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RECOVERY UNDER SARFAESI ACT

Relevant for: Indian Economy | Topic: Issues relating to Growth & Development - Banking, NPAs and RBI

Ministry of Finance

Recovery under SARFAESI Act

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The Central Government administers the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) which allows banks and financial institutions to recover their dues exceeding one lakh rupees by proceeding against secured assets of the borrower/guarantor without the intervention of the court/tribunals. The Government is not involved in commercial decisions or recovery proceedings of banks or financial institutions. As such, to address any concerns about property valuation, there are adequate provisions under Rule 8 (5) of the Security Interest (Enforcement) Rules, 2002 under the SARFAESI Act, that cast a duty on the Authorised Officer of the secured creditor (bank or financial institution) to obtain the valuation of the property from an approved valuer (as defined in the Rules) and, in consultation with the secured creditor, fix the reserve price of the property before putting the property on sale. Any aggrieved debtor/borrower has recourse to filing appeal in the Debts Recovery Tribunal (DRT) against action under the SARFAESI Act and further recourse to appeal against the DRT's decision is available in the Debts Recovery Appellate Tribunal.

The SARFAESI Act does not differentiate between debtors/borrowers on any basis, including the financial status or debt value.

Substantive amendments were made in the SARFAESI Act on 14.8.2016 through the Enforcement of Security Interest and Recovery of Debts Laws and Miscellaneous Provisions (Amendment) Act, 2016, in consultation with stakeholders. At present there is no proposal to amend the SARFAESI Act or the Rules framed thereunder.

This was stated by Shri Anurag Thakur, Minister of State for Finance & Corporate Affairs in a written reply to a question in Lok Sabha today.

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DSM/RM/PD

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