

Corporate Debt Restructuring (CDR) Mechanism in India

Meaning of CDR

- Refers to restructuring of the outstanding debts of a company when it find its difficult to repay the same.
- Comprises of provisions of moratorium, spreading the obligations over a longer period of time, conversion of part of the debt into equity or preference capital or ZRDs, reduction of interest rate, payments out of promoters contribution / sale of surplus assets etc.

Introduction in India

- Introduced in 2001
- Based on systems prevalent in UK, Thailand, Korea, Malaysia etc.
- Voluntary, non-statutory system
- Allows a distressed company with two or more lenders with debt of more than Rs. 10 Crore to restructure
- Consent of lenders representing 75% or more in value and 60% or more by number
- Based on Debtor – Creditor Agreement (DCA) and Inter – Creditor Agreement (ICA)

Objective

- To ensure timely and transparent mechanism for restructuring the corporate debts of viable entities facing problems, outside the purview of BIFR, DRT and other legal proceedings, for the benefit of all concerned.

Scope of CDR

- Organizational framework institutionalize for speedy disposal of restructuring proposals
- Available to all borrowers engaged in **any** type of activity subject to the following conditions :
 - a) The borrower enjoys credit facilities from more than one bank / FI under multiple banking / syndication / consortium system of lending.
 - b) The total outstanding (fund-based and non-fund based) exposure is Rs.10 crore or above.

Structure of CDR system

- CDR system is having three tier structure :
- ✓ CDR Standing Forum and its Core Group
- ✓ CDR Empowered Group
- ✓ CDR Cell

CDR Standing Forum and its Core Group

- CDR Standing forum is Representative general body of all financial institutions and banks participating in CDR system.
- It comprises of CMD, IDBI; Chairman, SBI; MD & CEO, ICICI Bank; Chairman, Indian Banks' Association as well as Chairmen and Managing Directors of all Banks and FIs participating as permanent members in the system.

- Official platform for both the creditors and borrowers (by consultation) to amicably and collectively evolve policies and guidelines.
- CDR Core Group is carved out of the CDR Standing Forum to assist the Standing Forum in convening the meetings and taking decisions relating to policy, on behalf of the Standing Forum

- The CDR Core Group lays down the policies and guidelines to be followed by the CDR Empowered Group and CDR Cell

CDR Empowered Group

- Consists of ED level representatives of IDBI , ICICI and SBI as standing members, in addition to ED level representatives of FIs and Banks who have an exposure to the concerned company.
- Considers the preliminary report of all cases of requests for restructuring, submitted to it by the CDR Cell.

- Decides as to whether the restructuring of the company is prima-facie feasible and the enterprise is potentially viable in terms of the policies and guidelines evolved by Standing Forum
- If found feasible / viable by CDR-EG detailed restructuring package is to be prepared by CDR cell
- If restructuring of debt is found to be viable and feasible and approved by the Empowered Group, the company would be put on the restructuring mode

- If not found viable, the creditors would be free to take necessary steps for immediate recovery of dues
- The decisions of the CDR Empowered Group are final

CDR CELL

- The CDR Standing Forum and the CDR Empowered Group will be assisted by a CDR Cell in all their functions
- All references for CDR by creditors or borrowers will be made to the CDR Cell.

- Will make the initial scrutiny of the proposals received from borrowers / creditors, by calling for proposed rehabilitation plan and other information
- Will put up the matter before the CDR Empowered Group, within one month to decide whether rehabilitation is prima facie feasible.

- Will prepare the restructuring plan in terms of the general policies and guidelines approved by the CDR Standing Forum and place for consideration of the Empowered Group within 30 days for decision.
- The Empowered Group can approve or suggest modifications but ensure that a final decision is taken within a total period of 90 days.

- For sufficient reasons the period can be extended up to a maximum of 180 days from the date of reference to the CDR Cell

Eligibility criteria

Covers only :

- Multiple banking accounts / syndication / consortium accounts
- Of corporate borrowers
- Engaged in any type of activity
- With outstanding fund-based and non-fund based exposure of Rs.10 Crore and above by banks and institutions.

- The initiative to resolve the case under the CDR system is taken by at least 75% of the creditors (by value) and 60% of creditors (by number).

Category-1

- Applicable only to accounts classified as 'standard' and 'sub-standard'.
- The account should be classified as 'standard' and 'sub-standard' by 90% of the creditors (By value)

Ineligible Cases

- BIFR cases are not eligible for restructuring under the CDR system. However, large value BIFR cases may be eligible if specifically recommended by the CDR Core Group.
- Corporates indulging in frauds and malfeasance even in a single bank will continue to remain ineligible for restructuring
- Willful defaulters, who can rectify the willful default may be allowed with the approval of the CDR Core Group

Reference to CDR system

- Reference can be triggered by :
 - I. any one or more of the creditors who have minimum 20% share in either working capital or term finance, or
 - II. by the concerned corporate, if supported by a bank or financial institution having stake as in (i) above.

Legal Basis to CDR

Is provided by :

- The Debtor - Creditor Agreement (DCA) and
- The Inter-Creditor Agreement (ICA).

Inter-Creditor Agreement (ICA).

- Entered into by all banks / FIs in the CDR System
- Makes the restructuring legally binding on all participating Banks and FIs with necessary enforcement and penal provisions, if 75% of creditors (by value) and 60% (in numbers) agree to the same.

The Debtor – Creditor Agreement (DCA)

- Debtors and creditors are required to execute the DCA.
- Has a legally binding ‘stand still’ clause binding for 90/180 days whereby both the debtor and creditor(s) agree to commit themselves not to take recourse to any legal action during the period
- Stand Still not to apply to Criminal Action

Sharing of Additional finance

- Additional finance, if any, is to be provided by all creditors of a 'standard' or 'substandard account' irrespective of whether they are working capital or term creditors, on a pro-rata basis.

- The providers of additional finance, whether existing creditors or new creditors, shall have a preferential claim, to be worked out under the restructuring package, over the providers of existing finance

Exit Option- Creditor outside the minimum 75 per cent & 60 per cent

- who for any internal reasons does not wish to commit additional finance will have an option to:
 - (a) arrange for its share of additional finance to be provided by a new or existing creditor,
 - (b) agree to the deferment of the first year's interest due to it after the CDR package becomes effective.

- The first year's deferred interest as mentioned above, without compounding, will be payable along with the last installment of the principal due to the creditor.

Exit option- Creditor within minimum 75% and 60%

- Available provided the purchaser agrees to abide by approved restructuring package by the Empowered Group.
- The exiting lenders may be allowed to continue with their existing level of exposure to the borrower provided they tie up with either the existing lenders or fresh lenders taking up their share of additional finance.

Category 2 CDR System

- Cases where the accounts have been classified as 'doubtful' in the books of creditors.
- If a minimum of 75% of creditors (by value) and 60% creditors (by number) satisfy themselves of the viability of the account
- All the other features of the CDR system as applicable to the First Category will also be applicable to cases restructured under the Second Category.

Incorporation of 'right to recompense' clause

- All CDR approved packages must incorporate creditors' right to accelerate repayment and borrowers' right to pre-pay.
- Should be based on certain performance criteria to be decided by the Standing Forum.