

**RBI: Tri-Party Repo 1**  
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*\* Private Circulation Only*

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## Reserve Bank of India

### Tri-Party Repo (Reserve Bank) Directions, 2017

Reserve Bank of India (“RBI”) vide its *Notification dated August 10, 2017* has provided directions on Commercial Paper (“CP Directions”). Salient features of the directions are as follows:

#### 1. Eligible Issuers:

- All companies including NBFC’s And All India Financial Institutions (“AIFI”) are eligible to issue Commercial Paper (“CP”).
- Entities like co-operative societies/unions, government entities, trusts, limited liability partnerships and any other body corporate having presence in India with a net worth of ₹ 100 crore or higher subject to the condition as specified, can also issue CP.

#### 2. Eligible Investors:

- All residents, and non-residents permitted to invest in CPs under Foreign Exchange Management Act (FEMA), 1999 are eligible to invest in CPs; however, no person can invest in CPs issued by related parties either in the primary or secondary market.
- Investment by regulated financial sector entities will be subject to such conditions as the concerned regulator may impose.

#### 3. Rating Requirement

Eligible issuers, whose total CP issuance during a calendar year is ₹ 1000 crore or more, shall obtain credit rating for issuance of CPs from at least two CRAs registered with SEBI and should adopt the lower of the two ratings.



Where both ratings are the same, the issuance shall be for the lower of the two amounts for which ratings are obtained.

The minimum credit rating for a CP shall be 'A3' as per rating symbol and definition prescribed by SEBI.

#### **4. Duties and Obligations**

Issuer – The issuer of CP shall:

- appoint an Issuing and Paying Agent for issuance of a CP;
- comply with all relevant requirements under these directions and furnish a declaration in this regard to the IPA;
- ensure that the proceeds from CP issues are for declared end uses.

Issuing and Paying Agent – The IPA for a CP issuance shall:

- ensure that the borrower is appropriately authorised to borrow through CPs;
- verify all information disclosed in the offer document before issuance;
- verify and hold certified copies of original documents and/or digitally signed documents in its custody.

#### **5. Credit Rating Agency**

- A Credit Rating Agency (“**CRA**”) must act responsibly in rating CP issuances and continuously monitor the rating assigned to an issue and disseminate rating revisions, if any, to public through its publications and on its website.
- A CRA must publicly disseminate the ratings of the CP and any subsequent change in the ratings, on the date of rating or change in rating, as the case may be.

## IBBI

### Schweitzer Systemtek India Private Limited Vs. Phoenix ARC Private Limited and others

#### 1. Background

The Schweitzer Systemtek India Private Limited (“**Appellant**”/“**Corporate Applicant**”) has challenged the Order dated July 3, 2017 passed by Ld. Adjudicating Authority (National Company Law Tribunal) Mumbai Bench. Pursuant to said Order dated July 3, 2017, the application preferred by Appellant under Section 10 of the Insolvency and Bankruptcy Code, 2016 (“**IBC**”) has been admitted, an order of Moratorium has been passed and Insolvency Resolution Professional has been ordered to be appointed.

#### 2. Whether the immovable or movable property of the Appellant/Corporate Applicant is liable of being attached pursuant to Corporate Resolution Process initiated under Section 10 of IBC.

#### 3. National Company Law Tribunal (Mumbai) Order (“**NCLT**”)

Adjudicating Authority noticed the provision relating to Moratorium (Sec. 14) and clarified as to which property is to be attached, as apparent from the observations. The relevant portion is quoted below for your ready reference:

*“On careful reading I have noticed that the term “its” is significant. The plain language of the Section is that on the commencement of the Insolvency process the ‘Moratorium’ shall be declared for prohibiting any action to recover or enforce any security interest created by the Corporate Debtor in respect of “its” property.”*

#### 4. It was clarified that proceedings under the SARFAESI Act may fall within the ambit of the moratorium *only* if the action is to foreclose or to recover or to create any interest in respect of the property belonging to or owned by a Corporate Debtor.



Therefore, by implication any property which belongs to the promoter/guarantor of a corporate debtor can be proceeded against by a bank or a financial institution under the SARFAESI Act to recover its outstanding dues even during the pendency of proceedings and continuation of moratorium under the IBC.

National Company Law Appellate Tribunal upheld the order of NCLT.



## RERA

### MahaRERA

#### Registration of online applications

MaharashtraRERA (“**MahaRERA**”) vide *its Order dated August 10, 2017* has passed an order for registration of online applications.

Section 3(1) of Real Estate Regulation Development Act, 2016, states that no promoter shall advertise, market, book or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as case may be, in any real estate project or part of it, in any planning area, without registering the project with the authority; provided that projects that are on-going on May 1, 2017 and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from May 1, 2017 i.e. July 31, 2017. It became mandatory for promoter of a real estate project to register on-going projects before the said date, only those projects which are yet to get registration certificate. Authority had in meeting held on August 2, 2017, decided that application received after the deadline shall be rejected and concerned promoters may be given an opportunity of paying Rs. 50,000 (Rupees Fifty Thousand Only) for late submission.

It was decided that penalty for application filed after August 2, 2017 or those who will apply till 5 pm of August 16, 2017 shall be Rs. 1,00,000 (Rupees One Lakh Only) or amount equivalent to the registration fee of the said project, whichever is more. Any applications received in the office after 5 pm of August 16, 2017, his application shall be further processed as per the provisions of Section 5(1)(b) of the Real Estate (Regulation and Development) Act, 2016.



## MNRE

### Environment ministry relaxes environmental clearance rules for solar power projects

Ministry of New and Renewable Energy (“MNRE”) national solar mission division vide its notification dated August 14, 2017 stated that Ministry of Environment Forest and Climate Change (“MEFCC”) have clarified that the provisions of the Environment Impact Assessments 2006 (“EIA 2006”) will not be applicable to solar photovoltaic (“PV”) power projects, solar thermal power projects and development of solar parks.

The MNEFCC however further clarified that:-

1. The disposal of PV cells will be covered under the provisions of Hazardous and Other Waste (Management and Trans-Boundary Movement) Rules, 2016.
2. The development of solar parks will be covered under the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981.

MNEFCC earlier vide its notification dated June 30, 2017 made clear that the solar projects would have to follow basic environmental safeguards. For example, they would have to ensure that the project area does not involve any of the following area:-

1. Agricultural land,
2. Wetlands and bio-diversity
3. Rich areas with a large habitation and
4. Ecologically sensitive areas.

MNEFCC further in its notification specified that if the project involves any displacement of habitation, a proper resettlement and rehabilitation plan should be in place as per the norms of the respective state government. Further if the project area involves forest land, then forest clearance is needed and a site should conform to coastal regulation norms if it falls in such an area .



The MNEFCC said the project proponent will need to take prior permission for the usage of water at the project site.

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