International Journal of Engineering Technology Science and Research
IJETSR
www.ijetsr.com
ISSN 2394 – 3386
Volume 5, Issue 1
January 2018

A Study on the Debt Recovery Agencies

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ABSTRACT:-

Nonperforming assets is one of the major problems that weakens the financial system of any economy. NPA's have been defined by many researchers and scholars differently but means the same even RBI has defined NPA's as those assets which are not generating the revenues and has been idle over a period of 90 days. Furthermore to simplify this NPA's have been further categorized into standard assets, sub standard assets and doubtful assets, but simply changing redefining the definition over a period did not prove the mettle in figures and numbers in papers i.e. the values of NPA's have not reduced it stand still and further rose high and high with time.

Efforts have been put in on timely basis to see what can be done and therefore each time committee has been framed to study the consequences, reasons and effective measured to reduce the over growing NPA's under the Chairmanship of Mr. Narsimham and sometimes under some other expert and again and again an act has been passed and a new constituent has been formed to convert the NPA's into Performing Assets. The present paper focuses on three aspects i.e i. the rate of nonperforming assets ii. The different agencies initiated for debt recovery and iii. The success rate of such agencies.

Key words: Non performing assets, banks agencies, debt recovery and stressed assets.

INTRODUCTION:

NPA's an acronym for Non Performing assets, NPA's in simple and plain text refers to that portion of loan or borrowings in the financial statements of banks and other lending institutions which have been defaulted by the borrower on interest and principal payment. In many articles debt has been categorized as not performing only when the payment has not been received for a period of 90 days and so. As per RBI , borrowed amount principal and interest remains overdue for a term of 90 days from the end of a particular quarter is called a non-performing assets by the financial sector and is a burden for all the banks and financial institutions in public and private sector as well in India.

NPA's A Non-Performing Asset refers to a classification for loans on the books of financial institutions that are in default or are in arrears on scheduled payments of principal or interest. In most cases, debt is classified as nonperforming when loan payments have not been made for a period of 90 days. According to RBI, terms loans on which interest or installment of principal remain overdue for a period of more than 90 days from the end of a particular quarter is called a Non-performing Asset Non-Performing Assets which are notoriously called as NPA's by the banking sector have become a pain for both public and private sector banks

OBJECTIVES OF STUDY:

1. The primary objective of the study is to find out the rate of NPA's in the banking sector for a period of five years i.e. 2012-13 to 2016-17.
2. Secondary objective is to find out the various agencies that have been initiated by the government and the RBI over a period of time to recover the pending debt.
3. To find out the success rate of the above mentioned agencies over the period.

IJETSR ISSN:2394-3386

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I. THE AMOUNT OF NPA'S of PUBLIC SECTOR BANKS:-

NON PERFORMING ASSESTS NPA's OF PUBLIC SECTOR BANKS AMOUNT IN BILLIONS 's Rs			
YEAR	**NATIONALISED BANKS**	**State Bank of India & its Associates**	**Public Sector**
2016	4197.51	1236.86	5434.39
2015	2049.59	735.07	2784.69
2014	1474.47	798.16	2272.64
2013	1016.82	627.78	1644.62
2012	690.47	482.14	1172.63
2011	442.72	303.92	746.64
2010	363.95	235.28	599.23
2009	265.43	184.82	450.26
2008	249.73	154.82	404.55
2007	261.72	126.83	388.54
2006	288.27	125.52	413.69
2005	328.04	148.17	476.22

Interpretation of the table: The data in the above table has been taken from the RBI website and as it is evident from the table the NPA's in the public sector banks are getting worse and worse every year. For the purpose of study the banks are divided into public sector, nationalized and state bank & its associates and as it can be clearly seen that the amount of NPA's in the PSB has been increasing consistently from 2005 to 2016.

II. THE AGENCIES INITIATED AND ESTABLISHED FOR DEBT RECOVERY:

Table 2: Chronological order of Agencies:

1993	Establishment of DRT's
2001	Scheme of Corporate Debt Restructuring
2002	SARFAESI act
2012	Amendments in DRT Act
April 2014	Central Repository of Information on Large credits (CRILC) and Joint Lenders Forum (JLF)
June 2014	5/25 Scheme
Aug 2014	Change in ARC fee structuring
June 2015	Strategic Debt Restructuring
Oct 2015	Asset Quality review
June 2016	Scheme for Sustainable Structuring of Stressed Assets (S4 A)
Aug 2016	Insolvency and Bankruptcy Code

a. Debt Recovery Tribunals

On the recommendations of Narsimham Committee the Debt Recovery Tribunal has been established on 1. Jan 1991, followed by Recovery of Debts due to Banks and Financial Institutions Act (RDBBFI), 1993. The main agenda behind establishing of DRT is recovery of loans. There are nearly 33 DRT's and 5 DRAT's (Debt Recovery Appellate Tribunal) working in various parts of the country and more 6 DRT's are to be established further in the cities of Bengaluru, Chandigarh Dehradun and Silogur & Hyderabad. Any financial institution or bank can approach DRT for problematic loan of Rs 10 lakhs & more.

b. Corporate Debt Restructuring Mechanism

Following the economic crisis that has hit the Asian countries in 1999 a new cell has been initiated by the RBI to ensure timely and transparent recovery of debts from the borrowers i.e Corporate debt Restructuring Cell in the year 2001. The main aim of the cell is to restructure the complete financial structure of the company that has borrowed money from the banks and has turned out to be a defaulter. The CDR system works on three tier structure system

- CDR standing forum
- CDR Empowered group
- CDR cell

This is a voluntary system and not compulsory. CDR system can be implemented on the companies if atleast 75 % of the creditors file a petition with the CDR cell and the outstanding debt is more than 10 crore and above and is lended by consortium of banks. Since CDR's inception, about 605 cases were referred till Dec'13, of which only 69 cases were able to exit successfully. This means only 11% of the total cases were successfully resolved. Also, around 42 new cases were added from Dec'13 to Dec'14 out of which only 8 cases were resolved successfully (which could have belonged to earlier years as well).

Further, banks have not added any fresh cases of restructuring since 31 March'15 after the RBI withdrew a crucial forbearance allowed to banks in CDR cases. Banks will now have to provide 15% for bad loans as against 5%.

c. Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act

Following the recommendations made by Andhyarujina Committee SARFAESI Act has been passed in 1999 and initiated. The main idea behind the institution is to empower the financial sector to handle NPA's. Therefore through SARFAESI lenders are empowered to turn their bad loans into good loans without the interference from court. In RDDBFI act 1993 it was banks and financial institutions that approached DRT where as in SARFAESI Act 2002 borrowers, guarantors and anybody frustrated by banks actions can approach the DRT now, however the act has put forth four important conditions to creditors to make use of the right.

- The debt should be secured with a security.
- The debt has been declared as a NPA by the banks
- The outstanding dues have to be Rs 1 Lakh and above and more than 20% of the principal loan amount and interest there on.
- The security pledged should not be a agricultural land.

However as a byproduct of SARFAESI Act Asset Reconstruction Companies (ARC) have been initiated which will purchase the stressed assets from the banks and convert them into useful assets. ARC's has been constructed so that banks can focus on deposits lending & borrowing rather than getting stuck out with bad debts & NPA's ARCs were setup as private vehicles mainly with the support of banks.

d. Central Repository of Information on Large credits (CRILC)

Information is vital and banks are not left behind in seeking information, it has been identified that if there is correct and accurate information available with the banks on time that shall be fruitful in monitoring the bank credit and hence banks and other together have concluded that there should be a strong data base of all the borrowers who have an exposure of 50 crore & above of total fund and non fund based borrowings. The main idea of introducing this CRILC is to provide banks timely and important information on assets quality& that shall help in taking decision whether to lend or not to lend. Under this system as per RBI norms banks are required to categorize their loans into Special mention categories of SMA-0, SMA-1, and SMA-2. Once the due falls under SMA-2 it can be recovered through Joint lenders forum (JLF) the decisions under JLF can be taken 75% of lenders by value and 60% by number.

Since the introduction of JLF in April'14 to February'15, commercial banks had formed 355 JLFs for stressed cases with public sector banks accounting for 254 such cases of which only 33 cases were referred to CDR forum in 2014-15.

OTHER MEASURES:-

Due to the unsatisfactory results from ARC's DRT's and others banks have tried some other measures, these other measures are an extension or modification of the above mentioned measures**:**

e. 5/25 Scheme

The scheme was introduced as another measure for recovery of NPA's in the core areas and industries where the stressed assets have piled up such as infrastructure, iron & steel and texiles to mention a few. The main aim of the scheme is to extend the time period to the firms for debt repayment. Interest rate shall be adjusted for every five years in a period of 25 years , which shall automatically help such sectors where the project gestation period is very long and productive life is lengthy such as constructions projects and other infra projects. As per this scheme the stressed assets are treated as standard assets that will reduce the rate of NPA's in the banking sector. To strengthen the scheme further the limit has been reduced from Rs 500 crore to Rs 250 crore for eligibility purpose.

f. Strategic Debt Restructuring (SDR)

This scheme is an extension of CDR scheme where the banks and financial institutions will take the ownership in the form of equity and sell the assets to Asset Reconstruction Companies (ARC). There will be bidding and the highest bidder will be the prospective buyer of such assets who in turn will break down the assets into smaller portions and sell them into smaller units for amount recovery, this way the banks will also be relived from stressed assets and ARC;s also would not be burdened with unproductive assets.

However this scheme is not much popular or adopted as it has been noticed by some bankers that there are issues of over valuation and undervaluation of the underlying asset which leads to disagreement between the buyer and the seller.

g. Asset Quality Review (AQR)

This is yet another step taken in the direction of stressed assets on the rule that "prevention is better than cure" as per this scheme of RBI banks are supposed to categorize the assets and evaluate the loans on RBI lines of classification. However the problem with the scheme is banks are still playing hide and seek game i.e. banks are not showing the correct and true state of their financial statement and continuing with evergreen loans.

h. Sustainable Structuring of Stressed Assets (S4A)

as per this scheme banks are given an autonomy to divide their stressed assets into sustainable and unsustainable portions, sustainable portion shall be recovered by the current cash flows and that amount of unsustainable portion will be converted into ordinary shares and preference

The basic difference between Strategic Debt Restructuring scheme and this scheme is that this results in no change of ownership of the company. This scheme recognized that large debt reductions will be required to restore the viability but public sector banks were unwilling to grant write-downs as there were no incentives to do so and write-downs of large debtors could quickly exhaust banks' capital cushions.

i. Insolvency and Bankruptcy code

as result of limited success of the schemes mentioned above, the Insolvency and Bankruptcy code was formed in FY2016 which seeks to combine the existing framework by creating a single law for insolvency and bankruptcy. At present it takes more than 4 years to resolve a case of bankruptcy in India and this code strives to reduce this time to less than a year. Key features of this code entails following:

- The code recommends two separate tribunals to supervise the process of insolvency resolution for corporates and individuals: The National Company Law Tribunal for Companies and Limited Liability Partnership firms; and the Debt Recovery Tribunal for individuals and partnerships.
- Maximum time limit of 180 days has been set for corporates for the process to get completed that can be further extended by 90 days.
- The process can be initiated either by a debtor or a creditor.