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SEBI amends SDI Regulations for dead securitisation industry

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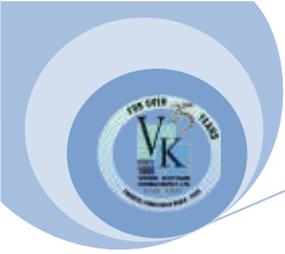
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SEBI on 9th April, 2015 has amended the Regulations pertaining to public offer and listing of securitised debt instruments vide Securities Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) (Amendment) Regulations, 2015¹.

The Amendment Regulation of 2015 are accommodating the Concept Paper issued by SEBI earlier, in 2014, with regard to standardisation of the Term Sheet; Rationalisation & Enhancement of Responsibilities of Securitization Trustees².

The Amendment Regulation of 2015 introduces the eligibility requirements for the trustee, registration requirements and the various compliances required to be carried out by the trustee. The Amendment Regulation of 2015 also finalise the term sheet that may be used as a standardised document for all securitisation transactions.

Highlights of Amendments

The summary changes introduced vide Amendment Regulation of 2015 are as below:

- a. An entity making an application to SEBI to be registered as a trustee of special purpose distinct entities shall require
 - i. net worth of Rs. 2 crores;
 - ii. have in its employment minimum of 2 persons; between them have atleast 5 years of experience in securitisation activity and atleast one among them shall have a professional qualification in law from any university or institution recognised by the Central Government or any State Government or a foreign university.
- b. The requirement for application to SEBI for being trustee shall not be applicable to NHB and NABARD.
- c. The responsibilities of the trustees include:
 - i. Creation, monitoring, protection and enforcement of security interests;
 - ii. Grievance redressal for protection of investors interests;
 - iii. Timely redemption of securitised debt instruments;
 - iv. Monitoring asset cover at all times which includes calling for periodic reports from originator
 - v. Maintenance of net worth and infrastructure to facilitate carrying out of responsibilities of trusteeship.

The term sheet is the same as was proposed under the concept paper. **

¹ http://www.sebi.gov.in/cms/sebi_data/attachdocs/1428639949107.pdf

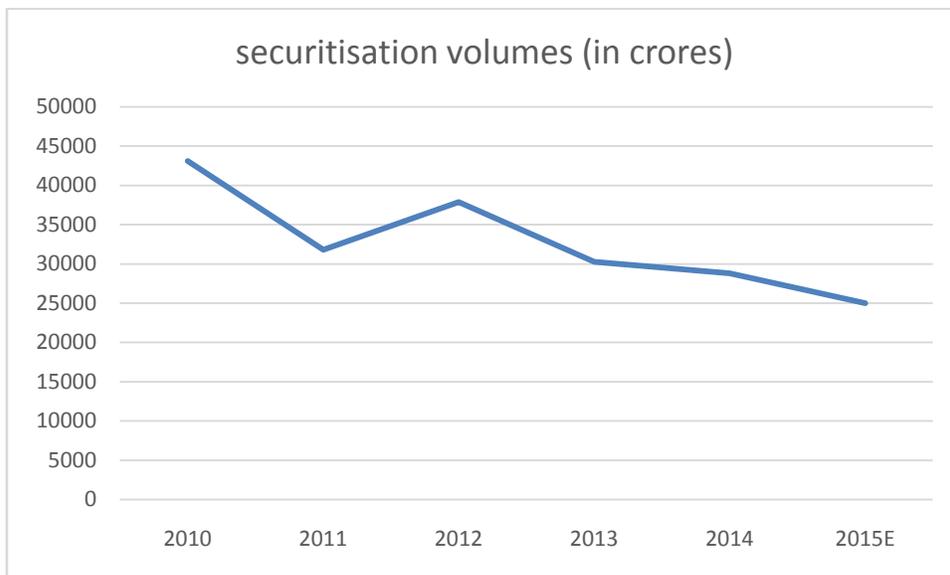
² http://www.sebi.gov.in/cms/sebi_data/attachdocs/1407490618064.pdf



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Performance of Securitisation Industry in recent years

The securitisation industry has been constantly under regulatory scanner and the amendments since 2012 have given industry reasons to rejoice and mourn at its visible and slow death. This is also evident with the rise and the fall in the securitisation volumes ever since. The table below explains the securitisation volumes over the years as below:

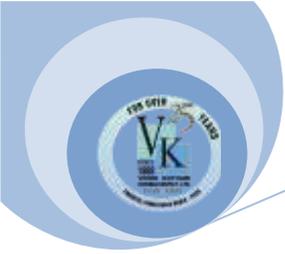


Source: Author's compilation

In the year 2012, the revised securitisation guidelines were issued for banks and non-banks in April and August of 2012 respectively. The guidelines were a welcomed change as they brought clarity on securitisation through PTC route and the market swung upwards post the amendments. There were certain issues with regard to taxation of securitisation vehicles and the pass-through nature of the trusts. In the wake of the market demanding pass-through for securitisation trusts, the Union Budget for 2012-13 introduced Chapter XII EA with regard to taxation of securitisation trusts pursuant to which distribution tax was levied on the income distributed by securitisation trusts.

If the provisions of distribution tax on securitisation trusts as against the demand for pass-through was not enough for the market to be throttled, a series of amendments on the priority sector lending guidelines by RBI did the needful of killing the market completely³.

³ In May, 2014 vide a notification on Treatment of RIDF and certain other funds under priority sector, RBI stated that the *outstanding deposits as on March 31st of the current year under Rural Infrastructure Development Fund (RIDF), Warehouse Infrastructure Fund, Short Term Co-operative Rural Credit Refinance Fund and Short Term RRB Fund with NABARD will be treated as part of indirect agriculture*



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It was always evident and known that the securitisation industry in India was dependent on the priority sector lending targets of banks. NBFCs would sell their portfolios to banks, so that banks could meet their priority sector lending targets; it also explained the heightened volumes of securitisation towards the fag end of the financial year. It would not be improper to say that securitisation volumes were directly proportionate to the demand for priority sector requirements. RBI in 2014 eased the priority sector targets for banks.

The series of regulatory reforms in the sector have made the industry vary of the changes and has been looking at alternative modes of refinancing. While securitisation is considered quintessential for the growth and sustenance of NBFCs in India, emphatically they are forced to look at alternative means of refinancing.

The dipping volumes in the year 2014-15, that are at an all-time low in the recent years, speaks of the markets response to the recent regulatory changes.

How the market views the Amendments?

In an environment where securitisation is considered to be done and written off, the amendments introduced by SEBI are highly inconsequential. The question of greater responsibility of the trustees arises where there is any securitisation in the market.

At this time, the market does not need an overdose of regulations; it needs a new lease of life. Are the regulators listening?

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