

2 Day course Outline - Secured lending & Enforcement of security interests

USP of the Course:

- Comprehensive coverage on secured lending and recoveries
- Debt restructuring and resolution compared with enforcement action
- Loan recovery and self-help repossession of assets – full guidance in light of recent Supreme Court rulings
- Inputs on SARFAESI Act
- Internationally acclaimed speaker – Vinod Kothari

For whom:

- Banks and financial institutions
- Non-banking financial companies
- Regulators of lending institutions
- Lawyers and law professionals
- Recovery agents

Course Outline:

Day 1

1. Basic law of secured lending:
 - a. Meaning of security interest
 - b. Different forms of security interest
 - i. Against movable and immovable property
 - ii. Possessory and non possessory security interest
 - iii. Mortgage and charges
 - iv. Conditional sales
 - c. Creation of security interest
 - d. Perfection of security interest
 - e. Guarantees and third-party security interests
 - f. Overview of security interest laws globally and emerging trends
2. Credit and security interest evaluation:
 - a. Credit evaluation of a funding proposal
 - b. Basics of evaluation and analysis of financial statements
 - c. Evaluation of the asset
 - d. Two critical ratios – loan to value ratio and debt service coverage
 - e. Movement of LTV ratio over time
 - f. Assessing residual value of the security interest
3. Different forms of funding transactions:
 - a. Asset-backed lending business –loans against tangible assets – cars, equipment, plant and machinery, real estate

- i. Creation of security interests and precautions
 - b. Loans against financial assets (shares and securities)
 - i. Essential rules of pledging and procedures in case of physical and demat securities
 - ii. Restrictions on loans against shares by SEBI and stock exchanges
 - iii. Rights of a pawnee under contracts law
 - c. Project finance:
 - i. Creation of floating charges and enforcement
 - ii. Restrictive covenants in case of project finance
 - iii. Relevance of special purpose vehicles
 - d. Venture finance
 - i. Legal aspects of venture capital funding by venture capital funds
 - ii. Venture funding by NBFC
 - iii. Essential features of venture capital documentation – shareholders’ agreement
- 4. Evaluation of Lender’s options
 - a. Choosing from out of a slew of measures
 - i. Enforce
 - ii. Restructure
 - iii. Settle
 - b. Making a prudent choice from out of slew of measures
 - i. Workouts and debt restructuring
 - ii. Enforcement of security interest – self help vs judicial
 - iii. Winding up applications
 - iv. SARFAESI Act action
 - v. Enforcement of security interest
 - vi. DRT action
 - c. International practices

Day 2

- 1. Self-help enforcement of security interests
 - a. When is self-help repossession available, and for what sort of assets should it be exercised
 - b. Recovery agents
 - c. RBI guidelines on recovery agents
 - d. Precautions to keep while taking recovery action
 - e. List of Dos and DONTs
 - f. Vicarious responsibilities of the lender on recovery action
- 2. Formal and informal workouts
 - a. Formal workouts
 - i. SICA/ BIFR/ NCLT
 - b. Informal workouts
 - i. Corporate debt restructuring
 - c. Principles of debt restructuring
- 3. Winding up and insolvency proceedings

- a. Priorities in winding up
- b. Making efficient use of winding up proceedings
- 4. SARFAESI Act
 - a. Pre-requisites for action
 - b. Serving of proper notice u/s 13 (2)
 - c. Precautions to take while proceeding u/s 13 (4)
 - d. Sale of assets and precautions to take before selling