

Finance ministry wants public banks to report wilful defaults straight to Sebi

The finance ministry wants PSB to send information on listed firms declared as wilful defaulters directly to Sebi.

The finance ministry wants public sector banks (PSB) to send information on listed firms declared as wilful defaulters directly to Sebi instead of routing the same through the RBI, which is the present norm. Necessary changes in the relevant laws are being initiated.

The idea, official sources said, is to ensure that investors in these firms get to know about the delinquency on a real-time basis. Banks, at present, notify such defaults to RBI, which, along with Credit Information Bureau (India) , sends the information to Sebi. In practice, the reporting to investors happens with a lag.

After a couple of recent meetings with PSBs on the issue, the finance ministry is now set to initiate discussions on this at the Financial Stability and Development Council, the finance minister-headed panel of regulators, including the RBI and Sebi, sources said.

The Institute of Chartered Accountants of India (ICAI) will also be kept in the loop to ensure quick action by it against auditors found guilty of fudging of accounts of such defaulters or who have been negligent in auditing.

According to a December 2012 finance ministry statement on wilful defaulters, as on March 31, 2012, PSBs had 3,536 suit-filed accounts worth Rs 16,526 crore and 1,138 non-suit filed accounts worth Rs 4,175 crore.

Ficci president Sidharth Birla had told FE that, “the banking system is not doing much about wilful defaulters. There are several cases where the bank concerned has issued a notice and published in newspapers that a company/promoter is a wilful defaulter, but the company not informing Sebi about the same.”

A chief of a PSB said on condition of anonymity that, “currently we give information on wilful defaulters only to RBI, but we can provide the same to SEBI if the law mandates us to do so.”

According to the RBI norms, a "wilful default" would be deemed to have occurred if the unit has deliberately defaulted in meeting its repayment obligations to the lender even when it has the capacity to honour the obligations, or has diverted the funds obtained from the lender for other purposes, or has siphoned off the funds; and / or has also disposed of the movable fixed assets or immovable property given as collateral.

The RBI norms also prevent fresh finance by banks and financial institutions to companies declared wilful defaulters and a five-year ban on promoters of such companies from availing fresh funds for new ventures. Lenders should also initiate criminal proceedings against the wilful defaulters and their guarantors and also seek a management change in the company declared a willful defaulter.

The RBI norms also specify a grievance redressal mechanism wherein the decisions to classify the borrower as wilful defaulter is entrusted to a panel headed by the executive director and consisting of two general managers/ deputy GMs as decided by the Board of the concerned bank/FI.

The decision taken on classification of wilful defaulters needs to be well documented and backed by evidence. Borrowers who feel they have been wrongly classified as willful defaulters are given 15 days to challenge such the decision at a grievance redressal committee headed by the chairman and MD of the bank/FI. A final declaration is then taken by the committee.

Since this process takes around five months, such defaulters may during this period approach other lenders for loans. This loophole has also come to the notice of the ministry and the RBI.

The finance minister P Chidambaram had advocated stringent action against willful defaulters saying, “We cannot have an affluent promoter and a sick company.” However, he added that borrowers facing genuine difficulties due to economic slowdown should be given a separate treatment.

(Financial Express)