Non Performing Asset

-CA CHINTAN SHAH

Basics of NPA

- It means a Loan/Advance/ Credit account which becomes Non Performing as per RBI norms.
- NPA is a classification used by financial institutions that refer to loans that are in jeopardy of default.
- Usually, once the borrower has failed to make interest and/or principal payments for a period of >=90 days the loan is considered to be NPA.

Basics of NPA

- NPA is problematic for FI since their income depends on interest payments and also their funds get blocked.
- All those assets which generate Income are called as Performing Asset & vice-versa.
- NPA is basically a Non Performing Loans.

Criteria to declare as NPA

- Term Loan : If Interest and/or Principal remain overdue for a period of more than 90days.
- Overdraft/ Cash Credit : If an A/c remains out of order it would become NPA.

  - Out of Order means :

  1. If the O/s balance remains continuously in excess of limit sanctioned for a period of >=90 days.

Criteria to declare as NPA

2. If O/s Is less but there are no credits in the A/c for a period of >= 90days
3. If Credit in the A/c are not sufficient to cover the interest debited during the period.

- Bill Purchased/Discounted : If the bills purchased or discounted remains overdue for a period of >=90 days.
- There are certain types of Loans for which criteria for NPA is different depending upon the type of loans.

Explanation for Criteria

- Basically this 90 days criteria is internationally accepted terms.
- This 90days has to be checked at any point of time during the year.
- E.g. SRK has taken Loan of Rs.100 at 10% rate on 1.4.2012. Now, till 30.6.2012 has not repaid EMI. Then straightaway Bank system generate his A/c as NPA. But if on 2.7.2012 has repaid full EMI then his A/c would be Normal.
- On every 31.3, Bank would make provision

Types of NPA

- Standard Assets
- Sub-Standard Assets
- Doubtful Assets
- Loss Assets

Standard Assets

- It is a performing Assets.
- It generate continuous income and repayment as & when they fall due.
- Such assets carry a normal risk and are not NPA in the real sense.
- So nominal provision in books of accounts required in case of standard assets.

Sub-standard Assets

- All those assets (Loans & Advances) which are considered as Non performing for a period upto 12 months are called as sub-standard assets.
- Hence, provision is required for such type of A/c
- E.g. Mr. Salman has not repaid Interest of a loan from 1.4.11 to 1.4.12. Hence, his A/c will be covered here.

Doubtful Assets

- All those assets (Loans & Advances) which are considered as Non performing for a period of MORE THAN 12 months are called as doubtful assets.
- Hence, provision is required for such type of A/c
- E.g. Mr. Salman has not repaid Interest of a loan from 1.4.11 to 1.4.13. Hence, his A/c will be covered here.

Loss Assets

- All those assets (Loans & Advances) which are considered as Non performing for a period of MANY YEARS are called as sub-standard assets.
- Hence, provision is required for such type of A/c
- E.g. Mr. Salman has not repaid Interest of a loan from 1.4.05 to 1.4.13. Hence, his A/c will be covered here.

Provision of Types of Assets

- It means certain % of O/s is considered as part of loss &(% has been defined by RBI w.r.t assets) transferred to P& L A/c to show true & fair view of Financial Statement.
- If Bank don't transfer then, it would be wrong Profit which is misleading for Investor etc.
- That's Why provision is MUST.

Provision of Types of Assets

- Standard Assets : Just min 0.25% (as not an NPA)
- Sub-Standard Assets : 15% on Total O/s balance of particular A/c.
- Doubtful Assets :

  - For Unsecured Portion : 100%

  - For Secured Portion : As under

    Up to 1year : 20%

    1-3 years : 30%

    Over 3 years : 100%
- Loss Assets : 100%

Explanation of Provisioning

- Sub-Standard assets is almost like a Performing A/c that's why No need for High Provision.
- Doubtful Asset is almost reach to become an NPA that's why it requires Higher provision in case of Unsecured. For Secured portion it is based on %.
- Loss Asset is that type from which there is a surety that no income would generate so better write off.

Causes of NPA-Internal

- Poor Lending decisions
- Non Compliance to lending norms.
- Lack of appropriate margins.
- Lack of post credit supervision
- Inadequacy of Documents.
- Excessive/Under Financing overdraft lending.
- Ineffective Management

Causes of NPA-External

- Willful defaults
- Business failure
- Failure of suppliers
- Lack of demand
- Change in Govt policies
- Natural Calamities
- Industrial Sickness
- Shortage of RM, power & other resources

What Bank does after NPA??

- As soon as bank finds default in repayment, bank start various actions like Counseling/discussion with the borrower, primary notice etc to avoid slippage to NPA.
- Once an account is classified as NPA, banks / FIs undertake various steps to realize such dues and takes possession of the security.
- The banks / FIs have right to sell the underlying security under Auction.
- The process of taking possession of the security is called "Foreclosure" and the entire process starting with issue of notice to the borrower to pay up the overdue amount is called asset recovery" and "asset reconstruction“.

What Bank does after NPA??

- Earlier it was a time consuming process as Bank/FI couldn't take possession without court decree and we all know that process of court is very lengthy.
- So to avoid such process, the Govt has established Debt Recovery Tribunal (DRT).
- But as all process has more or less loopholes same here govt brought a new Act called SARFAESI.
- This led to more Auction of Banks, DRT and this opend up new market for Real Estate .
- Thus auction properties market emerged very well.
- Banks are also authorised to sell NPAs to ARCs.

Lets Understand…..

- **Debt Recovery Tribunal**

- This is apply where O/s exposure is >= 10lacs.
- This is established with an aim to help bank/FI/ SFC to recover their dues quickly.
- DRTs are like any other civil courts.
- Each DRT is presided by Presiding officer.
- All auction by DRT are conducted by the Recovery officer.
- But under this system there are very loopholes.

Lets Understand…..

- **SARFAESI**
- Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002.
- Once the A/c is declared as NPA, bank through the authorized officer under this Act issued a notice to borrower providing time of 60days to settle the loan/debt and take possession of property.
- The Bank /FI are empowered to sell the property to realize the dues.

Lets Understand…..

- **LOK ADALAT**

- To settle the dues after negotiation on the table, platform of Lok Adalat is used.
- Normally, It is for a small amount of Settlement.
- Proved to be effective for speedy justice and recovery of small loans.
- It is not alike a Court the decision would be binding upon all parties.

Lets Understand…..

- **CDR Cell**

- This scheme applies to accounts having mutiple banking/ syndication/ consortium finance with O/s of >= 10cr.

- The CDR system is applicable to “standard” and “ sub-standard assets”

Lets Understand…..

BIFR

- Board for Industrial & Financial Reconstruction.
- Board of director shall make a reference to BIFR within60days from the date of finalization of the audited A/cs for the financial year at the end of which the company becomes sick
- Apply where net worth has been eroded and company is in operation since last 5years.
- The co making reference to BIFR has to prepare a scheme for its revival.
- Any lender can go to BIFR.

Lets Understand…..

NCLT

- National Company Law Tribunal.

- NCLT abolished SICA and has the jurisdiction and power relating to winding up of the company.

Lets Understand…..

Sale of NPA to other Banks

- NPAs are eligible for sale to other banks only if it has remained a NPA for at least two years in the books of selling Bank.

- The NPA must be held by the purchasing bank at least for a period of 15 months before it is sold to other banks but not to bank, which originally sold the NPA.

Lets Understand…..

Sale of NPA to ARC

- ARC means Asset Reconstruction Company.
- Bank may sell their NPA A/cs to any ARC if they find suitable.
- It means bank demand tender from all ARC for a NPA A/c and if bank find viable then they send to ARC then ARC will collect dues from Borrowers.
- The ARC can take over the management of the business of the borrower, sale or lease of a part or whole of the business of the borrower and rescheduling of payments settlement of dues payable by the borrower or take possession of secured assets.

Procedure-Through SARFAESI

- Once the account is classified as a NPA, the authorized officer designated by the secured creditor issues a demand notice u/s 13(2) of the SARFAESI Act for repayment of the outstanding dues as set out in the demand notice within 60 days.
- The borrower may raise objections to the said notice in writing within 60 days and the secured creditor has to consider and reply to the said objections u/s 13(3A).
- In case of non-payment within the statutory period of 60 days, the authorized officer shall be entitled to take possession (physical or symbolic) of the secured assets u/s 13(4).
- The authorized officer makes a punchanama and publishes the possession notice.

Procedure

- The authorized officer is also required to conduct a valuation of the secured asset and then proceed to sell by public auction.
- Any person aggrieved by the action taken u/s 13(4) can file an application u/s 17 to the DRT setting out the grounds or reasons on which the action is claimed to be wrong.
- The DRT shall pass an order Industry Overview on the said application preferably within four months.
- Either party can appeal against the order of DRT to the DRAT u/s 18 of the Act.
- No further appeal is provided there from, but one can prefer a writ petition to the
- High Court and Special Leave Petition to the Supreme Court

NPA-Auction- Traditional Approach

- The notification is published in national / regional newspapers and is also available on the websites of respective banks / FIs. All the information required – Reserve price, Earnest Money Deposit (EMD), date of inspection, date, time & place of auction, time and place to collect the tender form and last date of submission of tender – is provided in the publication.

  (EMD is a like Advance money & it is almost like 10% of Reserve price)

  (Reserve Price is price fixed by the bank below which bank wont sell the property)
- Collecting tender form at given place & time.
- Bid starts on date fixed by the bank during which, all party who wants to bid send DD of EMD.

NPA-Auction- Modern Approach

- Concept of E-auction is introduced to avoid formation of cartel at local level.
- E-Auction means an Auction conducted with the help of technology.
- Here, participant can take part through anywhere.
- Bank will find more buyers.
- Even person residing out of India can also participate.
- Concept of Green Revolution.
- Transparency through system.

CONCLUSIONS

- Increase in NPAs adversely affect to the economy as money remains idle in the NPA assets.
- Banks cant rotate the money which is not recovered which leads to economical problem.
- Bank should not keep laid back approach while granting Loans.
- Bank/RBI/Govt should discuss & find out the time leg in realization of NPA & put into practice effective machineries to ensure prompt recovery.
- In any case willful defaulters should not be given any relief & stricter norms should be applied whenever they approach for credit facility in future.
- Institutions like CIBIL should be encouraged & banks should be asked to quickly update the data.

THANK YOU.. Enjoy…..