



भारतीय रिज़र्व बैंक

RESERVE BANK OF INDIA

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RBI/DOR/2021-22/86

DOR.STR.REC.51/21.04.048/2021-22

September 24, 2021

All Commercial Banks (including Small Finance Banks, Local Area Banks and Regional Rural Banks)

All Primary (Urban) Co-operative Banks/State Co-operative Banks/ District Central Co-operative Banks

All All-India Financial Institutions

All Non-Banking Financial Companies (including Housing Finance Companies)

Master Direction – Reserve Bank of India (Transfer of Loan Exposures) Directions, 2021

Please refer to the Draft Comprehensive Framework for Sale of Loan Exposures that was released on June 8, 2020 for comments from various stakeholders.

2. Based on the examination of the comments received, the Reserve Bank has issued the Master Direction – Reserve Bank of India (Transfer of Loan Exposures) Directions, 2021, which are enclosed. These directions have been issued in exercise of the powers conferred by the Sections 21 and 35A of the Banking Regulation Act, 1949 read with Section 56 of the Banking Regulation Act, 1949; Chapter IIIB of the Reserve Bank of India Act, 1934; and Sections 30A, 32 and 33 of the National Housing Bank Act, 1987.

3. These directions come into immediate effect replacing the existing instructions on the matter of sale / transfer of loan exposures. All lending institutions are advised to take necessary steps to ensure compliance with these directions.

Yours faithfully,

(Manoranjan Mishra)

Chief General Manager



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**Master Direction – Reserve Bank of India (Transfer of Loan Exposures)
Directions, 2021**

Introduction

Loan transfers are resorted to by lending institutions for multitude of reasons ranging from liquidity management, rebalancing their exposures or strategic sales. A robust secondary market in loans can be an important mechanism for management of credit exposures by lending institutions and also create additional avenues for raising liquidity. It is therefore necessary to lay down a comprehensive, self-contained set of regulatory guidelines governing transfer of loan exposures.

Accordingly, in exercise of the powers conferred by the Sections 21 and 35A of the Banking Regulation Act, 1949 read with Section 56 of the Banking Regulation Act, 1949; Chapter IIIB of the Reserve Bank of India Act, 1934; and Sections 30A, 32 and 33 of the National Housing Bank Act, 1987, 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 (Transfer of Loan Exposures) Directions, 2021.
2. These directions shall come into force with immediate effect.

Chapter I: Scope and Definitions

A. Applicability and Purpose

3. The provisions of these directions shall apply to the following entities (collectively referred to as lenders in these directions), unless specified otherwise:
 - (a) Scheduled Commercial Banks;

- (b) Regional Rural Banks;
- (c) Primary (Urban) Co-operative Banks/State Co-operative Banks/District Central Co-operative Banks;
- (d) All India Financial Institutions (NABARD, NHB, EXIM Bank, and SIDBI);
- (e) Small Finance Banks; and
- (f) All Non Banking Finance Companies (NBFCs) including Housing Finance Companies (HFCs).

Provided that:

- (i) Lenders specified at sub-clauses (b) and (c) above are permitted as only transferor(s) of stressed loans under Chapter IV of these directions, and are not permitted as transferors(s) or transferee(s) in any other type of loan transfers.
- (ii) All lenders, where permitted to acquire loans, shall only do so from a transferor specified as a lender above unless specifically permitted.

4. No lender shall undertake any loan transfers or acquisitions other than those permitted under these directions and in the manner prescribed therein.

Explanation: The above proviso shall be without prejudice to the provisions of Reserve Bank of India (Securitisation of Standard Assets) Directions, 2021.

5. These directions will be applicable to all loan transfers undertaken by the lenders as mentioned in Clause 3, including sale of loans through novation or assignment, and loan participation.

Provided that in cases of loan transfers other than loan participation, legal ownership of the loan shall be mandatorily transferred to the transferee(s) to the extent of economic interest transferred.

6. These directions shall apply only to lenders mentioned in Clause 3 as transferor(s) or transferee(s) in loan transfers, unless specifically made applicable to other categories of entities as transferee(s) as per the specific permissions as per Clauses 54 and 58.

7. NBFCs which are required to comply with Indian Accounting Standards (IndAS) shall continue to be guided by the Standards and the advisories issued by the Institute of Chartered Accountants of India (ICAI Advisories) in case of any inconsistencies between these directions and the Standards.
8. In respect of transferee(s) other than lenders mentioned in Clause 3 and Asset Reconstruction Companies (ARCs), which are also financial sector entities, the prudential norms, including asset classification and provisioning post the transfer shall be as per the respective regulatory frameworks laid down by the respective financial sectoral regulators, viz., Securities and Exchange Board of India, Insurance Regulatory and Development Authority of India, Pension Fund Regulatory and Development Authority, and International Financial Services Centres Authority.

B. Definitions

9. For the purpose of these directions, the following definitions apply:
 - (a) “*clause*” means a clause of these directions;
 - (b) “*credit enhancement*” means a contractual arrangement in which an entity provides some degree of added protection to other parties to a transaction so as to mitigate the credit risk of their acquired exposures;
 - (c) “*default*” means non-payment of debt (as defined under the Insolvency and Bankruptcy Code, 2016) when whole or any part or instalment of the debt has become due and payable and is not paid by the debtor or the corporate debtor, as the case may be;

Provided that 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.
 - (d) “*loan participation*” means a transaction through which the transferor transfers all or part of its economic interest in a loan exposure to transferee(s) without the actual transfer of the loan contract, and the transferee(s) fund the transferor to the extent of the economic interest transferred which may be equal to the

principal, interest, fees and other payments, if any, under the transfer agreement;

Provided that the transfer of economic interest under a loan participation shall only be through a contractual transfer agreement between the transferor and transferee(s) with the transferor remaining as the lender on record.

Provided further that in case of loan participation, the exposure of the transferee(s) shall be to the underlying borrower and not to the transferor. Accordingly, the transferor and transferee(s) shall maintain capital according to the exposure to the underlying borrower calculated based on the economic interest held by each post such transfer. The applicable prudential norms, including the provisioning requirements, post the transfer, shall be based on the above exposure treatment and the consequent outstanding.

- (e) “*minimum holding period (MHP)*” means the minimum period for which a transferor must hold the loan exposures before the same is transferred to transferee(s);
- (f) “*net book value (NBV)*” means the funded outstanding in a loan exposure reduced by the specific provisions made against such exposure;
- (g) “*permitted transferees*” mean the lenders specified at sub-clauses (a), (d), (e) and (f) of Clause 3;
- (h) “*personal loans*” mean loan exposures as defined at Sl. No. 2 of the Annex to the circular DBR.No.BP.BC.99/08.13.100/2017-18 dated January 4, 2018;

Explanation: A loan shall be categorised as personal loan if it falls within the purview of the above definition, even if such loans are not explicitly classified so in any regulatory / supervisory reporting.

- (i) “*portfolio*” means a set of loan exposures transferred together at a point of time under the same transfer agreement;

Provided that transfer agreements under which loans are transferred as a portfolio shall list the details of the individual loan exposures which are transferred as a portfolio.

- (j) “*stressed loans*” mean loan exposures that are classified as non-performing assets (NPA) or as special mention accounts (SMA);
- (k) “*transfer*” means a transfer of economic interest in loan exposures by the transferor to the transferee(s), with or without the transfer of the underlying loan contract, in the manner permitted in these directions;

Explanation: Consequently, the transferee(s) shall “acquire” the loan exposures following a loan transfer.

- (l) “*transferee*” means the entity to which the economic interest in a loan exposure is transferred under these directions;

Provided that a transferee shall not be a person disqualified in terms of Section 29A of the Insolvency and Bankruptcy Code, 2016;

Provided further that in case of transfer of loan exposures of borrowers in whose accounts instances of fraud have been detected by any lender, the transferee(s) shall neither belong to the existing promoter group of such borrower nor shall be a subsidiary / associate / related party etc. (domestic as well as overseas) of any person belonging to the existing promoter group of such borrower.

Explanation I: In market parlance, transferee may be alternatively referred to as the assignee under assignment transactions and participant under loan participations, wherever applicable.

Explanation II: For the purpose of the second proviso above, the term ‘promoter group’ shall have the same meaning as in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018; and the term ‘related party’ shall have the same meaning as in the Insolvency and Bankruptcy Code, 2016.

Explanation III: The responsibility for verifying and establishing that the transferee(s) comply with the above provisos shall be with the transferor(s).

(m)“*transferor*” means the entity which transfers the economic interest in a loan exposure under these directions;

Explanation: In market parlance, transferor may be alternatively referred to as the assignor under assignment transactions and grantor under loan participations, wherever applicable.

Chapter II: General Conditions applicable for all loan transfers

A. General Requirements

10. The lenders must put in place a comprehensive Board approved policy for transfer and acquisition of loan exposures under these guidelines. These guidelines must, *inter alia*, lay down the minimum quantitative and qualitative standards relating to due diligence, valuation, requisite IT systems for capture, storage and management of data, risk management, periodic Board level oversight, etc. Further, the policy must also ensure independence of functioning and reporting responsibilities of the units and personnel involved in transfer / acquisition of loans from that of personnel involved in originating the loans. All transactions must meet the requirements as detailed in the policy.
11. Loan transfers should result in transfer of economic interest without being accompanied by any change in underlying terms and conditions of the loan contract usually. In all cases, if there are any modifications to terms and conditions of the loan contract during and after transfer (eg. in take-out financing), the same shall be evaluated against the definition of ‘restructuring’ provided in Paragraph 1 of the Annex to the Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions 2019, dated June 7, 2019.
12. In loan participation transactions, by design, the legal ownership completely remains with the transferor even after economic interest has been transferred to transferee(s). In such cases, the roles and responsibilities of the transferor and transferee(s) shall be clearly delineated contractually.

13. Lenders referred to in Clause 3, regardless of whether they are transferors or otherwise, should not offer credit enhancements or liquidity facilities in any form in the case of loan transfers.
14. A transferor cannot re-acquire a loan exposure, either fully or partially, that had been transferred by the entity previously, except as a part of a resolution plan under the Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions, 2019 or as part of a resolution plan approved under the Insolvency and Bankruptcy Code, 2016.
15. A loan transfer should result in immediate separation of the transferor from the risks and rewards associated with loans to the extent that the economic interest has been transferred. In case of any retained economic interest in the exposure by the transferor, the loan transfer agreement should clearly specify the distribution of the principal and interest income from the transferred loan between the transferor and the transferee(s).
16. The transferee(s) should have the unfettered right to transfer or otherwise dispose of the loans free of any restraining condition to the extent of economic interest transferred to them. The transferee(s) shall have no recourse to the transferor for any expenses or losses linked to the transferred economic interest except those specifically permitted under these guidelines. Further, the transferor / transferee(s) shall not be constrained to obtain consent from the transferee(s) / transferor, as the case may be, when it comes to resolution or recovery in respect of the beneficial economic interest retained by or transferred to the respective entity.
17. The transferor shall have no obligation to re-acquire or fund the re-payment of the loans or any part of it or substitute loans held by the transferee(s) or provide additional loans to the transferee(s) at any time except those arising out of breach of warranties or representations made at the time of transfer. The transferor should be able to demonstrate that a notice to this effect has been given to the transferee(s) and that the transferee(s) have acknowledged the absence of such obligation.
18. Wherever security interest is held by the transferor in trust with the transferee(s) as the beneficiaries, the transferee(s) shall ensure that a mutually agreed and binding

mechanism for timely invocation of such security interest, if the need arises, has been properly documented and put in place.

19. The transfer of loans by transferor(s) must not contravene the rights of underlying obligors and all necessary consents from obligors (including from third parties), where necessary as per the respective contracts, should have been obtained.
20. Any rescheduling, restructuring or re-negotiation of the terms of the underlying agreement/s attempted by permitted transferee(s) after the transfer of assets to the transferee(s) shall be as per the provisions of the Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions, 2019 issued vide circular DBR.No.BP.BC.45/21.04.048/2018-19 dated June 7, 2019.
21. A transferor should notify RBI (Department of Supervision) of all instances where it has replaced loans transferred to a transferee or paid damages arising out of any representation or warranty.
22. For domestic transactions, transferee(s) should ensure that the transferor has strictly adhered to the MHP criteria in respect of loans acquired by them, as prescribed in Part B of Chapter III of these directions.
23. Transfer as well as acquisition of exposures by overseas branches of Indian banks shall be required to be in compliance with the requirements prescribed in this circular, without derogation of any other statutory or regulatory provisions, including those prescribed under Foreign Exchange Management Act, 1999.

Provided that, in jurisdictions which do not have regulations related to MHP, overseas branches of Indian banks may acquire such exposures, save for those originated in India, without the requirement of adhering to the MHP criteria.
24. The extant instructions on outsourcing and the applicable provisions of the Reserve Bank of India (Know Your Customer (KYC)) Directions, 2016 (as amended from time to time) shall be complied with in all cases.
25. In respect of exposures that do not meet the requirements of these directions, transferee(s) shall maintain capital charge equal to the actual exposure acquired. In such cases, the transferor shall continue to recognise the transferred loan in its

entirety, as if it was not transferred at all in the first place, and the consideration received shall be recognised as an advance.

B. Transferor as servicing facility provider

26. The transferee(s) may engage a servicing facility provider, which may also be the transferor, to administer or service the acquired exposures.

27. If a lender, including a transferor, performs the role of a servicing facility provider for the transferee(s) after the loan transfer has occurred, it should ensure that the following conditions are fulfilled:

- a. The nature, purpose, extent of the facility and all required standards of performance should be clearly specified in a written agreement.
- b. The facility is provided on an 'arm's length basis' on market terms and conditions.
- c. Payment of any fee or other income arising from the role as a servicing facility provider is not subject to deferral or waiver in a way that would directly or indirectly provide credit enhancement or liquidity facility.
- d. The duration of the facility is limited to the earliest of the dates on which:
 - i. the underlying loans are completely amortised;
 - ii. all claims connected with the transferee(s)' economic interest in the underlying loans are paid out; or
 - iii. the lender's obligations as the servicing facility provider are otherwise terminated.
- e. There should not be any recourse to the lender beyond the fixed contractual obligations.
- f. The transferee(s) have the clear right to select an alternative party to provide the servicing facility.
- g. The lender should be under no obligation to remit funds to the transferee(s) until it has received funds generated from the underlying loans.
- h. The lender shall hold in trust, on behalf of the transferee(s), the cash flows arising from the underlying loans and shall avoid co-mingling of these cash flows with its own cash flows.

Provided that if the above conditions are not satisfied, the lender shall maintain capital on the loans transferred as if the loans in respect of which servicing facility is being provided are held by it directly on its books.

Chapter III: Transfer of Loans which are not in default

A. General requirements

28. The provisions of this Chapter do not apply to:
- a. transfer of loan accounts of borrowers by a lender to other lenders, at the request/instance of borrower;
 - b. inter-bank participations covered by the circular DBOD.No.BP.BC.57/62-88 dated December 31, 1988 as amended from time to time;
 - c. sale of entire portfolio of loans consequent upon a decision to exit the line of business completely;
 - d. sale of stressed loans; and
 - e. any other arrangement/transactions, specifically exempted by the Reserve Bank of India.
29. The transactions referred to in Clause 28 above shall be governed by the respective regulatory frameworks. However, in all such cases, the provisions of Chapter II shall continue to apply except in cases where the respective regulatory framework provides for otherwise.
30. A transferor can transfer a single loan or a part of such loan or a portfolio of such loans to permitted transferees through assignment or novation or a loan participation contract.
31. In cases where loan transfers result in a change of lender of record under a loan agreement, the transferor and transferee(s) should ensure that the existing loan agreement has suitable enabling provisions including consent by the underlying borrower that allow for such transactions by laying down the required ground rules.
32. Transferor's retention of economic interest, if any, in the loans transferred should be supported by legally valid documentation. A legal opinion regarding the following, at a minimum, should also be kept on record by the transferor:
- a. legal validity of amount of economic interest retained by the transferor;

- b. the transferor not retaining any risk and rewards associated with the loans to the extent transferred to the transferee(s);
 - c. the arrangement does not interfere with transferee(s)' rights and rewards associated with the loans to the extent transferred to it, except to the extent of collaborative action contractually agreed between the transferor and the transferee(s) for enforcement of security, if any, including the scenarios in which the security interest is held by the transferor in trust for the trustees; and
 - d. the arrangement does not result in the transferor becoming an agent, trustee, or fiduciary of the transferee(s), except:
 - i. providing servicing facilities extended by the transferor, if any, post such transfer, to the extent of rights to cash flows in respect of the transferee(s); and
 - ii. collaborative action contractually agreed between the transferor and transferee(s) in relation to enforcement of security including scenarios in which the security interest is held by the transferor in trust for the transferee(s).
33. There shall not be any difference in the criteria for credit underwriting applied by the transferor to exposures transferred and those held or retained on their book. To this end, similar processes for approving and, where relevant, amending, renewing and monitoring of credit facilities extended should be applied by the transferor for all the loan exposures originated by it.
34. The transfer shall be only on cash basis and the consideration shall be received not later than at the time of transfer of loans. The transfer consideration should be arrived at in a transparent manner on an arm's length basis.
35. The due diligence in respect of the loans cannot be outsourced by the transferee(s) and should be carried out by its own staff with the same rigour and as per the same policies as would have been done for originating any loan.
36. The above due diligence requirements shall be applicable at the level of each loan. In case of loans acquired as a portfolio, in case a transferee is unable to perform due diligence at the individual loan level for the entire portfolio but can perform due diligence at the individual loan level for not less than one-third of the portfolio by

value and number of loans in the portfolio, the due diligence may be performed at the portfolio level for the remaining, in which case, the transferor has to retain at least 10 per cent of economic interest in the transferred loans.

Explanation: If a transfer involves multiple transferees, the minimum retention requirement by the transferor, if any of the transferees is unable to perform due diligence at the individual loan level, shall be on the entire amount of transferred loans, including the portions transferred to transferees who are able to perform due diligence at the individual loan level.

37. Lenders need to monitor on an ongoing basis and in a timely manner performance information on the loans acquired, including through conducting periodic stress tests and sensitivity analyses, and take appropriate action required, if any. The action may, *inter alia*, include modification to exposure ceilings in respect of certain types of asset classes, change in ceilings applicable to transferor, etc. For this purpose, transferee(s) should put in place formal policies and procedures appropriate to and commensurate with the risk profile of the loans acquired. Such procedures should be as rigorous as that followed by them for portfolios of similar loans directly originated by them. The information required for these procedures, if not collected directly by the lenders and obtained from the servicing facility agent, if any, should be certified by the authorized officials of the servicing facility agent.

38. Depending upon the size of the portfolio, credit monitoring procedures may include verification of the information submitted by the servicing facility agent's concurrent and internal auditors. The servicing facility agreement should provide for such verifications by the auditors of the transferee(s), and wherever applicable, the transferor. All relevant information and audit reports should be available for verification by the supervisors from RBI during the supervision of the transferee(s) and transferor.

B. Minimum holding period (MHP)

39. The transferor can transfer loans only after a minimum holding period (MHP), as prescribed below, which is counted from the date of registration of the underlying security interest:

- a. Three months in case of loans with tenor of up to 2 years;
- b. Six months in case of loans with tenor of more than 2 years.

Provided that in case of loans where security does not exist or security cannot be registered, the MHP shall be calculated from the date of first repayment of the loan.

Provided further that in case of transfer of project loans, the MHP shall be calculated from the date of commencement of commercial operations of the project being financed.

Provided further that in case of loans acquired from other entities by a transferor, such loans cannot be transferred before completion of six months from the date on which the loan was taken into the books of the transferor.

40. The above MHP requirement is not applicable to loans transferred by the arranging bank to other lenders under a syndication arrangement.

C. Capital Adequacy and other prudential norms

41. Any loss or profit arising because of transfer of loans, which is realised, should be accounted for accordingly and reflected in the Profit & Loss account of the transferor for the accounting period during which the transfer is completed. However, unrealised profits, if any, arising out of such transfers, shall be deducted from CET 1 capital or net owned funds for meeting regulatory capital adequacy requirements till the maturity of such loans.
42. In case of transfer of a pool of loans, the transferee(s), and the transferor(s) in case of retention of economic interest, should maintain borrower-wise accounts. Thus, the exposures of the transferor(s) and the transferee(s) would be to the individual obligors in a pool of loans.
43. The capital adequacy treatment for loans acquired, in respect of the economic interest held by the transferor and transferee(s) post such transfer, will be as per the instructions applicable to loans directly originated by the lenders.
44. Transferee(s) may, if they so desire, have the pools of loans externally rated before acquiring so as to have a third-party view of the credit quality of the pool in addition to their own due diligence. However, such external rating must be done *ex-post* the transferee(s)' due diligence and such rating cannot substitute for the due diligence that the transferee(s) are required to perform.

45. The transferee(s), as well as transferor(s) shall apply the extant income recognition, asset classification and provisioning as well as exposure norms, on individual obligor basis in all cases to the extent of retained economic interest.
46. In case of pool of loans acquired, transferee(s) should put in place mechanisms to enable application of relevant prudential norms on individual obligor basis. Such mechanisms may also include relying on the details obtained from the servicing facility provider. However, such mechanisms must provide for adequate checks by the transferee(s)' concurrent auditors, internal auditors and statutory auditors. All relevant information and audit reports should be available for verification by the supervisors from RBI during supervision of the transferee(s).
47. For permitted transferees, the acquired loans will be carried at acquisition cost unless it is more than the outstanding principal at the time of the transfer, in which case the premium paid, should be amortised based on straight line method or effective interest rate method, as considered appropriate by the individual permitted transferee. However, the outstanding/unamortised premium need not be deducted from capital.
48. In cases where a transferor makes representations and warranties concerning loans transferred, the transferor will not be required to hold capital against such representations and warranties provided the following conditions are satisfied:
- a. Any representation or warranty is provided only by way of a formal written agreement;
 - b. The representation or warranty refers to an existing state of facts that is capable of being verified by the transferor at the time the loans are transferred;
 - c. The representation or warranty is not open-ended and, in particular, does not relate to the future creditworthiness of the loans/underlying borrowers;
 - d. The exercise of a representation or warranty, if any, requiring a transferor to replace loans (or any parts thereof) transferred, on grounds covered in the representation or warranty, must be:
 - i. undertaken within 30 days of the transfer of loans; and
 - ii. conducted on the same terms and conditions as the original transfer.

Provided that upon such replacement, the transferor shall apply the asset classification and provisioning norms as if the reacquired exposures had not been transferred in the first place.

- e. A transferor that is required to pay damages for breach of representation or warranty can do so provided the agreement to pay damages meets the following conditions:
 - i. the onus of proof for breach of representation or warranty remains at all times with the party so alleging;
 - ii. the party alleging the breach serves a written Notice of Claim on the transferor, specifying the basis for the claim; and
 - iii. damages are limited to losses directly incurred as a result of the breach.

Chapter IV: Transfer of stressed loans

A. General Requirements

- 49. The instructions contained in this Chapter would cover transfer of stressed loans, including transfer to ARCs.
- 50. The transfer of stressed loans must be done through assignment or novation only; loan participation is not permitted in the case of stressed loans.
- 51. The Board approved policies of every lender on transfer and / or acquisition of stressed loans shall, *inter alia*, cover the following aspects:
 - a. Norms and procedure for transfer or acquisition of such loans;
 - b. Valuation methodology to be followed to ensure that the realisable value of stressed loans, including the realisability of the underlying security interest, if available, is reasonably estimated;
 - c. Delegation of powers to various functionaries for taking decision on the transfer or acquisition of the loans;
 - d. Stated objectives for acquiring stressed assets;
 - e. Risk premium to be applied for the purpose of Clause 67; etc.
- 52. The policy on transfer of stressed loans shall be based on the following principles:

- a. The process of identification of stressed loans beyond a specified value, as may be determined by a lender's policy, for transfer shall follow a top-down approach i.e., the head office/corporate office of the lender shall be actively involved in identification of stressed loans for transfer;
 - b. At a minimum, all loans classified as NPA above a threshold amount decided by the Board/Board Committee shall be reviewed by the Board/Board Committee at periodic intervals and a view, with documented rationale, be taken on transfer or otherwise. The loans identified for transfer shall be listed for the purpose of transfer as indicated above.
53. Transferors should have clear policies with regard to valuation of loan exposures proposed to be transferred. The basis or the grounds which will determine the type of valuation used - internal or external - must be clearly specified in the policy. The discount rate used by the transferor in the internal valuation exercise shall also be spelt out in the policy. This may be either cost of equity or average cost of funds or opportunity cost or some other relevant rate, subject to a floor of the contracted interest rate charged. However, in case the credit exposure of the transferor being transferred (without netting for provisions) is Rs.100 crore or more, the transferor shall obtain two external valuation reports. The cost of valuation exercise, external or otherwise, shall be borne by the transferor.
54. In general, lenders shall transfer stressed loans, including through bilateral sales, only to permitted transferees and ARCs.
55. The manner of transfer must be in terms of the Board approved policy of the transferor. Lenders may also use e-auction platforms, wherever available, for transferring their loans.
56. However, when negotiated on a bilateral basis, such negotiations must necessarily be followed by an auction through Swiss Challenge method if the aggregate exposure (including investment exposure) of lenders to the borrower/s whose loan is being transferred is Rs. 100 crore or more. In all other cases, the bilateral negotiations shall be subject to the price discovery and value maximisation approaches adopted by the transferor as part of the Board approved policy described in Clause 51, which may also include Swiss Challenge method. The

broad guidelines to be followed for the Swiss Challenge Method are given in Part D of this Chapter.

Provided that in case of transfer of stressed loans undertaken as a resolution plan under the Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions, 2019 with the approval of signatories to the inter-creditor agreement (ICA) representing 75 per cent by value of total outstanding credit facilities (fund based as well non-fund based) and 60 per cent of signatories by number, for the exit of all signatories to the ICA from the stressed loan exposure, Swiss Challenge method would be mandatory irrespective of the above exposure threshold.

57. The transferor shall ensure that subsequent to transfer of the stressed loans, they do not assume any operational, legal or any other type of risks relating to the transferred loans including additional funding or commitments to the borrower / transferee(s) with reference to the loan transferred. Subsequently, fresh exposure may be taken on the borrower after a cooling period laid down in the respective Board approved policy of the transferor, which in any case, shall not be less than 12 months from the date of such transfer.

58. Notwithstanding the stipulations in Clauses 54-57, if the transfer of stressed loans are undertaken as a resolution plan under the Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions, 2019 resulting in an exit of all lenders specified at Clause 3 from the stressed loan exposure, such transfer is permitted to any class of entities, including a corporate entity, that are permitted to take on loan exposures in terms of a statutory provision or under the regulations issued by a financial sector regulator, and which are listed in the Annex. The Annex will be updated as and when any new class of entities is permitted by the respective financial sector regulators. In case such transferee(s) are neither ARCs nor permitted transferees, the transfer shall be additionally subject to the following conditions:

- (i) The transferee entity should be incorporated in India or registered with a financial sector regulator in India (Securities and Exchange Board of India, Insurance Regulatory and Development Authority of India, Pension Fund

Regulatory and Development Authority, and International Financial Services Centres Authority).

- (ii) The transferee should not be classified as a non-performing account (NPA) by any lending institution at the time of such transfer;
- (iii) The transferee(s) should not fund the loan acquisition through loans from lenders specified at Clause 3.
- (iv) The lenders specified at Clause 3 should not grant any credit facilities apart from working capital facilities (which are not in the nature of term loans) to the borrower whose loan account is transferred, for at least three years from the date of such transfer.
- (v) Further, for at least three years from the date of such transfer, the lenders specified at Clause 3 should not grant any credit facilities to the transferee(s) for deployment, either directly or indirectly, into the operations of the borrower. For this purpose, borrower shall mean the legal entities to which the transferor(s) had exposure which was transferred to the transferee(s) as a part of the resolution plan, and may include, but is not limited to, a special purpose vehicle having a legal-entity status set up for a project.

Explanation: The entity permitted to take on loan exposures by its statutory or regulatory framework, as referred to in this clause, would have to be separately enabled by its regulatory or statutory framework for taking on loan exposures, and then listed in the Annex to these directions by the Reserve Bank. The above clause merely permits the lenders to transfer stressed loans under a resolution plan to such entities which are already permitted to take on loan exposures. The respective financial sector regulators shall put in place a framework for this purpose in consultation with the Reserve Bank.

59. The transferor(s) must provide adequate time for due diligence by prospective acquirers, which may vary as per the size of the loan.

60. The loan transfer agreement shall clearly specify that in the event an ICA is required to be signed in terms of the Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions, 2019 the transferee, regardless of the nature of the entity, shall sign the ICA as and when required.

61. The transferor(s) shall ensure that no transfer of a stressed loan is made at a contingent price whereby in the event of shortfall in the realization of the agreed price, the transferor(s) would have to bear a part of the shortfall.
62. The transferor shall transfer the stressed loans to transferee(s) other than ARCs only on cash basis. The entire transfer consideration should be received not later than at the time of transfer of loans, and the loan can be taken out of the books of the transferor only on receipt of the entire transfer consideration. NBFCs which are required to comply with IndAS shall continue to be guided by the Standards and the ICAI Advisories regarding recognition of the consideration received pursuant to the transfer. In case of other lenders, if the transfer to transferee(s) other than ARCs is at a price below the net NBV at the time of transfer, the shortfall shall be debited to the profit and loss account of the year in which transfer has taken place. If the sale consideration is for a value higher than the NBV at the time of transfer, the excess provisions may be reversed.
63. The lenders are permitted to treat a pool of stressed loans acquired on a portfolio basis as a single asset in their books provided that the pool consists of homogeneous personal loans. Homogeneity should be assessed on the basis of common risk drivers, including similar risk factors and risk profiles. In all other cases, the stressed loans acquired shall be treated as separate assets for the purpose of prudential requirements such as asset classification, capital computation, income recognition etc.

Explanation: If a portfolio of stressed homogeneous personal loans acquired is treated as a single asset by the transferee, the portfolio shall be treated as a single asset for the purpose of Clause 67 as well.

64. The reporting obligation, if any, to Credit Information Companies in respect of the stressed loans acquired will be with the transferee(s), if the latter is a credit institution as defined in sub-section (f) of Section 2 of the Credit Information Companies (Regulation) Act, 2005.
65. If the transferee(s), except ARCs, have no existing exposure to the borrower whose stressed loan account is acquired, the acquired stressed loan shall be classified as "Standard" by the transferee(s). Thereafter, the asset classification status of the loan acquired, shall be determined by the record of recovery in the books of the

transferee(s) with reference to cash flows estimated at the time of transfer of the loan.

66. In case the transferee(s), except ARCs, have existing exposure to the borrower whose stressed loan account is acquired, the asset classification of the acquired exposure shall be the same as the existing asset classification of the borrower with the transferee. This treatment shall be applicable even if such acquisition is pursuant to the transferee being a successful resolution applicant under the Insolvency and Bankruptcy Code, 2016.

67. The lender acquiring stressed loans shall make provisions for such loans as per the asset classification status in its books upon acquisition. Regardless of the asset classification, if the net present value of the cash flows estimated while acquiring the loan is less than the consideration paid for acquiring the loan, provisions shall be maintained to the extent of the difference. For this purpose, the discount factor shall be the actual interest rate charged to the borrower as per the original loan contract plus a risk premium to be determined as per the transferee's Board approved policy considering the asset classification of the loan on the books of the transferor. The risk premium will be subject to a floor of 3 per cent.

Provided that NBFCs preparing financial statements as per IndAS, shall continue to make provisions as required as per IndAS. However, they shall concurrently assess the provisioning required as per the methodology explained above and provisions so required shall be included in the computation of the prudential floor as prescribed under Paragraph 2 of the Annex to the circular DOR (NBFC).CC.PD.No.109/22.10.106/2019-20 dated March 13, 2020.

68. In the case of ARCs, the asset classification of stressed loans acquired by them and the associated provisions to be maintained shall be continued to be guided by the extant instructions as applicable to them in this regard.

69. The lenders shall hold the acquired stressed loans in their books for a period of at least six months before transferring to other lenders. Lenders are generally prohibited from acquiring loans that had been transferred as stressed loans in the previous six months.

Provided that this clause shall not apply if the transfer of a stressed loan is to an ARC or is undertaken as a resolution plan under the Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions, 2019 with the approval of signatories to the ICA representing 75 per cent by value of total outstanding credit facilities (fund based as well non-fund based) and 60 per cent of signatories by number for the exit of all signatories to the ICA from the stressed loan exposure.

B. Additional requirements for transfer of NPAs

70. The transferor shall continue to pursue the staff accountability aspects as per the existing instructions in respect of the NPAs transferred to other lenders.

71. In respect of NPAs acquired from other lenders, the cash flows received by the transferee from holding such asset should first be used to amortise the funded outstanding in the books of the transferee in respect of the loan till the acquisition cost is recovered. The cash flows in excess of the acquisition cost, if any, can be recognised as profit.

72. The lenders shall assign 100% risk weight to the NPAs acquired from other lenders as long as the loans are classified as 'standard' upon acquisition. If the loans are classified as NPA, risk weights as applicable to NPA shall be applicable.

C. Transfer of loans to Asset Reconstruction Companies

73. Subject to the provisions of the circulars DNBR.PD (ARC) CC.No.07/26.03.001/2018-19 dated June 28, 2019 and DOR.NBFC(ARC) CC. No. 8/26.03.001/2019-20 dated December 6, 2019, stressed loans which are in default for more than 60 days or classified as NPA are permitted to be transferred to ARCs. This shall include loan exposures classified as fraud as on the date of transfer provided that the responsibilities of the transferor with respect to continuous reporting, monitoring, filing of complaints with law enforcement agencies and proceedings related to such complaints shall also be transferred to the ARC. The transfer of such loan exposures to an ARC, however, does not absolve the transferor from fixing the staff accountability as required under the extant instructions on frauds.

74. In case of specific stressed loans, where it is considered necessary, transferor(s) shall be free to enter into agreement with the ARC to share, in an agreed proportion, any surplus realised by the ARC from the concerned stressed loan. In such cases, the terms of transfer should provide for a report from the ARC to the transferor(s) on the value realised from the loan. Transferor(s) shall not account for the profit until it has materialised.
75. When the stressed loan is transferred to ARC at a price below the NBV at the time of transfer, lenders shall debit the shortfall to the profit and loss account for the year in which the transfer has taken place. Banks are permitted to use countercyclical or floating provisions for meeting any shortfall on transfer of stressed loan when the transfer is at a price below the NBV.
76. On the other hand, when the stressed loan is transferred to an ARC for a value higher than the NBV at the time of transfer, lenders shall reverse the excess provision on transfer to the profit and loss account in the year the amounts are received and only when the sum of cash received by way of initial consideration and / or redemption or transfer of Security Receipts (SR) / Pass Through Certificates (PTCs)/ other securities issued by ARCs is higher than the NBV of the loan at the time of transfer. Further, such reversal shall be limited to the extent to which cash received exceeds the NBV of the loan at the time of transfer.
77. Investments by lenders in SRs / PTCs / other securities issued by ARCs shall be valued periodically by reckoning the Net Asset Value (NAV) declared by the ARC based on the recovery ratings received for such instruments.

Provided that when transferors invest in the SRs/PTCs issued by ARCs in respect of the stressed loans transferred by them to the ARC, the transferors shall carry the investment in their books on an ongoing basis, until its transfer or realization, at lower of the redemption value of SRs arrived based on the NAV as above, and the NBV of the transferred stressed loan at the time of transfer.

Provided further that when the investment by a transferor in SRs backed by stressed loans transferred by it, is more than 10 percent of all SRs backed by its transferred loans and issued under that securitisation, the valuation of such SRs by the transferor will be additionally subject to a floor of face value of the

SRs reduced by the provisioning rate as applicable to the underlying loans, had the loans continued in the books of the transferor.

78. SRs/PTCs which are not redeemed as at the end of the resolution period (i.e., five years or eight years as the case may be) shall be treated as loss asset in books of the lenders and fully provided for.
79. The valuation, classification and other norms applicable to investment in non-SLR instruments prescribed by RBI from time to time shall be applicable to lenders' investment in debentures/ bonds/ SRs /PTCs issued by ARC. However, if any of the above instruments issued by ARC is limited to the actual realisation of the financial assets assigned to the instruments in the concerned scheme, the lender shall reckon the NAV obtained from ARC from time to time, for valuation of such investments.
80. There is no prohibition on lenders from taking over standard accounts from ARCs. Accordingly, in cases where ARCs have successfully implemented a resolution plan for the stressed loans acquired by them, lenders may, at their discretion and with appropriate due diligence, take over such loans after the period equivalent to the 'monitoring period' as defined in Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions, 2019 issued vide circular DBR.No.BP.BC.45/21.04.048/2018-19 dated June 7, 2019, provided that the account performed satisfactorily, as defined in the circular *ibid* during the said 'monitoring period'. Lenders shall lay down a board approved policy containing various aspects governing such take overs viz., type of assets that may be taken over, due diligence requirements, viability criteria, performance requirement of asset, etc. as a part of the requirements under Clause 51. A lender cannot at any point of time acquire from ARCs the loan exposures they have themselves earlier transferred.
81. Where stressed loans are taken over by ARCs as agents for recovery in exchange for a fee, the loans will not be removed from the books of the transferors but realisations as and when received shall be credited to the loan accounts. The transferors shall continue making provisions for the loan in the normal course.

D. Price Discovery through Swiss Challenge Method

82. Subject to the requirements under Clause 56, the lenders shall put in place a board approved policy on adoption of Swiss Challenge Method for transfer of their stressed loans. The policy should specify the conditions under which lender(s) may opt for Swiss Challenge method, which could be based on parameters such as a tolerance limit for extent of haircut required by the lender(s) in the base-bid (as specified in Clause 85), for instance, or any objective parameter identified by the lender(s)' Board. The policy should also specify the minimum mark-up over the base-bid required for the challenger bid (as specified in Clause 85) to be considered by the lender(s), which in any case, shall not be less than five per cent and shall not be more than 15 per cent. For this purpose, mark-up shall be the difference between the challenger bid and the base-bid expressed as a percentage of the base-bid.
83. In case of transfer of stressed loans undertaken as a resolution plan under the Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions, 2019 with the approval of signatories to the ICA, the minimum mark-up over the base-bid required for the challenger bid to be considered by the lender(s) shall be decided with the approval of signatories to the ICA representing 75 per cent by value of total outstanding credit facilities (fund based as well non-fund based) and 60 per cent of signatories by number. The above decision will prevail over any individual policy of any of the signatories to the ICA.
84. On an ongoing basis, the lenders should identify the stressed loans which will be offered for transfer and an authenticated list of such loans shall be maintained by the lenders. The list may, at the discretion of the lender, be disclosed to prospective bidder on entering into confidentiality agreement.
85. The broad contours of the Swiss Challenge Method are as under:
- a. A prospective transferee interested in acquiring a specific stressed loan may offer a bid to the lender(s), which shall be termed as the base-bid.
 - b. The lender(s) shall then publicly call for counter bids from other prospective buyers, on comparable terms, by disclosing the essential elements of the base-bid and also clearly specifying the minimum mark-up (as specified in Clause 82) that would be acceptable.

- c. If no counter bid crossed the minimum mark-up specified in the invitation, the base-bid becomes the winning bid.
- d. If counter bid(s) cross the minimum mark-up specified in the invitation, the highest counter bid becomes the challenger bid. The prospective transferee who provided the base-bid is then invited to match the challenger bid. If the prospective transferee who provided the base-bid either matches the challenger bid or bids higher than the challenger bid, such bid shall become the winning bid; else, the challenger bid shall be the winning bid.
- e. The lenders will then have the following two options:
 - i. Transfer the loan to winning bidder, as determined above;
 - ii. If the lender decides not to transfer the loan to winning bidder, the lender will be required to make immediate provision on the account to the extent of the higher of the following:
 - The discount on the book value quoted in the challenger bid, and
 - The provisioning required as per extant asset classification and provisioning norms.

Chapter V: Disclosures and Reporting

86. The lenders should make appropriate disclosures in their financial statements, under 'Notes to Accounts', relating to the total amount of loans not in default / stressed loans transferred and acquired to / from other entities as prescribed below, on a quarterly basis starting from the quarter ending on December 31, 2021:

- a. In respect of loans not in default that are transferred or acquired, the disclosures should cover, *inter alia*, aspects such as weighted average maturity, weighted average holding period, retention of beneficial economic interest, coverage of tangible security coverage, and rating-wise distribution of rated loans. Specifically, a transferor should disclose all instances where it has agreed to replace loans transferred to transferee(s) or pay damages arising out of any representation or warranty. The disclosures should also provide break-up of loans transferred / acquired through assignment / novation and loan participation.

- b. In the case of stressed loans transferred or acquired, the following disclosures should be made:

<i>Details of stressed loans transferred during the year (to be made separately for loans classified as NPA and SMA)</i>			
<i>(all amounts in Rs. Crore)</i>	To ARCs	To permitted transferees	To other transferees (please specify)
No: of accounts			
Aggregate principal outstanding of loans transferred			
Weighted average residual tenor of the loans transferred			
Net book value of loans transferred (at the time of transfer)			
Aggregate consideration			
Additional consideration realized in respect of accounts transferred in earlier years			
<i>Details of loans acquired during the year</i>			
<i>(all amounts in Rs. Crore)</i>	From lenders listed in Clause 3	From ARCs	
Aggregate principal outstanding of loans acquired			
Aggregate consideration paid			
Weighted average residual tenor of loans acquired			

The transferor(s) should also make appropriate disclosures with regard to the quantum of excess provisions reversed to the profit and loss account on account of sale of stressed loans. Also, the lenders should disclose the distribution of the SRs held by them across the various categories of Recovery Ratings assigned to such SRs by the credit rating agencies.

87. Transferors shall report each loan transfer transaction undertaken under these directions to a trade reporting platform as notified by the Reserve Bank. The detailed instructions in this regard will be issued separately. In anticipation of the same, lenders shall maintain a database of loan transfer transactions with adequate MIS concerning each transaction till the reporting platform is notified and the related instructions are issued.

Chapter VI: Repeal of circulars

88. The list of circulars / directions / guidelines / parts of Master Directions that stand repealed with immediate effect is given below:

Sl. No	Circular Number	Date of Issue	Subject
1	DBR.No.BP.BC.9/21.04.048/2016-17	01.09.2016	Guidelines on Sale of Stressed Assets by Banks
2	Section B of Annex XVI and Paragraph 4 of Annex XVIII of Master Direction DNBR.PD.007/03.10.119/2016-17	01.09.2016	Master Direction - Non-Banking Financial Company – Non-Systemically Important Non-Deposit taking Company (Reserve Bank) Directions, 2016
3	Section B of Annex XXII and Paragraph 4 of Annex XXIV of Master Direction DNBR.PD.008/03.10.119/2016-17	01.09.2016	Master Direction - Non-Banking Financial Company - Systemically Important Non-Deposit taking Company and Deposit taking Company (Reserve Bank) Directions, 2016
4	DBR.No.BP.BC.102/21.04.048/2015-16	13.06.2016	Prudential Norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances - Spread Over of Shortfall on Sale of NPAs to SCs / RCs

5	DBR.No.FID.5/01.02.00/2014-15	11.06.2015	Guidelines on Sale of Financial Assets to Securitisation Company (SC) / Reconstruction Company (RC) and Related Issues
6	DCBR.BPD.(MSCB).Cir.No.1/13.05.000/2014-15	14.05.2015	Guidelines on Sale of Financial Assets to Securitization Company (SC) / Reconstruction Company (RC) - Reversal of Excess provision on Sale of NPAs to SC / RC
7	DBR.No.BP.BC.78/21.04.048 /2014-15	20.03.2015	Guidelines on Sale of Financial Assets to Securitisation Company / Reconstruction Company and Related Issues
8	DBR.No.BP.BC.75/21.04.048 /2014-15	11.03.2015	Guidelines on Sale of Financial Assets to Securitisation Company(SC)/ Reconstruction Company (RC) and Related Issues
9	Mailbox Clarification	04.03.2015	Sale of Non-Performing Financial Assets to Other Banks / FIs / NBFCs (excluding SCs / RCs)
10	Mailbox Clarification	09.04.2014	Framework for Revitalising Distressed Assets in the Economy - Refinancing of Project Loans, Sale of NPA and Other Regulatory Measures
11	UBD.BPD.(PCB).Cir.No.53/13.05.000/2013-14 (Paragraphs 4, 5 (A) (a), 6 and 7 only)	28.03.2014	Guidelines on Sale of Financial Assets to Securitisation Company / Reconstruction Company (SC / RC) by Multi State Urban Cooperative Banks
12	Paragraphs 3 and 4 of circular DBOD.BP.BC.No. 98/21.04.132/2013-14	26.02.2014	Framework for Revitalising Distressed Assets in the Economy - Refinancing of Project Loans, Sale of NPA and Other Regulatory Measures

13	Section B of the Annex to circular DBOD.No.BP.BC.103/21.04.177/2011-12	07.05.2012	Revisions to the Guidelines on Securitisation Transactions
14	DBOD.No.BP.BC.34/21.04.048/2007-08	04.10.2007	Guidelines on purchase/sale of Non Performing Assets
15	DBOD.No.BP.BC.97/21.04.048/2006-07	16.05.2007	Guidelines on purchase / sale of Non Performing Assets
16	DBOD.NO.BP.BC.16/21.04.048/2005-06	13.07.2005	Guidelines on purchase/sale of Non Performing Assets
17	DBOD.BP.BC.106/21.04.048/2002-2003	07.05.2003	Monetary and Credit Policy 2003-04 - Provisioning for NPAs
18	DBOD No.BP.BC. 96/21.04.048/ 2002-03	23.04.2003	Guidelines on sale of financial assets to Securitisation Company (SC)/ Reconstruction Company (RC) (created under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002) and related issues

Entities to which lenders are permitted to transfer stressed loan exposures under Clause 58 of these directions

1. Scheduled Commercial Banks;
2. All India Financial Institutions (NABARD, NHB, EXIM Bank, and SIDBI);
3. Small Finance Banks;
4. All Non Banking Finance Companies (NBFCs) including Housing Finance Companies (HFCs);
5. Asset Reconstruction Companies registered with the Reserve Bank of India under Section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
6. A company, as defined in sub-section (20) of Section 2 of the Companies Act, 2013 other than a financial service provider as defined in sub-section (17) of Section 3 of the Insolvency and Bankruptcy Code, 2016. Acquisition of loan exposures by such companies shall be subject to the relevant provisions of the Companies Act, 2013.