FIDC

Finance Industry Development Council

(A body incorporated as a Self Regulatory Organisation for Registered NBFCs - AFCs)

July 09 2012

To
Mrs.Uma Subramaniam,
CGM/IC DEPTT. OF NON-BANKING SUPERVISION
Reserve Bank of India
Central Office, 2nd Floor, B Wing, Centre-1,
World Trade Centre, Cuffe Parade,
Colaba, MUMBAI 400 005.

Respected Madam,

SUB: CDR MECHANISM – NBFCS AT A DISADVANTAGE

The Corporate Debt Restructuring (CDR) Mechanism is a voluntary non-statutory system based on Debtor-Creditor Agreement (DCA) and Inter-Creditor Agreement (ICA) and the principle of approvals by super-majority of 75% creditors (by value) which makes it binding on the remaining 25% to fall in line with the majority decision. The CDR Mechanism covers only multiple banking accounts, syndication/consortium accounts, where all banks and institutions together have an outstanding aggregate exposure of Rs.100 million and above.

1. If the above is the mechanism, then the loans given by an NBFC, which has a first and exclusive charge and not part of any consortium or syndication, cannot be part of the CDR mechanism.

2. It is a voluntary non-statutory system, and the principle of super-majority applies.

3. Once the CDR application is admitted by the CDR cell, it is the administrator bank (typically the bank with highest exposure or a lead bank) which approves release of all payments - whether for operational payments or otherwise. Hence, irrespective of whether NBFC voluntarily agrees to be part of the CDR or not, its payments are subjected to the approval of the Administrator bank.

4. While there is no specific restriction, that a non-member cannot be part of the CDR process, it is the administrator bank's / Customer's "choice" to invite NBFC to be part of the CDR process.

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5. If the super majority agrees to the restructure, then NBFC has to agree to be part of the CDR, without it getting consulted or part of the joint lenders meeting. If the NBFC does not agree, then post CDR, NBFC's payments will not be part of the agreed schedule or payments, and the administrator bank cannot release payments.

6. If NBFC agrees despite all this, voluntarily or involuntarily, it has to classify the loan as sub-standard as per the prevailing RBI norms.

Hence the request is: Either keep the NBFCs out of the entire process of CDR and allow it to negotiate and take individual decisions, without applying the principles of super-majority ; or else, allow classification at par with the banks so that at least post CDR, it can classify the account as standard, i.e. not to classify the asset as sub standard as per the Prudential Norms.

In the prevailing tough economic scenario, this is causing undue problems for NBFCs and that too for no fault on their part. We request you to kindly consider this request and give a much needed relief to NBFCs.

We hope the above receives your favourable consideration. We are ready to offer our views on the above should your honourable self deem it necessary.

Thanking you,

For **FINANCE INDUSTRY DEVELOPMENT COUNCIL**

MAHESH THAKKAR
Director General