

Chapter 5: Sharing of Credit Information in India

5.1 The Group notes that there is no enactment governing the setting up and operations of Credit Information Bureau in the country. The sharing of information among banks is therefore, practically confined to exchange of 'Bankers Opinion' on their existing customers. As noted earlier, exchange of information on the existing borrowers among banks is sketchy and is provided without the bank taking any responsibility for the information provided. The exchange of information among bankers has, therefore, not served the purpose it was intended to, since the Opinion does not provide information on the conduct of the account of the customer. As a result, the process of exchange of information among banks has reduced itself to a mere formality one has to observe while appraising the loan application. In the case of corporate customers, some attempts have been made to collect and collate information and make them available to other lenders. The Investment Research and Information Services Ltd., (IRIS), Mumbai, brings out the "Investor's Guide to Indian Corporates" incorporating half-yearly results of the companies selected on the basis of criteria such as, market capitalisation, total sales, etc. The booklet published by IRIS, apart from giving industry review, provides snap-shot on business performance of the company under broad parameters like cash flow analysis, balance sheet data, raw material consumption, capital structure, etc. Although the booklet provides information on the credit rating obtained by the companies, it does not, however, provide information on borrowings of the company from various sources which will facilitate the intending lending institution to take a view on further exposure to the corporate.

5.2 The legislative support available for collection of information from institutions is enshrined in the Reserve Bank of India Act, 1934. In terms of the amendment introduced in 1962, Chapter III A was inserted in the Act to empower the Reserve Bank to collect and furnish credit information from banks/institutions. Under these provisions, the Reserve Bank may -

[a] collect, in such manner as it may think fit, credit information from banking companies; and

[b] furnish such information to any banking company in accordance with the provisions of Section 45D.

Section 45C of the Act provides that *the Bank may, at any time, direct any banking company to submit to it such statements relating to such credit information and in such form and within such time as may be specified by the Bank from time to time and that the banking company shall be bound to comply with any direction issued in relation thereto.*

Credit information has been defined in sub-section (c) of Section 45 A as relating to -

- *The amounts and the nature of loans or advances and other credit facilities granted by a banking company to any borrower or class of borrowers;*
- *The nature of security taken from any borrower or class of borrowers for credit facilities granted to him or to such class;*
- *The guarantee furnished by a banking company for any of its customers or any class of its customers;*
- *The means, antecedents, history of financial transactions and the credit worthiness of any borrower or class of borrowers;*

- *Any other information which the Bank may consider to be relevant for the more orderly regulation of credit policy.*

The Credit Information Scheme was accordingly operationalised by the Reserve Bank in 1962 under which, the Bank collected from banks and notified financial institutions, credit information on their borrowers who were sanctioned secured limits aggregating Rs.5 lakh and above and unsecured limits aggregating Rs.1 lakh and above. The cut-off limits for collection of information under the scheme were later revised to Rs.10 lakh and Rs.5 lakh for secured and unsecured advances, respectively. The information collected on a half yearly basis related to the name and address of the borrower, his occupation and type of organisation, the type of account, the nature and description of the security, the limit sanctioned and the outstanding balance. The information was pooled on a borrower-wise basis and furnished to banks and institutions which applied for it without disclosing the names of the banks which submitted such information to the Reserve Bank.

The Reserve Bank has been furnishing the information without disclosing the names of the banking companies which have submitted the information to the Bank. Further, the law provides that the information so furnished shall be treated as confidential and shall not, except for the purposes specified therein, be published or otherwise disclosed. Likewise, the information collected by the Bank can be published if it is considered necessary in the public interest to do so **only in a consolidated form**, without disclosing the names of any banking company or its borrowers. The Act provides that no person shall have any right, whether in contract or otherwise, to any compensation for any loss incurred by reason of the operation of any of the provisions of the Scheme. Thus, under the existing legal framework, the Reserve Bank has the powers to collect and furnish the credit information **confidentially and in consolidated form** on borrowers of banking companies.

5.3 Relevant statutory provisions in other banking laws

The statutory provisions enshrined in the various Banking Acts governing the operations of public sector banks also prohibit sharing of credit information among banks.

- **Section 44** of the State Bank of India Act, 1955 provides that *State Bank shall not divulge any information relating to or to the affairs of its constituents except in circumstances in which it is, in accordance with the law or practice and usage customary among bankers, necessary or appropriate for State Bank to divulge such information.*
- **Section 52** of the State Bank of India (Subsidiary Banks) Act, 1959 provide that *a subsidiary bank shall not divulge any information relating to, or to the affairs of its constituents except in circumstances in which it is, in accordance with the law or practice and usage customary among bankers, necessary or appropriate for that bank to divulge such information.*
- **Section 13** of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/80 provides that *every corresponding new bank (i.e. nationalised bank) shall not divulge any information relating to, or to the affairs of its constituents except in circumstances in which it is, in accordance with the law or practices and usages customary among bankers, necessary or appropriate for the corresponding new bank to divulge such information.*

5.4 The establishment of a Credit Information Bureau in the country would necessitate amendments to the above legal provisions. Apart from creating an environment which would facilitate exchange of information with the Bureau, legal support needs to be provided for the functioning of the Bureau. On the basis of the experience of other countries where credit bureaus are operating, the Group comes to the conclusion that the legal framework should address the following concerns:

- Ownership of the data collected,
- Determining as to who should be provided access to data,
- Privacy of data,
- Protection to creditors and service providers,
- Protection of rights of the borrower whose data is maintained,
- Entitlement to compensation,
- Provision for redressal of grievances, etc.