



**UV Asset Reconstruction Company Limited
(UVARCL)**

**POLICY ON CHANGE IN OR TAKEOVER OF MANAGEMENT OF
THE BUSINESS OF THE BORROWER**

**Reviewed by the Board of Directors in its Board meeting held on August 31, 2024.*

**POLICY ON
CHANGE IN OR TAKEOVER OF MANAGEMENT OF BUSINESS OF
BORROWERS**

1. Introduction

Under SARFAESI Act, one of the strategy to realize the debt is to change the management or takeover the management of the business of borrower by the ARC. Reserve Bank of India has issued guidelines to ensure fairness, transparency, non- discrimination, and non-arbitrariness in the action of the ARC and to build in a system of check and balance while effecting change in or takeover of the management of the business of the borrower by ARC under Section 9(a) of SARFAESI Act, 2002.

2. Compliance & Restoration:

The ARC shall utilize such method of realization after complying with the manner of takeover of the management in accordance with the provisions of Section 15 of the SARFAESI Act, 2002. On realization of dues in full, the ARC shall restore the management of the business to the borrower as provided in Section 15(4) of the SARFAESI Act. However, if any ARC has converted part of its debt into shares of a borrower company and thereby acquired controlling interest in the borrower company, such ARC shall not be liable to restore the management of the business to such borrower.

3. Board Approved Policy

Reserve Bank of India's directions / guidelines issued to ARC in the matter of asset reconstruction and matters related thereto, inter-alia stipulate that ARC shall formulate a Board-approved policy regarding change in or takeover of the management of the business of the borrower and borrower shall be made aware of such policy framed by the ARC.

4. Grounds for change in or takeover of management

Company can consider change in or takeover of management on happening of any of the following event. However, before resorting to this method, company to weigh all available option for resolution and the same be placed before competent authority with justification of going in for this method.

- (a) the borrower default in repayment of the amount due under the relevant loan agreements;
- (b) the Company is satisfied that the management of the business of borrower is acting in a manner adversely affecting the interest of the creditors (including the Company) or is failing to take necessary action to avoid any event which would adversely affect the interest of the creditors;

- (c) the Company is satisfied that the management of the business of the borrower is not competent to run the business resulting in losses / non – repayment of dues to the Company or there is lack of professional management of the business of the borrower or the key managerial personnel of the business of the borrower have not been appointed for more than one year from the date of such vacancy which would adversely affect the financial health of the business of the borrower or the interest of the company as secured creditor;
- (d) the borrower has without the prior approval of the secured creditors (including the Company), sold, disposed of, charged, encumbered or alienated 10% or more (in aggregate) of its assets secured to the Company;
- (e) there are reasonable grounds to believe that the borrower would be unable to pay its debts as per terms of repayment accepted by the borrower;
- (f) the borrower has entered into any arrangement or compromise with creditors without the consent of the ARC Company which adversely affects the interest of the Company or the borrower has committed any act of insolvency;
- (g) the borrower discontinues or threatens to discontinue any of its businesses constituting 10% or more of its turnover;
- (h) all or a significant part of the assets of the borrower required for or essential for its business or operations are damaged due to the actions of the borrower,
- (i) the general nature or scope of the business, operations, management, control or ownership of the business of the borrower are altered to an extent, which in the opinion of the ARC, materially affects the ability of the borrower to repay the loan;
- (j) the Company is satisfied that serious dispute/s have arisen among the promoters or directors or partners of the business of the borrower, which could materially affect the ability of the borrower to repay the loan;
- (k) failure of the borrower to acquire the assets for which the loan has been availed and utilization of the funds borrowed for other than stated purposes or disposal of the financed assets and misuse or misappropriation of the proceeds;
- (l) fraudulent transactions by the borrower in respect of the assets secured to the creditor/s.
- (m) non-payment of dues despite adequate cash flow and availability of other resources, or

(n) routing of transaction through banks which are not lenders/consortium members so as to avoid payment of dues.

(o) Siphoning off funds to the detriment of the defaulting unit, or misrepresentation falsification of records pertaining to the transactions with the ARC.

** For the purpose of this paragraph, the default by the borrower must be deliberate and calculated as detailed above. ARC shall keep in view the track record of the borrower and the decision regarding such defaults by the borrower should not be based on isolated transactions/incidents which are not material.*

5. Eligibility conditions

5.1 The company may effect the change in or takeover of the management of the business of the borrower, where the amount due to it from the borrower is not less than 25% of the total assets owned by the borrower; and

5.2 Where the borrower is financed by more than one secured creditor (including ARC), secured creditors (including ARCs) holding not less than 60% of the outstanding SRs agree to such action.

6. In all such cases where company decide to change in or takeover the management of the business of borrower, the company shall appoint an Independent Advisory Committee (IAC) consisting of professionals from technical / finance / legal background, not related to the Company in any manner whether pecuniary or not except remuneration for acting as independent advisor, who after assessment of financial possession, time frame etc. shall recommend to the ARC that it may resort to change in or takeover of management and that such action would be necessary for effective running of the business leading to recovery of its dues.

7. The Company shall carry out the due diligence and record the details of the exercise including the finding on the circumstances which led to default in repayment and why the decision to change in or takeover of management of the business of the borrower has become necessary.

8. The Report of the IAC shall be considered by the Board of Directors including at least two independent Directors along with various options available for recovery before deciding whether under the existing circumstances the change in or takeover is necessary and the decision shall be specifically included in the minutes.

9. Management Plan:

A suitable person shall be identified by the company who can take over the management of the business of borrower by formulating a plan for operating and managing the business of the borrower effectively. Such plan should include procedure to be adopted by the Company at the time of restoration of management to borrower, borrower's rights and liabilities at the time of change and takeover by the Company and at the time of restoration and rights and liabilities of the new management taking over the management at the behest of ARC. It should also be clarified by the Company to the new management that their role is limited to recovery of dues of the Company by managing the affairs of the business of the borrower in a prudent manner.

10. Reporting to RBI:

The Company shall report to the Reserve Bank of India all the cases where they have taken action to cause change in or takeover of the management of the business of the borrower for realization of its dues from the borrower.

11. Procedure for Change in or Takeover of Management

(a) The ARC shall give a notice of 60 days to the borrower indicating its intention to effect change in or takeover of the management of the business of the borrower and calling for objections, if any.

(b) The objections, if any, submitted by the borrower shall be initially considered by the IAC and thereafter the objections along with the recommendations of the IAC shall be submitted to the Board of Directors of the ARC. The Board of Directors of ARC shall pass a reasoned order within a period of 30 days from the date of expiry of the notice period, indicating the decision of the ARC regarding the change in or takeover of the management of the business of the borrower, which shall be communicated to the borrower.

12. Delegation of authority

The Executive Committee for Resolution shall be empowered to appoint members of the Independent Advisory Committee (IAC) on case-to-case basis and shall place the report / recommendations of IAC to Board of Directors for their consideration along with its recommendations. If the case is found suitable for change in or takeover of management by the Board of Directors, the Executive Committee for Resolution will be the Competent Authority to take all further actions required including appointment of agency for due-diligence and suitable personnel / agency for managing the affairs of the business of borrower to effectively recover the dues from the borrower under this measure.