

May 28, 2008

**All Scheduled Commercial Banks and  
All Notified All-India Financial Institutions**

Dear Sir,

**Wilful defaulters and action thereagainst**

Please refer to paragraph 3 of our Circular DBOD.No..DL(W).BC.110/ 20.16.003(1)/ 2001-02 dated May 30, 2002 wherein the term "wilful default" has been defined. In this connection, we advise that in pursuant to the Hon'ble Supreme Court's Order relating to writ petition Civil No.291 of 1998 titled Common Cause (A registered Society) Vs. Union of India & Anr., we had received a suggestion to expand the scope of definition of "wilful default". The suggestion has been examined and it has been decided to accept the suggestion.

2. Accordingly, it has been decided to expand the scope of definition by inserting clause (d) in paragraph 3 of the circular referred to above, as indicated below:

"3(d) The unit has defaulted in meeting its payment / repayment obligation to the lender and has also disposed of or removed the movable fixed assets or immovable property given by it for the purpose of securing a term loan without the knowledge of the bank / lender."

3. The modified paragraph 3 of the circular dated May 30, 2002 referred to above is Annexed.

4. Further, we also invite your attention to para 7(a) of the circular dated May 30, 2002 and **reiterate** that no additional facilities should be granted by any bank / FI to the listed wilful defaulters. In addition, the **entrepreneurs / promoters of companies** where banks / FIs have identified siphoning / diversion of funds, misrepresentation, falsification of accounts and fraudulent transactions should be debarred from institutional finance from the scheduled commercial banks, Development Financial Institutions, Government-owned NBFCs, investment institutions, etc. for floating new ventures for a period of five years from the date the name of the wilful defaulter is published in the list of wilful defaulters by the RBI.

5. These instructions will come into force with immediate effect.

Yours faithfully,

(Vinay Bajjal)  
Chief General Manager

**Modified para 3 of the RBI Circular DBOD No. DBOD.No.. DL(W) . BC . 110 / 20.16.003(1) / 2001-02 dated May 30, 2002**

3. It has been decided to redefine the term "wilful default", in supersession of the definition / illustrations contained in the Circular DBOD.No.BC.DL(W)12/ 20.16.002(1)/ 98-99 dated February 20, 1999, 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.
- (d) The unit has defaulted in meeting its payment / repayment obligation to the lender and has also disposed off or removed the movable fixed assets or immovable property given by him or it for the purpose of securing a term loan without the knowledge of the bank/ lender.