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PART II

Statutory Notifications containing Rules and Orders issued by all Ministries and Divisions of the Government of Pakistan and their Attached and Subordinate Offices and the Supreme Court of Pakistan

GOVERNMENT OF PAKISTAN

MINISTRY OF FINANCE, REVENUE AND ECONOMIC AFFAIRS

(Finance Division)

[INTERNAL FINANCE WING]

NOTIFICATION

Islamabad, the 4th July, 2018

S.R.O. 71(KE)/2018 :

In exercise of the powers conferred by section 25 of the Financial Institutions (Recovery of Finances) Ordinance, 2001 (Ordinance No. XLVI of 2001), the Federal Government is pleased to make the following rules, namely :-

1. **Short title and commencement.**—(1) These rules may be called the Financial Institutions (Recovery of Finances) Rules, 2018.
(2) They shall come into force at once.
2. **Definitions.**—(1) In these rules, unless there is anything repugnant in the subject or context, "Ordinance" means the Financial Institutions (Recovery of Finances) Ordinance, 2001 (XLVI of 2001).
(2) All other words and expressions used but not defined herein shall have the same meanings as assigned to them under the Ordinance.

(287)

Price : Rs. 6.00

3. Procedure for sale of mortgaged property.—A financial institution shall observe the following procedure to sell the mortgaged property under section 15 of the Ordinance, namely :-

(a) for determination of liability,-

- (i) before sending the first notice to the mortgagor under sub-section (2) of section 15 of the Ordinance, the financial institution, in order to get the outstanding mortgage money determined, shall forward the case to a chartered accountant firm. Such chartered accountant firm shall neither be nor have been, during the last three years, a statutory auditor of, or employed or engaged as a consultant by, the concerned financial institution or the mortgagor. In case of more than one mortgagees of the mortgaged property, the financial institution shall also request these mortgagees to submit their respective claims for outstanding mortgage money to the chartered accountant firm so nominated or appointed by the financial institution along with complete documents to support their claims;
- (ii) in case of failure of the other mortgagees to submit their respective claims for outstanding mortgage money to the chartered accountant firm in terms of clause (i) the chartered accountant firm shall proceed to determine the outstanding mortgaged money of the concerned financial institution only;
- (iii) after seven days due notice to the parties, the chartered accountant firm shall examine the accounts and determine the extent of liability of the customer including cost of funds as per sub-section (2) of section 3 of the Ordinance and submit its report to the financial institution within thirty business days from the date of the appointment;
- (iv) the fee of the chartered accountant firm shall be initially borne by the financial institution which may subsequently be adjusted and considered as the expenses for the sale of the mortgaged property. In case of claims by more than one mortgagees of the mortgaged property, the fee of the chartered accountant firm shall be shared by the mortgagees on a pro rata basis; and
- (v) the financial institution shall not send any notice of demand, first, second or final, to the customer under sub-section (2) of section 15 of the Ordinance in excess of the liabilities so determined by the chartered accountant firm;

(b) for valuation of mortgaged property.-

- (i) within seven business days after the expiry of the thirty days period of the final notice issued to the mortgagor under sub-section (2) of section 15 of the Ordinance, the financial institution shall hire three valuers from the approved list of professional valuers maintained by the Pakistan Banks Association for valuation of the mortgaged property as on the date of the final notice;
- (ii) within fifteen days of their appointment the valuers shall independently evaluate the mortgaged property and determine its forced sale value;
- (iii) the highest among the three values determined by the valuers shall be considered as the reserve price under clause (d) of sub-section (1) of section 15 of the Ordinance; and
- (iv) if the valuation on the basis of which the reserve price is specified is older than six months at the time of publication of the notice under clause (b) of sub-section (4) of section 15 of the Ordinance, the financial institution shall get the property evaluated afresh as per clause (i); and

(c) for bidding process.-

- (i) after the valuation of the mortgaged property, the financial institution shall make a publication in terms of clause (b) of sub-section (4) of section 15 of the Ordinance;
- (ii) the public auction for the sale of the mortgaged property shall take place after fifteen days of the publication of the notice under clause (b) of sub-section (4) of section 15 of the Ordinance;
- (iii) in case there are more than one bidders with competitive offers, the financial institution shall determine and declare the highest bidder as the successful bidder;
- (iv) if on the bidding day, only one bidder with the offer equal to or more than the reserve price of the mortgaged property comes forward, the financial institution may proceed to sell the mortgaged property to such bidder;
- (v) On acceptance of the bid by the financial institution, the successful bidder shall deposit minimum twenty-five percent of the bid amount within two business days of the

auction. The rest of the bid amount shall be deposited within fifteen days from the date of the initial deposit. In case of failure of the bidder to deposit the remaining amount within the prescribed time limit, the financial institution shall take the deposited amount as reduction of liability of the borrower and re-initiate the auction proceedings for recovery of the remaining amount; and

- (vi) in case no bid is received, the auction shall be cancelled and the entire exercise shall be repeated by the financial institution, subject to the condition that if no bid is received in three auctions, the financial institution, at its discretion, may purchase the mortgage property at a price ten percent higher than the reserve price, with due notice to the mortgagor under sub-section (6) of section 15 of the Ordinance :

Provided that a financial institution shall proceed under section 15 of the Ordinance in only those cases which involve a mortgaged property and in respect of which the Banking Court has not, on or after the commencement of the Financial Institutions (Recovery of Finances) (Amendment) Act, 2016 (XXXVIII of 2016), passed a decree in terms of sub-section (11) of section 10 of the Ordinance or allowed the application for leave to defend in terms of sub-section (10) of section 10 of the Ordinance.

4. **Sale of property after decree.**- If the financial institution decides to proceed under sub-section (3) of section 19 of the Ordinance, then in addition to the conditions as contained in the said section, rule 3 where relevant shall also apply *mutatis mutandis*.
5. **Investigating Agency.**- The Federal Investigation Agency shall be the agency to investigate all complaints filed by the financial institutions regarding wilful default cases in terms of sub-section (7) of section 20 of the Ordinance.
6. **Furnishing of Security.**- The security to be furnished under sub-section (10) of section 10, sub-section (1) of section 13 and sub-section (3) of section 22 of the Ordinance shall be deemed to be fresh security for the purpose of the said provisions under their rule and shall not include any security already furnished.

[No. F.3(2)9kg-IV/2018-113].

MUBEEN SAEED,
Section Officer (Banking-II).