ALL INDIA BANK OFFICERS' CONFEDERATION

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Press Release

Will the Ordinance and RBI Solve the NPA Problem?

Five years ago, we from the Association, presented a Power Point Presentation to our Bank Management titled NPA-Never Permit an Avalanche. This helped a lot to reduce NPAs of smaller amount but the large Corporate NPAs had to be tackled at the top level. Over this period it is now accepted that large NPAs have increased and they are the root cause of the problem. It is just around 50 big accounts constituting more than 50% of NPA.

So much of hype was made about the ordinance before it was released and even after the ordinance was available as a Gazette Notification some news papers have written editorials and articles like, "In Fire Fighting Mode", "War on NPAs to speed up Capital raising by PSBs", "Getting the regulator to clean up the Bank's mess", "Is the Ordinance empowering RBI the last act in NPA resolution?", "Bank NPAs- Where is the mind without fear?", "Is RBI in the drivers seat?", "This time with feeling" etc.

Most of them laud the efforts while a few raise questions like "Will it not be seen as conflict of interest as the loans sanctioned by boards had RBI Directors?", "Will it not lead to removal of the autonomy of Banks?", "Will it not deprive the small Banks in the Joint Lenders Forum of their rights?" etc.

Nobody has really questioned what RBI was doing so far except Mr. R. Viswanathan, former DMD SBI in Businessline. RBI introduced Asset Classification norms in 1992. We had Health Codes earlier too. There were NPAs earlier also but they were mostly small loans and manageable. There was a Credit Authorisation scheme requiring banks to obtain prior authorisation for granting fresh limits of Rs.10 million or over to a single party. RBI has changed Asset Classification norms so many times. The lending norms were also relaxed.

They already have powers and conduct audit of large advances under Sec.35A. For the same accounts audited by RBI officials, an Asset Quality Review was conducted and more accounts were declared as NPA. Was any action taken against the officials who had erred while conducting audit under Sec 35A? All the Public Sector Banks have RBI as well as Finance Ministry representatives in their boards which took major decisions. Was any action taken against any of them and accountability fixed?

The Finance Standing Committee of Parliament in its report on NPA recommended, "Accountability of nominee Directors of RBI/ Ministry on the Boards as well as the CMDs/ MDs of Banks should also be fixed in the matter".

It also says, "RBI as a regulator should have its regulatory role well delineated and thus not have its Directors in the Boards of the Banks as part of their Management, as conflict of interest may lead to avoidable laxity."

It also adds, “RBI does not seem to have quite succeeded as regulator, in so far as implementation and enforcement in letter and spirit of its own guidelines on stressed loans is concerned.”

Now what the Ordinance has done? With Sec 35 A it has added 35AA saying “The Central Govt may by order authorise the Reserve Bank to issue directions to any banking company to initiate insolvency resolution process in respect of default under the provisions of the Insolvency and Bankruptcy code 2016” and

35AB(1) *without prejudice to the provisions of Section 35A, the Reserve Bank may from time to time issue directions to the Banking Companies for resolution of stressed assets.*

(2) The Reserve Bank may specify one or more authorities or committees with such members as the Reserve Bank may appoint or approve for appointment to advice banking companies on resolution of stressed Assets”.

First the Central Govt has to order RBI to issue directions to use provisions of Insolvency and Bankruptcy code 2016. The code provides 180 days for deciding a case after which the Corporate Borrower can appeal to National Company Law appellate Tribunal for which no time line has been fixed to take decisions. Further the Corporate borrower is allowed to go to Supreme Court within 45 days of the decision of the Appellate tribunal.

Is this going to solve the Problem?

There is talk about removal of fear from the Executives of the Banks quoting the case of Mr. Yogesh Agarwal who misused his power to grant loans to Kingfisher violating all norms. Is it correct to say you have to safeguard people like Mr. Yogesh Agarwal, Ms. Archana Bhargava (Former MD of United Bank), Mr. Gopalakrishnan (Former MD Indian Bank) and their likes? Why they should not be bought under Vigilance, CBI and CAG?

Can anyone quote cases where Executives who are innocent and had no malafide suffering under these agencies except officials in Lower Cadre upto AGMs?

There is talk of more overseeing committees. The only Committee which already exists has just 2 members. Mr. Janaki Vallabh who retired from SBI as Chairman in 2002 and Mr. Pradeep Kumar, former Chief Vigilance Commissioner who retired from regular service in 2011. Has anyone assessed what this committee has done so far?

Neither the Finance Ministry nor RBI has bothered to implement Sec 9(3) F of Banking Companies Act 1970/1980, which made it mandatory to appoint an officer director and an employee director in the Banks boards. No one is appointed in the last 20 months. Now there is no Public Sector Bank Board which has an Officer Director. The boards take crucial decisions, on lending, Restructuring and write off.

For transparency in taking the crucial decisions by the overseeing committee the Government and RBI should include Officer & Employee representatives in these Overseeing Committees.

It is RBI which gives lending norms. It is RBI which supervises. We already have CDR mechanism, CDR standing Forum, CDR empowered group, CDR cell, Joint Lenders Forum, Corrective Action Plan, Central Reporting of Information on Large Credits, Board Level

Monitoring, Sale to ARCs who just pay 15% of the loan outstanding etc. All as per directives of RBI. Still if NPAs are increasing is it not the failure of RBI actions too? Will the Govt & RBI take quick actions on the recommendations of the Parliamentary standing Committees? Some of them which are vital are

1. Accountability for Board of Directors & CMD / MDs
2. Revival of Develop Finance Institutions
3. Separate Asset Classification norms for Infrastructure Loans
4. Allow Infra structure Finance Companies to purchase the Infrastructure Loans.
5. Publish top 30 wilful defaulters names of each bank
6. Take action on violation of lending norms / guidelines
7. Allow Banks to write off losses in a staggered manner.
8. Make borrower pay 50% of the amount & cost while going for an appeal against DRT order
9. DRT presiding Officer should not have more than 1000 cases
10. Conduct an objective evaluation of different instruments/ schemes implemented by RBI so far including SDR, 5 by 25 scheme, ARC sales etc.

The Ordinance is only applying ointment to the cancer. We need surgery. We also need to implement the proposal of Mr. Raghuramrajan that banks would be allowed to lend upto 25% of their core capital, down from the present ceiling of 55% to a single borrower and limit total fund based exposure of the banking system to a Corporate to Rs.15000 cr in 2018-19

This will prevent banks evergreening of Corporate NPAs because of the fear of collapse of the Bank itself if big corporate like Ambani's, Adani's and Tatas are declared as NPAs. Ironically Tata Group Chairman is a Board of Director in RBI. Anil Ambani group keeps getting restructuring again inspite of the group not doing well. This did not require an Ordinance? Is RBI not aware of these companies? One major reason for RBI's deterioration could be drastic reduction of manpower. From 31000 in 1998 it became 21494 in Dec 2007 and in 2015 reduced to 15854 whereas the responsibility keeps on increasing. Another reason could be the diminishing autonomy and yet another could be the constitution of the Board which has majority of people who follow the Chicago School of thought which has lead to massive increase in income inequality and has brought more problems than solutions.

It is time to wake up. Reorient the lending policies to the majority in this country and take stringent action on wilful defaulters.

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