



# Whitepaper 10- Evolution of CERSAI, Current Status and Challenges in Operationalization

## Need of CERSAI and regulatory background

Till the incorporation of the Central Registry of Securitisation Asset Reconstruction and Security Interest of India (CERSAI) there was no unified digital database to record the registrations of security interest in India. The absence of a centralized system to record transactions of financial assets like the creation of equitable mortgages led to harmful practices like the mortgaging of the same property multiple times to different lenders.<sup>1</sup>

It was the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interests Act ('the SARFAESI Act') (2002)<sup>2,3</sup> which first provided for a mechanism to record transactions related to the securitization and reconstruction of financial assets and the creation of a security interest in properties. Subsequently, in 2005, the Prevention of Money Laundering Rules ('the PML Rules') (2005), provided for the establishment of a Central Know Your Customer (CKYC) Registry to record the identities of parties undertaking financial transactions.<sup>4</sup> These

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<sup>1</sup> An 'equitable mortgage' is a mortgage which is not registered with the Sub-Registrar and is created by merely depositing the physical title deed with the lender. Therefore, creating an equitable mortgage cannot effectively prevent the borrower from mortgaging the same property multiple times to different lenders. Furthermore, low stamp duty rate charged on the creation of an equitable mortgage and ease of its creation, make equitable mortgages the most common type of mortgage. The recording of equitable mortgages in a central database can curb the practice of mortgaging the same property multiple times.

<sup>2</sup> The SARFAESI Act was enacted in 2002 to regulate the securitisation and reconstruction of financial assets and bring about the enforcement of security interest. To fulfill these objectives, it provided for a central database of security interests created in properties.

<sup>3</sup> [SARFAESI Act, Chapter IV](#)

<sup>4</sup> [Prevention of Money-Laundering \(Maintenance of Records\) Rules, 2005](#)

parties included individuals, stockbrokers, insurance companies, mutual fund managers, and financial institutions such as banks and Non-Banking Financial Companies (NBFCs).

On 31st March, 2011, the central government finally incorporated CERSAI. CERSAI is a government company licensed under Section 25 of the Companies Act, 1956. As of date, the central government owns 51% of the equity of CERSAI, while the rest is owned equally by the National Housing Bank and ten other public sector banks such as Punjab National Bank, State Bank of India and Bank of Baroda.

The initial mandate of CERSAI was to record transactions relating to the securitization and reconstruction of financial assets and the creation of mortgages by deposit of title deeds from 2011.<sup>5</sup> This mandate was enforced in a bid to fulfill the following objectives:-

- **Promoting interoperability of registration data on security interest across the Banking Financial Services and Insurance (BFSI) sector**
- **Preventing the creation of multiple equitable mortgages on the same property**
- **Avoiding data duplication**
- **Reducing warehousing costs**

The mandate of CERSAI was expanded in 2016 to cover transactions relating to the creation or modification of security interest in immovable properties by registered mortgages<sup>6</sup> by recording all mortgage transactions. Creating a central database recording mortgage transactions can thus pave the way for other services such as credit-scoring and title due diligence. In fact, CERSAI tied up with CRIF High Mark and TransUnion CIBIL, both credit-scoring agencies, to provide a range of services to lenders including the creation of credit profiles and checking of the security status of borrowers.<sup>7</sup>

Apart from mortgages, the 2016 mandate includes the entry of transactions pertaining to the creation of security interest in hypothecations. It also requires intangible assets to be entered into CERSAI.<sup>8,9</sup>

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<sup>5</sup> Reserve Bank of India (2018)- UCBs-Setting up of Central Electronic Registry under the SARFAESI Act, 2002

<sup>6</sup> The government mandates that the details of all the mortgages created be recorded with CERSAI by the lenders.

<sup>7</sup> Crif High Mark (2014)- CERSAI - Crif High Mark - Memorandum of Understanding

<sup>8</sup> Reserve Bank of India (2018)- Filing of Security Interest relating to Immovable (other than equitable mortgage), Movable and Intangible Assets in CERSAI

<sup>9</sup> Intangible assets include assets such as patents, copyrights, trademarks, licenses and franchises.

## How CERSAI Works

The CERSAI website facilitates two types of services, (1) entity registration and (2) public search.

### Entity registration

CERSAI provides for the registration of the following types of entities<sup>10</sup>

- **Secured Creditors:-** These include Non-Banking Financial Companies such as Housing Finance Companies, and public sector banks, private sector banks, foreign banks, co-operative banks and regional rural banks.
- **Asset Reconstruction Companies<sup>11</sup>**
- **Factoring Companies<sup>12</sup>**
- **Revenue Authorities**
- **Other creditors** including individuals, a body of individuals (BoI), a Hindu Undivided Family and sole proprietorship

The entities must be registered for the following purposes:-

- To enter transactions related to the assignment of receivables and asset reconstruction
- To undertake searches based on details of assets, allocation of receivables or debtors

	<b>Activity</b>	<b>Fees (INR)</b>
1	Creation or modification of security interest by way of mortgage by deposit of title deeds for a loan up to INR 5 lakh	50
2	Creation or modification of security interest by way of mortgage by deposit of title deeds for a loan above INR 5 lakh	100
3	Creation or modification of security interest by way of mortgages other than equitable mortgages	0
4	Creation or modification of security interest in hypothecation of plant and machinery, stocks, debt including book debt or receivables for a loan up to INR 5 lakh	50

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<sup>10</sup> [SARFAESI Act, Chapter IV-A](#)

<sup>11</sup> The SARFAESI Act empowers Asset Reconstruction Companies to facilitate the recovery of Non-Performing Assets from the books of secured lenders. The Reserve Bank of India is in charge of granting ARCs licenses. Some prominent ARCs operational in India are ASREC (India) Limited, Pegasus Assets Reconstruction Private Limited and Phoenix ARC private Limited.

<sup>12</sup> Factoring companies are required to record transactions related to the Assignment of Debt on CERSAI.

5	Creation or modification of security interest in hypothecation of plant and machinery, stocks, debt including book debt or receivables for a loan above INR 5 lakh	100
6	Satisfaction of charge for a security interest on assets (1) to (4)	0
7	Securitisation or reconstruction of financial assets	500
8	Satisfaction of securitisation or reconstruction transactions	50

Entity registration can be undertaken via either a Central Know Your Customer (C-KYC) registration or by uploading a Class III-digital signature.<sup>13</sup> Both these modes require identity and address verification of the individuals or officials representing their respective financial institutions.

## Public search

The CERSAI website allows the public to undertake (1) debtor-based searches and (2) asset-based searches of financial transactions. For each report generated, the user must pay INR 10 plus GST as search charges. The report includes the borrower and lender details, ownership details of the asset, and the date of the creation of security interest.

## Challenges

### Issues with uploading details

- **Lack of technical know-how in financial institutions-** Financial institutions have been facing multiple issues while uploading the Know-Your-Customer (KYC) documents. Although the process had commenced in 2017, the rate of uploading the documents was considerably slow. Banks were facing difficulties in uploading the KYC documents of their customers on CERSAI, in part because their system software was not up-to-date and equipped to undertake the process. Financial intermediaries also found it difficult to approach existing clients to again seek their KYC details for re-uploading.<sup>14</sup>
- **The Aadhaar roadblock-** In 2016, the Securities and Exchange Board of India (SEBI) had given permission to registering entities to voluntarily adopt an Aadhaar-based KYC registration system. The Supreme Court subsequently ruled in 2018 that Aadhaar cannot

<sup>13</sup> A Class III digital signature certificate is issued to both. Individuals and organizations. This certificate has the highest assurance level and is primarily intended for e-commerce applications. Individuals may be issued this certificate only on their physical appearance before the certifying authorities.

<sup>14</sup> [The Hindu Business Line \(2018\)- Uploading of KYC data with Central Registry may miss September deadline](#)

be made mandatory to register on CERSAI.<sup>15</sup> Until this verdict, there was a considerable lack of clarity regarding the usage of Aadhaar. The confusion around collecting Aadhaar details contributed to the delay in uploading the requisite data by financial institutions on CERSAI. The process started in early 2017 and took nearly two years to reach the 10-crore mark. After the Aadhaar verdict, however, the rate of uploading more than doubled, to touch INR 25 crore uploads until August 2020.<sup>16</sup>

- SEBI-licensed KYC registering agencies were skeptical about the readiness of banks in accepting their KYC number as the primary KYC.<sup>17</sup>
- **Time lag in uploading latest details-** The data on CERSAI is often outdated; there is a time lag between the registration of the collateral/security and the entry and display of the records on the portal. Furthermore, the reports yielded by the search may not always be available in a machine-readable format. Due to these limitations, lending institutions need to invest time and resources to extract and read the data into machine-readable formats.<sup>18</sup>

#### Issues with the search

- **Accuracy-** Undertaking a public search on the CERSAI website does not always lead to accurate results. This inaccuracy is reflected in two forms- (1) the absence of the relevant record in the output, or (2) the display of the record further down the list of records yielded by the website. The failure of CERSAI to display the relevant record is especially true in cases where the address is large; CERSAI's search, on the one hand, narrows down the list of results, but at the same time, displays the incorrect record owing to spelling variations. For instance, on searching for an apartment in 'Puja Enclave', the website yields a list of irrelevant records with names very different from 'Puja Enclave', such as, 'Grishma Heights' and 'Dheeraj Residency'. 'Puja Enclave' is the 88th result out of a list of 101 records yielded by CERSAI.
- **Payment for search and not download-** CERSAI charges the user INR 10 plus GST as search charges (INR 11.8) for merely undertaking a search. The user pays the requisite amount and is directed to the list of records that may or may not be relevant. Thus, even in cases where CERSAI has not yielded the correct record, the user ends up paying the search charges. Furthermore, paying the INR 11.8 upfront enables him to download multiple reports without being charged separately for each download.
- **No details of repaid mortgages displayed-** In the case of mortgages that have been repaid, the CERSAI search simply yields the output- 'All security interests with the

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<sup>15</sup> Justice K.S. Puttuswamy and Others Vs. Union of India and Others

<sup>16</sup> [The Print \(2020\)- With 25 crore covered, KYC data of nearly a fifth of India's population is digital](#)

<sup>17</sup> [Ibid](#)

<sup>18</sup> [Reserve Bank of India \(2018\)- Report of the High Level Task Force on Public Credit Registry for India](#)

selected asset ID are satisfied.' It does not display details such as the borrower, lender or asset details.

Despite multiple regulatory pushes by the Reserve Bank of India (RBI) and SEBI, the process of uploading the Know-Your-Customer (KYC) details of customers by the banks has been slow. Till August 2020, the KYC data of only a fifth of the country's population was uploaded. It is essential that the process is made more efficient to ensure that a complete and up-to-date KYC registry across the BFSI sector is created and updated in real-time.