, an investee company is a loss-making company, the earning value will be taken at zero;

(viii) “Fair value” means the mean of the earning value and the break up value;

(ix) "Non-performing Asset" (NPA) means an asset in respect of which:

a) Interest or principal (or instalment thereof) is overdue for a period of 180 days or more from the date of acquisition or the due date as per contract between the borrower and the originator, whichever is later;

b) interest or principal (or instalment thereof) is overdue for a period of 180 days or more from the date fixed for receipt thereof in the plan formulated for realisation of the assets referred to in paragraph 6(C) herein;

[2] Inserted vide Circular No.DNBS/PD (SC/RC) No.17/26.03.001/2009-10 dated April 21, 2010
[3] Substituted vide Circular No.DNBS (PD) CC.No.18/SCRC/26.03.001/2009-2010 dated April 21, 2010

c) interest or principal (or instalment thereof) is overdue on expiry of the planning period, where no plan is formulated for realisation of the assets referred to in paragraph 6(C) herein; or

d) any other receivable, if it is overdue for a period of 180 days or more in the books of the ARC;

Provided that the Board of Directors of an ARC may, on default by the borrower, classify an asset as NPA even earlier than the period mentioned above (for facilitating enforcement as provided for in Section 13 of the Act).

(x) "Overdue" means an amount which remains unpaid beyond the due date;

(xi) "Owned Fund" means the aggregate of

(a) paid up equity capital;

(b) paid up preference capital, to the extent it is compulsorily convertible into equity capital;

(c) free reserves (excluding revaluation reserve);

(d) credit balance in Profit and Loss Account

as reduced by:

(e) the debit balance on the profit and loss account

(f) Miscellaneous Expenditure (to the extent not written off or adjusted);

(g) book value of intangible assets;

(h) under/ short provision against NPA/ diminution in value of investments;

(i) over recognition of income, if any;

(j) other deductions required on account of the items qualified by the auditors in their report on the financial statements;

(xii) "Planning period" means a period not exceeding [4]six months allowed for formulating a plan for realization of financial assets acquired for the purpose of reconstruction;

(xiii) "Standard asset" means an asset, which is not an NPA;

[4] Inserted vide Notification No.DNBS(PD-SC/RC) No.11/PCGM (KKV)/-2014 dated August 05, 2014

[5](xiv) "Takeover of Management" means taking over of the responsibility for the management of the business of the borrower with or without effecting change in management personnel of the borrower by the ARC;

(xv) "Trust" means trust as defined in Section 3 of the Indian Trusts Act, 1882.

(2) Words or expressions used but not defined herein and defined in the Act, shall have the same meaning as assigned to them in that Act. Any other words or expressions not defined in that Act shall have the same meaning as assigned to them in the Companies Act, 2013.

3. Registration and matters incidental thereto

(i) Every ARC shall apply for registration in the form of application[6] hosted on the Bank's website and obtain a certificate of registration from the Bank as provided under Section 3 of the Act;

(ii) The ARC seeking registration from the Bank shall submit their application in the format specified at the clause (i) above, duly filled in with all the relevant annexures/ supporting documents to the Chief General Manager-in-Charge, Department of Regulation, Central Office, Reserve Bank of India, 2nd Floor, Main Office Building, Shahid Bhagat Singh Marg, Fort, Mumbai - 400 001;

(iii) An ARC, which has obtained a Certificate of Registration issued by the Bank under Section 3 of the Act, can undertake both securitisation and asset reconstruction activities;

[7](iii) (a) An ARC shall commence business within six months from the date of grant of Certificate of Registration by the Bank;

Provided that on the application by the ARC, the Bank may grant extension for such further period, not exceeding 12 months from the date of grant of Certificate of Registration.

[8](iii) (b) Provisions of Section 45 -IA, 45-IB and 45-IC of RBI Act,1934 shall not apply to non-banking financial company, which is an ARC registered with the Bank under Section 3 of the Act;

[5] Inserted vide Circular No.DNBS/PD (SC/RC) No.17/26.03.001/2009-10 dated April 21, 2010
[6] https://rbi.org.in/scripts/FS_Forms.aspx?fn=14
[7] Inserted vide Notification No.DNBS.6/CGM(PK)-2006 dated October 19, 2006
[8] Inserted vide Notification No.DNBS.3/CGM(OPA)-2003 dated August 28, 2003

(iv) Any entity not registered with the Bank under Section 3 of the Act may conduct the business of securitisation or asset reconstruction outside the purview of the Act subject to requisite authorisation/ approval.

[9]4. Net Owned Fund

(1) Net Owned Fund (NOF) for ARCs shall be minimum Rs.100 crore on an ongoing basis with effect from April 28, 2017. Accordingly, no ARC shall commence or carry on the business of securitization or asset reconstruction without having NOF of not less than Rs.100 crore.

(2) NOF shall be arrived at by reducing from Owned Fund (OF), the amounts representing

(i) investments of the ARC in shares of –

a. its subsidiaries;
b. companies in the same group;
c. all other ARCs; and

(ii) the book value of debentures, bonds, outstanding loans and advances made to, and deposits with, -

a. subsidiaries of the ARC; and
b. companies in the same group,

to the extent such amount exceeds 10% of the Owned Fund.

5. Permissible Business

(i) An ARC shall commence / undertake only the securitisation and asset reconstruction activities and the functions provided for in Section 10 of the Act.

(ii) An ARC shall not raise monies by way of deposit.

6. Asset Reconstruction

A. (1) **Acquisition of Financial Assets**

(i) Every ARC shall frame with the approval of its Board of Directors, 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,

[10](a) norms and procedure for acquisition either on its own books or directly in the books of the trust;

[9] Inserted vide Circular No.DNBR.PD (ARC) CC.No.03/26.03.001/2016-17 dated April 28, 2017
[10] Substituted vide Notification No.DNBS.PD(SC/RC).8/CGM (ASR)-2010 dated April 21, 2010

(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) in the case of financial assets acquired for asset reconstruction, the broad parameters for formulation of plans for their realisation.

(ii) The Board of Directors may delegate powers to a committee comprising any director and/ or any functionaries of the ARC for taking decisions on proposals for acquisition of financial assets;

(iii) Deviation from the policy should be made only with the approval of the Board of Directors.

[11](iv) Before bidding for the stressed assets, ARCs may seek from the auctioning banks adequate time, not less than two weeks, to conduct a meaningful due diligence of the account by verifying the underlying assets.

[12](2) Permission to acquire financial asset from other ARCs

ARCs will acquire financial asset from other ARCs on the following conditions:

a. The transaction is settled on cash basis;

b. Price discovery for such transaction shall not be prejudicial to the interest of Security Receipt (SR) holders;

c. The selling ARC will utilize the proceeds so received for the redemption of underlying SRs;

d. The date of redemption of underlying SRs and total period of realisation shall not extend beyond eight years from the date of acquisition of the financial asset by the first ARC.

[13](3) Acquisition of financial assets by ARCs from sponsors and lenders

ARCs shall not acquire financial assets from the following on a bilateral basis, whatever may be the consideration:

(i) a bank/ financial institution (FI) which is the sponsor of the ARC;

[11] Inserted vide Notification No.DNBS(PD-SC/RC) No.11/PCGM (KKV)/-2014 dated August 05, 2014
[12] Inserted vide Circular No.DNBR.PD (ARC) CC.No.07/26.03.001/2018-19 dated June 28, 2019
[13] Inserted vide Circular No.DOR.NBFC(ARC) CC.No.8/26.03.001/2019-20 dated December 6, 2019

(ii) a bank/ FI which is either a lender to the ARC or a subscriber to the fund, if any, raised by the ARC for its operations;

(iii) an entity in the group to which the ARC belongs.

However, they may participate in auctions of the financial assets provided such auctions are conducted in a transparent manner, on arm's length basis and the prices are determined by market forces.

[14]**(4)** Expenses incurred at pre-acquisition stage for performing due diligence etc. for acquiring financial assets from banks/ FIs should be expensed immediately by recognizing the same in the statement of profit and loss for the period in which such costs are incurred. Expenses incurred after acquisition of assets on the formation of the trusts, stamp duty, registration, etc. which are recoverable from the trusts, should be reversed, if these expenses are not realised within 180 days from the planning period or downgrading of SRs [i.e. Net Asset Value (NAV) is less than 50% of the face value of SRs] whichever is earlier.

B. Measures of Asset Reconstruction

[15](1) Change in or Takeover of the Management of the Business of the Borrower

(i) The objective of these guidelines is to ensure fairness, transparency, non-discrimination and non- arbitrariness in the action of ARCs and to build in a system of checks and balances while effecting change in or takeover of the management of the business of the borrower by the ARCs under Section 9(1)(a) of the Act. The ARCs shall follow these instructions while exercising the powers conferred on them under Section 9(1)(a) of the Act.

(ii) An ARC may resort to change in or takeover of the management of the business of the borrower for the purpose of realisation of its dues from the borrower subject to the provisions of these guidelines. The ARCs resorting to takeover of management of the business of the borrower shall do so after complying with the manner of takeover of the management in accordance with the provisions of Section 15 of the Act. On realisation of its dues in full, the ARC shall restore the management of the business to the borrower as provided in Section 15(4) of the Act;

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[14] Inserted vide Circular No.DNBS (PD)CC.No.38/SCRC/26.03.001/2013-14 dated April 23, 2014

[15] Inserted vide Circlar No.DNBS/PD (SC/RC) No.17/26.03.001/2009-10 dated April 21, 2010

provided that if any ARC has converted part of its debt into shares of a borrower company and thereby acquired controlling interest in the borrower company, such ARC shall not be liable to restore the management of the business to such borrower.

(iii) **Eligibility conditions to exercise power for change in or takeover of management**

In the circumstances set forth in paragraph (iv) below

(a) An ARC may effect change in or takeover of the management of the business of the borrower, where the amount due to it from the borrower is not less than 25% of the total assets owned by the borrower; and

(b) Where the borrower is financed by more than one secured creditor (including ARC), secured creditors (including ARC) holding not less than 60% of the outstanding SRs agree to such action.

Explanation: 'Total Assets' means total assets as disclosed in its latest audited Balance Sheet immediately preceding the date of taking action.

(iv) Grounds for effecting Change in or Takeover of Management

Subject to the eligibility conditions set forth in paragraph (iii) above, ARC shall be entitled to effect change in management or takeover of the management of business of the borrower on any of the following grounds:

(a) the borrower makes a wilful default in repayment of the amount due under the relevant loan agreement/s;

(b) the ARC is satisfied that the management of the business of the borrower is acting in a manner adversely affecting the interest of the creditors (including ARC) or is failing to take necessary action to avoid any event which would adversely affect the interest of the creditors;

(c) ARC is satisfied that the management of the business of the borrower is not competent to run the business resulting in losses/ non-repayment of dues to the ARC or there is a lack of professional management of the business of the borrower or the key managerial personnel of the business of the borrower have not been appointed for more than one year from the date of such vacancy which would adversely affect the financial health of the business of the borrower or the interests of the ARC as a secured creditor;

(d) the borrower has without the prior approval of the secured creditors (including ARC), sold, disposed of, charged, encumbered or alienated 10% or more (in aggregate) of its assets secured to the ARC;

(e) there are reasonable grounds to believe that the borrower would be unable to pay its debts as per terms of repayment accepted by the borrower;

(f) the borrower has entered into any arrangement or compromise with creditors without the consent of the ARC which adversely affects the interest of the ARC or the borrower has committed any act of insolvency;

(g) the borrower discontinues or threatens to discontinue any of its businesses constituting 10% or more of its turnover;

(h) all or a significant part of the assets of the borrower required for or essential for its business or operations are damaged due to the actions of the borrower;

(i) the general nature or scope of the business, operations, management, control or ownership of the business of the borrower are altered to an extent, which in the opinion of the ARC, materially affects the ability of the borrower to repay the loan;

(j) the ARC is satisfied that serious dispute/s have arisen among the promoters or directors or partners of the business of the borrower, which could materially affect the ability of the borrower to repay the loan;

(k) failure of the borrower to acquire the assets for which the loan has been availed and utilization of the funds borrowed for other than stated purposes or disposal of the financed assets and misuse or misappropriation of the proceeds;

(l) fraudulent transactions by the borrower in respect of the assets secured to the creditor/s.

Explanation A : For the purpose of this paragraph, wilful default in repayment of amount due, includes

(a) non-payment of dues despite adequate cash flow and availability of other resources, or

(b) 'routing of transactions through banks which are not lenders/ consortium members' so as to avoid payment of dues, or

(c) siphoning off funds to the detriment of the defaulting unit, or misrepresentation/ falsification of records pertaining to the transactions with the ARC.

Explanation B : The decision as to whether the borrower is a wilful defaulter or not, shall be made by the ARC keeping in view the track record of the borrower and not on the basis of an isolated transaction/ incident which is not material. The default to be categorized as wilful must be intentional, deliberate and calculated.

(v) Policy regarding Change in or Takeover of Management

(a) Every ARC shall frame policy guidelines regarding change in or takeover of the management of the business of the borrower, with the approval of its Board of Directors and the borrowers shall be made aware of such policy of the ARC.

(b) Such policy shall generally provide for the following :

(i) The change in or takeover of the management of the business of the borrower should be done only after the proposal is examined by an Independent Advisory Committee to be appointed by the ARC consisting of professionals having technical/ finance/ legal background who after assessment of the financial position of the borrower, time frame available for recovery of the debt from the borrower, future prospects of the business of the borrower and other relevant aspects shall recommend to the ARC that it may resort to change in or takeover of the management of the business of the borrower and that such action would be necessary for effective running of the business leading to recovery of its dues;

(ii) The Board of Directors including at least two independent directors of the ARC should deliberate on the recommendations of the Independent Advisory Committee and consider the various options available for the recovery of dues before deciding whether under the existing circumstances the change in or takeover of the management of the business of the borrower is necessary and the decision shall be specifically included in the minutes.

(iii) The ARC shall carry out due diligence exercise and record the details of the exercise, including the findings on the circumstances which had led to default in repayment of the dues by the borrower and why the decision to change in or takeover of the management of the business of the borrower has become necessary.

(iv) The ARC shall identify suitable personnel/ agencies, who can takeover the management of the business of the borrower by formulating a plan for operating and managing the business of the borrower effectively, so that the dues of the ARC may be realized from the borrower within the time frame.

(v) Such plan will also include procedure to be adopted by the ARC at the time of restoration of the management of the business to the borrower in accordance with paragraph 6(B)(1)(ii) above, borrower's rights and liabilities at the time of change in or takeover of management by the ARC and at the time of restoration of management back to the borrower, rights and liabilities of the new management taking over management of the business of the borrower at the behest of ARC. It should be clarified to the new management by the ARC that the scope of their role is limited to recovery of dues of the ARC by managing the affairs of the business of the borrower in a prudent manner.

Explanation: To ensure independence of members of Independent Advisory Committee (IAC), such members should not be connected with the affairs of the ARC in any manner and should not receive any pecuniary benefit from the ARC except for services rendered for acting as member of IAC.

(vi) Procedure for Change in or Takeover of Management

(a) The ARC shall give a notice of 60 days to the borrower indicating its intention to effect change in or takeover of the management of the business of the borrower and calling for objections, if any.

(b) The objections, if any, submitted by the borrower shall be initially considered by the IAC and thereafter the objections along with the recommendations of the IAC shall be submitted to the Board of Directors of the ARC. The Board of Directors of ARC shall pass a reasoned order within a period of 30 days from the date of expiry of the notice period, indicating the decision of the ARC regarding the change in or takeover of the management of the business of the borrower, which shall be communicated to the borrower.

(vii) Reporting

ARCs shall report to the Bank all cases where they have taken action to cause change in or takeover of the management of the business of the borrower for realization of its dues from the borrower in terms of Circular DNBS(PD)CC.No.12/SCRC/10.30.000/2008-2009 dated September 26, 2008 as amended from time to time.

(2) **Sale or Lease of a part or whole of the business of the borrower**

No ARC shall take the measures specified in Section 9(1)(b) of the Act, until the Bank issues necessary guidelines in this behalf.

(3) **Rescheduling of Debts**

(i) Every ARC shall frame a policy, duly approved by the Board of Directors, laying down the broad parameters for rescheduling of debts due from borrowers;

(ii) All proposals should be in line with and supported by an acceptable business plan, projected earnings and cash flows of the borrower;

(iii) The proposals should not materially affect the asset liability management of the ARC or the commitments given to investors;

(iv) The Board of Directors may delegate powers to a committee comprising any director and / or any functionaries of the company for taking decisions on proposals for reschedulement of debts;

(v) Deviation from the policy should be made only with the approval of the Board of Directors.

[16](vi) In cases where ARCs have exposure to a borrower in respect of which a resolution plan is under implementation in terms of the Prudential Framework for Resolution of Stressed Assets dated June 7, 2019, as amended from time to time, ARCs shall also sign the inter-creditor agreement (ICA) and adhere to all its provisions.

(4) **Enforcement of Security Interest**

[17] (i) ARCs are required to obtain, for the purpose of enforcement of security interest, the consent of secured creditors holding not less than 60% of the amount outstanding to a borrower as against 75% hitherto.

(ii) While taking recourse to the sale of secured assets in terms of Section 13(4) of the Act, a ARC may itself acquire the secured assets, either for its own use or for resale, only if the sale is conducted through a public auction.

(5) **Settlement of dues payable by the borrower**

(i) (a) Every ARC shall frame a policy duly approved by the Board of Directors laying down the broad parameters for settlement of debts due from borrowers;

(b) The policy may, interalia, 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;

(c) Where the settlement does not envisage payment of the entire amount agreed upon in one installment, the proposals should be in line with and supported by an acceptable business plan, projected earnings and cash flows of the borrower;

(d) The proposal should not materially affect the asset liability management of the ARC or the commitments given to investors;

(e) The Board of Directors may delegate powers to a committee comprising any director and/ or any functionaries of the company for taking decisions on proposals for settlement of dues;

[16] Inserted vide footnote 5 of the circular No.DBR.No.BP.BC.45/21.04.048/2018-19 dated June 7, 2019
[17] Inserted vide Circular No.DNBS (PD) CC No.35/SCRC/26.03.001/2013-14 dated January 23, 2014

(f) Deviation from the policy should be made only with the approval of the Board of Directors.

[18](ii) Promoters of the defaulting company/ borrowers or guarantors are allowed to buy back their assets from the ARCs provided the following conditions are met:

(a) Such a settlement is considered helpful in

(i) minimizing or eliminating the cost of litigation and the attendant loss of time;

(ii) arresting the negative impact of diminution in the value of secured assets which are likely to rapidly lose value once a unit becomes non operational;

(iii) where the recovery/ resolution process would appear to be rather uncertain and;

(iv) where such settlement will be beneficial for restructuring purposes.

(b) The valuation of the asset is worked out by the ARCs after factoring in thefollowing components:

(i) The current value of the proposed settlement (valuation of the asset not more than six months old) vis-à-vis the net present value of the recoveries under the alternative mode of resolution taking into consideration the timelines involved therein.

(ii) likely positive or negative changes in the value of the secured asset on account of passage of time.

(iii) likely diminution in realisation due to accumulation of statutory dues, liability to employees etc.

(iv) other factors, if any, which may affect recoveries.

[18] Inserted vide Circular No.DNBS (PD) CC.No.37/SCRC/26.03.001/2013-14 dated March 19, 2014

(c) ARCs shall frame a Policy duly approved by the Board of Directors, which should include the above aspects besides those already contained in clause 6(B)(5)(i)(a) mentioned above.

[19](6) **Conversion of any portion of debt into equity of a borrower company**

(i) Every ARC shall frame a policy, duly approved by the Board of Directors, laying down the broad parameters for conversion of debt into shares of the borrower company;

In cases of the Financial Assets which have turn around potential after restructuring but normally with huge default and unsustainable level of debt, it will be necessary to arrive at sustainable level of debt, on the basis of evaluation of detailed business plan with projected level of operations, which can be serviced by the company. A part of residual unsustainable debt may have to be converted to equity for an optimal debt equity structure. While ARCs are permitted to have significant influence or have a say in decisions surrounding the borrower company's turn around through conversion of debt into shares, they should not be seen to be running the companies. The shareholding of the ARC shall not exceed 26% of the post converted equity of the company under reconstruction.

[20]Provided that ARCs meeting the criteria set out in sub-paragraph (a) below shall be exmepted from the cap of 26% subject to compliance with the provisions of the Act, Guidelines/ Instructions issued by the Bank from time to time as applicable to ARCs as well as Foreign Exchange Management Act, 1999, Reserve Bank of India Act, 1934, Companies Act, 2013, SEBI Regulations and other relevant Statutes. The extent of shareholding post conversion of debt into equity shall be in accordance with permissible Foreign Direct Investment (FDI) limit for that specific sector.

(a) ARCs that meet the conditions mentioned below are exempted from the limit of shareholding at 26% of post converted equity of the borrower company:

(i) The ARC shall be in compliance with NOF requirement of Rs.100 crore on an ongoing basis;

(ii) At least half of the Board of Directors of the ARC comprises of independent directors;

[19] Inserted vide Circular No.DNBS (PD)CC No.35/SCRC/26.03.001/2013-14 dated January 23, 2014
[20] Inserted vide Circular No.DNBR.PD(ARC)CC.No.04/26.03.001/2017-18 dated November 23, 2017

(iii) The ARC shall frame policy on debt to equity conversion with the approval of its Board of Directors and may delegate powers to a Committee comprising majority of independent directors for taking decisions on proposals of debt to equity conversion;

(iv) The equity shares acquired under the scheme shall be periodically valued and marked to market. The frequency of valuation shall be at least once in a month.

(b) The ARC shall explore the possibility of preparing a panel of sector-specific management firms/ individuals having expertise in running firms/ companies which could be considered for managing the companies.

C. Plan for realisation of financial assets

(i) Every ARC may, within the planning period, formulate a plan for realisation of assets, which may provide for one or more of the following measures :

(a) Rescheduling of payment of debts payable by the borrower;

(b) Enforcement of security interest in accordance with the provisions of the Act;

(c) Settlement of dues payable by the borrower;

(d) Change in or take over of the management, or sale or lease of the whole or part of business of borrower as stated in paragraphs 6(B)(1) and 6(B)(2) herein above;

[21](e) conversion of any portion of debt into shares of a borrower company.

[22](ii) ARC shall formulate the policy for realisation of financial assets under which the period for realisation shall not exceed five years from the date of acquisition of the financial asset concerned.

(iii) The Board of Directors of the ARC may increase the period for realisation of financial assets so that the total period for realisation shall not exceed eight years from the date of acquisition of financial assets concerned.

[21] Inserted vide Circular No.DNBS (PD) CC.No.35/SCRC/26.03.001/2013-14 dated January 23, 2014
[22] Substituted vide Notification No.DNBS.PD(SC/RC).8/CGM(ASR)-2010 dated April 21, 2010

(iv) In case the ARC is one of the lenders in an account where a resolution plan has been finalised and the same extends beyond the maximum resolution period allowed for ARCs as per clause (iii) above, the ARC may accept a resolution period co-terminus with other secured lenders.

(v) The Board of Directors of the ARC shall specify the steps that will be taken by the ARC to realise the financial assets within the time frame referred to in clause (ii) or (iii) above as the case may be.

(vi) The Qualified Buyers (QBs) shall be entitled to invoke the provisions of Section 7(3) of the Act only at the end of such extended period, if the period for realisation is extended under clause (iii) above.

7. Securitisation

[23](1) **Issue of SRs** - An ARC shall give effect to the provisions of Sections 7(1) and 7(2) of the Act through one or more trusts set up exclusively for the purpose. The ARC shall transfer the assets to the said trusts at the price at which those assets were acquired from the originator if the assets are not acquired directly on the books of the trust :

(i) The trusts shall issue SRs only to QBs; and hold and administer the financial assets for the benefit of the QBs;

(ii) The trusteeship of such trusts shall vest with the ARC;

(iii) The ARC proposing to issue SRs, shall, prior to such an issue, formulate a policy, duly approved by the Board of Directors, providing for issue of SRs under each scheme formulated by the trust;

(iv) The policy referred to in clause (iii) above shall provide that the SRs issued would be transferable / assignable only in favour of other QBs.

[24](2) Investment in SRs issued by the trusts floated by ARC

[23] Substituted vide Notification No.DNBS.PD(SC/RC).8/CGM (ASR)-2010 dated April 21, 2010
[24] Inserted vide Circular No.DNBS(PD) CC.No.41/SCRC/26.03.001/2014-15 dated August 05, 2014

ARC shall by transferring funds, invest a minimum of 15% of the SRs of each class issued by them under each scheme on an ongoing basis till the redemption of all the SRs issued under such scheme.

[25](3) Restructuring Support Finance

An ARC can utilize a part of funds raised under a scheme from the QBs for restructuring of financial assets acquired under the relative scheme subject to following conditions:

(i) ARCs with acquired assets in excess of Rs.500 crore can float the fund under a scheme which envisages the utilization of part of funds raised from QBs in terms of Section 7(2) of the Act, for restructuring of financial assets acquired out of such funds.

(ii) The extent of funds that shall be utilized for reconstruction purpose should not be more than 25% of the funds raised under the scheme in terms of Section 7(2) of the Act. The funds raised to be utilized for reconstruction (within the ceiling of 25%) should be disclosed upfront in the scheme. Further, the funds utilized for reconstruction purposes should be separately accounted for.

(iii) Every ARC shall frame a policy, duly approved by the Board of Directors, laying down the broad parameters for utilization of funds raised from QBs under such a scheme.

(4) Disclosures

Every ARC intending to issue SRs shall make disclosures as mentioned in the Annex.

[26]**(5)** In order to enable the QBs to know the value of their investments in the SRs issued by the ARC, the ARCs registered with the Bank under the Act, were advised to declare NAV of the SRs issued by them at periodical intervals.

8. Requirement as to capital adequacy

(1) Every ARC shall maintain, on an ongoing basis, a capital adequacy ratio, which shall not be less than fifteen percent of its total risk weighted assets. The risk-weighted assets

[25] Inserted vide Circular No.DNBS (PD) CC.No.37/SCRC/26.03.001/2013-14 dated March 19, 2014
[26] Inserted vide Notification No.DNBS.PD(SC/RC).9/CGM (ASR)-2010 dated April 21, 2010

shall be calculated as the weighted aggregate of On-Balance Sheet and Off-Balance Sheet items as detailed hereunder:

Weighted risk assets

On-Balance Sheet Items		Percentage Risk Weight
(a)	Cash and deposits with scheduled commercial banks/ NABARD/ SIDBI	0
(b)	Investments in Government securities	0
(c)	Shares in other ARCs	0
(d)	All Other assets	100
Off-Balance Sheet Items		
All Contingent Liabilities		50

9. Deployment of Funds

(i) The ARC, may as a sponsor and for the purpose of establishing a joint venture, invest in the equity share capital of a ARC formed for the purpose of asset reconstruction;

[27](ii) The ARC may deploy any surplus funds available with it, in terms of a policy framed in this regard by its Board of Directors, only in Government securities and deposits with scheduled commercial banks, Small Industries Development Bank of India, National Bank for Agriculture and Rural Development or such other entity as may be specified by the Bank from time to time;

[28](iii) No ARC shall, invest in land or building,

Provided that the restriction shall not apply to investment by ARC in land and buildings for its own use up to 10% of its owned fund;

Provided further that the restriction shall not apply to land and building acquired by the ARC in satisfaction of claims in ordinary course of its business of reconstruction of assets in accordance with the provisions of Act;

Provided further that any land and / or building acquired by ARC in the ordinary course of its business of reconstruction of assets while enforcing its security interest, shall be

[27] Substituted vide Notification No.DNBS.PD(SC/RC).8/CGM(ASR)-2010 dated April 21, 2010
[28] Substituted vide Notification No.DNBS.PD(SC/RC).8/CGM(ASR)-2010 dated April 21, 2010

disposed of within a period of five years from the date of such acquisition or such extended period as may be permitted by the Bank in the interest of realization of the dues of the ARC.

[29](iv) ARCs may deploy their funds for undertaking restructuring of acquired loan account with the sole purpose of realizing their dues.

10. Accounting Year

Every ARC shall prepare its balance sheet and profit and loss account as on March 31 every year. ARCs are advised in their balance sheet to classify all the liabilities due within one year as "current liabilities" and assets maturing within one year along with cash and bank balances as "current assets". Capital and Reserves will be treated as liabilities on liability side while investment in SRs and long-term deposits with banks will be treated as fixed assets on the assets side.

11. Asset Classification

(1) **Classification**

(i) Every ARC shall, after taking into account the degree of well-defined credit weaknesses and extent of dependence on collateral security for realisation, classify the assets [30][held in its own books] into the following categories, namely :

(a) Standard assets

(b) NPAs.

(ii) The NPAs shall be classified further as

(a) 'Sub-standard asset' for a period not exceeding twelve months from the date it was classified as NPA;

b) 'Doubtful asset' if the asset remains a sub-standard asset for a period exceeding twelve months;

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[29] Inserted vide Circular No.DNBS/PD (SC/RC)CC.No.13/26.03.001/2008-09 dated April 22, 2009
[30] Modified vide Notification No.DNBS.PD(SC/RC).8/CGM(ASR)-2010 dated April 21, 2010

[31](c) 'Loss asset' if (A) the asset is non-performing for a period exceeding 36 months; (B) the asset is adversely affected by a potential threat of non-recoverability due to either erosion in the value of security or non-availability of security; (C) the asset has been identified as loss asset by the ARC or its internal or external auditor; or (D) the financial asset including SRs is not realized within the total time frame specified in the plan for realization formulated by the ARC under paragraph 6(C)(ii) or 6(C)(iii) and the ARC or the trust concerned continues to hold those assets.

(iii) Assets acquired by the ARC for the purpose of asset reconstruction may be treated as standard assets during the planning period, if any.

(2) **Asset Reconstruction: Renegotiated / Rescheduled assets**

(i) Where the terms of agreement regarding interest and/ or principal relating to standard asset have been renegotiated or rescheduled by an ARC (other wise than during planning period) the asset concerned shall be classified as sub-standard asset with effect from the date of renegotiation/ reschedulement or continue to remain as a sub-standard or doubtful asset as the case be.

(ii) The asset may be upgraded as a standard asset only after satisfactory performance for a period of twelve months as per the renegotiated / rescheduled terms.

(3) **Provisioning requirements**

Every ARC shall make provision against NPAs, as under: -

Asset Category	**Provision Required**	
Sub-standard Assets	A general provision of 10% of the outstanding;	
Doubtful Assets	(i)	100% provision to the extent the asset is not covered by the estimated realisable value of security;
	(ii)	In addition to item (i) above, 50% of the remaining outstanding.
Loss Assets	The entire asset shall be written off.	

[31] Modified vide Notification No.DNBS.PD(SC/RC).8/CGM(ASR)-2010 dated April 21, 2010

	(If, for any reason, the asset is retained in the books, 100% thereof shall be provided for).

12. Investments

[32](i) Considering nature of investment in SRs where underlying cash flows are dependent on realization from non-performing assets, it can be classified as available for sale. Hence investments in SRs may be aggregated for the purpose of arriving at net depreciation/ appreciation of investments under the category. Net depreciation, if any shall be provided for. Net Appreciation, if any should be ignored.

(ii) All other investments should be valued at lower of cost or realisable value. Where market rates are available, the market value would be presumed to be the realisable value and in cases where market rates are not available, the realisable value should be the fair value. However, investments in other registered ARC shall be treated as long term investments and valued in accordance with the Accounting Standards and Guidance notes issued by the Institute of Chartered Accountants of India (ICAI).

13. Income recognition

[33](i) *Yield on SRs* should be recognised only after the full redemption of the entire principal amount of SRs. This will be effective from the accounting year 2014-15.

(ii) *Upside income* should be recognized only after full redemption of SRs. This will be effective from the accounting year 2014-15.

[34](iii) Management fees should be calculated and charged as a percentage of the NAV calculated at the lower end of the range of the Recovery Rating specified by the Credit Rating Agency (CRA) provided that the same is not more than the acquisition value of the underlying asset. However, management fees are to be reckoned as a percentage of the actual outstanding value of SRs, before the availability of NAV of SRs.

Management fees may be recognized on accrual basis. Management fees recognized **during** the planning period must be realized within 180 days from the date of expiry of the planning period. Management fees recognized **after** the planning period should be realized within 180 days from the date of recognition. Unrealised Management fees should be

[32] Inserted vide Circular No.DNBS (PD) CC No.38/SCRC/26.03.001/2013-14 dated April 23, 2014
[33] Inserted vide Circular No.DNBS (PD) CC No.38/SCRC/26.03.001/2013-14 dated April 23, 2014
[34] Inserted vide Notification No.DNBS(PD-SC/RC) No.11/PCGM (KKV)/-2014 dated August 05, 2014

reversed thereafter. Further any unrealized Management fees will be reversed if before the prescribed time for realisation, NAV of the SRs fall below 50% of face value. However, ARCs are allowed to write off the accrued unrealised Management Fee receivables prior to March 31, 2014 in a staggered manner in four half-yearly instalments over a period of two years, 2014-15 and 2015-16 subject to the disclosure of age wise such receivables in the Balance Sheet of the company.

(iv) The income recognition on all other items shall be based on recognised accounting principles;

(v) All the Accounting Standards and Guidance Notes issued by the ICAI shall be followed in so far as they are not inconsistent with the guidelines contained herein;

(vi) Interest and any other charges in respect of all the NPAs shall be recognised only when they are actually realised. Any such unrealised income recognised by an ARC before the asset became non-performing and remaining unrealised shall be derecognised.

14. Disclosures in the balance sheet

(1) Every ARC shall, in addition to the requirements of Schedule III of the Companies Act, 2013, prepare the following schedules and annex them to its balance sheet :

Continuing Disclosures

(i) The names and addresses of the banks/ FIs from whom financial assets were acquired and the value at which such assets were acquired from each such bank/ FIs;

(ii) Dispersion of various financial assets industry-wise and sponsor-wise. (dispersion is to be indicated as a percentage to the total assets);

(iii) Details of related parties as per Accounting Standard and Guidance notes issued by the ICAI and the amounts due to and from them;

(iv) A statement clearly charting therein the migration of financial assets from standard to non-performing;

[35][(v) Value of financial assets acquired during the financial year either on its own books or in the books of the trust;

(vi) Value of financial assets realized during the financial year;

(vii) Value of financial assets outstanding for realization as at the end of the financial year;

(viii) Value of SRs redeemed partially, and the SRs redeemed fully during the financial year;

(ix) Value of SRs pending for redemption as at the end of the financial year;

(x) Value of SRs which could not be redeemed as a result of non-realization of the financial asset as per the policy formulated by the ARC under Paragraph 6(C)(ii) or 6(C)(iii);

(xi) Value of land and/ or building acquired in ordinary course of business of reconstruction of assets (year wise);]

[36](xii) The basis of valuation of assets if the acquisition value of the assets is more than the Book Value;

(xiii) The details of the assets disposed of (either by write off or by realization) during the year at a discount of more than 20% of valuation as on the previous year end and the reasons therefor;

(xiv) The details of the assets where the value of the SRs has declined more than 20% below the acquisition value.

(2) (i) The accounting policies adopted in preparation and presentation of the financial statements shall be in conformity with the applicable prudential norms prescribed by the Bank;

(ii) Where any of the accounting policies is not in conformity with these guidelines/ instructions, the particulars of departures shall be disclosed together with the reasons

[35] Inserted vide Circular No.DNBS (PD)CC.No.18/SCRC/26.03.001/2009-2010 dated April 21, 2010
[36] Inserted vide Notification No.DNBS(PD-SC/RC) No.11/PCGM (KKV)/-2014 dated August 05, 2014

therefor and the financial impact on account thereof. Where such an effect is not ascertainable, the fact shall be so disclosed citing the reasons therefor;

(iii) An inappropriate treatment of an item in Balance Sheet or Profit and Loss Account cannot be deemed to have been rectified either by disclosure of accounting policies used or by disclosure in notes to balance sheet and profit and loss account.

15. Internal Audit

Every ARC shall put in place an effective Internal Control System providing for periodical checks and review of the asset acquisition procedures and asset reconstruction measures followed by the company and matters related thereto.

16. Exemptions

The Bank may, if it considers necessary for avoiding any hardship to ARC, or for any other just and sufficient reason exempt all ARCs or a particular ARC or class of ARCs, from all or any of the provisions of these guidelines/ instructions either generally or for any specified period, subject to such conditions as the Bank may impose.

17. Submission of Quarterly Statement

[37]ARCs are advised to follow the instructions contained in Master Direction-Non-Banking Financial Company Returns (Reserve Bank) Directions, 2016 as amended from time to time.

18. Submission of Audited Balance Sheet

[38] All the ARCs were advised to furnish a copy of audited balance sheet along with the Directors' Report / Auditors' Report every year within one month from the date of Annual General Body Meeting, in which the audited accounts are adopted, to the Regional Office of the Department of Supervision of the Bank under whose jurisdiction it is registered.

[37] Substituted vide Master Direction DNBS.PPD.02/66.15.001/2016-17 dated September 29, 2016
[38] Inserted vide Notification No.DNBS.4/ED.(SG)/-2004 dated March 29, 2004

[39]**19**. **Submission of data to Credit Information Companies**

(1) Every ARC shall become a member of at least one credit information company (CIC) which has obtained certificate of registration from the Bank in terms of Section 5 of the Credit Information Companies (Regulation) Act, 2005.

(2) ARC shall provide periodically to the CIC of which it is a member, accurate data / history of the borrowers.

(3) ARCs should submit the list of wilful defaulters as at end of March, June, September and December every year to the CIC of which it is a member.

(4) Every ARC shall place on its website the list of suit-filed accounts of wilful defaulters.

For the purpose of this paragraph, the expression "wilful defaulter" shall have the same meaning as is assigned to that expression in the circulars issued to banks by Department of Regulation.

20. Filing of transactions with Central Registry set up under the Act

ARCs shall file and register the records of all transactions related to securitisation, reconstruction of financial assets and creation of security interest, if any, with Central Registry.

[40]**21. Submission of Financial Information to Information Utilities**

Instructions contained in Circular DBR.No.Leg.BC.98/09.08.019/2017-18 dated December 19, 2017 on the captioned subject are applicable to all registered ARCs.

[41]**22**. **Reporting to Indian Banks' Association (IBA) –** The ARCs shall report to IBA the details of Chartered Accountants, Advocates and Valuers (who have committed serious irregularities in the course of rendering their professional services) for including in the IBA database of Third Party Entities involved in fraud. However, the ARCs will have to ensure that they follow meticulously the procedural guidelines issued by IBA (Circular No.RB-II/Fr./Gen/3/1331 dated August 27, 2009) and also give the parties a fair opportunity to explain their position and justify their action before reporting to IBA. If no reply/ satisfactory clarification is received from them within one month, the ARCs shall report their details to IBA. ARCs should consider this aspect before assigning any work to such parties in future.

[39] Inserted vide Notification No.DNBS (PD-SC/RC) No.12/PCGM (KKV)-2014 dated August 07, 2014
[40] Inserted vide Circular No.DNBR.PD(ARC)CC.No.05/26.03.001/2017-18 dated January 04, 2018
[41] Inserted vide Notification No.DNBS(PD-SC/RC) No.11/PCGM (KKV)/-2014 dated August 05, 2014

[42] **23. Bank's prior approval for any substantial change in management by way of transfer of shares**

Notwithstanding anything to the contrary contained in the terms and conditions stipulated in the certificate of registration issued under Section 3 of the Act, ARCs shall obtain prior approval of Reserve Bank only for transfers that result in substantial change in management namely –

i. any transfer of shares by which the transferee becomes a sponsor
ii. any transfer of shares by which the transferor ceases to be a sponsor
iii. an aggregate transfer of ten percent or more of the total paid up share capital of the ARC by a sponsor during the period of five years commencing from the date of certificate of registration

Explanation : For the purposes of this clause, a transfer shall be deemed to be a transfer of more than ten percent of the total paid up share capital of the ARC if the aggregate of all the transfer of shares made by the sponsor prior to that transfer, and including that transfer, is 10% or more of the total paid up share capital of the ARC.

24. Fit and Proper Criteria for Sponsors/ Investors

[43](1) The provisions of the Master Direction - Fit and Proper Criteria for Sponsors - Asset Reconstruction Companies (Reserve Bank) Directions, 2018 as amended from time to time, shall apply to the existing and proposed sponsors of the ARCs.

[44](2) All ARCs shall comply with the instructions contained in the Bank's circular DOR.CO.LIC.CC No.119/03.10.001/2020-21 February 12, 2021 as amended from time to time.

[45] **25. Fair Practices Code**

In order to achieve the highest standards of transparency and fairness in dealing with stakeholders, ARCs are advised to put in place Fair Practices Code (FPC) duly approved by their Board. The following paragraphs provide the minimum regulatory expectation while each ARC's Board is free to enhance its scope and coverage. The FPC must be followed in right earnest and the Board must involve itself in its evolution and proper implementation at all times. The FPC shall be placed in public domain for information of all stakeholders.

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[42] Inserted vide Notification No.DNBR(PD-SC/RC) No.01/CGM (CDS)/2014-2015 dated February 24, 2015
[43] Inserted vide Master Direction DNBR.PD (ARC) CC.No.06/26.03.001/2018-19 dated October 25, 2018
[44] Inserted vide Circular No.DOR.CO.LIC.CC No.119/03.10.001/2020-21 dated February 12, 2021
[45] Inserted vide Circular No.DOR.NBFC(ARC) CC.No.9/26.03.001/2020-21 dated July 16, 2020

(1) ARC shall follow transparent and non-discriminatory practices in acquisition of assets. It shall maintain arm's length distance in the pursuit of transparency.

(2) In order to enhance transparency in the process of sale of secured assets,

(i) invitation for participation in auction shall be publicly solicited; the process should enable participation of as many prospective buyers as possible;

(ii) terms and conditions of such sale may be decided in wider consultation with investors in the SRs as per the Act;

(iii) spirit of Section 29A of Insolvency and Bankruptcy Code, 2016 may be followed in dealing with prospective buyers.

(3) ARCs shall release all securities on repayment of dues or on realisation of the outstanding amount of loan, subject to any legitimate right or lien for any other claim they may have against the borrower. If such right of set off is to be exercised, the borrower shall be given notice about the same with full particulars about the remaining claims and the conditions under which ARCs are entitled to retain the securities till the relevant claim is settled/ paid.

(4) ARCs shall put in place Board approved policy on the management fee, expenses and incentives, if any, claimed from trusts under their management. The Board approved policy should be transparent and ensure that management fee is reasonable and proportionate to financial transactions.

(5) ARCs intending to outsource any of their activity shall put in place a comprehensive outsourcing policy, approved by the Board, which incorporates, inter alia, criteria for selection of such activities as well as service providers, delegation of authority depending on risks and materiality and systems to monitor and review the operations of these activities/ service providers. ARC shall ensure that outsourcing arrangements neither diminish its ability to fulfil its obligations to customers and the Bank nor impede effective supervision by the Bank. The outsourced agency, if owned/controlled by a director of the ARC, the same may be made part of the disclosures specified in the Master Circular.

(6) In the matter of recovery of loans, ARCs shall not resort to harassment of the debtor. ARCs shall ensure that the staff are adequately trained to deal with customers in an appropriate manner.

(i) ARCs shall put in place a Board approved Code of Conduct for Recovery Agents and obtain their undertaking to abide by that Code. ARCs, as principals, are responsible for the actions of their Recovery Agents.

(ii) It is essential that the Recovery Agents observe strict customer confidentiality.

(iii) ARCs shall ensure that Recovery Agents are properly trained to handle their responsibilities with care and sensitivity, particularly in respect of aspects such as hours of calling, privacy of customer information, etc. They should ensure that Recovery

Agents do not induce adoption of uncivilized, unlawful and questionable behaviour or recovery process.

(7) ARCs should constitute Grievance Redressal machinery within the organisation. The name and contact number of designated grievance redressal officer of the ARC should be mentioned in the communication with the borrowers. The designated officer should ensure that genuine grievances are redressed promptly. ARCs' Grievance Redressal machinery will also deal with the issue relating to services provided by the outsourced agency and recovery agents, if any.

(8) ARCs shall keep the information, they come to acquire in course of their business, strictly confidential and shall not disclose the same to anyone including other companies in the group except when (i) required by law; (ii) there is duty towards public to reveal information; or (iii) there is borrower’s permission.

(9) Compliance with FPC shall be subject to periodic review by the Board.

Annex

(1) Disclosure in Offer Document

A. Relating to the Issuer of SRs

i. Name, place of Registered Office, date of incorporation, date of commencement of business of the ARC;

ii. Particulars of sponsors, shareholders, and a brief profile of the Directors on the Board of the ARC with their qualifications and experience;

iii. Summary of financial information of the company for the last three years or since commencement of business of the company, whichever is shorter;

iv. Details of Securitisation / Asset Reconstruction activities handled, if any, in the last three years or since commencement of business, whichever is shorter.

v. Whether the scheme envisages the utilization of part of funds raised for restructuring of financial assets acquired out of such funds? If so, the percentage of funds raised which will be utilized for restructuring purposes.

B. Terms of Offer

i. Objects of offer;

ii. Description of the instrument giving particulars relating to its form, denomination, issue price, etc together with an averment that the transferability of SRs is restricted to the QBs;

iii. Arrangements made for management of assets and extent of management fee charged by ARC;

iv. Interest rate/ probable yield;

v. Terms of payment of principal/ interest, date of maturity/ redemption;

vi. Servicing and administration arrangement;

vii. Details of credit rating, if any, and a summary of the rationale for the rating;

viii. Description of assets being securitized including date of acquisition, valuation, and the interest of the ARC in the assets at the time of issue of SR;

ix. Geographical distribution of asset pool;

x. Residual maturity, interest rates, outstanding principal of the asset pool;

xi. Nature and value of underlying security, expected cash flows, their quantum and timing, credit enhancement measures;

xii. Policy for acquisition of assets and valuation methodology adopted;

xiii. Terms of acquisition of assets from banks/ FIs;

xiv. Details of performance record with the Originators;

xv. Terms of replacement of assets, if any, to the asset pool;

xvi. Statement of risk factors, particularly relating to future cash flows and steps taken to mitigate the same;

xvii. Arrangements, if any, for implementing asset reconstruction measures in case of default;

xviii. Duties of the Trustee;

xix. Specific asset reconstruction measures, if any, on which approvals will be sought from investors;

xx. Dispute Redressal Mechanism.

(2) Disclosure on quarterly basis

i. Defaults, prepayments, losses, if any, during the quarter;

ii. Change in credit rating, if any;

iii. Change in profile of the assets by way of accretion to or realisation of assets from the existing pool;

iv. Collection summary for the current and previous quarter;

v. Any other material information, which has a bearing on the earning prospects affecting the QBs.

Guidance Notes for Asset Reconstruction Companies

The Bank has evolved Guidance Note, gist of which is given below. The words and expressions used in these notes shall have the same meaning as in the Act.

(1) Acquisition of Financial Assets

i) Every ARC is required to evolve Asset Acquisition Policy within 90 days of getting the certificate of registration which shall, inter alia, provide that the transactions will take place in a transparent manner and at a fair price in a wellinformed market, and the transactions are executed on arm's length basis by 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 60% 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.

iv) Both fund and non-fund based financial assets may be included in the list of assets for acquisition. Assets classified as SMA-2 in the books of the originator 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) The assets acquired by ARC should be transferred to the trusts set up by the ARC at the price at which these were acquired from the originator of the asset. However, there is no restriction on acquisition of assets from banks/ FIs directly in the books of trusts set up by ARC.

(2) **Issuance of SRs**

i) Every ARC shall issue the SRs through the trust set up exclusively for the purpose. The trusteeship of such trust shall vest with the ARC.

ii) The trust shall issue SRs only to QBs and such SRs shall be transferable/ assignable only in favour of other QBs.

iii) Every ARC intending to issue SRs shall make disclosures in the offer document as prescribed by the Bank from time to time.

[46][(iv) Commonality and conflict of interest, if any, between the ARC and Rating Agency should be disclosed.

(v) Special features of SRs

(a) SRs cannot be strictly characterized as debt instruments since they combine the features of both equity and debt. However, these are recognized as securities under Securities Contracts (Regulation) Act, 1956.

(b) The cash flows from the underlying assets cannot be predicted in terms of value and intervals.

(c) These instruments when rated would generally be below investment grade. These instruments are privately placed.

(vi) Rating/ Grading of SRs

[46] Inserted vide Guidelines DNBS (PD) CC.No.6/SCRC/10.30.049/2006-2007 dated May 28, 2007

[47](a) Every ARC shall obtain initial rating/ grading of SRs from a [48][SEBI registered] CRA within a period of six months from the date of acquisition of assets and declare forthwith, the NAV of the SRs issued by it. Thereafter, ARCs will get the rating/ grading of SRs reviewed from a registered CRA as on June 30, and December 31 every year and declare the NAV of SRs forthwith, to enable the QBs to value their investment in SRs. For arriving at NAV, ARC shall get the SRs rated on 'recovery rating scale' and require the rating agencies to disclose the rationale for rating.

(b) The rating/ grading should be based on 'recovery risk' as against 'default' which is the basis for rating assignments in normal assets, i.e. how much more can be recovered instead of timely payment. Rating should reflect present value of the anticipated recoverability of future cash flows.

(c) The ratings will be assigned on a specifically developed rating scale called "Recovery Rating (RR) scale". Each rating category in the recovery scale will have an associate range of recovery, expressed in percentage terms, which can be used for arriving at NAV of SRs. Symbols should be assigned by rating agencies to the associated range of recovery, which would inter-se not deviate by a specified percentage points, say (+/ -) 10%. The rating would be indicative.

(d) The Recovery Rating should be assessed after factoring in any other relevant obligation and not on the original debt obligation.

(e) The other key factors that should be factored in while assigning Recovery Rating are extent of debt acquired, composition of lenders, collaterals available, security and seniority of debt, individual lender vis-à-vis institutional lender, estimated cash flows, uncertainty in realising expected cash flows in initial period, management, business risk, financial risk, etc.

(f) The Recovery Rating should reflect changes like change in resolution strategy of the ARC that take place from time to time.

(g) The Recovery Rating will factor in likely cash flows from the underlying impaired assets till the maturity of the SRs.

[47] Inserted vide Notification No.DNBS(PD-SC/RC) No.11/PCGM (KKV)/-2014 dated August 05, 2014
[48] Inserted vide Guidelines DNBS (PD) CC.No.6/SCRC/10.30.049/2006-2007 dated May 28, 2007

(h) The Recovery Rating should comprise of rating of not only the SRs of the scheme as a whole but wherever feasible a desegregation of each component in the scheme, which means the underlying assets of each entity in the scheme forming the basket should also be rated.

(i) The Rating Agency should disclose the rationale for rating on request.

(vii) Methodology for valuation of SRs for declaration of NAV

Each rating category in the recovery scale will have an associate **range** of recovery, expressed in percentage terms, which can be used for computing NAV of SRs. The NAV should be restricted within the recovery range associated with the rating assigned to the SRs. The ARC based on its recovery experience should choose a particular percentage within the recovery range indicated by the Rating Agency. The Recovery Rating percentage so picked by the ARC multiplied by the face value of the SR will give the NAV. The ARC should provide the rationale for selection of the particular percentage of Recovery Rating. For example, if range is between 81% - 90%, ARC may pick up 87% based on its judgement. The face value of say Rs 10 multiplied by the recovery percentage i.e. 87% would give the NAV as Rs 8.70].

List of Notifications Issued

1. Notification No.DNBS.1/CGM(CSM)/2003 dated March 7, 2003
2. Notification No.DNBS.2/CGM(CSM)-2003, dated April 23, 2003
3. Notification No.DNBS.3/CGM(OPA)/2003 dated August 28, 2003
4. Notification No.DNBS.4/ED(SG)/-2004 dated March 29, 2004
5. Notification No.DNBS.5/CGM(PK)/-2006 dated September 20, 2006
6. Notification No.DNBS.6/CGM(PK)/-2006 dated October 19, 2006
7. Notification DNBS(PD-SC/RC)No.7/CGM(ASR)/-2010 dated April 21, 2010
8. Notification No.DNBS.PD(SC/RC).8/CGM(ASR)-2010 dated April 21, 2010.
9. Notification No.DNBS.PD(SC/RC).9/CGM(ASR)-2010 dated April 21, 2010
10. Notification No.DNBS.PD(SC/RC)10/PCGM(NSV)-2014 dated January 23, 2014
11. Notification No.DNBS.PD(SC/RC)11/PCGM(KKV)-2014 dated August 05, 2014
12. Notification No.DNBS.PD(SC/RC)12/PCGM(KKV)-2014 dated August 07, 2014
13. Notification No.DNBR.PD(SC/RC)01/CGM(CDS)-2014-15 dated February 24, 2015
14. Notification No.DNBR.PD(SC/RC)02/CGM(CDS)-2014-15 dated May 07, 2015
15. Notification DNBR (PD-ARC) No.05/ED(SS)-2017 dated April 28, 2017

List of Circulars Issued

1. DNBS.PD.CC.1/SCRC/10.30/2002-03 dated April 23, 2003
2. DNBS.PD.CC.2/SCRC/10.30/2003-04 dated March 29, 2004
3. DNBS.PD.CC.3/SCRC/10.30.000/2006-07 dated September 20, 2006
4. DNBS.PD.CC.4/SCRC/10.30.000/2006-07 dated October 19, 2006
5. DNBS.(PD)CC.No.5/SCRC/10.30.000/2006-07 dated April 25, 2007
6. DNBS.(PD)CC.No.6/SCRC/10.30.049/2006-07 dated May 28, 2007
7. DNBS.(PD)CC.No.8/SCRC/10.30.000/2007-08 dated March 5, 2008
8. DNBS.(PD)CC.No.9/SCRC/10.30.000/2007-08 dated April 22, 2008
9. DNBS.(PD)CC.No.12/SCRC/10.30.000/2008-09 September 26, 2008
10. DNBS/PD(SC/RC)CC.No.13/26.03.001/2008-09 April 22, 2009
11. DNBS(PD)CC.No.14/SCRC/26.01.001/2008-09 April 24, 2009
12. DNBS.(PD).CC.No.17/SCRC/26.03.001/2009-2010 dated April 21, 2010
13. DNBS.(PD).CC.No.18/SCRC/26.03.001/2009-2010 dated April 21, 2010
14. DNBS.(PD).CC.No.19/SCRC/26.03.001/2009-2010 dated April 21, 2010
15. DNBS.(PD).CC.No.23/SCRC/26.03.001/2010-2011 dated November 25, 2010
16. DNBS.(PD).CC.No.24/SCRC/26.03.001/2010-2011 dated May 25, 2011
17. DNBS(PD)CC.No.34/SCRC/26.03.001/2013-14 dated December 31, 2013
18. DNBS(PD)CC.No.35/SCRC/26.03.001/2013-14 dated January 23, 2014
19. DNBS(PD)CC.No.36/SCRC/26.03.001/2013-14 dated March 19, 2014
20. DNBS(PD)CC.No.37/SCRC/26.03.001/2013-14 dated March 19, 2014
21. DNBS(PD)CC.No.38/SCRC/26.03.001/2013-14 dated April 23, 2014
22. DNBS(PD)CC.No.41/SCRC/26.03.001/2014-15 dated August 05, 2014
23. DNBS(PD)CC.No.42/SCRC/26.03.001/2014-15 dated August 07, 2014
24. DNBR(PD)CC.No.01/SCRC/26.03.001/2014-15 dated February 24, 2015
25. DNBR(PD)CC.No.02/SCRC/26.03.001/2014-15 dated May 07, 2015
26. DNBR.(PD).CC.No.03/SCRC/26.03.001/2015-16 dated July 01, 2015
27. DNBR(PD)CC.No.04./SCRC/26.03.001/2015-16 dated July 01, 2015
28. DNBR.PD(ARC)CC.No.03/26.03.001/2016-17 dated April 28, 2017
29. DNBR.PD(ARC)CC.No.04/26.03.001/2017-18 dated November 23, 2017
30. DNBR.PD(ARC)CC.No.05/26.03.001/2017-18 dated January 04, 2018
31. DNBR.PD(ARC)CC.No.06/26.03.001/2018-19 dated October 25, 2018
32. DNBR.PD(ARC)CC.No.07/26.03.001/2018-19 dated June 28, 2019
33. DOR.NBFC(ARC)CC.No.8/26.03.001/2019-20 dated December 6, 2019
34. DOR.NBFC(ARC)CC.No.9/26.03.001/2020-21 dated July 16, 2020