

10

STANDING COMMITTEE ON ENERGY

(2020-21)

SEVENTEENTH LOK SABHA

MINISTRY OF POWER

[Action-taken by the Government on the observations/recommendations contained in Fortieth Report (16th Lok Sabha) on 'Impact of RBI's Revised Framework for Resolution of Stressed Assets on NPAs in the Electricity Sector']

TENTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

March, 2021/ Phalguna, 1942 (Saka)

TENTH REPORT
STANDING COMMITTEE ON ENERGY
(2020-21)

(SEVENTEENTH LOK SABHA)

MINISTRY OF POWER

[Action-taken by the Government on observations/recommendations contained in Fortieth Report (16th Lok Sabha) on 'Impact of RBI's Revised Framework for Resolution of Stressed Assets on NPAs in the Electricity Sector']

Presented to Lok Sabha on 19th March, 2021

Laid in Rajya Sabha on 19th March, 2021



LOK SABHA SECRETARIAT
NEW DELHI

March, 2021/ Phalguna, 1942 (Saka)

COE NO. 325

Price: Rs.

© 2021 by Lok Sabha Secretariat

Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Sixteenth Edition) and Printed by_____.

CONTENTS		
Composition of the Committee (2020-21)		5
Introduction		6
Chapter I	Report	7
Chapter II	Observations/ Recommendations which have been accepted by the Government	18
Chapter III	Observations/Recommendations which the Committee do not desire to pursue in view of the Government's replies	60
Chapter IV	Observations/Recommendations in respect of which replies of Government have not been accepted by the Committee and require reiteration	61
Chapter V	Observations/Recommendations in respect of which final replies of the Government are still awaited	62
ANNEXURES		
I	Prudential Framework for Resolution of Stressed Assets	63
II	Status of Implementation of Cabinet Committee on Economic Affairs' (CCEA) Decision vide OM dated 08.03.2019	83
III	Status of 34 Stressed Thermal Power Projects	87
IV	Minutes of the Meeting chaired by Minister of State (IC) for Power and NRE on 21.10.2019 to discuss the issues of lending for FGD installation, Working Capital and Inclusion of Usance LC in payment mechanism under FSA with Banks/Financial Institutions	89
APPENDICES		
I	Minutes of Sitting of the Committee held on 18 th March, 2021.	92
II	Analysis of Action Taken by the Government on the Observations/Recommendations contained in the Fortieth Report (16 th Lok Sabha) of the Standing Committee on Energy.	94

COMPOSITION OF THE STANDING COMMITTEE ON ENERGY (2020-21)

LOK SABHA

Shri Rajiv Ranjan Singh *alias* Lalan Singh - Chairperson

2. Smt. Sajda Ahmed
3. Shri Gurjeet Singh Aujla
4. Shri Chandra Sekhar Bellana
5. Dr. A. Chellakumar
6. Shri Harish Dwivedi
7. Shri S. Gnanathiraviam
8. Shri Sanjay Haribhau Jadhav
9. Shri Kishan Kapoor
10. Km. Shobha Karandlaje
11. Shri Ramesh Chander Kaushik
12. Shri Ashok Mahadeorao Nete
13. Shri Praveen Kumar Nishad
14. Smt. Anupriya Patel
15. Shri Parbatbhai Savabhai Patel
16. Shri Jai Prakash
17. Shri Dipsinh Shankarsinh Rathod ^
18. Shri N. Uttam Kumar Reddy
19. Shri Shivkumar Chanabasappa Udasi
20. Shri P. Velusamy
21. Shri Akhilesh Yadav

RAJYA SABHA

22. Shri Ajit Kumar Bhuyan
23. Shri T. K. S. Elangovan
24. Shri Muzibulla Khan
25. Shri Maharaja Sanajaoba Leishemba
26. Shri Jugalsinh Mathurji Lokhandwala
27. Shri Surendra Singh Nagar
28. Dr. Sudhanshu Trivedi
29. Shri K.T.S. Tulsi
30. Vacant *
31. Vacant #

SECRETARIAT

- | | | |
|----|---------------------------|---------------------|
| 1. | Shri R.C. Tiwari | Joint Secretary |
| 2. | Shri R.K. Suryanarayanan | Director |
| 3. | Shri Kulmohan Singh Arora | Additional Director |
| 4. | Smt. L.N. Haokip | Deputy Secretary |
| 5. | Ms. Deepika | Committee Officer |

[^] Nominated as Member of the Committee w.e.f. 28.12.2020

* Vacant vice Shri Javed Ali Khan retired from Rajya Sabha on 25.11.2020

Vacant since constitution of the Committee.

INTRODUCTION

I, the Chairperson, Standing Committee on Energy, having been authorized by the Committee to present the Report on their behalf, present this Tenth Report on action-taken by the Government on the observations/recommendations contained in the Fortieth Report of the Standing Committee on Energy on the subject 'Impact of RBI's Revised Framework for Resolution of Stressed Assets on NPAs in the Electricity Sector'.

2. The Fortieth Report was presented to Lok Sabha on 7th August, 2018 and was laid on the Table of Rajya Sabha on the same day. Replies of the Government to the observations/recommendations contained in this Report were received on 10th August, 2020.

3. The Report was considered and adopted by the Committee at their sitting held on 18th March, 2021.

4. An Analysis of the Action-taken by the Government on the observations/recommendations contained in the Fortieth Report of the Committee is given at Appendix-II.

5. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

**New Delhi
18th March, 2021
27 Phalguna, 1942 (Saka)**

**Shri Rajiv Ranjan Singh *alias* Lalan Singh
Chairperson,
Standing Committee on Energy**

Chapter -I

This Report of the Standing Committee on Energy deals with Action-taken by the Government on the observations/recommendations contained in the Fortieth Report (Sixteenth Lok Sabha) of the Committee (2017-18) on the subject 'Impact of RBI's Revised Framework for Resolution of Stressed Assets on NPAs in the Electricity Sector'.

2. The Fortieth Report was presented to Lok Sabha on 7th August, 2018 and was laid on the Table of Rajya Sabha on the same day. The Report contained 17 observations/recommendations.

3. Action-taken notes in respect of all the observations/recommendations contained in the Report have been received from the Government. These have been categorized as follows:

- | | |
|--|---------------------------|
| (i) Observations/Recommendations which have been accepted by the Government:
Serial Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 | Total - 17
Chapter-II |
| (ii) Observations/Recommendations which the Committee do not desire to pursue in view of the Government's replies:
Nil | Total - 00
Chapter-III |
| (iii) Observations/Recommendations in respect of which the replies of the Government have not been accepted by the Committee and which require reiteration:
Nil | Total- 00
Chapter-IV |
| (iv) Observations/Recommendations in respect of which the final replies of the Government are still awaited:
Nil | Total - 00
Chapter-V |

4. The Committee observe that the 40th Report (16th Lok Sabha) on “Impact of RBI's Revised Framework for Resolution of Stressed Assets on NPAs in the Electricity Sector” was presented to the Lok Sabha on 7th August, 2018 and was laid on the Table of Rajya Sabha on the same day and the Ministry was required to submit the action-taken reply on the observations/recommendations contained in the Report within a period of three months i.e. by 6th November, 2018. The Committee, however, observe that the Ministry has submitted the requisite action-taken reply on 10th August, 2020, after a long delay of 1 year and 9 months. While deploring the long delay on the part of the Ministry in submission of action-taken replies, the Committee desire the Ministry (i) to enquire into the reasons for such inordinate delay in this case with a view to fix responsibility on the concerned and furnish the details of the action-taken to the Committee (ii) to inform the Committee as to what steps have been taken by the Ministry to avoid the recurrence of such delays in future; and (iii) to issue instructions/directives to all concerned to be extra cautious in adherence to the time-line prescribed for submission of replies to the Committee in future.

5. The Committee desire that Action-taken notes on the Observations/Recommendations contained in Chapter-I of the Report may be furnished to the Committee within three months of the presentation of this Report.

6. The Committee will now deal with action taken by the Government on some of their Recommendations that require merit comments.

Recommendation No. 1

7. The Committee had recommended as under:

“The Committee note that the RBI has issued Revised Framework with a view to resolve Stressed Assets in all the Sectors of the Economy. The Electricity Sector is one of the sectors which have been affected by this Framework. Under the New Guidelines, the definition of the default has been revised with far reaching consequences. The Committee also note that the New Guidelines of the RBI will only deepen the crisis of the Electricity sector as its leitmotif is distinct, peculiar and sector specific without any generic underpinning with other sectors of the Economy. The Committee observe that the efforts of the private players in

developing the Electricity Sector of this Country has not been given due recognition otherwise their genuine constraints that have led to stress might have been addressed. The Committee feel that the seminal significance and epochal importance of this sector has been conveniently given a go by. The committee, therefore, recommend that the Government should be sensitive to this vital sector of our economy which acts as a core to shoulder the other engines of the economy and thus the Committee postulate that the specifics and realities of the sector should be taken into account for appropriate modulation of the RBI Guidelines.”

8. In its action-taken reply, the Ministry of Power has stated as under:

“1. Reserve Bank of India (RBI) vide circular DBR.No.BP.BC.101/ 21.04.048/2017-18 dated 12.02.2018, withdrew all debt restructuring schemes like 5/25 – flexible restructuring scheme, Strategic Debt Restructuring (SDR), Outside SDR, Scheme for Sustainable Structuring of Stressed Assets (S4A) etc along with the Joint Lenders Forum (JLF) mechanism. As per the circular, the loan accounts, where the aggregate exposure of lenders is more than Rs. 2,000 crore and where the accounts are classified as restructured accounts or where restructuring under earlier RBI Schemes is underway, Resolution Plan (RP) needed to be implemented within 180 days from 1 Mar, 2018 or 180 days from the date of first default after 1 Mar, 2018. If Resolution Plan was not implemented within the above stipulated timelines by RBI, lenders would have to file insolvency application under IBC (Insolvency Bankruptcy Code) within 15 days from the date of expiry of the said timeline.

2. The circular was challenged by Association of Power producers (APP), Independent Power Producers Association of India (IPPAI) and several power developers vide various petitions in High Courts across the country, which were clubbed and transferred to the Hon’ble Supreme Court later. Subsequently, the Hon’ble Supreme Court vide its judgment dated 02.04.2019 declared that the impugned RBI circular is ultra-vires Section 35AA of the Banking Regulation Act and therefore, it is unnecessary to go into any of the other contentions that have been raised in the transferred cases and petitions.

3. Thereafter, RBI *vide* its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019 (**Annexure-I**), allowed the following:

- a) Review Period - once a borrower is reported to be in default by any of the lenders, lenders shall undertake a prima facie review of the borrower account within thirty days from such default.
- b) Inter-Creditor Agreement (ICA): In cases where Resolution Plan (RP) is to be implemented, all lenders shall enter into an ICA, during the above-said Review Period, to provide for ground rules for finalization and implementation of the RP.
- c) The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities and 60 per cent of lenders by number shall be binding upon all the lenders.
- d) An RP shall be deemed to be 'implemented' only if (for no restructuring/no change in ownership case) the borrower is not in default with any of the lenders as on 180th day from the end of the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.
- e) Additional Provisioning on account of delayed implementation of RP- For all accounts- Where a viable RP in respect of a borrower is not implemented within the timelines given below, all lenders shall make additional provisions as under:

Timeline for RP	Add. Provisioning
180 days from the end of Review Period	20%
365 days from the commencement of Review Period	35%

- f) Lenders may or may not take a case to the IBC. They are free to formulate RP outside or under IBC. However, it gives certain incentives in the form of reversal of additional provisioning if a stressed asset is taken to IBC.
- g) Requirement of 100% consent of lenders for resolution outside IBC is done away with."

9. The Committee in their 40th Report (16th Lok Sabha) on the subject 'Impact of RBI's Revised Framework for Resolution of Stressed Assets on NPAs in the Electricity Sector' had recommended that the RBI Guidelines be appropriately modulated, harmonized and simplified keeping in view the specifics and realities of the electricity sector. The Committee had opined that timeline for resolution should be extended and degree of

consensus among the lenders be made more flexible. The Government in its reply to the recommendations has stated that Hon'ble Supreme Court vide its judgment dated 02.04.2019 declared that the impugned RBI circular is *ultra-vires* of Section 35AA of the Banking Regulation Act. Thereafter, RBI has issued prudential framework for resolution of stressed assets on 07.06.2019 which inter-alia provides 30 days for review of the borrower account in case of default, discretion to lenders to formulate resolution strategy outside or under IBC (Insolvency and Bankruptcy Code), submission of weekly report by the lenders about instances of defaults by all borrowers with aggregate exposure of Rs.50 million and above. The Committee feel that the prudential framework appears to be more flexible and accommodative towards the peculiar realities of the electricity sector and hope that the stressed power plants may now get some relief. As more than one and a half year has been passed since the prudential framework had been issued by the RBI, the Committee desire the Ministry to furnish a detailed note on the effects of prudential framework of RBI on the electricity sector.

Recommendation No. 3

10. The Committee had recommended as under:

“The Committee note that the high rate of NPA in Indian Banks is sector specific phenomena and most of the non-performing loans are concentrated in few sectors viz. infrastructure, power, iron, steel, textile etc. and the reasons of stress in these sectors are separate and varying. The Committee observe that for Power Sector, factors like coal linkage related issues, delay in implementation of projects due to various reasons, non-availability of fuel, delay in land/environment clearances, inability of promoters to infuse additional funds, etc. have aggravated the problem and weak financial health of Distribution Companies (DISCOMS) have led to substantial increase in receivables of borrowing groups (i.e. receivables of Power Generating Companies), thus impacting their liquidity position. The Committee also observe that the Government have accepted that the reasons responsible for stress in Power Sector are at variance with the reasons responsible for stress in other sectors of the Economy. But even after acknowledging the differentials in reasons for sectoral sickness, uniform principles of resolution have been introduced across the sectors and this has been

done on the premise that ultimately any negotiation of debt is a restatement of financial contract. The Committee have been apprised that given the sector agnostic basic principles of resolution, revised framework provide a harmonized and flexible approach. However, the Committee are not convinced with the reasons given by the Government to justify their formula for Resolution of stress because different ailments can be cured only with ailment specific remedies and if a single remedy is taken as panacea for all maladies and applied uniformly all across, it is bound to be counter-productive and is sure to aggravate the problem. The Committee, therefore, recommend that instead of adopting a sector agnostic approach for stress Resolution, more penetrative and sector friendly measures should be adopted.”

11. In its action-taken reply, the Ministry of Power has stated as under:

“1. The Government *vide* letter dated 29.07.2018 had decided to set up a High Level Empowered Committee (HLEC) headed by Cabinet Secretary to address the issues of Stressed Thermal Power Projects in the Country. The composition of the Committee was as under:

- i. Cabinet Secretary -Head
- ii. Chairman Railway Board -Member
- iii. Secretary, Department of Economic Affairs -Member
- iv. Secretary, Department of Financial Services – Member
- v. Secretary, Ministry of Power - Member (Convener)
- vi. Secretary, Ministry of Coal -Member
- vii. CMD, State Bank of India -Member
- viii. CMD, Power Finance Corporation – Member
- ix. CMD, Rural Electrification Corporation – Member
- x. CMD, Punjab National Bank –Member
- xi. CMD, ICICI Bank - Member

1.1. The Terms of Reference of the Committee were as follows:

- a) To assess the nature of stressed assets with a view to resolving the crisis and maximising the efficiency of investment.
- b) Changes required to be made in the fuel linkage/allocation policy/ other modes to facilitate supply of fuel to the stressed power plants.
- c) To facilitate sale of power by these stressed power plants.
- d) Suggest changes required in regulatory framework/ administrative measures to facilitate faster disposal of tariff

- petitions/disputes and ensure interim payments during the pendency of the disputes before APTEL and other courts.
- e) Ensure timely payments by the DISCOMs, suggest payment security mechanism for IPPs.
 - f) Changes required in the provisioning norms/Insolvency and Bankruptcy Code (IBC) to facilitate restructuring of the stressed assets including the changes required in Asset Restructuring Company (ARC) Regulations.
 - g) Any other measures proposed for revival of stressed assets so as to avoid such investments becoming NPA.

1.2. The report of the HLEC was submitted on 12.11.18 and was also placed in the public domain on the website of Ministry of Power. The Government thereafter constituted a Group of Ministers (GoM) to examine the specific recommendations of HLEC. The Group of Ministers (GoM) made recommendations regarding stressed power projects. On 07.03.2019, the Government approved the recommendations of Group of Ministers (GoM).

Subsequently, MoP *vide* OM dated 08.03.2019, notified the approval of the Government. The recommendations of GoM approved by the Government are under implementation. The action taken on the recommendations is annexed as **Annexure-II**.

2. The status of 34 stressed thermal power projects identified by Department of Financial services (DFS) and analysed by Ministry of Power (MoP) is as follows:

- i) 14 projects with a total capacity of 16,450 MW have been resolved.
- ii) 13 projects with a total capacity of 16,270 MW are at various stages of resolution.
- iii) 7 projects with a total capacity of 7,410 MW are at very initial stage of construction and are totally stalled. Such projects have either been ordered to be liquidated or heading towards liquidation.”

2.1 It may be summed up as follows:

Sl. No.	Status	Nos. of projects	Capacity (MW)	Commissioned (MW)	PPA Tied (MW)	Fuel tied up (MW)
I	Resolved	14	16,450	15850	10746	13122
II	Likely to be resolved	13	16,270	10269	6817	10654

III	Heading for Liquidation	7	7,410	135	1484.5	971
Total		34	40,130	26,254	19,047.5	24,747

2.2 Detailed status is enclosed as **Annexure-III**.

3. The following steps have been taken by the Government to resolve the stress in thermal power sector:

- i) After the cancellation of 204 coal blocks, Government of India formulated a transparent policy for re-allocation of cancelled coal mines in a fair and transparent method. Government has reallocated 62 blocks through auction/allotment till date to power sector.
- ii) Based on the request of Ministry of Power (MoP), Ministry of Coal (MoC) vide letter dated 13.04.2016 started separate e-auction window for power sector under which Coal India Limited (CIL) is making arrangements for conduct of special forward e-auction (SFeA) of coal exclusively for power sector on a sustained basis, offering adequate quantities at regular intervals so that coal is made available to such power plants on regular basis. CIL has allocated 27.12 million tonnes of coal through SFeA to the power sector during Apr, 2019 to March, 2020.
- iii) Based on inputs provided by MoP, MoC vide letter dated 08.02.2016 had notified policy guidelines for grant of Bridge Linkage to specified end use plants of Central and State Public Sector Undertakings (Both in Power as well as Non- Power sector) which have been allotted coal mines or blocks. Bridge linkages applications for public sector power projects in prescribed formats have been approved.
- iv) **Fuel Linkages under SHAKTI**; Government of India, Ministry of Coal has approved a new coal linkage allocation policy on May 17, 2017 named SHAKTI (Scheme for harnessing & allocating koyla transparently in India). Linkages granted under SHAKTI Policy:
 - a) **Shakti Policy Para B(i)**: Linkage granted to 23 nos. Thermal Power Projects (TPPs) totaling 25,060 MW under Central/State Sector category.
 - b) **Shakti Policy Para B(ii)**: Coal linkages have been allotted under 1st round of B(ii) of Shakti (IPP Projects having PPA but no linkage) for 9045 MW capacity (32.68 MT) and 2nd round of B(ii) for 877.4 MW capacity (3.34 MT). In the 3rd round of B(ii) of

SHAKTI, the auction was held on 11.05.2020, out of 5.66 MT offered, total 3.48 MT has been booked.

c) **Shakti Policy Para B(iii)**: Bidding held from 5th to 7th February, 2020. A non-PPA capacity of 3775 MW (Total 5995 MW) has secured linkage for 6.49 MT.

d) **Shakti Policy Para B(iv)**: Coal linkages granted to the State of Gujarat for 4,000 MW, to the State of UP for 1,600 MW and to the State of MP for 2640 MW power to be raised through tariff based competitive bidding.

e) Under B(v), aggregator (PFC) has been allotted Coal linkage (10 MT) for aggregating demand for tariff based bidding.

f) **Shakti Policy Para B(viii)(a)**: Methodology issued by MoP on 02.12.2019. Guidelines issued by CEA. Applications received from 14 nos. of bidders with plant capacity of 9,813 MW and non-PPA capacity of 8145 MW. CIL has completed the process of conducting Tranche-I auction on 19.03.2020. Out of the total offered quantity of 5.77 MT, 1.34 MT has been booked with a zero premium. For 2nd round auction under SHAKTI B(viii)(a) for the quarter July- September, 2020, out of the total offered quantity of 4.51 MT, 0.74 MT has been booked by 8 successful bidders with a zero premium.

3.1 **Pilot project for procurement of 2500 MW power**: In order to address the problem of lack of Power Purchase Agreements (PPAs) in the country, the Ministry of Power had notified a scheme for procurement of 2500 MW on competitive basis for a period of 3 years from the generators with commissioned projects having untied capacity.

a) **1st Round (2500 MW)**: Letter of Award (LOA) was issued to all the successful bidders (1900 MW) - PPA signed for 1900MW.

b) **2nd Round (2500 MW)**: Bid Security for 21 bidders for a total capacity of 6000 MW was received. Bids opened on 07.02.2020. 12 bidders were successful with a total capacity of 2500 MW. The State of Tamil Nadu has shown interest for procuring 500MW.

3.2 **Payment Security Mechanism**: Ministry issued an order on 28.06.2019 and subsequent corrigendum thereon 17.07.2019. National & Regional Load Despatch Centres (NLDC & RLDC) have been directed to dispatch power only after it is intimated by the Generating Company and Distribution Companies that a Letter of

Credit (LC) for the desired quantum of power has been opened. This has ensured timely payments by Discoms to the generators.

- 3.3 Under Atma Nirbhar Bharat Abhiyan, a liquidity infusion of Rs.90,000 crore has been provided wherein Power Finance Corporation Ltd (PFC) and Rural Electrification Corporation Ltd. (REC) would provided loan to Discoms against the State Government Guarantee specifically to clear the dues of Generating Companies (Gencos).
- 3.4 In view of the above, it may please be noted that Ministry of Power is taking all the necessary steps to reduce the stress in the power sector. It may be observed that sincere efforts have been made by the Government to make these assets standard by providing all possible assistance to them in terms of proving them options for coal linkage or offer of PPAs through Pilot schemes.”

12. The Committee had recommended in their original report that instead of adopting a sector agnostic approach for resolution of stress, more penetrative and sector friendly measures were needed to be adopted because the reasons of stress in sectors like infrastructure, power, iron, steel, textile were different and varying. The Committee had observed that for the Power Sector, factors like coal linkage related issues, delay in implementation of projects due to various reasons, non-availability of fuel, delay in land/environment clearances, inability of promoters to infuse additional funds, etc. had aggravated the problem and weak financial health of the Distribution Companies (DISCOMs) might have led to substantial increase in receivables of Power Generating Companies, thus impacting their liquidity position. The Government in its reply has stated that a Group of Ministers (GoM) was constituted to examine the recommendations of High Level Empowered Committee (HLEC) headed by the Cabinet Secretary which was set up to address the issues of Stressed Thermal Power Projects in the Country and the Government has approved the recommendations of Group of Ministers (GoM). The Committee note that the Government has reportedly taken a serious view of the problem of stress in the power sector and the same is perhaps being dealt with at the appropriate level. The Committee observe that out of 34 stressed thermal power projects identified by the Department of Financial Services and analyzed by the

Ministry of Power, 14 projects with a total capacity of 16,450 MW have been resolved, 13 projects with a total capacity of 16220 MW are likely to be resolved and 07 remaining projects with a total capacity of 7,410 MW are totally stalled and are heading towards liquidation. The Committee acknowledged the efforts made by the Government for taking the steps to resolve the issues pertaining to the stressed assets which will give long needed relief to power sector. The Committee express their hope that the Ministry will keep a constant watch over the progress in power projects which are undoubtedly undertaken with huge investments and make timely intervention so that none of the upcoming projects turn into NPAs.

Chapter - II
Observations/ Recommendations which have been accepted by the
Government

Recommendation No. 1

The Committee note that the RBI has issued Revised Framework with a view to resolve Stressed Assets in all the Sectors of the Economy. The Electricity Sector is one of the sectors which have been affected by this Framework. Under the New Guidelines, the definition of the default has been revised with far reaching consequences. The Committee also note that the New Guidelines of the RBI will only deepen the crisis of the Electricity sector as its leitmotif is distinct, peculiar and sector specific without any generic underpinning with other sectors of the Economy. The Committee observe that the efforts of the private players in developing the Electricity Sector of this Country has not been given due recognition otherwise their genuine constraints that have led to stress might have been addressed. The Committee feel that the seminal significance and epochal importance of this sector has been conveniently given a go by. The committee, therefore, recommend that the Government should be sensitive to this vital sector of our economy which acts as a core to shoulder the other engines of the economy and thus the Committee postulate that the specifics and realities of the sector should be taken into account for appropriate modulation of the RBI Guidelines.

Reply of the Government

1. Reserve Bank of India (RBI) vide circular DBR.No.BP.BC.101/21.04.048/2017-18 dated 12.02.2018, withdrew all debt restructuring schemes like 5/25-flexible restructuring scheme, Strategic Debt Restructuring (SDR), Outside SDR, Scheme for Sustainable Structuring of Stressed Assets (S4A) etc along with the Joint Lenders Forum (JLF) mechanism. As per the circular, the loan accounts, where the aggregate exposure of lenders is more than Rs. 2,000 Crs and where the accounts are classified as restructured accounts or where restructuring under earlier RBI Schemes is underway, Resolution Plan (RP) needed to be implemented within 180 days from 1 Mar, 2018 or 180 days from the date of first default after 1 Mar, 2018. If Resolution Plan was not implemented within the above stipulated timelines by RBI, lenders would have to file insolvency application under IBC (Insolvency Bankruptcy Code) within 15 days from the date of expiry of the said timeline.
2. The circular was challenged by Association of Power producers (APP), Independent Power Producers Association of India (IPPAI) and several power

developers vide various petitions in High Courts across the country, which were clubbed and transferred to the Hon'ble Supreme Court later. Subsequently, the Hon'ble Supreme Court vide its judgment dated 02.04.2019 declared that the impugned RBI circular is ultra-vires Section 35AA of the Banking Regulation Act and therefore, it is unnecessary to go into any of the other contentions that have been raised in the transferred cases and petitions.

3. Thereafter, RBI *vide* its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019 (**Annexure-I**), allowed the following:

a) Review Period - once a borrower is reported to be in default by any of the lenders, lenders shall undertake a prima facie review of the borrower account within thirty days from such default.

b) Inter-Creditor Agreement (ICA): In cases where Resolution Plan (RP) is to be implemented, all lenders shall enter into an ICA, during the above-said Review Period, to provide for ground rules for finalization and implementation of the RP.

c) The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities and 60 per cent of lenders by number shall be binding upon all the lenders.

d) An RP shall be deemed to be 'implemented' only if (for no restructuring/no change in ownership case) the borrower is not in default with any of the lenders as on 180th day from the end of the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.

e) Additional Provisioning on account of delayed implementation of RP- For all accounts- Where a viable RP in respect of a borrower is not implemented within the timelines given below, all lenders shall make additional provisions as under:

Timeline for RP	Add. Provisioning
180 days from the end of Review Period	20%
365 days from the commencement of Review Period	35%

f) Lenders may or may not take a case to the IBC. They are free to formulate RP outside or under IBC. However, it gives certain incentives in the form of reversal of additional provisioning if a stressed asset is taken to IBC.

g) Requirement of 100% consent of lenders for resolution outside IBC is done away with.

[Ministry of Power

O.M No.P-1/2020-IPC, Dated 28/07/2020]

Comments of the Committee

(Please see Para No. 9 of Chapter – I of the Report)

Recommendation No. 2

The Committee note that the Reserve Bank of India in exercise of its power under relevant sections of the Banking Regulation Act, 1949 and Reserve Bank of India Act, 1934, has issued a Revised Framework for Resolution of Stressed Assets. The Committee feel that as a result of this Revised Framework, the Electricity Sector has been forced towards NPA. During deliberations with the relevant quarters of the Government and all the other stakeholders, the Committee have been informed that the causes for stress in different sectors are different, however, the nominal principles governing Resolution of the Stress are the same irrespective of the sector. The Committee observe that the one of the objectives of the Revised Framework is to ensure prompt action to cure stress in a borrower's account as soon as default takes place. The Committee find that the nominal principles for resolution are more chimerical than practical as on the one hand, it is acknowledged that reasons for stress are not identical while on the other hand similar and identical tools are taken recourse to, to remedy the malady. According to the Committee, this is vapid and capable of crippling the Electricity Sector. The Committee, therefore, recommend that appropriate, relevant and sector specific measures should be explored to address the issue. The committee, per-se, are not averse to the idea of cure but it should be efficacious enough to energize the sector and not to extirpate it.

Reply of the Government

1. Reserve Bank of India (RBI) vide circular DBR.No.BP.BC.101/21.04.048/2017-18 dated 12.02.2018, withdrew all debt restructuring schemes like 5/25-flexible restructuring scheme, Strategic Debt Restructuring (SDR), Outside SDR, Scheme for Sustainable Structuring of Stressed Assets (S4A) etc along with the Joint Lenders Forum (JLF) mechanism. As per the circular, the loan accounts, where the aggregate exposure of lenders is more than Rs. 2,000 Crs and where the accounts are classified as restructured accounts or where restructuring under earlier RBI Schemes is underway, Resolution Plan needed to be implemented within 180 days from 1 Mar, 2018 or 180 days from the date of first default after 1 Mar, 2018. If Resolution Plan was not implemented within the above stipulated timelines by RBI, lenders would have to file insolvency application under IBC (Insolvency Bankruptcy Code) within 15 days from the date of expiry of the said timeline.

2. The circular was challenged by APP, IPPAI and several power developers vide various petitions in High Courts across the country, which were clubbed and transferred to the Hon'ble Supreme Court later.

Subsequently, the Hon'ble Supreme Court vide its judgment dated 2.04.2019 declared that the impugned RBI circular dated 12.02.2018 is ultra-vires.

3. Thereafter, RBI *vide* its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019, allowed the following:

a) Review Period - once a borrower is reported to be in default by any of the lenders, lenders shall undertake a prima facie review of the borrower account within thirty days from such default.

b) **Inter-Creditor Agreement (ICA):** In cases where Resolution Plan (RP) is to be implemented, all lenders shall enter into an ICA, during the above-said Review Period, to provide for ground rules for finalization and implementation of the Resolution Plan (RP).

c) The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities and 60 per cent of lenders by number shall be binding upon all the lenders.

d) An RP shall be deemed to be 'implemented' only if (for no restructuring/no change in ownership case) the borrower is not in default with any of the lenders as on 180th day from the end of the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.

e) Additional Provisioning on account of delayed implementation of RP:- For all accounts- Where a viable RP in respect of a borrower is not implemented within the timelines given below, all lenders shall make additional provisions as under:

Timeline for RP	Add. provisioning
180 days from the end of Review Period	20%
365 days from the commencement of Review Period	35%

f) Lenders may or may not take a case to the IBC. They are free to formulate RP outside or under IBC. However, it gives certain incentives in the form of reversal of additional provisioning if a stressed asset is taken to IBC.

g) Requirement of 100% consent of lenders for resolution outside IBC is done away with.

4. The insolvency resolution process (IRP) is a process under the Insolvency and Bankruptcy Code, 2016, where the National Company Law Tribunal (NCLT) initiates a corporate insolvency resolution process (CIRP) when a company defaults on making payment to creditors. A financial creditor, operational creditor or corporate itself can file an application before NCLT for initiating IRP when default has occurred. Under IRP, an interim resolution professional is appointed with the power to take charge of the company which has defaulted. The professional's task is to take necessary steps to revive the company. Appointed professional also has the power to

raise fresh funds to continue operations. The IRP is granted 180 days to find a resolution, which can be extended by 90 days. If the IRP fails to find a resolution by then, the company is liquidated to pay the creditors. The resolution of a stressed project is done as per the guidelines issued by RBI and/or under the IBC Act or NCLT.

[Ministry of Power
O.M. No. P-1/2020-IPC, Dated: 28/07/2020]

Recommendation No. 3

The Committee note that the high rate of NPA in Indian Banks is sector specific phenomena and most of the non-performing loans are concentrated in few sectors viz. infrastructure, power, iron, steel, textile etc. and the reasons of stress in these sectors are separate and varying. The Committee observe that for Power Sector, factors like coal linkage related issues, delay in implementation of projects due to various reasons, non-availability of fuel, delay in land/environment clearances, inability of promoters to infuse additional funds, etc. have aggravated the problem and weak financial health of Distribution Companies (DISCOMS) have led to substantial increase in receivables of borrowing groups (i.e. receivables of Power Generating Companies), thus impacting their liquidity position. The Committee also observe that the Government have accepted that the reasons responsible for stress in Power Sector are at variance with the reasons responsible for stress in other sectors of the Economy. But even after acknowledging the differentials in reasons for sectoral sickness, uniform principles of resolution have been introduced across the sectors and this has been done on the premise that ultimately any negotiation of debt is a restatement of financial contract. The Committee have been apprised that given the sector agnostic basic principles of resolution, revised framework provide a harmonized and flexible approach. However, the Committee are not convinced with the reasons given by the Government to justify their formula for Resolution of stress because different ailments can be cured only with ailment specific remedies and if a single remedy is taken as panacea for all maladies and applied uniformly all across, it is bound to be counter-productive and is sure to aggravate the problem. The Committee, therefore, recommend that instead of adopting a sector agnostic approach for stress Resolution, more penetrative and sector friendly measures should be adopted.

Reply of the Government

1. The Government vide letter dated 29.07.2018 had decided to set up a High Level Empowered Committee (HLEC) headed by Cabinet Secretary to address the issues of Stressed Thermal Power Projects in the Country. The composition of the Committee was as under:

- i. Cabinet Secretary -Head
- ii. Chairman Railway Board -Member
- iii. Secretary, Department of Economic Affairs -Member
- iv. Secretary, Department of Financial Services – Member
- v. Secretary, Ministry of Power - Member (Convener)
- vi. Secretary, Ministry of Coal -Member
- vii. CMD, State Bank of India -Member
- viii. CMD, Power Finance Corporation – Member
- ix. CMD, Rural Electrification Corporation – Member
- x. CMD, Punjab National Bank –Member
- xi. CMD, ICICI Bank - Member

1.1. The Terms of Reference of the Committee were as follows:

- a) To assess the nature of stressed assets with a view to resolving the crisis and maximising the efficiency of investment.
- b) Changes required to be made in the fuel linkage/allocation policy/ other modes to facilitate supply of fuel to the stressed power plants.
- c) To facilitate sale of power by these stressed power plants.
- d) Suggest changes required in regulatory framework/administrative measures to facilitate faster disposal of tariff petitions/disputes and ensure interim payments during the pendency of the disputes before APTEL and other courts.
- e) Ensure timely payments by the DISCOMs, suggest payment security mechanism for IPPs.
- f) Changes required in the provisioning norms/Insolvency and Bankruptcy Code (IBC) to facilitate restructuring of the stressed assets including the changes required in Asset Restructuring Company (ARC) Regulations.
- g) Any other measures proposed for revival of stressed assets so as to avoid such investments becoming NPA.

1.2. The report of the HLEC was submitted on 12.11.18 and was also placed in the public domain on the website of Ministry of Power. The Government thereafter constituted a Group of Ministers (GoM) to examine the specific recommendations of HLEC. The Group of Ministers (GoM) made recommendations regarding stressed power projects. On 07.03.2019, the Government approved the recommendations of Group of Ministers (GoM).

Subsequently, MoP vide OM dated 08.03.2019, notified the approval of the Government. The recommendations of GoM approved by the Government are under implementation. The action taken on the recommendations is annexed as **Annexure-II**.

2. The status of 34 stressed thermal power projects identified by Department of Financial services (DFS) and analysed by Ministry of Power (MoP) is as follows:

- i) 14 projects with a total capacity of 16,450 MW have been resolved.
- ii) 13 projects with a total capacity of 16,270 MW are at various stages of resolution.
- iii) 7 projects with a total capacity of 7,410 MW are at very initial stage of construction and are totally stalled. Such projects have either been ordered to be liquidated or heading towards liquidation.”

2.1 It may be summed up as follows:

Sl. No.	Status	Nos. of projects	Capacity (MW)	Commissioned (MW)	PPA Tied (MW)	Fuel tied up (MW)
I	Resolved	14	16,450	15850	10746	13122
II	Likely to be resolved	13	16,270	10269	6817	10654
III	Heading for Liquidation	7	7,410	135	1484.5	971
Total		34	40,130	26,254	19,047.5	24,747

2.2 Detailed status is enclosed as **Annexure-III**.

3. The following steps have been taken by the Government to resolve the stress in thermal power sector:

- i) After the cancellation of 204 coal blocks, Government of India formulated a transparent policy for re-allocation of cancelled coal mines in a fair and transparent method. Government has re-allocated 62 blocks through auction/allotment till date to power sector.
- ii) Based on the request of Ministry of Power (MoP), Ministry of Coal (MoC) vide letter dated 13.04.2016 started separate e-auction window for power sector under which Coal India Limited (CIL) is making arrangements for conduct of special forward e-auction (SFeA) of coal exclusively for power sector on a sustained basis, offering adequate quantities at regular intervals so that coal is made available to such power plants on regular basis. CIL has allocated 27.12 million tonnes of coal through SFeA to the power sector during Apr, 2019 to March, 2020.

iii) Based on inputs provided by MoP, MoC vide letter dated 08.02.2016 had notified policy guidelines for grant of Bridge Linkage to specified end use plants of Central and State Public Sector Undertakings (Both in Power as well as Non- Power sector) which have been allotted coal mines or blocks. Bridge linkages applications for public sector power projects in prescribed formats have been approved.

iv) **Fuel Linkages under SHAKTI**; Government of India, Ministry of Coal has approved a new coal linkage allocation policy on May 17, 2017 named SHAKTI (Scheme for harnessing & allocating koyla transparently in India). Linkages granted under SHAKTI Policy:

a) **Shakti Policy Para B(i)**: Linkage granted to 23 nos. of Thermal Power Projects (TPPs) totaling 25,060 MW under Central/State Sector category.

b) **Shakti Policy Para B(ii)**: Coal linkages have been allotted under 1st round of B(ii) of Shakti (IPP Projects having PPA but no linkage) for 9045 MW capacity (32.68 MT) and 2nd round of B(ii) for 877.4 MW capacity (3.34 MT). In the 3rd round of B(ii) of SHAKTI, the auction was held on 11.05.2020, out of 5.66 MT offered, total 3.48 MT has been booked.

c) **Shakti Policy Para B(iii)**: Bidding held from 5th to 7th February, 2020. A non-PPA capacity of 3775 MW (Total 5995 MW) has secured linkage for 6.49 MT.

d) **Shakti Policy Para B(iv)**: Coal linkages granted to the State of Gujarat for 4,000 MW, to the State of UP for 1,600 MW and to the State of MP for 2640 MW power to be raised through tariff based competitive bidding.

e) Under B(v), aggregator (PFC) has been allotted Coal linkage (10 MT) for aggregating demand for tariff based bidding.

f) **Shakti Policy Para B(viii)(a)**: Methodology issued by MoP on 02.12.2019. Guidelines issued by CEA. Applications received from 14 nos. of bidders with plant capacity of 9,813 MW and non-PPA capacity of 8145 MW. CIL has completed the process of conducting Tranche-I auction on 19.03.2020. Out of the total offered quantity of 5.77 MT, 1.34 MT has been booked with a zero premium. For 2nd round auction under SHAKTI B(viii)(a) for the quarter July- September, 2020, out of the total offered quantity of 4.51 MT, 0.74 MT has been booked by 8 successful bidders with a zero premium.

3.1 Pilot project for procurement of 2500 MW power: In order to address the problem of lack of Power Purchase Agreements (PPAs) in the country, the Ministry of Power had notified a scheme for procurement of 2500 MW on competitive basis for a period of 3 years from the generators with commissioned projects having untied capacity.

a) **1st Round (2500 MW)**: Letter of Award (LOA) was issued to all the successful bidders (1900 MW) - PPA signed for 1900MW.

b) **2nd Round (2500 MW):** Bid Security for 21 bidders for a total capacity of 6000 MW was received. Bids opened on 07.02.2020. 12 bidders were successful with a total capacity of 2500 MW. The State of Tamil Nadu has shown interest for procuring 500MW.

3.2 **Payment Security Mechanism:** Ministry issued an order on 28.06.2019 and subsequent corrigendum thereon 17.07.2019. National & Regional Load Despatch Centres (NLDC & RLDC) have been directed to dispatch power only after it is intimated by the Generating Company and Distribution Companies that a Letter of Credit (LC) for the desired quantum of power has been opened. This has ensured timely payments by Discoms to the generators.

3.3 Under Atma Nirbhar Bharat Abhiyan, a liquidity infusion of Rs.90,000 crore has been provided wherein Power Finance Corporation Ltd (PFC) and Rural Electrification Corporation Ltd. (REC) would provided loan to Discoms against the State Government Guarantee specifically to clear the dues of Generating Companies (Gencos).

3.4 In view of the above, it may please be noted that Ministry of Power is taking all the necessary steps to reduce the stress in the power sector. It may be observed that sincere efforts have been made by the Government to make these assets standard by providing all possible assistance to them in terms of proving them options for coal linkage or offer of PPAs through Pilot schemes.

[Ministry of Power
O.M. No. P-1/2020-IPC, Dated: 28/07/2020]

Comments of the Committee

(Please see Para No. 12 of Chapter – I of the Report)

Recommendation No. 4

The Committee note that the Reserve Bank of India substituted the previous guidelines with a harmonized and simplified generic framework for resolution of stressed assets in view of the enactment of the Insolvency and Bankruptcy Code, 2016. Although the new guidelines have been termed as harmonized and simplified generic framework, yet they are far from being so. Prior to these guidelines, an asset was classified as NPA if a loan or an advance where interest or installment of principal remains overdue for a period of 90 days in respect of term loan. Similarly, stressed assets were accounts where there has been delay in payment of interest and/or payment as against the repayment schedule on account of financial difficulties of the borrower. Under the previous framework, failure of an asset to serve its debt obligation within the prescribed time was taken to be symptomatic of an incipient stress of

potential NPA and consequently, corrective measures of various grades i.e. rectification, restructuring and recovery were the options keeping in view the totality of the situation. However, the new regime have dispensed with all such measures and any failure beyond the duration of SMA (Special Mention Accounts) will directly and immediately invoke the provisions of resolution plan, making the revival extremely difficult. The committee, therefore, recommend that in the interest of the economy in general and the Electricity Sector in particular, the revised guidelines should be “harmonized and simplified” in the real sense.

Reply of the Government

1. Reserve Bank of India (RBI) vide circular DBR.No.BP.BC.101/21.04.048/2017-18 dated 12.02.2018, withdrew all debt restructuring schemes like 5/25-flexible restructuring scheme, Strategic Debt Restructuring (SDR), Outside SDR, Scheme for Sustainable Structuring of Stressed Assets (S4A) etc along with the Joint Lenders Forum (JLF) mechanism. As per the circular, the loan accounts, where the aggregate exposure of lenders is more than Rs. 2,000 Crs and where the accounts are classified as restructured accounts or where restructuring under earlier RBI Schemes is underway, Resolution Plan needed to be implemented within 180 days from 1 Mar, 2018 or 180 days from the date of first default after 1 Mar, 2018. If Resolution Plan was not implemented within the above stipulated timelines by RBI, lenders would have to file insolvency application under IBC (Insolvency Bankruptcy Code) within 15 days from the date of expiry of the said timeline.

2. The circular was challenged by APP, IPPAI and several power developers vide various petitions in High Courts across the country, which were clubbed and transferred to the Hon’ble Supreme Court later. Subsequently, the Hon’ble Supreme Court vide its judgment dated 02.04.2019 declared that the impugned RBI circular dated 12.02.2018 was ultra-vires.

3. Thereafter, RBI *vide* its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019 (**Annexure-I**), allowed the following:

- a) Review Period - once a borrower is reported to be in default by any of the lenders, lenders shall undertake a prima facie review of the borrower account within thirty days from such default.
- b) Inter-Creditor Agreement (ICA): In cases where Resolution Plan (RP) is to be implemented, all lenders shall enter into an ICA, during the above-said Review Period, to provide for ground rules for finalization and implementation of the Resolution Plan (RP).

c) The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities and 60 per cent of lenders by number shall be binding upon all the lenders.

d) An RP shall be deemed to be 'implemented' only if (for no restructuring/no change in ownership case) the borrower is not in default with any of the lenders as on 180th day from the end of the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.

e) Additional Provisioning on account of delayed implementation of RP:- For all accounts- Where a viable RP in respect of a borrower is not implemented within the timelines given below, all lenders shall make additional provisions as under:

Timeline for RP	Add. provisioning
180 days from the end of Review Period	20%
365 days from the commencement of Review Period	35%

f) Lenders may or may not take a case to the IBC. They are free to formulate RP outside or under IBC. However, it gives certain incentives in the form of reversal of additional provisioning if a stressed asset is taken to IBC.

g) Requirement of 100% consent of lenders for resolution outside IBC is done away with.

4. The insolvency resolution process (IRP) is a process under the Insolvency and Bankruptcy Code, 2016, where the National Company Law Tribunal (NCLT) initiates a corporate insolvency resolution process (CIRP) when a company defaults on making payment to creditors. A financial creditor, operational creditor or corporate itself can file an application before NCLT for initiating IRP when default has occurred. Under IRP, an interim resolution professional is appointed with the power to take charge of the company which has defaulted. The professional's task is to take necessary steps to revive the company. Appointed professional also has the power to raise fresh funds to continue operations. The IRP is granted 180 days to find a resolution, which can be extended by 90 days. If the IRP fails to find a resolution by then, the company is liquidated to pay the creditors. The resolution of a stressed project is done as per the guidelines issued by RBI and/or under the IBC Act or NCLT.

[Ministry of Power
O.M. No. P-1/2020-IPC, Dated: 28/07/2020]

Recommendation No. 5

The Committee note that the framework which was in vogue prior to issuance of these guidelines by RBI was more generic, sector friendly and harmonized. The previous Guidelines, *inter-alia*, included the framework of revitalizing the stressed assets, corporate debt restructuring scheme, flexible structuring of existing long-term project loans, strategic restructuring, debt restructuring scheme, change in ownership outside SDR, scheme for sustainable structuring of stressed assets and the Joint Lenders' Forum was an effective institutional mechanism for resolution of stressed accounts. However, these have all been withdrawn and replaced with more stringent guidelines unmindful of the problems of the Electricity Sector. The Committee are informed that the previous Guidelines have been withdrawn by the RBI as various special schemes for resolution introduced earlier were used by lenders more to address asset classification concerns rather than to affectively resolve the stressed assets and the enactment of a comprehensive Bankruptcy Law in the country has obviated the need for such specific schemes. The Committee feel that even if the previous schemes were used for the purpose of asset classification, they cannot be termed to be useless as asset classification and categorization are the basis for implementation of any of the schemes for restructuring. The Committee are of the view that one can bring new additions, replace old ones, modify existing ones, keeping in view the problems and their ramifications, but it should not be done in a cavalier manner, shorn of prevailing realities. The Committee express their anguish about the manner in which the entire exercise has been undertaken turning a Nelson's eye towards the issues and necessities of the Electricity Sector. The Committee, therefore, strongly recommend that it will be more appropriate if a reasoned view and seasoned approach are taken *vis-a-vis* the Revised Framework of RBI to emancipate the emaciated Power Sector.

Reply of the Government

1. Reserve Bank of India (RBI) vide circular DBR.No.BP.BC.101/21.04.048/2017-18 dated 12.02.2018, withdrew all debt restructuring schemes like 5/25-flexible restructuring scheme, Strategic Debt Restructuring (SDR), Outside SDR, Scheme for Sustainable Structuring of Stressed Assets (S4A) etc along with the Joint Lenders Forum (JLF) mechanism. As per the circular, the loan accounts, where the aggregate exposure of lenders is more than Rs. 2,000 Crs and where the accounts are classified as restructured accounts or where restructuring under earlier RBI Schemes is underway, Resolution Plan (RP) needed to be implemented within 180 days from 1 Mar, 2018 or 180 days from the date of first default after 1 Mar, 2018. If Resolution

Plan was not implemented within the above stipulated timelines by RBI, lenders would have to file insolvency application under IBC (Insolvency Bankruptcy Code) within 15 days from the date of expiry of the said timeline.

2. The circular was challenged by APP, IPPAI and several power developers vide various petitions in High Courts across the country, which were clubbed and transferred to the Hon'ble Supreme Court later. Subsequently, the Hon'ble Supreme Court vide its judgment dated 02.04.2019 declared that the impugned RBI circular dated 12.02.2018 is ultra-vires.

3. Thereafter, RBI *vide* its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019 (**Annexure-I**), allowed the following:

a) Review Period - once a borrower is reported to be in default by any of the lenders, lenders shall undertake a prima facie review of the borrower account within thirty days from such default.

b) Inter-Creditor Agreement (ICA): In cases where Resolution Plan (RP) is to be implemented, all lenders shall enter into an ICA, during the above-said Review Period, to provide for ground rules for finalization and implementation of the RP.

c) The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities and 60 per cent of lenders by number shall be binding upon all the lenders.

d) An RP shall be deemed to be 'implemented' only if (for no restructuring/no change in ownership case) the borrower is not in default with any of the lenders as on 180th day from the end of the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.

e) Additional Provisioning on account of delayed implementation of RP- For all accounts- Where a viable RP in respect of a borrower is not implemented within the timelines given below, all lenders shall make additional provisions as under:

Timeline for RP	Add. Provisioning
180 days from the end of Review Period	20%
365 days from the commencement of Review Period	35%

f) Lenders may or may not take a case to the IBC. They are free to formulate RP outside or under IBC. However, it gives certain incentives in the form of reversal of additional provisioning if a stressed asset is taken to IBC.

g) Requirement of 100% consent of lenders for resolution outside IBC is done away with.

[Ministry of Power
O.M No.P-1/2020-IPC, Dated 28/07/2020]

Recommendation No. 6

The Committee note that the Revised Framework of RBI provide for early identification and reporting of assets, implementation of resolution plan, implementation condition for resolution plan, timelines for large accounts to be referred under IBC etc. It *inter-alia* stipulates that the lenders shall identify incipient stress in loan accounts immediately on default by classifying stressed assets as Special Mention Accounts as per the prescribed criteria. It also prescribes that all lenders must put in place Board-approved policies for resolution of stressed assets under this framework, including the timelines for resolution and as soon as there is a default in the borrower entity's account with any lender, all lenders – singly or jointly – are asked to initiate steps to cure the default. The Committee observe that the Resolution Plan (RP) may involve any actions/plans/reorganization including, but not limited to, regularization of the account by payment of all over dues by the borrower entity, sale of the exposures to other entities/investors, change in ownership, or restructuring. The Committee feel that the various options as introduced in the Resolution Plan are not consistent in their order for curing the stress and all of them can be jointly or severally invoked for resolving the stress. The Committee also note that one of the options provided is of restructuring which has been defined as an act in which a lender, for economic or legal reasons relating to the borrower's financial difficulty grants concessions to the borrower and Restructuring would normally involve modification of terms of the advances/securities, which may include, among others, alteration of repayment period/repayable amount/the amount of installments/rate of interest; roll-over of credit facilities; sanction of additional credit facility; enhancement of existing credit limits; and, compromise settlements where time for payment of settlement amount exceeds three months. The Committee find that the restructuring is more generous and flexible concept as against the other options like regularization of the account by payment of all dues by the borrower entity, sale of the exposure to other entities/investors, change in ownership etc. The Committee are of the opinion that the coinage of restructuring in resolution plan is hollow without having any serious meaning or business which only reflects the blurred vision of RBI in understanding and appreciating the problems. The Committee expect that clarity of thought and transparency in approach should be the guiding factor to streamline and strengthen the sector squirming under ineluctable hardships.

Reply of the Government

1. Reserve Bank of India (RBI) vide circular DBR.No.BP.BC.101/21.04.048/2017-18 dated 12.02.2018, withdrew all debt restructuring schemes like 5/25-flexible restructuring scheme, Strategic Debt Restructuring (SDR), Outside SDR, Scheme for Sustainable Structuring of Stressed Assets (S4A) etc along with the Joint Lenders Forum (JLF) mechanism. As per the circular, the loan accounts, where the aggregate exposure of lenders is more than Rs. 2,000 Crs and where the accounts are classified as restructured accounts or where restructuring under earlier RBI Schemes is underway, Resolution Plan needed to be implemented within 180 days from 1 Mar, 2018 or 180 days from the date of first default after 1 Mar, 2018. If Resolution Plan was not implemented within the above stipulated timelines by RBI, lenders would have to file insolvency application under IBC (Insolvency Bankruptcy Code) within 15 days from the date of expiry of the said timeline.

2. The circular was challenged by APP, IPPAI and several power developers vide various petitions in High Courts across the country, which were clubbed and transferred to the Hon'ble Supreme Court later. Subsequently, the Hon'ble Supreme Court vide its judgment dated 2.04.2019 declared that the impugned RBI circular dated 12.02.2018 is ultra-vires.

3. Thereafter, RBI *vide* its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019 (**Annexure-I**), allowed the following:

a) Review Period - once a borrower is reported to be in default by any of the lenders, lenders shall undertake a prima facie review of the borrower account within thirty days from such default.

b) **Inter-Creditor Agreement (ICA)**: In cases where Resolution Plan (RP) is to be implemented, all lenders shall enter into an ICA, during the above-said Review Period, to provide for ground rules for finalization and implementation of the Resolution Plan (RP).

c) The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities and 60 per cent of lenders by number shall be binding upon all the lenders.

d) An RP shall be deemed to be 'implemented' only if (for no restructuring/no change in ownership case) the borrower is not in default with any of the lenders as on 180th day from the end of the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.

e) Additional Provisioning on account of delayed implementation of RP:- For all accounts- Where a viable RP in respect of a borrower is not

implemented within the timelines given below, all lenders shall make additional provisions as under:

Timeline for RP	Add. provisioning
180 days from the end of Review Period	20%
365 days from the commencement of Review Period	35%

f) Lenders may or may not take a case to the IBC. They are free to formulate RP outside or under IBC. However, it gives certain incentives in the form of reversal of additional provisioning if a stressed asset is taken to IBC.

g) Requirement of 100% consent of lenders for resolution outside IBC is done away with.

4. The insolvency resolution process (IRP) is a process under the Insolvency and Bankruptcy Code, 2016, where the National Company Law Tribunal (NCLT) initiates a corporate insolvency resolution process (CIRP) when a company defaults on making payment to creditors. A financial creditor, operational creditor or corporate itself can file an application before NCLT for initiating IRP when default has occurred. Under IRP, an interim resolution professional is appointed with the power to take charge of the company which has defaulted. The professional's task is to take necessary steps to revive the company. Appointed professional also has the power to raise fresh funds to continue operations. The IRP is granted 180 days to find a resolution, which can be extended by 90 days. If the IRP fails to find a resolution by then, the company is liquidated to pay the creditors. The resolution of a stressed project is done as per the guidelines issued by RBI and/or under the IBC Act or NCLT.

[Ministry of Power
O.M. No. P-1/2020-IPC, Dated: 28/07/2020]

Recommendation No. 7

The Committee note that the implementation conditions of the resolution plans are very stringent as the process of Resolution Plan is set in motion on default of debt service obligations even by a day. The Committee also note that the definition of default has been revised and the same has been aligned to the definition of default given in IBC. The Committee observe that the objective of the Revised Framework is to ensure prompt action to cure stress in a borrower account as soon as default takes place and the Resolution Plan should be implemented within a specified timeline of 180 days from the date of first such default failing which lenders shall have to file insolvency application, singly or jointly, under the Insolvency and Bankruptcy Code 2016(IBC) within 15 days from the expiry of the said timeline. The committee

have been apprised that finding an optimal solution exactly in 180 days is almost impossible and if no road blocks come in the way, at least 231 days are required to complete the process which includes preparation of bidding documents, technical and financial operations, invitation of bids, evaluating them and creating security etc. The representatives of the banks/lending institutions also echoed the same sentiments and stated that in case of power projects, 12 months are needed for a smooth and efficient resolution. The Committee feel that going by the prescribed timelines, every stressed project of the Power Sector will ultimately land in NCLT. The Committee observe that even the degree of consensus among the lenders for the purpose of resolution plan is a bone of contention, as RBI guidelines and IBC Code significantly differ on the percentage of consensus. The Committee, therefore, recommend that there should be unanimity among the different arms of the Government on such crucial issues like timeline and consensus percentage for resolution and they should be flexible enough to address the problem in the proper perspective and resolve it in the positive manner.

Reply of the Government

1. Reserve Bank of India (RBI) vide circular DBR.No.BP.BC.101/21.04.048/2017-18 dated 12.02.2018, withdrew all debt restructuring schemes like 5/25-flexible restructuring scheme, Strategic Debt Restructuring (SDR), Outside SDR, Scheme for Sustainable Structuring of Stressed Assets (S4A) etc along with the Joint Lenders Forum (JLF) mechanism. As per the circular, the loan accounts, where the aggregate exposure of lenders is more than Rs. 2,000 Crs and where the accounts are classified as restructured accounts or where restructuring under earlier RBI Schemes is underway, Resolution Plan (RP) needed to be implemented within 180 days from 1 Mar, 2018 or 180 days from the date of first default after 1 Mar, 2018. If Resolution Plan was not implemented within the above stipulated timelines by RBI, lenders would have to file insolvency application under IBC (Insolvency Bankruptcy Code) within 15 days from the date of expiry of the said timeline.

2. The circular was challenged by APP, IPPAI and several power developers vide various petitions in High Courts across the country, which were clubbed and transferred to the Hon'ble Supreme Court later. Subsequently, the Hon'ble Supreme Court vide its judgment dated 02.04.2019 declared that the impugned RBI circular dated 12.02.2018 is ultra-vires.

3. Thereafter, RBI *vide* its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019 (**Annexure-I**), allowed the following:

- a) Review Period - once a borrower is reported to be in default by any of the lenders, lenders shall undertake a prima facie review of the borrower account within thirty days from such default.
- b) Inter-Creditor Agreement (ICA): In cases where Resolution Plan (RP) is to be implemented, all lenders shall enter into an ICA, during the above-said Review Period, to provide for ground rules for finalization and implementation of the Resolution Plan (RP).
- c) The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities and 60 per cent of lenders by number shall be binding upon all the lenders.
- d) An RP shall be deemed to be 'implemented' only if (for no restructuring/no change in ownership case) the borrower is not in default with any of the lenders as on 180th day from the end of the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.
- e) Additional Provisioning on account of delayed implementation of RP- For all accounts- Where a viable RP in respect of a borrower is not implemented within the timelines given below, all lenders shall make additional provisions as under:

Timeline for RP	Add. Provisioning
180 days from the end of Review Period	20%
365 days from the commencement of Review Period	35%

- f) Lenders may or may not take a case to the IBC. They are free to formulate RP outside or under IBC. However, it gives certain incentives in the form of reversal of additional provisioning if a stressed asset is taken to IBC.
- g) Requirement of 100% consent of lenders for resolution outside IBC is done away with.

[Ministry of Power
O.M No.P-1/2020-IPC, Dated 28/07/2020]

Recommendation No. 8

The Committee note that the Revised Framework for Resolution of Stressed Assets prescribes that in respect of large accounts where resolution process involving restructuring/change in ownership is implemented within 180 days, the account should not be in default at any point of time during the 'specified period', failing which the lenders shall have to file an insolvency application, singly or jointly, under the IBC within 15 days from the date of such default. The 'Specified period has been explained as the period from the date of implementation of RP up to the date by which at least 20 per cent of the

outstanding principal debt as per the RP and interest capitalization sanctioned as part of the restructuring, if any, is repaid. However, the Committee have been apprised that the RBI guidelines dis-incentivize the banks against restructuring a loan with the existing promoter even in most genuine cases as the condition of 20% repayment of loan upfront is impracticable and it will force existing promoters out of the projects even in cases where they are not at fault. The Committee feel that the timeline for payment of 20% is not synchronous with the RBI's own provisional norms for substandard assets and there is no guarantee that the new promoters will bail out the project with the concession that are being offered to them. In the opinion of the Committee, the circular of RBI is discriminatory in approach to the existing promoters without being certain about the resolution of the issue. The Committee also feel that this kind of approach will not help in addressing the real issues. The committee, therefore, recommend that the RBI should accordingly amend its Guidelines to make them amenable in an unbiased manner so that the problems are addressed adequately.

Reply of the Government

1. Reserve Bank of India (RBI) vide circular DBR.No.BP.BC.101/21.04.048/2017-18 dated 12.02.2018, withdrew all debt restructuring schemes like 5/25-flexible restructuring scheme, Strategic Debt Restructuring (SDR), Outside SDR, Scheme for Sustainable Structuring of Stressed Assets (S4A) etc along with the Joint Lenders Forum (JLF) mechanism. As per the circular, the loan accounts, where the aggregate exposure of lenders is more than Rs. 2,000 Crs and where the accounts are classified as restructured accounts or where restructuring under earlier RBI Schemes is underway, Resolution Plan needed to be implemented within 180 days from 1 Mar, 2018 or 180 days from the date of first default after 1 Mar, 2018. If Resolution Plan was not implemented within the above stipulated timelines by RBI, lenders would have to file insolvency application under IBC (Insolvency Bankruptcy Code) within 15 days from the date of expiry of the said timeline.
2. The circular was challenged by APP, IPPAI and several power developers vide various petitions in High Courts across the country, which were clubbed and transferred to the Hon'ble Supreme Court later. Subsequently, the Hon'ble Supreme Court vide its judgment dated 2.04.2019 declared that the impugned RBI circular dated 12.02.2018 is ultra-vires.
3. Thereafter, RBI *vide* its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019 (**Annexure-I**), allowed the following:

a) Review Period - once a borrower is reported to be in default by any of the lenders, lenders shall undertake a prima facie review of the borrower account within thirty days from such default.

b) **Inter-Creditor Agreement (ICA):** In cases where Resolution Plan (RP) is to be implemented, all lenders shall enter into an ICA, during the above-said Review Period, to provide for ground rules for finalization and implementation of the Resolution Plan (RP).

c) The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities and 60 per cent of lenders by number shall be binding upon all the lenders.

d) An RP shall be deemed to be 'implemented' only if (for no restructuring/no change in ownership case) the borrower is not in default with any of the lenders as on 180th day from the end of the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.

e) Additional Provisioning on account of delayed implementation of RP:- For all accounts- Where a viable RP in respect of a borrower is not implemented within the timelines given below, all lenders shall make additional provisions as under:

Timeline for RP	Add. provisioning
180 days from the end of Review Period	20%
365 days from the commencement of Review Period	35%

f) Lenders may or may not take a case to the IBC. They are free to formulate RP outside or under IBC. However, it gives certain incentives in the form of reversal of additional provisioning if a stressed asset is taken to IBC.

g) Requirement of 100% consent of lenders for resolution outside IBC is done away with.

4. The insolvency resolution process (IRP) is a process under the Insolvency and Bankruptcy Code, 2016, where the National Company Law Tribunal (NCLT) initiates a corporate insolvency resolution process (CIRP) when a company defaults on making payment to creditors. A financial creditor, operational creditor or corporate itself can file an application before NCLT for initiating IRP when default has occurred. Under IRP, an interim resolution professional is appointed with the power to take charge of the company which has defaulted. The professional's task is to take necessary steps to revive the company. Appointed professional also has the power to raise fresh funds to continue operations. The IRP is granted 180 days to find a resolution, which can be extended by 90 days. If the IRP fails to find a resolution by then, the company is liquidated to pay the creditors. The

resolution of a stressed project is done as per the guidelines issued by RBI and/or under the IBC Act or NCLT.

[Ministry of Power
O.M. No. P-1/2020-IPC, Dated: 28/07/2020]

Recommendation No. 9

The Committee note that the concept and definition of default in Insolvency and Bankruptcy Code, 2016 as well as in new guidelines of RBI has been given a new dimension and this has led to difficulties in tackling the issue of NPA in a holistic manner. The Committee have been apprised that one day default does not result in reference to NCLT at all and the 90 days definition for NPA classification has been maintained as it is. As per RBI, the one day default will set in motion a process to deal with the problem within 180 days and if the problem is solved within 180 days, the case does not go to NCLT. The Committee observe that there is no restrictions on lending if an account is an SMA or even an NPA. The Committee have been apprised that being an SMA is no stigma and it is only to indicate that the banks have to deal with the stressed asset. The Committee understand the spirit of the Guidelines of RBI, but its implementation on the ground is far from being real and workable. The Committee find that once the account is classified as NPA, even if the project is functioning and generating power, Banks do not support them for working capital. Despite Reserve Bank of India's categorical stand that Banks have never been asked to stop financing these projects, the banks maintain that once projects are specified as NPA, they can not give any more finance. This, according to the Committee, is a catch 22 situation, so clear and conclusive instructions are required in this regard. The Committee, therefore, recommend that to salvage the commercially operational stressed projects, necessary instructions should be issued regarding the availability of working capital or other financial requirements of the projects that will help them to float and become standard again.

Reply of the Government

1. Reserve Bank of India (RBI) vide circular DBR.No.BP.BC.101/21.04.048/2017-18 dated 12.02.2018, withdrew all debt restructuring schemes like 5/25-flexible restructuring scheme, Strategic Debt Restructuring (SDR), Outside SDR, Scheme for Sustainable Structuring of Stressed Assets (S4A) etc along with the Joint Lenders Forum (JLF) mechanism. As per the circular, the loan accounts, where the aggregate exposure of lenders is more than Rs. 2,000 Crs and where the accounts are classified as restructured accounts or where restructuring under earlier RBI Schemes is underway,

Resolution Plan needed to be implemented within 180 days from 1 Mar, 2018 or 180 days from the date of first default after 1 Mar, 2018. If Resolution Plan was not implemented within the above stipulated timelines by RBI, lenders would have to file insolvency application under IBC (Insolvency Bankruptcy Code) within 15 days from the date of expiry of the said timeline.

2. The circular was challenged by APP, IPPAI and several power developers vide various petitions in High Courts across the country, which were clubbed and transferred to the Hon'ble Supreme Court later. Subsequently, the Hon'ble Supreme Court vide its judgment dated 2.04.2019 declared that the impugned RBI circular dated 12.02.2018 is ultra-vires.

3. Thereafter, RBI *vide* its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019 (**Annexure-I**), allowed the following:

a) Review Period - once a borrower is reported to be in default by any of the lenders, lenders shall undertake a prima facie review of the borrower account within thirty days from such default.

b) **Inter-Creditor Agreement (ICA)**: In cases where Resolution Plan (RP) is to be implemented, all lenders shall enter into an ICA, during the above-said Review Period, to provide for ground rules for finalization and implementation of the Resolution Plan (RP).

c) The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities and 60 per cent of lenders by number shall be binding upon all the lenders.

d) An RP shall be deemed to be 'implemented' only if (for no restructuring/no change in ownership case) the borrower is not in default with any of the lenders as on 180th day from the end of the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.

e) Additional Provisioning on account of delayed implementation of RP:- For all accounts- Where a viable RP in respect of a borrower is not implemented within the timelines given below, all lenders shall make additional provisions as under:

Timeline for RP	Add. Provisioning
180 days from the end of Review Period	20%
365 days from the commencement of Review Period	35%

f) Lenders may or may not take a case to the IBC. They are free to formulate RP outside or under IBC. However, it gives certain incentives in the form of reversal of additional provisioning if a stressed asset is taken to IBC.

g) Requirement of 100% consent of lenders for resolution outside IBC is done away with.

4. In a meeting taken by Hon'ble Minister of Power held on 21.10.2019 (**Annexure-IV**) all the concerned banks were advised to consider the request for Working Capital of operating /commissioned units having both PPA and Fuel Supply agreement (FSA) expeditiously.

[Ministry of Power
O.M. No. P-1/2020-IPC, Dated: 28/07/2020]

Recommendation No. 10

The Committee note that consequent to default in debt services obligation, the interim resolution professional shall constitute a Committee of Creditors comprising all financial creditors of the corporate debtors. The Committee observe that the Committee of Creditors endeavors to resolve insolvency through resolution plans and have been vested with wide ranging powers that include raising of interim finance, creating security interest over the asset of corporate debtor and changing the capital structure etc. as well. The Committee feel that the reply furnished by the Government, in response to a query regarding the purpose behind creation of CoC and if the creation, constitution and constituents of CoC are against the principle of natural justice as in all likelihood it may adopt a scoot approach so as to absolve themselves from any accountability, is unsatisfactory. The Committee feel that these guidelines have led to a situation wherein insolvency proceedings have been taken as fate accompli by the bankers and the role, responsibility and accountability of the bankers has been willfully sidelined as they prefer the option of insolvency as a better way to shed their responsibilities and dodge their accountability. The Committee are of the opinion that CoC is a perfect case of being Judge, Jury and Executioner in itself. The Committee as such are not against the CoC but feel there should be some safeguards or provisions wherein a judicious and justifiable regime is established to deal with the matter. The Committee therefore recommend that any scheme or system for resolution of NPA problem should be just, transparent, accountable and trustworthy in the eyes of the people.

Reply of the Government

1. Reserve Bank of India (RBI) vide circular DBR.No.BP.BC.101/21.04.048/2017-18 dated 12.02.2018, withdrew all debt restructuring schemes like 5/25-flexible restructuring scheme, Strategic Debt Restructuring (SDR), Outside SDR, Scheme for Sustainable Structuring of Stressed Assets (S4A) etc along with the Joint Lenders Forum (JLF) mechanism. As per the circular, the loan accounts, where the aggregate exposure of lenders is more than Rs. 2,000 Crs and where the accounts are classified as restructured

accounts or where restructuring under earlier RBI Schemes is underway, Resolution Plan needed to be implemented within 180 days from 1 Mar, 2018 or 180 days from the date of first default after 1 Mar, 2018. If Resolution Plan was not implemented within the above stipulated timelines by RBI, lenders would have to file insolvency application under IBC (Insolvency Bankruptcy Code) within 15 days from the date of expiry of the said timeline.

2. The circular was challenged by APP, IPPAI and several power developers vide various petitions in High Courts across the country, which were clubbed and transferred to the Hon'ble Supreme Court later. Subsequently, the Hon'ble Supreme Court vide its judgment dated 2.04.2019 declared that the impugned RBI circular dated 12.02.2018 is ultra-vires.

3. Thereafter, RBI *vide* its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019 (**Annexure-I**), allowed the following:

a) Review Period - once a borrower is reported to be in default by any of the lenders, lenders shall undertake a prima facie review of the borrower account within thirty days from such default.

b) **Inter-Creditor Agreement (ICA)**: In cases where Resolution Plan (RP) is to be implemented, all lenders shall enter into an ICA, during the above-said Review Period, to provide for ground rules for finalization and implementation of the Resolution Plan (RP).

c) The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities and 60 per cent of lenders by number shall be binding upon all the lenders.

d) An RP shall be deemed to be 'implemented' only if (for no restructuring/no change in ownership case) the borrower is not in default with any of the lenders as on 180th day from the end of the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.

e) Additional Provisioning on account of delayed implementation of RP:- For all accounts- Where a viable RP in respect of a borrower is not implemented within the timelines given below, all lenders shall make additional provisions as under:

Timeline for RP	Add. provisioning
180 days from the end of Review Period	20%
365 days from the commencement of Review Period	35%

f) Lenders may or may not take a case to the IBC. They are free to formulate RP outside or under IBC. However, it gives certain incentives in the form of reversal of additional provisioning if a stressed asset is taken to IBC.

g) Requirement of 100% consent of lenders for resolution outside IBC is done away with.

4. The insolvency resolution process (IRP) is a process under the Insolvency and Bankruptcy Code, 2016, where the National Company Law Tribunal (NCLT) initiates a corporate insolvency resolution process (CIRP) when a company defaults on making payment to creditors. A financial creditor, operational creditor or corporate itself can file an application before NCLT for initiating IRP when default has occurred. Under IRP, an interim resolution professional is appointed with the power to take charge of the company which has defaulted. The professional's task is to take necessary steps to revive the company. Appointed professional also has the power to raise fresh funds to continue operations. The IRP is granted 180 days to find a resolution, which can be extended by 90 days. If the IRP fails to find a resolution by then, the company is liquidated to pay the creditors. The resolution of a stressed project is done as per the guidelines issued by RBI and/or under the IBC Act or NCLT.

[Ministry of Power
O.M. No. P-1/2020-IPC, Dated: 28/07/2020]

Recommendation No. 11

The Committee note that the Committee of Creditors has been given wide scope and vast landscape to maneuver. In the given circumstances, it may be necessary, but it would have been more prudent had some hedging been done to strike a balance so as to do away with any possibility of misdemeanor or misadventure. In response to a query about the safeguards that have been introduced to preclude the possibility of CoC colluding with possible purchasers/owner of the liquidated property/power plant, it has been submitted that as per amendments made to the IBC, any person who has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, which is classified as non-performing asset are not allowed to participate in the bidding process as per Section 29A. The Committee feel that the reply of the Government is not satisfactory as it speaks only about those who have become the defaulters as per the provisions of RBI Guidelines or IBC 2016. The Committee find that the Committee of Creditors is in an enviable position with regard to the resolution of NPA and hence its functioning should be unimpeachable. The Committee, therefore recommend that suitable safeguard should be introduced to make the CoC irreproachable.

Reply of the Government

1. Reserve Bank of India (RBI) vide circular DBR.No.BP.BC.101/21.04.048/2017-18 dated 12.02.2018, withdrew all debt restructuring schemes like 5/25-flexible restructuring scheme, Strategic Debt Restructuring (SDR), Outside SDR, Scheme for Sustainable Structuring of Stressed Assets (S4A) etc along with the Joint Lenders Forum (JLF) mechanism. As per the circular, the loan accounts, where the aggregate exposure of lenders is more than Rs. 2,000 Crs and where the accounts are classified as restructured accounts or where restructuring under earlier RBI Schemes is underway, Resolution Plan needed to be implemented within 180 days from 1 Mar, 2018 or 180 days from the date of first default after 1 Mar, 2018. If Resolution Plan was not implemented within the above stipulated timelines by RBI, lenders would have to file insolvency application under IBC (Insolvency Bankruptcy Code) within 15 days from the date of expiry of the said timeline.

2. The circular was challenged by APP, IPPAI and several power developers vide various petitions in High Courts across the country, which were clubbed and transferred to the Hon'ble Supreme Court later. Subsequently, the Hon'ble Supreme Court vide its judgment dated 2.04.2019 declared that the impugned RBI circular dated 12.02.2018 is ultra-vires.

3. Thereafter, RBI *vide* its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019 (**Annexure-I**), allowed the following:

a) Review Period - once a borrower is reported to be in default by any of the lenders, lenders shall undertake a prima facie review of the borrower account within thirty days from such default.

b) **Inter-Creditor Agreement (ICA)**: In cases where Resolution Plan (RP) is to be implemented, all lenders shall enter into an ICA, during the above-said Review Period, to provide for ground rules for finalization and implementation of the Resolution Plan (RP).

c) The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities and 60 per cent of lenders by number shall be binding upon all the lenders.

d) An RP shall be deemed to be 'implemented' only if (for no restructuring/no change in ownership case) the borrower is not in default with any of the lenders as on 180th day from the end of the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.

e) Additional Provisioning on account of delayed implementation of RP:- For all accounts- Where a viable RP in respect of a borrower is not

implemented within the timelines given below, all lenders shall make additional provisions as under:

Timeline for RP	Add. provisioning
180 days from the end of Review Period	20%
365 days from the commencement of Review Period	35%

f) Lenders may or may not take a case to the IBC. They are free to formulate RP outside or under IBC. However, it gives certain incentives in the form of reversal of additional provisioning if a stressed asset is taken to IBC.

g) Requirement of 100% consent of lenders for resolution outside IBC is done away with.

4. The insolvency resolution process (IRP) is a process under the Insolvency and Bankruptcy Code, 2016, where the National Company Law Tribunal (NCLT) initiates a corporate insolvency resolution process (CIRP) when a company defaults on making payment to creditors. A financial creditor, operational creditor or corporate itself can file an application before NCLT for initiating IRP when default has occurred. Under IRP, an interim resolution professional is appointed with the power to take charge of the company which has defaulted. The professional's task is to take necessary steps to revive the company. Appointed professional also has the power to raise fresh funds to continue operations. The IRP is granted 180 days to find a resolution, which can be extended by 90 days. If the IRP fails to find a resolution by then, the company is liquidated to pay the creditors. The resolution of a stressed project is done as per the guidelines issued by RBI and/or under the IBC Act or NCLT.

[Ministry of Power
O.M. No. P-1/2020-IPC, Dated: 28/07/2020]

Recommendation No. 12

The Committee note that about 66 GW of conventional energy is under various degrees of financial stress which include 54805 MW of Coal based Power (44 assets), 6831 MW of Gas based Power (9 assets) and 4571 MW of Hydro power (13 assets). In addition, certain assets from Power Sector have already been referred for CIRP under IBC. The Committee also note that the outcomes of RBI's Revised Framework with respect to the Electricity Sector have been very disappointing with major lenders to power sector IPPs displaying significant accretion to NPAs and their slippages have exceeded Rs. 1.8 lakh crores in Q 4- FY 2018 and slippages of 6 major lenders have exceeded Rs. 61,000 crores. The Committee observe that the Ministry of Power was never formally consulted by the RBI for revision of the Guidelines. The Committee

also observe that the lenders' action for resolving stressed assets in the Electricity Sector are beset with glaring limitations like Sub-optimal Bid Outcome, small buyer universe and weak commercial framework. For a Power Project in Chhattisgarh, against the debt of Rs. 8300 crores, an offer of only Rs. 2500 crores has been made i.e. a hair-cut of about 70 per cent has to be incurred and a Power Plant in Jharkhand got a bid of Rs. 35 lakh per MW. One of the stressed plants have been restructured but it is still in stress because the promoters can not solve the systemic issues. The Committee are of the opinion that forced sale under the NCLT will end up causing a big sacrifice of public money without any benefit to the Economy or to the Electricity Sector which would be baffling and disastrous. The Committee feel that this entire exercise seems to have failed in its Mission and rendered the new framework worthless. The Committee express its deep anguish over the situation and expect that RBI should have considered macro issues of Electricity Sector before finalizing the guidelines as the Revised Framework of RBI will not help the Electricity Sector in its revival prospects. The Committee, therefore, strongly recommend that RBI should consider the problems of the Electricity Sector which are responsible for stress rather than concentrating on the management of NPA only and should accordingly synchronize its efforts and directives.

Reply of the Government

1. Reserve Bank of India (RBI) vide circular DBR.No.BP.BC.101/21.04.048/2017-18 dated 12.02.2018, withdrew all debt restructuring schemes like 5/25-flexible restructuring scheme, Strategic Debt Restructuring (SDR), Outside SDR, Scheme for Sustainable Structuring of Stressed Assets (S4A) etc along with the Joint Lenders Forum (JLF) mechanism. As per the circular, the loan accounts, where the aggregate exposure of lenders is more than Rs. 2,000 Crs and where the accounts are classified as restructured accounts or where restructuring under earlier RBI Schemes is underway, Resolution Plan needed to be implemented within 180 days from 1 Mar, 2018 or 180 days from the date of first default after 1 Mar, 2018. If Resolution Plan was not implemented within the above stipulated timelines by RBI, lenders would have to file insolvency application under IBC (Insolvency Bankruptcy Code) within 15 days from the date of expiry of the said timeline.

2. The circular was challenged by APP, IPPAI and several power developers vide various petitions in High Courts across the country, which were clubbed and transferred to the Hon'ble Supreme Court later. Subsequently, the Hon'ble Supreme Court vide its judgment dated 2.04.2019 declared that the impugned RBI circular dated 12.02.2018 is ultra-vires.

3. Thereafter, RBI *vide* its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019, allowed the following:

a) Review Period - once a borrower is reported to be in default by any of the lenders, lenders shall undertake a prima facie review of the borrower account within thirty days from such default.

b) **Inter-Creditor Agreement (ICA):** In cases where Resolution Plan (RP) is to be implemented, all lenders shall enter into an ICA, during the above-said Review Period, to provide for ground rules for finalization and implementation of the Resolution Plan (RP).

c) The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities and 60 per cent of lenders by number shall be binding upon all the lenders.

d) An RP shall be deemed to be 'implemented' only if (for no restructuring/no change in ownership case) the borrower is not in default with any of the lenders as on 180th day from the end of the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.

e) Additional Provisioning on account of delayed implementation of RP:- For all accounts- Where a viable RP in respect of a borrower is not implemented within the timelines given below, all lenders shall make additional provisions as under:

Timeline for RP	Add. provisioning
180 days from the end of Review Period	20%
365 days from the commencement of Review Period	35%

f) Lenders may or may not take a case to the IBC. They are free to formulate RP outside or under IBC. However, it gives certain incentives in the form of reversal of additional provisioning if a stressed asset is taken to IBC.

g) Requirement of 100% consent of lenders for resolution outside IBC is done away with.

[Ministry of Power
O.M. No. P-1/2020-IPC, Dated: 28/07/2020]

Recommendation No. 13

The Committee presented their 37th Report to help resolve the NPA problem of the Electricity Sector, suggesting workable proposition keeping in view the legal/financial/ statutory provisions then in vogue. However, the new guidelines of RBI have created extraordinary and worrisome situation for the Electricity Sector of the country. These guidelines were issued to address the problem of stressed assets in the Economy irrespective of the sectoral concerns and confines. Consequently, the Electricity Sector today is in a

marshy condition. In addition to under construction power plants, even the operational and functional units are on the verge of becoming NPA. It is the fallout of knee-jerk response of the RBI. The turbulent headwinds in which the Electricity Sector is in today, is the systemic offshoot and if not navigated carefully the sailing will not only be tumultuous but has the potential of crash-landing also. The investment in the Electricity Sector whether private or otherwise is Public Money and everybody is concerned for it. The discretion of RBI should coordinate and cooperate with other factors which are integral part of the problem and well within the realm of resolution. The Committee find that the efforts made so far has been part of our national endeavor to achieve self-sufficiency in the field of Energy. Financing of these activities is one among the other chapters of the entire Plan. Though, very vital for successful completion of the project, but the finances should not be allowed to hijack or stymie the other efforts. The Committee therefore, recommend that a holistic view should be taken about the systemic constraints rather than a lopsided approach looking at management of NPA only without addressing the genesis of the problem.

Reply of the Government

1. The Government vide letter dated 29.07.2018 had decided to set up a High Level Empowered Committee (HLEC) headed by Cabinet Secretary to address the issues of Stressed Thermal Power Projects in the Country. The composition of the Committee was as under:

- i. Cabinet Secretary -Head
- ii. Chairman Railway Board -Member
- iii. Secretary, Department of Economic Affairs -Member
- iv. Secretary, Department of Financial Services – Member
- v. Secretary, Ministry of Power - Member (Convener)
- vi. Secretary, Ministry of Coal -Member
- vii. CMD, State Bank of India -Member
- viii. CMD, Power Finance Corporation – Member
- ix. CMD, Rural Electrification Corporation – Member
- x. CMD, Punjab National Bank –Member
- xi. CMD, ICICI Bank - Member

1.2. The Terms of Reference of the Committee were as follows:

- a) To assess the nature of stressed assets with a view to resolving the crisis and maximising the efficiency of investment.
- b) Changes required to be made in the fuel linkage/allocation policy/ other modes to facilitate supply of fuel to the stressed power plants.
- c) To facilitate sale of power by these stressed power plants.

- d) Suggest changes required in regulatory framework/administrative measures to facilitate faster disposal of tariff petitions/disputes and ensure interim payments during the pendency of the disputes before APTEL and other courts.
- e) Ensure timely payments by the DISCOMs, suggest payment security mechanism for IPPs.
- f) Changes required in the provisioning norms/Insolvency and Bankruptcy Code (IBC) to facilitate restructuring of the stressed assets including the changes required in Asset Restructuring Company (ARC) Regulations.
- g) Any other measures proposed for revival of stressed assets so as to avoid such investments becoming NPA.

1.3. The report of the HLEC was submitted on 12.11.18 and was also placed in the public domain on the website of Ministry of Power. The Government thereafter constituted a Group of Ministers (GoM) to examine the specific recommendations of HLEC. The Group of Ministers (GoM) made recommendations regarding stressed power projects. On 07.03.2019, the Government approved the recommendations of Group of Ministers (GoM). Subsequently, MoP vide OM dated 08.03.2019, notified the approval of the Government. The recommendations of GoM approved by the Government are under implementation. The action taken on the recommendations is annexed as **Annexure-II**.

2. Reserve Bank of India (RBI) vide circular DBR.No.BP.BC.101/21.04.048/2017-18 dated 12.02.2018, withdrew all debt restructuring schemes like 5/25-flexible restructuring scheme, Strategic Debt Restructuring (SDR), Outside SDR, Scheme for Sustainable Structuring of Stressed Assets (S4A) etc along with the Joint Lenders Forum (JLF) mechanism. As per the circular, the loan accounts, where the aggregate exposure of lenders is more than Rs. 2,000 Crs and where the accounts are classified as restructured accounts or where restructuring under earlier RBI Schemes is underway, Resolution Plan needed to be implemented within 180 days from 1 Mar, 2018 or 180 days from the date of first default after 1 Mar, 2018. If Resolution Plan was not implemented within the above stipulated timelines by RBI, lenders would have to file insolvency application under IBC (Insolvency Bankruptcy Code) within 15 days from the date of expiry of the said timeline.

2.1. The circular was challenged by APP, IPPAI and several power developers vide various petitions in High Courts across the country, which were clubbed and transferred to the Hon'ble Supreme Court later. Subsequently, the Hon'ble Supreme Court vide its judgment dated 2.04.2019 declared that the impugned RBI circular dated 12.02.2018 is ultra-vires.

2.2. Thereafter, RBI *vide* its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019, allowed the following:

a) Review Period - once a borrower is reported to be in default by any of the lenders, lenders shall undertake a prima facie review of the borrower account within thirty days from such default.

b) **Inter-Creditor Agreement (ICA):** In cases where Resolution Plan (RP) is to be implemented, all lenders shall enter into an ICA, during the above-said Review Period, to provide for ground rules for finalization and implementation of the Resolution Plan (RP).

c) The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities and 60 per cent of lenders by number shall be binding upon all the lenders.

d) An RP shall be deemed to be 'implemented' only if (for no restructuring/no change in ownership case) the borrower is not in default with any of the lenders as on 180th day from the end of the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.

e) Additional Provisioning on account of delayed implementation of RP:- For all accounts- Where a viable RP in respect of a borrower is not implemented within the timelines given below, all lenders shall make additional provisions as under:

Timeline for RP	Add. provisioning
180 days from the end of Review Period	20%
365 days from the commencement of Review Period	35%

f) Lenders may or may not take a case to the IBC. They are free to formulate RP outside or under IBC. However, it gives certain incentives in the form of reversal of additional provisioning if a stressed asset is taken to IBC.

g) Requirement of 100% consent of lenders for resolution outside IBC is done away with.

[Ministry of Power
O.M. No. P-1/2020-IPC, Dated: 28/07/2020]

Recommendation No. 14

The Committee observe that the Electricity Sector is in a transitional phase and is moving from a low demand-low supply situation to a moderately high demand context. The Committee feel that the RBI framework is ignorant as well as unmindful of prevailing reality of the Electricity sector and that is why it addresses only the financial issues ignoring the whole range of vital issues of the Electricity sector. The Committee are of the view that two major important

contexts should be taken into consideration - one is the need for a national energy security in the context of managing the transition in the Electricity Sector and the other is the need to preserve, protect and conserve these stressed assets as these are national assets at the end of the day. There are doubts that all the stressed power projects would ultimately be referred to NCLT wherein-after they will be auctioned at throw away prices. The Committee are not in favour of such procedure which is more for dissolution rather than resolution of stressed assets. The Committee caution about the intrinsic weakness of the proposed system because taking a cue, the deep pockets may enter the fray, stake their bids, pocket the projects and later when the demand for the electricity goes up; they will sell these projects at high prices and siphon off the money without doing anything. At the end, it will be the public which have to take the hit which has been conveniently facilitated by the revised framework of the RBI. The Committee feel that even the under construction projects should not be put under the resolution process as the construction of a power plant begins only after the completion of lot many complicated procedures and formalities and hence in addition to the money, all the efforts invested on these formalities will also go in waste. The Committee therefore, strongly recommend that with a view to ensure power security and also to avoid wastage of collective efforts, a new framework should be put in place which safeguards the transient sagging situation of the Electricity Sector and provides the much needed stimulus.

Reply of the Government

1. Reserve Bank of India (RBI) vide circular DBR.No.BP.BC.101/21.04.048/2017-18 dated 12.02.2018, withdrew all debt restructuring schemes like 5/25-flexible restructuring scheme, Strategic Debt Restructuring (SDR), Outside SDR, Scheme for Sustainable Structuring of Stressed Assets (S4A) etc along with the Joint Lenders Forum (JLF) mechanism. As per the circular, the loan accounts, where the aggregate exposure of lenders is more than Rs. 2,000 Crs and where the accounts are classified as restructured accounts or where restructuring under earlier RBI Schemes is underway, Resolution Plan needed to be implemented within 180 days from 1 Mar, 2018 or 180 days from the date of first default after 1 Mar, 2018. If Resolution Plan was not implemented within the above stipulated timelines by RBI, lenders would have to file insolvency application under IBC (Insolvency Bankruptcy Code) within 15 days from the date of expiry of the said timeline.

2. The circular was challenged by APP, IPPAI and several power developers vide various petitions in High Courts across the country, which were clubbed and transferred to the Hon'ble Supreme Court later.

Subsequently, the Hon'ble Supreme Court vide its judgment dated 2.04.2019 declared that the impugned RBI circular dated 12.02.2018 is ultra-vires.

3. Thereafter, RBI *vide* its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019 (**Annexure-I**), allowed the following:

a) Review Period - once a borrower is reported to be in default by any of the lenders, lenders shall undertake a prima facie review of the borrower account within thirty days from such default.

b) **Inter-Creditor Agreement (ICA)**: In cases where Resolution Plan (RP) is to be implemented, all lenders shall enter into an ICA, during the above-said Review Period, to provide for ground rules for finalization and implementation of the Resolution Plan (RP).

c) The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities and 60 per cent of lenders by number shall be binding upon all the lenders.

d) An RP shall be deemed to be 'implemented' only if (for no restructuring/no change in ownership case) the borrower is not in default with any of the lenders as on 180th day from the end of the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.

e) Additional Provisioning on account of delayed implementation of RP:- For all accounts- Where a viable RP in respect of a borrower is not implemented within the timelines given below, all lenders shall make additional provisions as under:

Timeline for RP	Add. provisioning
180 days from the end of Review Period	20%
365 days from the commencement of Review Period	35%

f) Lenders may or may not take a case to the IBC. They are free to formulate RP outside or under IBC. However, it gives certain incentives in the form of reversal of additional provisioning if a stressed asset is taken to IBC.

g) Requirement of 100% consent of lenders for resolution outside IBC is done away with.

4. The insolvency resolution process (IRP) is a process under the Insolvency and Bankruptcy Code, 2016, where the National Company Law Tribunal (NCLT) initiates a corporate insolvency resolution process (CIRP) when a company defaults on making payment to creditors. A financial creditor, operational creditor or corporate itself can file an application before NCLT for initiating IRP when default has occurred. Under IRP, an interim resolution professional is appointed with the power to take charge of the company which has defaulted. The professional's task is to take necessary

steps to revive the company. Appointed professional also has the power to raise fresh funds to continue operations. The IRP is granted 180 days to find a resolution, which can be extended by 90 days. If the IRP fails to find a resolution by then, the company is liquidated to pay the creditors. The resolution of a stressed project is done as per the guidelines issued by RBI and/or under the IBC Act or NCLT.

[Ministry of Power
O.M. No. P-1/2020-IPC, Dated: 28/07/2020]

Recommendation No. 15

The Committee note that the Revised Framework of RBI has stipulated rigorous procedure and stiff timeline for resolution of stressed assets without specifying the minimum quantum of retrievable value of such assets. The duration of various stages of SMAs and resolution plan are prescribed and defined. However, upon reference to NCLT, the timeline provision seems to be of no essence to the Government. During the currency of resolution plan, the assets can be extremely devalued resulting into loss of public money in the form of HAIR-CUT. Similarly, NCLT proceedings will also result in similar situation albeit adopting a quasi judicial approach. The Committee feel that the HAIR-CUT as envisaged under the framework is nothing but a deep economic wound with festering ramifications. The functioning and workload of NCLT may create unpredictable situations, the consequences of which can be quantified in monetary terms only after the finality of the issue. But the factors associated with the process are not infallible and thus the consequences may be enormous. If these resultant consequences of Resolution and NCLT process are put together and weighed against the efforts and consequences of reviving the power plants of whatsoever nature and character, the Committee are sure the latter will definitely be the less burdensome and relatively more fructuous for the Economy and the Nation. This is more so when there is no ceiling on the proposed HAIR-CUT which is a euphemism for front and deep economic wound. The Committee therefore, recommend that the power sector, being the nucleus for growth of Economy and development of the Nation, should be protected from this temporary phase of uncertainty so that these Power Plants can be put to use at the time of need which is certain to happen sooner than later.

Reply of the Government

1.1. Reserve Bank of India (RBI) vide circular DBR.No.BP.BC.101/21.04.048/2017-18 dated 12.02.2018, withdrew all debt restructuring schemes like 5/25-flexible restructuring scheme, Strategic Debt Restructuring

(SDR), Outside SDR, Scheme for Sustainable Structuring of Stressed Assets (S4A) etc along with the Joint Lenders Forum (JLF) mechanism. As per the circular, the loan accounts, where the aggregate exposure of lenders is more than Rs. 2,000 Crs and where the accounts are classified as restructured accounts or where restructuring under earlier RBI Schemes is underway, Resolution Plan needed to be implemented within 180 days from 1 Mar, 2018 or 180 days from the date of first default after 1 Mar, 2018. If Resolution Plan was not implemented within the above stipulated timelines by RBI, lenders would have to file insolvency application under IBC (Insolvency Bankruptcy Code) within 15 days from the date of expiry of the said timeline.

1.2. The circular was challenged by APP, IPPAI and several power developers vide various petitions in High Courts across the country, which were clubbed and transferred to the Hon'ble Supreme Court later. Subsequently, the Hon'ble Supreme Court vide its judgment dated 2.04.2019 declared that the impugned RBI circular dated 12.02.2018 is ultra-vires.

1.3. Thereafter, RBI *vide* its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019, allowed the following:

- a) Review Period - once a borrower is reported to be in default by any of the lenders, lenders shall undertake a prima facie review of the borrower account within thirty days from such default.
- b) **Inter-Creditor Agreement (ICA):** In cases where Resolution Plan (RP) is to be implemented, all lenders shall enter into an ICA, during the above-said Review Period, to provide for ground rules for finalization and implementation of the Resolution Plan (RP).
- c) The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities and 60 per cent of lenders by number shall be binding upon all the lenders.
- d) An RP shall be deemed to be 'implemented' only if (for no restructuring/no change in ownership case) the borrower is not in default with any of the lenders as on 180th day from the end of the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.
- e) Additional Provisioning on account of delayed implementation of RP:- For all accounts- Where a viable RP in respect of a borrower is not implemented within the timelines given below, all lenders shall make additional provisions as under:

Timeline for RP	Add. Provisioning
180 days from the end of Review Period	20%
365 days from the commencement of Review Period	35%

f) Lenders may or may not take a case to the IBC. They are free to formulate RP outside or under IBC. However, it gives certain incentives in the form of reversal of additional provisioning if a stressed asset is taken to IBC.

g) Requirement of 100% consent of lenders for resolution outside IBC is done away with.

2. The insolvency resolution process (IRP) is a process under the Insolvency and Bankruptcy Code, 2016, where the National Company Law Tribunal (NCLT) initiates a corporate insolvency resolution process (CIRP) when a company defaults on making payment to creditors. A financial creditor, operational creditor or corporate itself can file an application before NCLT for initiating IRP when default has occurred. Under IRP, an interim resolution professional is appointed with the power to take charge of the company which has defaulted. The professional's task is to take necessary steps to revive the company. Appointed professional also has the power to raise fresh funds to continue operations. The IRP is granted 180 days to find a resolution, which can be extended by 90 days. If the IRP fails to find a resolution by then, the company is liquidated to pay the creditors. The resolution of a stressed project is done as per the guidelines issued by RBI and/or under the IBC Act or NCLT.

3. Government of India constituted a High Level Empowered Committee (HLEC) under the Chairmanship of Cabinet Secretary to address the issues of stressed thermal power projects. The report of the HLEC was submitted on 12.11.18 and was also placed in the public domain on the website of Ministry of Power. The Government thereafter constituted a Group of Ministers (GoM) to examine the specific recommendations of HLEC. The Group of Ministers (GoM) made recommendations regarding stressed power projects. On 07.03.2019, the Government approved the recommendations of Group of Ministers (GoM). Subsequently, Ministry of Power (MoP) vide OM dated 08.03.2019, notified the approval of the Government. The recommendations of GoM approved by the Government are under implementation. The action taken on the recommendations is annexed as **Annexure-II**.

[Ministry of Power
O.M. No. P-1/2020-IPC, Dated: 28/07/2020]

Recommendation No. 16

The Committee appreciate the Ministry of Power for their painstaking efforts to address the issue in a holistic manner. The Committee have been apprised in detail about the multi-track approach culminating into PARIVARTAN which provides the workable solution to the problem in the given circumstances. It

inter-alia focuses on recovery, value-enhancement and quick disposal of stressed assets wherein asset warehouse will be established to protect value and revitalize assets. The scheme can be helpful in revitalizing the assets and it aims at pooling the efforts, talents, expertise and finances from the desired quarters. Similarly, the State Bank of India has also proposed a scheme named SAMADHAN in light of the revised framework of the RBI. The Committee feel that both the schemes intend to resolve the issue of stressed assets of the Electricity Sector and deserve objective and careful attention of the Government with positive mindset. The Committee therefore recommend that all out efforts should be made from every quarter to see that a genuine initiative is taken under these schemes for resolution of stressed assets in the Electricity Sector.

Reply of the Government

1. PARIWARTAN was planned as an Asset Reconstruction Company which would focus on warehousing and revitalization of stressed power generation assets. The detailed proposal including a business plan was made to the Ministry of Power on dated 20th November 2018 by REC Limited.

2. Government of India constituted a High Level Empowered Committee (HLEC) under the Chairmanship of Cabinet Secretary to address the issues of stressed thermal power projects. The report of the HLEC was submitted on 12.11.18 and was also placed in the public domain on the website of Ministry of Power. The Government thereafter constituted a Group of Ministers (GoM) to examine the specific recommendations of HLEC. The Group of Ministers (GoM) made recommendations regarding stressed power projects. On 07.03.2019, the Government approved the recommendations of Group of Ministers (GoM). Subsequently, MoP vide OM dated 08.03.2019, notified the approval of the Government. The recommendations of GoM approved by the Government are under implementation. The action taken on the recommendations is annexed as **Annexure-II**.

3. The Reserve Bank of India brought in a circular in February, 2018 for resolution of stressed assets which mandated resolution of stressed assets via IBC proceedings in case no resolution was achieved in 180 days from date of default. This circular was an aggravating factor for need of Pariwartan ARC. However, this circular was challenged subsequently and the Supreme Court struck in down as ultra-vires. Subsequently on 7 June, 2019, the RBI has introduced a new circular, which does away with such mandatory reference to IBC and has enabled banks for an outside IBC resolution.

4. Given the developments in stressed assets space in the interim period and the fact that most assets have been resolved or are quite advanced in stages of resolution, the target universe for PARIWARTAN is quite low.

5. In view of this, it was decided not to pursue the proposal for PARIWARTAN Scheme.

[Ministry of Power
O.M. No. P-1/2020-IPC, Dated: 28/07/2020]

Recommendation No. 17

The Committee note that efforts are being made from all the quarters to address the issue of NPA/stressed assets. The representative of the Ministry of Finance (Department of Financial Services) attempted to explain the situation through four verticals. But the Committee find that the four verticals are not in consonance with one another. The first vertical of economic growth, second vertical of increasing need of power being the engine to fuel the growth and the necessity to not allow any asset to go waste to the extent possible are not in coherence with the fourth vertical of exit route of IBC. We have to solve the sectoral problems of the Electricity Sector as explained in the second vertical. The third vertical which speaks about credit culture is linked with the second vertical which deals with the reasons responsible for stress in the Electricity Sector. The Committee are in full agreement with the fact that the entire credit culture in the country is under a tremendous change and if one takes credit, one should be responsible and if one gives credit, one should hedge one's risk and responsibilities. However, the Committee feel that the most important vertical should be the revival of stressed power plants as nothing stops the Government from taking effective measures. Promoters can be divested of their equity, management can be replaced or capital structure can be modified. But, this all should be done with the focus on revival and revival only. To divide it into segments with the thrust on liquidation will nullify the efforts made so far and kill the zeal required to address the problem. The Committee are of the opinion that the constraints of sectoral issues should be taken into account otherwise the whole exercise will remain only a sophistry. The Committee expect the Ministry of Finance to be more serious, sincere and sensitive towards the prevailing hardships of the Electricity Sector for their genuine resolution rather than smarting under a compulsive situation with the intent to shrug-off the pressure and let the situation remain unattended.

Reply of the Government

1. The Government vide letter dated 29.07.2018 had decided to set up a High Level Empowered Committee (HLEC) headed by Cabinet Secretary to address the issues of Stressed Thermal Power Projects in the Country. The composition of the Committee was as under:

- i. Cabinet Secretary -Head
- ii. Chairman Railway Board -Member
- iii. Secretary, Department of Economic Affairs -Member
- iv. Secretary, Department of Financial Services – Member
- v. Secretary, Ministry of Power - Member (Convener)
- vi. Secretary, Ministry of Coal -Member
- vii. CMD, State Bank of India -Member
- viii. CMD, Power Finance Corporation – Member
- ix. CMD, Rural Electrification Corporation – Member
- x. CMD, Punjab National Bank –Member
- xi. CMD, ICICI Bank - Member

1.2. The Terms of Reference of the Committee were as follows:

- a) To assess the nature of stressed assets with a view to resolving the crisis and maximising the efficiency of investment.
- b) Changes required to be made in the fuel linkage/allocation policy/ other modes to facilitate supply of fuel to the stressed power plants.
- c) To facilitate sale of power by these stressed power plants.
- d) Suggest changes required in regulatory framework/administrative measures to facilitate faster disposal of tariff petitions/disputes and ensure interim payments during the pendency of the disputes before APTEL and other courts.
- e) Ensure timely payments by the DISCOMs, suggest payment security mechanism for IPPs.
- f) Changes required in the provisioning norms/Insolvency and Bankruptcy Code (IBC) to facilitate restructuring of the stressed assets including the changes required in Asset Restructuring Company (ARC) Regulations.
- g) Any other measures proposed for revival of stressed assets so as to avoid such investments becoming NPA.

1.3. The report of the HLEC was submitted on 12.11.18 and was also placed in the public domain on the website of Ministry of Power. The Government thereafter constituted a Group of Ministers (GoM) to examine the specific recommendations of HLEC. The Group of Ministers (GoM) made recommendations regarding stressed power projects. On 07.03.2019, the Government approved the recommendations of Group of Ministers (GoM).

Subsequently, MoP vide OM dated 08.03.2019, notified the approval of the Government. The recommendations of GoM approved by the Government are under implementation. The action taken on the recommendations is annexed as **Annexure-II**.

2. Reserve Bank of India (RBI) vide circular DBR.No.BP.BC.101/21.04.048/2017-18 dated 12.02.2018, withdrew all debt restructuring schemes like 5/25-flexible restructuring scheme, Strategic Debt Restructuring (SDR), Outside SDR, Scheme for Sustainable Structuring of Stressed Assets (S4A) etc along with the Joint Lenders Forum (JLF) mechanism. As per the circular, the loan accounts, where the aggregate exposure of lenders is more than Rs. 2,000 Crs and where the accounts are classified as restructured accounts or where restructuring under earlier RBI Schemes is underway, Resolution Plan needed to be implemented within 180 days from 1 Mar, 2018 or 180 days from the date of first default after 1 Mar, 2018. If Resolution Plan was not implemented within the above stipulated timelines by RBI, lenders would have to file insolvency application under IBC (Insolvency Bankruptcy Code) within 15 days from the date of expiry of the said timeline.

2.1. The circular was challenged by APP, IPPAI and several power developers vide various petitions in High Courts across the country, which were clubbed and transferred to the Hon'ble Supreme Court later. Subsequently, the Hon'ble Supreme Court vide its judgment dated 2.04.2019 declared that the impugned RBI circular dated 12.02.2018 is ultra-vires.

2.2. Thereafter, RBI vide its Prudential Framework for Resolution of Stressed Assets dated 07.06.2019, allowed the following:

a) Review Period - once a borrower is reported to be in default by any of the lenders, lenders shall undertake a prima facie review of the borrower account within thirty days from such default.

b) **Inter-Creditor Agreement (ICA)**: In cases where Resolution Plan (RP) is to be implemented, all lenders shall enter into an ICA, during the above-said Review Period, to provide for ground rules for finalization and implementation of the Resolution Plan (RP).

c) The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities and 60 per cent of lenders by number shall be binding upon all the lenders.

d) An RP shall be deemed to be 'implemented' only if (for no restructuring/no change in ownership case) the borrower is not in default with any of the lenders as on 180th day from the end of the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.

e) Additional Provisioning on account of delayed implementation of RP:- For all accounts- Where a viable RP in respect of a borrower is not implemented within the timelines given below, all lenders shall make additional provisions as under:

Timeline for RP	Add. Provisioning
180 days from the end of Review Period	20%
365 days from the commencement of Review Period	35%

f) Lenders may or may not take a case to the IBC. They are free to formulate RP outside or under IBC. However, it gives certain incentives in the form of reversal of additional provisioning if a stressed asset is taken to IBC.

g) Requirement of 100% consent of lenders for resolution outside IBC is done away with.

3. The insolvency resolution process (IRP) is a process under the Insolvency and Bankruptcy Code, 2016, where the National Company Law Tribunal (NCLT) initiates a corporate insolvency resolution process (CIRP) when a company defaults on making payment to creditors. A financial creditor, operational creditor or corporate itself can file an application before NCLT for initiating IRP when default has occurred. Under IRP, an interim resolution professional is appointed with the power to take charge of the company which has defaulted. The professional's task is to take necessary steps to revive the company. Appointed professional also has the power to raise fresh funds to continue operations. The IRP is granted 180 days to find a resolution, which can be extended by 90 days. If the IRP fails to find a resolution by then, the company is liquidated to pay the creditors. The resolution of a stressed project is done as per the guidelines issued by RBI and/or under the IBC Act or NCLT.

[Ministry of Power
O.M. No. P-1/2020-IPC, Dated: 28/07/2020]

Chapter III

Observations/ Recommendations which the Committee do not desire to pursue in view of the Government's Replies

Nil

Chapter IV

Observations/Recommendations in respect of which the Replies of the Government have not been accepted by the Committee and which require Reiteration

Nil

Chapter V

**Observations/Recommendations in respect of which the final Replies of
the Government are still awaited**

Nil

**New Delhi;
18th March, 2021
27 Phalguna, 1942 (Saka)**

**Shri Rajiv Ranjan Singh *alias* Lalan Singh
Chairperson,
Standing Committee on Energy**

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

RBI/2018-19/203

DBR.No.BP.BC.45/21.04.048/2018-19

June 7, 2019

Prudential Framework for Resolution of Stressed Assets

Introduction

In exercise of the powers conferred by the Banking Regulation Act, 1949 and the Reserve Bank of India Act, 1934, the Reserve Bank, being satisfied that it is necessary and expedient in the public interest so to do, hereby, issues the directions hereinafter specified.

Short Title and commencement

1. These directions shall be called the Reserve Bank of India (Prudential Framework for Resolution of stressed Assets) Directions 2019.
2. These directions shall come into force with immediate effect.

Applicability

3. The provisions of these directions shall apply to the following entities:
 - (a) Scheduled Commercial Banks (excluding Regional Rural Banks);
 - (b) All India Term Financial Institutions (NABARD, NHB, EXIM Bank, and SIDBI);
 - (c) Small Finance Banks; and,
 - (d) Systemically Important Non-Deposit taking Non-Banking Financial Companies (NBFC-D).

Purpose

4. These directions are issued with a view to providing a framework for early recognition; reporting and time bound resolution of stressed assets.
5. These directions are issued without prejudice to issuance of specific directions, from time to time, by the Reserve Bank to banks, in terms of the provisions of Section 35AA of the Banking Regulation Act, 1949, for initiation of insolvency proceedings against specific borrowers under the Insolvency and Bankruptcy Code, 2016(IBC).

I. Framework for Resolution of Stressed Assets

A. Early identification and reporting of stress

6. Lenders¹ shall recognize incipient stress in loan accounts, immediately on default² by classifying such assets as special mention accounts (SMA) as per the following categories:

SMA Sub-categories	Basis for classification - Principal or interest payment or any other amount wholly or partly overdue between
SMA-0	1-30 days
SMA-1	31-60 days
SMA-2	61-90 days

7. In the case of revolving credit facilities like cash credit, the SMA sub-categories will be as follows:

SMA Sub-categories	Basis for classification - Outstanding balance remains continuously in excess of the sanctioned limit or drawing power, whichever is lower, for a period of:
SMA-1	31-60 days
SMA-2	61-90 days

8. As provided in terms of the circular³ DBS.OSMOS. No.14703/33.01.001/2013-14 dated May 22, 2014 and subsequent amendments thereto, lenders shall report credit information, including classification of an account as SMA to Central Repository of Information on Large Credits (CRILC), on all borrowers having aggregate exposure⁴ of ₹ 50 million and above with them. The CRILC-Main Report shall be submitted on a *monthly* basis. In addition, the lenders shall submit a weekly report of instances of default by all borrowers (with aggregate exposure of ₹ 50 million and above) by close of business on every Friday, or the preceding working day if Friday happens to be a holiday.

¹ For the purpose of these directions, 'lenders' shall mean all entities mentioned at paragraph 3, unless specified otherwise.

² 'Default' means non-payment of debt (as defined under the IBC) when whole or any part or installment of the debt has become due and payable and is not paid by the debtor or the corporate debtor, as the case may be.

For revolving facilities like cash credit, default would also mean, without prejudice to the above, the outstanding balance remaining continuously in excess of the sanctioned limit or drawing power, whichever is lower, for more than 30 days.

³ In these directions, wherever a reference is made to the circulars addressed to banks, other lenders indicated at paragraph 3 should refer to corresponding circulars applicable to them, if any.

⁴ Aggregate exposure under the guidelines would include all fund based and non-fund based exposure, including investment exposure with the lenders.

B. Implementation of Resolution Plan

9. All lenders must put in place Board-approved policies for resolution of stressed assets, including the timelines for resolution. Since default with any lender is a lagging indicator of financial stress faced by the borrower, it is expected that the lenders initiate the process of implementing a resolution plan (RP) even before a default. In any case, once a borrower is reported to be in default by any of the lenders mentioned at 3(a), 3(b) and 3(c), lenders shall undertake a prima facie review of the borrower account within thirty days from such default (“Review Period”). During this Review Period of thirty days, lenders may decide on the resolution strategy, including the nature of the RP, the approach for implementation of the RP, etc. The lenders may also choose to initiate legal proceedings for insolvency or recovery.
10. In cases where RP is to be implemented, all lenders shall enter into an inter-creditor agreement (ICA), during the above-said Review Period, to provide for ground rules for finalisation and implementation of the RP in respect of borrowers with credit facilities from more than one lender.⁵ The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities (fund based as well non-fund based) and 60 per cent of lenders by number shall be binding upon all the lenders. Additionally, the ICA may, inter alia, provide for rights and duties of majority lenders, duties and protection of rights of dissenting lenders, treatment of lenders with priority in cash flows/differential security interest, etc. In particular, the RPs shall provide for payment not less than the liquidation value⁶ due to the dissenting lenders.
11. In respect of accounts with aggregate exposure above a threshold with the lenders, as indicated below, on or after the ‘reference date’, RP shall be implemented within 180 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.
12. The reference dates for the above purpose shall be as under:

Aggregate exposure of the borrower to lenders mentioned at 3(a), 3(b) and 3(c)	Reference date
₹ 20 billion and above	Date of these Directions
₹ 15 billion and above, but less than ₹ 20 billion	January 1, 2020
Less than ₹ 15 billion	To be announced in due course

⁵ In cases where asset reconstruction companies (ARCs) have exposure to the borrower concerned, they shall also sign the ICA and adhere to all its provisions.

⁶ Liquidation value would mean the estimated realisable value of the assets of the relevant borrower, if such borrower were to be liquidated as on the date of commencement of the Review Period.

13. The RP may involve any action/plan/reorganization including, but not limited to, regularisation of the account by payment of all over dues by the borrower entity, sale of the exposures to other entities/investors, change in ownership and restructuring⁷. The RP shall be clearly documented by the lenders concerned (even if there is no change in any terms and conditions).

C. Implementation Conditions for RP

14. RPs involving restructuring/change in ownership in respect of accounts where the aggregate exposure of lenders is ₹ 1 billion and above, shall require independent credit evaluation (ICE) of the residual debt⁸ by credit rating agencies (CRAs) specifically authorised by the Reserve Bank for this purpose. While accounts with aggregate exposure of ₹ 5 billion and above shall require two such ICEs, others shall require one ICE. Only such RPs which receive a credit opinion of RP4⁹ or better for the residual debt from one or two CRAs, as the case may be, shall be considered for implementation. Further, ICEs shall be subject to the following:
- (a) The CRAs shall be directly engaged by the lenders and the payment of fee for such assignments shall be made by the lenders.
 - (b) If lenders obtain ICE from more than the required number of CRAs, all such ICE opinions shall be RP4 or better for the RP to be considered for implementation.
15. A RP in respect of borrowers to whom the lenders continue to have credit exposure, shall be deemed to be 'implemented' only if the following conditions are met:
- (a) A RP which does not involve restructuring/change in ownership shall be deemed to be implemented only if the borrower is not in default with any of the lenders as on 180th day from the end of the Review Period. Any subsequent default after the 180 day period shall be treated as a fresh default, triggering a fresh review.
 - (b) A RP which involves restructuring/change in ownership shall be deemed to be implemented only if all of the following conditions are met:

⁷ Restructuring is an act in which a lender, for economic or legal reasons relating to the borrower's financial difficulty, grants concessions to the borrower. Restructuring would normally involve modification of terms of the advances/securities, which would generally include, among others, alteration of payment period/payable amount/the amount of installments/rate of interest; roll over of credit facilities; sanction of additional credit facility/release of additional funds for an account in default to aid curing of default/enhancement of existing credit limits; compromise settlements where time for payment of settlement amount exceeds three months.

⁸ the residual debt of the borrower entity, in this context, means the aggregate debt (fund based as well as non-fund based) envisaged to be held by all the lenders as per the proposed RP.

⁹ **Annex-1B** provides list of RP symbols that can be provided by CRAs as ICE and their meanings.

- i. all related documentation, including execution of necessary agreements between lenders and borrower/creation of security charge/perfection of securities, are completed by the lenders concerned in consonance with the RP being implemented;
 - ii. the new capital structure and/or changes in the terms of conditions of the existing loans get duly reflected in the books of all the lenders and the borrower; and,
 - iii. borrower is not in default with any of the lenders.
16. A RP which involves lenders exiting the exposure by assigning the exposures to third party or a RP involving recovery action shall be deemed to be implemented only if the exposure to the borrower is fully extinguished.

D. Delayed Implementation of Resolution Plan

17. Where a viable RP in respect of a borrower is not implemented within the timelines given below, all lenders shall make additional provisions as under:

Timeline for implementation of viable RP	Additional provisions to be made as a % of total outstanding, if RP not implemented within the timeline
180 days from the end of Review Period	20%
365 days from the commencement of Review Period	15% (i.e. total additional provisioning of 35%)

18. The additional provisions shall be made over and above the higher of the following, subject to the total provisions held being capped at 100% of total outstanding:
- (a) The provisions already held; or,
 - (b) The provisions required to be made as per the asset classification status of the borrower account.
19. The additional provisions shall be made by all the lenders with exposure to such borrower.
20. The additional provisions shall also be required to be made in cases where the lenders have initiated recovery proceedings, unless the recovery proceedings are fully completed.
21. The above additional provisions may be reversed as under:
- (a) Where the RP involves only payment of overdues by the borrower – the additional provisions may be reversed only if the borrower is not in default for a period of 6 months from the date of clearing of the overdues with all the lenders;
 - (b) Where RP involves restructuring/change in ownership outside IBC – the additional provisions may be reversed upon implementation of the RP;
 - (c) Where resolution is pursued under IBC – half of the additional provisions made may be reversed on filing of insolvency application and the

- remaining additional provisions may be reversed upon admission of the borrower into the insolvency resolution process under IBC; or,
- (d) Where assignment of debt/recovery proceedings are initiated – the additional provisions may be reversed upon completion of the assignment of debt/recovery.

E. Prudential Norms

22. The prudential norms applicable to any restructuring/change in ownership, whether under the IBC framework or outside the IBC, are contained in **Annex-1A**¹⁰.

II. Supervisory Review

23. Any action by lenders with an intent to conceal the actual status of accounts or evergreen the stressed accounts, will be subjected to stringent supervisory/enforcement actions as deemed appropriate by the Reserve Bank, including, but not limited to, higher provisioning on such accounts and monetary penalties¹¹.

III. Disclosures

24. Lenders shall make appropriate disclosures in their financial statements, under 'Notes on Accounts', relating to RPs implemented.

IV. Exceptions

25. Restructuring in respect of projects under implementation involving deferment of date of commencement of commercial operations (DCCO), shall continue to be covered under the guidelines contained at paragraph 4.2.15 of the Master Circular No. DBR.No.BP.BC.2/21.04.048/2015-16 dated July 1, 2015 on 'Prudential norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances'.
26. Section I(B), I(C) and I(D) of the framework shall not be applicable to revival and rehabilitation of MSMEs covered by the instructions contained in Circular No. FIDD.MSME & NFS.BC.No.21/ 06.02.31/ 2015-16 dated March 17, 2016, as amended from time to time. Section I(E) of the framework shall not be in derogation to the provisions of the circular DBR.No.BP.BC.18/21.04.048/2018-19 dated January 1, 2019.
27. Restructuring of loans in the event of a natural calamity, including asset classification and provisioning, shall continue to be guided as per the extant instructions.

¹⁰ During the period when the RP is being finalised and implemented, the usual asset classification norms would continue to apply subject to additional provisioning requirements of this circular. The process of re-classification of an asset should not stop merely because RP is under consideration.

¹¹ This may be in addition to direction to banks to file insolvency application under the IBC.

28. The framework shall not be available for borrower entities in respect of which specific instructions have already been issued or are issued by the Reserve Bank to the banks for initiation of insolvency proceedings under the IBC. Lenders shall pursue such cases as per the specific instructions issued to them.

V. Withdrawal of extant instructions

29. The extant instructions on resolution of stressed assets such as Framework for Revitalising Distressed Assets, Corporate Debt Restructuring Scheme, Flexible Structuring of Existing Long Term Project Loans, Strategic Debt Restructuring Scheme (SDR), Change in Ownership outside SDR, and Scheme for Sustainable Structuring of Stressed Assets (S4A) stand withdrawn with immediate effect. Accordingly, the Joint Lenders' Forum (JLF) as mandatory institutional mechanism for resolution of stressed accounts also stands discontinued.
30. The list of circulars/directions/guidelines that stand repealed is given in **Annex - 1C**.
31. The lenders shall not reverse the provisions maintained as on April 2, 2019 in respect of any borrower unless the reversal is a consequence of an asset classification upgrade or recovery or resolution following the instructions of this circular. Any RP under consideration as on the date of this circular may be pursued by lenders under this revised framework subject to meeting the requirements/conditions specified in this framework.

Yours faithfully,

(Saurav Sinha)
Chief General Manager-in-Charge

Prudential Norms Applicable to Restructuring

1. Restructuring is an act in which a lender, for economic or legal reasons relating to the borrower's financial difficulty, grants concessions to the borrower. Restructuring may involve modification of terms of the advances/ securities, which would generally include, among others, alteration of payment period/payable amount/the amount of installments/rate of interest; roll over of credit facilities; sanction of additional credit facility/ release of additional funds for an account in default to aid curing of default/ enhancement of existing credit limits; compromise settlements where time for payment of settlement amount exceeds three months.
2. For this purpose, the board-approved policies of lenders on resolution of stressed assets, required to be in place in terms of the this framework, shall also have detailed policies on various signs of financial difficulty, providing quantitative as well as qualitative parameters, for determining financial difficulty as expected from a prudent bank. In order to enable lenders to frame respective policies for determination of financial difficulty, a non-exhaustive indicative list of signs of financial difficulty are provided as under¹²:
 - (a) A default, as per the definition provided in the framework, shall be treated as an indicator for financial difficulty, irrespective of reasons for the default.
 - (b) A borrower not in default, but it is probable that the borrower will default on any of its exposures in the foreseeable future without the concession, for instance, when there has been a pattern of delinquency in payments on its exposures.
 - (c) A borrower's outstanding securities have been delisted, are in the process of being delisted, or are under threat of being delisted from an exchange due to noncompliance with the listing requirements or for financial reasons.
 - (d) On the basis of actual performance, estimates and projections that encompass the borrower's current level of operations, the borrower's cash flows are assessed to be insufficient to service all of its loans or debt securities (both interest and principal) in accordance with the contractual terms of the existing agreement for the foreseeable future.
 - (e) A borrower's credit facilities are in non-performing status or would be categorised as nonperforming without the concessions.
 - (f) A borrower's existing exposures are categorised as exposures that have already evidenced difficulty in the borrower's ability to repay in accordance with the bank's internal credit rating system.

¹² Based on the Basel Committee Guidelines on "Prudential treatment of problem assets – definitions of non-performing exposures and forbearance".

3. The above list provides examples of possible indicators of financial difficulty, but is not intended to constitute an exhaustive enumeration of financial difficulty indicators with respect to restructuring. Lenders shall need to complement the above with key financial ratios and operational parameters which may include quantitative and qualitative aspects. In particular, financial difficulty can be identified even in the absence of arrears on an exposure. The robustness of the board approved policy and the outcomes would be examined as part of the supervisory oversight of the Reserve Bank.

I. Prudential Norms¹³

A. Asset Classification

4. In case of restructuring, the accounts classified as 'standard' shall be immediately downgraded as non-performing assets (NPAs), i.e., 'sub-standard' to begin with. The NPAs, upon restructuring, would continue to have the same asset classification as prior to restructuring. In both cases, the asset classification shall continue to be governed by the ageing criteria as per extant asset classification norms.

B. Conditions for Upgrade

5. Standard accounts classified as NPA and NPA accounts retained in the same category on restructuring by the lenders may be upgraded only when all the outstanding loan/facilities in the account demonstrate 'satisfactory performance'¹⁴ during the period from the date of implementation of RP up to the date by which at least 10 per cent of the sum of outstanding principal debt¹⁵ as per the RP and interest capitalisation sanctioned as part of the restructuring, if any, is repaid ('monitoring period').

Provided that the account cannot be upgraded before one year from the commencement of the first payment of interest or principal (whichever is later) on the credit facility with longest period of moratorium under the terms of RP.

6. Additionally, for accounts where the aggregate exposure of lenders is ₹ 1 billion and above at the time of implementation of RP, to qualify for an upgrade, in addition to demonstration of satisfactory performance, the credit facilities of the borrower shall also be rated as investment grade¹⁶ (BBB- or better), at the time of upgrade, by CRAs accredited by the Reserve Bank for

¹³ Applicable to all resolution plans, including those undertaken under IBC.

¹⁴ Satisfactory performance means that the borrower entity is not in default at any point of time during the period concerned.

¹⁵ Outstanding principal debt shall include all credit facilities, including debt/debt like instruments (viz., non-convertible debentures, optionally convertible debentures, optionally convertible preference shares, non-convertible preference shares etc.) that exist post implementation of the RP. Only equity and instruments compulsorily convertible into equity (without any embedded optionality) shall be exempt from determining outstanding principal debt.

¹⁶ These ratings shall be the normal ratings provided by the CRAs and not ICEs referred to in paragraph 14 of the covering circular.

the purpose of bank loan ratings. While accounts with aggregate exposure of ₹ 5 billion and above shall require two ratings, those below ₹ 5 billion shall require one rating. If the ratings are obtained from more than the required number of CRAs, all such ratings shall be investment grade for the account to qualify for an upgrade.

7. If the borrower fails to demonstrate satisfactory performance during the monitoring period, asset classification upgrade shall be subject to implementation of a fresh restructuring/ change in ownership under this Framework or under IBC. Lenders shall make an additional provision of 15% for such accounts at the end of the Review Period. This additional provision, along with other additional provisions, may be reversed as per the norms laid down at paragraph 21 of the covering circular.
8. Provisions held on restructured assets may be reversed when the accounts are upgraded to standard category.
9. Any default by the borrower in any of the credit facilities with any of the lenders (including any lender where the borrower is not in “**specified period**”) subsequent to upgrade in asset classification as above but before the end of the specified period, will require a fresh RP to be implemented within the above timelines as any default would entail. However, lenders shall make an additional provision of 15% for such accounts at the end of the Review Period. This additional provision, along with other additional provisions, may be reversed as per the norms laid down at paragraph 21 of the covering circular.

“Specified period” means the period from the date of implementation of RP¹⁷ up to the date by which at least 20 per cent of the sum of outstanding principal debt as per the RP and interest capitalisation sanctioned as part of the restructuring, if any, is repaid.

C. Provisioning Norms¹⁸

10. Accounts restructured under the revised framework shall attract provisioning as per the asset classification category as laid out in the Master Circular on Prudential Norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances dated July 1, 2015, as amended from time to time.
11. In respect of accounts of debtors where a final RP, as approved by the Committee of Creditors, has been submitted by the Resolution Professional for approval of the Adjudicating Authority (in terms of section 30(6) of the IBC), lenders may keep the provisions held as on the date of such submission

¹⁷ For accounts restructured under IBC, the specified period shall be deemed to commence from the date of implementation of the resolution plan as approved by the Adjudicating Authority.

¹⁸ Additional provisions for delayed implementation of RP within timelines shall be as per paragraph 17-20 of the framework.

of RP frozen for a period of six months from the date of submission of the plan or up to 90 days from the date of approval of the resolution plan by the Adjudicating Authority in terms of section 31 (1) of the IBC, whichever is earlier.

12. The above facility of freezing the quantum of the provision shall be available only in cases where the provisioning held by the lenders as on the date of submission of the plan for approval of the Adjudicating Authority is more than the expected provisioning required to be held in the normal course upon implementation of the approved resolution plan, taking into account the contours of the resolution plan approved by Committee of Creditors/ Adjudicating Authority, as the case may be, and extant prudential norms. However, lenders shall not reverse the excess provisions held as on the date of submission of the resolution plan for approval of the Adjudicating Authority at this stage. In cases where the provisioning held is lower than the expected required provisioning, lenders shall make additional provisioning to the extent of the shortfall. Subsequent to the lapse of above mentioned period, provisioning shall be as per the norms compiled in the Master Circular – Prudential Norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances dated July 1, 2015 (amended from time to time). The facility of freezing of provisions shall also lapse immediately if the Adjudicating Authority rejects the resolution plan thus submitted. Asset classification in respect of such borrower shall continue be governed by the extant asset classification norms.

D. Additional Finance

13. Any additional finance approved under the RP (including any resolution plan approved by the Adjudicating Authority under IBC) may be treated as 'standard asset' during the monitoring period under the approved RP, provided the account demonstrates satisfactory performance (as defined at footnote 14) during the monitoring period. If the restructured asset fails to perform satisfactorily during the monitoring period or does not qualify for upgradation at the end of the monitoring period, the additional finance shall be placed in the same asset classification category as the restructured debt.
14. Similarly, any interim finance [as defined in section 5 (15) of the IBC] extended by the lenders to debtors undergoing insolvency proceedings under IBC may be treated as 'standard asset' during the insolvency resolution process period as defined in the IBC. During this period, asset classification and provisioning for the interim finance shall be governed by the Master Circular – Prudential Norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances dated July 1, 2015 (amended from time to time). Subsequently, upon approval of the resolution plan by the Adjudicating Authority, treatment of such interim finance shall be as per the norms applicable to additional finance, as per paragraph 13 above.

E. Income recognition norms

15. Interest income in respect of restructured accounts classified as 'standard assets' may be recognized on accrual basis and that in respect of the restructured accounts classified as 'non-performing assets' shall be recognised on cash basis.
16. In the case of additional finance in accounts where the pre-restructuring facilities were classified as NPA, the interest income shall be recognised only on cash basis except when the restructuring is accompanied by a change in ownership.

F. Conversion of Principal into Debt/Equity and Unpaid Interest into 'Funded Interest Term Loan' (FITL), Debt or Equity Instruments

17. An act of restructuring might create new securities issued by the borrower which would be held by the lenders in lieu of a portion of the pre-restructured exposure. The FITL/debt/equity instruments created by conversion of principal/unpaid interest, as the case may be, shall be placed in the same asset classification category in which the restructured advance has been classified.
18. The provisioning applicable to such instruments shall be the higher of:
 - (a) The provisioning applicable to the asset classification category in which such instruments are held; or
 - (b) The provisioning applicable based on the fair valuation of such instruments as provided in the following paragraphs.
19. Debt/quasi-debt/equity instruments¹⁹ acquired by the lenders as part of a RP shall be valued as under:
 - (a) Debentures/bonds shall be valued as per the instructions compiled at paragraph 3.7.1 of the Master Circular - Prudential Norms for Classification, Valuation and Operation of Investment Portfolio by Banks dated July 1, 2015 (as amended from time to time).
 - (b) Conversion of debt into Zero Coupon Bonds (ZCBs)/low coupon bonds (LCBs) as part of RP shall be subject to the conditions compiled at paragraph 5.4 of the Master Circular - Prudential Norms for Classification, Valuation and Operation of Investment Portfolio by Banks dated July 1, 2015 (as amended from time to time). Such ZCBs/LCBs shall be valued as per the instructions contained at paragraph 3.7.3 of the above said Master Circular, subject to the following:

¹⁹ These instruments shall be subject to all the instructions contained in Master Circular - Prudential Norms for Classification, Valuation and Operation of Investment Portfolio by Banks dated July 1, 2015 (as amended from time to time) to the extent they are not inconsistent with the instructions contained in this circular.

- i. Where the borrower fails to build up the sinking fund as required under the above said Master Circular, ZCBs/LCBs of such borrower shall be collectively valued at Re.1
 - ii. Instruments without a pre-specified terminal value would be collectively valued at Re. 1.
- (c) Equity instruments, where classified as standard, shall be valued at market value, if quoted, or else, should be valued at the lowest value arrived using the following valuation methodologies:
 - i. Book value (without considering 'revaluation reserves', if any) which is to be ascertained from the company's latest audited balance sheet. The date as on which the latest balance sheet is drawn up should not precede the date of valuation by more than 18 months. In case the latest audited balance sheet is not available the shares are to be collectively valued at Re.1 per company.
 - ii. Discounted cash flow method where the discount factor is the actual interest rate charged to the borrower on the residual debt post restructuring plus a risk premium to be determined as per the board approved policy considering the factors affecting the value of the equity. The risk premium will be subject to a floor of 3 per cent and the overall discount factor will be subject to a floor of 14 per cent. Further, cash flows (cash flow available from the current as well as immediately prospective (not more than six months) level of operations) occurring within 85 per cent of the useful economic life of the project only shall be reckoned.
- (d) Equity instruments, where classified as NPA shall be valued at market value, if quoted, or else, shall be collectively valued at Re.1.
- (e) Preference Shares shall be valued on discounted cash flow (DCF) basis as per the instructions compiled at paragraph 3.7.4 of the Master Circular - Prudential Norms for Classification, Valuation and Operation of Investment Portfolio by Banks dated July 1, 2015 (as amended from time to time), subject to the following modifications:
 - i. The discount rate shall be subject to a floor of weighted average actual interest rate charged to the borrower on the residual debt after restructuring plus a mark-up of 1.5 percent.
 - ii. Where preference dividends/coupons are in arrears, no credit should be taken for accrued dividends/coupons and the value determined as above on DCF basis should be discounted further by at least 15 per cent if arrears are for one year, 25 per cent if arrears are for two years, so on and so forth (i.e., with 10 percent increments).

20. The overarching principle should be that valuation of instruments arising out of resolution of stressed assets shall be based on conservative assessment of cash flows and appropriate discount rates to reflect the stressed cash flows of the borrowers. Statutory Auditors should also specifically examine as to whether the valuations of such instruments reflect the risk of loss associated with such instruments.
21. In case lenders have acquired unquoted instruments on conversion of debt as a part of a RP, and if the RP is not deemed as implemented, such unquoted instruments shall collectively be valued at Re. 1 at that point, and till the RP is treated as implemented.
22. The unrealised income represented by FITL / Debt or equity instrument should have a corresponding credit in an account styled as "Sundry Liabilities Account (Interest Capitalization)".
23. The unrealised income represented by FITL / Debt or equity instrument can only be recognised in the profit and loss account as under:
 - (a) FITL/debt instruments: only on sale or redemption, as the case may be;
 - (b) Unquoted equity/ quoted equity (where classified as NPA): only on sale;
 - (c) Quoted equity (where classified as standard): market value of the equity as on the date of upgradation, not exceeding the amount of unrealised income converted to such equity. Subsequent changes to value of the equity will be dealt as per the extant prudential norms on investment portfolio of banks.

G. Change in Ownership

24. In case of change in ownership of the borrowing entities, credit facilities of the concerned borrowing entities may be continued/upgraded as 'standard' after the change in ownership is implemented, either under the IBC or under this framework. If the change in ownership is implemented under this framework, then the classification as 'standard' shall be subject to the following conditions:
 - (a) Lenders shall conduct necessary due diligence in this regard and clearly establish that the acquirer is not a person disqualified in terms of Section 29A of the IBC. Additionally, the 'new promoter' should not be a person/entity/subsidiary/associate etc. (domestic as well as overseas), from the existing promoter/promoter group. Lenders should clearly establish that the acquirer does not belong to the existing promoter group (as defined in Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018).
 - (b) The new promoter shall have acquired at least 26 per cent of the paid up equity capital as well as voting rights of the borrower entity and shall be the single largest shareholder of the borrower entity.
 - (c) The new promoter shall be in 'control' of the borrower entity as per the definition of 'control' in the Companies Act, 2013 / regulations issued

by the Securities and Exchange Board of India/any other applicable regulations / accounting standards as the case may be.

(d) The conditions for implementation of RP as per Section I-C of the covering circular are complied with.

25. Upon change in ownership, all the outstanding loans/credit facilities of the borrowing entity need to demonstrate satisfactory performance (as defined at footnote 14) during the monitoring period. If the account fails to perform satisfactorily at any point of time during the monitoring period, it shall trigger a fresh Review Period, in terms of paragraph 9 of the covering circular.
26. The quantum of provisions held (excluding additional provisions) by the bank against the said account as on the date of change in ownership of the borrowing entities can be reversed only after the end of monitoring period subject to satisfactory performance during the same.

II. Principles on classification of sale and lease back transactions as restructuring

27. A sale and leaseback transaction of the assets of a borrower or other transactions of similar nature will be treated as an event of restructuring for the purpose of asset classification and provisioning in the books of lenders with regard to the residual debt of the seller as well as the debt of the buyer if all the following conditions are met:
- (a) The seller of the assets is in financial difficulty;
 - (b) Significant portion, i.e. more than 50 per cent, of the revenues of the buyer from the specific asset is dependent upon the cash flows from the seller; and
 - (c) 25 per cent or more of the loans availed by the buyer for the purchase of the specific asset is funded by the lenders who already have a credit exposure to the seller.

III. Prudential Norms relating to Refinancing of Exposures to Borrowers

28. If borrowings/export advances (denominated in any currency, wherever permitted) for the purpose of repayment/refinancing of loans denominated in same/another currency are obtained:
- (a) From lenders who are part of Indian banking system (where permitted); or
 - (b) with the support (where permitted) from the Indian banking system in the form of Guarantees/Standby Letters of Credit/Letters of Comfort, etc.,

such events shall be treated as 'restructuring' if the borrower concerned is under financial difficulty.

IV. Regulatory Exemptions

Exemptions from RBI Regulations

29. Acquisition of non-SLR securities by way of conversion of debt is exempted from the restrictions and the prudential limit on investment in unlisted non-SLR securities prescribed by the RBI.
30. Acquisition of shares due to conversion of debt to equity during a restructuring process will be exempted from regulatory ceilings/restrictions on Capital Market Exposures, investment in Para-Banking activities and intra-group exposure. However, these will require reporting to RBI (reporting to DBS, CO every month along with the regular DSB Return on Asset Quality) and disclosure by banks in the Notes to Accounts in Annual Financial Statements. Nonetheless, banks will have to comply with the provisions of Section 19(2) of the Banking Regulation Act, 1949.

Exemptions from Regulations of Securities and Exchange Board of India (SEBI)

31. SEBI has provided exemptions, under certain conditions, from the requirements of Securities and Exchange Board of India (SEBI) (Issue of Capital and Disclosure Requirements) (ICDR) Regulations, 2018 for restructurings carried out as per the regulations issued by the Reserve Bank.
32. With reference to the requirements contained in sub-regulations 158 (6) (a) of ICDR Regulations, 2018, the issue price of the equity shall be the lower of (a) or (b) below:
 - (a) The average of the weekly high and low of the volume weighted average price of the related equity shares quoted on the recognised stock exchange during the twenty six weeks preceding the 'reference date' or the average of the weekly high and low of the volume weighted average prices of the related equity shares quoted on a recognised stock exchange during the two weeks preceding the 'reference date', whichever is lower; and
 - (b) Book value: Book value per share to be calculated from the latest audited balance sheet (without considering 'revaluation reserves', if any) adjusted for cash flows and financials post the earlier restructuring, if any. The date as on which the latest balance sheet is drawn up should not precede the date of restructuring by more than 18 months. In case the latest audited balance sheet is not available the shares are to be collectively valued at Re.1 per company.
33. In the case of conversion of debt into equity, the 'reference date' shall be the date on which the bank approves the restructuring scheme. In the case of conversion of convertible securities into equity, the 'reference date' shall be the date on which the bank approves the conversion of the convertible securities into equities.

V. Cases of frauds/wilful defaulters

34. Borrowers who have committed frauds/ malfeasance/ wilful default will remain ineligible for restructuring. However, in cases where the existing promoters are replaced by new promoters²⁰, and the borrower company is totally delinked from such erstwhile promoters/management, lenders may take a view on restructuring such accounts based on their viability, without prejudice to the continuance of criminal action against the erstwhile promoters/management.

²⁰New promoters must satisfy the conditions specified at paragraph 24(a), 24(b) and 24(c) above.

Annex-IB

ICE Symbols	Definition
RP1	Debt facilities/instruments with this symbol are considered to have the highest degree of safety regarding timely servicing of financial obligations. Such debt facilities/instruments carry lowest credit risk.
RP2	Debt facilities/instruments with this symbol are considered to have high degree of safety regarding timely servicing of financial obligations. Such debt facilities/instruments carry very low credit risk.
RP3	Debt facilities/instruments with this symbol are considered to have adequate degree of safety regarding timely servicing of financial obligations. Such debt facilities/instruments carry low credit risk.
RP4	Debt facilities/instruments with this symbol are considered to have moderate degree of safety regarding timely servicing of financial obligations. Such debt facilities/instruments carry moderate credit risk.
RP5	Debt facilities/instruments with this symbol are considered to have moderate risk of default regarding timely servicing of financial obligations.
RP6	Debt facilities/instruments with this symbol are considered to have high risk of default regarding timely servicing of financial obligations.
RP7	Debt facilities/instruments with this symbol are considered to have very high risk of default regarding timely servicing of financial obligations.

Annex-IC

List of circulars repealed

S. No.	Circular number	Date of issue	Subject
1)	<u>DBR.BP.BC.No.67/21.04.048/2016-17</u>	05-05-2017	Timelines for Stressed Assets Resolution
2)	<u>DBR.No.BP.BC.33/21.04.132/2016-17</u>	10-11-2016	Scheme for Sustainable Structuring of Stressed Assets – Revisions
3)	<u>DBR.No.BP.BC.34/21.04.132/2016-17</u> (Excluding instructions on deferment of DCCO)	10-11-2016	Schemes for Stressed Assets – Revisions
4)	<u>DBR.No.BP.BC.103/21.04.132/2015-16</u>	13-06-2016	Scheme for Sustainable Structuring of Stressed Assets
5)	<u>DBR.BP.BC.No.82/21.04.132/2015-16</u> (Excluding Part E on Sale of Financial Assets to SCs/RCS)	25-02-2016	Review of Prudential Guidelines - Revitalising Stressed Assets in the Economy
6)	<u>DBR.BP.BC.No.41/21.04.048/2015-16</u>	24-09-2015	Prudential Norms on Change in Ownership of Borrowing Entities (Outside Strategic Debt Restructuring Scheme)
7)	<u>DBR.BP.BC.No.39/21.04.132/2015-16</u>	24-09-2015	Framework for Revitalising Distressed Assets in the Economy - Review of the Guidelines on Joint Lenders' Forum (JLF) and Corrective Action Plan (CAP)
8)	<u>DBR.No.BP.BC.101/21.04.132/2014-15</u>	08-06-2015	Strategic Debt Restructuring Scheme
9)	<u>DBR.No.BP.BC.53/21.04.048/2014-15</u>	15-12-2014	Flexible Structuring of Existing Long Term Project Loans to Infrastructure and Core Industries
10)	<u>DBOD.No.BP.BC.45/21.04.132/2014-15</u>	21-10-2014	Framework for Revitalising Distressed Assets in the Economy – Review of the Guidelines on Joint Lenders Forum (JLF) and Corrective Action Plan CAP)
11)	<u>DBOD.No.BP.BC.31/21.04.132/2014-15</u>	07-08-2014	Refinancing of Project Loans
12)	<u>DBOD.No.BP.BC.24/21.04.132/2014-15</u>	15-07-2014	Flexible Structuring of Long Term Project Loans to Infrastructure and Core Industries
13)	<u>DBOD.No.BP.BC.97/21.04.132/2013-14</u> (Excluding paragraph 8 on 'Wilful Defaulters and Non-cooperative Borrowers' and paragraph 9 on 'Dissemination of Information')	26.02.2014	Framework for Revitalising Distressed Assets in the Economy – Guidelines on Joint Lenders Forum (JLF) and Corrective Action Plan

14)	Para 2 of circular <u>DBOD.BP.BC.No.98/21.04.132/2013-14</u>	26.02.2014	Framework for Revitalising Distressed Assets in the Economy - Refinancing of Project Loans, Sale of NPA and Other Regulatory Measures
15)	<u>DBOD.No.BP.BC-99/21.04.048/2012-13</u> (Excluding paragraph 2 on change in DCCO)	30.05.2013	Review of Prudential Guidelines on Restructuring of Advances by Banks and Financial Institutions
16)	<u>DBOD.BP.BC.No.80/21.04.132/2012-13</u>	31.01.2013	Disclosure Requirements on Advances Restructured by Banks and Financial Institutions
17)	<u>DBOD.No.BP.BC-63/21.04.048/2012-13</u>	26.11.2012	Review of Prudential Guidelines on Restructuring of Advances by Banks and Financial Institutions
18)	<u>DBOD.BP.BC.No.99/21.04.132/2010-11</u>	10.06.2011	Prudential Guidelines on Restructuring of Advances by Banks
19)	<u>DBOD.BP.BC.No.74/21.04.132/2010-11</u>	19.01.2011	Credit Support to Micro Finance Institutions
20)	<u>DBOD.BP.No.49/21.04.132/2010-11</u>	07.10.2010	Prudential Guidelines on Restructuring of Advances by Banks
21)	<u>DBOD.No.BP.BC.No.124/21.04.132/2008-09</u>	17.04.2009	Prudential Guidelines on Restructuring of Advances
22)	<u>DBOD.BP.BC.121/21.04.132/2008-09</u>	09.04.2009	Prudential guidelines on Restructuring of Advances
23)	<u>DBOD.BP.BC.76/21.04.132/2008-09</u>	03.11.2008	Prudential guidelines on Restructuring of Advances
24)	<u>DBOD.BP.BC.58/21.04.048/2008-09</u>	13.10.2008	(i) Disbursal of Loans against Sanctioned Limits (ii) Restructuring of Dues of the Small and Medium Enterprises (SMEs)
25)	<u>DBOD.BP.BC.37/21.04.132/2008-09</u>	27.08.2008	Prudential guidelines on Restructuring of Advances-comprehensive guidelines
26)	<u>DBOD.NO.BP.BC.45/21.04.132/2005-06</u>	10.11.2005	Revised Guidelines on Corporate Debt Restructuring(CDR) Mechanism
27)	<u>DBOD No.BP.BC.101/21.01.002/2001-02</u>	09.05.2002	Corporate Debt Restructuring
28)	<u>DBOD No.BP.BC.15/21.04.114/2000-2001</u>	23.08.2001	Corporate Debt Restructuring

Annexure-II

Status of the Implementation of Cabinet Committee on Economic Affairs’ (CCEA) decision vide OM dated 08.03.2019

Para No.	Action	Status
2	Amendments to be made in the SHAKTI Policy issued vide MoC letter no. 23011/15/2016-CPD/CLD dated 22.05.2017	MoC vide OM dated 25.03.2019 has issued the amendments in SHAKTI Policy, 2017.
2.1	The following clause is to be added after clause B(vii) of SHAKTI policy:	
	<i>“B(viii): Notwithstanding anything in the foregoing paras, it is further provided as follows:</i>	Added
a)	<i>“All such power plants including private generators which do not have PPAs, shall be allowed Coal linkage under B(iii) and B(iv) of Shakti Policy for a period of minimum 3 months upto a maximum of 1 year, provided further that the power generated through that linkage is sold in Day Ahead Market (DAM) through power exchanges or in short term through a transparent bidding process through Discovery of Efficient Energy Price (DEEP) portal. A methodology in this regard shall be formulated by Ministry of Power in consultation with Ministry of Coal.”</i>	<ul style="list-style-type: none"> • MoC vide OM dated 25.03.2019 has issued the amendments in SHAKTI Policy, 2017. • MoP vide OM dated 02.12.2019 issued the methodology for allocation of coal as per the provision of para B(viii)(a) covering para B(iii) of Shakti. Bidding was held on 19.03.2020 and a total quantity of 1.34 MT coal was allocated. For 2ndround auction for the quarter July- September, 2020, out of the total offered quantity of 4.51 MT, 0.74 MT has been booked by 8 successful bidders with a zero premium.
b)	<i>“A generator which terminates PPA in case of default in payment by the DISCOM, may be allowed to use existing linkage coal for sale of power through short-term PPAs using DEEP portal or power exchange for a period of maximum 2 years or until they find another buyer of power under long/medium term PPA whichever is earlier. Adequate safeguards to be put in place.”</i>	<ul style="list-style-type: none"> • Adequate Safeguards issued on 30.08.2019.
c)	<i>“The provision of para B(v) of Shakti Policy above shall also be applicable in cases where the nodal agency designated by Ministry of Power aggregates/ procures the power requirement for a group of states even without requisition from such states.”</i>	<ul style="list-style-type: none"> • PFC has been designated as nodal agency. A linkage of 10 MT has been allocated.

d)	<i>“Central and State generating companies can act as an aggregator of power of such stressed power assets and procure it through transparent bidding process and offer that power to the DISCOM against their existing PPAs to such DISCOMS, till such time their own plants get commissioned. It is proposed that Central and State generating companies may be allowed to use the existing unutilized Bridge Linkages for such stressed power assets provided they meet other parameters of tolling guidelines including competitive bidding”</i>	<ul style="list-style-type: none"> • NTPC vide letter dated 04.12.2019 has informed that in response to NTPC’s letter for procurement of power from stressed assets, so far only one State has given its requirement/ initial consent. The final acceptance will be subject to discovery of acceptable rates through bidding. • NTPC is following up with other States so that the total requirement is large enough to attract competitive rates. The process for issue of tenders has also been taken up in parallel.
e)	<i>“In all cases where provisions of B(viii)(a)(b)(c)and (d) above are utilized, net surplus after meeting operating expenses generated in this manner shall be entirely used for servicing debt in the first place. MoP will work out in consultation with DFS – a mechanism to ensure this.”</i>	<ul style="list-style-type: none"> • The mechanism to ensure that net surplus generated to be used for debt servicing in the first place has been issued on 05.08.2019. Corrigendum issued on 20.08.2019.
2.2	Following is to be added at the end of first para of B(ii) of Shakti Policy, after the words “with PPAs”:	Added
(i)	<i>The power plants which were having valid already concluded Long Term PPA, based on domestic coal on or before 17.05.2017 and who could not participate in the linkage auctions under SHAKTI B(ii) due to any reason, may be allowed to participate in the B(ii) auctions of SHAKTI scheme.</i>	<ul style="list-style-type: none"> • The bidding held.
(ii)	<i>Bidders who have already participated in SHAKTI B(ii) auctions and could not secure linkage for the full ACQ, may obtain the linkage for the balance quantity also by participating in future auctions at a later stage under B(ii) after bench marking discount.</i>	
2.3	Following is to be added at the end of para B(iii) of Shakti Policy, after the words “auction process”: “Such auctions/ bids shall be held at regular intervals”.	<ul style="list-style-type: none"> • MoP vide OM dated 02.12.2019 issued the methodology for allocation of coal as per the provision of para B (viii)(a) covering para B(iii) of Shakti. • As per the methodology, auctions shall be carried out every quarter. An annual calendar shall be published on Coal Companies website showing the months in which the auctions will be held.

3	Other Approvals:	
3.1	Approval with regard to increase in quantity of coal for e-Auction for power sector: Ministry of Coal may earmark more coal for power sector under special forward e-auction by reducing the equivalent quantity from the spot e auction. The Coal India Ltd. may earmark at least 50 percent of the total coal meant for e-auction (including spot auction and special forward e- auction) for power. The increase in supply of coal for forward e-auction will be in addition to regular requirement of linkage coal for the power sector and the requirements of other sectors.	<ul style="list-style-type: none"> • MoC vide OM dated 25.03.2019 has issued the order. • CIL has allocated 27.12 MT of coal under Special Forward e- Auction (SFeA) during Apr, 2019 to March, 2020.
3.2	Approval with regard to non-lapsing of short supplies of coal: If the power plant fulfills its obligations limited to making advance payments as due to coal companies, payments to Indian Railways as due and making arrangements for unloading of the rakes at its plants, then, any short supply for that month of coal, either on account of short supply of coal in the coal company or on account of unavailability of rakes, may not lapse and be carried over (without current limitations of 5% or same quarter) to the subsequent months upto a maximum period of 3 months. In this regard, a suitable methodology shall be evolved for implementation.	<ul style="list-style-type: none"> • The methodology has been issued on 19.08.2019. • CIL vide letter dated 18.09.2019 has circulated the Standard Operating Procedure (SoP), jointly prepared by CIL & Railways.
3.3	Approval with regard to ACQ based on efficiency: ACQ per MW entitlements for all thermal power plants, irrespective of their age or technical parameters, shall be calculated based on Normative Station Heat Rate with upper ceiling of 2600 kcal/kwh.	<ul style="list-style-type: none"> • CEA has issued new coal consumption norms on 27.03.2019 w.e.f. 01.04.2019. • CIL has revised the ACQ entitlements for plants having SHR more than 2600 kCal/kWh on 06.09.2019.
3.4	Approval with regard to mandatory payment of Late Payment Surcharge (LPS): Ministry of Power may engage with the Regulators to ensure that LPS is paid in case of delay in payment by DISCOMs as per the provisions of PPA. Appropriate Regulatory Commissions may ensure compliance.	MoP vide letter dated 25.03.2019 has requested CERC/ Forum of Regulators to ensure that the decision of the Government is implemented.

3.5	<p>Approval with regard to cancellation of PPA/FSA/Transmission connectivity/ Environmental Clearance (EC)/Forest</p> <p>Governments may be advised not to cancel PPA, FSA, transmission connectivity, EC/FC, and all other approvals including water, even if the project is referred to NCLT or is acquired by another entity subject to the provisions of the contracted PPA and/or applicable rules. All clearances may be linked to the plant and not to the promoter.</p>	<ul style="list-style-type: none"> MoP vide OM dated 04.06.2019 has issued an Advisory letters to the States, (PGCIL) and Ministry of Environment, Forest and Climate Change (MoEF&CC).
3.6	<p>Approval with regard to cancellation of PPA for non-compliance of Commercial Operation Date (COD): If there is any delay in the commissioning of a project for reasons not attributable to the generator, the DISCOMs may be advised not to cancel those PPAs. The PPA may be kept on hold for a certain period, so as to enable removal of impediments in the execution of the project. In the meantime, power can be procured through the mechanism suggested in previous proposals.</p>	<p>MoP vide OM dated 24.04.2019 has issued an advisory to all the states requesting them to convey the decision of the Govt. regarding approval with regard to cancellation of PPA for non- compliance of COD, to their Discoms.</p>

Annexure-III

Status of 34 Stressed Thermal Power Projects

S. No.	Name of the Project	State	Capacity	Commissioned	PPA Tied	Fuel Tied
I	Projects Resolved					
1	DVC Raghunathpur	West Bengal	1200	1200	654	1200
2	Kanti Bijli Utpadan Nigam Ltd -NTPC	Bihar	390	390	390	390
3	Adani Power Maharashtra Limited	Maharashtra	3300	3300	3300	3300
4	Adhunik Power Limited	Jharkhand	540	540	354	540
5	GMR Warora Energy Limited	Maharashtra	600	600	600	600
6	DB Power Limited	Chhattisgarh	1200	1200	576	600
7	Korba West Power Company Ltd.	Chhattisgarh	600	600	30	600
8	Lanco/Anpara	UP	1200	1200	1000	1200
9	GMR Chhattisgarh	Chhattisgarh	1370	1370	0	0
10	SKS Power Ltd.	Chhattisgarh	1200	600	330	850
11	Jaypee Bina MP	MP	500	500	350	350
12	JaypeeNigrie	MP	1320	1320	495	660
13	GMR Kamalanga Limited	Odisha	1050	1050	885	1050
14	Prayagraj Power Gen. Corp. Ltd.	UP	1980	1980	1782	1782
Total			16450	15850	10746	13122
II	Projects likely to be resolved/ can be resolved (under NLCT or outside)					
1	RKM Powergen Limited	Chhattisgarh	1440	1440	1293	900
2	Essar Power Mahan Limited	MP	1200	1200	240	0
3	Rattan India Power Limited -Nashik	Maharashtra	1350	1350	0	986
4	Athena Chhattisgarh Power Limited	Chhattisgarh	1200	0	0	600
5	Coastal Energen Pvt. Ltd.	Tamil Nadu	1200	1200	558	1200
6	GVK Goindwal Sahib Power Plant	Punjab	540	540	540	335
7	IndBarathUtkal Limited	Odisha	700	339	584	616
8	Jindal India Thermal Power Ltd.	Odisha	1200	1200	903	600
9	Jhabua Power Ltd (Avantha)	Madhya Pradesh	600	600	425	600
10	KSK Mahanadi Power Co. Ltd.	Chhattisgarh	3600	1800	2274	1800
11	LancoAmarkantak Power Ltd.	Chhattisgarh	1320	0	0	1320
12	LancoVidarbha Power Limited	Maharashtra	1320	0	0	1097
13	Simhapuri Energy Limited	Andhra Pradesh	600	600	0	600
Total			16270	10269	6817	10654
III	Project unlikely to be resolved (Stalled/ no resolution possible)					
1	East Coast Energy Pvt. Ltd.	AP	1320	0	0	0

	(Athena)					
2	Essar Power Jharkhand Limited	Jharkhand	1200	0	1135	0
3	Monnet Power Co. Ltd.	Odisha	1050	0	262	0
4	Lanco Babandh	Odisha	1320	0	0	660
5	VandanaVidyut Limited	Chhattisgarh	270	135	0	0
6	Visa Power Limited	Chhattisgarh	1200	0	0	0
7	KVK Nilanchal Power Limited	Odisha	1050	0	88	311
Total			7410	135	1484.5	971
Grand Total			40130	26254	19047.5	24747
N.B. the above data is prepared from various sources and hence tentative/subject to verification						

Annexure-IV

Minutes of the Meeting chaired by Hon'ble Minister of State (IC) for Power and NRE on 21.10.2019 to discuss the issues of lending for FGD installation, Working Capital and Inclusion of Usance LC in payment mechanism under FSA with Banks/Financial Institutions

2. At the outset, Hon'ble Minister of State (IC) for Power and NRE welcomed the participants. JS (Thermal) briefed the Hon'ble Minister about the background of the issues to be discussed in the meeting. Hon'ble Minister suggested discussing the Working capital related issues first followed by FGD financing and the Usance LC related issues.

3. Working Capital Issue:

3.1 JS (Thermal) apprised that many power projects with operating units/commissioned units were facing the issue of operational Working Capital as the arrears of dues from Discoms were mounting up. There are two categories of projects – one having PPA and FSAs and the others not having either PPA or FSA or both.

3.2 PFC highlighted the issues of projects having PPA and FSA viz. Rattan India project. They are not getting working capital loan from any of the lenders viz., Axis Bank, Syndicate Bank, UBI, Bank of India etc. Representatives from United Bank of India informed that due to Prompt Corrective Action (PCA) pending, they were not able to finance for Working Capital. PFC also highlighted the issue of Working Capital in case of RKM Powergen project whose lenders were Bank of Baroda, Punjab National Bank (PNB), Indian Bank, Corporation Bank etc. On this, representatives from PNB informed that they had issued the sanction orders in March, 2019 which got expired.

3.3 All the concerned banks were advised to consider the request for Working Capital of projects having both PPA and FSA expeditiously. Based on specific request from Project Developers, the issue regarding availability of Working Capital to assets under PCA may be taken up with RBI.

It was noted that IPPs were willing to open Trust & Retention Account (TRA) with the Lead Bank wherein all the revenues generated from the project shall be deposited and after payment of statutory duties/levies and permissible expenditure, the debt servicing can be done from the TRA. Hon'ble Minister advised the IPPs and Banks to adopt TRA route. He informed that a new policy has been issued by Ministry of Power wherein, power will flow only when LC is opened by DISCOMs. Now payment from DISCOMs is assured. As regards recovery of arrears or legacy dues, a strategy is being worked out as per suggestions received during State Power Ministers' Conference on 11-12th October, 2019.

(Action: IPPs, Concerned Banks, MoP)

3.4 Representatives of IPPs highlighted that in case timely payment is not done by DISCOMs to the generators, further repayment to banks gets delayed and in such cases, beyond a certain time period, Banks increase the lending rate. It was advised that based on specific reference from IPPs, the matter may be taken up with Banks through Department of Financial Services. Hon'ble Minister advised all Banks for resolving the issue of Working Capital faced by power projects with operating/commissioned units.

(Action: IPPs, Concerned Banks, DFS, MoP)

Flue Gas Desulphurization (FGD) unit installation: Issue of financing:

4.1 JS (Thermal) informed that there are total 133 units (61 GW) in private sector which are being monitored by CEA for installation of FGD out of total 440 units (166 GW). Out of 133 units of IPPs, only 4 units have awarded NIT so far, DG, APP informed that those IPP plants which have no coal linkage/FSA and no PPAs, are not interested in FGD installation, however all functional units are willing to install FGD and they will meet the timelines set by MoEF&CC and Central Pollution Control Board (CPCB).

4.2 IPPs requested that provisional tariff on account of FGD may be allowed as Banks are not willing to finance unless there is clear cut CERC orders on additional tariff, which could be possible only when FGD is commissioned. It was requested that based on the estimation of cost by CEA, CERC may fix provisional tariff after allowing some discount (say 10%). Chairperson, CEA informed that they had drafted some norms on provisional tariff and it had been sent to CERC for consideration. Hon'ble Minister advised CEA to follow up with CERC and this issue may be taken up in the Forum of Regulators (FOR) meeting which could be convened at the earliest. The matter regarding fixation of provisional tariff on account of FGD installation may be discussed with CERC.

(Action: MoP, CEA, FOR, CERC)

4.3 Representative from IDBI Bank suggested that any new funding for FGD should be considered as standard assets, which would address most of their concerns. It was decided that IPPs would give project-wise details of FGD not approved by Banks. Thereafter, the matter may be taken up with RBI/DFS/Banks.

(Action: IPPs, Concerned Banks, DFS, MoP)

4.4 IPPs requested that stressed projects (facing NPA/IBC issues) might be given relaxation on FGD timelines as zero date can't be same for them. IPPs informed that they had raised this issue in Supreme Court, in their affidavit. It was informed by CEA that Hon'ble Supreme Court had identified 105 thermal power units of more than 500 MW capacity near population density of 400 persons per square km or critically polluted areas, for expediting FGD installation. MoP/CEA through an Affidavit in Supreme Court had taken a stand that they would monitor critical units of NTPC (48 units) and DVC (9 units) as they have administrative control over them. It was also clarified that Ministry of Power cannot exercise coercive authority

over the remaining 48 units (26 State Gencos and 22 IPP units), nor can give any commitment on their behalf. It was informed that MoEF&CC was the main respondent in the Supreme Court case and any extension in timelines has to be finally agreed/considered by them pertaining to those 105 units.

4.5 It was noted that CPCB had issued timelines for installation of FGD in respect of 440 units as per phasing plan proposed by CEA/MoP and the remaining 335 units (which are not being monitored by Supreme Court) are being closely monitored by CPCB/MoEF&CC. It was informed that in the meeting taken by Secretary (P) on 24.9.2019 with IPPs it was observed that the projects being under stress could not be construed to be an objective/acceptable criterion for supporting extension of time. IPPs were advised to come up with an objective criterion for the same and also provide evidence of their sincerity in making efforts for installing the FGDs while making representation to MoEF&CC in this regard.

(Action: IPPs, MoEF&CC)

Usance LC in payment mechanism under FSA

5.1 Secretary (Power) explained about the concept of Usance LC (ULC) which provides longer credit period as compared to Irrevocable Revolving Letter of Credit (IRLC) against purchase of coal and stated that this issue was discussed in a meeting chaired by him on 17.10.2019, wherein CEA and IPPs had proposed the concept, which may help generators with credit period ranging from 45 to 180 days. It was noted that it will not pose any additional risk for coal companies. Ministry of Coal (MoC) and Coal India Limited (CIL) were requested to examine the issue for making necessary amendment in FSA making provision for IRLC/Usance LC (applicable to both rail and road mode of transportation of coal) and forward their comments to Ministry of Power (MoP) with 7 days.

5.2 Representatives from Banks expressed their support to the proposal of using Usance LC if required by Gencos for purchasing coal from coal companies.

5.3 Hon'ble Minister stated that the concept of Usance LC could be contemplated for implementation if stakeholders have no issues with it.

(Action: IPPs, MoP, MoC, CIL)

6. Hon'ble Minister advised to convene an internal review meeting on implementation of the HLEC recommendations wherein representatives from Railways and Ministry of Coal should also be invited.

(Action: MoP)

7. The Meeting ended with a vote of thanks to the Chair.

STANDING COMMITTEE ON ENERGY

MINUTES OF THE EIGHTH SITTING OF THE STANDING COMMITTEE ON ENERGY (2020-21) HELD ON 18th MARCH, 2021 IN COMMITTEE ROOM '2', PARLIAMENT HOUSE ANNEXE EXTENSION, NEW DELHI

The Committee met from 1500 hours to 1535 hours

LOK SABHA

Shri Rajiv Ranjan Singh alias Lalan Singh - Chairperson

2. Km. Shobha Karandlaje
3. Shri Ramesh Chander Kaushik
4. Shri Ashok Mahadeorao Nete
5. Shri Parbatbhai Savabhai Patel
6. Shri Dipsinh Shankarsinh Rathod
7. Shri N. Uttam Kumar Reddy
8. Shri Shivkumar Chanabasappa Udasi

RAJYA SABHA

9. Shri T.K.S. Elangovan
10. Shri Maharaja Sanajaoba Leishemba
11. Shri Jugalsinh Mathurji Lokhandwala
12. Dr. Sudhanshu Trivedi
13. Shri K.T.S. Tulsi

SECRETARIAT

1. Shri R.C. Tiwari - Joint Secretary
2. Shri R.K. Suryanarayanan - Director
3. Shri Kulmohan Singh Arora - Additional Director

2. At the outset, the Chairperson welcomed the Members and apprised them about the agenda of the sitting. The Committee then took up the following ten draft Reports for consideration and adoption:-

- a) Report on Action-taken by the Government on the recommendations contained in the 28th Report (16th Lok Sabha) on 'National Solar Mission-An Appraisal';

- b) Report on Action-taken by the Government on the recommendations contained in 37th Report (16th Lok Sabha) on Stressed/Non-performing Assets in Power Sector’;
- c) Report on Action-taken by the Government on recommendations contained in 40th Report (16th Lok Sabha) on ‘Impact of RBI's Revised Framework for Resolution of Stressed Assets on NPAs in the Electricity Sector’;
- d) Report on Action-taken by the Government on recommendations contained in 42nd Report (16th Lok Sabha) on ‘Stressed/Non-Performing Assets in Gas based Power Plants’;
- e) Report on Action-taken by the Government on the recommendations contained in the 43rd Report (16th Lok Sabha) on ‘Hydro Power’; and
- f) Report on Action-taken by the Government on the recommendations contained in the 1st Report (17th Lok Sabha) on Demands for Grants (2019-20) of the Ministry of New and Renewable Energy;
- g) Report on Action-taken by the Government on the recommendations contained in the 2nd Report (17th Lok Sabha) on Demands for Grants (2019-20) of the Ministry of Power;
- h) Report on Action-taken by the Government on the recommendations contained in the 3rd Report (17th Lok Sabha) on Demands for Grants (2020-21) of the Ministry of New and Renewable Energy’.
- i) Report on Action-taken by the Government on the recommendations contained in the 4th Report (17th Lok Sabha) on Demands for Grants (2020-21) of the Ministry of Power.
- j) Report on the subject ‘Action Plan for achievement of 175 Gigawatt (GW) Renewable Energy Target’.

3. After discussing the contents of the Reports, the Committee adopted the aforementioned draft Reports without any amendment/modification. The Committee also authorized the Chairperson to finalize the above-mentioned Reports and present the same to both the Houses of Parliament in the current Budget Session.

The Committee then adjourned.

APPENDIX II

(Vide Introduction of Report)

Analysis of Action-taken by the Government on the Observations/ Recommendations contained in the Fortieth Report (16th Lok Sabha) of the Standing Committee on Energy

(i)	Total number of Recommendations	17
(ii)	Observations/Recommendations which have been accepted by the Government: Sl. Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 Total:	17
	Percentage:	100 %
(iii)	Observations/Recommendations which the Committee do not desire to pursue in view of the Government's replies: Sl. No. Nil Total:	Nil
	Percentage:	00
(iv)	Observations/Recommendations in respect of which the replies of the Government have not been accepted by the Committee and which require reiteration: Sl. No. Nil Total:	Nil
	Percentage:	00
(v)	Observations/Recommendations in respect of which final replies of the Government are still awaited: Sl. No. Nil Total:	Nil
	Percentage:	00