Booklet - I

BANK EMPLOYEES FEDERATION OF INDIA

Preface

Since NDA government came into power in 2014, the neo liberal economic policy is being pursued with unprecedented aggression which is having disastrous consequences on the economy of the country and livelihoods of common masses. The financial sector in general and the banking sector in particular, more precisely the public sector financial institutions, are under severe attacks posing challenges to its survival and existence. In this critical juncture, BEFI have decided to publish booklets for campaign among the employees and common people about the prevailing situation,so that together we can counter the offensives in all possible ways and means to save the public sector financial institutions for better interest of the country and its people. This is the first booklet being published in this campaign.

LOOTING OF BANK'S MONEY

Introduction

Banking Regulation Act, 1949, Section 5(b) says "banking" means the accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawal by cheque, draft, order or otherwise.

Thus the banking industry started its functioning in our country by accepting deposits from the general public and lending loans to the needy. The industry also diversified its business, spread its wings to all economic activities and became a tool for the economic development of our country.

The recent performance of the banking industry is given here below :

Performance of public and private sector banks put together

(Rs. In crores)

Financial data	2019	2020	2021	2022	2023
Deposits	12256228	13207463	14691752	16181793	18008913
Advances	9219995	9783267	10278032	11598703	13650437
Total Business	21476223	22990730	24969784	27780496	31659350
Gross NPA	923056	887794	818138	727688	556193
Operating Profit	278660	326827	374390	400029	452217
Provisions	315047	342147	271994	229303	223433
Net profit	-36387	-15320	102396	170726	228784

Write offs

Banks have written off bad loans worth Rs 14.56 lakh crore in the last nine financial years starting 2014-15 to 2023-24. According to Financial Stability Report of the RBI, nearly 90% of the loans written off are of the large borrowers.

RBI has informed that as on 30.6.2017, there were 8,744 suit-filed wilful defaulters and 917 non-suit-filed wilful defaulters in public and private sector banks and as on 30.6.2022, the same stands at 14,485 and 401 respectively.

- Yearly write-off amounts by public sector banks have increased 17 times by 2023 from what it was in 2013. From Rs. 7187 crores to Rs.1.27 lakh crores
- Among the public sector banks, the SBI in the last ten years cumulatively wrote off nearly Rs.3 lakh crores
- Yearly write- off amounts by private sector banks has increased 20 times by 2023 since 2013. In absolute terms, from Rs.4115 crores to Rs. 84000 crores

The above stated statements are not mere statistical data but they speak louder of the health of the banking industry. Such huge write-offs have eaten a considerable portion of the operating profits.

Recovery of loans :

Recovery of loans is a basic function in the management of credit risk. Banks are capable to do so. If loans become NPAs after all rescue efforts fail, banks invoke all the existing legal methods to recover them. The Indian government and the Reserve Bank of India (RBI) introduced several laws for the bank loan recovery process and address the issue of non-performing assets (NPAs). Some key new mechanism introduced are :

Debt Recovery Tribunals (DRTs) : Specialized tribunals were established to expedite the recovery of debts from defaulting borrowers. These tribunals had the authority to hear cases related to bank loan recovery and take prompt actions.

Lok Adalats: With the help of the adjudicator, the borrowers were given opportunities to settle their dues at a discounted rate.

Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002: This act allowed banks and financial institutions to take possession of the collateral and sell the assets of defaulting borrowers without the intervention of the court.

Corporate Debt Restructuring (CDR) Mechanism : Introduced in 2001, this was a voluntary framework for restructuring the debts of distressed corporate entities. It aimed to facilitate the revival of viable companies by providing them with an opportunity to restructure their loans.

Asset Reconstruction Companies (ARCs) : These companies were set up to acquire NPAs from banks and financial institutions, with the objective of resolving and recovering the assets. It was believed that ARCs could convert debt into equity and play a role in managing and recovering distressed assets.

The sale of stressed loans to asset reconstruction companies (ARCs) shot up in 2022-23, partly reflecting assets sold to the newly operationalised National Assets Reconstruction Company Ltd

(NARCL), said the RBI in a report.

The book value of stressed assets acquired by ARCs jumped to Rs. 2, 10,111 crore in FY23 against Rs. 77,516 crore in FY22, per the RBI's 'Report on Trend and Progress of Banking in India 2022-23.

Correspondingly, security receipts (SRs) issued by ARCs to lenders, Qualified Institutional Buyers (QIBs), FIIs, were higher at Rs. 41,446 crore in FY23 against Rs. 25,284 crore in the previous year. SRs completely redeemed also rose to Rs. 9,727 crore against Rs. 6,108 crore. During FY23, 9.7 per cent of the previous year's stock of scheduled commercial banks' gross non-performing assets was sold to ARCs as compared with only 3.2 per cent in FY22.

Insolvency and Bankruptcy Code (IBC), 2016 : The IBC introduced a time-bound and comprehensive framework for insolvency resolution of corporate entities, partnership firms, and individuals. It provided a structured process for initiating insolvency proceedings, with the goal of maximizing the value of distressed assets.

Notwithstanding all the laws, the NPAs mounted and the quantum of loans written-off also steeply increased.

The total recovery from written-off loans through different channels is merely 12.9% from 2014-15 to 2021-22, which shows there exists a large gap between the written-off amount and the recovery from it!

Year	Loans written-off	Amount recovered from it	% of recovery
2014-15	49018	5461	11.14
2015-16	57585	8096	14.06
2016-17	81643	8680	10.63
2017-18	161328	12881	7.98
2018-19	236265	25501	10.79
2019-20	234170	30016	12.82
2020-21	202781	30104	14.84
2021-22	174966	33534	19.16
Total	**1197756**	**154273**	**12.88**

On questions regarding the names and details of the accounts in which loans were written off for amounts of Rs 10 crore and above and the names of top 25 loan defaulters in Public Sector Banks (PSBs), "The RBI has informed that under the provisions of section 45E of the Reserve Bank of India Act, 1934, RBI is prohibited from disclosing borrower-wise credit information." **This opaque system raises the eyebrows of the general public who sees no reason to defend the wilful defaulters of bank loans.**

From the above data, one can come to a conclusion that the recovery mechanism is not that effective to recover in full from the big corporate wilful defaulters, thereby risking the very stability of banks or in other words putting into risk the trust of the depositors.

One time settlement

The RBI circular permitting banks to enter into a one-time settlement with wilful defaulters pose a significant risk to the stability of financial institutions in the country.

By offering lenient settlement terms to individuals and entities that have deliberately evaded their repayment obligations, the circular undermines the fundamental principles of responsible lending and borrower accountability.

Such a move not only erodes public confidence in our banking sector but also creates moral hazards by incentivizing reckless borrowing and default. Allowing wilful defaulters to settle their dues through a one-time payment not only undermines the integrity of the banking system but also perpetuates a culture of impunity. This policy fails to differentiate between genuine borrowers facing financial hardship and those intentionally evading repayment.

By providing an avenue for easy escape, it unfairly disadvantages honest borrowers who diligently fulfil their repayment obligations. Therefore, it is imperative to prioritise the rights and interests of responsible borrowers who contribute to the growth and stability of our economy.

Allowing wilful defaulters to negotiate settlements that may not adequately recover the outstanding loan amount undermines the principle of holding them accountable for their actions. Public sector banks (PSBs) are forced to step up one-time settlement (OTS) in written-off loans as the Finance Ministry and the Reserve Bank of India have emphasised on the importance of improving recovery from these accounts.

Since legal action can be drawn out, the state-owned lenders are seen actively pursuing OTS to meet the Finance Ministry-set target of making about 40 per cent recovery from written-off loan accounts.

Since written-off loans are generally devoid of secured assets, asset reconstruction companies (ARCs) may not be interested in buying such loans. Even if ARCs want to buy, the recovery rate may be so low that banks may not be interested.

Yet, with all these big bang 'reforms', the banks could not recover in full the amounts from the willful defaulters. The banks' balance sheets have been cleaned up only by higher provisions and eroding the operating profits in full

Restructuring of loans

Loan restructuring is one among the various options before the banks to maintain asset quality and help the borrowers repay their loans. But this scheme is also widely misused and in many cases, this had become a reason for some of the loans to slip in asset quality. The banks during pandemic periods have undertaken this route to a large extent. In many instances, the bank managements have resorted to loan restructuring at the request of the borrower and had ended in NPAs.

Impacts of Rising NPAs on Banks

NPA not only demolishes the current profit of the bank but also endangers their future prospects. This lowers the profit causing low returns on investments affecting the current earnings of the bank.

When the liquid money and types become limited (due to bad assets) banks do not remain in a position to lend out sufficient amounts of money.

Higher NPA also impacts the revenue strength of the banks. Then, the banks resort to recover their losses by levying charges on even free-of-cost services like withdrawal limit from ATM, withdrawal number of times, internet transactions, etc.

High NPAs reduce the confidence level of the investor, significantly impacting the share price of the bank. Hence, banks stop pay-out of dividends to the shareholders.

"The Insolvency and Bankruptcy Code (IBC) 2016" was passed in Parliament in May 2016 with the stated aim of recovering mounting NPAs from the corporate sector. It was claimed that this act would prove to be highly effective in the recovery of NPAs from the corporate as otherwise; these corporate borrowers would face liquidation.

From 2016 to 2023, 7325 cases of defaulters were admitted under Insolvency and Bankruptcy Code for what is called the Corporate Insolvency Resolution Process (CIRP). Till December 2023 Rs. 23.19 lakh crore was admitted. Out of which only 3.87 lakh crores have been realized or is realisable. The recovery rate for those cases that underwent resolution was only 32%. In cases that have ended in liquidation, the recovery rate was abysmal at just 5%. According to a report by credit rating agency Care Edge, the overall recovery rate has fallen in the past few years. The cumulative recovery rate has been on a downtrend, decreasing from 43% in Q1FY20, 32.9% in Q4FY22, and 32% in Q1FY24.

- DHFL had an NPA of Rs. 91,000 crore. It was sold to Piramal Group of Companies for only Rs. 37,250, at a haircut of 60%.
- Siva Industries, having an NPA of Rs. 4863 crore was allowed to settle its debts through a One Time Settlement (OTS) for only Rs. 318 crore, with a haircut of 93.5%. On payment of the amount, the remaining Rs. 4,545 crore was written off..

- Consortium of JSW and AION Investments Pvt. Ltd. acquired Monnet Ispat & Energy Limited for Rs 2,892 crores after a massive haircut of 74%.
- Jet Airways had an NPA of around Rs 7,807 crores, which was sold to Jalan Fritsch for only Rs 1,375 crores at a massive haircut of 82%, in which banks had to suffer a loss of Rs 6,432 crores.
- Essar Steel was acquired by Arcellor Mittal for Rs 41,000cr at a 17% haircut.
- Alok Industries having an NPA of Rs. 29,523 crores was settled for Rs. 5,052 crores only. It was purchased by Mukesh Ambani's Reliance Industries Limited with an 83% haircut. Banks had to suffer a loss of Rs. 24,471 crore because of this.
- Reliance Communications which was under insolvency process for 4 years, was acquired by UV Asset Reconstruction Ltd for Rs 4,400 crores at a massive haircut of 91%, in which banks have to suffer a massive loss of around Rs 44,600cr
- TATA Steel through its subsidiary arm Bamnipal Steel acquired Bhushan Steel, completing the resolution of the first case under IBC for Rs 35,571 crores at a haircut of 36%.
- Amtek Auto Ltd was acquired by Deccan Value Investors & DVI PE (Mauritius) Ltd for Rs 2,615 crores at a massive haircut of 80%, in which Banks had to face a loss of Rs 10,026 crores.
- Electrosteel Ltd was acquired by Vedanta for Rs 5,320 crores at a haircut of 60%

The haircut offered to 12 large corporate accounts under IBC is Rs.2.84 lakh crores.

The majority of the closed cases referred to Corporate Insolvency Resolution process have resulted in liquidation. As of Dec 2023, 5426 cases were closed and 44% of these have resulted in liquidation

According to information disclosed in a written response in the Lok Sabha, as of January 2023, there were 12,963 pending cases under the Insolvency and Bankruptcy Code (IBC) within the jurisdiction of the National Company Law Tribunal (NCLT) bench. The IBC has not deterred wilful defaulters and fraudsters as the government had claimed. There has been an increase in the number of wilful defaulters from 2018 to 2022 by 65% of accounts with more than Rs. 1 crore loan defaults. The massive haircuts not only affect banks but also operational creditors (like MSMEs that manufacture parts for huge corporations) without them even being part of the IBC process. This might put a lot of small businesses and MSMEs at risk of losses and even insolvency. While crores are written off for the corporates, but when it comes to farmers' loans, education loans and loans for MSMEs, the recovery is most stringent

It is the citizen, whose money is deposited in the bank and whose tax money funds its running. Due to increasing losses for banks under the IBC and other factors, the amount of money provisioned for NPAs by banks increased almost ten-fold between 2010-2015 and 2017-2022. The profits of public banks were directly utilized to offset losses from IBC haircuts.

The Parliamentary Standing Committee on Finance's report on the Insolvency and Bankruptcy Code (IBC) came down heavily on the Union government for the "disproportionately large and unsustainable haircuts have been taken by financial creditors." The panel said that IBC has 'deviated' from the original objectives intended by Parliament and there is a need to revisit its design and implementation given the massive haircuts, inordinate delays and low recovery

(Rupees in crores

Corporate accounts admitted under IBC	The name of the company that acquired	NPA	Settled for	Hair cut (%)
DHFL	PIRAMAL GROUP	91000	37250	60
SIVA INDUSTRIES	SIVA INDUSTRIES	4863	318	93.5
MONNET ISPAT	CONSORTIUM OF JSW	11100	2892	74
JET AIRWAYS	JALAN FIRTSCH	7807	1375	82
ESSAR STEEL	ARCELLAR MITTAL	49400	41000	17
ALOK INDUSTRIES	RELIANCE INDUSTRIES	29523	5052	83
RELIANCE COMMUNICATIONS	U V ASSET RECONSTRUCTION	48900	4400	91
BHUSHAN STEEL	BAMNIPAL STEEL	55580	35571	36
AMTEK AUTO	DECCAN VALUE INVESTORS	13075	2615	80
ELECTRO STEEL	VEDANTA	13300	5320	60
VIDEOCON*	TWIN STAR TECHNOLOGIES	61770	3000	94
BHUSHAN POWER	JSW STEEL	46062	19700	58

*NCLAT had set aside the orders of the NCLT, Mumbai in this case basing on the appeal by the lenders.

CONCLUSIOIN

The banks have been actively involved in increasing their business. With the advent of neo-liberal policies in our country, the banks underwent some major changes in their approach to big ticket loans. All these loans were not supported by adequate securities and the lending policies of the government – RBI combine is to be blamed. The political – corporate nexus got strengthened during this period leading to more exposures to big loans to these corporate. The mis-management by the corporate coupled with the unflinching support by the political classes encouraged them to default the loan repayments. The very many channels that are narrated above have been of no major use in recovering the loans from the willful defaulters. Even today, some of the big ticket loan defaulters who have settled abroad could not be brought back to our country and tried according to law. Though this present dispensation at the centre boasts of dealing with such willful defaulters with heavy hand, is only adopting a soft approach towards such corporates. The channels available for the banks to ensure recovery of such loans have become a farce! The haircuts extended legally hamper the bank's growth. It appears that the Government, the RBI and some of the top bank executives have forgotten that the banks are just a custodian of people's money. Of late, it is apparent that the big loans to some of the corporates are nothing but looting of banks' money.

To ensure robust growth of banks and to use it as a tool for economic development of our country, the following points are to be put in place:

- ❖ The lending policies, more particularly large accounts, are to be suitably amended by the RBI so that the recovery of loans from the company or its directors is made easy.

  Provisions to be made to attach personal assets of the willful defaulters.

- ❖ RBI supervision on big loans should be strengthened and the nexus between the ruling class and the corporates to be stopped.

- ❖ Willful default to be treated as criminal offense.
- ❖ Sovereign assurance from the government to the depositors of the banks irrespective of the amounts to be brought in as a law.

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