

POLICY
FOR
ONE TIME SETTLEMENT

PICUP

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ONE TIME SETTLEMENT OF NPAs

- 1.0 OTS Policy for PICUP needs more objectivity in its appraisal efforts. At the same time, however, it is important that the policy should allow for a scientist's precision as well as an artist's appreciation to ensure that while the system remains objective, it does not lose out on the need for factoring in uniqueness of each case that will come up for a settlement. Early settlement is the essence of any OTS policy equally important is the fact that such policy should be attractive to the borrowers. Accordingly the state's OTS policy will stand on two principles;
 - 1.1 A system of standardized measurable indicators to ensure transparency, consistency and accountability
 - 1.2 An appropriate system for exercising discretionary powers by competent authority.
- 2.0 OTS system being practiced by PICUP needs to be strengthened on the following counts:
 - (i) Calculation of Recoverable Dues
 - (ii) Calculation of Indicative OTS Amount
 - (iii) Willful Default
 - (iv) Staff Accountability
 - (v) Negotiation Principle
 - (vi) Principle of Sacrifice

ONE TIME SETTLEMENT POLICY

(The Policy shall apply to all types of loans)

3.0 Calculation of Recoverable Dues

Calculation of the recoverable dues should be standardized. It should particularly factor in the following:

- (i) **Relevant/Material Date:** The date of identification of NPA. In cases where a unit became NPA, revived subsequently and then again became NPA, then the last event of becoming NPA will be the Relevant Date.
- (ii) **Base Amount:** Principal Outstanding including Interest upto the date of NPA (ie.90 days Interest) shall be treated as **Base Amount** for all practical purpose.

3.1 It need be noted that **in these recommendations it is proposed to include Interest upto the date of NPA for calculation of Base Amount. However, the existing system in the concerned organization calculates Base amount by including Interest uptill the date of settlement.** This system in many cases have lead to situations where a small loan jumped to Base Value which was several times higher (i.e. loan worth around Rupees Ten Lac jumped to Rs. one Crore or much more). The Macro picture itself is revealing. Currently the Principal amount outstanding is around Rs. 270 crore while the interest due is measured at Rs 4000 crore. Liabilities got so inflated that settlement became difficult rather prohibitive. In many cases

the available collateral was much less than the outstanding liabilities (after including interest). No distinction was made between good bad and loss account for this purpose. **Almost all the accounts fall in the category of D3 or L (Loss)**. Somehow, this fact has not been factored in by the current policy and this apparently is one of major barriers to the settlement process.

- 3.2 It be noted that in majority of outstanding NPA cases recovery options have already been exercised, even issuing of 'RCs' has not helped much. The realizable security in many of the OTS cases was not enough and borrowers were not even willing to pay the Principal amount. This highlights the degree of difficulty involved and provides the backdrop for this policy effort. Also the institution under consideration have ceased to be lending institution for atleast around ten years.
- 3.3 Normally businesses are run on the principle of maximizing returns and minimizing costs. In this case, given the asset profile, principle of profit maximization is no longer relevant. Therefore all efforts have to be focused on minimization of costs, including minimum decline in asset value before the recoveries happen. This pre-supposes early settlement of NPAs.

4.0 Calculation of Indicative OTS Amount

The spirit behind calculation of indicative OTS Amount is that it should help in arriving at an 'Indicative' amount which could serve as a yardstick in the negotiation process. It is recommended that PICUP should use standardized modules for arriving at an indicative OTS amount. This approach is being successfully followed by some of the leading nationalized banks where a standardized weighted (*Using Weight System*) module for arriving at an indicative OTS amount has led to both transparency and accountability. Table T1 (below) & Table T2 (displayed later) detail a module, which shall be adopted by PICUP:

4.1 Indicative OTS Amount

Table 1 - Line of Approach to OTS			
Sl. No.	Marks	Category	Basis of arriving at Indicative OTS Amount
(i)	(ii)	(iii)	(iv)
1.1	91-100	SS	Indicative OTS Amount = Base Amount + 100% OSI calculated at document rate from the date of NPA
1.2		D-1	Indicative OTS Amount = Base Amount + 50% OSI calculated at document rate from the date of NPA
1.3		D-II	Indicative OTS Amount = Base Amount + 25% OSI calculated at document rate from the date of NPA
1.4		D-III	Indicative OTS Amount = Base Amount + 15% OSI calculated at document rate from the date of NPA
1.5		Loss	Indicative OTS Amount = Base Amount + NIL
2.1	81-90	SS	Indicative OTS Amount = Base Amount + 50% OSI calculated at document rate from the date of NPA
2.2		D-1	Indicative OTS Amount = Base Amount + 25% OSI calculated at document rate from the date of NPA
2.3		D-II	Indicative OTS Amount = Base Amount + 12.5% OSI calculated at document rate from the date of NPA
2.4		D-III	Indicative OTS Amount = Base Amount + 7.5% OSI calculated at document rate from the date of NPA
2.5		Loss	Indicative OTS Amount = Base Amount + NIL
3	1-80	All	Indicative OTS Amount = $\frac{\text{Marks Obtained} \times \text{Base Amount}}{80}$

4.2 **ARO dues etc. + RC Collection Charges will be in addition to the final OTS amount.**

4.3 The methodology discussed here is similar to the one used by nationalized banks like the Punjab National Bank and is very much in line with the RBI guidelines. A marginal departure has been scripted in cases where scores exceed 80. In such cases in addition to the practice followed by some banks a distinction has been made between SS, D1, D2 D3, and loss categories. This is logical because the circumstances of the units in these different categories are different and this calls for a differential treatment. Even in the current policy a distinction is made on the basis of above categorization.

4.4 **Any interest debited in the books of account, over and above the one included in the indicative OTS Amount, as recommended in this policy, will automatically stand waived off once this OTS is sanctioned. However, if the OTS is cancelled the waived off amount will again be treated as written back.**

5.0 **Indicative OTS amount - Parameters for Calculation**

In the above methodology “Marks Obtained” mentioned in ‘Table 1’ for calculation of the OTS indicative amount will come from Table 2 below. Each one of the parameters mentioned in the Table 2 below will involve measurement or an independent scoring system for arriving at a value for each of the specific

parameter. Values for each of the parameter will then become part of the over all scoring system (as outlined in Table 1).

Table -2 Parameters for OTS Amount		
Sl. No.	Parameters	Maximum Score
(i)	(ii)	(iii)
1.	Activity of the Unit	05
2.	Primary/ Collateral Security	70
3.	Other Securities including net worth of guarantors	10
4.	Enforcement of Security Interest & Legal Status	05
5.	Amount Paid by the Borrower	10
	TOTAL Score	..
6.	Less: Other Attendant Factors <i>(5 Marks for each discount factor (with a Max of 10 points). Discount factors detailed later in this note.)</i>	10
	Net Score	

The considerations for awarding the scores under various parameters included in 'Table 2' will be as follows:

5.1 Activity of the Unit

The present business activity of the borrower/ guarantor and genuineness of the problems/ difficulties of the borrower and their willingness to enter into OTS should be kept in view while arriving at a negotiated settlement. Therefore, keeping in view the present level of operations of the unit/borrower(s), the

marks under this parameter would be awarded in the range of '0 to 5' of Table 3 based on the following broad considerations:

Table 3 Present Level of Activity		
Sl. No.	Present Level of Activity	Points
(i)	(ii)	(iii)
1.	Activity not started or closed	0
2.	Running less than full capacity (<i>as established by CA Reports</i>)	2
3.	Running at full capacity	5
	Score	

5.2 Primary and Collateral Security

The valuation reports shall be submitted by approved valuers and verified by the official(s). The realizable value should take into consideration various aspects, affecting realizable value. To quote a few:

- (i) whether the property is commercial or residential,
- (ii) whether the property is self occupied or tenant occupied.
If tenant occupied, since how many years the same is occupied by the present tenant.
- (iii) whether land, is on lease from the Government, its agencies/ authorities, since such leased property carry clause of sharing unearned increase/ profit resulting in diminutive realizable value of property;

- (iv) whether dispute about validity and enforceability of the IPs/Block Assets charged/available in the account surfaced at any stage of the negotiation/legal proceedings;
- (v) Demand for the underlying security in the event of its sale/ disposal and availability of ready buyers.
- (vi) Statutory encumbrances like property tax, lease rent, development charges etc.
- (vii) Actual value to be received under circumstances of forced/ distress sale.
- (viii) Attachment of IP by Sale Tax/ Income Tax/ other revenue authorities Other Statutory/ related liabilities on the IP.

The valuation report should clearly specify the reasons and discounting factors on market value taken into consideration for each reason to arrive at the realizable value.

Table -4 Realisable Value of Security		
Realisable value of security as percentage of Base Value		
Sl. No.	Realisable value	Marks allotted
(i)	(ii)	(iii)
1.	If realisable value of primary /collateral security is equal to 100% of the Base Value	60
2.	If realisable value is less than 100% of Base Value, the awarded marks shall be:	<p align="center"><u>Realisable value of the Primary+Collateral Security X 60</u> (Base value as mentioned above)</p> <p>Subject to Maximum of 59 marks and a minimum of 50 marks. The range of marks shall be allotted as below:</p> <ul style="list-style-type: none"> - Realizable value Less than 50% of Base value = 50 Marks - Realizable value 51 to 79% of Base value = 55 - Realizable value 80 to 99% of Base value = 59
3.	If realisable value is more than 100% of Base Value, the awarded marks shall be:	<p align="center"><u>Realisable value of the Primary+Collateral Security X 60</u> (Base value as mentioned above)</p> <p>Subject to Maximum 70 marks and a minimum of 61 marks. The range of marks shall be allotted as below:</p> <ul style="list-style-type: none"> - Realizable value more than 100 and upto 125% of Base value = 64 Marks - Realizable value 126 to 150% of Base value = 67 Marks - Realizable value Above 150% of Base value = 70 marks

5.2.1 If the primary/ collateral security is shared on first charge basis with other secured creditor(s) the value to be considered in above Table 4 shall be computed on pro rata basis with respect to the principal outstanding of the said creditors.

5.2.2 If realizable value of security i.e. realizable value of primary/ collateral and realizable value of Networth, is more than 100% of base value as on the date of NPA in the a/c, negotiation process shall not hover around the indicative amount. Dues as

per memoranda account shall be advised to the obligants and negotiation will start from such total/gross dues owed by the borrower. Efforts should be made to recover the maximum amount. With indicative OTS amount derived from the above formulae as the minimum starting point for negotiation.

5.2.3 Valuation of Assets

Proper distinction has to be made between market value and realisable value of the securities while considering OTS proposals. Valuation report must clearly indicate the **'Realisable Value' and the 'Market Value'**. Wide variation in value of property(ies) at the time of considering the OTS/Write off *compared to its valuation at the time of original last sanction or at the time of making provisions* should be critically examined. Earlier valuations may also be correlated/ commented in the latest valuation report. Wide variation in the valuation of securities at the time of considering the OTS proposal may negate the bargaining power/pressure on the borrower to reach at an amount more favorable to PICUP. Further, under SARFAESI Act, sale of charged assets is much faster. Particularly in such cases, there is no justification to build discount factor while arriving at realizable value of the assets vis-à-vis their market value. Therefore, it is important that the valuation reports are analyzed and self assessment be made about the genuineness of the market/realizable value of the securities given by the valuer keeping in mind the real estate market and other attendant factors prevailing in the area so that

it proves to be an effective tool for discussion/negotiation for OTS amount. In view of the above, the valuation assessed by the approved valuer shall be verified by the Institution as given in Table 5.

Table 5		
Sl. No.	Column (i)	Column (ii)
1.	Accounts with principal outstanding equal to or above Rs.50 lac	Valuation to be verified by 2 officials (Team consisting of one technical one finance officer)
2.	Accounts with principal outstanding up to Rs.50 lac	Valuation to be verified by an official independently

Officials verifying the valuation given by the approved valuers shall submit their report on appropriate proforma for approval by competent authority.

5.3 Other Securities Including Net Worth of Guarantors

Based on the records available in respect of other attachable securities/ Assets the marks on 0 to 10 scale in Table 6 will be as follows:

Table - 6		
Immovable Assets of guarantors (personal) as percentage of Base Value in Excess of Realisable value of realizable value of primary/ collateral assets		
Sl. No.	Column (i)	Column (ii)
1.	Nil	0
2.	Upto 40% of Base Value	4
3.	41 to 60% of Base Value	8
4.	61% of Base Value and above	10
	Score	

5.4 Enforcement of Security Interest & Legal Status

Securities eligible for action under SARFAESI Act and Status of Legal Action initiated for recovery of the dues plays an important role during the negotiation process. Accordingly, marks in the range of 0 to 5 in Table 7 (a) and 7 (b) below may be allotted as under and higher of the two shall finally be taken for calculation of Indicative OTS amount:

Table -7 (a) - Enforcement of Security Interest & Legal Status		
Sl. No.	Legal Status	Points
(i)	(ii)	(iii)
1.	Non Executable Decree	0
2.	Suit Filed At Evidence Stage	2
3.	Suit Filed at Initial Stages	3
4.	Decreed Execution Process Started	4
5.	Suit Not Filed/ Decreed - At sale / Auction Process Started	5
6.	Score 7 (a)	

OR

Table -7 (b) - Enforcement of Security Interest & Legal Status		
Sl. No.	Status	Points
(i)	(ii)	(iii)
1.	Filed under SARFAESI Act and Securities eligible for enforcement under SARFAESI Act are less than 50% of the Base Value	2
2.	Filed under SARFAESI Act and Securities eligible for enforcement under SARFAESI Act are from 50% to less than 100% of the Base Value	3
3.	Favorable order under SARFAESI Act and Securities eligible for enforcement under SARFAESI Act are less than 50% of the Base Value	4
4.	Favorable order under SARFAESI Act and Securities eligible for enforcement under SARFAESI Act are from 50% to less than 100% of the Base Value	5
5.	Accounts not eligible for enforcement of security interest under SARFAESI/ UP Public Monies Recovery/ SFC Act	0
6.	Score 7 (b)	

It need be noted that once a company is covered under BIFR special provisions apply. Particularly 'Section 22' of the Sick Industrial Companies (Special Provisions) Act 1985 provides that notwithstanding anything contained in the Companies Act 1956 (1 of 1956), or any other law or the memorandum and article of association of the industrial company or any other instrument having effect under the said Act or other law, no proceeding for the winding up of the industrial company or for execution or the like, against any properties of the industrial company or for appointment of a receiver in respect thereof shall be proceeded with further, except with the permission of the board or as the case may be, Appellate Authority. This generates degree of difficulty akin to a Judicial stay and hence should be given similar treatment i.e. in cases of companies where recovery can not be proceeded against because of BIFR provisions points may be accorded for legal status as shown in Table 7 (a) and 7 (b) above.

5.5 Amount Paid by the Borrower

Amount paid by the borrower is another factor, which has been accounted for in calculating the OTS amount. The method of calculation is listed in Table 8.

Table -8 Amount paid by the Borrower		
Sl.. No.	Amount Paid By Borrower	Points
(i)	(ii)	(iii)
1.	Over 50% of Base amount	0
2.	25% to 49% of Base amount	4
3.	Less than 25% of Base amount	8
4.	Less than 10 % of Base amount	10
	Score obtained	

Only the amount paid after Relevant Date will be taken into account for purposes of the above-mentioned calculation.

5.6 Other Attendant Factors - Discount Marks

Keeping in view the fact that some factors adversely affect obligants' capacity to generate resources to pay the dues, it is appropriate to keep a little cushion during negotiations to reach at an OTS. The factors/circumstances enumerated below make the recovery prospects bleak in an account, even though some security is available to fall back upon. As such marks ranging from 0 to 10 may be reduced from the overall score awarded. On existence of any one factor 5 marks shall be awarded and on existence of two or more factors 10 marks shall be awarded on the basis of circumstances in Table 9 as enumerated below:

- (i) If no guarantor(s) are available (dead/missing/not traceable)
- (ii) Huge market borrowings towards other banks/Financial Institutions with which institution shares first Pari-passu

charge where the outstanding Principal is higher than the PICUP Base amount.

- (iii) Technological obsolescence
- (iv) Due to recommendation of BIFR/AAIFR or otherwise (would not apply to cases where PICUP has initiated sale process)
- (v) Failure due to change in government Policy.
- (vi) Huge Government Dues, which are not in dispute.

Table -9 - Discount - Other Attendant Factors		
Sl. No.	Other Attendant Factors	Discount
(i)	(ii)	(iii)
1.	One Factor	5
2.	Two factors	10
	Score obtained	

Proper justification for every discount factor should be given in the proposal.

- (vii) The concessions arrived at on the basis of above module are only indicative in nature. However, endeavor should be to negotiate and secure better offer than indicative OTS amount, especially where the realizable value of the property mortgaged with the FI is more than the indicative amount arrived at.
- (viii) If the borrower, under compelling circumstances, is unable, to pay the amount arrived at on the basis of

module, the best possible offer involving higher sacrifice, depending upon merits and attendant circumstances of individual case, can be considered by the Board as a deviation case; reasons and proper justification for such higher sacrifice shall be placed on record by the recommending/ sanctioning authority.

6.0 Earnest Money

- (i) Earnest Money worth Rs. 50000/- will have to be deposited by the party concerned along with the prescribed OTS application, in respect of Base Amount of less than Rs. 50 Lacs.
- (ii) Earnest Money worth Rs. 100000/- will have to be deposited by the party concerned along with the prescribed OTS application, in respect of Base Amount of greater than Rs. 50 Lacs.
- (iii) The above amount shall be Adjustable against the OTS amount if the same is sanctioned within the period of one year of payment of dues.
- (iv) However, If OTS not sanctioned within one year then the Earnest money shall first be adjusted against the outstanding dues.
- (v) Further, it may be noted that the recovery proceedings shall continue if the OTS Offer is less than the Base Amount.

7.0 Payment Terms

Elaborated in Table 10 below:-

Sl No.	Percentage of OTS amount + ARO dues + RC Collection Charges to be Paid	Schedule
(i)	(ii)	(iii)
1	5% of OTS Amount	Within 15 days from the date of issue of sanction letter
2	Additional 10% OTS Amount	Within 45 days from the date of issue of sanction letter
3	Balance amount 85% of OTS Plus ARO Dues Plus RC Collection Charges	Within One Year from the date of issue of sanction letter.

7.1 Special Conditions

- (i) If Entire OTS Amount is paid within 45 days of the Date of Sanction then 5% of discount on the OTS Amount shall be given. The party can pay 95% of the amount and the balance 5% shall be treated as discount. ARO dues and RC Collection charges shall however, be payable before the issue of "No Dues Certificate".
- (ii) No interest shall be charged if entire amount (including ARO and Collection Charges) paid within One Year of the sanction of OTS.
- (iii) If 50% or more (but less than 100%) of the OTS Amount is paid within six months then the eligible period for payment shall be extended to 18 months. However,

Simple Interest @ 12% shall be payable on the balance
OTS amount after one year interest free period.

- (iv) If 5% of OTS amount not paid within 15 Days from the date of sanction then the OTS will automatically stand cancelled.
- (v) If Additional 10% of OTS amount not paid within 45 Days from the date of sanction then the OTS will automatically stand cancelled.
- (vi) If the entire OTS amount not paid within 12 months or within the approved extended period of 18 months then the OTS will automatically stand cancelled.
- (vii) No Dues Certificate and Title Paper / Charge in respect of securities shall be released/ transferred (as applicable) only after all OTS dues (including ARO dues and Collection Charges as well as interest, if payable) have been received by PICUP.

8.0 OTS Cum Sale

The OTS cum Sale proposals shall also be considered on the basis of the parameters contained herein. However, the borrower shall ensure to get the entire Sale proceeds deposited directly by the purchaser to PICUP. Further, permission for sale of assets to pay the OTS amount on request of the borrower may be granted subject to the condition that the title papers of the mortgaged property shall be released to the borrower only

after the entire OTS amount as well as the ARO dues and RC collection charges, if applicable, has been received by PICUP. The Corporation will not condone the delay in payment of the OTS amount on any pretext of borrower for delay in sale of assets. Usual safeguards shall be taken as regards to the amount of sale vis-à-vis value of the assets for which the permission has been granted by the Corporation to pay the OTS amount. No sale shall be concluded below the total realizable value.

9.0 OTS with Personal/ Corporate Guarantors

The facility of OTS with Personal Guarantors will only apply to those cases where: -

- (i) Primary/Collateral securities are not available
- or
- (ii) Primary/Collateral securities are not saleable due to legal hindrances (court stay, BIFR/AAIFR etc)

9.1 Term Loan Cases

OTS with Personal/ Corporate Guarantors, the categories in the table given below shall be decided on the basis of percentage shareholding in the company availing PICUP loan at the time of sanction of loan or the ratio of percentage of value of net worth of guarantors approaching to the cumulative value of net worth of all guarantors at the time of sanction, whichever is higher as per Table 11.

Table -11			
Sl No.	Cumulative Networth of Guarantor(s) approaching for OTS as percentage of Cumulative Networth of all the guarantors (as per the appraisal note for last sanction of Term loan)	Guarantors approaching for OTS with total Share holding in company availing the loan (as per the appraisal note for last sanction of Term loan)	Minimum OTS Amount <i>[In addition to this, the ARO dues shall be recovered in the same ratio as per column (ii) in respect of Term loan cases whereas for ERS/EFS/ Corporate loan cases, ARO dues shall be equally from each guarantor. Further, the RC Collection charges on the sanctioned OTS amount shall also be recovered from the guarantor(s)]</i>
(i)	(ii)	(iii)	(iv)
1.	Upto 25%	Upto 25% of shareholding	40% of Indicative OTS Amount
2.	26% to 50%	26% to 50% of shareholding	60% of Indicative OTS Amount
3.	51% to 75%	51% to 75% of shareholding	80% of Indicative OTS Amount
4.	75% and above	75% of shareholding and above	100% of Indicative OTS Amount

9.2 ERS/ EFS/ Corporate Loan Cases

Table -12		
Sl No.	Number of guarantors	Minimum OTS Amount
(i)	(ii)	(iii)
1.	Upto 50%	75% of Indicative OTS Amount
2.	Greater than 50%	100% of Indicative OTS Amount

It may be noted that for cases falling under the category 9.1 & 9.2 above, the Indicative OTS amount will be determined for the company as a whole as per the 'Line of Approach' laid down in the earlier paragraphs. Further, in cases of

guarantor(s) who have settled their liabilities as per the provisions of this OTS Policy, the RC issued against that guarantor(s) will stand withdrawn. However, the charge in respect of securities in such cases shall be released/transferred to other charge holders only after the settlement of all dues of the company (including ARO dues and Collection Charges). The dues here will not be less than the Indicative OTS amount determined for the company and for such dues, final OTS amount may be arrived as per the previous pages. Also, where the guarantors come forward for partial settlement of the company's account, the subsequent settlement with other guarantors will be done only in line as per the Matrix defined in Table 11 and Table 12. In an event where some of the guarantors have settled and thereafter the company itself comes for settlement, the payments made by the guarantors earlier against OTS shall be treated to have been adjusted against outstanding dues of the company before the initiation of the OTS with individual guarantors.

10.0 **Willful Default**

Cases in which deceitful/fraudulent actions i.e. removal/sale of assets mortgaged to PICUP without permission, submission of forged documents like Bank Guarantee, CA Certificates by the company or the promoters have been proved /established on record shall not be considered for settlement under this OTS Policy. Such cases of default/fraud will be considered by the OTS Approval Committee chaired by the Managing Director.

This OTS Approval Committee will refer the suspicious cases (cases which are suspected to be cases of Willful default, other than those mentioned above) to the Willful Default Committee for establishing as to whether the case falls in the category of Willful defaulters or not. In cases where Willfull default is established by the Willful Default Committee, OTS under this Policy will be permissible. However, the Indicative OTS Amount will be 20% higher than the Indicative OTS Amount determined by the line of approach in Table-1 of the Policy.

The Willful Default Committee shall be as follows:

- (i) G.M., RBI or his nominee
- (ii) G.M., Lead Bank or his nominee
- (iii) GM, IDBI or his nominee
- (iv) Institutional Finance Deptt., GoUP represented by an officer of the rank of Spl. Secy./Director or higher.
- (v) Other expert(s) from outside PICUP/Govt.
- (vi) One Technical and one Finance officer of PICUP.

11.0 **Cancelled/ Failed Cases**

- (i) Old Cases where OTS has already failed/ cancelled can be eligible for renegotiation if they approach for settlement under this proposed OTS policy
- (ii) Cases where OTS has been effected and where the settlement is in process of being executed will not be open for renegotiation.

12.0 Staff Accountability

Any initiative towards settlement of dues with borrowers cannot be de-linked from staff accountability.

It is recommended that under the new settlement policy staff accountability is appropriately factored in and it is ensured that

- (i) The guidelines and basic principles of a negotiated settlement are followed in letter and spirit.
- (ii) Decisions / orders relating to waiver and write off should be speaking orders appropriately supported by appropriate justification and documentation.

13.0 Negotiation Principle

It is clear from RBI guidelines as well as policy and implementation of OTS across the country that negotiations and negotiated settlement constitute the primary principle of OTS. **The spirit of OTS clearly treats OTS as an extension of the concept of Net Present Value (NPV). The opportunity cost of clinching the OTS vis-à-vis waiting for a prolonged period of time should be carefully weighed giving due importance to the recycling of funds [Pannir Selvam Committee constituted by Govt. of India].** Although **credit function** of PICUP has already **ceased none the less NPV remains important** for PICUP, both from the point of view of **improved financial position as well as from the perspective of opening up of new options and intervention possibilities for industrial development in the state.** Given the current status of these two FIs it is felt that alternate use of available resources both Human and Financial

Resources is need of the hour. Current policy direction, which enables the state to experiment with Public Private Partnerships etc. require creating of new institutional arrangements. This apparently does provide space for effective utilization of resources available with these institutions. This only highlights the importance of quick recycling of funds and NPV. It is reiterated that PICUP is not a going concern and OTS is a process of winding up of lending activity.

14.0 Principle of Sacrifice

The concept of sacrifice emerges as a natural corollary of the Net Present Value (NPV) principle. It is understood that in cases of bad debt, one bird in hand is better than two in the bush. In other words time is the essence for OTS, if the concerned financial institution is able to retrieve its dues early then this certainly is a better option than waiting for recovery and in the process only compromising the net worth of recoverable dues. It is here that the principle of sacrifice emerges as an enabling instrument for early and therefore a relatively more useful settlement. Sacrifice will consist of two important parts i.e. (Para 14.1) Waiver and (Para 14.2) Write Off.

14.1 Waiver

Waiver refers to exemptions of interest (not principal). Waiver naturally is an important part of the sacrifice. The RBI guidelines and the guidelines practiced by financial institutions

while considering waiver/sacrifice/loss on OTS can be used in the following order based on merits and attendant circumstances of each individual case.

- (i) Waiver of penal interest only.
- (ii) Waiver of the effect of compounding the interest if it facilitates recovery of dues fully by application of interest in the account at documented rate on simple basis from a determined date, say filing of suit; transfer of dues to the Protested Advances NPA category; the Unit being affected by some natural calamity and closure of the Unit or other external factor (s) beyond control etc.
- (iii) Waiver of a part or whole of simple interest can also be considered.

14.2 Write Off

Write off refers to exemption of principal amount itself. In many cases the concerned institution after exercising all options, including issuing of RCs, has resorted to recovering of dues through disposal of assets available, under Section 29. As the values that could be recovered were substantially lower than the required values it has resulted in the loss account. In the interest of these institutions it is important that such loss accounts be settled once for all.

14.3 Under this policy OTS below the Outstanding Principal amount is not envisaged.

14.4 Discretionary Powers

- (i) Exercise of discretion while handling issues like waiver, and write off entails enormous responsibility. It is recommended that norms and levels for the exercise of discretionary powers (amount to be sacrificed both in terms of waiver as well as Write -off) shall be clearly defined.
- (ii) Delegation of discretionary powers for write off / waiver to the special committees and to officials at appropriate levels in the organizational hierarchy will facilitate quick resolution of the issues faced by the lending institutions on a day to day basis. Also the policy under consideration entails a major change in the calculation of Base amount. While the old (existing) policy includes interest up till the date of settlement while the new (proposed) policy entails inclusion of interest only up till the date of NPA. In large number of cases the interest for the period starting from the date of NPA and uphill the date of settlement will have to be waived off. The exact waiver required will be determined by the formulae detailed in the relevant section of this report (Table 1 & 2), hence it becomes a very objective and substantially mechanical exercise. It is therefore proposed that the authority for such waiver, which is necessarily resulting

from this new policy and is the result of the laid down formulae, should vest in the OTS Approval Committee (of the concerned Corporation). This Committee should necessarily include two technical, two financial and one legal officer(s) and some external experts.

- (iii) In cases where the indicative OTS amount as measured by the objective formulae falls short of the Base Amount and may involve both waiver and write off the matter should be referred to the Board for final decision. Under the New policy, for the financial institutions under consideration, it is felt that following discretionary powers as indicated in Table 13 as under be allowed:

Table -13 -Approving Authority/ Powers		
Approving Authority	Total Waiver	Total Write Off
(i)	(ii)	(iii)
OTS Approval Committee headed by Managing Director with Two technical, Two financial and One legal officer(s)	Unlimited Powers for waiver of Interest	Nil

15.0 Non Discrimination

The new policy guidelines should be adequately publicized and notices to eligible borrowers should be issued in order to ensure that all the eligible borrowers are treated equally without discrimination.

16.0 Over Riding Clauses

- (i) Any Legal proceedings pending against the corporations, wherever applicable, will have to be withdrawn by the borrower before any OTS settlement is concluded.
- (ii) In any case no refund or cash outflow will apply as a result of the OTS settlement.
- (iii) In case of an OTS settlement the value of the settlement will not be less than the value already received by the concerned corporations.
- (iv) **Borrower to furnish details as per the prescribed format along with relevant documents and earnest money at the time of submitting OTS proposal.** In case of wrong information benefits will be withdrawn and penal action will be initiated.
- (v) In case of settlement borrower will not have any right on insurance claim after applying for OTS. Such revenue will belong to the corporation concerned.
- (vi) Failed/ Cancelled OTS cases can avail the OTS facility under the new policy.
- (vii) The period for payment of OTS amount under this Policy shall not be extended beyond 18 months.

Format

Undermentioned information to be submitted with the OTS request

1. Name of the Company:
2. If OTS proposal is not on behalf of the company, mention name(s) of applicant Personal Guarantors.
3. Status of the company: Existing/Wound-up/Under liquidation
4. Whether registered in BIFR/AAIFR: Yes/No
5. Status of the unit: Running/Closed
6. If running, present capacity utilization:
7. Names of other secured creditors indicating nature of charge.
8. Break-up of outstanding dues(Principal, Interest, Others) of other Secured creditors.
9. Details of OTS sanctioned by other secured creditors.
10. Is the unit under attachment of any Secured creditor/Govt. body?: Yes/No. If yes, provide details.
11. Number, date, amount of Earnest Money Demand Draft enclosed with the proposal.
12. Amount offered under OTS.
13. Proposed Payment schedule for offered amount.
14. Any other information.

(Signature of Authorized signatory)

Please note:

- If the above information is incomplete / inaccurate, the same shall not become a ground for prima-facie rejection of the OTS proposal.
- The information submitted with the OTS request shall be subject to verification by PICUP officers.