

**GOVERNMENT OF INDIA
FINANCE
LOK SABHA**

UNSTARRED QUESTION NO:3230
ANSWERED ON:12.12.2014
BANKRUPTCY FRAMEWORK
Rao Shri Konakalla Narayana

Will the Minister of FINANCE be pleased to state:

- (a) whether the Government proposes to set up any Committee for studying the corporate legal bankruptcy framework in the country and to make suggestions to reduce the burden of aggravated crisis caused by corporate defaulters;
- (b) if so, the details thereof;
- (c) whether due to lack of coordination among the bankers, impounding of assents against wilful and hardcore defaulters has not picked up;
- (d) if so, the details thereof; and
- (e) the corrective measures taken by the Government in this regard?

Answer

TO BE ANSWERD BY THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI JAYANT SINHA)

(a) & (b): The Government has constituted a Committee on 22nd August, 2014, under the Chairmanship of Shri T.K. Vishwanathan, former Law Secretary and former Secretary General Lok Sabha, to study the corporate bankruptcy legal framework in India. The Committee is examining all aspects of legal bankruptcy and will submit an interim report by February 2015 and a final report recommending a Bankruptcy Code, within twelve months of the submission of the interim report.

(c) to (e): Each bank separately declares a borrower as willful defaulter as prescribed by RBI vide its Master Circular on willful defaulters DBOD. No. CID.BC.3/20.16.003/2014 -15 dated on July 1, 2014 which lays down the criteria to declare a borrower as willful defaulter.

Banks/FIs take the following measures in identifying and reporting instances of willful default:

(i) Decisions to classify the borrower as willful defaulter are entrusted to a Committee of higher functionaries headed by the Executive Director and consisting of two GMs/DGMs as decided by the Board of the concerned bank/FI. (ii) The decision taken on classification of willful defaulters is well documented and supported by requisite evidence. The decision clearly spells out the reasons for which the borrower has been declared as willful defaulter vis-a-vis RBI guidelines. (iii) The borrower is thereafter suitably advised about the proposal to classify him as willful defaulter along with the reasons therefor. The concerned borrower is provided reasonable time (say 15 days) for making representation against such decision, if he so desires, to a Grievance Redressal Committee headed by the Chairman and Managing Director and consisting of two other senior officials. (iv) The Committee gives a hearing to the borrower if he represents that he has been wrongly classified as willful defaulter. (v) A final declaration as 'wilful defaulter' is made after a view is taken by the Committee on the representation and the borrower is suitably advised.

As per the circular, action including punitive action is initiated against such willful defaulters. In order to prevent the access to the capital markets by the wilful defaulters, a copy of the list of willful defaulters (non-suit filed accounts) and list of willful defaulters (suit filed accounts) are forwarded to SEBI by RBI and Credit Information Bureau (India) Ltd. (CIBIL) respectively.

No additional facilities are granted by any Bank/ Financial Institutions (FI) to the listed willful defaulters. In addition, the entrepreneurs/promoters of companies where Banks/FIs have identified siphoning/diversion of funds, misrepresentation, falsification of account and fraudulent transactions are debarred from institutional finance from the scheduled commercial banks. The legal process, wherever warranted, against the borrowers/guarantors and foreclosure of recovery of dues is initiated expeditiously. The lender may also initiate criminal proceedings against willful defaulters.