

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF FINANCIAL SERVICES

LOK SABHA
UNSTARRED QUESTION NO- 2329

ANSWERED ON MONDAY, AUGUST 4, 2025/ SRAVANA 13, 1947 (SAKA)

MISUSE OF SARFAESI ACT

2329. SHRI MANISH TEWARI:
ADV K. FRANCIS GEORGE:

Will the Minister of FINANCE be pleased to state:-

- (a) whether the Government is aware of instances of misuse of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 by banks and NBFCs, particularly against MSMEs, including wrongful classification of NPAs and violations of borrower rights;
- (b) whether complaints have been received regarding NBFCs bypassing RBI and SARFAESI guidelines while sanctioning property loans and resorting to coercive recovery measures and if so, the details thereof;
- (c) whether the Government proposes to mandate District Magistrates to verify compliance with RBI norms and examine loan sanction documents before granting possession under Section 14 of the Act;
- (d) whether the Government intends to strengthen safeguards to ensure that borrowers are offered a One-Time Settlement (OTS) option before initiation of recovery proceedings; and
- (e) if so, the details of the measures being taken to ensure fair enforcement and regulatory oversight under the SARFAESI Act?

ANSWER

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE

(SHRI PANKAJ CHAUDHARY)

(a): Central Government administers the Securitisation and Reconstruction of Financial Assets and Enforcement of Security interest Act, 2002, (SARFAESI Act), which provides an enabling legal framework for banks and financial institutions to recover their dues above a specified threshold by enforcing their security interests without the intervention of the court/tribunals. In case of banks, the specified threshold is Rs. 1 lakh and in case of NBFCs having assets size of Rs. 100 crore and above, the threshold stands at Rs. 20 lakh. In terms of Reserve Bank of India (RBI) guidelines, all banks and NBFCs are required to have in place a Board-approved loan recovery policy and they are guided by the same for initiating any loan recovery action. The Government is not involved in such decisions. Further, to safeguard borrowers' rights and to address their concerns, Sections 17 and 18 of the SARFAESI Act

provide that a person, including an MSME, may file a securitisation application (SA) in a Debt Recovery Tribunal (DRT) against an action of a secured creditor under the SARFAESI Act. Also, any decision of DRT can be challenged before the Debts Recovery Appellate Tribunal (DRAT).

Furthermore, banks and NBFCs for classifying a loan account as Non Performing Assets (NPA), are required to follow the RBI's Prudential norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances.

Also, compliance to provisions of the SARFAESI Act by lenders is examined on sample basis by RBI during the supervisory assessment, and any non-compliance observed are taken up with the concerned Financial Institution/Bank/NBFC for rectification apart from initiating supervisory/enforcement action.

(b): As per RBI's Master Directions on Fair Practices Code dated 1.7.2015, NBFCs are advised to furnish a copy of the loan agreement as understood by the borrower along with a copy each of all enclosures quoted in the loan agreement to all the borrowers at the time of sanction / disbursement of loans. Further, RBI has advised all regulated entities, including NBFCs, to strictly ensure that they or their agents do not resort to intimidation or harassment of any kind, either verbal or physical, against any person in their debt collection efforts, including acts intended to humiliate publicly or intrude upon the privacy of the debtors' family members, referees and friends, sending inappropriate messages either on mobile or through social media, making threatening and/ or anonymous calls, persistently calling the borrower and/ or calling the borrower before 8:00 a.m. and after 7:00 p.m. for recovery of overdue loans and making false and misleading representations.

(c): In terms of the Section 14 of the SARFAESI Act, banks and financial institutions are required to make application to the Chief Metropolitan Magistrate (CMM) or the District Magistrate (DM) for taking possession of the secured assets. While making such application, Authorised Officer of the secured creditor furnish a duly affirmed affidavit to CMM/DM. Such affidavit includes declaration, *inter alia*, regarding loan amount, creation of security interest, default in repayment, compliance with the provisions of the SARFAESI Act, objection/representation received from the borrower and reasons for non-acceptance of the same.

(d): In terms of RBI's guidelines dated 8.6.2023, regulated entities (REs) are required to have in place a Board-approved policy for undertaking any compromise settlement. The guidelines also provide that the objective of compromise settlements is to maximise the possible recovery from a distressed borrower at minimum expense, in the best interest of the RE. REs take decision regarding compromise settlements based on the said policy.

(e): As mentioned at part (a) to (c), adequate safeguards have been provided under the provisions of the SARFAESI Act and rules made thereunder, to ensure fair enforcement and regulatory oversight. In addition, Section 19 of the SARFAESI Act provides for rights of a borrower to receive compensation and cost, in case a court or tribunal holds that possession of the secured assets is not in accordance with the provisions of the Act.
