International Journal of Trade and Commerce-IIARTC
July-December 2015, Volume 4, No. 2 pp. 358-365
ISSN-2277-5811 (Print), 2278-9065 (Online)

Non-Performing Assets Recovery Channel: An Assessment of Securitization Act-2002

Divya Jain*[a], Ravindra Kumar Saini[b]
[a]*Department of Commerce, Vardhaman (PG) College Bijnor (UP), India*
Email Id: divya14483@gmail.com
[b]*Department of Management & Commerce, COER-School of Management Roorkee (U.K.) India*

Abstract

The accretion in colossal NPAs (Non-Performing Assets or Non-Performing Loans) in Indian banks has been considered a major challenging problem. In order to overcome the problem of NPAs large number of initiatives were taken by the Government of India, RBI and various Financial Institutions. Nevertheless, problem is still unsolved. On the same way of NPAs management to accelerate the recovery rate and to overcome legal problems of collateral property. 'The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act-2002 (Securitization Act, 2002) came into force in 2002.This paper assesses, the performance of Securitization Act, 2002 as a most expected and effective recovery channel. At the initial stage of incursion of Securitization Act it was seems very effective but latter on consequences are not as expected.

Key Words: *Banking, Non-Performing Assets (NPAs), Recovery*

PAPER/ARTICLE INFO
RECEIVED ON: 25/09/2015
ACCEPTED ON: 30/12/2015

Reference to this paper should be made as follows:

Divya Jain, Ravindra Kumar Saini (2015), "Non-Performing Assets Recovery Channel: An Assessment of Securitization Act-2002", *Int. J. of Trade and Commerce-IIARTC*, Vol. 4, No. 2, pp. 358-365

*Corresponding Author

1. INTRODUCTION

Non-Performing Assets is considered as parameter of health and soundness of financial system of a country. As level of NPAs increases in the financial system it indicates the weakness of financial system and become a problem this is not only being faced by developing countries like India but developed countries also. In India this problem had attracted attention of bankers, government, financial authorities and financial experts. In early 1980s consequently Health Code System of Assets classification was implemented in 1985 and it was failed after few years of its implementation. But depth of the problem of Non-Performing Assets was realized in early 1990s. Then magnitude of NPAs in Indian banking Industry was more than Rs.1,48,000 crores. Keeping in view health of financial system along with NPAs problem prudential norms was introduced in India Banking System and various guidelines were issued by RBI. In order to boost the recovery of NPAs various measures were taken.

Definition of NPAs: Non-Performing Asset means an asset or account of borrower, which has been classified by bank or financial institution as sub–standard, doubtful or loss asset, in accordance with the direction or guidelines relating to assets classification issued by RBI. In general, it means the assets of bank which did not perform any role in getting profit to the organization

RBI Defined NPAs as

- **Classification of Assets:** Non-Performing Assets are further classified into three categories based on the span for which the asset has remained non-performing and the recovery of the dues:
- **Sub-Standard Assets:** With effect from March 31, 2005, a sub-standard asset would be the one, which has remained as a Non-Performing Asset for a period of less than or equal to 12 months. Sub-Standard assets have credit weaknesses that jeopardise the liquidation of the debt and there is also possibility of incurring and sustaining some losses, if the deficiencies are not corrected.
- **Doubtful Assets :** With effect from March 31, 2005, an asset is classified as doubtful if it has remained as a sub-standard asset for a period of 12 months. A loan classified under the doubtful category has all the weakness characteristics as defined for the sub-standard assets; also it has added characteristics that the weakness makes full liquidation or collection, on the basis of the currently known conditions, facts and values that are highly doubtful and questionable.
- **Loss Assets:** A loss asset is one where loss has been identified by the bank's internal auditors and RBI"s external auditors, but the amount has not been written off fully. These kinds of assets are also considered as uncollectible and of little value that its continuance or maintenance as a bankable asset is not warranted or acceptable though there may be some salvage or recovery value.

Some Other Definitions of NPA by RBI:

- An asset, including a leased asset, becomes non-performing when it ceases to generate income for the bank.
- A non-performing asset (NPA) is a loan or an advance where;

i. Interest and/ or instalment of principal remain overdue for a period of more than 90 days in respect of a term loan,
ii. The account remains "out of order" as indicated at paragraph given, in respect of an Overdraft /Cash Credit (OD/CC),
iii. The bill remains overdue for a period of more than 90 days in the case of bills purchased and discounted,
iv. The instalment of principal or interest thereon remains overdue for two crop seasons for short duration crops, the instalment of principal or interest thereon remains overdue for one crop season for long duration crops,
v. The instalment of principal or interest thereon remains overdue for one crop season for long duration crops,
vi. The amount of liquidity facility remains outstanding for more than 90 days, in respect of a securitisation transaction undertaken in terms of guidelines on securitisation dated February 1, 2006.
vii. In respect of derivative transactions, the overdue receivables representing positive market-to-market value of a derivative contract, if these remain unpaid for a period of 90 days from the specified due date for payment.

- Banks should, classify an account as NPA only if the interest due and charged during any quarter is not serviced fully within 90 days from the end of the quarter.
- **'Out of Order' statutes:** An account should be treated as **'out of order'** if the outstanding balance remains continuously in excess of the sanctioned limit/drawing power. In cases where the outstanding balance in the principal operating account is less than the sanctioned limit/drawing power, but there are no credits continuously for 90 days as on the date of Balance Sheet or credits are not enough to cover the interest debited during the same period, these accounts should be treated as **'out of order'**.
- **'Overdue':** Any amount due to the bank under any credit facility is 'overdue' if it is not paid on the due date fixed by the bank. (rbi.org.in)
- **SARFAESI Act 2002:** The previous legislations enacted for recovery of the default loans was Recovery of Debt due to banks and Financial Institutions Act 1993. This act was passed after the recommendations of the Narsimham Committee-1 were submitted to the central government. Two forums were created by this act as Debt Recovery Tribunal and Debt Recovery Appellate Tribunals for the speedy settlement of disputes with regard to ever increasing non-recovered dues. But several weaknesses were identified in this act and these weaknesses were misused by the borrower as well as lawyers. This led to the government introspect the provisions of act and as result, a new committee was formed under the chairmanship of Andhyarujina to examine banking sector reforms and considerations to change in the existing system. This Committee recommended to enact a new act for the establishment of securitization and reconstruction companies and to empower banks and financial institutions to possession of the non-performing assets. Consequently, SARFAESI Act 2002 (Securitization and reconstruction of Financial Assets and Enforcement of Security

Interest Act 2002) came into force and empowered secured creditors to recover their dues without intervention of the Court.

- It has laid down the legal framework for securitization in India
- The transfer of NPAs to asset reconstruction companies for the disposal of the assets and the realization of the proceeds.
- To enforce the security interest without the Court's intervention
- To empower the banks and financial institutions to take over the immovable property that is hypothecated or charged to enforce the recovery of debt by seizing the property.

2. Review of Literature and Objectives

Many published research papers are available in the area of human resource management practices and their impact on various aspects of business organization. Various studies undertaken by distinguished scholars have broadened the understanding of related issues. Some of them are:

Chakrabarti, Manas., (2015) study focuses on the role of ARCs in the Indian Banking Sector in respect of Stressed Assets Management (including NPAs and this study also travel around on the various problems which hinder smooth functioning of ARCs and try to explore prospects of ARCs in the Indian economy. He found that the best indicator for the health of the banking industry in a country is its level of NPAs and the growth of ARCs is important for the Indian Economy. ARCs can add value by cutting short the time to resolution as well as maximizing the recoveries. These practices will enable banks/ FIs to move to internationally accepted norms.

Joseph, Ashly Lynn, Prakash, M., (2014) have Study on the Trend Of NPA Level In Private Sector Banks And Public Sector Bank, basically deals with the trends of NPA in banking industry, the factors that mainly contribute to NPA raising in the banking industry. They concluded NPAs are draining the capital of the banks and weakening their financial strength.

Das, Sulagna Dutta Abhijit., (2014) tried to analyse the 6 years, (2008-2013) net non-performing asset data of 26 public sector banks, by using Annova statistics. The objective of the study is to find out mean variation of the concerned banks study also focuses on the reason behind the NPA and its impact on banking operations.

Rani, Chanchal., (2012) examined the impact of Securitisation Legislation on the Management of Non-Performing Assets and she concluded that decline in gross and net NPAs has been observed at all levels of banking operations but degree may not be same for gross and net decline of NPAs to advances.

Roy, Nibedita. (2011) has made an endeavour to determine whether the process of securitisation is able to cast its beneficial impact on the Indian Banking Industry and its impact on the level of risk management of those institutions. He believes that previous literature in India is concentrated to the overall review of the securitisation instruments not specific to the banking industry. Concluding results of the paper indicate that securitisation leads to growth in performance, asset quality improvement, enhancement of loan portfolio and ultimately better risk management.

Danyal (2010) wanted to study the relationship of NPAs and the operating profits of the private sector banks. He study the relationship of NPAs and the advances of the private sector banks. He also concluded that the NPAs are considered as an important parameter to judge the performance and financial health of banks. The level of NPAs is one of the drivers of financial stability and growth of the banking sector.

Yoonhee Tina Chang (2006) study has been conducted to measure and analyses the impact of the transition from price-cap regulation (deposit/loan rate control) to rate-of-return regulation (ROA, NPLs and/or BIS ratio) on banking industry structure.

M. Karunakar Research (2008) conducted a study with a view to ascertain the problem of losses and lower profitability of Non-Performing Assets (NPA) and liability mismatch in banks and financial sector depend on how various risks are managed in their business. An attempt is made in the paper that what is NPA? The factors contributing to NPA, the magnitude of NPA, reasons for high NPA and their impact on Indian banking operations. Besides capital to risk weight age assets ratio of public sector banks, management of credit risk and measures to control the menace of NPAs are also discussed. The lasting solution to the problem of NPAs can be achieved only with proper credit assessment and risk management mechanism. It is better to avoid NPAs at the market stage of credit consolidation by putting in place of rigorous and appropriate credit appraisal mechanisms.

3. OBJECTIVES: This paper focuses on the following objectives:

- To find the effectiveness of SARFAESI Act 2002 as NPAs recovery measure.
- To analyze the NPAs recovery trends under SARFAESI Act 2002.

4. RESEARCH METHODOLOGY

The research methodology is a systematical way through which a researcher has to go, for addition a new knowledge in existing knowledge of the subject. Research methodology is an attempt to solve the problem systematically. With a view to achieving the objectives of the proposed study, the secondary data has been collected from the various sources. Mainly secondary data has been utilized for making the study more comprehensive, comparable and result oriented.

5. DATA COLLECTION

To find out significant results of the study, secondary data has been collected and time series has been used to provide the theoretical basics too.

Main Sources of Data:

- RBI Publications: Annual Reports and Trends and Progress of Indian Banking
- IBA Journal

6. METHOD OF SAMPLING

(a) Data from 2003-13 has been included in the study.

(b) Out of various channels of NPAs recovery only one channel SARFAESI Act 2002 has been included in the study.

7. TOOLS AND TECHNIQUES FOR DATA ANALYSIS

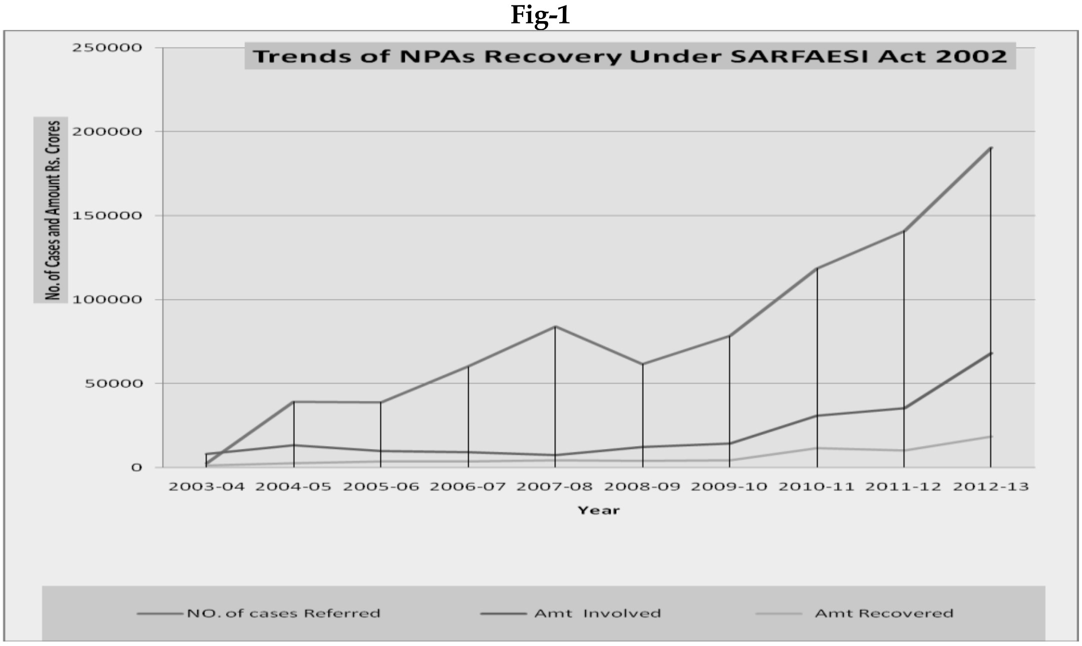
To find inferences various statistical tools have been used such as mean, standard deviation, graphical method, ratio analysis, graphs, tables are used to analyze the data and also to predict the future trends so as to get a particular inference from it.

8. EFFECTIVENESS OF SECURITIZATION ACT-2002

NPAs Recovery under Securitization Act-2002 (Amount in Rs. Crore)					
YEARS	No. of cases Referred	Amt Involved	Amt Recovered	Per case Amt Involved	Per case Amt recovered
2003-04	2661	7847	1156	2.948891	0.434423
2004-05	39288	13224	2391	0.336591	0.060858
2005-06	38969	9831	3423	0.252277	0.087839
2006-07	60178	9058	3749	0.15052	0.062299
2007-08	83942	7263	4429	0.086524	0.052763
2008-09	61760	12067	3982	0.195385	0.064475
2009-10	78366	14249	4269	0.181826	0.054475
2010-11	1,18,642	30600	11600	0.2579	0.0977
2011-12	1,40,991	35300	10100	0.2503	0.0716
2012-13	1,90,537	68100	18500	0.3574	0.0971
Mean	81533.4	20753	6359.9	0.5017614	0.1083532

Source: Trend and Progress of Indian Banking and IBA Bulletin

Fig-1



Ten years performance of SARFAESI Act 2002 has been analyzed from 2003-04 to 2012-13. Fig.1 depicts the trends of number of cases referred to SARFAESI Act-2002 along with amount involved and amount recovered. Graph shows that numbers of cases referred are very large in number and increasing year by year. In the financial year 2003-04 total numbers of cases referred were 2661 whereas in 2012-13 total cases referred are recorded 190537. Amount of NPAs recovered under this act has not been considered very significant in the year 2003-04 only 43.44% had been recovered. Under SARFAESI Act-2002 banks and financial institutions are not able to recover average 50% in last ten years.

Table -2

SARFAESI Act 2002 NPAs Recovery Descriptive Statistics					
	N	**Minimum**	**Maximum**	**Mean**	**Std. Deviation**
NO. of Cases Referred	10	2661.00	190537.00	81533.4000	55251.11451
Amount Involved	10	7263.00	68100.00	20753.9000	19233.53413
Amount Recovered	10	1156.00	18500.00	6359.9000	5383.70580
Per case Amount Involved	10	.09	2.95	.5018	.86368
Per case Amount Recovered	10	.05	.43	.1084	.11577
Valid N (list wise)	10				

A momentous gap has been existed from the beginning in total amount of NPAs involved and amount removed out of it. In the year 2007-08, this gap was considered as minimum i.e. in this financial year Indian banks have been able to recover maximum involved in 83992 cases referred to SARFAESI Act 2002. In the year 2012-13 total amount of NPAs involved for recovery through SARFAESI Act 2002 was amount 68100 crores only 27.17% was recovered majority of is still unrecovered. Under SARFAESI Act 2002 banks and financial institutions are not able to recover average 50% in last ten years. Analysis shows big difference between average value of amount involved and recovered

9. CONCLUSIONS

Recovery of NPAs has been a great challenge before not only Indian banks but also worldwide. Increasing level of NPAs in a banking system adversely affect the various operations like lending, liquidity, solvency, profitability, goodwill, innovations etc. time to time large number of actions have been taken by Reserve Bank of India and Government of India. Enactment SARFAESI Act 2002, was being considered very powerful tool in the direction of NPAs Recovery. Performance of ten years of this act is not up to the mark as expected before its enactment. On average approx 30% has been recovered out of total amount involved and 70% amount under SARFAESI Act 2002 is still unrecovered. Unrecovered amount NPAs become a challenge before existence of Banking.

REFERENCES

[1]. Chakrabarti, Manas. (2015). The Role Of Asset Reconstruction Companies (ARCs) In Non-Performing Assets (NPAs) Management In Indian Banking Sector: An Empirical Study. Abhinav International Monthly Refereed Journal of Research in Management & Technology, Vol. 4(5).
[2]. Joseph, Ashly Lynn., and Prakash, M. (2014). A Study on Analyzing The Trend Of NPA Level In Private Sector Banks And Public Sector Bank. International Journal of Scientific and Research Publications, Vol. 4(7).
[3]. Das, Sulagna., and Dutta, Abhijit. (2014). A Study on NPA of Public Sector Banks in India. IOSR Journal of Business and Management (IOSR-JBM), Vol. 16(11), 75-83.
[4]. Rani, Chanchal. (2012). Status Of Non-Performing Assets (NPAs) After The Enactment of Securitisation (SARFAESI) ACT. International Journal of Research in Finance & Marketing (IJRFM). Vol. 2(11).
[5]. Roy, Nibedita. (2011). Securitisation – A Risk Management Tool in Indian Banking Industry. Business Spectrum, Vol. I(2), July - December.
[6]. Trend and Progress of Indian Banking in India (Various Issues).
[7]. Bidani, S.N., Managing Non-Performing Assets in Banks, Vision Books, New Delhi 2002 pp-39.
[8]. Sarda, D.P., Hand Book on Prudential Norms for Banks, Govind Parkashan Natraj Nagar Jaipur 2003 pp-8.
[9]. Toor, N.S, Non-Performing Advances In Banks, 2nd Ed. Sky Lark Publication New Delhi, 1997 pp-49.
[10]. http://upanl.un.org/intradoc/groups/public/documents/AICITY/UNPPANO13132.pdf
[11]. http://www.businessstandard.com
[12]. http://www.businessstandard.com/search/storypage_new.php?leftnm=2&leftindx=2&subLeft=1&autono=150831
[13]. http://www.blonnet.com/2003/07/01/stories/2003070102590100.htm.
[14]. http://www.hinduonnet.com/thehindu/biz/2002/02/28/stories2002000800280200.htm
[15]. http://www.in.geocities.com/kstability/inbank/reform6.html