

16 May 2016

Dr Raghuram Rajan  
Governor,  
Reserve Bank of India  
Mumbai

17/5/16



Sub: Requesting clarity on defaults recorded by Credit Information Companies (CICs), proper dispute resolution mechanism and sustained public awareness campaign

Dear Dr Rajan,

We were very encouraged by your interaction with consumer activists on 25<sup>th</sup> May 2015, at which our trustee Ms Sucheta Dalal had an opportunity to present some issues that bother the consumers of financial services. She mentioned that borrowers, who are marked as defaulters by credit information companies, seem to be permanently ostracised from the credit system. You had responded positively to the suggestion and even mentioned that it may not be fair to penalise defaulter forever by keeping him/her out of the credit market.

Moneylife Foundation, decided to examine the issue in detail based on an online survey, meetings with credit information companies (CICs), lawyers dealing with defaults, study of international practices and actual consumer experiences.

We find that the Indian borrower is in a very unfair situation for several reasons.

1. There is very poor awareness about credit information reports (CIRs) and credit scores despite credit information companies (CIC) having existed for 16 years. A massive awareness campaign is urgently required, especially in the light of the Prime Minister's all out effort at financial inclusion. Otherwise, new borrowers and users of the overdraft offered on these schemes will once again be excluded from the formal financial system soon after the hard work of including them. Easy access to formal credit at reasonable interest rates is also imperative for India's progress.

2. Lenders tend to ignore the Obligation to disclose (CIC regulations Chapter VIc: Data Use Limitations) specified in the regulations and those seeking a loan are invariably clueless as to the reason for the rejection. The regulations clearly specify:

*Obligation to disclose: Every specified user, in case of denying credit or any other service to a borrower or a client, as the case may be, on the basis of his credit information report within thirty days of such decision shall -*

- i. send a written intimation to such borrower, or the client about the rejection ;*
  - ii. include in such intimation the specific reasons for rejection;*
  - iii. forward a copy of the credit information report relied upon for such decision; and*
  - iv. also provide the name and address of the credit information company which had provided the credit information report to the borrower or client, as the case may be.*
3. Since there is no concept of Lenders' Liability in India, even those with genuine disputes with the lender regarding interest and charges end up being marked defaulters. A more equitable system is necessary by allowing the Banking Ombudsman to decide such issues. This has been recommended by the Aditya Puri Committee set up by the RBI (<https://rbi.org.in/scripts/PublicationReportDetails.aspx?UrlPage=&ID=763>)
  4. Finally, in theory, when a default remains on a person's CIR for seven years. However, the Credit Information Companies (Regulation) Act 2005 uses the word 'minimum' period.

#### Chapter VI

##### *D) "Length of preservation of credit information:*

*(i) every credit information company and credit institution shall retain credit information collected, maintained and disseminated by them for a minimum period of seven years."*

Also, in theory, each bank is supposed to decide on whether to reject a loan in cases where there is a default or a settlement. (In many cases, it could be the result of a temporary job loss or illness or unforeseen natural calamities.) Based on an analysis of each case, banks are supposed to offer loans (maybe at a higher interest rate) and allow an opportunity to rebuild credit history. However, in practice, only a few finance companies offer such loans, that too in cases where they have tied up with expensive "credit repair" agencies of debt doctors. It is surely not the RBI's intention to create a business opportunity for debt-doctors by forcing hapless individuals to seek their services. Some clarity regarding the rules by large lenders will allow people access to reasonably priced loans once again.

We are sure you will agree that this makes the system very inequitable to individuals, especially in view of the mountain of bad loans piled up by large corporate borrowers, where there is no system of sharing information about habitual and wilful defaulters among banks and lenders.

We have attached a detailed report of our findings. Based on it we have made a few key recommendations and look forward to some positive action in this regard. A line in confirmation of this letter from your office would be highly appreciated.

Yours truly,



*Debashis Basu*

Susmeta Dalal and Debashis Basu  
Founding Trustees  
Moneylife Foundation

## REPORT ON CREDIT INFORMATION ISSUES FACED BY RETAIL BORROWERS

### BROAD FINDINGS

- I. Awareness about credit scores and consequences of default is abysmal even among educated borrowers. It is worse among less literate borrowers and micro-finance borrowers. No systematic effort has ever been made to educate people by the RBI, banks or CICs. At the same time, CICs are actively expanding their base by recording credit histories of those who are newly inducted into the formal financial system through the Prime Minister's flagship initiatives such as the Jan Dhan Yojana.
- II. There is no clarity on the seven-year rule for recording defaults and settlements in Credit Information Reports (CIRs). Many lenders, especially large banks choose to deny loans even a decade after the default or settlement. There is limited scope for rebuilding credit scores and borrowers are forced to seek very expensive loans or pushed to informal lenders. This is completely contrary to the stated policy of the Prime Minister and Finance Ministry with regard to financial inclusion.
- III. There is no proper system of rewarding those who have good credit scores vis-à-vis those who have poor scores. Only a default has clear and unlimited consequences.
- IV. There is no concept of Lenders' Liability in India with the result that borrowers who dispute charges or service quality are often victimised by lenders and reported as 'defaulters'. A simple dispute resolution process needs to be put in place to sort out such issues or allow it to be handled by the Banking Ombudsman.
- V. There is a significant group of 'innocent' defaulters, who were persuaded to 'settle' credit card disputes in the pre-2008 period when malpractices by credit card companies were rampant. They were not informed about the harsh consequences of such settlements to their future borrowing. Some of them are still being denied loans and their credit history is badly impaired. Few banks have any guidelines to evaluate such cases. Even finance companies are not willing to lend to first-time borrowers with no credit history.
- VI. Lenders do not follow the "obligation to disclose" rule and refuse to disclose the reason for denying loans. A settlement or default leads to outright rejection, except in cases that approach lenders through debt-doctors. This is an inequitable system that needs correction.

OUR RECOMMENDATIONS:

- 1) **Clarify the seven-year rule:** Defaults and settlements should remain on CIRs for a 'maximum' of seven years, rather than 'minimum' of seven years.
- 2) **Enforce 'Obligation to Inform' Rule:** A lender who submits or plans to submit negative credit information to the CICs should be required to inform the borrower about the same under the Obligation to Disclose rule. This, along with awareness about the consequences of being listed a defaulter may help recovery and is in the interest of lenders.
- 3) **Introduce Lenders' Liability:** Introduce the concept of lenders liability for errors omissions in reporting credit data to CICs.
- 4) **Dispute Resolution:** We need a process for easy dispute resolution so that borrowers are not reported as defaulters for contesting interest rate or other changes, which they think as arbitrary, and provide for expeditious resolution under the Banking Ombudsman Scheme, 2006 (BOS). The Aditya Puri committee, set up by the RBI, has recommended that disputes against the CICs should be brought under the BOS. This too should be implemented.
- 5) **Escalated System for Rectifying Errors:** The process for rectifying mistakes in credit information reports has to be simplified. These mistakes occur due in automated de-duplication efforts or matching profiles as well as wrong reporting and mistakes by lenders. The onus for correcting mistakes is with banks, which are usually lethargic about helping those who are no longer their customers. The rectification process must offer borrowers a path of escalation to appropriate authorities, if banks are unwilling to act.
- 6) **One free report a year:** In line with low technology cost, make it mandatory for all CICs to offer at least one credit report free of charge to all of its individual customers every year, on demand as is done in all developed countries. Further, Credit Report should be made available to the borrower in the easiest possible manner, keeping in mind that not all borrowers are net-savvy; it should be in simple language that is shorn of jargon and easy to understand.
- 7) **Awareness Campaign:** Have a nationwide campaign to enhance financial literacy with regard to the credit reports and credit scores.
- 8) **Obligation to Inform the Borrower:** Mandate that every commercial bank, regional rural banks (RRBs), local area banks and financial institutions, including HFCs and SFCs should inform each borrower about the consequences of late payments or non-payments on their credit history as well as the implications of a 'settlement' on their credit reports in a clear and unequivocal manner.

## REPORT ON CREDIT INFORMATION ISSUES FACED BY RETAIL BORROWERS

### DETAILED REPORT

#### **Background**

Every person who has ever taken a loan or credit has an obligation to repay it in time and with interest. This is the very basis of a viable banking system. However, it will work effectively, if borrowers are financially literate and have a clear idea of the long-term implication of a default or part-payment and settlement of loans. The system also cannot be unduly harsh only on one segment of borrowers (individuals) while large corporates enjoy multiple corporate-debt restructuring or write-offs without severe consequences on their ability to borrow again.

The Government of India has launched a massive effort at financial inclusion through Jan Dhan savings bank accounts. It is one of Prime Minister Narendra Modi's flagship initiatives. Under this, new bank account holders are entitled to an over-draft facility in some case. Very few of these people are probably aware of the consequences of delay in repayment or failure to pay. Moneylife Foundation has reviewed most of the advertising campaigns that target this segment. They all stop with an advice to repay the overdraft, without explicitly saying that non-payment affects their future borrowing and defeat the PM's financial inclusion effort.

Awareness about credit information companies (CICs), credit information reports (CIRs) and credit scores is abysmal even among educated borrowers. In fact, from the time India's first credit bureau was set up - namely CIBIL (Credit Information Bureau of India Limited) - there has been no mass awareness programme to inform and educate people about CICs.

Moneylife Foundation decided to study the situation of people who have failed to repay their loans and have been reported as defaulters to CICs based on the data supplied by lenders. These cases have been drawn from our credit-counselling effort and the credit helpline that we run for the past five years.

#### **Methodology**

Our starting point was an online survey to identify people who have defaulted on their loans and reported as such to CICs. We identified 251 such respondents, which means that the sample comprises educated, English speaking persons who are net-savvy and probably have access to smart phones, despite having defaulted or having been reported as defaulters. To fill in the gaps in our information, we then interviewed various stakeholders and obtained information from other sources as well.

- a) **Indian CICs:** i) Harshala Chandorkar: Chief Operating Officer, CIBIL, ii) Parijat Garg Vice President, CRIF Highmark and iii) senior executives of Experian India CIC who did not want to be identified by name.
- b) **Asset Reconstruction Company:** Sanjay Agarwal Executive Vice President, Asset Reconstruction Co India Ltd.
- c) **Credit repair company:** Aparna Ramachandra: Founder- Rectify Credit
- d) **Bankers:** Senior retired bankers involved in credit and counselling (Ms R Bhuvaneshwari: Former Chief Manager, Bank of Baroda and Suresh Prabhu: Former Vice President, HDFC Bank).
- e) **Dr KC Chakrabarty**, former Deputy Governor of the RBI also provided us his perspective on ensuring that lenders right to recovery money should not be compromised.
- f) Queries and help requests received from people in financial distress on Moneylife Foundation's credit helpline

### Online Survey

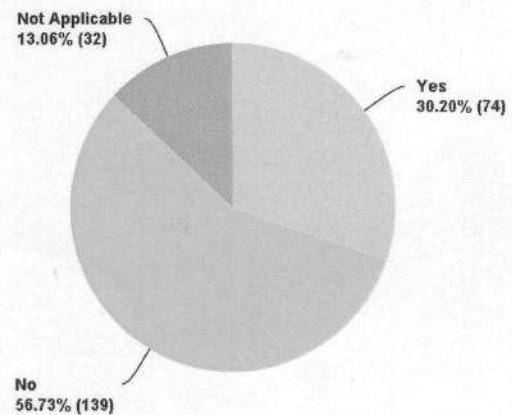
Moneylife Foundation conducted an online survey to find out the level of awareness about credit reports. The sample of 251 comprises educated, English speaking persons with access to the Internet and social media but had defaulted on a loan or credit card payment.

### Key Findings:

1. **'Settlement' deals:** Nearly half the people who defaulted on a loan repayment had gone in for a settlement (49.40%). As many as 139 respondents had repaid the full outstanding amount and interest; only 74 respondents said that they had not paid the entire outstanding and interest.
2. **Loan Rejections following settlement of dues:** Over a third of these respondents (37.05%) had tried for a second loan; and almost 46% received rejections.
3. **Loan rejections despite full repayment claimed:** 42% of those who say they repaid their full outstanding with interest also claim that their credit card/ loan applications were rejected.
4. **Wrongly reported as defaulters:** A significant 20% (50 persons) said they were wrongly reported as defaulters.
5. **Incorrect information:** As many as 17.50% of the respondents found incorrect personal information in their reports.
6. **Incomplete Information:** Even among defaulters, a significant 34% found incomplete data in their credit reports.
7. **High level of ignorance about credit reports:** A large number of respondents are unaware about credit reports (21%) and as many as 26.32% had never applied for a credit report even after a default.

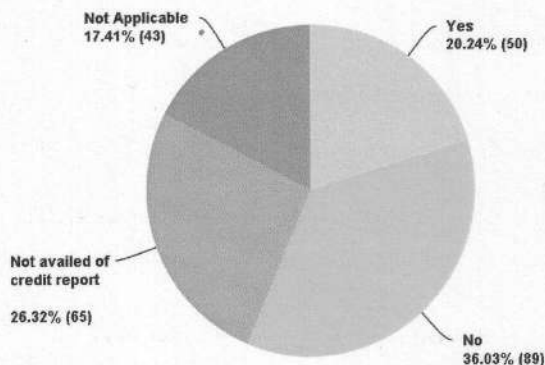
Of the 251 defaulters, 117 (46.61%) state that their application for a credit card or a loan was rejected. Getting a new loan sanctioned is not easy for defaulters who partly repaid their previous outstanding. Out of the 74 defaulters that settled their outstanding without paying the full interest or disputed amount, 39 (52.70%) applied for a loan and 18 (46%) of those people failed to get another loan. Some of those, who did get a loan, obtained it from sources like private sector banks (64%) and other finance companies (20%).

**Have you ever 'settled' a credit payment without paying the full interest or disputed amount? If yes, please mention the year too**

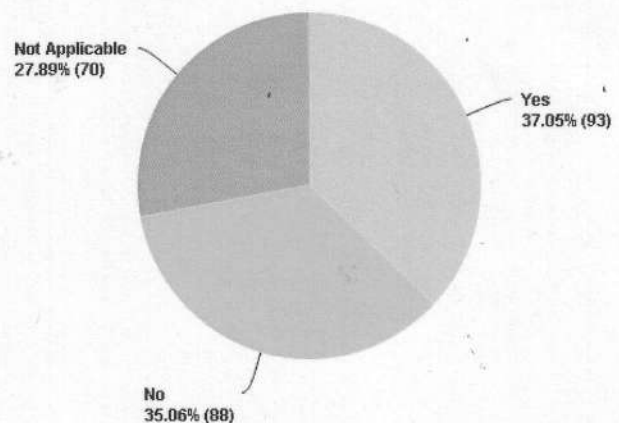


**Have you been wrongly reported a defaulter in your credit report and are struggling to resolve it?**

Answered: 247 Skipped: 4



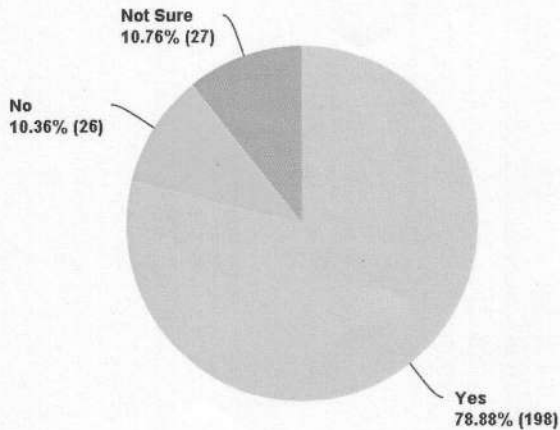
**If you have defaulted/settled a loan or credit card payment, have you applied for a loan again?**



Of the defaulters, 139 (56.73%) settled their dues on their credit card or loan by paying the full amount and 45 (32.37%) applied for a new loan or credit card, of which 42% were rejected. Some claim that their loan requests were rejected despite paying the full outstanding on being declared defaulters. The negative information will be on their reports forever according to the present guidelines. Also, since the credit reports do not mention the total amount settled, even those who have settled small amounts are treated on par with those who have settled large debts. This makes it unfair for those who may have inadvertently defaulted.

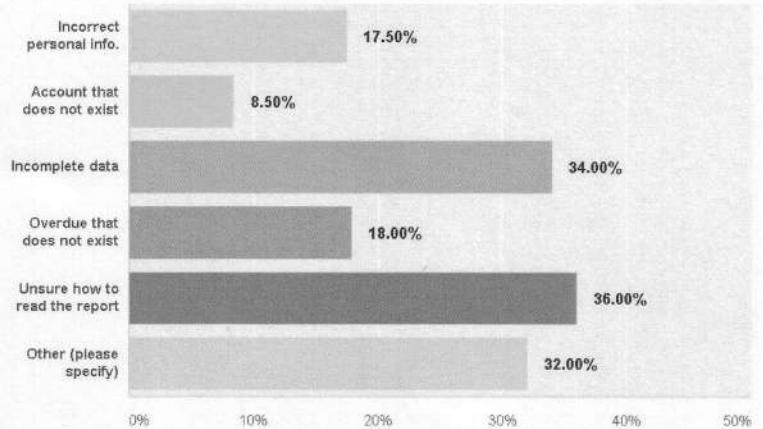
### Do you know what is a credit report or credit score?

Answered: 251 Skipped: 0



### If you have availed of your credit report, with which of the below statements would you agree with? (Multiple Choice)

Answered: 200 Skipped: 51



Surprisingly, out of the 251 defaulters, as many as 53 (21%) stated that they were unaware or not sure of credit reports or credit scores while 65 (26.32%) of these defaulters have never availed of their credit report. Out of the 186 that applied for their credit reports, 50 (26.88%) of them found that they were wrongly reported as a defaulter and are struggling to resolve it. Most of the respondents did not know how to read their credit report and thus, for them availing a credit report becomes useless, as they will not understand how to manage their credit or get out of a financial crisis using this report.

## 1. Banking Act and Statute of Limitations

The Statute of limitations in India prescribes different periods within which a person who has a grievance can seek legal redress. The limitation is three years for financial issues. However, the Banking Regulation Act, say senior bankers, allows banks to recover their loans up to 12 years after extending the loan. Dr KC Chakrabarty told us this, but we cannot find the relevant section in the Banking Regulation Act. Consequently, several foreign banks have sold their retail loan portfolio (bad loans) to asset recovery agencies, which begin to harass borrowers for repayments and send out legal notices for massive, outstanding (with compound interest) after 6 to 10 years of silence by the original lender. In many case, the original lender had simply not communicated with the borrower/credit cardholder, not informed them that they would be reported to the credit information bureau as a defaulter. This simple communication would be a big step forward in improving repayment of loans, which should be the primary objective of the lender.

Ms. Aparna Ramachandra, founder of Rectify Credit, told us, a bank must inform the borrower of a default and maintain records of such communication. Whenever a bank sells its loan portfolio to an asset reconstruction company (ARC), the borrower should be given a written notice regarding the same. The borrower has a right to know and cannot be caught unawares by calls from recovery agents. The recovery tactics are often dubious and include recovery agents masquerading as policemen and summoning borrowers to the police station, sending out legal notices with vastly exaggerated payment demands by compounding interest at a high rate.

She says that in most cases handled by them, the borrower is clueless about settlement formalities such as obtaining a 'no dues certificate' and an account statement from the lender. Ms Ramchandra was also of the view that it must become mandatory for a lender to give in writing its reasons for rejecting a loan. This is required under CIC regulations but is ignored by lenders.

Moneylife Foundation's Free Credit Helpline has come across cases where the recovery agents were found to be ex-policemen and have falsely terrorised borrowers by claiming to file police complaints and summoning them to the police station and even arrest. In one case, we have personally verified the number from which a borrower received a recovery call claiming it was a police summons. We discovered the number belonged to a recovery agent. ARCs are fully aware of the hardship faced by individuals but would like a status quo since it helps their business.

Mr Sanjay Agarwal (Asset Reconstruction Company India Ltd) told us, "When you apply the statute of limitations to recovery agents as well, then you give an option to the borrower to avoid making a payment altogether. This is because once the seven-year period passes, people will be legally allowed not to pay back. Recovery agents and banks have changed over the years and semi-mafia tactics are no longer used. People are not threatened or harassed. Every bank or financial institution should be able to see the risk involved for lending to a particular borrower. It is the money of the people that is being lent and by introducing this law, we will be putting burden on good borrowers."

We do not dispute the lender's right to recover dues and do not favour a system that allows borrowers to avoid repayment. However, the lender should also be obliged to show that he has made a proper effort to locate the borrower, inform her about outstanding dues before cases are transferred to recovery agents. A case that has not been pursued for years or settled cannot be re-opened after a hiatus of several years to the issue of legal notices and summons by ARC who acquire a default portfolio.

## 2. The 7-year rule:

India appears to have adopted the seven-year rule (for defaults to be listed in credit information reports) from countries like the United States<sup>1</sup>. However, there is a big difference in how it is applied. In the US, all delinquencies such as accounts not repaid as agreed, late payments, collection accounts, judgements whether satisfied or not, paid tax liens, discharged chapter 13 bankruptcy, charge offs, a debt that has gone into collections, repossessions, foreclosure and defaulted student loan—all remain on a person's credit report for seven years while positive data is maintained forever.

In Australia<sup>2</sup>, a payment default stays on your credit file for five years, even when you have paid the overdue amount and in U.K.<sup>3</sup> and Spain<sup>4</sup> the data remains for six years while EU has the Right to be Forgotten. In Norway, negative credit information remains on the report for four years after the debt has been paid off. However, Malaysia and Singapore have no specific limits for data retention. In most countries, people with low credit scores are not denied loans; they end up paying higher interest or have tight limits on their credit cards.

The Credit Information Companies (Regulation) Act, 2005 (CIRCA), Chapter VI D under *"Length of preservation of credit information says: every credit information company and credit institution shall retain credit information collected, maintained and disseminated by them for a minimum period of seven years."*

CICs and lenders have chosen to ignore the "seven years" and focussed on "minimum". Consequently, even those who have settled a loan or defaulted due to situations beyond their control are shut out of the formal credit system despite being in a significantly better financial situation. While public sector banks do not want to re-evaluate such borrowers because of fears of central vigilance etc. even private banks and better finance companies are unwilling to make the effort.

---

<sup>1</sup> Fair Credit Reporting Act, 15 U.S.C. § 1681 <http://www.consumer.ftc.gov/sites/default/files/articles/pdf/pdf-0111-fair-credit-reporting-act.pdf>

<sup>2</sup> <https://www.veda.com.au/yourcreditandidentity/check/credit-file/how-long-does-information-stay-my-credit-file>

<sup>3</sup> [https://equifaxuk.custhelp.com/app/answers/detail/a\\_id/238/~/how-long-will-information-stay-on-my-credit-report%3F](https://equifaxuk.custhelp.com/app/answers/detail/a_id/238/~/how-long-will-information-stay-on-my-credit-report%3F)

<sup>4</sup> Article 29.3 Organic Law 15/1999

As of now, CIC regulations provide for defaulters to be able to rebuild their credit scores but it does not happen in practice, because very few lenders are willing to help this effort. Even finance companies, which are trying to discover eligible borrowers with credit risk, are reluctant to look at defaulters even after seven years. Capital First, thanks to its proactive chairman Mr V Vaidyanathan, has put in place its own algorithm and assessment tools for assessing and lending to those who have a previous default and want to rebuild their financial history and financial lives. Their framework can be assessed and adopted by the RBI to encourage all lenders to be more proactive.

### **3. Some Comments from Industry Professionals**

**Ms R Bhuvaneshwari**, former Chief Manager, Bank of Baroda, who handled debt recovery told us that seven years is a long time for considering a default as a bar to fresh loans. She suggests that a methodology and framework be worked out where the reason for default is also taken into account in addition to the credit score to decide on a fresh loan.

**Ms Aparna Ramachandra**, founder of [rectifycredit.com](http://rectifycredit.com) also says that borrowers need to be bifurcated into wilful defaulters and those who failed to repay due to genuine reasons like loss of a job, illness, natural calamities etc. Borrowers who want to repay loans are always in contact with the bank explaining their situation and asking time to pay back the outstanding. They need to be given an option. For them to be put in the same category as wilful defaulters is unfair. Every communication made between the borrower and the bank should be recorded and based on that a distinction should be made.

Ms Ramachandra was of the opinion that while wilful defaulters could remain on credit reports for a longer time, defaulters who have paid back their loan amount should be removed from the list at the end of seven years. According to her, the quantum of default should also be linked to the borrower's income or ability to pay in determining credit scores. She suggested that a period of one or two years be put as a bar for applying for fresh loans after payment of earlier loan.

**Mr Parijat Garg**, Vice President of CRIF Highmark, was of the opinion that data retention should be looked at from two angles – the data that is retained with the credit bureau, and data that is used for a credit report and credit score, which affects a person's ability to borrow again. According to him, the rule that data should be retained for at least seven years is relevant from the credit bureau's perspective, especially when there is a customer dispute or judicial proceeding or even for a requirement of historical reference. However, there is no guideline on the data that is used for compiling a person's score or report. Many western countries limit this period to five years. He agreed that a default that occurred over seven years ago should not affect a person forever.

Mr Garg said, "In India, a credit bureau typically has three types of credit information i.e. Positive Data, Negative Data and Inquiry Data. On the basis of our experience in the Indian environment, various studies and economic research over numerous geographies and oral feedback received from some of member institutions, we recommend that credit bureaus use different norms for preserving these data-elements in their system, and for reporting and using in various types of credit reports (viz. Credit Information Report (CIR), Credit Score, Portfolio Reviews (PR) and other such Credit Risk Management Reports). So, there should not be any restriction on the maximum period, for which a Credit Bureau can preserve historical credit information data, as this data can be used to provide very valuable information on industry insights, various MIS and trend analysis. This decision of maximum period for data retention could be decided by the Credit Bureau."

"However, there should be a limitation prescribing how much history should be shown/ used in various types of credit reports. Keeping in view the predictive power of these historical data-elements and to provide an option to give a fresh start to the borrowers, we propose that the Positive Credit Information - Regular (well paid) closed account information -- be used up to last five years. Negative Credit Information (non-performing assets and indeterminate accounts) - be kept for last seven years and the Inquiry Information (Data related to the Credit Inquiry of an individual) be used for maximum two years. The wilful defaulter/ suit filed information might follow the same trend or prevalent legal opinion or other relevant bank's guideline," Mr Garg says.

#### **4. Risked-based Pricing**

We at MoneyLife Foundation believe that India must introduce incentives for maintaining good credit and financial discipline. If good borrowers get loans at lower rates while those with poor scores and payment delays have to pay more, this will immediately lead to better awareness about the credit information system.

Today there is no carrot for good behaviour while a defaulter gets the stick forever. An incentive system will ensure that more people will feel inclined to pay off the amount due on time, lower the incidence of bad loans and will be in the interest of lenders as well.

Mr Garg, of CRIF Highmark quoted above, was of the firm opinion that India should shift from product-based pricing to risk-based pricing to make people understand the importance of credit scores along with its benefits.

Ms R Bhuvaneshwari also believes that risk based financing should be introduced in India. She believes that while the bad borrower is penalised, the good borrower is not given any concession by the bank, which is unfair. According to her, this will bring about a sense of responsibility among the borrowers.

## 5. Financial Awareness

Credit plays a very crucial role when it comes to a person's life and yet most Indian borrowers are unaware that their credit history is being tracked. They do not even know the concept of credit scores. For many people, their first intimation about the existence of credit information companies is a repeated rejection of their loan applications. Even then, lenders do not tell them about credit reports. At Moneylife Foundation's Free Credit Helpline, when bewildered individuals write to seek advice on why their loans are being rejected, we ask them to apply for a credit information report. These are educated people and their awareness process starts at this stage. This is often a big blow even to those who have been wrongly reported to the credit bureau, since the discovery happens when they are seeking a loan - usually a big home loan. Another worry is the lack of understanding about the gravity of having a bad score or default. Since their options are limited, we suspect that these people seek informal loans at high interest or get into the clutches of moneylenders who charge extortionate rates.

Awareness about the existence of multiple CICs is also abysmal. When we asked people which of the four credit bureaus they have heard about, as many as 250 people out of 1,247 did not know any one of them. Out of the remaining, 79.52% had heard of CIBIL while 17.91% had heard of Experian and 16.87% people knew Equifax while a mere 6.35% of the people were aware of CRIF Highmark.

The last bit of data is important, since CRIF Highmark is not only a the largest bureau in terms of the number of credit records it holds, but its focus on small borrowers, microfinance customers, where the level of literacy is far below than that of our sample. Many of them are newly included in the formal financial system due to PM Modi's efforts behind Jan Dhan Yojana. An awareness campaign is crucial for this segment.

Fortunately, credit information companies as well as bankers share our view on poor awareness. Ms Harshala Chandorkar, Chief Operating Officer of CIBIL, candidly admits that even after 10 years, many people are unaware of the credit reporting system and this needs to change. While credit bureaus have been doing their part in spreading awareness, it requires efforts from all the stakeholders including credit institutions.

Mr Garg of CRIF Highmark also felt that there should be a different approach to tell borrowers their responsibility to make timely repayment and the consequences of failure. Instead of having them as terms and conditions to the loan, they may have a better chance of being noticed if communicated as part of the customer statement sent out by lenders every month. Among the four CICs, Experian India has the biggest programme for consumer awareness, which includes research-based efforts to highlight various points or crossroads in a person's life when they are most likely to be tardy in their repayment. Experian India conducts education programmes at various organisations and colleges as a part of their CSR and financial awareness initiative.

Experian India confirms that until 2014, awareness about credit reports and credit bureaus was poor. It says that consumers are now getting curious and becoming aware about their credit history and credit score. Experian India also confirms that most people find out about their credit report when their loan /credit application is rejected or when they are listed as defaulters. It concurs with our view that a national campaign on television, radios, newspapers and hoardings would also help spread awareness to a wider audience. Inclusion of credit education as a part of business schools in India would be an added advantage, especially since many students avail of education loans for professional studies.

## 6. Rectification of wrong data

Another area that needs attention is the process of rectifying incorrect data submitted by lenders or the mix up of data, due to algorithms used by CICs for deduplication and data cleaning. Although CIC's insist that these cases are insignificant, a survey conducted by us finds that as many as 674 out of 923 found mistakes in their credit report. In a recent case, the National Consumer Disputes Redressal Commission (NCDRC) has penalised Standard Chartered Bank for providing wrong information to the credit bureau.

*On 25<sup>th</sup> February 2016, the National Consumer Disputes Redressal Commission (NCDRC) upheld a decision of Gujarat State Consumer Disputes Redressal Commission to award Rs2 lakh to a person for negligence from Standard Chartered Bank while submitting data to CIBIL. "It is not disputed that complainant made full payment of transactions carried out through credit card and opposite party (OP-StanChart) issued full and final settlement account on 25 October 2002. It is also not disputed that OP by mistake/ negligence has shown name of complainant in Credit Information Bureau (India) Ltd (CIBIL) defaults on account of which, complainant's application for education loan of Rs4 lakh from State Bank of India was rejected," said Justice KS Chaudhari, presiding member, in the order. In this case, that dates back to 2002, Standard Chartered Bank, despite issuing no dues certificate and closing credit card of Vadodara-Based Hanumesh Bandurao Kulkarni, has reported him as defaulter leading to rejection of his education loan from State Bank of India in 2013, after 11 years from closing his credit card and clearing all outstanding dues. (Ref: NCDRC Revision Petition No.2601 of 2015)*

MoneyLife Foundation has also come across such cases in its Free Credit Helpline. One Umesh Dhawan found his personal loan for Rs5 lakh was rejected because his identity credentials were wrongly mixed with that of one Umesh Uhawan, leading to the loan rejection. Mr Uhawan has defaulted on a loan, and Mr Dhawan was paying the price.

In other case, the gender of one Mahalakshmi DM was changed in her credit report. Yet another case of S Srinivasa Rajan is also equally odd. He had been using an overdraft (OD) facility from a nationalised bank for 15 years. His credit report showed two accounts numbers, one, he says, is pre-CBS and another for his OD facility, against his fixed deposits. His pre-CBS OD facility is labelled as a loan in his credit report, which he is finding difficult to rectify with the bank as well as the credit bureau. A simple process has to be put in place for rectifying wrong credit information with some pressure on the lender to ensure that customers are made to run around for something that is no fault of theirs.

Importantly, a committee set up by the RBI under the chairmanship of Aditya Puri of HDFC Bank has recommended that complaints against CICs should also be brought under the Banking Ombudsman Scheme, 2006. This needs to be expeditiously implemented. The relevant paragraphs of the recommendation read (<https://rbi.org.in/scripts/PublicationReportDetails.aspx?UrlPage=&ID=763>) :

*"8.35 Reserve Bank may consider evolving a suitable mechanism for providing a fast and cheap redress of customer grievances vis-a-vis CICs, including by even expanding the scope of the Banking Ombudsman Scheme. (Paragraph No. 6.6)*

#### **Banking Ombudsman Scheme**

*6.6 It was also suggested that the CICs could be brought under the Banking Ombudsman Scheme. In the connection, it was felt that grievances against CICs are usually on account of delayed responses, wrong matching of records, non-updation of records, etc., where part of the blame may also lie with the bank/s concerned. In such cases, the loss to the person concerned may not be easily quantifiable. On the other hand, the Banking Ombudsman generally deals only with cases against banks, and that too only such cases, which involve identifiable and quantifiable losses arising from deficiencies in service, and not imputed/notional losses. It was thus not considered necessary to bring the business of credit information under the purview of the Banking Ombudsman Scheme. The Reserve Bank of India, however, may consider evolving a suitable mechanism for providing a fast and cheap redressal of customer grievances vis-a-vis CICs, including by even expanding the scope of the Banking Ombudsman Scheme."*

## **7. Cases deserving a one-time action to clean up their credit report:**

Presented below are just a few of the cases that Moneylife Foundation has received over the past few months, which only illustrate our findings and suggestions. Many of these defaulters were probably carried away in the lending spree and hard sell by banks in the run up to the global financial crisis. They continue to suffer, long after the defaults and settlements should have been out of their credit records. Cases of settlements, especially in the 2007-08 period surely need a sympathetic view, especially when the government and the RBI were extremely generous with large corporate borrowers in the same period.

### **Individuals who settled outstanding loan, but denied new loan even after seven years**

1. Ajay (name changed) took a loan in 2007 and paid 8 EMIs. However, due to personal reasons he could not continue to pay the EMIs on time. He immediately contacted the bank, which asked him to pay Rs1.5 lakhs and settle the loan. This has badly affected his credit record. Nine years later, he is unable to get a loan.
2. Shivkumar (name changed) was unable to pay his car loan seven years ago. His loan applications are still getting rejected from banks. He is pleading for a chance to rebuild his credit since he is better placed today.

### **Individual unable to get a loan sanctioned even after seven years, because a close relative defaulted on a loan**

Rajan's (name changed) father took a personal loan from various banks in 2003 to 2004. He paid some EMIs but could not pay the rest due to loss in the business. Rajan has no contact with the father. Banks however, are calling and asking him to repay the dues of his father. This is long after the limitation period has expired on his father's loan. The banks say he is responsible for his father's loan although he has nothing to do with it. This is another case of poor awareness. He is not even aware whether his name was mentioned as a second applicant.

### **Individuals unable to get a loan due to disputes over charges with the lender**

1. Sagar (name changed) had previously settled a credit card dispute. He claimed he had been overcharged interest. The card company has reported him as a defaulter. His loan applications are now rejected. The fact that he has paid back other consumer durable loans on time is ignored and one genuine dispute is held against him. There are innumerable defaulters with similar stories. The RBI must have a mechanism to arbitrate such cases and ensure that hapless consumers are not punished.

2. Manav (name changed), a civil engineer was offered a personal loan of Rs7.5 lakh by Barclays in 2001. Within 3 days, a cheque was delivered which he deposited in his account. After the 3<sup>rd</sup> day, Barclays sent him a letter that the interest rate is now 20%, as he is a high-risk customer. He told Barclays that he doesn't want the money and asked them to take the cheque back. Barclays took 7 days to communicate with him and then said that since he had used the money for 10 days, he must pay a penalty of Rs1.5 lakh. Till date, Manav finds it difficult to get a loan because of this dispute. Such cases deserve a one-time action by the RBI to help clean up their credit record.

#### **Unable to get a loan, despite a good credit score as he had settled his credit card**

Pratik (name changed) has a credit score of 819. However, because he had "settled" his loan amount due on his Standard Chartered Credit Card, he could not get a housing loan. His outstanding credit score proves that he is diligent and one settlement should not term him as a defaulter forever.

India's credit information system must reflect the Indian reality of poor literacy, even worse financial literacy and the fact that our slow and expensive legal system does not provide remedies to deserving cases. As Ms Ramachandra of RectifyCredit wrote recently, "Our laws and the financial ecosystem do not have mechanisms using which an individual can start afresh. For instance, we don't have a social security system through which a person can sustain herself" in times of financial difficulty and when faced by genuine business losses... Those declaring bankruptcy face societal stigma. In India, insolvency is considered extremely demeaning. People hesitate to declare bankruptcy because of the fear of being ostracized. Currently, credit bureaus do not report such persons any differently, i.e., a credit report will not mention that they have declared themselves as bankrupt".

Moreover, she says, the cost of litigation is high and it is time-consuming. "So, even if an individual wishes to put her past behind and move forward, she cannot because of such delays." Interestingly, she points out that lenders are willing to work around the inadequate, expensive and outdated legal system by adopting traditional out of court settlement methods such as waiving the interest on the loan or restructuring it or settling with partial payment. However, credit bureaus do not recognise this and deprive people of credit for all time.

All this flies in the face of everything that Prime Minister Narendra Modi is trying to achieve - encourage entrepreneurs, skill development and the MUDRA loans. Isn't it time that RBI ensures that the policy is more humane and tailored to the Indian situation? This can be done by working with all the stakeholders, including the hapless borrowers to work at a fair and equitable system.

We urge the RBI to consider our suggestions positively and work toward a fair and equitable system and greater financial education. The Depositors Education & Awareness Fund (DEAF) may also be persuaded to take up a nation-wide financial literacy campaign that reaches different segments of borrowers in multiple languages.

List of persons spoken to:

1. **Sanjay Agarwal:** Executive Vice President, Asset Reconstruction Co India Ltd.
2. **Aparna Ramachandra:** Founder Rectify Credit
3. **R Bhuvaneshwari:** Former Chief Manager, Bank of Baroda
4. **Harshala Chandorkar:** Chief Operating Officer, CIBIL
5. **Representatives of Experian India**
6. **Parijat Garg:** Vice President, CRIF Highmark
7. **Suresh Prabhu:** Former Vice President, HDFC Bank
8. **Dr K C Chakrabarty,** former Deputy Governor, Reserve Bank of India

*(The following persons have contributed to this report other than those quoted above: Debashis Basu, Sucheta Dalal, Yogesh Sapkale, Jason Monteiro, Abhay Datar, Pankaj Raheja, Ajit Shenoy and Ram Bhimani. Aakanksha Shanghavi who interned with MoneyLife did most of the interviews and some of the background research for this report)*

## About Moneylife Foundation:

Moneylife Foundation was set up in 2010 and has over 39,000 members and is focused on consumer awareness, advocacy, spreading financial literacy and protection of savers & investors throughout India. We run three helplines (Tax helpline, a Legal Resource Centre, a Credit Helpline) and have conducted over 275 workshops and seminars in the six years of our existence. Our website is <http://foundation.moneylife.in/>

Since January 2016 we have been conducting Daily Guidance Sessions or awareness sessions and talks for two hours evening from Monday to Friday on issues such as Right to Information, Property, Redevelopment and Cooperative Housing Societies, Consumer issues, Open Spaces and Solid Waste Management, Consumer issues and grievance redressal and credit counselling.

We are proud of being the youngest organisation to receive the M R Pai Memorial Award for 2014 – our fifth year.

## Fact File:

**Name:** Moneylife Foundation (Registered under Bombay Public Trust Act. **Registration No:** E26571)  
**Registration:** Registered under Bombay Public Trust Act with Registration No: E- 26571 (Mumbai) issued on 12th January 2010  
**Events:** Link to our Events: [http://foundation.moneylife.in/?page\\_id=18](http://foundation.moneylife.in/?page_id=18)  
**80G registration:** 80(G) Reg No: DIT(E)/MC/80G/685/2010-11 dated 7.2.11 effective 8.9.2010  
**12A registration:** Reg No: 43377 under 12AA(1)(b)(i) of the income Tax Act, 1961  
**FCRA registration:** FCRA Registration No: 083781387 | N0.II/21022/68(0210)/2013-FCRA-II Ministry of Home Affairs, Govt. of India  
**PAN:** AACTM4377J  
**Address:** 304 Hind Service Industries Premises, Off Veer Savarkar Marg, Shivaji Park Seaface, Dadar 400028. Tel: 49205000

**Member:** OECD's International Network on Financial Education. Accredited with Advocates for International Development UK.

**Awardee:** 10th M.R. Pai Memorial Award in September 2014 in our 5th year

**Trustees:** Mr TS Krishnamurthy, former Chief Election Commissioner of India, Dr KC Chakrabarty, former Deputy Governor of the Reserve Bank of India, Mr Walter Vieira, a well-known management consultant, Dr Anupam Saraph, respected innovator and polymath, Mr Debashis Basu, author, award-winning journalist and researcher, Ms Sucheta Dalal, Padma Shri award winning journalist and Adv Jamshed Mistry (permanent special invitee) advocate at the Bombay High Court.