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**CREDAI-MCHI UNITS
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Ref. No. MCHI/PRES/19-20/636

August 20, 2020

To,
Shri. K V Kamath
RBI SPL Committee
Reserve Bank of India
Mumbai

Sub: Representation of Real Estate Sector and clarifications sought in response to the RBI circular no. RBI/2020-21/16 DOR. No. BP.BC/3/21.04.048/2020-21 dated August 6, 2020 in respect of Resolution Framework for Covid-19 related stress. (Referred as OTR)

Respected Sir,

We, at the onset, would like to sincerely thank you for addressing huge business challenge arising out of pandemic by coming up with a scheme enabling borrowers to apply for a resolution framework towards their exposures on COVID-19-related stress enabling a One Time Restructuring Scheme (OTR). Real Estate Industry needed it the most besides aviation, hospitality etc.

CREDAI-MCHI is an apex body consisting of members from the Real Estate Industry among Mumbai Metropolitan Region (MMR). It is the most prominent and the only recognized body of Real Estate Developers in Mumbai and MMR. We bring together members dealing in Real Estate Development on one common platform to address various issues facing the Industry. With a strong Membership of over 1600 leading Developers in Mumbai, CREDAI-MCHI has expanded across MMR, having its own units in the region of Thane, Kalyan-Dombivli, Mira-Virar, Raigad and Navi Mumbai. CREDAI-MCHI is recognized by Government of Maharashtra and the Central Government and helps in meeting their objectives of providing housing, which is a basic necessity.

Real Estate sector has been under tremendous stress since 2015-16 but especially over past 2 to 3 years due to various reasons including rapid changes and reforms such as demonetization, introduction of RERA, introduction of GST and also changes in other regulatory framework & laws of land. RE sector has faced extreme liquidity crunch following the NBFC crisis in 2018 as both banks and NBFCs are increasingly wary of extending financial assistance to the sector. Fitch Ratings report in October '19 estimates that around \$10 billion of real estate loans were up for repayment in the first half of 2020 and default by real estate companies would imperil the health of Banks and NBFCs.

And finally, Covid 19 pandemic has come as big blow leading to lot of uncertainty about future.

Therefore, it is imperative that guidelines vide OTR resolution framework currently released vide above stated circular be widened to cover cash flow stressed situation beyond the reason of COVID 19 also.

This representation is divided into two sections, Section A being the recommendations and clarifications sought in relation to the OTR announced on 8th August 2020 and the Section B being the representation as regards Other Specific pointers to support RE sector.

Section A: Representation and clarification sought I.r.o. OTR announced on 8th August 2020.

Rationale behind recommendations in respect of Real Estate Sector.

1. **Borrower centric provisions:** RE sector's borrowing is generally for or against specific project / property where each project / property is mortgaged and receivables are hypothecated to specific Lender. Hence even if there are multiple projects under one Borrower entity, each project generally has separate credit facility arrangement with concerned lender and underlying receivables are not shared amongst different lenders, unlike other sectors. Many qualifying conditions laid down in the OTR Framework are Borrower centric and not a Credit Facility centric. Whereas it should be Credit Facility centric and accordingly Inter Creditor Agreement (ICA), Rating requirements and related provisions and also other borrower centric conditions should not be made applicable to RE sector.
2. **Delay or default beyond 30 days:** Although effect of Covid 19 on the business started since March 2020, RE sector was in severe stress for quite a long period before. Hence, there is a possibility that even during some part of FY 19-20 conduct of some credit facilities could be under "delayed" status. But if the borrower has been ensuring to maintain the facility under Standard Asset definition (not NPA), then it should be considered for Restructuring resolution. Because, Covid 19 will not only affect those businesses which were not in delay beyond 30 days but also other businesses houses. In fact, such businesses will need greater support. Hence, prequalification of "not more than 30 days delay / default" be replaced by "accounts having Standard Asset Status as on March 1, 2020".

Alternatively, the said condition of having Standard Asset Status can be tested for whole of FY 19-20.

3. **10 % provisioning:** Covid 19 impact on income and consumption pattern of people will decide the future course of economy and the time it will take to revive. And the Restructuring Resolution Framework is clear about the manner and process in which each such account needs to be selected for restructuring, hence in such a case requirement of providing 10% on such restructured debt in instant is not warranted. Further, as this would bring up the interest cost by 4%-5% on a loan of 3 years, which will make projects unviable as banks will have to pass on the provisioning costs to the borrowers. Also the mechanism of the removal of provisioning is that 50% to be reversed on 20% repayment and further 50% to be reversed when additional 10% is paid, which shall result in a provisioning for a minimum of 1.5+ years for the loans being restructured. It may also be noted that presently under DCCO restructuring guidelines (delay in commencement of commercial operations of the project due to reasons beyond control of the developer) which are in place since April 17, 2020 read with circular dated February 7, 2020 and applicable to the RE sector, no provision is needed to be made even if the account is restructured. And Covid 19 undoubtedly is a reason beyond control of the developer.

Hence, instead of 10% provisioning requirement, the conduct of account can be kept under observation during the restructured period / tenor and provision could be triggered in the year if and when there happens any default in the said restructured debt.

4. **Additional credit on existing credit lines:**

Clause 27 of the Restructuring Resolution Framework advises lenders to extend additional credit facilities to address the financial stress of the borrower on account of Covid19 even if there is no renegotiation of existing debt.

The condition of only Covid 19 affected accounts be extended additional credit be opened to all such cases in RE industries where the projects are already progressed and need funds to complete such projects and deliver to customers. This will not only open up the current dead lock but also expedite sales and loan repayments on such projects.

5. Loans by way of subscription to Non-Convertible Debentures:

We would like to bring RBI attention to the fact that at times loans are provided to Corporate by Banks/NBFC by way of subscribing to NCD issued by such Companies. Perhaps, they do so to create enough modalities to generate liquidity for themselves if they ever need the same by selling those NCD in the secondary market. This is done in furtherance of RBI stated objective of growing Secondary market for debt
It will be of immense help if RBI can clarify that

- (i) the Moratorium benefits under recent RBI notifications as well as
- (ii) OTR solution provided under above referred notification covers NCD subscribed by Banks / NBFCs

These are nothing but loan in substance and just got structured as instrument for the reasons mentioned above. It should be clarified that as long as the institution(s) regulated by the RBI own 100% of the instrument and there is no unregulated entities (eg. retail investors) directly owning the instrument, the RBI's notifications in respect of Moratorium benefits as well as One Time Restructuring guidelines would apply.

6. In case a project is funded by the SWAHMI fund, the classification of the loan to SMA 0 and NPA should have a status-co until the SWAHMI Fund is repaid as the current framework of SWAHMI Fund doesn't allow distribution of cash flows to existing lenders until they are fully repaid.

7. Rating Requirement:

As it is known to all, majority of developers are unstructured and slowly organizing themselves. In this crucial time, lender should hand hold of the developers and give time to improve rating over the period rather than pitching for specific rating at the time of approving resolution plan.

Specific provisions / clauses of the OTR notification and changes / clarifications sought is tabulated as under:

Sr. No.	Clause No.	Existing Clause	Comments in related to Real Estate Sector
1	13	Only those borrower accounts shall be eligible for resolution under this framework which were classified as standard, but not in default for more than 30 days with any lending institution as on March 1, 2020. Further, the accounts should continue to remain standard till the date of invocation.	Disqualification criteria: Instead of 30 days default condition it should be NPA condition. Meaning, the accounts which are not classified as NPA as on 1 st March 2020 and any time in past will be entitled for availing OTR option. (Refer Rationale no 2 above)
2	15	If there are multiple lending institutions with exposure to the borrower, the resolution process shall be treated as invoked in respect of any borrower if lending institutions representing 75 per cent by value of the total outstanding credit facilities (fund based as well non-fund based), and not less than 60 per cent of lending institutions by number agree to invoke the same.	Not to be made applicable to RE sector. (Refer Rationale No. 1 above)

3	27	The resolution plan may also include sanctioning of additional credit facilities to address the financial stress of the borrower on account of Covid19 even if there is no renegotiation of existing debt.	The condition of only Covid 19 affected accounts be extended additional credit be opened to all such cases in RE industry (Refer Rationale No. 4 above)
4	40	In other cases where a resolution plan is implemented under this facility, the lending institutions, which had signed the ICA within 30 days of invocation, shall keep provisions from the date of implementation, which are higher of the provisions held as per the extant IRAC norms immediately before implementation, or 10 percent of the total debt , including the debt securities issued in terms of clause 30, held by the ICA signatories post-implementation of the plan (residual debt).	No provision in the year of restructuring to be done. Provision can be stipulated depending upon the conduct of the restructured account during restructured period. (Refer Rationale No. 3 above)
5	Section B	Resolution of other exposures	Clarification sought – that these exposures also cover Loans by way of subscription to Non-Convertible Debentures (Refer Rationale No. 5 above)
6	General		classification of the loan to SMA 0 and NPA should have a status-co until the SWAHMI Fund is repaid (Refer Rationale No. 6 above)
7	33	Resolution Plan shall require independent credit evaluation (ICE) by any one credit rating agency (CRA) authorized by RBI under prudential framework	For RE rating agencies suitably be relaxed. (Refer Rationale No. 7 above)

Section B: Other Specific pointers to support RE sector:

1. Extension of moratorium to November 2020 and dispensation with downgrading of assets classification by banks / FIs:

Currently RBI, vide circular RBI: 2019-20:186 DOR.No.BP.BC.47/21.04.048/2019-20, dated March 27, 2020, has granted moratorium to all loans by banks / Fis/ NBFCs / HFC for three months for all the principal repayments and interest due, scheduled and between 1st March 2020 ending 31st May 2020 and subsequent dispensation i.r.o. classification of assets during this period. This relaxation was then extended till 31st August 2020.

Request: It is requested that the moratorium be further extended by three months to November 2020 along with dispensation of reporting requirement of asset classifications.

2. Rate of Interest & Principal Repayment:

In Real Estate Industries, due to approval cost and construction activity, initial cash flow requirement is huge. Further due to COVID impact, sales and sales collection will be deferred. So cash flow management for Real Estate Company is very crucial. To overcome the challenges in current time and to provide additional cash flow to the companies, we suggest following

- **Ballooning repayment of Principal due.** Keep repayment amount low in earlier period and increasing gradually towards end of the loan term.
- **Reduction in Rate of Interest and moratorium of the same.** This will reduce stress on the cash flow management and additional cash flow can be used for completion of construction.

3. Asset Coverage / Debt Service Coverage Ratio (DSCR):

Currently 1.60 times plus DSCR requirement is considered for construction financing which in little step. For near to completion project, it is proposed to consider 1.30 times DSCR treating it as completed project. Normally loan against property (LAP) is given at 75% property value. Hence finished inventory should be give treatment of LAN norms. It is further proposed to consider 1.50 times DSCR at the initial phase of project and later 1.30 times.

4. Promoter Contribution / Debt Equity Ratio:

Value of Land / Redevelopment Rights is major cost component specifically in Mumbai & MMR region. So it is suggested to consider Ready Reckoner Value or actual purchase cost of Land / Redevelopment Right while calculating Promoter Contribution and to consider it as Equity contribution by promoter in the project. This will help developers for getting higher loan eligibility keeping Lender security coverage intact.

We request for a E - meeting to explain our suggestion in detail as per your availability and convenience.

We hope you shall consider the above, thanking you in anticipation of a favourable response.

Thanking you,

Yours Sincerely,

For CREDAI-MCHI



Nayan Shah
President



Bandish Ajmera
Hon. Secretary