AIBEA's Banking News

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NEWS BULLETIN FROM ALL INDIA BANK EMPLOYEES' ASSOCIATION

Empower RBI to publish list of defaulters who owe more than Rs 1 cr: AIBEA

BUSINESSLINE December 5, 2017 | VINSON KURIAN

A deafulters' list should be published every six months with updates.

The All India Bank Employees' Association (AIBEA) has demanded that the Centre empower the Reserve Bank of India to publish the list of defaulters who owe the banks in excess of Rs 1 crore.

This is among the demands listed in the **Budget wishlist** to be submitted by the association, which claims to represent the interests of a million bank employees working in public sector banks, private banks, foreign banks, regional rural banks and cooperative banks.

A deafulters' list should be published every six months with updates. Wilful defaulters should be prohibited from contesting elections - local, legislative or Parliament. Those holding high office should be asked to relinquish their positions.

Fast-track courts should be vested with more powers to recover bad loans and stringent laws enacted to ensure more recovery. Asset reconstruction companies should be closed down; instead, focus should be on recoveries.

Banks should be advised to institute a separate vertical headed by a General Manager for recovery of 'prudentially written off/technically written off' accounts, C.H. Venkatachalam, General Secretary, **AIBEA,** said.

The association has further demanded that details of such recovery should be placed before the boards of the banks and submitted to the Ministry of Finance on a quarterly basis.

Laws should be amended to confiscate the assets of directors in case of default by a company, the AIBEA demanded.

Managing Directors & CEOs/ Managing Directors/ Executive Directors of public sector banks should be made accountable and responsible in respect of sanction of credit that ultimately gets categorised as distressed assets/quick mortality cases.

Periodical reviews should be initiated to identify persons whose debts/ loans have been written off with interest. Corporate houses raising external commercial borrowings should be monitored to check if rules have been adhered to.

Wilful default of bank loans should be declared a criminal offence through suitable amendment law. More debt recovery tribunals and fast-track courts need to be set up to recover high-volume bad loans.

The government should hold full control of public sector banks with 100 per cent equity holding and should not disinvest from them. It should ensure adequate capital with hassle-free infusion to help these banks tide over the immediate crisis.

IBC Amendment: Defaulting Promoters Have Repeatedly Gamed the System

Sucheta Dalal 4 December 2017 **Moneylife**

"We don't mind haircut, but we don't want to be bald," quipped State Bank of India (SBI) chairman, Rajnish Kumar, to make the point that the Bank was willing to take a discount while resolving bad loans, but wouldn't be willing to accept a deep discount that leaves them with nothing. On a facetious note, a few months from now, the state of the chairman's hair should tell us whether the much-discussed amendment to the Insolvency and Bankruptcy Code (IBC) has worked or failed. But the issue is deadly serious.

On 23rd November, the President of India gave his assent to an ordinance amending Section 29A of the IBC barring wilful defaulters, guarantors and others connected with them from bidding to retain control of companies facing insolvency proceedings. The quick amendment has triggered a barrage of criticism from lawyers, consultants, accountants, commentators and, of course, corporate defaulters themselves, who are in a fix after having lined up plans to retain control of their companies.

The IBC and its amendment are far from perfect and some good companies going through bad times may get caught in its crosshairs. But the first resolution under the IBC of a company called Synergy Doorays ended with lenders talking a 94% cut and speculation that the management retained indirect control. It would have been politically disastrous not to plug the loophole and allow this story to be repeated with bigger defaulters. Especially when the government has sanctioned Rs. 2 lakh crore of public funds this year to recapitalise public sector banks (PSBs), which is just a fraction of the gross bad loans of PSBs that stand at Rs 6.84 lakh crore and are growing.

The amendment barring defaulting promoters from bidding to regain control has led to a chorus of voices making the astonishing argument that those who have already extracted repeated debt restructuring and interest write-offs, who brazenly diverted funds to profitable new business, who have not hesitated to pressure bankers with their political connections and who have been caught bribing bank chairmen, will now make higher bids for their companies. In effect, they will be allowed to vitiate an open bidding process that may ensure a change in management for the first time.

Newspapers quote Neeraj Singhal, promoter of Bhushan Steel, saying that existing promoters will bid aggressively to retain control because of their "emotional attachment with the assets that they built." But they make no mention of the fact that he was arrested in 2014 by the Central Bureau of Investigation (CBI) for bribing the Syndicate Bank chairman. Or that his companies, Bhushan Power & Steel, along with Bhushan Steel, have a combined outstanding debt of Rs. 1 lakh crore and the company is under investigation by the Serious Frauds Investigation Office (SFIO).

Bhushan Steel's plants have seen serious interest from Indian and foreign bidders. Isn't it time to try out a new management?

The big question for every apologist of defaulting management is this: how would the wilful defaulters, or, 'dubious promoters' (according to Sajjan Jindal's tweets) find the money to buy back their companies? And, if they were capable of raising these funds, why haven't they repaid banks before being pushed into insolvency proceedings? The answer is simple. Most intend to game the system, again, in tried and tested ways by leveraging personal wealth built abroad. Here are some strategies that have been adopted and successfully used for decades in India.

• In the late-1990s, a large corporate group when forced to sell some assets as part of a restructuring deal, got an international trading company to purchase 51% of its equity in a steel manufacturing facility. This was the first time that the trading company was getting into manufacturing. It openly smacked of a backdoor deal; but even bankers celebrated it as a reduction in debt. Five years later, when the heat was over and the furore over its bad loans had died down, the group was able to borrow freely again; it bought back the equity. The backdoor arrangement was known to the industry and bankers. The foreign company had refused to answer my queries about its sudden interest in manufacturing, only in India.

• Around 2003-04, the same conglomerate, which had repeatedly negotiated massive write-off by banks since the late-1980s, emerged as a big player in new businesses such as telecom and IT services. Once again, a large European bank stepped in as a 50% partner to help it acquire a huge US call centre; it smacked of a backdoor deal guaranteed by the group's overseas assets. This company went on to raise large funds overseas and make further acquisitions under the benign watch of the UPA government. The European bank, which managed the overseas fund raising, quietly slipped out of the picture and finds no mention when the company was finally sold recently to pare the group's massive debts.

• Shockingly, another bidder for this call centre was the front company of another Indian industrialist who had fled to the US after the Ketan Parekh scam. Did bankers and our political leaders know about these machinations? Undoubtedly, they did. But India's crony capital system ensured their silence. The shenanigans of another high-profile industrialist, who is into power, telecom, films, finance and defence, are already well known—including his cooption of foreign banks and reputed foreign institutional investors to add credibility to high-profile foreign tie-ups that tend to vanish after a media splash.

Do we want another round of such chicanery? Our saintly commentators say that if Russian and European bankers want to bailout dubious Indian promoters, why not take their money? Well, simple! Over the past 30 years, we have seen that this money is eventually repaid out of funds extracted from Indian banks or the Indian taxpayers. The correct argument would be to question the basis on which global bankers are willing to back Indian defaulters when our own banks are at a standstill. After all, hasn’t this government promised a crackdown on Indian wealth stashed overseas? Illegal wealth never sits idle in tax havens—we have a slew of marquee financial sector institutions that are willing to offer funds or be a front for the Indian business of the companies against the security of assets stashed overseas. It earns them a fat fee. Are our commentators, lawyers or consultants so naïve and unaware, or are they on the gravy train themselves?

Public patience is wearing thin with the loot of people and institutions. Large realty companies, whose cases have landed up in the Supreme Court, show that the judiciary has also turned impatient at their attempt to cheat home-buyers. The immediate problem originated with the UPA government which, during the global financial crisis in 2008, asked banks to bailout the sector. Instead of forcing them to repay loans after the crisis had blown over, they were allowed to keep prices high and pile up inventories, leaving banks saddled with massive bad loans. They soon began to cheat buyers as well. Mainstream media was a tacit partner in this loot as the biggest beneficiary of their massive advertising budgets. The gullible investors lost their life’s savings.

So, yes; the IBC and its amendment may not be perfect; but it is time to experiment with tough measures for ‘dubious’ promoters. One would expect that bankers, who have generously supported political cronyism so far, will also go the extra mile for genuine promoters who may be seeing a down cycle and temporary issues. The IBC does not envisage throwing every borrower under the bus at the first sign of trouble—in fact, it is the last resort. There are several other measures available to promoters including an RBI-mandated committee that approves of debt recast.

On 28th November, *Financial Express* reported that the "Stressed Assets Stabilisation Fund (SASF) formed in 2004 to recover IDBI Bank's bad loans has settled certain cases with haircuts of more than 90%, a public accounts committee (PAC) has found." This included the completely dubious Malavika Steel. We surely do not want to see that happening again and again!

Do Bank Depositors Need To Worry about FRDI?

Sucheta Dalal 4 December 2017 MONEYLIFE

At every financial literacy seminar of Moneylife Foundation (an NGO engaged in advocacy and financial literacy), I have made it a point to say that we, Indians, are lucky that public sector banks (PSBs) comprise 63% of our banking system. This means that there is an implicit sovereign guarantee that protects our deposits no matter how badly government-owned banks perform. This is why depositors could happily keep all their savings in term deposits with a United Bank of India (UBI) and United Commercial Bank when their net worth was badly eroded, without worrying about the bank going bust or the fact that only Rs1 lakh per depositor was guaranteed by deposit insurance.

> **Seven years before the global financial crisis, India's Reserve Bank of India (RBI) had followed the 'too big to fail' principle. It force-merged Global Trust Bank with Oriental Bank of Commerce**

Moreover, seven years before the global financial crisis and collapse of Lehman, India's Reserve Bank of India (RBI) had followed the 'too big to fail' principle. It force-merged Global Trust Bank with Oriental Bank of Commerce to prevent widespread losses to depositors, doesn't matter that the decision may have been motivated by a need to avoid a close scrutiny of how it was sleeping on its job. In fact, over the past several decades, the only payments made out of deposit insurance is on account of failed cooperative banks, which are under dual regulation (RBI and registrar of cooperatives) and completely controlled and manipulated by politicians across the spectrum. Hence, as consumer activists, we had argued that deposit insurance must remain at Rs1 lakh, because a higher insurance will be an incentive for crooked politicians to use public money to make good their loot of cooperative bank funds.

Suddenly, all this is set to change. The government has introduced the Financial Resolution and Deposit Insurance Bill, 2017 (FRDI Bill) in parliament this June which has evoked strong opposition by all trade unions. The FRDI Bill aims to limit the use of public money to bail out distressed organisations in the event of a financial crisis, by providing a resolution framework to handle the failure of banks, insurance companies and financial sector entities. Bank unions, however, believe that it will give the government sweeping powers to wind up public sector banks. Meanwhile, depositors have another reason to panic.

A WhatsApp message (provocatively titled "This Tsunami will wipe out your money lying in the Banks" and ostensibly written by a chartered accountant) is going viral with a link to an article in The Hindu, which suggests that our bank deposits are no longer safe; they can be appropriated by the government and converted into equity to bail out banks. The culprit is, apparently, a 'bail-in' clause in the FRDI Bill that allows the government to convert your deposits into equity in order to recapitalise and bail out banks that are facing bankruptcy.

Depositors, who have gone through enormous hardships to access their own savings during the currency demonetisation of 2016, find it is easy to believe that the government may appropriate their hard-earned savings to bailout banks. Most Indians hold the bulk of their savings in property or bank deposits and there is already a gnawing worry over the government's inability to deal with the mammoth bad loans of banks, which are in excess of Rs10 lakh crore. So, let's examine whether we really need to panic.

The FRDI Bill is based on a 2014 working paper of RBI. It is in line with a global move to create statutory structures to contain the contagion effect of the kind that shook the world in 2008 by the failure of large financial institutions. In November 2014, India, as part of the G20 nations, had agreed to create a legal structure which includes a 'bail-in provision' to recapitalise banks. But such a contingency is a matter of last resort. In fact, most global banks, including those in India (State Bank of India, ICICI Bank and Bank of Baroda had done this), have been asked to work on the concept of a 'living will', where they put in place a disaster management plan, if you will, on what is to be done in the event of a massive melt down. The FRDI Bill's bail-in provisions that are a source of panic, will kick-in only if the organisation is facing bankruptcy.

What is a bail-in? It is the opposite of a bailout, where governments use taxpayers' money to save large institutions. A bail-in gives statutory powers to a resolution authority to convert existing creditors (including depositors) into shareholders in order to recapitalise the bank. The FRDI Bill creates the statutory basis for such action by replacing the current deposit insurance guarantee corporation (or converting it) with a Resolution Corporation that will cover banks, financial institutions and insurance companies.

the FRDI Bill intends to keep out cooperative banks, which go belly-up with monotonous regularity. Then, again, this government has been very soft of cooperative banks

The FRDI Bill also envisages a 'Corporation Insurance Fund' that will insure a part of the deposits. The extent of deposits insured is likely to be substantially higher than Rs1 lakh insured today. These insured deposits will be out of the purview of appropriation for a 'bail-in'. We understand that, in the US, 100% of the deposits are insured; hence, the bail-in, if it happens, will primarily affect bondholders and other unsecured creditors. While it is important to remember that a bail-in is envisaged only as a last resort, it is also a fact that Cyprus has already invoked this clause to bailout banks.

Bank unions are correctly worried about sweeping powers in the hands of a government that rushes statutory changes through parliament as money bills, without proper discussion or explanation. On the other hand, those who were part of the RBI working group are less worried, because any hasty action that takes away the implicit safety and guarantee of deposits associated with public sector banks would only cause a run on deposits and no government in its right mind would dare do this.

Indian banks are also more tightly regulated and do not have the same exposure to derivative products as those in the US and other countries. The flip side to this is that we have a massive bad loan problem that remains unresolved. Bad loans of banks spiralled from Rs 39,030 crore in 2008 to Rs 2,16,739 crore in 2014—all under the incredibly corrupt coalition called the United Progressive Alliance (UPA). Consequently, even Opposition leaders have been reluctant to question government policies too closely, probably fearing it would boomerang on them.

I believe that the **government ought to be speaking to the people to allay their fears, instead of orchestrating discussions on business channels to counter the meeting of bank unions**. The finance ministry must realise that people want to be assured that 100% of their deposits would be safe and bankers will be made accountable for their loans. Merely raising deposit insurance under the FRDI Bill is cold comfort to millions of retirees whose entire savings are in low yield, taxable, bank fixed deposits, only because they are safe.

Secondly, the FRDI Bill intends to keep out cooperative banks, which go belly-up with monotonous regularity. Then, again, this government has been very soft of cooperative banks, whether it is re-capitalising them in 2014 or giving up its tough initial stance against allowing them to exchange demonetised currency. If political compulsions will bring cooperative banks under FRDI Bill it will be a cause for concern.

Thirdly, we need clarity on where non-banking finance companies, micro-finance companies and payment banks fit into this equation. While none of these are yet in a position to create systemic issues if they go bankrupt, we do have the example of the Ponzi-like deposit collection companies (Sahara, PACL and Saradha) destroying the savings of ordinary, disempowered people.

It appears that FRDI Bill is part of a piecemeal response to a problem that afflicts countries that are either heavily indebted or have allowed banks to make risky bets. We don't have that problem. We have other problems. If we have to put this law in action, we need a holistic thinking about the entire financial sector.

JOINT PARLIAMENTARY COMMITTEE ON FRDI BILL HAS INVITED AIBEA TO GIVE EVIDENCE AND VIEWS ON 6-12-2017

WE SUPPORT THE ALL INDIA STRIKE IN ALL THE REGIONAL RURAL BANKS ON 11TH AND 12TH DECEMBER, 2017

DO NOT PRIVATISE RRBs

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AIBEA THIS DAY – 6 DECEMBER	
1985	AIBEA Central Committee meets at Cuttack.

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