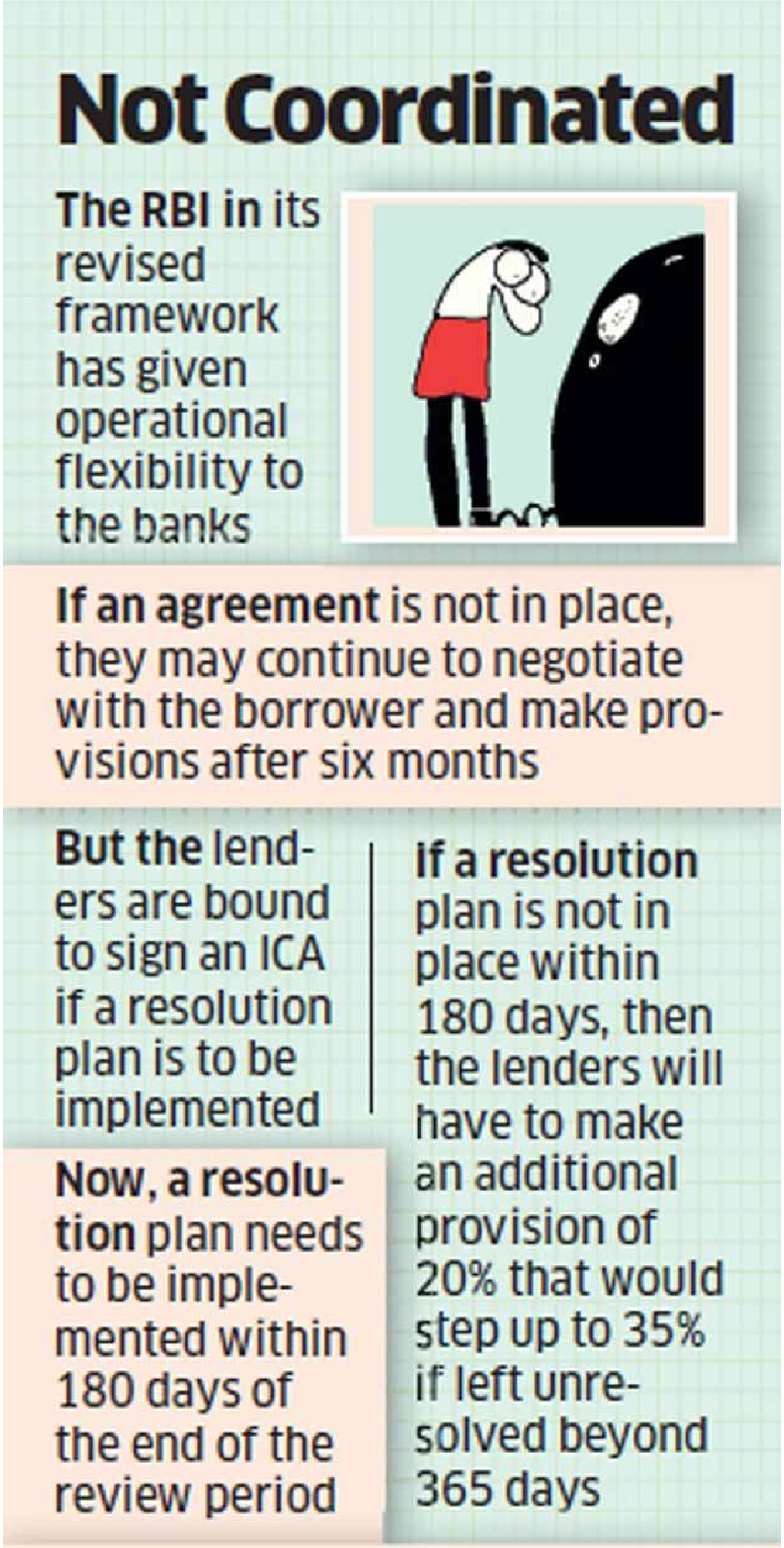
RBI’s creditor pact rule chokes lenders to sticky assets

BY SHILPY SINHA, ET BUREAU | UPDATED: JUL 15, 2019, 09.06 AM IST

Mumbai: The Reserve Bank of India’s inter-creditor agreement (ICA) is turning into a nightmare for lenders who have different types of security as collateral and different terms of lending.

While state-run banks are putting up with the system because of the nature of their shareholding, private lenders and non-banking financial companies (NBFCs) are being pressed in many cases where bankruptcy could be accelerated, instead of resolution.

Lending is dominated by intercreditor issues pertaining to charge and security particulars. Resolution skillsets and approach to resolution, too, vary across public and private sectors and foreign banks.



The central bank's June 7 circular requires banks to put in place an ICA within a month of the review period. To implement a resolution plan in 180 days, financial institutions enter into an ICA, authorising the lead bank to implement it.

The lead bank then prepares the plan that includes empanelling turnaround specialists and industry experts for operational turnaround of the asset. In case the chief lender is unable to complete the process on time, the asset moves to the national company law tribunal (NCLT).

“Timely resolution is the key to value maximisation in NPAs,” Hari Har Mishra, director at UV Asset Reconstruction Company, said. “The creditors need to have an integrated and coordinated approach to finalise a resolution strategy that optimises economic value from the underlying business and assets. It can-not be one size fits all.”

RBI, in its revised framework, has given operational flexibility to the banks. If an agreement is not in place, they may continue to negotiate with the borrower and make provisions after six months. But the lenders are bound to sign an ICA if a resolution plan is to be implemented. ICA will be binding on all creditors if approved by 75% of lenders in terms of outstanding value and 60% in the number of creditors. If a resolution plan is not in place within 180 days, then the lenders will have to make an additional provision of 20% that would step up to 35% if left unresolved beyond 365 days.