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SEBI eases and standardizes Regulations for Listing of Securitised Debt Instrument

Neelu Singh
neelu@vinodkothari.com

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Introduction

With the increasing demand and requirement of securitisation process for various receivables SEBI in its Board Meeting held on 21st January, 2015¹ has approved amendments Securities in and Exchange Board of India (Public offer and Listing of Securitised Debt Instruments) Regulations, 2008, (which is awaited for the circular) where they rationalised and clarified the roles and responsibilities of trustees and on the other hand tried to enhance the confidence of our investors in securitisation transactions as well.

Definitions:

Securities and Exchange Board of India (Public offer and Listing of Securitised Debt Instruments) Regulations, 2008² has defined the various terms.

According to Regulation 2(1)(r) "**securitisation**" means acquisition of debt or receivables by any special purpose distinct entity from any originator or originators for the purpose of issuance of securitised debt instruments to investors based on such debt or receivables and such issuance;

According to Regulation 2(1)(s) "**securitised debt instrument**" means any certificate or instrument, by whatever name called, of the nature referred to in sub-clause (ie) of clause (h) of section 2 of the Act issued by a special purpose distinct entity;

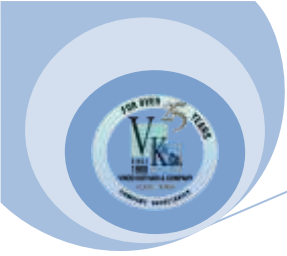
According to Regulation 2(1)(w) "**trustee**" means a trustee of a special purpose distinct entity;

Listing of Instrument:

This regulation for listing was originally placed came into force in the year 2008, however in this last seven years even if approximately 800 issues were made out of which *only two were listed under this regulation*.

We, Vinod Kothari & Co. admit to point out that the biggest reason for this is a lack of motivation to the issuers to list this instrument

¹ <http://www.sebi.gov.in/sebiweb/home/detail/30132/yes/PR-SEBI-Board-Meeting>



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FEMA and SEBI (Foreign Portfolio Investors) Regulations:

Where SEBI³ and FEMA⁴ regulations came up with FPI concept (which earlier was known as FII and QFI) whereby this FPI can invest in various securities as well as listed securities, the biggest hurdle is it still don't allow them to invest in listed Securitised debt instrument.

Indian Securitisation Foundation (ISF) had many a times tried to make representation to SEBI and convinced them to add this securities as well for making such change for stimulating issuers to list Securitised Debt instrument but sadly, still no changes could be found in that regard.

But hope is still alive that soon action would be taken for it.

Registration of Trustees:

Securities and Exchange Board of India (Public offer and Listing of Securitised Debt Instruments) Regulations, 2008 in its Chapter II the requirement for Registration of trustees and their eligibility thereon and the procedure to make application. Thus that meant if any organization or institution wants to make a public offer of securitised debt instruments or seek listing for such securitised debt instruments, it could not do it unless it is registered with the Board under this regulation.

However now SEBI has decided that *all banks and financial institution can act as a trustee without obtaining registration from SEBI under this regulation.*

This means a small liberalization for registration to banks and financial institution could be increase a securitisation transaction at a greater scale.

Standardised Term Sheet:

Investors being always the preference, the risks to the investors is also been taken care of. Hence the concept of Standardised term sheet is proposed which inter alia will include the various disclosures on originators, Issuer, trustee, transaction structure, etc

- **Applicability:**

Although a discussion is been made that this term sheet will be applicable for all the Securitised Debt instrument whether listed or not, but we are of the

³ http://www.sebi.gov.in/cms/sebi_data/attachdocs/1389083605384.pdf

⁴ <http://www.rbi.org.in/scripts/NotificationUser.aspx?Id=8787&Mode=0>



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view that this would be applicable *only to the listed securitized debt instruments* as this came up with the amendment of the regulation which is basically for the **listed** securitized debt instruments.

- **Disclosure under term sheet:**

SEBI has approved the proposal of **standardized term sheet** for the various securitisation transactions. In this term sheet the following disclosures is to be given:

- Disclosures on *originators, Issuer, trustee, transaction structure* by which investors would get a brief idea about the peoples or organizations in which they would be investing their valuable money.
- *Key pool features*, Securitisation mainly refers to creation of financial instrument by pooling various debt instruments and then selling them to investors.
- *Credit enhancement*, which would help investors to identify the risk for the default on Securitised debt instrument including subordination, insurance, letter of credit, over-collateralisation, undertakings and guarantees. Whereby higher the credit enhancement would be, the lower will be the risk.

Conclusion:

These amendments would alongwith increasing the confidence of investors in the securitisation transaction would certainly raise a new hope in the market for more investments in Securitisation transaction and somewhere will put the trustees on a harder side to do more disclosures but opens the gate for banks and financial institutions to act as a trustee in this regulations.