Stressed firms: Banks get more leeway to change ownership

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In a move that will make it easier for banks to bring in a new owner for a stressed company, the Reserve Bank of India (RBI) on Thursday said lenders could upgrade such firms to a ‘standard’ account even if the change in the ownership was outside of the purview of a strategic debt restructuring (SDR) scheme. Classifying a loan as standard helps lenders save capital as they need to set aside smaller provisions for these.

The central bank said the change in the rules would further enhance banks’ ability to bring in a change in the ownership of borrowers that were under stress primarily due to operational or managerial inefficiencies despite substantial sacrifices made by the lending banks.

The ownership of a company can change either if lenders sell shares they have acquired invoking a pledge or by converting debt into equity outside of the SDR. Banks can also bring in a new promoter group by offering it fresh shares in the company. Moreover, the borrowing entity can be acquired by another entity.

The new promoter cannot belong to the existing promoter or promoter group whether in India or overseas.
“Banks should clearly establish that the acquirer does not belong to the existing promoter group and the new promoter should have acquired at least 51% of the paid-up equity capital of the borrower company,” the RBI said.

Besides, if the new promoter is a non-resident and from a sector where the cap on foreign investment is lower than 51%, he should own at least 26% of the paid-up equity capital or up to the applicable foreign investment limit, whichever is higher. However, banks should be satisfied that the new non-resident promoter is able to control the management with the stake that he holds.

To speed up approvals on decisions taken at a joint lenders’ forum (JLF), the RBI asked banks to form a committee of bankers — the joint lenders’ forum empowered group (JLF-EG). The central bank observed that at times, boards of the banks find it difficult to approve the decisions taken by the JLF as these do not have senior-level representations from the participating lenders.
“It has been represented to us that sometimes boards of banks find it difficult to approve decisions taken by a JLF as the JLF doesn’t have senior-level representation from the participating lenders,” the central bank observed. “The participation in the JLF-EG shall not be less than the rank of an executive director in a PSB (public sector bank)or equivalent,” it added.
The RBI has also allowed dissenting lenders who do not want to participate in the rectification or restructuring of the account as part of a Corrective Action Plan, which may or may not involve additional financing, an option to exit their exposure completely by selling their exposure to a new or existing lender.

It explained that the new lender to whom the exiting lender sells its stake may not be required to commit any additional finance if the CAP involves additional finance. "In such cases, if the new lender chooses to not to participate in additional finance, the share of additional finance pertaining to the exiting lender will be met by the existing lenders on a pro rata basis," it said.

(Financial Express)