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Wilful defaulter list rbi 2020 pdf free printable version 2016

Cracking a whip on 'wilful defaulters', market regulator Securities and Exchange Board of India (Sebi) has decided to bar them from raising public funds through stocks and bonds, and also from taking board positions at listed companies — a move that would disqualify Vijay Mallya from various posts he holds at the moment. 4776 OF 2019. An entity is declared wilful defaulter on non-payment of dues despite having adequate cash flow and net worth. The Court has further gone ahead and held that once the First in-house Committee, declares a borrower a wilful defaulter it shall serve a copy of such an order to the borrower. Wilful default would be deemed to have occurred, if any of the following events is noted: - The unit has defaulted in meeting its payment / repayment obligations to the lender even when it has the capacity to honour the said obligations; - 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; - 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; - 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 Apex Court in Jah Developers felt that, since harsh consequences that follow declaration of a borrower as a wilful defaulter, and the fact that Article 19(1)(g) was attracted in facts of the case, the moment a person is sought to be declared as a wilful defaulter, the fundamental right to carry on business is direct and immediate, the Court held that 2015 Circular must be construed reasonably and directed the incorporation of certain features of the 2013 Circular, qua the Grievance Redressal Mechanism (in-house proceedings) so that a borrower can defend himself before he is declared a wilful defaulter. An opportunity should be given to the borrower and the promoter / whole-time director for a personal hearing, if the Committee feels such an opportunity is necessary; and - The order of the Committee should then be reviewed by another Committee headed by the Chairman / Chairman & Managing Director, or the Managing Director & Chief Executive Officer / CEOs and consisting, in addition, to two independent directors / non-executive directors of the bank and the Order shall become final only after it is confirmed by the said Review Committee. This means a promoter declared as wilful defaulter will be allowed to make an open offer to stave of a similar bid by another entity. Thereafter, borrower must be given an opportunity to make his representation within fifteen days before the Review Committee, after which the Committee is expected to pass a reasoned order with evidence relied upon in the matter. Major Consequences Of Being Declared As A Wilful Defaulter: - No additional facilities should be granted by any bank / FI to the wilful defaulters. Digital Editor REPORT THIS PDF [F](#)Top 30 Wilful Defaulter Companies List 2019-2020 PDF Download for free using the direct download link given at the bottom of this article.Here is the complete list of 30 defaulters companies as released by RBI in November 2019Borrower nameSim of funded advances outstanding and amount technically/prudentially written off (in Rs. crores)Gitanjali Gems Limited5044Rei Agro limited4197Winsome Diamonds and Jewellery Limited3386Ruchi Soya Industries Limited3225Rotomac Global Private Limited2044Kingfisher Airlines Limited2488Kudos Chemie limited2326Zoom Developers Private Limited12024Decan Chronicle Holdings Limited1951ABG Shipyard Limited1875Forever Precious Jewellery and Diamonds Private Limited1718Surya Vinayak Industries Limited1628S Kumars Nationwide limited1581Gilli India Limited1447Sidhdi Vinayak Logistic Limited1349VMC Systems Limited1314Gupta Coal India Private Limited1235Nakshatra Brands Limited1148Indian Technomac Company Limited1091Shree Ganesh Jewellery House Limited1085Jain Infraprojects Limited1076Surya Pharmaceutical Limited1065Nakoda limited1028KS Oils limited1026Coastal projects limited984Hanung Toys and Textiles Limited949First Leasing Co of India Limited929Concast Steel and Power Limited888Action Ispat and Power Private Limited888Diamond Power Infrastructure869According to the RBI, three companies belonging to fugitive diamantaire Mehul Choksi are amongst the 30 major wilful defaulters that the Indian banking system is currently grappling with.Total funded advances outstanding to these 30 companies – along with the amount the banks have written off so far – adds up to over Rs 50,000 crore. If an entity acquiring less than 25 per cent stake but enjoys at least 25 per cent of the voting rights and the right to appoint majority of non-independent directors, it would result in change of control. The scheme required banks and financial institutions to report all cases of wilful defaults of 25,00,000 lakhs and above to the RBI on a quarterly basis. As a result, a bright line test on numeric threshold clearly identifying protective rights that will lead to control will help in removing ambiguity,” said Lalit Kumar, partner, J Sagar Associates. 3 LPA No.113/2015 & CM.No.3742/2015 The content of this article is intended to provide a general guide to the subject matter. INCORPORATION OF CERTAIN GUIDELINES BY SC IN THEIR VERDICT OF STATE BANK OF INDIA VS JAH DEVELOPERS Pvt Ltd, QUA CIRCULAR DATED JULY 2015, W.R.T THE IN-HOUSE COMMITTEE PROCEDURE AND PERSONAL HEARING. In addition, the entrepreneurs /promoters of companies where banks/FIs have identified siphoning / diversion of funds, misrepresentation, falsification of accounts and fraudulent transactions would be debarred from institutional finance from the scheduled commercial banks, etc and floating new ventures for a period of five years from the date the name of the wilful defaulter is published in the list of wilful defaulters by the RBI. - With an objective of restricting access to the wilful defaulters in the capital markets and to enable them to raise funds, the market regulator, SEBI has also imposed certain impediments on such defaulters; - Certain Public sector banks also have formulated guidelines, qua publication of photographs of wilful defaulters (on a case to case basis) in newspapers; - The lenders may initiate criminal proceedings against wilful defaulters, wherever necessary Banks and FIs should adopt a proactive approach for a change of management of the wilfully defaulting borrower unit, wherever possible and - Under section 29A of the Insolvency and Bankruptcy Code, 2016, a wilful defaulter cannot be a resolution applicant. The said exception was, however not to be applied to a promoter director even if he was not a whole time director. Grantors were also to be declared as wilful defaulters, if they fail to honour their obligations despite having sufficient funds. Their powers are only administrative in nature. Mechanism for identification of Wilful Defaulters under the 2015 Circular: - The evidence of wilful default on the part of the borrowing company and its promoter / whole-time director at the relevant time would have to be examined by a Committee headed by an Executive Director, or equivalent and consisting of two other senior officers of the rank of GM / DGM; - 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. One, when Committee informs the borrower the proposal to classify him as a wilful defaulter, when borrower would be given fifteen days to make his defence. Sebi said it will seek public comments on a discussion paper on the subject before tweaking the definition of 'control'. Final declaration as wilful defaulter should be made after a view is taken by the Committee on such a representation; - Major changes which were sought by RBI on September 9, 2014 which was then incorporated in Master Circular of July 1, 2015 ("2015 Circular"), was that definition of the term lender would include all banks and financial institutions to which any amount is due under a banking transaction. Support quality journalism and subscribe to Business Standard. With the latest move, defaulters would not be able to approach investors. In 2014, Etihad Airways had acquired 24 per cent stake in Jet Airways. Footnotes 1 WRIT PETITION (L) NO. As we battle the economic impact of the pandemic, we need your support even more, so that we can continue to offer you more quality content. Sebi has also decided to bar such defaulters from setting up market intermediaries such as mutual funds and brokerage firms. IMPACT OF A LAWYER'S APPOINTMENT IN SUCH A CASE AND HOW IT COULD AFFECT THE IN-HOUSE PROCEEDINGS POSITIVELY OR NEGATIVELY The events of wilful default consists of borrower's version of facts, hence a lawyer was not necessarily required at such hearings as no complicated questions of law were to be presented before the in-house Committees. The 2015 Circular, however deviated from the 2013 Circular and only entitled the borrower to one opportunity to present his case before the First Committee which would issue him a show cause notice, if they proposed to declare him a wilful defaulter. Sebi said it proposed to issue protective rights on what would not amount to acquisition of control in a company. The duty of such in-house-committees is to only gather facts and then arrive at a result. This is being extended to securities market which is a good step," said R S Loona, managing partner at Alliance Corporate Law. This is because an entity can acquire less than 25 per cent and still be in control of the company in an inclusive and subjective manner. The Grievance Redressal Mechanism which was adopted by Banks/FIs for identifying and reporting instances of wilful default as under the 2013 Circular were as follows: - Decisions to classify any borrower as wilful defaulter should be entrusted to a Committee of higher functionaries headed by the Executive Director and consisting of two GMs/DGMs as decided by the Board of the concerned bank/FI; such decision taken should be well documented, clearly spelling out the reasons alongwith the evidence for which the borrower has been declared as wilful defaulter vis a vis RBI guidelines; - Borrower to be provided reasonable time (say fifteen days) for making representation against such decision, if he so desires, before a Grievance Redressal Committee headed by the Chairman and Managing Director and consisting of two other senior officials; Grievance Redressal Committee should also give a hearing to the borrower if he represent that he has been wrongly classified as wilful defaulter. Sebi has also proposed to widen the definition of 'control' under the Takeover Regulations to remove any ambiguity like seen in the Jet-Ethiad deal. Under the existing framework, a wilful defaulter was allowed to come out with an initial public offering (IPO) merly by making adequate disclosures in the offer document. The grant of such rights, however, will have to be approved by the majority of minority shareholders. Guidelines on wilful defaulters were introduced by the Reserve Bank of India ("RBI") over a decade ago, by way of a scheme which came into effect from April, 1999. The SLP had arisen from a Delhi High Court's order³The Apex Court held that in-house Committees are neither a tribunal, nor are vested with any judicial powers. If Top 30 Wilful Defaulter Companies List 2019-2020 is a copyright material we will not be providing its PDF or any source for downloading at any cost. We believe in free, fair and credible journalism. The 2013 Circular, inter- alia provided for submission by banks / financial institutions of data of wilful defaulters to RBI on a quarterly basis and communication thereof to the Securities Exchange Board of India and to Credit Information Bureau (India) Ltd. However, investors don't tend to read the fine print. Specialist advice should be sought about your specific circumstances. The Hon'ble Bombay High Court recently in the matter of Kailash Shahra vs IDBI Bank¹, taking into account the above events had held that mere default is not enough to declare a director a wilful defaulter, an intentional, deliberate act comes will only under the definition of wilful default, and lastly the borrower company, its promoter/ whole-time director can be subjected to such a declaration, but for that, there should be evidence, qua them. AUTHOR(S) It is also a signal to the promoters who have been declared wilful defaulters to exit from company board with an immediate effect." Loona added. Another aspect which was amended by RBI in September 9, 2014 was a requirement of declaring group companies as wilful defaulters on failure to honour guarantees furnished on behalf of wilfully defaulting units. The Apex Court in Jah Developers² had an opportunity to deal with the much debated issue as to whether, a person who is to be declared as a wilful defaulter under the RBI guidelines/circulars is entitled to be represented by a lawyer of his choice before such a declaration is made? Second instance was when the Grievance Redressal Committee was also required to give the borrower an opportunity to be heard before declaring a wilful defaulter. These defaulters would also not be allowed to take control of any other listed company. "No issuer shall make a public issue of equity securities, debt securities, non-convertible redeemable preference shares, if the issuer company or its promoter or its director is in the list of the wilful defaulters," Sebi stated in a press release. Source Obtained from the RBI through an RTI application filed by The Wire.Download the Top 30 Wilful Defaulter Companies List 2019-2020 in PDF format using the link given below.REPORT THISIf the purchase / download link of Top 30 Wilful Defaulter Companies List 2019-2020 PDF is not working or you feel any other problem with it, please REPORT IT by selecting the appropriate action such as copyright material / promotion content / link is broken etc. One of the possible objections the banks had over the years were that with lawyers appearing it may unnecessarily delay the process of declaration of a borrower as a wilful defaulter with their prolonging arguments. By the Apex Courts' verdict now in Jah Developers, one can now positively expect a fast track in-house proceedings initiated by banks, or financial institutions to declare a person as a wilful defaulter. MARKET REGULATOR IN ACTION WHO GETS TAGGED AS 'WILFUL DEFAULTER' Deliberate non-payment of dues despite adequate cash flow and net worth Siphoning of funds to the detriment of the defaulting unit Assets financed either not bought; or sold and proceeds wrongly utilised Fraudulent transactions by the borrower Disposal/removal of securities without bank's knowledge Misrepresentation/falsification of records OTHER KEY DECISIONS BY SEBI BOARD In-principle approval for listing of Bombay Stock Exchange Consultation paper for providing clarity on definition of control Steps to ensure take off in new trading instruments like REITs and municipal bonds Pushing listed companies to have dividend distribution policy Making it easy for suspended companies to delist New guidelines for credit rating agencies Business Standard has always strived hard to provide up-to-date information and commentary on developments that are of interest to you and have wider political and economic implications for the country and the world. The Apex Court further held that since, such Committees formed are also not persons legally authorised to take evidence by statute, or subordinate legislation, no lawyer would have any right to appear before such committees. "The question of what constitutes control is a vexed one. This provision, qua the Guarantors were prospectively applicable i.e. after September 9, 2014; and - The 2015 Circular also stated that in very rare cases, a non-whole time director should not be considered as a wilful defaulter, unless it is conclusively established that, he was aware of the fact of wilful default by the borrower by virtue of any proceedings recorded in the minutes of meeting of the Board. More subscription to our online content can only help us achieve the goals of offering you even better and more relevant content. The borrower may then make his submissions upon such notice being served and had no right thereafter to be appear and/or make submissions. Although, the transaction was below the 25 per cent threshold, which leads to change in control and triggers an open offer, many experts had felt the transaction led to change in control. The move assumes significance in the wake of a controversy over UB Group Chairman Vijay Mallya, who has gone abroad amid efforts by public sector banks to recover Rs 9,000-crore unpaid loans and interest.Read more from our special coverage on "SEBI, WILFUL DEFAULTERS" The decision was cleared by the Sebi board at a meeting in New Delhi on Saturday. Following the Jet-Ethiad deal, Sebi had received feedback from legal experts to provide more clarity on the concept of control. Your encouragement and constant feedback on how to improve our offering have only made our resolve and commitment to these ideals stronger. Under the 2013 Circular, the borrower was given two opportunities to present his case. This reply would be submitted before a Grievance Redressal Committee. Sebi, however, allowed wilful defaulters to make counter offers to avoid hostile takeovers. We, however, have a request. The purpose was, to put in place a system to disseminate credit information pertaining to wilful defaulters for cautioning banks and other financial institutions so as to ensure that further bank finance is not made available to them. Your support through more subscriptions can help us practise the journalism to which we are committed. 1630 OF 2019 2 CIVIL APPEAL NO. "Offer documents, normally contain all information including promoters' financial record and pending litigations. Sebi Chairman U K Sinha said the new regulations on wilful defaulters will come into effect within four to six weeks after a formal notification. This will help the Reserve Bank of India (RBI) in its drive against wilful defaulters. "There are some restrictions on bond issuances by wilful defaulters. The RBI, from time to time, issued a number of circulars to banks and financial institutions, containing instructions on matters relating to wilful defaulters. Even during these difficult times arising out of Covid-19, we continue to remain committed to keeping you informed and updated with credible news, authoritative views and incisive commentary on topical issues of relevance. View PDFVolume 32, Issue 2, June 2020, Pages 129-142 rights and contentNon-performing loans (NPLs)Non-performing assets (NPAs) To print this article, all you need is to be registered or login on Mondaq.com. The 2015 Circular further clarified that a banking transaction would include off balance sheet transactions such as derivatives, guarantees and letters of credit; - The 2015 Circular also clarified that a unit would include individuals, juristic persons and all other forms of incorporated or non-incorporated business enterprises. Our subscription model has seen an encouraging response from many of you, who have subscribed to our online content. To enable the banks to have all the existing instructions at one place, a Master Circular dated July 1, 2013, ("2013 Circular") incorporating all the guidelines issued on cases of wilful default, were issued. Such rights will give the minority shareholders a say in the decision making process undertaken by the board of a company. The 2015 Circular also provided for reporting the names of individuals who are in charge and responsible for the management of the affairs of such business enterprises. This reasoned order of the Review committee must also be then served on the borrower.

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