

MCA notification on third-party assets of NBFCs under insolvency to aid securitisation: Icra

By: FE Bureau

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The notification was issued after defaults on securitisation transactions originated by troubled mortgage lender Dewan Housing Finance (DHFL) following a court-ordered moratorium on repayments to creditors.



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The government notification stating that third-party assets, or loan pools sold by non-banking financial companies (NBFCs), must be serviced even when the company is under insolvency proceedings will give a boost to securitisation transactions, rating agency Icra said on Tuesday.

The notification was issued after defaults on securitisation transactions originated by troubled mortgage lender Dewan Housing Finance (DHFL) following a court-ordered moratorium on repayments to creditors.

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On January 30, the corporate affairs ministry had said the administrator of financial service providers (FSPs) undergoing insolvency proceedings should continue to discharge contractual obligations under securitisation transactions or lending arrangements in which the FSP acts as a servicing or collection agent on behalf of third parties. The administrator is also required to ensure the receivables collected are deposited in a separate account and transfer the same in accordance with the terms of such contracts.

“The notification by the government is a welcome move, as this clarifies the operational role of the administrator while dealing with third-party receivables and would ensure that payments to the investors are met in a timely manner as long as the collections remain adequate,” Icra said.

Abhishek Dafria, Icra head – structured finance and V-P, said securitisation transactions are considered bankruptcy-remote due to transaction terms and the legally binding structure. “On default or insolvency proceedings of any FSP, its securitisation transactions are expected to continue to be serviced as the FSP in its role as a servicer is expected to continue to collect from the securitisation

pool and transfer the same to the investors. This is because these receivables legally belong to the trust(s) for the benefits of the investors and do not belong to the FSP,” he said. Without naming DHFL, Dafria pointed to the example of the one servicer currently undergoing insolvency and which temporarily failed to transfer funds to its investors despite strong collections.

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