



Date: 24th August, 2017

To,
Shri C.D. Srinivasan
Chief General Manager
Department of Non-Banking Regulation
Reserve Bank of India
Centre I, World Trade Centre,
Mumbai – 400 005

Sub: Representation recommending pertinent changes to securitisation guidelines for standard assets

**Ref: Guidelines on securitization of standard assets, 2006
Revision to guidelines on securitization transactions, 2012**

Dear Sir/ Madam,

On behalf of the Indian Securitisation Foundation (ISF), a not-for-profit entity representing the securitisation industry in India, we hereby submit our representation recommending few changes in the securitization guidelines for standard assets. The securitization industry in the past few years has picked up significant pace and with the taxation issues being resolved, the industry is now forward looking and trying several innovative deals. However, the scope for innovation gets curtailed either due to restrictive provisions in the securitization guidelines or absence of clarity on certain issues. The recommendations in the representation are with the objective of highlighting the changes in the guideline that could enable the securitization industry to grow.

ISF was incorporated with the objective of promoting and representing the industry to government, regulators, the public, investors and others who have an interest or potential interest both in India and overseas, regarding the benefits of securitisation in India and aspects of the securitisation industry. Our members include banks, NBFCs, microfinance institutions. A detailed profile of ISF forms a part of the enclosures as **Annexure II**.

INDIAN SECURITISATION FOUNDATION

(A Not-For-Profit Company Licensed under Section 25 of Companies Act, 1956)

Regd. Office: 403-406, 175 Shreyas Chambers, D.N. Road, Fort
Mumbai – 400 001

Phone: 022 22614021/ 30447498

Email: info@indiansecuritisation.com; vinod@vinodkothari.com

Website: www.indiansecuritisation.com

Corporate Identity Number: U65923MH2013NPL242178



On behalf of the ISF, we hereby assimilated the suggestions from the market participants and do hereby submit our representation for your kind consideration. Our representation on the matter has been enclosed with this letter as **Annexure I**.

Should you need any further clarification, we would be glad to provide the same. In case there is a discussion required on the matter, we will be happy to come down to your office.

Kindly look into the matter and oblige.

Thanking You,

For Indian Securitisation Foundation

(Authorised Signatory)

INDIAN SECURITISATION FOUNDATION

(A Not-For-Profit Company Licensed under Section 25 of Companies Act, 1956)

Regd. Office: 403-406, 175 Shreyas Chambers, D.N. Road, Fort
Mumbai – 400 001

Phone: 022 22614021/ 30447498

Email: info@indiansecuritisation.com; vinod@vinodkothari.com

Website: www.indiansecuritisation.com

Corporate Identity Number: U65923MH2013NPL242178



Annexure I: Representation

Executive Summary: Recommendations

We recommend that:

- a. For short term loans, of tenure of 12 months or lower, the MHP requirement be similar to as provided for trade receivables, in the securitization guidelines. This will ensure that there are significant cash flows that can be securitized and for such loans, refinancing objective can be achieved in truest sense.
- b. The second loss support provided by the originator should also be eligible for the MRR requirements.
- c. The guidelines be revised to allow securitization of credit card and similar receivables. Appropriate compliances and conditions may be prescribed to ensure that the investors understand the inherent risk therein.
- d. Clarification be provided that revolving receivables as mentioned in the guidelines do not include revolving (reinstating) structures of securitization of amortising receivables and that such structuring of the securitization transaction is permissible under the guidelines.
- e. Appropriate clarity be offered to facilitate structures where structurally it may be agreed to step-up or step-down the credit enhancement requirements without engagement of the originator.
- f. It would be most appropriate if the guidance on accounting for securitization transactions is derived from the accounting standards rather than being provided by the regulator. As any departure from the requirements prescribed in the guideline, but in compliance with the accounting standard would create dilemma for the auditors and parties to the transaction. The 2012 guidelines be revised to state that the accounting of the securitization guidelines be in line with the prescribed accounting standards of ICAI.

Detail Representation

The securitization guidelines revised in 2012 had reflected the global discussion on recommended changes in securitization regulations post the financial crisis of 2007-08. The first issued guidelines in 2006 had provisions regulating structures using special purpose vehicles (in industry parlance called the PTCs route). Post the 2006 guidelines, the direct assignment structures had become more popular. The 2012 guidelines regulated both the direct assignment structures and PTCs structures and the revised

INDIAN SECURITISATION FOUNDATION

(A Not-For-Profit Company Licensed under Section 25 of Companies Act, 1956)

Regd. Office: 403-406, 175 Shreyas Chambers, D.N. Road, Fort
Mumbai – 400 001

Phone: 022 22614021/ 30447498

Email: info@indiansecuritisation.com; vinod@vinodkothari.com

Website: www.indiansecuritisation.com

Corporate Identity Number: U65923MH2013NPL242178



guideline was welcomed by the industry as it had a positive impact on securitization transactions.

With advent of time, the appetite of the market has increased and there is greater acceptability and understanding of securitization transactions. Now, with the passage of time, there are new kinds of transactions attempted, but the general feeling in the industry is that the guidelines are not facilitating or providing room for such innovative.

Below are some suggestive changes to the securitization guidelines that the industry participants feel, are pertinent to keep the momentum going of the evolving market:

- a. **MHP requirements** – The MHP requirements were introduced to dissuade originate-to-distribute model, which was considered as one of the factors that led to the global financial crisis. The objective was to ensure that the originator does not go lax on the loan underwriting standards and stays on the books of the originator before they can be securitized.

Issues identified

While the objective of the MHP requirements is well understood and appreciated, the industry has identified following issue(s) in the MHP requirements:

- i. The MHP requirements for loans with original maturity of upto 2 years have an MHP requirement of 3 months.
- ii. For loans with original maturity of 11 months, such as microfinance or gold loans, three months of seasoning does not make securitization viable.
- iii. Most of these loans of 12 months or less tenure have a high prepayment rate and after 3 months of seasoning, the receivables available for securitization have tail end risks making securitization unviable for such tenure loans.

Recommendations

We recommend that for short term loans, of tenure of 12 months or lower, the MHP requirement be similar to as provided for trade receivables, in the securitization guidelines. This will ensure that there are significant cash flows that can be securitized and for such loans, refinancing objective can be achieved in truest sense.

INDIAN SECURITISATION FOUNDATION

(A Not-For-Profit Company Licensed under Section 25 of Companies Act, 1956)

Regd. Office: 403-406, 175 Shreyas Chambers, D.N. Road, Fort
Mumbai – 400 001

Phone: 022 22614021/ 30447498

Email: info@indiansecuritisation.com; vinod@vinodkothari.com

Website: www.indiansecuritisation.com

Corporate Identity Number: U65923MH2013NPL242178

- b. **MRR requirements** – The minimum risk retention requirements were introduced in the 2012 guidelines with the objective of ensuring that the originator continues to have skin-in-the-game.

Issues identified

- i. The MRR requirements prescribe that the equity tranche and/ or the first loss credit enhancement as provided by the originator will be eligible to meet the MRR requirements. However, the second loss support, if provided by the originator does not qualify for the MRR requirement.
- ii. If the objective is to ensure that the originator continues to have skin-in-the-game, then the second loss support meets the objective as well.

Recommendations

We recommend that the second loss support provided by the originator should also be eligible for the MRR requirements.

- c. **Revolving structures** – The 2012 guidelines prescribe that the revolving credit facilities (e.g. credit card receivables) shall not be eligible for securitization. The guidelines explain that typical revolving structures have non-amortising assets such as credit card receivables, trade receivables, dealer floorplan loans, certain leases that would support non-amortising structures.

It seems that the restriction is on securitization of such receivables that are non-amortising in nature and continue to revolve. The example of credit card receivables, as provided in the guidelines, shall be used objectively to associate similar structures/ receivables from being ineligible for securitization under these guidelines, i.e., applying the principle of *ejusdem generis*.

Issues identified

- i. It is pertinent to mention that globally there is no restriction on securitization of credit card receivables and post the crisis as well there have been securitization of credit card receivables. Therefore there seems no rationale for not allowing securitization of credit card receivables.
- ii. The term revolving structure used in the guidelines tends to create confusion on whether securitization of dynamic pools using revolving structures for amortizing receivables is also covered under the ineligibility criteria.



INDIAN SECURITISATION FOUNDATION

- iii. The guidelines do not talk about revolving structures where the pool of amortizing receivables continue to be reinstated for a designated period of time before the same can start to amortise. This kind of structure typically has a revolving period and an amortization period. During the revolving period, the receivables that replenish are reinstated into the pool (thereby the pool is dynamic as against being static under a typical securitization structure). The receivables reinstated into the pool also meet the same eligibility conditions as the original receivables did at the initial transfer. The process of reinstating receivables continues before the receivables are amortised. These kinds of structures are typical where short term assets are used for creating longer term liabilities and are very commonly used structures globally.
- iv. The usage of the term “revolving structures” in the guidelines creates apprehension, whether it extends to reinstating structures of securitization as explained in point (iii) above.

Recommendations

We recommend that:

- i. The guidelines be revised to allow securitization of credit card and similar receivables. Appropriate compliances and conditions may be prescribed to ensure that the investors understand the inherent risk therein;
 - ii. Clarification be provided that revolving receivables as mentioned in the guidelines do not include revolving (reinstating) structures of securitization of amortising receivables and that such structuring of the securitization transaction is permissible under the guidelines.
- d. **Stepping-up credit enhancements** – The guidelines prescribe that the form of MRR should not change during the life of securitization. Also the guidelines state that additional credit enhancements support cannot be supplied during the persistence of the transactions.

Issues identified

The guidelines indicate that once the type of credit enhancement and quantum is decided in a structure, additional credit enhancement cannot be furnished in the transaction based on the performance of the transaction. This would vitiate the true sale criteria itself.

INDIAN SECURITISATION FOUNDATION

(A Not-For-Profit Company Licensed under Section 25 of Companies Act, 1956)

Regd. Office: 403-406, 175 Shreyas Chambers, D.N. Road, Fort
Mumbai – 400 001

Phone: 022 22614021/ 30447498

Email: info@indiansecuritisation.com; vinod@vinodkothari.com

Website: www.indiansecuritisation.com

Corporate Identity Number: U65923MH2013NPL242178



INDIAN SECURITISATION FOUNDATION

- i. There is no prescription in the guidelines on whether there can be a pre-decided structure, where at the inception we agree to step-up the credit enhancements during the subsistence of the transaction.
- ii. Globally there are securitization transactions that have low credit enhancement requirements during the initial months and the credit enhancements are built over the months and stepped-up and then reduced again. The increase in the credit enhancements is pre-determined at the time of structuring of the transaction itself and thereafter there is no intervention from the originator.
- iii. The industry is also contemplating such structures, as prevalent, globally, however the need to maintain the MRR requirements, applicability of reset guidelines and absence of clarity on issue are acting as a hindrance.

Recommendations

We recommend that appropriate clarity be offered to facilitate structures where structurally it may be agreed to step-up or step-down the credit enhancement requirements without engagement of the originator.

- e. **Accounting provisions in guidelines** – The 2012 guidelines prescribe for the accounting treatment for booking of profits and off-balance sheet treatment for the receivables.

Issues identified

- i. The guidelines do not appreciate that there is a difference between true sale from legal perspective and off-balance sheet criteria from accounting perspective. The transaction may be legally a true sale but may not meet the criteria for de-recognition of the receivables from the books of the originator from accounting parlance.
- ii. Further, the accounting treatment of various facets of the securitization transaction is dealt with in the accounting standards for financial instruments (Ind AS 109).

Recommendations

We recommend that, it would be most appropriate if the guidance on accounting for securitization transactions is derived from the accounting standards rather than being provided by the regulator. As any departure from the requirements

INDIAN SECURITISATION FOUNDATION

(A Not-For-Profit Company Licensed under Section 25 of Companies Act, 1956)

Regd. Office: 403-406, 175 Shreyas Chambers, D.N. Road, Fort
Mumbai – 400 001

Phone: 022 22614021/ 30447498

Email: info@indiansecuritisation.com; vinod@vinodkothari.com

Website: www.indiansecuritisation.com

Corporate Identity Number: U65923MH2013NPL242178



prescribed in the guideline, but in compliance with the accounting standard would create dilemma for the auditors and parties to the transaction.

We recommend that the guidelines be revised to state that the accounting of the securitization guidelines be in line with the prescribed accounting standards of ICAI.

The securitization guidelines prescribed by RBI are the only source of guidance for undertaking securitization transactions in India. The guidelines are referred to in the taxation provisions under the Income Tax Act as well. Hence it is of paramount significance that the securitization guidelines continue to be revised to be aligned with the needs of the market and that the guidelines keep pace with the global practices.

INDIAN SECURITISATION FOUNDATION

(A Not-For-Profit Company Licensed under Section 25 of Companies Act, 1956)

Regd. Office: 403-406, 175 Shreyas Chambers, D.N. Road, Fort
Mumbai – 400 001

Phone: 022 22614021/ 30447498

Email: info@indiansecuritisation.com; vinod@vinodkothari.com

Website: www.indiansecuritisation.com

Corporate Identity Number: U65923MH2013NPL242178



Annexure II: About Indian Securitisation Foundation

Indian Securitisation Foundation (ISF) is a not-for-profit organisation incorporated under section 25 of the Companies Act, 1956, a representative body of the securitisation industry in India. ISF is formed with the objective of developing, promoting and protecting the securitisation, structured finance markets in India in particular, and market for fixed income securities in general.

Securitisation in India is not just a fixed income investing instrument, but essential for the idea of financial inclusion, in form of priority sector lending. Banks meet their priority sector targets partly through portfolio acquisitions and securitisation, thereby putting securitisation at par with the banking book.

Infrastructure sector also depends substantially on securitisation for equity extraction.

In essence, the significance of securitisation to India's financial sector cannot be underestimated.

Over time, credit default swaps are also expected to be prevalent as ways of synthetically replicating credit risk.

It is a clear policy choice to have a strong market for fixed income securities in India: structured finance securities are an essential part of that market, to provide variety, choice and alignment to investor needs.

In this background, ISF was conceptualised to provide direction, leadership, advocacy and support to the securitisation and structured finance industry.

Some of the functions of the Foundation include:

- a. **Advocacy** – making representation to various authorities from time to time on matters as may concern securitisation and similar capital market instruments.
- b. **Industry forums and networking** - holding periodic conventions and educational courses.

INDIAN SECURITISATION FOUNDATION

(A Not-For-Profit Company Licensed under Section 25 of Companies Act, 1956)

Regd. Office: 403-406, 175 Shreyas Chambers, D.N. Road, Fort
Mumbai – 400 001

Phone: 022 22614021/ 30447498

Email: info@indiansecuritisation.com; vinod@vinodkothari.com

Website: www.indiansecuritisation.com

Corporate Identity Number: U65923MH2013NPL242178



- c. **Development of industry standards** - framing self-regulatory standards on disclosures, reporting, servicing reporting, DOs and DONTs for securitisation and direct assignment transactions, etc. Development of standards such as standard assignment agreements, assignment procedures, notification procedures, etc. on the lines of ISDA agreements and encouraging members over period to start using such standard templates.
- d. **Information exchange** – on matters of common interest, collateral performance, etc.

Advisory Committee

Mr. M.R Umarji

Mr. Madhukar R Umarji, Chief Advisor - Legal of the Indian Banks' Association is acknowledged as an authority on Secured Transactions Law in India. He began his career as a Legal Assistant for the state government simultaneously pursuing his Masters in law. Following his Masters, he shifted to being a Legal Advisor in commercial banks and completed his transition to a commercial banker by becoming Executive Director of a public sector bank. Later he was taken on deputation at Reserve Bank of India as Executive Director in charge of Department of Non-Banking Supervision. He has been a part of several Expert Committees set up by the Government and Working Groups concerned with Banking Sector Reforms in India. His pivotal role in the drafting of secured transactions legislation in India shaped the way for a path-breaking reform for the Indian banking industry. Presently, he is actively involved with Working Group VI of UNCITRAL on Secured Transactions as an expert from India.

Mr. Sanjay Chamria

Mr. Chamria founded Magma in 1988, along with Mr. Mayank Poddar. As the Vice Chairman and Managing Director of Magma, he anchors policy formation, strategy planning and execution. He was born and educated in Kolkata, and graduated as one of the country's youngest chartered accountants in 1985 with national ranking. For the

INDIAN SECURITISATION FOUNDATION

(A Not-For-Profit Company Licensed under Section 25 of Companies Act, 1956)

Regd. Office: 403-406, 175 Shreyas Chambers, D.N. Road, Fort
Mumbai – 400 001

Phone: 022 22614021/ 30447498

Email: info@indiansecuritisation.com; vinod@vinodkothari.com

Website: www.indiansecuritisation.com

Corporate Identity Number: U65923MH2013NPL242178



past 23 years, he has steered the organization from a three-employee, one-office set up to a company with 225+ branch offices and more than 6000 employees.

Mr. Chamria uses his position as one of the foremost leaders in India's asset financing industry to articulate his views on critical issues facing the industry and its future. He has represented the BFSI and NBFC industry at various forums, including RBI, and before the finance ministry and other government bodies. He has also chaired committees at the FICCI, the Hire Purchase & Lease Association of India, the CII, the Finance Industry Development Council (FIDC) and the Indian Merchants Chamber in Mumbai.

Mr. D.K. Vyas, CEO, SREI BNP

Mr. D K Vyas, CEO of Srei BNP, has catapulted Srei BNP Paribas to a dominant leadership position in the infrastructure and construction equipment finance business, with over 33% market share, leading a team of over 1,000 professionals, and with distribution across the country. Demonstrating a judicious balance between growth and prudence in lending, the company under his leadership has registered a CAGR of over 35% over the past five years, disbursed over Rs. 10,010 crore in FY 11 and has one of the lowest NPA's in the industry.

Mr. V. S Rangan

Mr. V. Srinivasa Rangan is Executive Director at Housing Development Finance Corporation Limited (HDFC Ltd). He has been associated with the company since 1986. Mr. Rangan is a Graduate in Commerce, CWA and an Associate member of the Institute of Chartered Accountants of India with national ranking.

Mr Rangan has worked on international consulting assignments in housing finance in countries such as Ghana and the Maldives. He has also been a member of various committees constituted by the regulators in the areas of development of Mortgage Backed Securitisation and Secondary Mortgage Markets which includes RBI's

INDIAN SECURITISATION FOUNDATION

(A Not-For-Profit Company Licensed under Section 25 of Companies Act, 1956)

Regd. Office: 403-406, 175 Shreyas Chambers, D.N. Road, Fort
Mumbai – 400 001

Phone: 022 22614021/ 30447498

Email: info@indiansecuritisation.com; vinod@vinodkothari.com

Website: www.indiansecuritisation.com

Corporate Identity Number: U65923MH2013NPL242178



Committee on Asset Securitisation and Mortgage Backed Securitisation and Technical Group formed by National Housing Bank for setting up of a Secondary Mortgage market institution in India.

Mr Rangan was recently conferred the "Best CFO in the Financial Sector for 2010" by "The Institute of Chartered Accountants of India" (ICAI) for exceptional performance and achievements as CFO in the Financial Sector for the year 2010 .

Mr. T.T Srinivasraghavan

Mr. T. T. Srinivasaraghavan is the Managing Director at Sundaram Finance Ltd. He served as Joint Managing Director of Sundaram Finance Ltd. Mr. Srinivasaraghavan serves as Chairman of Infreight Logistics Solutions Ltd. He serves as an Executive Director of Sundaram Finance Ltd, and Director of Sundaram BNP Paribas Home Finance Limited and Sundaram BNP Paribas Asset Management Co. Ltd. Mr. Srinivasaraghavan has a vast experience in the Banking and Finance sectors. He serves as President of International Finance & Leasing Association, United Kingdom. Mr. Srinivasaraghavan holds an M.B.A. in Finance Degree.

Executive Committee

Executive functions of the ISF are currently being discharged by team of Vinod Kothari Consultants P. Ltd. The team is led by Vinod Kothari and Nidhi Bothra.

Mr. Vinod Kothari

Mr. Kothari is a noted scholar on securitisation and has lectured all over the World on securitisation. Vinod Kothari has been consulted by regulators in various countries, and has structured transactions in several markets. Vinod Kothari is the author of several books on the subject including Securitisation: Financial Instruments of Future, Introduction to Securitization (co-author with Frank Fabozzi), Credit Derivatives, Structured Credit Trading and Guide to Structured Finance etc. For detailed profile of Vinod Kothari, see www.vinodkothari.com/profile

Ms. Nidhi Bothra

INDIAN SECURITISATION FOUNDATION

(A Not-For-Profit Company Licensed under Section 25 of Companies Act, 1956)

Regd. Office: 403-406, 175 Shreyas Chambers, D.N. Road, Fort
Mumbai – 400 001

Phone: 022 22614021/ 30447498

Email: info@indiansecuritisation.com; vinod@vinodkothari.com

Website: www.indiansecuritisation.com

Corporate Identity Number: U65923MH2013NPL242178



Ms. Bothra is a consultant on securitisation, structured finance and corporate finance and is Executive Vice President in Vinod Kothari Consultants P Ltd. Nidhi has conducted training workshops on securitisation in India and outside India, and has handled several consulting assignments on structured finance in different markets. See profile at <http://vinodkothari.com/nidhi-bothra-profile/>

INDIAN SECURITISATION FOUNDATION

(A Not-For-Profit Company Licensed under Section 25 of Companies Act, 1956)

Regd. Office: 403-406, 175 Shreyas Chambers, D.N. Road, Fort
Mumbai – 400 001

Phone: 022 22614021/ 30447498

Email: info@indiansecuritisation.com; vinod@vinodkothari.com

Website: www.indiansecuritisation.com

Corporate Identity Number: U65923MH2013NPL242178