



# INDRAPRASTHA SEHKARI BANK LTD.

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## **Policy for undertaking compromise settlements and technical write-offs(OTS).**

**1.Introduction:** A compromise settlement is a negotiated arrangement with the borrower to fully settle the claims of the Bank against the borrower in cash, which may entail some sacrifice of the amount due from the borrower on the part of the Bank with corresponding waiver of claims of the Bank against the borrower to that extent. And a Technical Write-off for this purpose shall refer to cases where the non-performing assets remain outstanding at borrowers' loan account level, but are written-off (fully or partially) by the bank only for accounting purposes, without involving any waiver of claims against the borrower, and without prejudice to the recovery of the same.

The Policy recognizes that it is not possible to lay down precise guidelines which can be followed uniformly in case of all compromise offers as each offer is unique in the context of circumstances necessitating its consideration as a recovery option. These guidelines are indicative and objective and it is expected of the functionaries at various levels to take decisions on compromise proposals based upon their expertise and to protect the Bank's interests.

**2.Objectives:** The primary regulatory objective is to allow multiple avenues to recover the money in default without much delay. Apart from the time value loss, inordinate delays result in asset value deterioration which hampers ultimate recoveries. Compromise settlement is recognized as a valid resolution mechanism under the **Prudential Framework on Resolution of Stressed Assets dated June 7, 2019.**

The imperatives for lenders are no different when it comes to recovery from borrowers classified as fraud or wilful defaulter. Continuing such exposures on the balance sheets of the lenders without resolution due to legal proceedings would lock lenders' funds in an unproductive asset, which would not be a desirable position. Further, continuation of criminal proceedings underway or to be initiated against the borrowers classified as fraud or wilful defaulter, would ensure that perpetrators of any mala fide action do not go scot-free.

**3. Compliance of broad RBI guidelines:** The Bank shall ensure compliance with the under noted guidelines given by RBI on the subject:

- It shall be ensured that the Authority approving the settlement proposal did not sanction the advance in question in his individual capacity. However, the hierarchy level of sanctioning committee may be the same as the approval authority.
- That the sanctioning authority had exercised its powers judiciously, and adhered to the guidelines issued by the Bank in the matter of grant of advances, and that normal terms and conditions were stipulated.
- That there was no laxity in the conduct and post disbursement supervision of the advances.
- That there was no act of commission or omission on the part of the staff leading to the debt proving irrecoverable.



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- That all possible expedient steps to recover the dues have been taken and there are no further prospects of recovering the debt and that the settlement proposal is in the larger interest of the Bank.
- While entering compromise settlements in NPA accounts, the Bank shall ensure that the Net Present Value (NPV) of the settlement amount should generally not be less than the net present value of the realizable value of securities.
- Bank may enter a compromise settlement with wilful defaulters/fraudulent borrowers without prejudice to the criminal case against the borrower and those cases of compromise settlement should be vetted by appropriate approval authority as prescribed by the Bank's Declaration of Acceptance (DOA) document.

**4. Category of Assets for Compromise:** As per the prudential norms, NPAs are classified into different asset categories viz., Substandard, Doubtful and Loss assets. Thus, this policy aims to undertake compromises in all the three asset categories including accounts, which were technically written-off.

**4.1 Sub-standard Assets:** In justifiable cases, Loan/NPA sub-Committee of the Board may entertain/approve compromise proposals with a reasonable sacrifice, where security deterioration is likely to happen or borrowers have incurred genuine business losses. However, the account should have been classified as Sub-standard assets as at the end of the previous quarter. Further, In cases where the provisions of SARFAESI Act cannot be invoked like in case of NPA accounts with outstanding balance of Rs.1.00 lac and below or where there is no enforceable security or security offered is agricultural lands etc., compromises can be entertained as per the guidelines immediately on classification of account as NPA.

Moreover, where there is a loss of security charged to the Bank on account of natural calamities such as floods, earthquakes, riots, civil commotion, strikes, fire accidents etc., acquisition of securities by the Government agencies and similar other circumstances, which are beyond the control of the borrower, competent authority can entertain/approve compromise proposals with a reasonable sacrifice. Consequent to the issue of notice under SARFAESI Act and taking possession of securities etc., if the borrower comes forward for a compromise settlement, in justifiable cases, compromise can be entertained.

**4.2 Doubtful and Loss Assets** - Both doubtful and loss assets are chronic NPAs by nature as the chances of recovery in these accounts through normal course are remote/bleak. Continuation of these assets necessitates provision of substantial amounts, which will have a direct bearing on the profitability of the Bank. As a measure to recover the dues out of this category of assets, Compromise settlements under this category shall be preferred with the approval of the Board through NPA sub-committee.

**4.3 Wilful Default and Fraud cases:** Bank may enter into compromise settlement with wilful defaulters/fraudulent borrowers without prejudice to the criminal proceedings underway against such borrowers. All such cases of compromise settlements shall be vetted by Loan Sub-Committee / Board of the Bank. Cases where the borrower has fully paid the compromised amount need not be reported to CICs.

**4.4** The Bank shall strictly adhere to the following while entering into compromise settlement with accounts involving frauds:



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- If there is any case where a person has obtained loan from the bank by making fraudulent representation or otherwise committing any fraud, as far as possible, efforts shall be made to recover the entire amount of the loan.
- If it is not possible to recover the full amount and the borrower is coming forward to offer settlement, it shall be clarified at the outset that if the settlement proposal as given by the borrower is accepted, such settlement will relate only to the recovery proceedings and shall not automatically in any way affect the criminal action taken by the bank, which shall continue. However, in some cases decision to withdraw criminal case is decided as per the Bank's Declaration of Acceptance (DOA), if any, on settlement.
- While recording terms & conditions of the settlement for obtaining consent order from the Court or DRT, a specific clause shall be incorporated stating that the "settlement agreed between the parties shall not in any way affect or be construed as settlement of on-going criminal cases/proceedings pending in the Court against the borrowers".
- The Officers/employees representing the bank in criminal proceedings shall be advised to make it clear that there shall be no settlement regarding the criminal proceedings initiated against the borrower

**4.5 Criminal Proceedings:** If the Bank initiates the criminal proceedings, it will be open to Bank to pursue or not to pursue the case depending upon the circumstances of each case. But, decision in that behalf shall be taken by the competent authority of the Bank with prior approval of the Board.

Wherever the borrower has filed any case, or counter claim against the Bank, and in such a case, a compromise/settlement is sought to be made, it shall be made a condition of the settlement that the borrower would withdraw the suit/case, or counter claims as the case may be, and that in future also no claim will be raised against the Bank.

**4.6 Technical Written Off Accounts** - Technical write-off refers to cases where the NPAs remain outstanding at borrowers' loan account level, but are derecognised by the Bank **only** for accounting purposes and to cleanse the balance sheet of bad debts which are either considered unrecoverable or whose recovery is likely to consume disproportionate resources of the Bank. However, such technical write-offs do not entail any waiver of claims against the borrower and thus the Banks' right to recovery is not undermined in any manner. Some of these accounts are backed by sufficient tangible securities and bank has filed suit to recover the dues. As the settlement of cases through legal process is time consuming, branches may prefer negotiated settlements for early recovery of dues, under these guidelines.

**5. When to compromise:** Normally compromise proposals may be examined/considered in following situation:

- When the bank feels that the time taken and cost involved in recovering the dues through the process of filing a suit and executing the decree will be more than the likely recovery to be affected;



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- When a unit is suffering chronic problems of production, sales etc. and it has become unviable to continue operations and borrowers' verifiable means/ resources as well as securities are not adequate.
- When the borrower is willing to settle the dues in full in a lump sum and the sacrifice of the bank is minimum, considering the time value of money in recovery through the present time consuming and costly legal system.
- When there is no security available, unit is closed and there are no assets for execution of decree and the borrower/guarantor is willing to settle the dues on his own.

**5.1 When not to compromise for lower amount:** Bank shall not, in general, enter into a compromise for lower amount in respect of following cases:

- When there are adequate securities available covering our dues and the same are properly charged to us.
- When net worth of the borrower and guarantors is adequate.

**5.2 When to entertain compromise proposals:** Compromise proposals can be negotiated in all NPA accounts:

- a) Before filing the suit
- b) After filing the suit
- c) After obtaining the decree
- d) Before execution of the decree
- e) Even after the account is written-off prudentially for Balance Sheet purpose. In other words, compromise proposals can be entertained at any time till the borrower settles the dues in full.

**6. Eligibility & Processing:** Any eligible borrower who is in default and classified as NPA in the books of the Bank, intending to clear the outstanding dues through compromise/settlement, can submit the written settlement proposal to the Bank. The competent authority of the Bank, after examining the said proposal, shall revert on the acceptance or rejection of the said OTS proposal within 30 working days from the receipt of such a proposal.

**7. Realisable Value and Marketability of Securities Charged to the Bank:** Present value of the primary and collateral securities, held by the bank for the advances, shall be carefully assessed on a conservative basis. Bank shall not purely be guided by the valuation report taken at the time of allowing the advances. Bank shall ascertain the realisability of securities in letter and spirit, while arriving at the value thereof.

This will have a bearing on the settlement amount. If, there is wide variation between the value taken at the time of release of limits and the present realisable value, explanation shall be provided and considered as to reasons therefor. Properties of huge value though equitably mortgaged to the bank are at times difficult for enforcement even through the process of law, in view of several practical impediments. Bank shall look into this aspect and the reasons for the difficulty in enforceability of securities shall be duly explained while recommending/considering the proposal.



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**8.Group/Related Accounts:** Generally, for the purpose of compromise/out of court settlements, Group Account concept shall be adopted and compromise in Group/Related accounts shall be considered simultaneously. However, if it is felt in certain cases that some of group accounts are operated in satisfactory manner and continuation of such accounts is profitable/advantageous to the Bank, individual NPA account of the group may be considered for compromise with prior approval of the Board.

**9. Settlement Proposals from Guarantors:** There are cases, where Guarantors in NPA accounts come forward with settlement proposal so that they can seek release of their guarantees/securities or discharge them from payment of bank dues. Such proposals from guarantors and from one of the Directors shall be treated on par with proposals received from Borrowers.

**10. Terms of Compromise:** While considering compromise settlement in NPA accounts and Technically written off accounts, the following concessions could be considered as possible sacrifice by the bank considering each and every individual case, outstanding period as NPA/suit, present financial position, availability/non-availability of tangible security, their value, enforceability and opportunity cost of funds. This is an indicative list. Terms of compromise shall be decided by the competent authority on a case to case basis.

- Waiver of extra/penal interest could be a simple solution and can be termed as good settlement from Bank's point of view.
- Realising the full outstanding as per the books of the branches plus reasonable interest with effect from the date of NPA or from the date of filing suit.
- Waiver of interest being the difference between negotiated rate and the contracted/debited rate from the date of advance.
- Waiver of interest charged after the date of becoming NPA or the date of suit filing.
- Full waiver of the interest from the date of advance.
- Only in exceptional cases, remission/write-off part of the principal dues.

Specific OTS Schemes formulated by the Bank with due approval of the Board of Directors, for scheme/s of lending, which are non-discretionary/non-discriminatory, shall be outside the purview of the above guidelines.

## **10.1 General and Operational Principles** for compromise and settlements

- Bank may take up a compromise settlement / OTS proposal for consideration, irrespective of the present stage and status of the recovery proceedings.
- Any compromise will be a negotiated settlement under which the bank will endeavour to recover its dues to the maximum extent possible, with minimum sacrifice. However, it is recognised that amicable settlements are possible only in a win-win situation and sacrifice is a part of settlement.
- The last status of the activity of the borrowing entity which seeks a compromise will be taken into reckoning at the very first stage of the negotiation.



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- An initial deposit of 10-20% of the amount shall be taken from the borrower as evidence of his intention to pursue the compromise settlement with the Bank. In case this is not possible, a waiver shall be sought specifically in the approval note by way of deviation. For term loans, a bullet repayment or maximum of three monthly instalments, may be acceptable with an upfront deposit.
- In case the borrower has other group companies, influence of these companies or the parent company may be used for a better settlement and/or for getting additional security, pending realization of the entire amount of compromise.
- It will be the endeavour of the Bank to get the entire compromise amount within three months from the date of settlement. Where the period of settlement exceeds 3 months and the amount is agreed to be recovered in instalments, as far as possible, a certain portion of the amount say 15% to 25% may be made payable upfront on a best-efforts basis, with balance in instalments spread over reasonable period considering source of repayment.
- At the time of One Time Settlement negotiation when OTS amount is proposed to be paid in instalments, seriousness and preparedness of the borrower to honour OTS commitments shall be considered.
- In the case of suit filed account if need be and if practical, the terms and conditions of settlement shall be finalized and consent decree from the court should be obtained.
- It is recognised that the OTS amount normally will not be less than the realisable value of securities. While considering the realisable value due consideration will be given to various factors like forced sale value, early realization of money, sale ability of the property, type, effort and cost involved & yield in the account.
- In case of non-receipt of the committed compromise amount as per the terms of the settlement, the recovery proceedings already initiated before the settlement shall be continued.
- The Authority who had approved the compromise settlement earlier may consider the modification in the terms of the settlement, if any.
- In compromise settlements/write off the amount of sacrifice will be determined regarding balance/dues as on the 'settlement date' which shall be indicated in the compromise settlement/write off proposals. Wherever OTS amount is funded by other Banks/Financial Institutions/NBFCs/SC/RC, the Bank may assign the debt/ securities in their favour. In such cases, any guidelines framed for sale of financial assets, will not apply.

**10.2 Source of Payment** - The borrower intending to enter into compromise settlement has to provide a written statement/letter about source of settlement amount. The statement thus provided would be examined before official acceptance or rejection of the compromise proposal to ascertain the certainty and feasibility of the settlement proposal.

**10.3 Period of recovery:** As a matter of principle, compromise settlement shall be negotiated for bullet payment i.e. normally within 30 days of advising the sanction. Based on the circumstances, time can be allowed up to 90 days' payable in 2-3 instalments (with a down payment of at least 15%). However, it is necessary to recover the interest wherever it is



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stipulated in the compromise sanction. In exceptional cases where the cash flow does not permit or assets will take time to be sold and realized, a maximum period of 12 months can be permitted. In such cases, a down payment of at least 15% shall be stipulated with monthly instalments carrying suitable rate of interest i.e. minimum 10% simple, till the account is fully liquidated.

**11. Non-compliance of settlement terms/default in payment** - In case of default in payment of full dues or any tranche/instalment as per the settlement terms and noncompliance of other terms of settlement, the Bank reserves the right to cancel the settlement / compromise immediately and withdraw all relief, waiver and concessions given to the Borrower and restore the original dues prior to sanction of compromise proposal and shall initiate/continue with legal actions, for continued default beyond 90 days, to recover the dues prior to the settlement, minus amount already paid during settlement, along with future interest thereon till the date of receipt of all the outstanding dues.

**12. Cooling Period:** In respect of borrowers who are subject to compromise settlements, there shall be a cooling period of upto 24 months or as may be determined by the Board, before the Bank can assume fresh exposures to such borrowers. Provided that:

- The cooling period in respect of exposures shall be subject to a floor of 12 months. Bank may stipulate higher cooling periods as may be decided by the Board.
- The cooling period to be adopted in respect of exposures subjected to technical write-offs shall, as may be decided by the Board.

**13. Staff Accountability:** The Bank shall adhere to its policy provisions on 'staff accountability' aspects in all such cases for examining accountability as may be decided by the Board.

**14. Delegation of Power:** Compromise proposals, if any, received at branches shall be forwarded to the Head Office, duly recommended by the incumbents, for consideration of the loan sub-committee of the Board and put up to the Board for approval.

**15. Prudential treatment:** Compromise settlements where the time for payment of the agreed settlement amount exceeds three months, shall be treated as restructuring as defined in terms of the [Prudential framework on Resolution of Stressed Assets dated June 7, 2019](#). In case of partial technical write-offs, the prudential requirements in respect of residual exposure, including provisioning and asset classification, shall be with reference to the original exposure,

Provided, that the amount of provision including the amount representing partial technical write-off shall meet the extant provisioning requirements, as computed on the gross value of the asset.

**16. Reporting Mechanism:** Compromise settlements and technical write-offs approved by the CEO / Board Level Committee would be reported to the Board at regular intervals giving of details of account, extent of recovery, sacrifice made by the Bank (if any)

**18. Other legal provisions:** The compromise settlements with the borrowers under the above framework shall be without prejudice to the provisions of any other statute in force. Further, wherever the Bank had commenced recovery proceedings under a judicial forum and the same is pending before such judicial forum, any settlement arrived at with the borrower shall be subject to obtaining a consent decree from the concerned judicial authorities.



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**19. Policy review:** The Policy shall be reviewed annually or earlier depending upon the revised guidelines received from the Reserve Bank of India on the subject.

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