

TIRUVALLA EAST CO-OPERATIVE BANK LTD.

Policy on 'Wilful Defaulters'

(Approved as per Resolution No. of the BoD dated 18.03.2025)

1. Introduction

A 'wilful defaulter' means a borrower or a guarantor who has committed wilful default and the outstanding amount is ₹25 lakh and above, or as may be notified by Reserve Bank of India (RBI) from time to time, and where the borrower or a guarantor committing the wilful default is an entity, persons who are in charge and responsible for the management of the affairs of the entity.

'Wilful default' by a borrower shall be deemed to have occurred when the borrower defaults in meeting payment/repayment obligations to the Bank and any one or more of the following features are noticed:

- (i) the borrower has the capacity to honour the said obligations;
- (ii) the borrower has diverted the funds availed under the credit facility;
- (iii) the borrower has siphoned off the funds availed under the credit facility;
- (iv) the borrower has disposed of immovable or movable assets provided for the purpose of securing the credit facility without the approval of the Bank;

'Wilful default' by a guarantor shall be deemed to have occurred if the guarantor does not honour the guarantee when invoked by the Bank, despite having sufficient means to make payment of the dues or has disposed of immovable or movable assets provided for the purpose of securing the credit facility, without the approval of the Bank

2. Identification Committee and Review Committee

There shall be an 'identification committee' consisting of three members for identifying wilful defaulters. The BoD shall nominate an officer not more than one rank below the MD/ CEO as chairperson and two senior officials, not more than two ranks below the chairperson of the committee, as members.

There shall also be a 'review committee' for the purpose of reviewing the proposal of the Identification Committee with the MD/ CEO as the chairperson, and two professional directors as members.

3. Identification and classification of wilful defaulters

The Bank shall identify and classify a person as a 'wilful defaulter' by following the procedure enumerated in this policy. The identification of the wilful defaulter 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 or calculated. The evidence of wilful default shall be examined by an Identification Committee. If the Identification Committee is satisfied that an event of wilful default has occurred, it shall issue a show-cause notice to borrower/guarantor and call for the submissions from them within 21 days of issuance of show cause notice. Bank shall disclose to them all materials and information on which show-cause notice is based.

After considering the submissions and where satisfied, the Identification Committee shall make a proposal to the Review Committee for classification as a wilful defaulter by explaining the reasons in writing. The borrower/guarantor shall thereafter be suitably advised about the proposal to classify them as wilful defaulter along with the reasons therefor.

An opportunity shall be provided to borrower/guarantor for making a written representation to Review Committee within 15 days of such a proposal from the Identification Committee. The proposal of the Identification Committee along with the written representation received shall be considered by the Review Committee.

The Review Committee shall provide an opportunity for a personal hearing also to the borrower/ guarantor. However, if the opportunity is not availed or if the personal hearing is not attended by the borrower/guarantor, the Review Committee shall, after assessing the facts or material on record, including written representation, if any, consider the proposal of the Identification Committee and take a decision. The Review Committee shall pass a reasoned order and the same shall be communicated to the wilful defaulter.

As the above classification process is an in-house proceeding, the borrower/ guarantor shall not have the right to be represented by a lawyer.

If the Identification Committee concludes that the borrower/guarantor, do not qualify for classification as a wilful defaulter, such cases need not be referred to the Review Committee.

The Bank shall formulate the guidelines, based on this Board approved policy, designating rank of the official, who would issue the show cause notice and serve written order on behalf of the Identification Committee and Review Committee respectively. The show-cause notice and the order served by the designated official shall clearly state that this has the approval of the competent authority, i.e., Identification/ Review Committee and must identify its members.

4. Review of accounts for identification of wilful default

The Bank shall examine the 'wilful default' aspect in all Non-Performing Assets (NPA) accounts with outstanding amount of ₹25 lakh and above or as may be notified by Reserve Bank of India from time to time. If wilful default is observed in the internal preliminary screening, the Bank shall complete the process of classification/declaring the borrower as a wilful defaulter by following the mechanism detailed above, within six months of the account being classified as NPA. In respect of accounts where 'wilful default' was not observed during the initial examination as mentioned above, the aspects regarding 'wilful default' shall be subsequently re-examined in terms of the policy at a periodicity as may be specified by the board.

5. Specific measures against wilful defaulters

5.1 Initiation of Criminal proceedings

Based on the facts and circumstances of each case, Bank can examine whether initiation of criminal proceedings against wilful defaulters under the provisions of the applicable law, is

warranted. In cases where criminal proceedings have been initiated, removal of the name of a wilful defaulter from the List of Wilful Defaulters (LWD) shall be without prejudice to the continuation of criminal proceedings against the wilful defaulter.

5.2 Publishing of photographs of wilful defaulters

The Bank shall formulate a non-discriminatory board-approved criteria based on which the photographs of persons classified and declared as wilful defaulter shall be published.

5.3 Penal and other measures against wilful defaulters

The penal measures mentioned below shall be implemented by the Bank.

- i. No additional credit facility shall be granted by the Bank to a wilful defaulter or any entity with which a wilful defaulter is associated. The bar on additional credit facility to a wilful defaulter or any entity with which a wilful defaulter is associated shall be effective for a period of one year after the name of wilful defaulter has been removed from the LWD by the Bank.
- ii. No credit facility shall be granted by the Bank for floating of new ventures to a wilful defaulter or any entity with which a wilful defaulter is associated for a period of five years after the name of wilful defaulter has been removed from the LWD by the Bank.
- iii. Wilful defaulters or any entity with which a wilful defaulter is associated shall not be eligible for restructuring of credit facility. Subsequent to removal of the name of wilful defaulter from the LWD, the wilful defaulter or any entity with which a wilful defaulter is associated shall be eligible for restructuring, subject to the provision contained above. The Bank shall incorporate a covenant in the agreement regarding this.
- iv. The Bank shall, wherever warranted, initiate legal action against the borrowers/guarantors for foreclosure/recovery of dues expeditiously.

6. Provision for a transparent mechanism

The Bank shall put in place a transparent mechanism for the entire process of identification of wilful defaulters so that the penal provisions are applied in a fair manner and the scope for discretion is obviated.

7. Role of Internal Audit and Audit Committee

The Bank shall require their internal auditors to specifically look into adherence to instructions for classifying a borrower as a wilful defaulter.

The Audit Committee of the Bank shall periodically review the cases of wilful default and recommend steps to be taken to prevent such occurrences and their early detection should these occur. The review shall focus on identifying root causes of wilful default and addressing deficiencies, if any, in the wilful defaulter classification process adopted by the Bank.

8. Liability of a Guarantor

When a default happens in making payment/repayment by the principal debtor, the Bank will be able to proceed against the guarantor even without exhausting the remedies against the principal debtor. Where the Bank has made a claim on the guarantor on account of the default made by the principal debtor, the liability of the guarantor is immediate. In case the said guarantor refuses to comply with the demand made by the Bank, such guarantor shall also be considered for classification as a wilful defaulter by following the mechanism as set out in these Policy.

9. Reporting of wilful defaulters and large defaulters

9.1 Reporting and dissemination of credit information on large defaulters

The provisions regarding reporting and dissemination of credit information pertaining to large defaulters shall apply to all entities regulated by the RBI, irrespective of whether they fall within the definition of 'lender' as provided in these Directions or not. All entities regulated by the RBI, including 'lenders', shall submit information to all credit information companies (CICs) in respect of the large defaulters at monthly intervals, a list of suit filed accounts of large defaulters; and a list of non-suit filed accounts of large defaulters whose account has been classified as doubtful or loss. For calculating the threshold of ₹1 crore, the unapplied interest, if any, shall also be included. In the case of suit-filed accounts, the threshold shall relate to the amount for which the suits have been filed.

The CICs shall provide access to the list of non-suit filed accounts of large defaulters to all credit institutions as defined in the Credit Information Companies (Regulation) Act, 2005. The CICs shall display the list of suit-filed accounts of large defaulters on their website. Accounts shall be treated as suit filed if any application, appeal or execution is pending in continuation of the original recovery proceedings. Suit filed accounts shall be deemed to include accounts in which SARFAESI proceedings or any other proceedings for recovery of the dues from the borrower or any other person liable to make payment of a debt under Acts governing co-operative societies are initiated and pending, and shall include the account of a debtor against whom resolution or liquidation proceedings have been initiated and are continuing.

9.2 Reporting and dissemination of credit information on wilful defaulters

All lenders or the ARCs to which the account has been transferred, shall submit LWD in respect of suit filed accounts as well as LWD in respect of non-suit filed accounts. Information shall also be given to all CICs in respect of the wilful defaulters at monthly intervals.

The Bank, or the ARC to which the account has been transferred, shall inform all CICs the removal of the name of the wilful defaulter from the LWD, promptly and not later than 30 days, from the date when the outstanding amount falls below the threshold of ₹25 lakh or as notified by RBI from time to time. Every CIC shall display the suit-filed and non-suit filed accounts of LWD on its website. The Bank shall continue to furnish updates pertaining to historical data submitted by them to the CICs.

9.3 Treatment of compromise settlements

Any account included in LWD, where the Bank has entered into a compromise settlement with the borrower, shall be removed from the LWD only when the borrower has fully paid the compromise amount. Till such time as only part payment is made, name of the borrower shall not be removed from the LWD even if the outstanding amount becomes less than the threshold of ₹25 lakh or as notified by RBI from time to time.

The compromise settlement with the wilful defaulter shall be in terms of the board approved policy of the Bank. The compromise settlement shall be without prejudice to the continuation of criminal proceedings against the wilful defaulter.

10. Responsibility for correct reporting

The responsibility for reporting correct information and also ensuring the accuracy of facts and figures rests with the Bank. The Bank while furnishing information to CICs shall ensure the accuracy of the particulars of the directors, and wherever possible.

11. Reporting of Guarantors

The entities regulated by the RBI or Bank shall report to CICs the details of guarantors who have failed to honour the commitments thereunder when invoked, as large defaulters/wilful defaulters, as the case may be.

12. Monitoring End Use of Funds

The Bank shall closely monitor the end-use of funds and obtain certificates from borrowers certifying that the funds have been utilised for the purpose for which they were obtained. In case of the wrong certification by the borrowers, the Bank shall consider initiating appropriate legal proceedings, including criminal proceedings wherever necessary, against the borrowers.

The following measures are to be taken for monitoring and ensuring end-use of funds:

- i. Meaningful scrutiny of quarterly progress reports/operating statements/ balance sheets of the borrowers;
- ii. Regular inspection of borrowers' assets charged to the Bank as security;
- iii. Periodic scrutiny of borrowers' books of accounts and the 'no-lien' accounts maintained with other lenders;
- iv. Periodic visits to the assisted units;
- v. System of periodic stock audit, in case of working capital finance;
- vi. Periodic comprehensive management audit of the 'credit' function of the Bank, so as to identify the systemic weaknesses in the credit administration.

In cases of project financing, the Bank should ensure end use of funds by obtaining certification from the Chartered Accountants for the purpose. The Bank shall not just depend on the certificates issued by the Chartered Accountants alone but strengthen its

credit risk management system and internal controls to enhance the quality of the loan portfolio.

13. Role of Statutory Auditors

In case any falsification of accounts on the part of the borrowers is observed by the Bank and the auditors are found to be negligent or deficient in conducting the audit, the Bank shall consider lodging a formal complaint against the statutory auditors of the borrowers with the National Financial Reporting Authority (NFRA)/Institute of Chartered Accountants of India (ICAI) to enable them to examine and fix accountability of the Auditor.

Pending disciplinary action by NFRA/ ICAI, the complaints shall be forwarded to the RBI and Indian Banks' Association (IBA). Before reporting to the RBI and IBA, the Bank shall satisfy themselves of the involvement of concerned auditors and also provide them with an opportunity of being heard. In this regard, the Bank should follow normal procedures and processes, which shall be suitably recorded.

With a view to monitoring the end-use of funds, if the Bank desires a specific certification from the borrowers' auditors regarding diversion/siphoning of funds by the borrowers, the Bank should award a separate mandate to the auditors for the purpose. To facilitate such certification by the auditors, the Bank shall ensure that appropriate covenants in the loan agreements.

To prevent diversion/ siphoning of funds by the borrowers, the Bank is free to engage its own auditors for such specific certification without relying on certification given by borrowers' auditor.

Depending upon the nature of the borrowers' acts underlying the wilful default and the quality of evidence available with the Bank in the normal course, the Bank shall consider commissioning a forensic audit of the affairs of the borrowers and their books of accounts, in respect of accounts with an outstanding above a threshold fixed by the board approved policy of the Bank.

14. Review of the Policy

The policy will be reviewed every year or as and when felt necessary by the Board.