

INDIA HOME LOAN LIMITED



POLICY ON IDENTIFICATION AND TREATMENT OF WILFUL DEFAULTERS AND LARGE DEFAULTERS

VERSION CONTROL

| Version Control No. | Author | Date Created | Date updated | Date Approved | Version Description |
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1. INTRODUCTION

India Home Loans Limited (“IHLL”), as a Housing Finance Company (HFC) registered with the National Housing Bank (NHB), must adhere to regulatory requirements and establish robust policies to ensure compliance, operational efficiency and risk management. In compliance with the guidelines issued by RBI on Master Directions on Treatment of Wilful Defaulters and Large Defaulter dated July 30, 2024 this policy document is drafted. It outlines the framework for identifying, managing, and reporting wilful defaulters and large defaulters, as per the Reserve Bank of India (RBI) Master Directions.

2. OBJECTIVE

The “**Policy on Identification and Treatment of Wilful Defaulters**” has been framed to provide a system for identifying, managing, and reporting wilful defaulters and large defaulters. The Policy will ensure and provide the following:

1. To ensure a transparent and non-discriminatory mechanism for classifying borrowers as wilful and large defaulters.
2. To disseminate credit information about such defaulters to caution lenders and prevent further institutional finance.
3. To comply with regulatory requirements issued by RBI and NHB.
4. To restrict wilful defaulters and their associated entities from availing further credit facilities from any lender for specified periods.
5. To enhance the legal framework for initiating penal and recovery actions against wilful defaulters.
6. To maintain a comprehensive and up-to-date List of Wilful Defaulters (LWD) for improved transparency.

3. SCOPE OF POLICY

The Policy shall apply to all borrowers, including individuals, companies, partnerships, and other legal entities that have defaulted on loans or credit facilities extended by IHLL, where the default has been classified as wilful or large default according to the criteria outlined in this policy.

4. DEFINITIONS

Key definitions from the RBI Master Directions are incorporated:

- **“Borrower”** means one who has availed the credit facility from IHLL.
- **“Credit facility”** means any fund based or non-fund-based facility, including off-balance sheet items like derivatives, guarantees and letters of credit, which has been extended to the borrower.
- **“Credit information company”** (CIC) means a company that has been granted a certificate of registration under Section 5 of the Credit Information Companies (Regulation) Act, 2005.
- **“Identification committee”** means the committee constituted by IHLL for identifying a wilful defaulter and shall comprise of an officer not more than one rank below the MD/ CEO as chairperson and two senior officials, not more than two ranks below the chairperson of the committee, as members.
- **“wilful default”**
 1. by a borrower shall be deemed to have occurred when the borrower defaults in meeting payment/ repayment obligations to the lender and any one or more of the following features are noticed:
 - (A) the borrower has the capacity to honour the said obligations;
 - (B) the borrower has diverted the funds availed under the credit facility from IHLL;
 - (C) the borrower has siphoned off the funds availed under the credit facility from IHLL;
 - (D) the borrower has disposed of immovable or movable assets provided for the purpose of securing the credit facility without the approval of the IHLL;
 - (E) The borrower or the promoter has failed in its commitment to the lender to infuse equity despite having the ability to infuse the equity, although the lender has provided loans or certain concessions to the borrower based on this commitment and other covenants and conditions.
 2. by a guarantor shall be deemed to have occurred if the guarantor does not honour the guarantee when invoked by the lender, despite having sufficient means to make payment of the dues or has disposed of immovable or movable assets provided for the purpose of securing the credit facility, without the approval of the lender or has failed in commitment to the lender to infuse equity despite having the ability to infuse the equity, although the lender has provided loans or certain concessions to the borrower based on this commitment.

- **“Wilful Defaulter”** means a borrower or a guarantor who has committed wilful default and the outstanding amount is ₹25 lakh and above, or as may be notified by Reserve Bank of India from time to time.
- **“Large Defaulter”** means a borrower with outstanding dues of ₹1 crore or more and where suit has been filed or whose account has been classified as doubtful or loss accounts (in accordance with the instructions issued by the Reserve Bank from time to time),
- **“Guarantor”** means an individual/entity guaranteeing repayment of a credit facility.
- **“Identification Committee”** means the committee constituted by IHLL for identifying wilful defaulters.
- **“Review committee”** means the committee constituted by IHLL for the purpose of reviewing the proposal of the Identification Committee and shall comprise of the MD/ CEO as chairperson with two independent directors or non-executive directors or equivalent officials serving as members.

5. INVESTIGATION PROCEDURE

A. Identification of Wilful Defaulters by Identification Committee

- i. The Identification Committee constituted for this purpose shall review the cases of wilful default along with the examination of evidence of such wilful default.
- ii. If the Identification Committee is satisfied that an event of wilful default has occurred, the Managing Director on behalf of the Committee shall issue a show-cause notice to borrower/ guarantor/ promoter/ director/ persons who are in charge and responsible for the management of the affairs of the entity, and call for the submissions from them within 21 days of issuance of show cause notice.
- iii. After considering the submissions and where satisfied, the Identification Committee shall make a proposal to the Review Committee for classification as a wilful defaulter by explaining the reasons in writing.

B. Investigation of Wilful Defaulters by Review Committee

- i. The borrower/ guarantor/ promoter/ director/ persons who are in charge and responsible for the management of the affairs of the entity shall thereafter be suitably advised about the proposal to classify them as wilful defaulter along with the reasons therefor.
- ii. An opportunity to be provided to borrower/ guarantor/ promoter/ director/ persons who are in charge and responsible for the management of the affairs of the entity for making a written representation to Review Committee within 15 days of such a proposal from the Identification Committee.

- iii. The proposal of the Identification Committee along with the written representation received shall be considered by the Review Committee.
- iv. The Review Committee shall provide an opportunity for a personal hearing also to the borrower/ guarantor/ promoter/ director/ persons who are in charge and responsible for the management of the affairs of the entity. However, if the opportunity is not availed or if the personal hearing is not attended by the borrower/ guarantor/ promoter/ director/ persons who are in charge and responsible for the management of the affairs of the entity, the Review Committee shall, after assessing the facts or material on record, including written representation, if any, consider the proposal of the Identification Committee and take a decision.
- v. The Review Committee shall pass a reasoned order and the same shall be communicated to the wilful defaulter.

6. DIRECTOR OTHER THAN WHOLE-TIME DIRECTOR AS WILFUL DEFAULTER

A director other than whole-time director, including an independent director/ nominee director, shall not be considered as wilful defaulter unless it is conclusively established that:

- (i) the wilful default by the borrower or the guarantor has taken place with their consent or connivance or
- (ii) he/ she was aware of the fact of wilful default by the borrower or the guarantor, as revealed from the proceedings recorded in the minutes of the meeting of the Board or a Committee of the Board, but has not recorded his/ her objections to the same

7. SPECIFIC MEASURES AGAINST WILFUL DEFAULTERS

- i. Initiation of Criminal proceedings
- ii. Publishing of photographs of wilful defaulters
- iii. Penal and other measures against wilful defaulters;
 - a) No additional credit facilities for wilful defaulters or entities associated with them.
 - b) The bar on credit facilities lasts for one year after the defaulter's name is removed from the List of Wilful Defaulter (LWD).
 - c) No credit facilities for new ventures to a wilful defaulter or any entity with which a wilful defaulter is associated for five years after the defaulter's name is removed from the LWD.

- d) Wilful defaulters or associated entities are not eligible for credit restructuring. After removal from the LWD, they may become eligible for restructuring, subject to clause (ii) above.
- e) Incorporation of covenant in the agreement while extending credit facility to a borrower that it shall not induct a person whose name appears in the LWD on its board or as a person in charge and responsible for the management of the affairs of the entity.
- f) initiate legal action against the borrowers/ guarantors for foreclosure/ recovery of dues expeditiously.

8. REPORTING MECHANISM

- i. IHLL shall submit information to all credit information companies (CICs) in respect of the large defaulters at monthly intervals –
 - a) a list of suit filed accounts of large defaulters; and
 - b) a list of non-suit filed accounts of large defaulters whose account has been classified as doubtful or loss (in accordance with the instructions issued by the Reserve Bank from time to time)
- ii. IHLL shall submit at monthly intervals, information to all CICs in respect of the wilful defaulters
 - a) a list of wilful defaulters (LWD) in respect of suit filed accounts
 - b) a LWD in respect of non-suit filed accounts
- iii. In case of wilful defaults where the third parties, engaged by the lender have played a vital role in credit sanction/ disbursement and are found negligent or deficient in their work or have facilitated the wilful default by the borrower forward the details of these third parties to the Indian Banks' Association (IBA) for records.
- iv. Guarantors will be held accountable under the same terms as borrowers if defaults occur due to their negligence or fraudulent acts.

9. TREATMENT OF COMPROMISE SETTLEMENTS

Any account included in LWD, where IHLL has entered into a compromise settlement with the borrower, shall be removed from the LWD only when the borrower has fully paid the compromise amount.

Till such time as only part payment is made, name of the borrower shall not be removed from the LWD even if the outstanding amount becomes less than the threshold of ₹25 lakh or as notified by Reserve Bank of India from time to time.

10. TREATMENT OF DEFAULTED LOANS SOLD TO THE OTHER LENDERS AND ARCS

Before transferring a defaulted loan with outstanding of ₹25 lakh and above, irrespective of its classification as NPA, to other transferees, IHLL shall internally conduct a comprehensive investigation from a wilful default perspective.

In a case where wilful default is observed, the lenders shall complete the process of classification of the borrower as wilful defaulter and report it in the LWD to CICs, before selling the asset to other lenders/ ARCs.

The details of the reporting done must be conveyed to “transferee” and they shall be responsible for reporting it to the CICs thereafter.

Sale to other lenders/ARCs shall not be treated as recovery for the purpose of calculating the threshold limit for classification as wilful defaulter and reporting to CICs, as the loan amount is not yet fully recovered.

The “transferee” lenders/ ARCs shall continue to report the account as a wilful defaulter until the balance remaining to be recovered in their account plus the amount written off by the “transferor” lender falls below the threshold of ₹25 lakh or as notified by Reserve Bank of India from time to time.

11. ROLE OF INTERNAL AUDIT

The internal auditors of IHLL shall specifically look into adherence to instructions for classifying a borrower as a wilful defaulter .

Further, the Audit Committee of IHLL shall periodically review the cases of wilful default and recommend steps to be taken to prevent such occurrences and their early detection should these occur.

12. PREVENTIVE MEASURES

- i. While carrying out the credit appraisal, IHLL shall verify as to whether the name of any of the directors of a company/ guarantors/ persons in charge of the management of affairs of the entity appears in the list of large defaulters/ LWD by way of reference to DIN/ PAN, etc.

- ii. IHLL shall closely monitor the end-use of funds and obtain certificates from borrowers certifying that the funds have been utilised for the purpose for which they were obtained. In cases of project financing, IHLL should ensure end use of funds by, inter alia, obtaining certification from the Chartered Accountants for the purpose.
- iii. Conduct thorough due diligence before sanctioning loans.
- iv. Monitor borrower accounts periodically for signs of financial distress or fund diversion.
- v. Implement robust internal controls against fraudulent practices.