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BANKING AND FINANCE

New CERSAI Compliance Alert: Source Of Funds Now Mandatory For SI Filings

AUTHOR Shrishail Kittad
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Introduction

The Central Registry of Securitisation Asset Reconstruction and Security Interest of India (CERSAI) has notified a new compliance requirement that mandates financial institutions to disclose the source of funds while registering a security interest. The move is intended to enhance regulatory oversight and improve transparency in lending arrangements involving on-lending or refinance structures.

Background: Role of CERSAI under SARFAESI

CERSAI was established under Section 20 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), to maintain a central registry of charges created over movable, immovable, and intangible assets. As per Section 26D of the SARFAESI Act, the enforcement of security interest under the Act is subject to the prior registration of such interest with CERSAI. Registration helps prevent fraudulent multiple financing of the same asset and ensures legal enforceability in case of borrower default.

New Fields Introduced in CERSAI Filings

CERSAI has now introduced the following fields which will become mandatory during the registration of a security interest:

1. Type of Lending:

Lenders must indicate whether the loan has been made using:

- Own Funds
- On-Lending
- Re-finance

2. Source of Fund Entity ID:

In cases of on-lending or refinance, the Entity ID of the original lending institution (e.g., NABARD, NHB, SIDBI) must be disclosed.

3. Source of Fund Security Interest ID:

Where refinance or on-lending is secured by a prior charge on a portfolio, the Security Interest ID of the corresponding registration must be furnished.

These fields are to be captured at the time of initial registration and will become mandatory once the functionality is formally rolled out on the CERSAI portal. Updated user manuals and system guidance are expected to be published in due course.

Compliance Implications for Lenders

The introduction of these fields represents a significant development for banks, non-banking financial companies (NBFCs), housing finance companies, and other lending institutions. Key implications include:

- **Operational Adjustments:** Institutions will need to update their loan origination systems, internal forms, and CERSAI filing mechanisms to incorporate these new data points.
- **Legal Enforceability:** Inaccurate or incomplete registration may impact the enforceability of security interests under SARFAESI, especially in insolvency or asset recovery proceedings.
- **Audit Trail and Supervision:** The requirement to disclose the origination and flow of funds strengthens the audit trail and enhances visibility for supervisory authorities.
- **Upstream Coordination:** Institutions involved in refinance or on-lending arrangements must coordinate with refinancing agencies to obtain accurate CERSAI credentials and linked charge details.

Action Points for Institutions

- **Conduct internal process audits** to identify transactions involving on-lending or refinance.
- **Update system workflows** and documentation practices in anticipation of the new mandatory fields.

- **Train compliance, credit, and legal teams** on the implications of the change and the revised filing requirements.
- **Monitor notifications** from CERSAI regarding the go-live date and availability of revised manuals.

Conclusion

This regulatory development will enhance the governance of secured lending. By mandating disclosures on the source of funds, CERSAI aims to bring greater clarity and control over lending chains and fund flows, particularly in multi-layered credit structures. Institutions that prepare proactively will reduce compliance risk and ensure uninterrupted legal enforceability of their secured interests.

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