

SARFAESI / DRT Changes

Earlier	Now
	<p>In the principal Act, in section 2, in sub-section (1),—</p> <p>(i) after clause (b), the following clause shall be inserted, namely:— '(ba) "asset reconstruction company" means a company registered with Reserve Bank under section 3 for the purposes of carrying on the business of asset reconstruction or securitisation, or both;'</p>
<p>2. (ha) "debt" shall have the meaning assigned to it in clause (g) of section 2 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993;</p>	<p>In the principal Act, in section 2, in sub-section (1), for clause (ha), the following clause shall be substituted, namely:— '(ha) "debt" shall have the meaning assigned to it in clause (g) of section 2 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and includes— (i) unpaid portion of the purchase price of any tangible asset given on hire or financial lease or conditional sale or under any other contract; (ii) any right, title or interest on any intangible asset or licence or assignment of such intangible asset, which secures the obligation to pay any unpaid portion of the purchase price of such intangible asset or an obligation incurred or credit otherwise extended to enable any borrower to acquire the intangible asset or obtain licence of such asset;'</p>
	<p>In the principal Act, in section 5,— (i) after sub-section (1), the following sub-section shall be inserted, namely:— "(1A) Any document executed by any bank or financial institution under sub-section (1) in favour of the asset reconstruction company acquiring financial assets for the purposes of asset reconstruction or securitisation shall be exempted from stamp duty in accordance with the provisions of section 8F of the Indian Stamp Act, 1899: Provided that the provisions of this sub-section shall not apply where the acquisition of the financial assets by the asset reconstruction company is for the purposes other than asset reconstruction or securitisation." (ii) after sub-section (2), the following sub-section shall be inserted, namely:— "(2A) If the bank or financial institution is holding any right, title or interest upon any tangible asset or intangible asset to secure payment of any unpaid portion of the purchase price of such asset or an obligation incurred or credit otherwise provided to enable the borrower to acquire the tangible asset or assignment or licence of intangible asset, such right, title or interest shall vest in the asset reconstruction company on acquisition of such assets under sub-section (1).";</p>
<p>9. Without prejudice to the provisions contained in any other law for the time being in force, a securitisation company or reconstruction company may, for the purposes of</p>	<p>In the principal Act, for section 9, the following section shall be substituted, namely:— "9.(1) Without prejudice to the provisions contained in any other law for the time being in force, an asset reconstruction company may, for the purposes of asset reconstruction, provide for any one or more of the following measures, namely:—</p>

<p>asset reconstruction, having regard to the guidelines framed by the Reserve Bank in this behalf, provide for any one or more of the following measures, namely:--</p> <p>(a) the proper management of the business of the borrower, by change in, or take over of, the management of the business of the borrower;</p> <p>(b) the sale or lease of a part or whole of the business of the borrower;</p> <p>(c) rescheduling of payment of debts payable by the borrower;</p> <p>(d) enforcement of security interest in accordance with the provisions of this Act;</p> <p>(e) settlement of dues payable by the borrower;</p> <p>(f) taking possession of secured assets in accordance with the provisions of this Act.</p>	<p>(a) the proper management of the business of the borrower, by change in, or take over of, the management of the business of the borrower;</p> <p>(b) the sale or lease of a part or whole of the business of the borrower;</p> <p>(c) rescheduling of payment of debts payable by the borrower;</p> <p>(d) enforcement of security interest in accordance with the provisions of this Act;</p> <p>(e) settlement of dues payable by the borrower;</p> <p>(f) taking possession of secured assets in accordance with the provisions of this Act;</p> <p>(g) conversion of any portion of debt into shares of a borrower company: Provided that conversion of any part of debt into shares of a borrower company shall be deemed always to have been valid, as if the provisions of this clause were in force at all material times.</p> <p>(2) The Reserve Bank shall, for the purposes of sub-section (1), determine the policy and issue necessary directions including the direction for regulation of management of the business of the borrower and fees to be charged.</p> <p>(3) The asset reconstruction company shall take measures under sub-section (1) in accordance with policies and directions of the Reserve Bank determined under sub-section (2)."</p>
	<p>In the principal Act, after section 12A, the following section shall be inserted, namely:—</p> <p>"12B. (1) The Reserve Bank may, for the purposes of this Act, carry out or caused to be carried out audit and inspection of an asset reconstruction company from time to time.</p> <p>(2) It shall be the duty of an asset reconstruction company and its officers to provide assistance and cooperation to the Reserve Bank to carry out audit or inspection under sub-section (1).</p> <p>(3) Where on audit or inspection or otherwise, the Reserve Bank is satisfied that business of an asset reconstruction company is being conducted in a manner detrimental to public interest or to the interests of investors in security receipts issued by such asset reconstruction company, the Reserve Bank may, for securing proper management of an asset reconstruction company, by an order—</p>

	<p>(a) remove the Chairman or any director or appoint additional directors on the board of directors of the asset reconstruction company; or</p> <p>(b) appoint any of its officers as an observer to observe the working of the board of directors of such asset reconstruction company:</p> <p>Provided that no order for removal of Chairman or director under clause (a) shall be made except after giving him an opportunity of being heard.</p> <p>(4) It shall be the duty of every director or other officer or employee of the asset reconstruction company to produce before the person, conducting an audit or inspection under sub-section (1), all such books, accounts and other documents in his custody or control and to provide him such statements and information relating to the affairs of the asset reconstruction company as may be required by such person within the stipulated time specified by him."</p>
	<p>In the principal Act, after section 20, the following sections shall be inserted, namely:—</p> <p>"20A. (1) The Central Government may, for the purpose of providing a Central database, in consultation with State Governments or other authorities operating registration system for recording rights over any property or creation, modification or satisfaction of any security interest on such property, integrate the registration records of such registration systems with the records of Central Registry established under section 20, in such manner as may be prescribed.</p> <p>Explanation.—For the purpose of this sub-section, the registration records includes records of registration under the Companies Act, 2013, the Registration Act, 1908, the Merchant Shipping Act, 1958, the Motor Vehicles Act, 1988, the Patents Act, 1970, the Designs Act, 2000 or other such records under any other law for the time being in force.</p> <p>(2) The Central Government shall after integration of records of various registration systems referred to in sub-section (1) with the Central Registry, by notification, declare the date of integration of registration systems and the date from which such integrated records shall be available; and with effect from such date, security interests over properties which are registered under any registration system referred to in sub-section (1) shall be deemed to be registered with the Central Registry for the purposes of this Act."</p> <p>"20B. The Central Government may, by notification, delegate its powers and functions under this Chapter, in relation to establishment, operations and regulation of the Central Registry to the Reserve Bank, subject to such terms and conditions as may be prescribed."</p>
<p>31. (e) any conditional sale, hire-purchase or lease or any other contract in which no security interest has been created;</p>	<p style="text-align: center;">-</p>
<p>32. No suit, prosecution or other legal proceedings shall lie against <u>any</u> secured creditor or any of</p>	<p>In the principal Act, in section 32, for the words –</p> <p>No suit, prosecution or other legal proceedings shall lie against <i>"the Reserve Bank or the Central Registry or any secured creditor or any of its officers"</i></p>

<p><u>his officers or manager exercising any of the rights of the secured creditor or borrower</u> for anything done or omitted to be done in good faith under this Act.</p>	<p>for anything done or omitted to be done in good faith under this Act.</p>
<p>38. (2) (a) the form and manner in which an application may be filed under sub-section (10) of section 13.</p>	<p>In the principal Act, in section 38, in sub-section (2),—</p> <p>(i) clause (a) shall be numbered as clause (aa) and before clause (aa) as so renumbered, the following clause shall be inserted, namely:—</p> <p>"(a) other business or commercial rights of similar nature under clause (t) of section 2;"</p> <p>(ii) after clause (bc), the following clauses shall be inserted, namely:—</p> <p>(bca) the manner of integration of records of various registration systems with the records of Central Registry under sub-section (1) of section 20A;</p> <p>(bcb) the terms and conditions of delegation of powers by the Central Government to the Reserve Bank under section 20B.";</p> <p>(iii) after clause (d), the following clauses shall be inserted, namely:—</p> <p>(da) the form for registration of different types of security interests and fee thereof under sub-section (3) of section 23;"</p> <p>(iv) after clause (f), the following clauses shall be inserted, namely:—</p> <p>(fa) the form and the manner for filing particulars of transactions under sub-section (2) of section 26B;</p> <p>(fb) the form and manner of filing attachment orders with the Central Registry and the date under sub-section (4) of section 26B;</p> <p>(fc) the form and manner of filing particulars of attachment order with the Central Registry and the fee under sub-section (5) of section 26B."</p>