



*GEECEE FINCAP LIMITED*

*WILFUL DEFAULTER POLICY*

Effective from	04.02.2025
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## **WILFUL DEFAULTER POLICY**

### **A. INTRODUCTION**

GeeCee Fincap Limited (GCFL) ("the Company") has formulated Wilful Defaulter Policy ("this Policy") in accordance with the Master Direction on Treatment of Wilful Defaulters and Large Defaulters issued by Reserve Bank of India (RBI) on July 30, 2024 ("Master Directions"). This Policy includes Mechanism for Identification and classification of Wilful Defaulters and criteria for publishing the photographs of Wilful Defaulters.

### **B. OBJECTIVE**

The Objective of this Policy is:

- a) It provides mechanism for the Company to identify and classify the Wilful Defaulter.
- b) Publication of the photographs of persons classified and declared as Wilful Defaulter.

### **C. DEFINITIONS**

1. **"Borrower"** means one who has availed credit facility from a lender.
2. **"Credit Facility"** means any fund based or non-fund-based facility, including off-balance sheet items like derivatives, guarantees and letters of credit, which the Company extended to the borrower.
3. **"Large Defaulter"** means a defaulter with an outstanding amount of Rs. 1 Crore (Rupees One Crore) and above, and:
  - where suit has been filed; or
  - whose account has been classified as doubtful or loss (in accordance with the instructions issued by the Reserve Bank from time to time).
4. **"Siphoning of Funds"** shall be construed to have occurred if any funds availed using credit facility from the Company are utilised for purposes unrelated to the operations of the borrower.
5. **"Wilful Default"** -
  - i. By a borrower shall be deemed to have occurred when the borrower defaults in meeting payment/ repayment obligations to the Company and any one or more of the following features are noticed:
    - the Borrower has the capacity to honour the said obligations;
    - the Borrower has diverted the funds availed under the credit facility from the Company;
    - the Borrower has siphoned off the funds availed under the credit facility from the Company;
    - the Borrower has disposed of immovable or movable assets provided for the purpose of securing the credit facility without the approval of the Company;
    - The Borrower or the promoter has failed in its commitment to the Company to infuse equity despite having the ability to infuse the equity, although the Company has provided loans or

certain concessions to the borrower based on this commitment and other covenants and conditions.

- ii. By a guarantor shall be deemed to have occurred if the guarantor does not honour the guarantee when invoked by the Company, 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 Company or has failed in commitment to the Company to infuse equity despite having the ability to infuse the equity, although the Company has provided loans or certain concessions to the borrower based on this commitment.

**6. “Wilful Defaulter” means**

- a borrower or a guarantor who has committed wilful default and the outstanding amount is Rs. 25 lakh (Rupees Twenty Five Lakhs) and above, or as may be notified by Reserve Bank of India from time to time, and
- where the borrower or a guarantor committing the wilful default is a Company, its promoters and the Director(s), subject to the provisions of the Master Directions. In case of Entity (other than Companies), persons who are in charge and responsible for the management of the affairs of the entity.

Words and expressions used in this Policy and not defined herein, but defined in the Master Directions, Reserve Bank of India Act, 1934 or the Banking Regulation Act, 1949 or the Credit Information Companies (Regulation) Act, 2005, or the Companies Act, 2013, shall have the meanings assigned to them in those Acts.

**D. ROLE OF INTERNAL AUDIT**

The Internal Auditors of the Company shall specifically look into adherence to instructions for classifying a borrower as a wilful defaulter.

The Audit Committee of the Company shall periodically review the cases of wilful default, if any and recommend steps to be taken to prevent such occurrences and their early detection. The review shall focus on identifying root causes of wilful default and addressing deficiencies, if any, in the wilful defaulter classification process adopted by the Company.

**E. MECHANISM FOR IDENTIFICATION AND CLASSIFICATION OF WILFUL DEFAULTERS**

The track record of the borrowers shall be taken in view and not isolated transactions or incidents for identification of the wilful default. The default will be categorised as wilful if it is intentional, deliberate, calculated and meeting the conditions as set out in Clause C (5) specified in this Policy.

When the Company is of the view that there is a possibility of occurrence of Wilful Default, the Board will constitute Identification Committee and Review Committee, if required to carry on the procedures to identify and classify Wilful Defaulter.

At the time when the Company constitute the Identification and Review Committee on possibility on occurrence of Wilful Default, the Company will follow the procedure enumerated herein below to identify and classify a person as a ‘wilful defaulter’:

1. The evidence of wilful default shall be examined by an Identification Committee.
2. If the Identification Committee is satisfied that an event of wilful default has occurred, it 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. The Company shall disclose to them all materials and information on which show cause notice is based.
3. 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.
4. 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.
5. An opportunity shall 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.
6. The proposal of the Identification Committee along with the written representation received shall be considered by the Review Committee.
7. 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.
8. As the above classification process is an in-house proceeding, the borrower/ guarantor/ promoter/ director/ persons in charge and responsible for the management of affairs shall not have the right to be represented by a lawyer.
9. The Review Committee shall pass a reasoned order and the same shall be communicated to the wilful defaulter.

If the Identification Committee concludes that the borrower/ guarantor/ promoter/ director/ persons who are in charge and responsible for the management of the affairs of the entity, do not qualify for classification as a wilful defaulter, such cases will not be referred to the Review Committee.

The Company has designated Chief Financial Officer of the Company to fulfil the below mentioned responsibilities on behalf of the Company in case of the wilful default:

1. The Chief Financial Officer (CFO) of the Company will issue the show cause notice and serve written order on behalf of the Identification Committee and Review Committee respectively.
2. The show-cause notice and the order served by the CFO shall clearly state that this has the approval of the competent authority, i.e., Identification/ Review Committee and must identify its members.
3. 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:
  - the wilful default by the borrower or the guarantor has taken place with their consent or connivance or
  - 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.
4. The name of a non-whole-time director/ independent director/ nominee director who has been classified as a wilful defaulter shall be reported in Annex A indicating that he is a non-whole-time director/ independent director/ nominee director.

**Reporting Requirements:**

- Submit information on wilful defaulters and large defaulters to Credit Information Companies (CICs) at monthly intervals as per Annex B.
- Report removal of names from the wilful defaulter list promptly upon full payment or other qualifying events.
- Ensure accurate reporting of directors' and guarantors' details, including Director Identification Number (DIN).

**F. REVIEW OF ACCOUNTS FOR IDENTIFICATION OF WILFUL DEFAULT**

The Company shall examine the 'wilful default' aspect in all Non-Performing Assets (NPA) accounts with outstanding amount of Rs. 25 Lakh (Rupees Twenty Five Lakh) and above or as may be notified by Reserve Bank of India from time to time. If wilful default is observed in the initial examination, the Company shall complete the process of classification/ declaring the borrower as a wilful defaulter by following the mechanism within 6 (Six) months of the account being classified as Non-Performing Assets (NPA).

In respect of accounts where 'wilful default' was not observed during the initial examination, the aspects regarding 'wilful default' shall be subsequently re-examined in terms of this Policy of the Company at a periodicity as may be specified by the board.

**G. SPECIFIC MEASURES AGAINST WILFUL DEFAULTERS**

The Company may take following measures against Wilful Defaulters:

**1. Initiation of Criminal proceedings**

The Company may examine whether initiation of criminal proceedings against wilful defaulters under the provisions of the applicable law, is warranted, based on the facts and circumstances

of each case. In cases where criminal proceedings have been initiated, removal of the name of a wilful defaulter from the List of Wilful Defaulters (LWD) shall be without prejudice to the continuation of criminal proceedings against the wilful defaulter.

## **2. Publishing of photographs of wilful defaulters**

The Company has formed this Policy to identify and classify Wilful Defaulters and will take preventive and specific measures against such Wilful Defaulters. One of the specific measures is to publish photographs of Wilful Defaulters and submit such names under List of Wilful Defaulters (LWD) so that no additional credit facility is provided by the other lenders.

## **3. Penal and other measures against wilful defaulters**

1. The penal measures mentioned below shall be implemented by the Company:
  - i. No additional credit facility shall be granted by any lender to a wilful defaulter or any entity with which a wilful defaulter is associated.
  - ii. The bar on additional credit facility to a wilful defaulter or any entity with which a wilful defaulter is associated shall be effective for a period of **one (1) year** after the name of wilful defaulter has been removed from the List of Wilful Defaulters (LWD) by the Company.
  - iii. No credit facility shall be granted by any lender for floating of new ventures to a wilful defaulter or any entity with which a wilful defaulter is associated for a period of **five (5) years** after the name of wilful defaulter has been removed from the LWD by the Company.
  - iv. Wilful defaulters or any entity with which a wilful defaulter is associated shall not be eligible for restructuring of credit facility. Subsequent to removal of the name of wilful defaulter from the LWD, the wilful defaulter or any entity with which a wilful defaulter is associated shall be eligible for restructuring, subject to the provision contained in Clause G (3) (a) (ii) above.

### **Explanation:**

(A) If the wilful defaulter is a company, another company will be deemed to be associated with it, if that company is –

- i. a 'subsidiary company' as defined under clause 2 (87) of the Companies Act, 2013.
- ii. falls within the definition of a 'joint venture' or an 'associate company' under clause (6) of Section 2 of the Companies Act, 2013.

(B) If the wilful defaulter is a natural person, all entities in which he is associated as promoter, or director, or as one in charge and responsible for the management of the affairs of the entity shall be deemed to be associated.

(C) The penal provisions mentioned above, shall cease to be applicable on the associated entities when they are no longer associated with the wilful defaulters.

(D) In cases where the existing promoters are replaced by new promoters in terms of directions contained in circular 'Prudential Framework for Resolution of Stressed Assets' dated June 7, 2019 (as amended from time to time) and the borrower company is totally delinked from such erstwhile promoters/ management, Company may take a view on restructuring such accounts based on their viability, without prejudice to the continuance

of criminal proceedings against the erstwhile promoters/ management.

**2. Incorporation of covenant**

- The Company shall incorporate a 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.
- In case such a person is found to be on its board or as a person in charge and responsible for the management of the affairs of the entity, the borrower would take expeditious and effective steps for removal of such a person from the board or from being in charge of its management.
- Under no circumstances, the Company shall renew/ enhance/ provide fresh credit facilities or restructure existing facilities provided to such a borrower so long as the name of its promoter and/or the director (s) and/or the person in charge and responsible for the management of the affairs of the entity remains in the LWD.

**3. Initiation of legal action**

The Company shall, wherever warranted, initiate legal action against the borrowers/ guarantors for foreclosure/ recovery of dues expeditiously.

**H. PROVISION FOR A TRANSPARENT MECHANISM**

The Company has in place a transparent mechanism for the entire process of identification of wilful defaulters so that the penal provisions are applied in a fair manner and the scope for discretion is obviated.

**I. LIABILITY OF A GUARANTOR**

- As per Section 128 of the Indian Contract Act, 1872, the liability of the guarantor is coextensive with that of the principal debtor unless it is otherwise provided by the contract.
- When a default happens in making payment/ repayment by the principal debtor, the Company will be able to proceed against the guarantor even without exhausting the remedies against the principal debtor.
- Where the Company 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 Company, such guarantor shall also be considered for classification as a wilful defaulter by following the mechanism as set out in these Directions.
- While dealing with the wilful default of a single borrowing company in a Group, the Company will consider the track record of the individual company, with reference to its repayment performance to its lenders. In cases where guarantees furnished by the companies within the Group on behalf of the wilfully defaulting units are not honoured when invoked by the Company, such Group companies should also be considered for classification as wilful defaulter by following the mechanism set out in these Directions.

**J. PREVENTIVE MEASURES:**

- Credit Appraisal: Verification if any directors/guarantors are listed as wilful defaulters.
- Monitoring End-Use of Funds: Implement robust measures to monitor the end-use of funds, including obtaining certifications and conducting inspections.
- Role of Auditors: Engage auditors for specific certifications on fund usage for larger accounts.

**K. CONFLICT IN THIS POLICY**

In the event of a conflict between this Policy and the extant regulations or laws (as may be amended, replaced, restated, from time to time), the relevant provisions contained in the regulations and laws shall prevail over this Policy.

**L. REVIEW**

The Company will periodically review this Policy pursuant to any amendments in the Master Directions.

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**Annex A**

**Format for submission of data on cases of wilful default (suit-filed and non-suit filed accounts) to all CICs on a monthly basis.**

Field	Field Name	Type	Max Field Length	Description	Remarks
1.	Reporting Cycle	Alpha Numeric	5	Month for which the data is reported	The reporting cycle data for month of January 2024, should be filled as 'JAN24'.
2.	Member ID	Alpha Numeric	10	The field is required to include Reporting Member Code as assigned by CICs.	Contains ID of the member reporting the data.
3.	Member Name	Character	200	Name of member	Must contain the name of the member who is reporting the data.
4.	Member Branch	Character	30	Branch name of the member	Name of the branch of the member to be fed.
5.	STATE	Character	35	Name of state	Name of state in which member branch is situated.
6.	Borrower Name	Alpha Numeric	1000	Minimum length of the Name should be 2 characters for individual borrowers and 4 characters for non-individual.	The legal name of the borrower to be reported.
7.	Borrower PAN	Alpha Numeric	10	Must be 10 characters. The first five characters must be letters, followed by four numbers, and followed by a letter.	Permanent Account Number (PAN) as defined by the Income Tax Department
8.	Borrower Address	Alpha Numeric	1000	Permanent Address / Registered address of the borrower	
9.	Outstanding Amount	Numeric	8	Should be a Numeric Value	Outstanding amount in ₹lakh (Rounded off)
10.	Suit Status	Numeric	02	Valid Values 01 - Suit filed 02 – Non-Suit Filed	Indicates whether suit has been filed or not.
11.	Other Member	Character	1000	The names may be fed in abbreviated form e.g.,	The names of other lenders from whom

				BOB for Bank of Baroda, SBI for State Bank of India etc.	the borrower has availed credit facility should be indicated.
12.	Director/ Promoter Name	Character	1000	Minimum length of name should be 2 characters.	Full name of Director/ Promoter should be indicated.
13.	Director/ Promoter DIN	Alpha Numeric	8	DIN Number length should be 8	8-digit Director/ Promoter Identification Number of the Director.
14.	Director/ Promoter PAN	Alpha Numeric	10	Must be 10 characters. The first five characters must be letters, followed by four numbers, and followed by a letter.	PAN of the Director /Promoter.
15.	Guarantor Name	Character	1000	Minimum length of name should be 2 characters	Full name of guarantor
16.	Guarantor CIN	Alpha Numeric	21	Corporate identification number of guarantor entity	Only in case of legal entities
17.	Guarantor PAN	Alpha Numeric	10	Permanent account number	In case of individual / legal entities

**Annex B**

**Format for submission of List of Large Defaulters of ₹1 crore and above (suit- filed and non-suit filed accounts) to all CICs on monthly basis.**

Field	Field Name	Type	Max Field Length	Description	Remarks
1.	Reporting Cycle	Alpha Numeric	5	Month for which the data is reported	The reporting cycle data for month of January 2024, should be filled as 'JAN24'
2.	Member ID	Alpha Numeric	10	The field is required to include Reporting Member Code as assigned by CICs.	Contains ID of the member reporting the data
3.	Member Name	Character	200	Name of the member	Must contain the name of the member who is reporting the data.
4.	Member Branch	Character	30	Branch name of the member	Name of the branch should be fed.
5.	STATE	Character	35	Name of state	Name of state in which branch is situated.
6.	Borrower Name	Alpha Numeric	1000	Minimum length of the Name should be 2 characters for individual borrowers and 4 characters for non-individual.	The legal name of the borrower to be reported.
7.	Borrower PAN	Alpha Numeric	10	Must be 10 characters. The first five characters must be letters, followed by four numbers, and followed by a letter.	Permanent Account Number (PAN) as defined by the Income Tax Department
8.	Borrower Address	Alpha Numeric	1000	Permanent Address / Registered address of the borrower	
9.	Outstanding Amount	Numeric	8	Should be a Numeric Value	Outstanding amount in ₹ lakh (rounded- off)
10.	Suit Status	Numeric	2	<b>Valid Values</b> 01 - Suit filed 02 - Non-Suit Filed	Indicates whether suit has been filed or not.

11.	Asset Classification	Character	5	Valid Values <b>For Non-Suit Filed Accounts.</b> 'DOUBT' for doubtful accounts. 'LOSS' for loss accounts.  <b>For Suit Filed Accounts</b> 'DOUBT' for doubtful accounts. 'LOSS' for loss accounts. 'SUBST' for substandard accounts. 'STD' for standard accounts.	Asset classification
12.	Asset Classification Date	Alpha Numeric	5	Month in which the account was classified as 'DOUBT'/'LOSS'/SUBSTD/STD' in the format 'mmmyy' where mmm stand for the first 3 characters of the month. The date of classification 'march 2000' should be filled up as 'MAR00'.	Indicates the date of asset classification
13.	Other Member	Character	1000	The names may be fed in abbreviated form e.g., BOB for Bank of Baroda, SBI for State Bank of India etc.	The names of other lenders from whom the borrower has availed credit facility should be indicated.
14.	Director/ Promoter Name	Character	1000	Minimum length of name should be 2 characters	Name of Director/ Promoter.
15.	Director/ Promoter DIN	Alpha Numeric	8	DIN Number length should be 8	DIN of the Director/ Promoter.
16.	Director/ Promoter PAN	Alpha Numeric	10	Must be a minimum of 10 characters. The first five characters must be letters, followed by four numbers, and followed by a letter.	PAN of the Director/ Promoter.
17.	Guarantor Name	Character	1000	Minimum length of name should be 2 characters	Full name of the Guarantor should be indicated.
18.	Guarantor CIN	Alpha numeric	21	Corporate identification number of guarantor entity	Only in case of legal entities
19.	Guarantor PAN	Alpha Numeric	10	Must be a minimum of 10 characters. The first five characters must be	In case of individual /legal entities

				letters, followed by four numbers, and followed by a letter.	
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