

STUDENTS' ECONOMIC FORUM

*To kindle interest in economic affairs...
To empower the student community...*



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Theme 250

CERSAI (Central Electronic Registry of
Securitization Asset Reconstruction and
Security Interest of India)

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Theme No. 250 :CERSAI (Central Electronic Registry of Securitization Asset Reconstruction and Security Interest of India)

A well informed customer will make the policy makers as well as organisations which produce goods and services more responsive to the customer needs. This will also result in healthy competition among organisations and improve the quality of goods and services produced.

The “SIB Students’ Economic Forum” is designed to kindle interest in economic affairs in the minds of our younger generation. We highlight one theme in every monthly meeting of the “Forum”. This month, we discuss on CERSAI, a company, established by the central Government under the Companies Act.

What do you know about establishment of CERSAI?

CERSAI has been established by the Central Government under section 25 of the Companies Act, for the purpose of registration of all security interest over property, transactions of securitisation and asset reconstruction. As envisaged under section 20 of SARFAESI Act, the Central Government vide Notification No. F.56/5/2007-BO-II dated March 31, 2011 has appointed Central Registrar and Deputy Registrar for this purpose. The Central Registry is to be operated and maintained by a Government Company, which will function under the superintendence and direction of the Central registrar. CERSAI, the company, with its registered office at New Delhi has been incorporated with majority shareholding (51%) of the Central Government, Public Sector Banks and National Housing Bank (NHB) and has become operational on March 31, 2011. All the transactions relating to securitization and reconstruction of financial assets and those relating to mortgage by deposit of title deeds to secure a loan granted by a bank or financial institution will be registered in the Central Registry.

Briefly describe the background in establishment of CERSAI?

Generally banks secure the advances, by obtaining mortgage of property, created usually in the form of equitable mortgage or deposit of title deeds, through very simple, convenient and borrower-friendly procedure. The major drawback of equitable mortgage is that, it is not registered with any revenue authority and as such no details about the mortgage are available in the revenue records. Such mortgage details are not available either in the encumbrance certificate issued by the sub-registrar or in the search certificate issued by an advocate along with the Legal Scrutiny Report.

What are the major points with regard to the registration system?

The Central Government has also promulgated Central Registry Rules, 2011 for the purpose of registration of transactions of securitization, asset construction and security interest over properties. The registration system was first proposed only for mortgage by deposit of title deeds to secure any loan or advance granted by banks or financial institutions as defined under SARFAESI Act.

- Any registration with the Central registry under the SARFAESI Act is in addition to the existing registration requirements under various laws such as the Registration Act, the Companies Act, the Merchant Shipping Act, the Patents Act, the Motor Vehicles Act, the Designs Act or any other requiring registration of charges.
- The validity of charge /mortgage and the priority to such charge or mortgage is not to be decided in accordance with the provisions of SARFAESI Act but in accordance with the law under which the charge/mortgage is created and registered, if required.
- The object of the registration system is to access complete data relating to secured transactions which can be searched by any person on payment of fees prescribed. The right to enforce security under section 13 of the SARFAESI Act is not linked to such registration.

What are the objectives of setting up the Central Registry?

The major objective of establishing the registry is to prevent borrowers from raising more than one loan from different banks on the security of the same property. In the recent past, there were a large number of fraud cases reported by banks and financial institutions, such as the developers selling an apartment under construction to two different buyers, the borrowers raising more than one loan from different banks on the same property and the rising number of home loan frauds. CERSAI has been set up as a fraud prevention body that makes it mandatory for the borrower to register the title deed of the transaction with it.

What are the operational procedures?

- Banks/FIs have to register charge created by way of mortgage by deposit of title deeds in respect of the immovable property of borrowers, guarantors etc with the Central Registry within the stipulated time by paying the prescribed fees.
- Banks and Financial Institutions have to verify with CERSAI whether the title deeds are deposited with any other Bank/FI before processing a loan proposal so as to confirm that the property is free from charge of other Banks/FIs.
- Even the members of public can access the records of the registry by paying a fee to check if any other bank has taken possession of the title deed as security.
- The Registration system provides a public data base about encumbrances created on properties to secure loans and advances given by banks and financial institutions.
- CERSAI provides information about transactions of securitization or asset reconstruction undertaken pursuant to the provisions of the SARFAESI Act.

Which are the transactions not covered by CERSAI?

- Securitization or asset reconstruction done outside the provisions of SARFAESI Act
- Security interest created in favour of any lender not included in the definition of a “bank” or financial institution.
- At present other forms of mortgages such as Simple Mortgage, English Mortgage etc are outside the purview of CERSAI.

Which are the forms prescribed for registration?

The Central Government has proposed four types of forms for registration of mortgages by deposit of title deeds, securitization and asset reconstruction transaction, under the Central Registry Rule 2011.

Form –I:	Mortgage charges created by deposit of title deed and in modification of charges
Form –II:	Satisfaction of charges in respect of charges registered before.
Form-III:	Acquisition of Financial Assets for the purpose of Securitization & Reconstruction of Financial assets.
Form- IV:	Satisfaction of charges in respect of Securitization or Reconstruction of Financial Assets.

The software developed by TCS for central registry is known as CERSARSI.

What are the extant instructions to banks regarding registration?

The Central Government has instructed all the banks and financial institutions in the country to register mortgage by deposit of title deeds with the Central Registry. Section 23 of the SARFAESI Act, specifies that particulars of any charge creating security interest over the property is required to be filed with the Registry within 30 days from the date of creation. Since the establishment of the registry is effective from the date of notification, the requirement of filing registration of mortgage by deposit of title deeds became applicable in respect of all mortgages created on or after March 31, 2011. Banks and Financial Institutions were asked to ensure the filing of all equitable mortgage transactions recorded on March 31, 2011, by the 30th day, on April 29, 2011. Any failure on the part of the banks in filing may result in penalties and reputation risk. The filing has to be undertaken on an ongoing basis within the 30 day window. In case a security interest is being created in favour of two or more lenders, the details of inter-se priority among them and whether they hold it on a pari passu or subordinate basis is to be specified. The data base of all transactions registered with CERSAI is open for inspection through its web site, during business hours on payment of a fee.

What is the “CIBIL Mortgage Check” data base?

CIBIL has introduced the “Mortgage Check” in association with the National Housing Bank (NHB) with the sole intention of preventing frauds in mortgage transactions. The data base of “Mortgage Check” contains information on properties mortgaged to various banks and financial institutions, details of existing loans and comprehensive information on such properties. The lenders can access the mortgage information before processing the loan application. The “CIBIL Mortgage Check” is a data base containing information of over six million mortgage records collected from member organisations - banks and financial institutions. Authorised persons are allowed access to check the details of a property offered as security for a loan.

What are the salient features of the revised version of the software for registration?

CERSAI has upgraded the software and the new version (Phase II) has been launched. Banks have already switched over to the new version of the software on March 31, 2012 at 24.00 hours.

The basic changes in the revised version are as follows:

- Availability of maker checker mechanism to provide full control over the process of registration and to eliminate mistakes.
- Entering details of multiple co-borrowers, mortgagors, facilities, lenders for a single transaction in FORM- I.
- Affixation of digital signature for ensuring authenticity of the transaction.

What are the steps taken by banks for the smooth transition to the revised version?

Banks have successfully switched over to the new system in a systematic manner.

1. The online system would permit the users to upload the details of security interest only in the new format from April 1, 2012.
2. The details of security interest can be uploaded only under the maker checker system
3. The plot number, survey number, pin code and nature of property are to be entered in the system since the search criteria is generally based on these details.
4. In case a particular property has no plot number allotted, bank has to enter survey numbers on both the fields.
5. Sanctioning authorities have to confirm that a search is made with CERSAI before sanctioning any loan in which immovable property is taken as a security.
6. Apart from registering fresh charges, it shall be ensured that modification of charges is registered with CERSAI within 30 days of redeposit of title deed.
7. Satisfaction of charge to be filed with CERSAI within 30 days of closure / release.



TABLE OF FEES:

Sl. No	Nature of transaction to be registered	FORM No.	Amount of fee payable
1	Particulars of creation or modification of Security Interest in favour of the secured creditors	FORM I	Rs. 500 for creation and for any subsequent modification of Security Interest in favour of a secured creditor for a loan above Rs.5lakh. For a loan below Rs.5lakh, the fee would be Rs.250 for both creation and modification of security interest.
2	Satisfaction of any existing Security Interest	FORM II	Rs.250
3	Particulars of securitization or reconstruction of financial assets	FORM III	Rs.1000
4	Particulars of satisfaction of securitization or reconstruction transactions	FORM IV	Rs. 250
5	Any application for information recorded / maintained in the Register by any person	-----	Rs.50
6	Any specification for condonation of delay up to 30 days	-----	Not exceeding Rs.250 in case of creation of security interest for a loan up to Rs.5lakh and not exceeding Rs.5000 in all other cases.

Your comments and feedback on this publication may be sent to Staff Training College, The South Indian Bank Ltd., Thrissur 680 001 or by E.mail: ho2099@sib.co.in

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