



## SARFAESI

The objective of this process is to outline the step by step process for initiating proceedings under the SARFAESI Act by the empowered officials of IKFHFL so that their actions are in compliance with the applicable provisions and rules notified under the SARFAESI Act 2002 (Herein after referred as "SARFAESI Act" . This would ensure that the actions taken by them cannot be questioned on the ground of non-compliance with applicable rules and thereby enable expeditious resolution under the SARFAESI Act.

### **Eligibility Criteria:**

Following are the criteria, which should strictly be considered for initiating an action under the SARFAESI Act

- An account has been classified as NPA (Non-Performing Asset) in accordance with the guidelines issued by NHB/RBI as per monthly dump.
- Total outstanding amount in the account is not less than One lakhs.
- Total outstanding dues in the account are not less than 20% of the principal amount and interest thereon
- Secured Asset is not an agricultural land.
- Secured Asset should be physically identified and there is no other deficiency in security creation.
- The secured asset is registered with Central Registry/CERSAI Report is available.

### **STEP 1 – ISSUANCE OF DEMAND NOTICE U/S 13(2):**

Process	Timeline	FPR
Collection Manager's to share month beginning data with NPA date after applying above criteria, with  1. National Collections Manager	On receipt of data	Collections Team
National Collection Manager (NCM) will provide (post checking the eligibility criteria) and provide data and documents to Regional Legal Managers i. will inform State Managers to raise requests on system for retrieval of documents ii. for requisite approval for retrieval of scan images of documents required for initiation of process and iii. State Manager will retrieve foreclosure report/SOA to ascertain total recoverable amount.	2 days	State Collections Manager Collections team

<p>All the mandatory documents –</p> <ul style="list-style-type: none"> <li>to be checked as per <b>Annexure I</b></li> <li>Discrepancies found in the documents to be informed to OPS or other relevant business function for rectification (if possible).</li> </ul>	7 days postreceipt of complete documents	State Managers
<p>Demand Notice</p> <ul style="list-style-type: none"> <li>The information with respect to details of LANwill be shared with Advocate in Excel sheet.</li> <li>to prepare the <b>Demand Notice</b></li> <li>And dispatched to all the borrowers, co-borrowers and guarantor by Registered Post with AD or Speed Post with AD. A Scan Copy to be provided to Collection Team for the purpose of hand-delivery, if possible.</li> </ul>	15 days	Authorized Officer(AO)
<p>In case, any account -</p> <ul style="list-style-type: none"> <li>to be kept on hold,</li> </ul> <p>An approval from National Collection Manager to be obtained.</p>	as an when required	National Collections Manager

• **Service –**

Process	Timeline	FPR
<p>The service of demand notice shall be made preferably: 1) by registered post with acknowledgement due or 2) by Speed Post addressed to the borrower and additionally by any other means of transmission of documents like electronic mail service (if available). "Where there is more than one borrower, the demand notice shall be served upon each borrower".</p>	<p>Service status to be checked within 15 days from the date of dispatch of notice.</p>	AO
<p>In case, the service of demand notice is not completed by post, the substituted service shall be effected by affixing a copy of the demand notice on 1) the outer door or 2) some other conspicuous part of the house or 3) building in which the borrower resides or 4) carries on business or personally works for gain. and photograph as an evidence of the same will be taken and kept for record &amp; also 5) by publishing the contents of the demand notice in two leading newspapers, of which one should be in vernacular language, having sufficient circulation in that locality. Refer "<b>Annexure III - (Artwork of Demand Notice Publication)</b>"</p>	<p>Publication to be made within 7 working days from the date of knowledge of un-served notices. If no undelivered notices then same needs to be published in 30 days as it involves cost./ or as per lawyer advise.</p>	AO

- **Objections (Sec . 13 (3A) ) –**

Process	Timeline	FPR
1) If the borrower, on receipt of the notice makes any representation or raises any objection, - it is mandatory to reply to the same within 15 days from the date of the receipt of the said objection/representation and 2) a copy of the reply to be kept in records.	Within 15 days from the date of receipt of any objection or representation	AO

- **Notice Period and its Compliance:-**

Process	Timeline	FPR
<b>Fully Complied:</b> Post issuance of the demand notice, if the borrower comes forward and settle / close the account, - the notice to be treated as complied and no further action shall be taken under the Act. Such compliance need to be report to AO and NCM by State Manager.	As and when complied	State Collections Manager
<b>Partly Complied:</b> Post issuance of the demand notice, if the borrower comes forward and regularize the account- an advice to be sought from NCM to keep the case on hold or to proceed further. <b>This would be further communicated to AO by NCM</b>	Within 7 days from the date of regularization	NCM
Process	Timeline	FPR
Demand Notice Period of 60 days will be considered from the date of receipt of the notice by borrower/co borrower or Pasting of notice over mortgaged premises by AO or from the date of publication of the same. (Later date to be considered while calculating 60 days) <b>“No Action Shall be taken under the SARFAESI Act within this 60 days’ notice period”.</b>	60 days from the date of receipt or publication	AO

**Process, if the borrower voluntarily surrenders the keys of the property on issuing the Notice under Section13(2) SARFAESI-**

- The Authorized Officer may take possession of the property by taking the possession of the keys from the customer, capturing the condition of the property on video, Photographs and Inventory.
- While surrendering the property the borrower should provide a letter in writing duly signed/sealed to the Authorized Officer - close to **ANNEXURE - XX**.
- The keys should be kept in the branch Locker under the safe custody of the branch manager or AO in the presence of the Branch Manager or the Branch Collection In-charge or State Collection Manager and the same shall be recorded in a register maintained for the same.
- AO or State Collection Manager will update the details through email NCM.
- On completing the above said procedure the property to be placed for Auction in compliance with the process as mentioned in **STEP 3 after Section 13(4) Procedure only – AUCTION & SALE PROCESS.**

### In the event of LAN Classified as Standard after sending Demand Notice U/s 13(2)

Process	Timeline	FPR
<p>If Loan is classified as "Standard" after issuance of Demand Notice under Sec 13(2) at any stage of SARFAESI process, No subsequent steps shall be taken pursuant to such notice.</p> <p>In the event of re-classification of the Loan as NPA subsequently, a fresh notice under Sec 13(2) shall be issued.</p> <p>Collections Team in consultation with Finance Team will provide list of Loans classified as NPAs and Loans classified as "standard" on monthly basis.</p>	15 <sup>th</sup> day of each month	AO

### STEP 2 – POSSESSION NOTICE U/S 13(4):-

#### Process for taking possession of secured asset (Sec 13 (4) of the SARFAESI Act):-

In case the borrower fails to discharge his liability in full within the period of 60 days, the AO will initiate steps to take the possession of the Secured Asset.

Process	Timeline	FPR
<p>On attempt for taking peaceful physical possession, if the AO fails/success to take physical possession of the property, a <b>Panchnama</b> as per "<b>Annexure - IV</b>" needs to be prepared duly signed by two individual witnesses, mentioning the reason for not taking Physical Possession.</p> <p>1. A panchnama will be executed on the day of attempt. 2) A notice of symbolic possession as per "<b>Annexure - V</b>" need to be pasted on the property and same need to be published in two newspapers (English and Vernacular) to inform public at large that the property is in possession, specify either physical or symbolic, of the Authorized officer and any transaction thereupon to be considered void ab-initio.</p> <p>Photograph(s) as an evidence of the pasting of notice will be taken and kept for record.</p> <p>Note - Symbolic possession may not be required at certain places depending upon local practice. Therefore an advice may be taken from Lawyer whether this attempt is required or not.</p>	<p>On the day of attempt</p> <p>Publication in next 2 days</p>	AO

- Process of Section 14 Application:-

ACTIVITY	ACTIVITY TAT	FPR
Application to be moved before CMM/DM seeking police assistance for peaceful possession of the property.	15 days from sec 13 (4) Action	AO
RECEIPT OF ORDER FROM CMM/DM – As per act CMM/DM is supposed to pass order within 60 days, however, if Order is not passed within prescribed period advise may be sought from law firm for moving necessary application including writ in High Court for direction.		AO
Section 14 order to be executed within the time specified in the order; help to be taken from enforcement agency	As per order	AO
On receipt of order, AO will ensure filing of Caveat in respective DRT and High Court	Within 1 week of receipt of Sec 14 order copy	AO

- **Physical Possession:**

Following are the situation where the Authorized Officer can get the physical possession of the property:

- ✓ Vacant Plot / Abandoned Flat / House
- ✓ Possession after receipt of Section 14 order
- ✓ Peaceful Possession voluntarily surrendered by borrower/third party.

Process	Timeline	FPR
At any stage mentioned hereinabove, where the Authorized Officer takes the physical possession, a possession notice as per “ <b>Annexure – VII</b> ” will be delivered and affixed on the conspicuous part of the property mortgaged and photograph as an evidence of the same will be taken and kept for record.  The details in possession notice should be the replica of the details mentioned in Sec 13(2) notice issued.	On the day of taking possession	AO
AO shall ensure to prepare a Panchnama and an inventory of the belongings (if found any otherwise nil) duly signed by - two witnesses or -Court / Police Officials and will also take the photographs of the possession notice affixed over the property. Panchnama & Inventory will be prepared as per “ <b>Annexure – VIII</b> ” & “ <b>Annexure – IX</b> ” respectively.	On the day of taking possession	AO
A publication of possession notice in two newspapers (English & Vernacular) is mandatory within 7 working days from the date of pasting of possession notice. The said publication will be made within 7working days post obtaining necessary approvals on cost of newspaper publication in English is given as per “ <b>Annexure X</b> ”. Artwork of paper Publication in vernacular language is to be taken from the concerned publication agency, which will have the same contents.	Within 7days from the date of possession	AO
Note – An intimation may be given to the society, where applicable, about the possession of the asset, for their information.	On the day of possession	AO

**Important Note** - It is advisable to take the help of panel lawyer or professional agency, having expertise in this field for completing the formalities for taking the physical possession of the property.

**STEP 3 – AUCTION & SALE  
PROCESS:-**

The process and timelines for auction and sale will be followed as under:

- **Valuation of the Property:-**

Process	Timeline	FPR
Copy of relevant title document, having complete address of property, to be provided to the location Credit team OR Technical manager, with a request for getting valuation of the property from valuers.	2 days	AO
Local Credit teams to coordinate with the Local Collections teams to arrange for a convenient time when they can open the said property to allow the valuer to inspect the collateral from inside.	1 Day	Local Credit/Technical Manager and AO
Latest Valuation Report of the property shall be obtained from two "Approved valuers" (Government approved valuer) for SARFAESI cases as per the panel maintained by IKFHFL. Two valuation reports from two different valuers to be obtained from different valuer as an abundant caution).#	3 Days	Local Credit/Technical Manager

**# - Where alternate vendor is/are available – one out of two valuations will be taken from the vendor other than those who gave valuations at the time of disbursal.**

- **Fixation of Reserve Price:-**

Process	Timeline	FPR
The Authorized Officer/ Asset Disposal Manager, in consultation with NCM, shall fix the Reserve Price (RP) based on the distress values quoted by the valuers in their valuation report. Approval from NCM is to be taken for fixing reserve price each time for conducting auction.	Approval within 3 days from receipt of valuation report	NCM/AO/SC M

- **Sale Notice:**

Process	Timeline	FPR
<p>The pre-sale notice as per "<b>Annexure - XI</b>" will mention a CLEAR 30 DAYS time to be given to the borrower/s, guarantor/s as per Rule 8(6) in First Auction.</p> <p>A separate 30 clear days' auction notice to be published in two newspapers (English and Vernacular) giving details of sales per Rule 8(6)</p> <p>The relevant dates has to be mentioned in the sale notice shall be discussed with local Collection Team. Local Team may also do the needful for searching a prospective buyer.</p> <p>Artwork of newspaper publication in English is given as per "<b>Annexure XII</b>" and the artwork in vernacular language will be taken from publication agency, having similar contents &amp; figures as per English artwork.</p> <p>Every notice of sale shall be affixed on a conspicuous part of the immovable property and photograph of the same will be taken and kept for record and may, and the Authorized Officer shall upload the detailed terms and conditions of sale, shall on the web-site of the secured creditor on the Internet.</p>	<p>Sale Notice within 3 days from fixation of RP.</p> <p>Auction Notice within 1 day after pre-sale notice</p>	<p>AO/ NCM/SC M</p>

- **Receipt of Bid:**

Process	Timeline	FPR
<p>Sale may be conducted in any manner prescribed under Rule 8 including online auction as per "<b>Annexure – XII-B</b>" through the companies which are into the business of facilitating sales.</p> <p>If auction is by way of inviting tenders/bids, on receipt of the bids from the bidders in sealed envelopes along with tender form (duly filled &amp; signed along with 10% amount of Reserve Price) as per "<b>Annexure XII-A</b>", the same will be kept in the custody of the Authorized Officer and shall be opened only on the date of auction.</p>	<p>Till the last date of submission</p>	<p>NCM/A O/SCM</p>

- **Auction Process:**

Process	Timeline	FPR
<p>No sale of immovable property under these rules shall take place before the expiry of thirty days from the date on which the public notice of sale is published in newspapers.</p> <p>Property shall be sold above the Reserve Price, not below or equivalent to the Reserve Price and the sale shall be confirmed in favor of highest bidder subject to confirmation of the secured creditor. The Authorized Officer at its sole discretion may allow inter-se bidding, if necessary.</p> <p>All other Bids (P.O. / D.D) shall be returned to respective bidders immediately against their acknowledgement on the photocopy of P.O / D.D and the acknowledgement will be kept in the office file.</p>	On the day of Auction	AO
<p>A confirmation letter as per "<b>Annexure XIII</b>" shall be issued to the highest bidder on the same day or not later than next working day mentioning all the terms &amp; conditions of sale and the acknowledgement thereon shall be taken from highest bidder.</p> <p>The successful bidder shall pay remaining sale consideration within stipulated time i.e. 25% consisting of Earnest Money Deposit (EMD) within 1 day &amp; remaining 75% within 15 days from the date of auction (Timelines for depositing remaining 75% may be extended by AO with prior approval from HOC in special circumstances)</p> <p>Where AO have made a condition in the auction notice that the amount of EMD shall be forfeited in the event that highest bidder do not deposit specified amount of within stipulated time; the amount of EMD may be forfeited with the approval from Head of collections. However, to have healthy and fearless bidding in the long run, such call needs to be taken with utmost care.</p>	Confirmation letter on the day of auction or next working day	AO
<p>Sale by way of private treaty shall be done as per the terms agreed by Secured Creditor and prospective buyer. The terms of sale has to be approved by NCM. Advise may be taken from legal team on legal aspects of terms of sale.</p>		AO

- **Successful Sale/EMD deposit Report**

Process	Timeline	FPR
<p>The list of cases, wherein sale completed successfully OR EMD amount is deposited in the accounts of IKFHFL, will be shared with seniors</p>	1 <sup>st</sup> week day of each month	AO/NCM

- **Auction Failure:** There may be two scenarios, when the auction can be failed:



Process	Timeline	FPR
1. In case of no bid after publication of sale notice but before the last date of its submission, the auction process shall be treated as failed.*	-	AO/NCM
2. On receipt of the bid and sale confirmation in favor of the prospective buyer, who failed to deposit the remaining sale consideration as per the terms and conditions of the sale even after issuing the reminder letter as per "Annexure XIV" and post forfeiting deposit amount by issuing a letter as per "Annexure XV", the said auction shall be treated as failed, if required.*	First Letter to be issued 2 days. On expiry of 15 days Second letter to be issued under Rule 9	AO/NCM

\*Under both the circumstances as mentioned herein above, the local team to do the needful to search a prospective buyer and inform the Authorized Officer so that the sale notice can be published again to sale the property.

- **Re-Auction:**

Process	Timeline	FPR
A Fresh sale notice shall be issued if there is no bid received in the last auction or if the highest bidder failed to comply the terms & conditions of the sale (post forfeiting the amount). Entire 'Auction Process' mentioned herein above has to be followed except that the notice period for re-auction will be reduced from 30 days to 15 days.	As and when the prospective buyer is available.	AO

- **Sale by Private Treaty:**

Process	Timeline	FPR
Sale by way of private treaty may be effected only after sale notice period is completed and sale is above reserve price as mentioned in said sale notice. Note-Sale by way of Private treaty will be done only if 2 auctions are failed, unless otherwise approved by Head of Legal and HOC		AO

- **Sale Certificate:**

Process	Timeline	FPR
Once the property is sold through Auction or Private Treaty and entire sale consideration has been received, the AO shall issue a sale certificate in favor of the purchaser as per " <b>Annexure XVI</b> " and deliver the vacant physical possession along with property documents. (Usual internal process for raising and approval for receipt of Property documents would be followed.), against an acknowledgement on possession cum document handover receipt as per " <b>Annexure XVII</b> ". The AO will also cooperate with buyer for registration of sale certificate in favor of buyer on receipt of total sale proceeds.	Within 15 days post receipt of entire sale consideration	AO
AO/SCM will take approval from NCM for issuance of Sale Certificate post receipt of total sale consideration.	Before issuance of sale certificate	AO/SCM.

- **Shortfall of dues:**

Process	Timeline	FPR
After adjusting the sale consideration in loan account of the borrower, if there is any shortfall of the amount outstanding in the account, a legal notice for recovery of shortfall to be issued to the borrower/s as per " <b>Annexure XVIII</b> ". Necessary proceeding for balance amount may be initiated.	21 days after registration of sale certificate	AO/SCM

- **Excess of Amount:**

Process	Timeline	FPR
After adjusting the sale consideration in loan account of the borrower, if there is an excess amount in the respective loan account, a letter to be issued to the borrower/s as per " <b>Annexure XIX</b> " to collect the excess amount, if no response is received from the borrower/s, the AO may get the excess amount transferred to the bank account shared by the borrower(s). Relevant approval will be taken for such transfer as per normal refund process.	15 days after registration of sale certificate	AO & OPS

**Defending Cases in Debt Recovery Tribunal (DRT)**

Process	Timeline	FPR
In case, the borrowers or any other interested party challenge the steps taken by AO under SARFAESI Act, same shall be defended by AO in the appropriate forums including DRT.	As and when required	AO/SCM
AO shall ensure filing of Caveat in DRT/High Court or any other forum/tribunal/court as and when required especially after taking possession of property and after auction.	As soon as possible as advised by lawyer	AO/SCM

**Maintaining Office Files/Records**

<b>Process</b>	<b>Timeline</b>	<b>FPR</b>
AO shall ensure maintaining one office file for each case and all the records to be kept in such files.	As and when required	AO
AO will send complete Original SARFAESI file to Corporate office once the process of SARFAESI in closed And/OR DRT case, if any is disposed off.	Within 1 month	AO/SCM