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COMMITTEE ON PETITIONS

(SIXTEENTH LOK SABHA)

FORTY- SIXTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

November, 2017/Agrahayana, 1939 (Saka)

FORTY-SIXTH REPORT

COMMITTEE ON PETITIONS

(SIXTEENTH LOK SABHA)

MINISTRY OF FINANCE

(DEPARTMENT OF FINANCIAL SERVICES)

(Presented to Lok Sabha on 22.12.2017)



LOK SABHA SECRETARIAT
NEW DELHI

November, 2017/Agrahayana, 1939 (Saka)

CPB No. 1 Vol. XLVI

Price: ₹ 40.00

● 2017 BY LOK SABHA SECRETARIAT

Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fifteenth Edition) and printed by the Manager, Government of India Press, Minto Road, New Delhi-110 002.

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COMPOSITION OF THE COMMITTEE ON PETITIONS
(2017-18)

Shri Bhagat Singh Koshyari — *Chairperson*

MEMBERS

2. Shri Suresh C. Angadi
3. Shri Om Birla
4. Shri Jitendra Chaudhury
5. Shri Ram Tahal Choudhary
6. Dr. K. Gopal
7. Shri C.P. Joshi
8. Shri Chhedi Paswan
9. Shri Kamlesh Paswan
10. Shri Arjun Charan Sethi
11. Shri Kodikunnil Suresh
12. Shri Dinesh Trivedi
13. Shri Rajan Vichare
14. Shri Dharmendra Yadav
15. Vacant

SECRETARIAT

1. Shri Shiv Kumar — *Joint Secretary*
2. Shri Raju Srivastava — *Additional Director*
3. Shri G.C. Dobhal — *Deputy Secretary*
4. Shri Anand Kumar Hansda — *Executive Assistant*

FORTY-SIXTH REPORT OF THE COMMITTEE ON PETITIONS
(SIXTEENTH LOK SABHA)

INTRODUCTION

I, the Chairperson, Committee on Petitions, having been authorised by the Committee to present the Report on their behalf, present this Forty-Sixth Action Taken Report (Sixteenth Lok Sabha) of the Committee to the House on the Action Taken by the Government on the recommendations of the Committee on Petitions made in their Thirtieth Report (Sixteenth Lok Sabha) on the Representation received from Shri Rajendra Prasad regarding alleged collusion of high profile people, industrialists with bank officials in getting sanctioned large amount of Bank Loans resulting into growing Non-Performing Assets (NPAs).

2. The Committee considered and adopted the draft Forty-Sixth Action Taken Report at their sitting held on 30 November, 2017.

3. The observations/recommendations of the Committee on the above matters have been included in the Report.

NEW DELHI;
30 November, 2017
9 Agrahayana, 1939 (Saka)

BHAGAT SINGH KOSHYARI,
Chairperson,
Committee on Petitions.

REPORT

ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS
MADE BY THE COMMITTEE ON PETITIONS (SIXTEENTH LOK SABHA)
IN THEIR THIRTIETH REPORT ON THE REPRESENTATION RECEIVED
FROM SHRI RAJENDRA PRASAD REGARDING ALLEGED
COLLUSION OF HIGH PROFILE PEOPLE, INDUSTRIALISTS
WITH THE BANK OFFICIALS IN GETTING SANCTIONED
LARGE AMOUNT OF BANK LOANS RESULTING
INTO GROWING NON-PERFORMING
ASSETS (NPAs)

The Committee on Petitions (Sixteenth Lok Sabha) in their Thirtieth Report presented to Lok Sabha on 16 March, 2017 had dealt with a Representation received from Shri Rajendra Prasad regarding alleged collusion of high profile people, industrialists with the bank officials in getting sanctioned large amount of Bank Loans resulting into growing Non- Performing Assets (NPAs).

2. The Committee had made certain observations/recommendations in the matter and the Ministry of Finance (Department of Financial Services) were asked to implement the recommendations and were requested to furnish their action taken replies thereon for consideration of the Committee.

3. Action Taken Notes have since been received from the Ministry of Finance (Department of Financial Services) in respect of all the observations/recommendations contained in the aforesaid Report. The recommendations made by the Committee and the replies furnished thereto by the Ministry of Finance (Department of Financial Services) have been detailed in the succeeding paragraphs.

4. In paras 18, 19, 20 and 21 of the Report, the Committee had observed/recommended as follows :—

"The Committee are deeply concerned to note that in spite of various measures taken by the Government and the Reserve Bank of India (RBI) from time to time, the burgeoning trend of Non-Performing Assets (NPAs) is not only affecting the vital financial and various other sectors of the economy but also raising a big question mark about the credibility of the banking system in the country.

The Committee take a very serious note of the fact that instead of witnessing a declining trend, the Gross NPAs of the Scheduled Commercial Banks (SCBs), especially, the Public Sector Banks (PSBs) have shown a progressive trend during the recent years. For instance, in March 2013, the Gross NPAs in respect of PSBs, Private Banks and SCBs were Rs.1,55,890 crore, Rs.19,992 crore and Rs. 1,838,54 crore respectively which, in March 2016,

galloped to an alarming level of Rs. 4,76,816, Rs. 49,155 and Rs. 5,41,763 crore respectively. Within this short period of three years, in terms of percentage, the GNPA's for PSBs and SCBs rose to 205% and 194% respectively.

The Committee further note with concern that taking the GNPA's and the restructured advances together, as on March, 2016, the stress on SCBs was 11.44%, whereas, on PSBs, the same stood to 14.34%.

A careful scrutiny of the statistical details of gross and net NPAs in Scheduled Commercial Banks, Public Sector Banks, Old Private Sector Banks, New Private Sector Banks and Foreign Banks in the country, published by the Reserve Bank of India, brings out the fact that such an unabated trend in the volume of Gross NPAs during the last decade, raises serious question about the objectivity and the efficacy of the mechanism to deal with NPAs. Being totally dissatisfied with the overall management of NPAs at various strata of policy making, viz., the Government, the Reserve Bank of India and more importantly the operational levels of the PSBs and the SCBs, the Committee intend to caution the management of PSBs/SCBs to professionally manage the sanctioning of loans and devise all the requisite wherewithals to notice early signs of stress on the loans disbursed by them for taking urgent corrective measures. The Committee are also of the firm view that there is an urgent need for PSBs/SCBs to reduce their stressed assets and clean up their balance sheets — which would increase their ability as also their credibility to raise capital in the future. The Committee, therefore, strongly recommend that the Government should take urgent remedial measures to put a check on the burgeoning trend of NPAs and to reduce the volume of stressed assets in the country. The Committee would like to be apprised of the outcome of renewed strategy worked out by the Ministry of Finance (Department of Financial Services) — in coordination with the Reserve Bank of India and the Management of PSBs/SCBs."

5. In their action taken reply, the Ministry of Finance (Department of Financial Services) has submitted as follows:—

Measures by the Government:—

"During Financial Year 2016, Reserve Bank of India started the process of Asset Quality Review (AQR) to ensure that banks were taking proactive steps to clean up their balance sheets. Weak loans were identified by working with banks and upon identification, banks were instructed to provide for the same during two quarters of FY16. This aggressive identification, which is a necessary step in reduction of NPAs, has also increased the NPA count.

During F. Y 2016-17, an amount of Rs. 25,000 crore has been infused in PSBs to improve their financial condition. It has been decided that, PSBs will get capital from Government of India on a need based criteria if they chalk out a strategic turnaround plan PSBs agreeing to participate in strategic capital infusion, would sign a tripartite Memorandum of Understanding (MoU)

between Government of India, Public Sector Bank Management and Employee Unions of PSBs. PSBs management will be required to commit to a time bound restructuring and turnaround plan. They can take external help in developing and executing the turnaround plan. The plan will have to be agreed upon with the Government of India and employee unions. The plan should have quarterly milestones to track progress.

The objective is to ensure that banks undertake certain measures so as to be able to become self-sufficient in terms of capital. This plan is based on one primary tenet—the release of capital is linked to the success of turnaround plan of each PSU bank. The turnaround plan could be a five-year plan. To ensure the success of this plan, the recipient bank's board, management, employees and unions must have considerable stake in the success of the plan. It has been indicated that the capital which may be considered to be infused based on CET-1 requirement as analysed and may be proposed by Reserve Bank of India. Achievement against Quarterly benchmarks shall be monitored by the Board.

The Insolvency and Bankruptcy Code (IBC) has been enacted and amendments in the Securitisation and reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) and the Recovery of Debts due to Banks and Financial Institutions (RDDBFI) Acts have been done to improve resolution/recovery of bank loans. The Government has recently issued advisory to banks to take action against guarantors in event of default by borrower under relevant sections of SARFAESI Act, Indian Contract Act & RDDB&FI Act, since in the event of default, the liability of the guarantor is co-extensive with the borrower.

An Ordinance Banking Regulation (Amendment) Ordinance, 2017 has been promulgated on 4th May, 2017 authorising RBI to issue directions to any banking company to initiate insolvency resolution process in respect of a default, under the provisions of the Insolvency and Bankruptcy Code, 2016 (IBC). Further Reserve Bank is empowered to issue directions to the banking companies on resolution of stressed assets.

Immediately upon the promulgation of the Ordinance, RBI issued a directive reducing the consent required for approval of a proposal under the Joint Lenders Forum to 60 per cent by value instead of 75 per cent earlier, while keeping that by number at 50 per cent. Participating banks have been mandated to implement the decision of JLF without any additional conditionality. Also, the Boards of banks were advised to empower their executives to implement JLF decisions without further reference to them. It has been made clear to the banks that non-adherence would invite enforcement actions.

Government of India has taken sector specific initiatives for Steel Sector, Road Sector, Power Sector, Mines and Minerals Sector, Telecom Sector and MSME sector like (i) Notification of Minimum Import Price (MIP) on certain Iron & Steel products and imposition of Anti-Dumping Duty (ADD) on

import of alloy or non-alloy steel for specific period; (ii) One time fund infusion for Stranded Projects in Road sector; (iii) Ujwal DISCOM Assurance Yojana (UDAY), E-Auction of Coal Block and Solar Park Scheme; (iv) Telecom companies allowed buying and selling rights to unused spectrum among themselves, Spectrum Usage Charges (SUC) reduced to 3 per cent against the 5 per cent.

Meetings of Committee of Secretaries have been held on 9th March, 2017 and 29th March, 2017 wherein nodal ministries viz. M/o Power, Steel, Shipping, Textile, MNRE, Telecommunication and MSME have constituted Inter-Ministerial Groups (IMGs) for each sector under stress to examine affecting viability and repayment capacity and furnish recommendations for resolution of stressed assets.

Measures by the Reserve Bank of India:—

In order to address the issue of management of stressed assets in banks, Reserve Bank of India has taken a number of regulatory initiatives in the recent years. Such regulatory initiatives of Reserve Bank on stressed assets fall into the following six broad themes:—

- (i) Framework for Revitalising Distressed Assets in the Economy.
- (ii) Optimal structuring of credit facilities.
- (iii) Ability to change ownership/management.
- (iv) Deep Restructuring of Stressed Assets.
- (v) Steps to address delays in project implementation.
- (vi) Speedy Exit from Unviable Accounts.

(i) Framework for Revitalising Distressed Assets in the Economy

The framework focuses on improving/incentivising banks' ability in early identification of problem cases, timely restructuring of accounts which are considered to be viable, and taking prompt steps by banks for recovery or sale of unviable accounts. To improve banks' ability to identify incipient stress of a borrower as well as to reduce information asymmetry, a Central Repository of Information on Large Credits (CRIL C) has been operationalized to collect, store and disseminate credit data among lenders.

RBI has instructed banks to form Joint Lenders Forum (JLF) and formulate a Corrective Action Plan (CAP) within strict timelines. Recently, the framework has been strengthened further. The JLF norms have been changed i.e. decisions agreed upon by a minimum of 75% of creditors by value has been brought down to 60%, in JLF to be considered as the basis for proceeding with resolution of the account.

As it has been witnessed that the implementation of JLF decisions face hurdles in the form of indecisiveness shown by some banks which results in loss of precious time which is critical to turning around the troubled asset or expecting

recovery, the Government has requested RBI to review JLF guidelines and include additional non-financial/administrative penalties where agreed upon CAP is not implemented.

(ii) Optimal Structuring of Credit Facilities

One of the features observed for stress was banks' inability to match up the repayment tenor of project loans, due to constraints posed by asset liability management norms. To facilitate better asset-liability management by the banks and ensure long term viability of projects, banks were allowed to offer long term project loans to infrastructure and core industries projects based on cash flow analysis. The objective of the guidelines was to smoothen the cash flow stress in initial years of these projects by pro per structuring of loan amortisation schedule, which may go up to 85 per cent of the useful economic life of the underlying project as against 10-12 year amortisation schedules prescribed by banks hitherto. As far as existing projects were concerned, we have allowed them a one-time facility to change the loan amortisation schedules under our guidelines on Flexible Structuring of Project Loans (5/25 scheme).

In addition to allowing flexibility in structuring amortisation schedules, a concept of 'standby credit facility' was introduced, which enables banks to sanction *ab initio* a contingent credit facility which will be automatically drawn upon by project developers if there is cost overrun in the project. *Ab initio* sanctioning of cost overrun requirement would allow the project implementation to proceed unhindered even if there is a time and cost overrun.

(iii) Ability to change ownership/management

There are instances where, in the assessment of the banks, the implementation of the project has been stalled primarily due to inadequacies of the existing promoters and a change in the ownership could get the project up and running. RBI has issued guidelines, which permit banks to extend the date of commencement of commercial operation of stalled projects up to a further period of two years upon change in ownership, in addition to what is already permitted under normal circumstances.

As per the Strategic Debt Restructuring (SDR)/Outside SDR schemes, the Reserve Bank enhanced lenders' ability to bring in change in ownership of borrowing entities.

(iv) Deep Restructuring of Stressed Accounts

In order to put real assets back on track by providing an avenue for reworking the financial structure of entities facing genuine difficulties which require co-ordinated deep financial restructuring, we have put in place a 'Scheme for Sustainable Structuring of Stressed Assets' (S4A). These guidelines provide flexibility in restructuring which may involve material write-down of debt and/or making large provisions, under the credible framework, without making any compromise on prudence.

The S4A envisages determination of the sustainable debt level for a stressed borrower, and bifurcation of the outstanding debt into sustainable debt and the remaining debt which will be converted into equity/quasi-equity instruments which are expected to provide upside to the lenders when the borrower turns around.

Overseeing Committee (OC) was set up as part of Scheme for Sustainable Structuring of Stressed Assets (S4A) to review the processes involved in preparation of resolution plan for reasonableness and adherence to provisions of the guidelines of the S4A scheme. Further, RBI has advised that banks, with concurrence of OC, may refer even other cases of resolution of stressed assets to OC which are outside the purview of S4A. The RBI further strengthening the Oversight Committee (OC) to expand the scope of cases to be referred to it.

(v) Steps to Address Delays in Project Implementation

Implementation of large projects is very complex and many unforeseen events may cause delays in project implementation leading to failure in achieving commercial operations on the original Date of Commencement of Commercial Operations (DCCO) fixed at the time of financial closure.

Considering the complexities, RBI has allowed certain relaxations to project loans, wherein, DCCO of projects are allowed to be extended beyond the original DCCO. Revisions of the DCCO and consequential shift in repayment schedule will not be treated as restructuring provided that —

- (a) The revised DCCO falls within the period of two years and one year from the original DCCO stipulated at the time of financial closure for infrastructure projects and non-infrastructure projects respectively; and
- (b) All other terms and conditions of the loan remain unchanged. Further, banks may restructure such loans by way of revision of DCCO beyond the time limits quoted at paragraph (a) above and retain the 'standard' asset classification, if the fresh DCCO is fixed within the following limits:—
 - (i) Infrastructure Projects involving court cases — Up to another two years (beyond the two year period quoted at paragraph (a) above, *i.e.*, total extension of four years).
 - (ii) Infrastructure Projects delayed for other reasons beyond the control of promoters — Up to another one year (beyond the two year period quoted at paragraph (a) above, *i.e.*, total extension of three years).
 - (iii) Project Loans for Non-Infrastructure Sector (Other than Commercial Real Estate Exposures) — Up to another one year (beyond the one year period quoted at paragraph (a) above, *i.e.*, total extension of two years).

There are instances where, in the assessment of the banks, the implementation of the project has been stalled primarily due to inadequacies of the existing promoters and a change in the ownership could get the project up and running. We have issued guidelines, which permit banks to extend the date of commencement of commercial operation of stalled projects up to a further period of two years upon change in ownership, in addition to what is already permitted under normal circumstances.

(vi) Speedy Exit from Unviable Accounts

Where the banks assess that a borrower account is unviable or cannot be revived despite hand holding, a quick exit from the account is warranted to minimise the loss suffered by banks.

To facilitate speedier exit of banks from unviable accounts, Reserve Bank has put in place an incentive mechanism, which, *inter alia*, include sale of accounts classified as special mention accounts — 2 (SMA-2), permitting to reverse excess provision on sale of NPAs, ability to amortise losses on sale of NPAs over a period of time to cushion immediate impact on profitability, etc.

Regarding sale of such assets by banks to asset reconstruction companies (ARCs)/ other banks/ Non-Banking Financial Companies/Financial Institutions etc. banks are required to lay down detailed policies and guidelines on sale of their stressed assets to ARCs. Further, the framework also contains guidelines to enhance transparency in the entire process of sale of stressed assets, which include two independent valuation of assets more than Rs. 50 crore. Reserve Bank has also disincentivised bank's investment in security receipts backed by NPAs sold by the same bank by increasing the provisioning requirement for such security receipts. Reserve Bank has also put in the concepts of right of first refusal and Swiss challenge method to facilitate debt aggregation by entities which specialise in resolution of stressed assets."

6. In para 22 of the Report, the Committee had recommended/observed as follows:—

"The Committee note that one of the fundamental issues that hampers the efficient management of Non-Performing Assets is the inadequacy in the Credit Appraisal Capability of the Banks, more specifically on the aspect of 'Project Appraisal'. The Committee are constrained to point out that there is now an urgent need not only for bolstering the technical capabilities of Banks to undertake proper evaluation of the Projects but also formulating a rational post sanction monitoring procedures. The Banks should be extremely vigilant in evaluation of the projects prior to giving the requisite clearances for sanctioning of loans. While granting credit, the Banks should set realistic repayment schedules on the basis of an objective analysis of cash flows of borrowers which would facilitate prompt and timely repayment by the borrowers and also significantly improve the record of recovery in advances. The Committee, therefore, recommend the Government to issue necessary

advisory to the Reserve Bank of India to take the initiative and organize need-based Capacity Building Programmes for the Banks which would enhance credit appraisal skills of the Bank Officials and help them to ensure the financially viable 'Credit Appraisals'."

7. In their action taken reply, the Ministry of Finance (Department of Financial Services), has submitted as follows:—

Skill Building

"The Reserve Bank of India has repeatedly emphasised the importance of proper credit appraisal and due-diligence before sanctioning a loan. Detailed guidelines have been issued on Credit Risk Management. RBI has advised banks that lenders should carry out their independent and objective credit appraisal in all cases and must not depend on credit appraisal reports prepared by outside consultants, especially the in-house consultants of the borrowing entity.

Traditionally, Indian banks were primarily financing working capital needs of the industry. However, of late, commercial banks have become the primary source of long term debt financing to projects in infrastructure and core industries.

Reserve Bank through the Centre for Advanced Financial Research and Learning (CAFRAL) has taken initiatives to organise capacity building programmes for bankers. CAFRAL has already conducted training programmes on assessment of project loans for the benefit of commercial banks by inviting experts in the field of project finance. CAFRAL would continue to organise such programmes on periodic basis. In addition, premier management institutes like Indian Institute of Management, Ahmedabad, etc., are also conducting training programmes on project financing which are attended by banks.

The Reserve Bank had constituted a 'Committee on Capacity Building' (July 2014) under the Chairmanship of former Executive Director, Shri G. Gopalakrishna, with the objective of implementing non-legislative recommendations of the Financial Sector Legislative Reforms Commission (FSLRC), relating to capacity building in banks and non-banks.

The 'Report and Recommendations on Capacity Building' was placed on the RBI website on September 23, 2014 for wider dissemination and obtaining comments/suggestions. A roundtable to discuss the implementation of the recommendations was held on June 18, 2015 at Centre for Advanced Financial Research and Learning (CAFRAL). RBI had issued a circular on 'Capacity Building in Banks and All India Financial Institutions (AIFIs)' on August 11, 2011. College of Agricultural Banking (CAB), National Institute of Bank Management (NIBM), CAFRAL, Indian Institute of Banking and Finance (IIBF) were advised to examine the recommendations in consultation with IBA, banks and other bodies and adopt a holistic approach in consultation with stakeholders so as to ensure effective implementation. IBA formed an

expert group having members as representatives from IIBF, NIBM, CAFRAL and public/private sector banks and submitted its report for consideration to RBI recommending names of institutions for different courses. Thereafter, RBI vide its letter dated April 21, 2017 has advised IBA as under:—

- (i) The names of the recommended institutions for certificate courses may be circulated to member banks.
- (ii) IBA may form a committee with representation from banks at a senior level that may define and accredit the standards and institutions offering courses with the discretion to delete courses if found obsolete or unsuitable.
- (iii) IBA may also add specific courses covering AML/KYC, Compliance including legal aspects, Foreign exchange, Cyber security, Wealth Management and marketing of third party retail products with the approval of the above Committee.

IBA has confirmed that the names of the recommended institutions for certificate courses to member banks have been circulated vide its letter no. CIR/HR&IR/KSC/2017-18/2602 dated the 26th April, 2017, IBA has requested member banks to nominate a suitable senior level officer (not below the rank of the General Manager) to be a part of the said Committee, vide their letter dated 2nd June, 2017 followed by reminder dated the 13th June, 2017. The names of the concerned nominated officials will be advised to RBI with the request to nominate an suitable official from RBI also for said Committee. Once the Committee is formed, specific courses covering Anti Money Laundering (AML)/Know Your Customer (KYC), Compliance including Legal aspects, Foreign Exchange, Cyber Security etc. may be added in consultation with said Committee."

Loan Monitoring

Credit related matters, including the appraisal and follow up aspects, have mostly been delegated to banks and they are required to have their own Board approved policies, within the overall prudential regulatory requirements. As regards issue of setting up a committee to monitor large loan portfolios, it may be noted that in terms of extant guidelines of Reserve Bank of India, banks have set up a Credit Risk Management Committee (headed by MD/CEO/ED of the bank) to monitor the loan portfolio of banks.

Post sanction of loans banks should:—

- (i) identify promptly loans which develop credit weaknesses and initiate timely corrective action;
- (ii) evaluate portfolio quality and isolate potential problem areas;
- (iii) provide information for determining adequacy of loan loss provision;
- (iv) assess the adequacy of and adherence to loan policies and procedures,

and to monitor compliance with relevant laws and regulations; and

- (v) provide top management with information on credit administration, including credit sanction process."

8. In para 23 of the Report, the Committee had observed/recommended as follows:—

"The Committee note that diversion of funds by industrialists to their unrelated business and negligence on the part of Bank Officials in pre-sanctioning of loans are the determining factors for bank loans — turning bad. The Committee are of the considered opinion that a proper and stem audit should be made mandatory for specific class of borrowers, especially, the big loan seekers. Since it is widely believed that the current internal audit practices in the Banks are not effective enough to prevent diversion of funds by the borrowers, the Committee would like to emphasize that due diligence should be exercised by the Bank Officials by scrupulously following the Rules/Guidelines before disbursing the loans. The Committee also desire that whenever the decision taken by the Bank Officials to sanction loans — in violation of norms/guidelines — leads to creation of NPAs, the same should be inquired into at the highest hierarchical level, responsibility fixed for the lapses, and appropriate penal action be taken against the erring Bank Officials, in a time bound manner. The Committee would like to be apprised of the measures taken by the Ministry of Finance (Department of Financial Services) in this regard."

9. In their action taken reply, the Ministry of Finance (Department of Financial Services) has submitted as follows:—

"It is a fact that diversion of funds by the promoters/management to unrelated business has been one of the major factors contributing to unprecedented growth in bad loans in the recent past. Negligence on the part of bank officials, in term of failure of their duty to prevent such diversion, has been observed in some of the Non-Performing assets. Stem action has been taken/initiated by various banks for such lapses.

All banks are having Standard Operating Procedures/Structured Guidelines with regard to Pre-sanction survey/terms & Post-sanction/Post-disbursement formalities of all loan products. Further, well laid down guidelines are in place for complying with all pre-disbursement terms & conditions before parting with the funds. All operating functionaries are required to meticulously follow these guidelines. If the circumstances/value of connection so warrant, the designated authorities can be approached by the operating functionaries for any desired deviation, which is considered on merits and if approved, gets reported to the next higher authority.

Before releasing the loan funds, Bankers carry out due diligence on these suppliers of equipments. Beside this, there is usually a provision for appointment of Lenders Independent Engineer (LIE) for large value project.

The LIE, being a professional is better placed to comment on the utilization of funds (Loan funds as well as promoters contribution) periodically. Similarly, services of Chartered Accountants (CAs) are also hired by the lenders. These LIEs & CAs assist the Bank officials in monitoring & post- disbursement supervision of loan accounts.

It is to further mention that whenever a complaint against a bank official(s) is received and any irregularities are found or observed on the part of Bank's official(s), the Banks initiate action as per their extant rules and commensurate punishment is awarded to the delinquent employees based on the seriousness of the wrongdoings as per Bank's disciplinary rules."

10. In para 24 of the Report the Committee had observed/recommended as follows:—

"The Committee take note of the various Guidelines and Advisories issued by the Government and the Reserve Bank of India for determining accountability of all categories of Banks including the top Management of Public Sector Banks. The Committee have also been apprised by the Ministry of Finance (Department of Financial Services) that Banks have been advised that with a view to keeping the incidences of corruption and various other malpractices under check, there is a need for fixing the accountability on the aspects of irregularities, malpractices, corruption etc., at all levels. The Committee further observe that the Banks also have an in-built Vigilance Mechanism, headed by a Chief Vigilance Officer (CVO) which is mandated to keep a close watch on the various aspects of functioning of the Banks. The Committee are, however, constrained to note that even after having a Vigilance Mechanism, in vogue in the Banking system in the country, there are incidences of fraud relating to NPAs. In this regard, the Committee strongly feel that merely issuing of Guidelines or Advisories by the Government or the Reserve Bank of India for averting the incidences of fraud relating to NPAs do not seem to have yielded the desired results and the Reserve Bank of India — being a Regulator — does not seem to have succeeded in so far as implementation and enforcement of its own Guidelines are concerned. The Committee would, therefore, expect the Government to impress upon the Reserve Bank of India to monitor and follow up strict compliance of the relevant instructions, with the banks and financial institutions on a regular basis. The Committee do not expect RBI to be a passive regulator, when major lapses occur in Banks, rather a proactive action is expected of the RBI, whenever required — such as for ensuring quick punitive action in cases of default and violation of its guidelines. The Committee, therefore recommend the existing Vigilance Mechanism should be revisited and, if required the same be amended to provide more teeth to existing Vigilance Mechanism. The Committee would like to be apprised of the measures taken by the Ministry in this regard."

11. In their action taken reply, the Ministry of Finance (Department of Financial Services) has submitted as follows:—

"As per the latest Central Vigilance Commission (CVC) Manual published in 2017, in the case of accounts categorized as Non-Performing Assets (NPAs), banks must initiate and complete a staff accountability exercise within six months from the date of classification as a NPA. The completion of the staff accountability exercise for frauds and the action taken may be placed before the Special Committee of the Board for monitoring and follow-up of Frauds (SCBF) and intimated to the RBI at quarterly intervals as hitherto. Banks may treat all frauds as a vigilance case and should be referred to the investigative authorities.

It has been further directed by CVC that each bank may set up an Internal Advisory Committee (IAC) of three members, preferably of the level of General Managers but not below the level of Deputy General Managers, to scrutinise the complaints received in the bank and also the cases arising out of inspections and audit & other staff accountability matters, etc.; and determine involvement of vigilance angle, or otherwise, in those transactions. The Committee shall record reasons for arriving at such a conclusion. The Committee will send its recommendations to the Chief Vigilance Officer (CVO). The CVO while taking a decision on each case will consider the advice of the Committee. Such records shall be maintained by the CVO and would be available to an officer or a team of officers of the Commission for scrutiny when it visits the bank for the purpose of vigilance audit.

In Public Sector Banks (PSBs)/Financial Institutions (FIs)/Public Sector Companies (PSCs). An officer from another PSBs/FIs/PSCs is appointed by Department of Financial Services as CVO in consultation with Central Vigilance Commission. Under recent guidelines for appointment of CVO, General Manager level officers are eligible to be considered for the post of CVOs which carries the pay and perks of Executive Director (Whole Time Director) of PSBs.

Classification and reporting mechanism of Frauds

RBI vide its master circular updated 1st July, 2016, "Frauds —Classification and Reporting" has issued detailed guidelines regarding classification of fraud and their reporting to the Regulatory Authority Board of Director, Police and CBI. In addition, a mechanism for reporting frauds at various intervals has been mandated in the circular.

As per the circular, frauds involving Rupees one lakh and above are required to be reported to the RBI. However, all fraud cases in banks are required to be reported to CBI/Police. Fraud reports are also required to be submitted in cases where Central Investigating Agencies have initiated criminal proceedings *suo moto* and /or where the RBI had directed that they are reported as frauds. RBI circular further stipulates the quarterly and annual review of frauds at bank level. Banks are required to constitute a Special Committee for monitoring and follow up of cases of frauds involving amounts

Rs.100.00 lakh and above exclusively, while Audit Committee of the Board (ACB) also monitors all the cases of frauds.

In addition to the above measures, a Committee has been constituted in Department of Financial Services (DFS) consisting of Secretary (FS), Additional Secretary & CVO, DFS, Joint Secretary (Vig.), DFS and the representatives of CBI, RBI, Enforcement Directorate (ED), Central Economic Intelligence Bureau (CEIB) and Serious Fraud Investigation Office (SFIO) to monitor large value frauds in Public Sector Banks (PSBs)."

12. In para 25 of the Report, the Committee had observed/recommended as follows —

"The Committee take note of the various measures initiated by the Reserve Bank of India to facilitate the Public Sector Banks deal with the problem of growing NPAs, such as Flexible Structuring for Long Term Project Loans, Debt Restructuring Scheme, Scheme for Sustainable Structuring of Stressed Assets and Sale of NPAs to the Asset Reconstruction Companies (ARCs).

However, the Committee have also noticed that all these instruments/schemes have not been able to contain the problem of NPAs which has now attained a frankensteinian proportion. The Committee, therefore, strongly recommend that the Ministry of Finance (Department of Financial Services) — in coordination with the Reserve Bank of India — should undertake an objective analysis and evaluation of the effectiveness of these instruments/schemes being implemented by Banks to deal with their NPAs/ Stressed Assets. The loopholes noticed in any of these instruments/schemes should immediately be plugged by the Ministry. The Committee urge the Union Government to take necessary action in this regard and apprise the Committee accordingly."

13. In their action taken reply, the Ministry of Finance (Department of Financial Services) has submitted as under:—

"In the recent past, the Reserve Bank of India has introduced various schemes such as Joint Lenders Forum (JLF) Corrective Action Plan (CAP), flexible structuring (5/25), Strategic Debt Restructuring, Scheme for Sustainable Structuring of Stressed Assets (S4A), etc. to revive the viable assets by the banks. These schemes were introduced after consultation with various stake holders. In this regard, it may be noted that these schemes are aimed at not only to provide more options to the banks to revive viable accounts but also to improve overall credit management in the long run.

Further, it may be noted that the Banking Regulation (Amendment) Ordinance, 2017 was issued on May 04, 2017. Under the ordinance, the Central Government may authorize RBI to issue directions to any banking company or banking companies to initiate insolvency resolution process in respect of a default, under the Insolvency and Bankruptcy Code, 2016 (IBC). It also enables the Reserve Bank to issue directions with respect to stressed assets and specify one or more authorities or committees with such members as the Bank may appoint or approve for appointment to advise banking companies on resolution of stressed assets.

Immediately upon the promulgation of the Ordinance, RBI issued a directive reducing the consent required for approval of a proposal under the Joint Lenders Forum to 60 per cent by value instead of 75 per cent earlier, while keeping that by number at 50 per cent. Participating banks have been mandated to implement the decision of JLF without any additional conditionality. Also, the Boards of banks were advised to empower their executives to implement JLF decisions without further reference to them. It has been made clear to the banks that non-adherence would invite enforcement actions.

Overseeing Committee (OC) was set up as part of Scheme for Sustainable Structuring of Stressed Assets (S4A) to review the processes involved in preparation of resolution plan for reasonableness and adherence to provisions of the guidelines of the S4A scheme. Further, RBI has advised that banks, with concurrence of OC, may refer even other cases of resolution of stressed assets to OC which are outside the purview of S4A. The RBI further strengthening the Oversight Committee (OC) to expand the scope of cases to be referred to it.

Reserve Bank is consistently taking feedback from banks and other stakeholders and accordingly improving upon the schemes, wherever necessary to make them more effective. In this connection, RBI vide its circulars dated November 10, 2016, have revised the schemes for Stressed Assets. The Scheme for Sustainable Structuring of Stressed Assets (S4A) is currently being reviewed again."

14. In para 26 of the Report, the Committee had observed/recommended as follows:—

"The Committee note that Section 44 of the State Bank of India Act, 1955 as well as some other Clauses of confidentiality in the relevant laws invariably prohibit disclosing the names of individuals, who owe money to the Banks or are responsible for bad loans on account of their default to repay."

"The Committee also note that the names of defaulters are, however, shared with the Reserve Bank of India and the 26 Credit Information Bureau (India) Limited (CIBIL). The Committee also take note of the averments made by the Ministry of Finance (Department of Financial Services) that there is no proposal to amend the relevant provisions of law to disclose the names of defaulters and publish the same in the public domain. In this connection, the Committee would like to point out that in view of serious magnitude of NPAs in the country, there is now an urgent need to make a clear distinction between 'wilful defaulters' and 'other defaulters' in the procedure prescribed under the relevant Acts so that the 'wilful defaulters' should be dealt with sternly and the loan amount is recovered from them within a specified time frame. With a view to containing the burgeoning NPAs in the Banks, the Committee, therefore, strongly recommend that the Government should make appropriate amendments in the archaic provisions of the SBI Act and other relevant laws to disclose the names of individuals — who owe money to the Banks or are responsible for bad loans on account of their default to repay. The Committee

would like to be apprised of the final outcome in this regard within three months of presentation of this Report to the House."

15. In their action taken reply, the Ministry of Finance (Department of Financial Services) has submitted as under:—

"Section 45E of the RBI Act provides for prohibition of disclosure of any 'credit information' submitted by a banking company under Section 45C and shall be treated as confidential and shall not be published or disposed. Section 28 (b) of the BR Act allows RBI to publish/discard any information collected by it only in consolidated form. There are no separate provisions in the RBI Act or BR Act regarding collection and dissemination of information on defaulters in general and on the wilful defaulters in particular. The information on defaulters/wilful defaulters is also collected and maintained by RBI in accordance with the above provisions of RBI and BR Act, and therefore subject to restrictions on its publishing/disclosure existing in those provisions. The need for disclosure of information on defaulters and wilful defaulters may not have been felt and attracted as much public attention as recently and, therefore, this issue was perhaps not considered either at the time of enactment of RBI and BR act or at the time of their subsequent amendments. However, RBI, *vide* Master Circular on 'Wilful Defaulters' DBR. No. CID. BC. 22/20.16.003/2015-16 dated July 1, 2015 has issued instructions to banks to identify Wilful Defaulters (WD) and also specified penal measures to be initiated in respect of wilful defaulters including criminal action in applicable cases.

RBI, *vide* its notification dated September 29, 2016 has issued instructions to lending institutions to prevent the publishing of photographs of defaulting borrower/guarantor in an indiscriminate manner, it has been decided that:—

- (i) A lending institution can consider publication of the photographs of only those borrower, including proprietors/partners/directors/guarantors of borrower firms/companies, who have been declared as wilful defaulters following the mechanism set out in the RBI instructions. This shall not apply to the non-whole time directors who are exempted from being considered as wilful defaulters unless the special conditions, in accordance with these instructions, are satisfied.
- (ii) The lending institutions shall formulate a policy with the approval of their Board of Directors which clearly sets out the criteria based on which the decision to publish the photographs of a person covered in paragraph (i) above will be taken by them so that the approach is neither discriminatory nor inconsistent.

Further, the list of suit filed borrowal accounts of Rs. 1 crore and above, and wilful defaulters (suit filed) of Rs. 25 lakh are submitted by Banks /Financial Institutions to all four Credit Information Companies (CICs); *viz.* (1) Experian Credit Information Company of India Private Limited, (ii) Equifax Credit Information Services Private Limited, (iii) High Mark Credit Information

Services Private Limited, and (iv) Credit Information Bureau (India) Limited (CIBIL). The details of such defaulters are available on the website of CICs.

Regarding the recommendation for amendment to relevant Acts to disclose the names of defaulters, RBI, in principle, is in favour of making available information regarding 'wilful defaulters' in public domain. The disclosure of information of other defaulting borrowers may not be in the interest of the revival of their distressed business units which may be otherwise viable."

Guidelines on wilful defaulter

"**Wilful Default:** A 'wilful default' would be deemed to have occurred if any of the following events is noted:

- (a) The unit has defaulted in meeting its payment/repayment obligations to the lender even when it has the capacity to honour the said obligations.
- (b) The unit has defaulted in meeting its payment/repayment obligations to the lender and has not utilised the finance from the lender for the specific purposes for which finance was availed of but has diverted the funds for other purposes.
- (c) The unit has defaulted in meeting its payment/repayment obligations to the lender and has siphoned off the funds so that the funds have not been utilised for the specific purpose for which finance was availed of, nor are the funds available with the unit in the form of other assets.
- (d) The unit has defaulted in meeting its payment/repayment obligations to the lender and has also disposed off or removed the movable fixed assets or immovable property given for the purpose of securing a term loan without the knowledge of the bank/lender.

The identification of the wilful default should be made keeping in view the track record of the borrowers and should not be decided on the basis of isolated transactions/incidents. The default to be categorised as wilful must be intentional, deliberate and calculated.

Incidentally, in Writ Petition (C) No. 573/2003 of Centre for Public Litigation v. HUDCO and others, RBI has submitted to the Hon'ble Supreme Court a list of defaulters above Rs.500 crore in a sealed cover, averring that the said information is confidential and requesting that it may not be revealed to the public. The matter is still under the consideration of the Supreme Court. RBI will proceed further in the matter after taking into account the further direction of the Supreme Court.

In the matter relating to 'Disclosure of Information by the Reserve Bank under the RTI Act', the Reserve Bank, in consonance with the prohibitory provisions of the Banking Regulation Act and the RBI Act, had so far not been disclosing the inspection reports or sensitive information contained therein and list of

defaulters under the RTI Act. However, the judgement of the Supreme Court upholding the orders of the Central Information Commission (CIC) and directing RBI to disclose such reports under RTI Act, may result in withdrawal of the discretion which RBI has so far been able to exercise and may have far reaching consequences by serving as a precedent for other authorities. After careful deliberation, RBI is of the view that it is necessary to amend the Banking Regulation Act, 1949, to provide for exemption from disclosure of such information as the Reserve Bank may deem necessary notwithstanding the provisions of any other law in force."

Observations/Recommendations

Remedial Measures by the Government/Reserve Bank of India (RBI) for containing the increasing trend of Non-Performing Assets (NPAs)

16. The Committee while noticing an urgent need for the PSBs/SCBs to reduce their stressed assets and clean up their balance sheets which would increase their ability as also their credibility to raise capital in the future, had recommend that the Government should take urgent remedial measures to put a check on the burgeoning trend of NPAs and to reduce the volume of stressed assets in the country. The Committee appreciate the remedial measures being taken by the Government/Reserve Bank of India (RBI) to put a check on the burgeoning NPAs and to reduce the volume of stressed assets in the PSBs/SCBs. The Committee also appreciate the efforts of the Government in the form of enactment of the Insolvency and Bankruptcy Code, 2016 (IBC); making amendments in the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act and the Recovery of Debts due to Banks and Financial Institutions (RDDBFI) Acts to improve resolution/recovery of bank loans.

17. The Committee further take note of the efforts made by the Government in the enactment of the Banking Regulation (Amendment) Act, 2017, thereby, authorising the Reserve Bank to issue directions to any Banking Company or Banking Companies to initiate the insolvency resolution process in respect of a default under the provisions of the Insolvency and Bankruptcy Code, 2016. However, the Committee expect from the Government that these Acts/Rules be implemented effectively and in a result-oriented manner. The Committee also urge upon the Government to undertake periodic review of these Acts/Rules in respect of their implementation and achieving the intended objectives. The Committee would like to be apprised of the measures taken by the Ministry in this regard.

Strengthening of 'Credit Appraisal Mechanism' and 'Loan Monitoring System'

18. The Committee had recommended the Government to issue necessary advisory to the Reserve Bank of India to take the initiative and organize need-based Capacity Building Programmes for the Banks which would enhance credit appraisal skills of the Bank Officials and help them to ensure the financially viable 'Credit Appraisals'. The Committee appreciate the efforts of the Government/Reserve Bank of India (RBI) with respect to the initiatives now being taken by them for 'Skill Building' of the bank employees, thereby giving impetus to 'Credit Appraisal Mechanism' of the banks. The Committee also

appreciate the Government/Reserve Bank of India (RBI) for the efforts being made by them to strengthen the 'Loan Monitoring System' by formulating Guidelines for monitoring the loan portfolios of the banks, etc., particularly, on post sanctioning of the bank loans. However, the Committee feel that the Guidelines for monitoring the loan portfolios on post sanctioning of the bank loans should also be extended to pre-loan sanctioning stage so as to make sure that the entire mechanism of 'Loan Monitoring' is made fool-proof and devoid of any loopholes. The Committee would like to be apprised of the measures taken by the Ministry in this regard.

Putting a check on the 'Diversion of Loan Funds'

19. The Committee had also noted in particular that diversion of funds by the Industrialists to their unrelated businesses and negligence on the part of Bank Officials in pre-sanctioning of loans are the determining factors for bank loans turning bad. In this regard, the Committee had earlier recommended that a proper and stern audit mechanism should be made mandatory for specific class of borrowers, especially, the big loan seekers. Further, the Committee had also recommended that whenever the decision taken by the Bank Officials to sanction loans — in violation of norms/guidelines — leads to creation of NPAs, the same should be inquired in to at the highest hierarchal level, responsibility fixed for the lapses, and appropriate penal action be taken against the erring Bank Officials in a time bound manner. The Ministry of Finance (Department of Financial Services) in their Action Taken Reply has acknowledged that negligence on the part of bank officials and their failure to prevent diversion of funds by Industrialists has been observed in some of the Non-Performing Assets for which stern action has been taken by various Banks. The Ministry has also submitted that well laid down Guidelines are in place for complying with all the pre-disbursement terms and conditions before parting with the funds. The Committee are dismayed to note that inspite of various mechanisms available with the banks to check the diversion of loan funds by various Industrialists, the increasing trend of Non-Performing Assets still remain unabated. The Committee are, therefore, of considered opinion that enactment of Acts/Rules/Guidelines would not achieve the desired objectives until and unless the implementing authorities, *i.e.*, the bank officials at all hierarchal levels, remain vigilant and made accountable for their actions. The Committee, therefore, once again reiterate their earlier recommendation and urge the Ministry of Finance (Department of Financial Services) to adopt a more aggressive approach for fixing accountability and responsibility and also for initiating punitive action by the Government/ Reserve bank of India in case of violation of norms/guidelines for sanctioning loans, particularly the big loans. The Committee would like to be apprised of the renewed efforts made by the Ministry in this regard.

More robust and effective 'Vigilance Mechanism' to contain irregularities, malpractice, corruption, etc., in the functioning of Banks

20. The Committee had taken note of the various Guidelines and Advisories issued by the Government and the Reserve Bank of India for determining accountability of all categories of Banks including the top Management of Public

Sector Banks. The Committee had also been apprised by the Ministry of Finance (Department of Financial Services) that Banks have been advised that with a view to keeping the incidences of corruption and various other malpractices under check as also there is a need for fixing the accountability on the aspects of irregularities, malpractices, corruption, etc., at all levels. The Committee had further observed that the Banks should also have an in-built Vigilance Mechanism, headed by a Chief Vigilance Officer (CVO) which is mandated to keep a close watch on the various aspects of functioning of the Banks. The Committee were, however, constrained to note that even after having a 'Vigilance Mechanism' in vogue in the Banking system in the country, there are incidences of fraud relating to NPAs. In this regard, the Committee opined that merely issuing of Guidelines or Advisories by the Government or the Reserve Bank of India for averting the incidences of fraud relating to NPAs do not seem to have yielded the desired results and the Reserve Bank of India — being a Regulator — does not seem to have succeeded in so far as implementation and enforcement of its own Guidelines is concerned. The Committee had, therefore, recommended the Government to impress upon the Reserve Bank of India to monitor and follow up strict compliance of the relevant instructions, with the banks and financial institutions on a regular basis. The Committee had also recommended that the existing Vigilance Mechanism should be re-visited and, if required, the same be amended to provide more teeth to existing Vigilance Mechanism. In this regard, the Committee reiterate for establishment of a more robust Vigilance Mechanism to put a check on the incidences of irregularities, malpractices, corruption, etc., at all levels in the functioning of Banks. The Committee would like to be apprised of the measures taken by the Ministry in this regard.

Disclosure of details of loan defaulters in public domain

21. With a view to containing the burgeoning NPAs in the Banks, the Committee had recommended that the Government should make appropriate amendments in the archaic provisions of the SBI Act and other relevant laws to disclose the names of individuals — who owe money to the Banks or are responsible for bad loans on account of their default to repay. In this regard, the Committee appreciate that the Reserve Bank of India (RBI) is in favour of making available information regarding 'wilful defaulters' in public domain. However, as the Ministry of Finance (Department of Financial Services)/RBI are of the opinion that the disclosure of information of other defaulting borrowers may not be in the interest of the revival of their distressed Business Units which may be otherwise viable, the Committee reiterate and recommend that the Ministry of Finance (Department of Financial Services)/RBI should undertake an objective examination and analysis of the extant provision(s) for disclosure of details of loan defaulters in public domain by amending the existing relevant Acts/Rules *vis-a-vis* interest of the revival of their distressed Business Units without having any impact on their viability. The Committee would like to be apprised of the measures taken by the Ministry in this regard.

NEW DELHI;
30 November, 2017

9 Agraphayana, 1939 (Saka)

BHAGAT SINGH KOSHYARI,
Chairperson,
Committee on Petitions.

MINUTES OF THE FORTY-FIFTH SITTING OF THE COMMITTEE ON
PETITIONS
(SIXTEENTH LOK SABHA)

The Committee met on Thursday, 30 November, 2017 from 1230 hrs. to 1415 hrs. in Committee Room 'B', Parliament House Annexe, New Delhi.

PRESENT

Shri Bhagat Singh Koshyari — *Chairperson*

MEMBERS

2. Shri Om Birla
3. Dr. K. Gopal
4. Shri C. P. Joshi
5. Shri Arjun Charan Sethi
6. Shri Kodikunnil Suresh
7. Shri Dinesh Trivedi
8. Shri Rajan Vichare

SECRETARIAT

1. Shri Shiv Kumar — *Joint Secretary*
2. Shri Raju Sivastava — *Additional Director*
3. Shri G. C. Dobhal — *Deputy Secretary*

2. At the outset, the Hon'ble Chairperson welcomed the Members to the sitting of the Committee.

3. ***

4. ***

5. ***

6. The Committee, then, took up for consideration of the following Draft Action Taken Reports :

(i) ***

(ii) Report on the Action Taken by the Government on the recommendations made by the Committee on Petitions (Sixteenth Lok Sabha) in their Thirtieth

Report on the Representation received from Shri Rajendra Prasad regarding alleged collusion of high profile people, industrialists with bank officials in getting sanctioned large amount of Bank Loans resulting into growing Non-Performing Assets (NPAs).

7. After discussing the Draft Action Taken Reports in detail, the Committee adopted the same without any modification(s). The Committee also authorized the Chairperson to finalize the Draft Action Taken Reports and present the same to the House in the ensuing Session.

8. ***

The Committee, then, adjourned.

***Not relevant.