

## International Asset Reconstruction Company Pvt. Ltd.

### FAIR PRACTICES CODE

(As approved by the Board of Directors at its meeting held on 27<sup>th</sup> March 2017)

#### **1. INTRODUCTION**

IARC is an Asset Reconstruction Company registered with Reserve Bank of India (“RBI”) under section 3 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) and is also a Company registered under the provisions of the Companies Act, 1956. The principal activity of IARC is to carry on the business of securitization and asset reconstruction as defined in section 2 of the SARFAESI Act. IARC acts as an Investment Manager / Trustee for various Trusts set up for acquisition of financial assets from Banks and Financial Institutions (FIs) in terms of the provisions contained in the SARFAESI Act. In terms of the provisions contained in this Act, IARC can raise funds from Qualified Buyers (QBs) by formulating schemes in the nature of Trusts for acquiring financial assets and IARC shall hold the financial assets so acquired in trust for the benefit of the Security Receipt holders. QBs investing in the Trust shall be issued Security Receipts which represent the undivided right, title or interest of the Security Receipt holders in the financial asset(s) acquired by the said Trust.

IARC has framed and adopted a voluntary code, which sets the principles for fair practice standards while dealing with various stake holders, including the shareholders, security receipt holders as also the borrowers.

IARC will carry out its operations in accordance with policies duly approved by the Board of Directors, covering acquisition and resolution of financial assets as well as other facets of the company’s activities. IARC will comply with all the applicable laws, rules and regulations viz. Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and various other statutory enactments and the guidelines issued by Reserve Bank of India from time to time.

#### **2. ACQUISITION OF FINANCIAL ASSETS**

Acquisition of financial assets by IARC shall be in conformity with the provisions of the SARFASI Act and the RBI guidelines/directives to Asset Reconstruction Companies laid down thereunder.

IARC shall acquire financial assets where potential for recovery exists and/or where IARC has the potential to add value.

Valuation of financial assets shall be done by IARC with the objective of setting a sound basis for IARC and the selling banks/FIs to finalise the acquisition / sale of assets in a transparent manner.

IARC will carry out proper financial & legal due diligence of the financial assets drawing upon expertise of qualified professionals employed and/or entities empaneled by IARC before

submitting bid for acquisition of the same.

IARC will collect the information/documents about the customers from the selling banks/institutions at the time of acquisition itself.

### **3. LOAN RECOVERY**

IARC will follow the recourse available under the applicable laws to realize the payments from borrowers. Legal procedures available to IARC for recovery of loans include enforcement of security interest without the intervention of the court under the provisions of SARFAESI Act, 2002 and also filing recovery suit before Debts Recovery Tribunal(DRT) concerned. While DRT is a judicial forum which shall adjudicate upon the legality of the claim made by the Lender, and pass a judgment on the claim, the SARFAESI Act gives powers of enforcement of security interest to the Banks and FIs without the intervention of the court. The provisions of the aforesaid Acts provide enough notice and opportunity to the borrowers to challenge the claims/actions of the IARC if the same are not in accordance with the laid down legal provisions and procedures. A gist of safeguards available to the borrowers under various enactments is as under:-

#### **I. Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act)**

SARFAESI Act was enacted in the year 2002 and, in terms of this Act, powers of enforcement of security interest have been given to the Banks and FIs without the intervention of the court. However, the powers given to the Banks and FIs are not unfettered and are subject to the principles of natural justice and fair play and ensure that there is no misuse of such powers by the Lender. Details of safeguards available to the Borrowers under the SARFAESI Act are as under:-

1. In terms of section 13(2) of the SARFAESI Act, the Secured Creditor is required to issue a Demand Notice of 60 days to the Borrower. The notice shall mention the outstanding dues including principal and interest at contractual rate till the date of issuance of notice, failing which the securities as detailed in the notice shall be sold to realize the dues of the secured creditor. In cases where service of the notice is not complete for any reason, whatsoever, a copy of the same is pasted on the premises of the borrower where the borrower resides or works for gain and the same is also required to be published in two local newspapers, one in English and the other in the vernacular language.

2. Where the Borrower makes any representation in response to the demand notice, a reply to such representation, giving reason for non-acceptance of such objections of the Borrower is required to be sent within 15 days from the date of receipt of such representation, failing which any subsequent action of the Secured Creditor will be null and void;

3. Where the Borrower fails to make the payment as per the Demand Notice, the Authorized Officer of the Secured Creditor may take possession of the secured asset of the Borrower u/s 13(4) of the SARFAESI Act. As per procedure stipulated in the Security Interest (Enforcement) Rules, the possession notice is required to be pasted on the outer door/conspicuous place of the premises of the secured asset. The possession notice is also required to be published in two local newspapers, one in English and the other in vernacular language;

4. Before effecting sale of secured asset, the Authorised Officer of the Secured Creditor is required to have the secured asset valued as per Rule 8 (5) of the Security Interest (Enforcement) Rules. The valuation is required to be carried out by an approved valuer as approved by the Board of Directors of IARC, who shall also be registered with the Government under Section 34AB of the Wealth Tax Act, 1957. Further, the authorized officer is also required to fix the reserve price for the secured asset in consultation with the appropriate designated authority in IARC. This procedure ensures that proper valuation of the security interest is done before effecting sale of secured asset by the authorized officer of the secured creditor. Further, as per the provisions of the said Rules, the authorized officer of the Secured Creditor is required to give thirty days notice to the borrower before effecting sale of the secured asset (fifteen days in any subsequent instance, if the first attempt to sell is not successful). The sale notice is also required to be published in two local news paper having publication in the locality where the secured asset is situated and is also required to be pasted in the conspicuous part of the secured asset. This procedure ensures that adequate notice is given by the Secured Creditor to the Borrower before effecting sale of secured assets;

5. In terms of section 17 of the SARFAESI Act, the Borrower or any person aggrieved by any action taken by the Secured Creditor under section 13(4) of the SARFAESI Act is entitled to approach the DRT concerned within 45 days from the date on which possession is taken by the Secured Creditor. DRT concerned shall examine whether the secured creditor has followed the procedure laid down by the law and pass order accordingly. Any person aggrieved by the order of the DRT, is entitled to approach the Appellate Tribunal against the order passed by the DRT.

This procedure ensures that the action of the Secured Creditor is subject to judicial scrutiny and hence nullifies the chances of misuse of powers given to the Secured Creditor.

## **II. Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (DRT Act)**

DRT Act was enacted in 1993 for speedy recovery of the Debts due to the Banks and Financial Institutions. In terms of the provisions contained in the DRT Act, various Debts Recovery Tribunals (DRT) were established across the country. DRT is a judicial forum which adjudicates upon the claims of the Banks and Financial Institutions and if found in

order, passes order for recovery of debts due to such Banks and FIs. Once the order for recovery is passed, Recovery Officer attached to the concerned DRT proceeds to realize the dues owing to such Banks and FIs. In terms of the provisions contained in the DRT Act, a Bank or a Financial Institution to whom a Borrower owes a debt of Rs.10.00 lacs or more, may file application before the concerned DRT. DRT being a judicial Forum, no judgment/order detrimental to the interest of the Borrower/Guarantors shall be passed by the DRT without giving an opportunity of being heard to the Defendants. Relevant provisions of the DRT Act safeguarding the interest of the Borrowers are as under:-

(i) DRT shall be presided over by a Presiding Officer who shall be or qualified to be a District Judge. The Debts Recovery Appellate Tribunal, (DRAT) shall be presided over by a Presiding Officer, who shall be or qualified to be a High Court Judge;

(ii) In terms of the provisions contained in section 19(3) of the DRT Act, the Bank/FI concerned shall submit all the documents relied upon in support of the claim made by the said Bank / FI ;

(iii) As per section 19(4) of the DRT Act, on receipt of the application from the Bank / FI concerned, summons is issued to the Defendants concerned to appear before the DRT.

(iv) Borrowers/Defendants are also given an opportunity to file written statement in reply to the application filed by the Bank / FI for recovery of debts.

(iii) Borrowers/Defendants may also make, counter claim, if any, against the Bank / FI while filing written statement to the application filed by the Bank/ FI concerned.

(iv) Borrowers / Defendants are also entitled to submit evidence in support of their claim before the DRT and may also have examination of Bank/ FI's witness with the permission of the DRT.

(v) After examination of the claims of the Bank / FI concerned as well as the Borrower / Defendants, if the DRT comes to the conclusion that claim made by the Bank / FI is valid, DRT shall pass judgment / Final Order in favour of the said Bank / FI. Thereafter, Recovery Officer attached to the DRT shall proceed to recover the dues of the Defendants by attachment and sale of the movable and immovable properties of the Defendants.

(vi) If Borrower / Defendants are aggrieved by any order of the Presiding Officer, the Borrower / defendants concerned may approach the Appellate authority viz; the Debts Recovery Appellate Tribunal (DRAT) for remedy, within thirty days from the date on which the order is made.

(vii) If any person is aggrieved by an order of the Recovery Officer under the DRT Act, an appeal can be filed before the Presiding Officer, within thirty days from the date on which the order is made available to him.

In view of the above, the provisions of the DRT Act are in compliance with the principles of natural justice as adequate opportunity is given to the Borrower/Defendants to contest the claim of the Bank / FI concerned before the DRT.

### **III. Engaging Recovery Agents – Safeguards available to the Borrowers under the regulatory guidelines**

The loans acquired by IARC under the Retail vertical include housing loans, personal loans and vehicle loans and the most commonly adopted means for recovery of personal loans is through engaging Recovery Agents, who shall follow up with the Borrowers for repayment of the amounts due. In order to ensure that the Recovery Agents engaged by the Lenders do not indulge in malpractices and to avoid undue hardships being caused to the Borrowers, Reserve Bank of India (RBI) has issued Guidelines for regulating the functioning of Recovery Agents. Salient features of the Guidelines issued by RBI to Banks while engaging Recovery Agents are as under:-

(i) Banks should have a due diligence process in place for engagement of recovery agents, which should be so structured to cover, among others, individuals involved in the recovery process ;

(ii) To ensure due notice and appropriate authorization, banks should inform the borrower the details of recovery agency firms / companies while forwarding default cases to the recovery agency. Further, since, in some of the cases, the borrower might not have received the details about the recovery agency due to refusal / non-availability / avoidance and to ensure identification, it would be appropriate if the agent also carries a copy of the notice and the authorization letter from the bank along with the identity card issued to him by the bank or the agency firm / company. Further, where the recovery agency is changed by the bank during the recovery process, in addition to the bank notifying the borrower of the change, the new agent should carry the notice and the authorization letter along with his identity card;

(iii) The notice and the authorization letter should, among other details, also include the telephone numbers of the relevant recovery agency. Banks should ensure that there is a tape recording of the content / text of the calls made by recovery agents to the customers, and vice-versa. Banks may take reasonable precaution such as intimating the customer that the conversation is being recorded, etc.;

(iv) The up to date details of the recovery agency firms / companies engaged by banks may also be posted on the bank's website;

(v) Where a grievance/ complaint has been lodged, banks should not forward cases to recovery agencies till they have finally disposed of any grievance / complaint lodged by the concerned borrower. However, where the bank is convinced, with appropriate proof, that the borrower is continuously making frivolous / vexatious complaints, it may continue with the recovery proceedings through the Recovery Agents even if a grievance / complaint is pending with them. In cases where the subject matter of the borrower's dues might be *sub judice*, banks should exercise utmost caution, as appropriate, in referring the matter to the recovery agencies, depending on the circumstances;

(vi) Each bank should have a mechanism whereby the borrowers' grievances with regard to the recovery process can be addressed;

(vii) In the matter of taking possession of mortgaged properties and repossession of hypothecated vehicles, the Banks shall rely only on legal remedies available under the relevant statutes while enforcing security interest without intervention of the Courts. Further, Banks shall give due notice to the obligants before taking re-possession of the vehicle.

IARC will follow the provisions of the aforesaid RBI guidelines in its retail collection procedure, except in cases where the collection of loans is carried out by the Seller Bank itself. Further, in the matter of recovery of loans, IARC will not resort to harassment.

IARC will release all securities on repayment of all dues or on realization of the outstanding amount of loan subject to any legitimate right or lien for any other claim IARC may have against the customer. Notice to the customer with full particulars about the remaining claims and the conditions under which IARC is entitled to retain the securities till the relevant claim is settled /paid will be given if such right of set off is to be exercised.

IARC will not interfere in the affairs of the customer except for the purpose provided in the terms and conditions of the loan agreement (unless new information, not earlier disclosed by the customer, has come to the notice of IARC).

#### **4. PRIVACY AND CONFIDENTIALITY**

IARC will treat the personal information of customer even when the customer is no longer a customer as private and confidential. IARC will not reveal the data or information of customer to anyone including other companies in the group except when:

- a. required by law ;
- b. there is duty towards public to reveal information ;
- c. IARC's interest requires giving information ;
- d. with customers' permission.

#### **5. GUARANTORS**

IARC will inform the person considering to be a guarantor to a loan:

- a. His/her liability as a guarantor;
- b. The amount of liability he/she will be committing himself/herself to us;

- c. Circumstances in which IARC will call on him/her to pay up his/her liability;
  - d. Whether IARC have recourse to his/her other monies in IARC of he/she fail to pay up as a guarantor;
  - e. Whether his/her liabilities as a guarantor are limited to a specific quantum or they are unlimited;
  - f. Time and circumstances in which his/her liabilities as a guarantor will be discharged as also the manner in which IARC will notify him/her about this;.
- IARC will also keep him/her informed of any material adverse changes in the financial position of the borrower to whom he/she stands as a guarantor.

## **6. INVESTORS IN SECURITY ASSETS**

IARC will meet the commitments as represented in the offer documents, for the services offered by IARC and also in the procedure and process followed by IARC.

IARC will ensure absolute transparency in dealing with existing and proposed investors.

Prospective investors will be provided all the requisite details regarding the proposed investments in Non Performing loans on Security Receipt (SR) basis or Cash basis.

The prospective investors will be given all the information in the detailed offer document, on proposed deal to be entered between IARC as manager & trustee of the trust on one hand and proposed investor on the other hand.

As far as possible, IARC will provide comprehensive & accurate summary of information regarding all material facts that may affect the realisability of the assets viz. geographical distribution of the Assets, residual maturity, interest rate, details of the borrowers, security furnished / personal guarantee accompanying the NPL, estimated recoveries, etc.

IARC will not misuse the funds provided by investors on the basis of trust. The funds shall not be utilized for any purpose other than acquiring the financial assets, making any payments and charges directly related to said acquisition, reimbursement of expenses incurred in relation to acquisition & resolution of said asset.

IARC shall not take any decision that may adversely affect the rights of the SR Holders in any manner whatsoever. Any modification proposed to be made that may amount to significant alteration of rights of the investors will be carried out only after the consent of at least 75 % of investors.

IARC shall make all efforts to effect the resolution of all the cases within the prescribed time frame.

IARC shall make all efforts to yield maximum profits for the investors in minimum possible time, simultaneously adhering to all the prevailing laws of land.

IARC will adopt non discriminative, fair and transparent policies in acquisition, distribution and dissolution of trust.

Pursuant to recoveries made, any payment that may accrue to an investor will be made within

the time as is agreed at the time of acceptance of offer by the proposed investor in the prescribed mode.

Unless required by law enforcement agencies or regulatory authorities, IARC will treat all the information pertaining to investors as strictly private & confidential. IARC will not share any such information with any other entity, including any associate, without the specific permission of the investors

## **7. GRIEVANCE REDRESSAL MECHANISM**

IARC shall implement the following Grievance Redressal Mechanism:

- The President & COO shall be the Grievance Redressal Officer of the company. Any grievance or dispute arising out of any decision by a functionary of IARC below the rank of President may be brought to the notice of President & COO by the concerned customer. On receipt of such complaint / notice, President & COO shall examine the matter and take such action as may be required and furnish an appropriate response to the complainant.
- Any grievance or dispute arising out of any decision by a functionary of IARC of the rank of President may be brought to the notice of MD & CEO by the concerned customer. On receipt of such complaint / notice, MD & CEO shall examine the matter and take such action as may be required and furnish an appropriate response to the complainant.
- If a complaint / dispute is not redressed within a period of one month, the customer may appeal to the Officer-in-Charge of the Department of Non-Banking Supervision of Reserve Bank of India, New Delhi Regional Office, under whose jurisdiction, the registered office of IARC falls.
- The name and contact details of the Grievance Redressal Officer and the address of the New Delhi Regional Office of RBI will be displayed at the offices of IARC
- An electronic record of complaints received from customers and the follow up action taken will be maintained and a summary will be placed before the Management Committee at half-yearly intervals at the end of June and December every year. The Compliance Officer of the company will be the coordinating officer for this purpose

## **8. GENERAL**

- The Fair Practices Code shall be placed on IARC's web site for the information of all stakeholders and also displayed at all offices of the company
- The Fair Practices Code shall be reviewed annually. The review shall also include a review of the Grievance Redressal Mechanism. Such reviews shall be placed before the Board of Directors for necessary directions.



**International Asset Reconstruction Company Pvt. Ltd.**

**CONTACT DETAILS UNDER GRIEVANCE REDRESSAL MECHANISM  
UNDER FAIR PRACTICES CODE**

**Grievance Redressal Officer**

**For any grievance or dispute arising out of any decision by a functionary of IARC below the rank of President:**

**Mr. Satish Kumar Arora**

**President & Chief Operating Officer**

International Asset Reconstruction Company Pvt. Ltd.  
A-601,602,& 605 6th Floor, 215 Atrium, Kanakia Spaces,  
Andheri Kurla Road, Andheri (East),  
Mumbai - 400 093.

Landline: Board +91-22-67363000, Direct- 67363004

Fax +91-22-67363022

Email: satish@iarc.co.in

**For any grievance or dispute arising out of any decision by a functionary of IARC of the rank of President:**

**Mr. Birendra Kumar**

**Managing Director & CEO**

International Asset Reconstruction Company Pvt. Ltd.  
A-601/602/605, 6th Floor, 215 Atrium, Kanakia Spaces,  
Andheri Kurla Road, Andheri (East),  
Mumbai 400 093.

Landline: Board +91-22-67363000, Direct- 67363007

Fax +91-22-67363022

Email: birendra@iarc.co.in

**Grievance Redressal Officer of the Reserve Bank of India, Regional Office, New Delhi**

*(for appeal incase complaint / dispute is not redressed within a period of one month)*

**General Manager**

**Department of Non Banking Supervision**

Reserve Bank of India, Regional Office

6, Sansad Marg,

New Delhi - 110 001,

Tel: +91 11 23714456

Fax: +91 11 23713672