

STOCK EXCHANGES MANDATE DISCLOSURES AND OTHER COMPLIANCES RELATED TO PRE-IBC RESTRUCTURINGS

30 September 2019

On 7 June 2019, the Reserve Bank of India (**RBI**) issued a new prudential framework for resolution of stressed assets (**7 June Circular**) which, amongst others, directs banks to take a preliminary review of borrowers within 30 days of default. During this review period, lenders are required to assess the condition of the borrower and decide on a resolution strategy which may include a resolution plan for resolution of the borrower's stress. Lenders choosing to implement a resolution plan are also required to enter into an inter-creditor agreement (**ICA**) for the finalisation and implementation of the resolution plan. Updates regarding the 7 June Circular and ICA are available [here](#) and [here](#).

A resolution plan under the 7 June Circular may provide for reorganisation of the defaulting borrower by way of sale of debt, change in ownership, restructuring, et al.

Directions to Listed Companies

Taking note of these developments, the National Stock Exchange of India Limited and BSE Limited (in consultation with the Securities and Exchange Board of India (**SEBI**)) have issued a circular on 24 September 2019 (**September Circular**) setting out some obligations required to be complied with by listed companies defaulting on their debt or undergoing a resolution under the 7 June Circular.

Key Obligations

Disclosure by listed companies

All listed companies are required to disclose, under the listing regulations applicable to listed companies (i.e., the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015), material development pertaining to:



- (a) default by the listed company;
- (b) the execution of an ICA among lenders of the listed company; and
- (c) material developments pursuant to the ICA (collectively, **Disclosure Events**).

Clarification by listed companies

Listed companies must, without being asked, confirm or deny (as applicable) and clarify to stock exchanges on any rumours / news on developments relating to default or the ICA.

Maintenance of confidentiality by participants

All “participants” (i.e., companies, lenders or any other person that has acquired unpublished price sensitive information (**UPSI**)) that have acquired confidential information during the developments disclosed in Disclosure Events or the ICA must maintain confidentiality of such information until it is disclosed to the stock exchanges (for public dissemination).

Establishment of framework to prevent insider trading violations

Participants must also put in place a strong and robust framework to prevent the persons that have acquired such UPSI from using / disclosing the same or violating the insider trading norms in respect of such UPSI.

Key Takeaways

As the stock exchanges have noted in the September Circular, the ICA may have an impact on the ownership and governance of the listed company. Therefore, developments such as signing of the ICA are material and likely to have a significant impact on the price of securities of such listed companies.

In 2018, SEBI had amended the listing regulations to stipulate a number of disclosures related to the IBC process including regarding meetings of creditors, approval of resolution plan, etc. The September Circular appears to be a step in the same direction and geared towards increasing the transparency of the debt resolution process and facilitating transmission of UPSI for this purpose.



The September Circular would serve the two-fold purpose of firstly, informing investors contemplating investments in vulnerable listed companies and secondly, clarifying on the key compliances required to be undertaken by lenders and other participants while running / participating in the debt resolution process of listed companies.

AUTHORS: Shruti Singh (Partner) and Amrit Mahal (Associate)

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Bengaluru
Simal, 2nd Floor
7/1 Ulsoor Road
Bengaluru 560 042, India

T: +91 80 4339 7000
F: +91 80 2559 7452
E: bengaluru@khaitanco.com

Kolkata
Emerald House
1B Old Post Office Street
Kolkata 700 001, India

T: +91 33 2248 7000
F: +91 33 2248 7656
E: kolkata@khaitanco.com

Mumbai
One Indiabulls Centre
13th Floor, Tower 1
841 Senapati Bapat Marg
Mumbai 400 013, India

T: +91 22 6636 5000
F: +91 22 6636 5050
E: mumbai@khaitanco.com

New Delhi
Ashoka Estate, 12th Floor
24 Barakhamba Road
New Delhi 110 001, India

T: +91 11 4151 5454
F: +91 11 4151 5318
E: delhi@khaitanco.com