

# **COMPROMISE / ONE TIME SETTLEMENT FOR MSME SECTOR**

## **1. COMPROMISE SETTLEMENT**

Compromise policy covers all NPA advances accounts of the bank i.e. Priority, Non-Priority, suit filed and non-suit filed, decreed and NCLT and NCLAT accounts. RBI's one-time settlement scheme and various loans/overdraft under staff loan scheme are outside the purview of this policy.

A compromise is an agreement reached by mutual consent, a negotiated settlement with or without sacrifice component on the concerned parties to the dispute. Compromise settlement is a non-legal remedy for reduction of NPAs of the bank.

- i. When an advance account becomes Non-Performing and all efforts to bring the account to order or make it performing fails, then the branch must immediately recall the account and initiate steps to be taken to recover the dues in full, after obtaining authority as per the discretionary powers laid down for the purpose.
- ii. Normally bank would like to recover the entire dues with all unapplied interest and costs in full without any sacrifice.
- iii. However, there may be instances/cases where the bank may consider waiving some portion of the interest and/or legal charges and agree to settle the account by receiving a somewhat lesser amount. In such a situation, the bank may enter into a compromise agreement with the borrower to accept a specified amount in lieu of the actual dues in full and final settlement. The difference between the total dues and the amount agreed to be received in full and final settlement is a 'sacrifice' (by way of write off and/or waiver) to be made by the bank.

## **2. WHEN TO COMPROMISE:**

Normally compromise proposals can be examined/considered in following situation.

- When the branch 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.
- 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.

## **3. WHEN NOT TO COMPROMISE FOR LOWER AMOUNT:**

Branches should 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 the account is covered by guarantee cover of DICGC/ECGC and adequate securities are available to cover the balance amount.
- When net worth of the borrower and guarantors is adequate.

#### **4. 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.

Compromise settlement covers all NPA advance accounts of the bank i.e. C&I, Retail, Priority suit filed & non-suit filed, decreed, NCLT & NCLAT and PWO accounts. RBI's One Time Settlement scheme is outside the purview of this policy.

Special One Time Settlement Scheme of RBI announced from time to time like RBI OTS Scheme, scheme for small borrowers, scheme for small and marginal farmers, are not covered by the following guidelines. Separate guidelines will be issued from time to time for such schemes.

#### **5. COMPROMISE SETTLEMENT WITH WILLFUL DEFAULTERS/FRAUDULENT BORROWERS:**

In line with RBI Directives to IBA/Banks, our Board of Directors vide agenda item no. A-3, in its meeting dated July 23, 2007 have resolved (Resolution Item No. 10) that Committee of Executives of the bank be and is hereby authorized for scrutiny of proposals of compromise settlement with willful defaulters/fraudulent borrowers. The committee should take cognizance of the nature of fraud and impact of compromise settlement and after its clearance, the compromise may be entered into by Bank's Executives/Authority, within whose discretionary powers such proposal falls. Board has further advised that all compromises entered into by the Bank with **willful defaulters/fraudulent borrowers be reported/placed before the Management Committee of the Board for vetting.**

#### **6. GUIDING FACTORS FOR COMPROMISE:**

- (i) Negotiated compromise settlements should be made to maximize the compromise amounts. Hence, while negotiating a compromise settlement various factors have to be kept in mind, which are listed as under:
  - a. **Total dues:** This is the sum total of balances outstanding in the various accounts of the borrower and which are due for recovery from him. It will include balance outstanding in Term

Loan, Cash Credit, BP, BD, Advance Bill A/C etc. **less** amount lying in Interest suspense **plus** unapplied interest from date of cessation of interest to date of compromise proposal, Amount of Legal Expenses etc. already incurred and debited to P/L account if any.

- b. **Net Book Dues:** Balance outstanding in the various accounts of the borrower and which are due minus amount lying in Interest suspense.
  - c. **Margin money and recoveries held separately:** The book dues as above will be reduced to the extent of Margin money etc. kept in current a/c, Time Deposit a/c or any G/L a/c and the recoveries kept separately in any account or claims received from DICGC.
  - d. **Realizable value of security:** The nature and realizable value of securities available is an important factor to be considered while arriving at a compromise, if the securities are adequate and easily realizable, the sacrifice in the compromise should be minimum. However, mere value of security would be of no use, unless it can be sold and proceeds realized within a reasonable time. Pending litigation, tenancy rights, succession cases etc, may prevent quick sale of properties.
  - e. **Reasons for failure of Business:** Reason for the failure of business or the unit is also an important point to be kept in mind. Sometimes, a change in Government guidelines and policies may be the cause of the failure of the unit. Sometimes, it can be due to mismanagement and willful neglect by the borrower.
  - f. **Present status of the unit:** If the unit is running and prospects are good and branch/region has not lost trust in borrowers' conduct and dealings; it would be worthwhile to consider possibility to rehabilitate the unit, it would be better to compromise and recover the dues to the maximum.
  - g. **Means of borrowers/guarantors:** Present means of the borrowers, guarantors etc. will also have a bearing on the compromise settlement.
  - h. **Amount of compromise and mode of payment:** The amount of payment to be received in compromise and the period for receiving such payment will also influence the terms of compromise. Bank would like to receive the maximum amount within the shortest possible time.
  - i. **Impact on Profit & Loss Account:** In accounts which are already written-off & full provision has been made because of nil or negligible security, any recovery affected through a compromise would increase the income by credit of such recovery to P/L a/c or reduction in provision.
- (ii) As regards the amount of compromise, the most important guiding principal should be the minimum sacrifice, as far as possible. Further, book dues, as far as possible, should be recovered in full, so that there is no adverse impact on Profit & Loss A/c. In addition, recovery of reasonable interest, which at least covers the cost of funds, should also be negotiated.

**(iii) THE FOLLOWING POINTS MAY ALSO BE KEPT IN MIND:**

Compromise negotiation shall not hover around book dues. Interest at contracted rate shall be calculated and the total dues (including expenses incurred on filing the suit in the case of suit filed accounts) shall be advised to the borrower. Negotiation shall start from such total/gross dues owed by the borrower. Depending on the security available, borrowers' & guarantors' assets/resources etc. concessions can be allowed on the rate of interest and/or compounding of interest. Minimum interest that is acceptable to the bank is 10% p.a., simple, from the date of

cessation of interest till the date of repayment. A lower rate of interest may be accepted as a matter of exception in deserving cases. Agreeing to accept only net book dues or writing off a part of the Principal shall be considered only in rare case depending on compelling circumstances.

#### **7. PERIOD OF RECOVERY:**

- a. 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 installments (with a down payment of at least 15%). However, it is necessary to recover the interest wherever it is 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 installments carrying suitable rate of interest **i.e. minimum 10% simple, till the account is fully liquidated.**
- b. In the case of large compromise proposals with compromise amount above Rs. 10.00 lacs, time beyond 12 months may be permitted with down payment of at least 15% and remaining amount in monthly/quarterly/half yearly installments carrying simple interest at a rate not lower than 10% p.a.