

GIST OF RBI SCHEMES OF DEFAULTER LISTS

1. Scheme on collection and dissemination of information regarding defaulters of Rs.1 crore and above

In its circular DBOD No.BC/CIS/47/20.16.002/94 dated April 23, 1994 Reserve Bank of India (RBI) has advised the scheduled commercial banks and financial institutions (FIs) that the Hon'ble Finance Minister in his Budget Speech on February 28, 1994, announced that in order to alert the banks and financial institutions (FIs) and put them on guard against borrowers who have defaulted in their dues to other lending institutions, the RBI was putting in place arrangements for circulating among banks and FIs names of defaulting borrowers above a threshold limit. He further mentioned that the Reserve Bank would also publish a list of defaulting borrowers in cases where suits have been filed by banks and FIs.

2. Accordingly, the Reserve Bank of India has prepared a scheme to collect and disseminate information on the defaulters of Rs.1 crore and above. The salient features of the scheme, as modified from time to time, are as under at present:

- i. The banks and FIs are required to submit in prescribed format to the Reserve Bank of India as on March 31 and September 30 every year the details of the non-suit filed borrowal accounts which have been classified as doubtful and loss accounts by them with outstandings (both under funded and non-funded) aggregating Rs.1 crore and above.
- ii. The data on defaulters so received from banks/FIs, as mentioned above is circulated in a consolidated form by RBI to the banks and FIs as on March 31 and September 30 every year for their confidential use. It is the responsibility of the banks/FIs to ensure accuracy of their data so furnished to RBI and RBI is not liable for any discrepancy/inaccuracy in this regard.

2. Scheme on collection and dissemination of information on cases of wilful defaults of Rs.25 lakh and above

(i) Pursuant to the instructions of the Central Vigilance Commission, Reserve Bank of India introduced above scheme in terms of circular DBOD No.BC.DL (W)12/20.16.002(1)/98-99 dated February 20, 1999 addressed to banks and notified FIs under which it collects and disseminates information from/to them on cases of wilful defaults of Rs.25 lakh and above on a quarterly basis. In terms of circular DBOD No.DL(W)BC.110/ 20.16.003/2001-02 dated May 30, 2002, the term 'wilful default' has been redefined in supersession of earlier definition/illustrations, as follows:

"A wilful default would be deemed to have occurred if any of the following events is noted:

- a. The unit has defaulted in meeting its payment/repayment obligations to the lender even when it has the capacity to honour the said obligations.
- b. The unit has defaulted in meeting its payment/repayment obligations to the lender and has not utilised the finance from the lender for the specific purposes for which finance was availed of but has diverted the funds for other purposes.

c. The unit has defaulted in meeting its payment/repayment obligations to the lender and has siphoned off the funds so that the funds have not been utilised for the specific purpose for which finance was availed of, nor are the funds available with the unit in the form of other assets."

The term 'diversion of funds', referred to at para (b) above, would be construed to include any one of the under noted occurrences:

- i. Utilization of short-term working capital funds for long-term purposes not in conformity with the terms of sanction;
- ii. Deploying borrowed funds for purposes/activities or creation of assets other than those for which the loan was sanctioned;
- iii. Transferring funds to the subsidiaries/Group companies or other corporates by whatever modalities;
- iv. Routing of funds through any bank other than the lender bank or members of consortium without prior permission of the lender;
- v. Investment in other companies by way of acquiring equities/ debt instruments without approval of lenders;
- vi. Shortfall in deployment of funds vis-à-vis the amounts disbursed /drawn and the difference not being accounted for.

The term 'siphoning of funds', referred to at para (c) above, should be construed to occur if any funds borrowed from banks/FIs are utilised for purposes un-related to the operations of the borrower, to the detriment of the financial health of the entity or of the lender. The decision as to whether a particular instance amounts to siphoning of funds would have to be a judgement of the lenders based on objective facts and circumstances of the case.

Certain penal measures have been stipulated against the wilful defaulters and others in the above-said circular.

(ii) The salient features of the scheme, as modified from time to time, are as under at present:

(a) The banks and FIs are required to submit in prescribed format to the Reserve Bank of India as on March 31, June 30, September 30 and December 31 every year the details of the non-suit filed borrowal accounts which have been classified as wilful defaulters as per above-said norms by them with outstandings aggregating Rs.25 lakh and above.

(b) The data on defaulters so received from banks/FIs, as mentioned above is circulated in a consolidated form by RBI to the banks and FIs as on March 31, June 30, September 30 and December 31 every year for their confidential use. It is the responsibility of the banks/FIs to ensure accuracy of their data so furnished to RBI and RBI is not liable for any discrepancy/inaccuracy in this regard.

3. Redressal of grievances of wilful defaulters

As the banks/FIs did not have mechanism for redressal of grievances in respect of borrowers classified as wilful defaulters, they were advised, in terms of circular DBOD No.BC.DL.7/20.16.003/2003-04 dated July 29, 2003 to form a Committee of higher functionaries headed by the Executive Director for classification of borrowal accounts as wilful defaulters, and also a

Committee headed by Chairman & Managing Director for giving a hearing to borrowers who represent that they have been wrongly classified as wilful defaulters. They were further advised, as per circular DBOD No.DL.BC. 94/20.16.003/2003-04 dated June 17, 2004, that the concerned borrower should be suitably advised about the proposal to classify him as wilful defaulter along with the reasons therefore and he should be given reasonable time (say 15 days) for making representation thereagainst, if he so desires.

4. Collection and dissemination of information on defaulters by CIBIL

Under the above schemes, RBI also was periodically collecting and disseminating credit information on suit-filed accounts of defaulters till the year 2002. However, in terms of circular DBOD No.DL.BC.111/20.16.001/ 2001-02 dated June 4, 2002, banks and financial institutions (FIs) have been advised to submit information on defaulters list (suit-filed accounts) of Rs.1 crore and above and wilful defaulters list (suit-filed accounts) of Rs.25 lakh and above as on March 31, 2003 and onwards, to Credit Information Bureau (India) Ltd. (CIBIL) only and not to Reserve Bank of India (RBI), as CIBIL will be taking over dissemination of same and Reserve Bank of India will continue to deal with, as hitherto, data relating to non-suit filed accounts of defaulters list of Rs.1 crore and above and wilful defaulters list of Rs.25 lakh and above, which are disseminated only to banks for their confidential use. Since the CIBIL has been disseminating defaulter lists of suit-filed accounts as on March 31, 2003 and onwards, as mentioned above, Reserve Bank of India has withdrawn its said lists for the period prior to March 31, 2003 from its website. The correspondence, if any, relating to the said defaulter lists of CIBIL may be undertaken with the CIBIL/concerned banks/FIs. A Press Release dated May 20, 2004 to this effect has also been issued.

PUBLIC NOTICE

It has been brought to our notice that M/s. Compact Disc India Ltd., Chandigarh, has introduced a website "loandefaulters.com", wherein information relating to defaulting borrowers, who have availed loan/financial assistance from the banks/financial institutions, has been published. Disclaimer clause given in the above website states, inter alia, that the information given is as advised by Reserve Bank of India (RBI), and if for any valid reason, any person feels aggrieved that his/her name as director should not find place in the list of defaulting company, he/she may take up the matter directly with the bank or lending institution or Reserve Bank of India for necessary action. It is hereby clarified that the Reserve Bank of India has not authorized either the makers of "loandefaulters.com" or any other person to publish or republish, in the same form or in the modified form, any details available in the booklet/website of the Reserve Bank and the Reserve Bank shall not be liable to any person for any action of such parties. However, Reserve Bank has authorized Credit Information Bureau (India) Ltd. (CIBIL) to publish the defaulters list (suit-filed accounts) of Rs.1 crore and above and wilful defaulters list (suit-filed accounts) of Rs.25 lakh and above, as on March 31, 2003 and onwards.