



**EDC LIMITED**

A Government of Goa Undertaking

**GUIDELINES FOR  
IDENTIFYING  
WILLFUL DEFAULTERS**

**SUMMARY OF POLICY:**

<b>Policy Name</b>	GUIDELINES FOR IDENTIFYING WILLFUL DEFAULTERS
<b>Issue and Effective date</b>	09/07/2025
<b>Periodicity of Review</b>	As decided by the Board of EDC
<b>Owner/Contact</b>	Recovery Department
<b>Approver</b>	Board of Directors (404 <sup>th</sup> Board meeting Dated_09/07/2025)

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## **GUIDELINES FOR IDENTIFYING WILLFUL DEFAULTERS**

### **1. Background and Purpose**

The primary objective of these directions is to ensure a transparent and non-discriminatory procedure for classifying borrowers as wilful defaulters. This directive is critical for maintaining the integrity of the financial system. It outlines measures and consequences for borrowers who intentionally default/defraud on their obligations. This system will enable to disseminate credit information pertaining to wilful defaulters for cautioning the Corporation so as to ensure that further finance is not available to such defaulters.

#### **1.1 Wilful Default:**

It broadly covers the following:

- a) Deliberate non-payment of the dues despite adequate cash flow and good network
- b) Siphoning off of funds to the detriment of the defaulting unit
- c) Assets financed either not been purchased or been sold and proceeds have been misutilised
- d) Misinterpretation / falsification of records
- e) Disposal / removal of securities without the Corporation's knowledge
- f) Fraudulent transactions by the borrower

It will cover all non-performing borrowal accounts with outstandings identified as wilful default by a Committee of higher functionaries headed by the Managing Director, Joint Managing Director and head of Departments. All such cases will be examined for filing of suits and also consider criminal action wherever instances of cheating/fraud by the defaulting borrowers were detected and the same will be reported as default to other banks/financers.

#### **2.1 Definition of Wilful Default**

A 'willful default' is deemed to have occurred if any of the following events is noted:

- a) Default in repayment obligations by the unit to the lender even when it has the capacity to honour the said obligations.
- b) Default in repayment obligations by the unit to the lender and has not utilized the finance from the lender for the specific purposes for which finance was availed of but has diverted the funds for other pur

- c) poses.
- d) Default in repayment obligations by the unit to the lender and has siphoned off the funds so that the funds have not been utilized for the specific purpose for which finance was availed of, nor are the funds available with the unit in the form of other assets.
- e) Default in repayment obligations by the unit to the lender and has disposed off or removed the movable fixed assets or immovable property given by it for the purpose of securing a term loan without the knowledge of the bank/lender.

## **2.2 Diversion and Siphoning of funds**

2.2.1 Diversion of funds referred to para 1(b) above, would include:

- a) Utilization of short term working capital funds for long term purposes not in conformity with the terms of sanction.
- b) Deploying borrowed funds for purposes/activities or creation of assets other than those for which the loan was sanctioned
- c) Transferring funds to the subsidiaries/group companies or other units / firms by whatever modalities
- d) Routing of funds through any bank other than the lender bank or members of consortium without prior permission of the lender
- e) Investment in other companies/ units / firms by way of acquiring equities/debt instruments without approval of lenders
- f) Shortfall in deployment of funds vis-a-vis the amounts disbursed/drawn and the difference not being accounted for

2.2.2 Siphoning of funds refer to the funds borrowed from the Corporation are utilized for purposes unrelated to the operations of the borrower, to the detriment of the financial health of the Corporation. The decision as to whether a particular instance amounts to siphoning of funds would have to be a judgement of the Corporation based on objective facts and circumstances of the case.

The identification of the wilful default will 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 categorized as wilful must be intentional, deliberate and calculated.

### **3 End use of funds**

In case of project financing, the Corporation will ensure end use of funds by, inter alia, obtaining certification from the Chartered Accountants for the purpose. In case of short-term loans, approach be supplemented by 'due diligence' on the part of the Corporation, and to the extent possible, such loans will be limited to only those borrowers whose integrity and reliability are above board. The Corporation, therefore, will not depend entirely on the certificates issued by the Chartered Accountants and will strengthen on the basis of internal controls and the credit risk management system to enhance the quality of their loan portfolio.

In case of wrong certification by the borrowers, the Corporation will consider appropriate legal proceedings, including criminal action wherever necessary, against the borrowers.

The following are some of the illustrative measures that have be taken by the Corporation for monitoring and ensuring end-use of funds:

- a) Scrutiny of quarterly progress reports / operating statements / balance sheets of the borrowers
- b) Periodical inspection of borrowers' assets charged to the lenders as security
- c) Scrutiny of borrowers' books of accounts and the no-lien accounts maintained with other banks
- d) Assessing the audit reports so as to identify any specific data to avoid such defaults.

### **4 Penal Measures**

The following measures will be initiated by the Corporation against the wilful defaulters identified:

1. No additional facilities shall be granted by the Corporation to the listed wilful defaulters. In addition, the entrepreneurs / promoters of companies where banks / FIs have identified siphoning / diversion of funds, misrepresentation, falsification of accounts and fraudulent transactions will be debarred from finance by the Corporation.
2. The legal process, wherever warranted, against the borrowers / guarantors and foreclosure of recovery of dues should be initiated expeditiously. The Corporation shall initiate criminal proceedings against wilful defaulters, wherever necessary.
3. Wherever possible, the Corporation will adopt a proactive approach for a change of management of the wilfully defaulting borrower unit.
4. At the time of appraisal, if it is noted that a member from the borrowing company is listed as Wilful Defaulter, the borrowing company will have to take expeditious and effective steps for rectifying the same for further process of loan, based on the approval from the loan sanction committee.

## **5 Guarantees furnished by individuals, group & non-group companies**

In cases where a letter of comfort and/or the guarantees furnished by the companies within the group on behalf of the wilfully defaulting units are not honoured when invoked by the banks/FIs such group companies should also be reckoned as wilful defaulters.

In connection with the guarantors, where banks have raised queries regarding inclusion of names of guarantors who are either individuals (not being directors of the company) or non-group corporates in the list of wilful defaulters, the liability of the surety is co-extensive with that of the principal debtor unless it is otherwise provided by the contract. Therefore, when a default is made in making repayment by the principal debtor, the banker will be able to proceed against the guarantor/surety even without exhausting the remedies against the principal debtor. As such, where a banker 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 Corporation; despite having sufficient means to make payment of the dues, such guarantor would also be treated as a wilful defaulter. It is clarified that this treatment of non-group corporate and individual guarantors would apply only prospectively and not to cases where guarantees were taken prior to this circular. The Corporation will ensure that this position is made known to all prospective guarantors at the time of accepting guarantees.

## **6 Role of Internal Audit / Inspection**

The aspect of diversion of funds by the borrowers may be adequately looked into while conducting internal audit / inspection and periodical reviews on cases of wilful defaults will be submitted to the Audit Committee.

## **7 Reporting to Credit Information Companies**

Corporation is required to submit to Credit Information Bureau (India) Ltd. (CIBIL) and other credit certifying agencies the list of suit-filed accounts of wilful defaulters of Rs.25.00 lakhs and above as at end March, June, September and December every year and a quarterly list of wilful defaulters where suits have not been filed to CIBIL.

Corporation shall take suitable steps to report the names of current directors and also the Directors

who were associated with the company at the time the account was classified as defaulter to put other banks and FIs on guard.

In this connection, the following cases will be not be reported as wilful default

- i. Outstanding amount falls below Rs. 25.00 lakh and
- ii. In respect of cases where banks have agreed for a compromise settlement and the borrower has fully paid the compromised amount.

## **8 Mechanism for identification of Wilful Defaulters**

The transparent mechanism referred to in paragraph 4(3) above includes the following:

- a) The evidence of willful default on the part of the borrowing company and its promoter/whole-time director at the relevant time will be examined by a Committee headed by Managing Director, Joint Managing Director and head of Departments.
- b) If the Committee concludes that an event of wilful default has occurred, it shall issue a Show Cause Notice to the concerned borrower and the promoter/whole-time director and call for their submissions and after considering their submissions issue an order recording the fact of wilful default and the reasons for the same. An opportunity will be given to the borrower and the promoter/whole-time director for a personal hearing if the Committee feels such an opportunity is necessary.
- c) The Order of the Committee will be reviewed by Board of Directors and it will be final only after it is approved by the Board of Directors.



## **9 Inclusion of Director Identification Number (DIN)**

In order to ensure that directors are correctly identified and in no case, persons whose names appear to be similar to the names of directors appearing in the list of wilful defaulters, are wrongfully denied credit facilities on such grounds, the Corporation shall include the Director Identification Number (DIN) as one of the fields in the data submitted by them to Reserve Bank of India / Credit Information Companies.

It is reiterated that while carrying out the credit appraisal, the appraisal officer should verify as to whether the names of any of the directors of the companies appear in the list of defaulters/ wilful defaulters by way of reference to DIN/PAN etc. Further, in case of any doubt arising on account of identical names, the Corporation shall use independent sources for confirmation of the identity of directors rather than seeking declaration from the borrowing company.

## **10 Grievances Redressal Mechanism**

Decisions to classify the borrower as willful defaulter should be entrusted to a Committee higher functionaries headed by the Managing Director, Joint Managing Director and head of Departments with a view to have more objectivity in identifying cases of wilful defaulter.

The borrower should be quickly advised about the proposal to classify him as a willful defaulter along with reasons thereof. He should be provided reasonable time (say 15 days) for making representation against such decision to a Grievances Redressal Committee headed by the Managing Director Joint Managing Director and head of Departments.

He should also be given a hearing in case he represents that he has been wrongly classified as willful defaulter and a final declaration as 'willful defaulter' should be made after a view is taken by the Committee on the representation and the borrower should be suitably advised.

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