



# atharv

July 2023

Basilstone Consulting is pleased to present to you the **July 2023** issue of **atharv**, covering regulatory insights as well as discussion papers. This issue covers the following areas:

## **I. Regulatory Updates and their Expected Impact:**

### **I.1. Securities & Exchange Board of India**

- I.1.1.** Amendment to guidelines for the preferential issue and institutional placement of units by a listed InvITs.
- I.1.2.** Amendment to guidelines for the preferential issue and institutional placement of units by a listed REITs.
- I.1.3.** Appointment of Director nominated by the Debenture Trustee on boards of the issuer.
- I.1.4.** BRSR Core- Framework for assurance and ESG disclosures for value chain.
- I.1.5.** Disclosures of Material Events/ Information under Regulation 30/ 30A of SEBI LODR Regulations 2015.
- I.1.6.** New category of Mutual Fund Schemes for Environmental, Social, and Governance (“ESG”) Investing and related disclosures by Mutual Funds.
- I.1.7.** Regulatory Framework for Sponsor of Mutual Funds.
- I.1.8.** Roles and Responsibilities of Trustee and Board of Directors of Asset Management Companies (AMC) of Mutual Fund
- I.1.9.** Trading window closure period under Clause 4 of Schedule B read with Regulation 9 of SEBI (Prohibition of Insider Trading) Regulations, 2015.
- I.1.10.** Master Circular for compliance with the provisions of SEBI LODR Regulations.
- I.1.11.** Master Circular for Credit Rating Agencies.
- I.1.12.** Master Circular for Debenture Trustees.
- I.1.13.** Master Circular for ESG Rating Providers
- I.1.14.** Master Circular for Infrastructure Investment Trusts (InvITs)
- I.1.15.** Master Circular for Real Estate Investment Trusts (REITs)
- I.1.16.** Master Circular for issue and listing of Non-convertible Securities, Securitised Debt Instruments, Security Receipts, Municipal Debt Securities and Commercial Paper.
- I.1.17.** Consultation Paper on Consolidated Cybersecurity and Cyber Resilience Framework (CSCRF) for SEBI Regulated Entities.
- I.1.18.** Consultation paper on ‘Prudential norms for exposure of Clearing Corporations’



- I.1.19. Resources for Trustees of Mutual Funds
- I.1.20. Framework for Corporate Debt Market Development Fund (CDMDF)
- I.1.21. Investments by Mutual Fund Schemes and AMC in the units of Corporate Debt Market Development Fund (CDMDF)
- I.1.22. Mandating Legal Entity Identifier (LEI) for all Non- Individual Foreign Portfolio Investors (FPIs)

## I.1. Reserve Bank of India

I.1.1.

## I.2. International Financial Services Centre Authority

I.2.1. International Financial Services Centres Authority (Capital Market Intermediaries) (Amendment)

## Discussion Papers

## 2. Securitisation

## About Basilstone

## Contact Us



## 1. Regulatory updates & its expected impact

### 1.1. Securities & Exchange Board of India

#### 1.1.1 Amendments to guidelines for the preferential issue and institutional placement of units by a listed InvIT

- a. The price of InvIT units must be based on the average of the weekly high and low closing prices of the units of the same class quoted on the stock exchange during the two weeks preceding the relevant date.
- b. The InvIT may offer a discount of up to 5% on the price so calculated, but only with the approval of the unitholders. The relevant date is the date of the meeting in which the board of directors of the manager decides to open the issue.

#### 1.1.2 Amendments to guidelines for the preferential issue and institutional placement of units by listed REITs.

- a. The price of REITs units must be based on the average of the weekly high and low closing prices of the units of the same class quoted on the stock exchange during the two weeks preceding the relevant date.
- b. The REITs may offer a discount of up to 5% on the price so calculated, but only with the approval of the unitholders. The relevant date is the date of the meeting in which the board of directors of the manager decides to open the issue.

#### 1.1.3 Appointment of Director nominated by the Debenture Trustee on boards of Issuer.

- a. This circular is issued by the Securities and Exchange Board of India (SEBI) to address the difficulties faced by debenture trustees in appointing nominee directors on the boards of issuers that are not companies.
- b. The circular requires issuers that fall in any of the categories mentioned in the circular to submit an undertaking to their debenture trustees that in case of events as mentioned in Regulation 15(1)(e) of SEBI (Debenture Trustees) Regulations, 1993, a non-executive / independent director/trustee/member of its governing body shall be designated as nominee director for the purposes of Regulation 23(6) of NCS Regulations, in consultation with the debenture trustee, or, in case of multiple debenture trustees, in consultation with all the debenture trustees.
- c. Debenture trustees are responsible for ensuring compliance with the provisions of the circular. They must also monitor and ensure compliance by issuers with the provisions of the circular.
- d. The circular has the following legal implications:
  - It clarifies the obligations of issuers and debenture trustees in relation to the appointment of nominee directors.
  - It provides a mechanism for issuers that are not companies to appoint nominee directors on their boards.
  - It strengthens the oversight role of debenture trustees in the protection of the interests of debenture holders.



**Impact:**

The circular is a welcome step by SEBI to address the difficulties faced by debenture trustees in appointing nominee directors on the boards of issuers that are not companies. It would help to strengthen the oversight role of debenture trustees in the protection of the interests of debenture holders.

**1.1.4 BRSR Core- Framework for assurance and ESG disclosures for Value Chain.**

- a. The BRSR Core is a sub-set of the BRSR, consisting of a set of Key Performance Indicators (KPIs) / metrics under 9 ESG attributes. Keeping in view the relevance to the Indian / Emerging market context. The format is provided in Annexure- I
- b. In order to facilitate the verification process, the BRSR Core specifies the data and approach for reporting and assurance. It is however clarified that the approach specified is only a base methodology. Any changes or industry-specific adjustments/estimations shall be disclosed.
- c. Listed entities are required to provide reasonable assurance of the BRSR Core as per the guided path given, starting with the top 150 listed companies from FY 2023-24.
- d. Disclosures for the value chain shall be made by the listed company as per BRSR Core, as part of its Annual Report. For this purpose, the value chain shall encompass the top upstream and downstream partners of a listed entity, cumulatively comprising 75% of its purchases/sales (by value) respectively. This shall be applicable to the top 250 listed entities (by market capitalization), on the comply-or-explain basis from FY 2024-25. The limited assurance shall be applicable from FY 2025-26.
- e. The Board of the listed entity shall ensure that the assurance provider of the BRSR Core has the necessary expertise, for undertaking reasonable assurance.

**Impact:**

The impact of the BRSR Core framework is that it will help improve the transparency and accountability of Indian companies in relation to their ESG performance. This will make it easier for investors to assess the ESG risks and opportunities of companies, and it will also help to promote sustainable business practices in India.

**1.1.5 Disclosure of material events/ information by listed entities under Regulations 30 and 30A of LODR Regulations.**

- a. In order to provide more details in LODR Regulation 30 and 30A consultation papers were issued in which Annexures are provided.
- b. ANNEXURE I specifies the details that need to be provided while disclosing events given in Part A of Schedule III. ANNEXURE II specifies the timeline for disclosing events given in Part A of Schedule III. ANNEXURE III provides guidance on when an event/information can be said to have occurred. ANNEXURE IV provides guidance on the criteria for the determination of the materiality of events/information.



**Impact:**

In order to bring more transparency and to ensure timely disclosure of material events/information by listed entities, the proposal to amend LODR Regulations was deliberated by the Primary Market Advisory Committee (PMAC) of SEBI.

**1.1.6 New Category of Mutual Fund schemes for Environmental, Social and Governance (“ESG”) Investing and related disclosures by Mutual Funds.**

- a. It has been decided to permit the launch of multiple ESG schemes with different strategies by Mutual Funds. The concept of ESG is emerging; therefore, consistent, comparable, and decision-useful scheme disclosures are desirable to enable investors to make informed investment decisions and prevent greenwashing.
- b. As of now MFs can only launch one ESG Scheme under the thematic category of Equity schemes. It is decided to introduce a separate sub-category for ESG investments under the thematic category of Equity schemes. AMC shall ensure that the schemes launched are clearly distinct in terms of asset allocation, investment strategy, etc.
- c. Minimum 80% of the total AUM of ESG schemes shall be invested in equity & equity-related instruments of that particular strategy of the scheme. The remaining portion of the investment shall not be in contrast to the strategy of the scheme. Mutual Funds shall endeavour to deploy a higher proportion of the assets towards the scheme’s strategy under the ESG theme and make suitable disclosures.
- d. Presently, the ESG Schemes of Mutual Funds are mandated to invest only in such companies which have comprehensive BRSR disclosures. It has been decided that ESG Scheme shall invest at least 65% of its AUM in companies that are reporting on comprehensive BRSR and also providing assurance on BRSR core disclosures.
- e. Security-wise BRSR Core scores made available by SEBI registered ESG Rating Providers (ERPs), along with the BRSR scores. The name of the ERPs providing ESG scores for the ESG schemes, along with the ESG scores has to be mentioned.

**1.1.7 Regulatory Framework for Sponsors of a Mutual Fund.**

- a. Under the framework for private equity (PE) funds, SEBI said the applicant is required to have a minimum of five years of experience in the capacity of fund manager and an experience of investing in the financial sector. It should have managed, committed, and drawn-down capital of at least Rs 5,000 crore.
- b. The mutual fund sponsored by the PE would not participate as an anchor investor in the public issue of an investee company, where any of the schemes and funds managed by the sponsor PE.
- c. According to the circular, an AMC can become a self-sponsored subject to certain conditions, the AMC should have been carrying on business in financial services for at least 5 years, should have a positive net worth in all the immediately preceding five years, and net profit of Rs 10 crore in each of the immediately preceding five years.
- d. Any sponsor proposing to disassociate should have been a sponsor of the concerned mutual fund for at least five years and the shareholding proposed to be reduced by a sponsor should not be under any encumbrance or lock-in.



- e. Any sponsor proposing to disassociate can reduce shareholding below 10 per cent within 5 years in the case of listed AMC, while the same will be three years in the case of unlisted AMCs.
- f. AMCs will have to deploy the minimum net worth required either in cash, money market instruments, Government Securities, Treasury bills, Repo on Government securities, or in listed AAA-rated debt securities without bespoke structures, credit enhancements, or embedded options.

**Impact:**

This change would boost the penetration in the industry and would facilitate new types of players to act as sponsors of mutual funds, according to the new eligibility criteria. It would also provide flexibility to the existing sponsor to the Mutual Fund.

**1.1.8 Roles and Responsibilities of Trustee and Board of Directors of Asset Management Companies (AMCs) of Mutual Fund.**

- a. In the circular, SEBI has come up with the Roles and Responsibilities of the Trustee and Board of Directors which are to be followed. It includes core responsibilities relating to Trustee.
- b. They shall ensure fairness with respect to fees and expenses charged by AMC, shall review the performance of AMC in its schemes, ensure there should be no mis-selling, and so on. In this way, they have been given many roles and responsibilities.
- c. In order to enable the trustee to focus on the core responsibilities they may rely on professional firms such as Audit Firms, Legal Firms, Merchant Bankers, etc for carrying out due diligence on behalf of the Trustee.
- d. Unit holder Protection Committee is required to be formed and mandated by the SEBI. The roles and responsibilities of UHPC to be followed are given in the circular.

**Impact:**

Trustees are entities that hold the property of the mutual fund in trust for the benefit of the unitholders. Their primary role is to ensure that the AMCs appointed by them act in the best interests of the unitholders. Although the mutual fund regulations already provide for the responsibilities of a trustee, the regulator has now provided some key areas which they need to focus which can be performed with the help of external expert.

**1.1.9 Trading window closure period under Clause 4 of Schedule B read with Regulation 9 of SEBI (Prohibition of Insider Trading) Regulations, 2015.**

SEBI has come up with the circular, in order to tighten up the process relating to the closure of the trading window. This has been done in order to rationalize the process of closure of the Trading window. It was already applicable first to NIFTY 50 and SENSEX companies and is now rolled out for other companies as well. The flow chart and the process of implementation have been provided in the Annexures of the circular.



**Impact:**

The trading window closes from the end of every quarter till 48 hours after financial results are declared. Automatic freezing of PAN of Designated Persons would ensure ease of compliance and restrict malpractices.

**1.1.10 Master Circular for compliance with the provisions of SEBI LODR Regulations.**

SEBI has come up with Master Circular which provides for all the requirements for compliance to be made as per SEBI LODR Regulations, replacing the erstwhile listing agreement regime. It has compiled all the requirements related to the disclosure requirements into one common place. Which includes uniform listing agreements, periodic disclosures, financial disclosure, annual disclosures, event-based disclosures, and other obligations and disclosure requirements.

**1.1.11 Master Circular for Credit Rating Agencies.**

CRA Regulations provide guidelines for the registration of Credit Rating Agencies which include general obligations of CRAs, manner of inspection and investigation, and code of conduct applicable on CRAs. Multiple circulars have been issued, over the years, covering the operational and procedural aspects thereof. The master circular has been issued which covers all the previous circulars issued over time.

**1.1.12 Master Circular for Debenture Trustees**

Debenture Trustees are regulated under the provisions of the DT Regulations. While the broad framework for Debenture Trustees has been laid down in the DT Regulations, over the years, procedural/ disclosure requirements and obligations have been specified by SEBI through circulars. For effective regulation of the corporate bond market and to enable the Debenture Trustees and other market stakeholders to get access to all the applicable circulars in one place, this Master Circular has been prepared.

**1.1.13 Master Circular for ESG Rating Providers**

ESG Rating Providers are regulated under the provisions of CRA Regulations that inter-alia prescribes guidelines for registration of ERPs, general obligations of ERPs, manner of inspection, and code of conduct applicable to ERPs. While the broad framework for ERPs has been laid down in the CRA Regulations, the procedural / disclosure requirements and obligations are being specified through this master circular, which will enable the industry and other users to have access to all the applicable directions to ERPs in one place.

**1.1.14 Master Circular for Infrastructure Investment Trusts (InvITs)**

For effective regulation of Infrastructure Investment Trusts, the Securities and Exchange Board of India has been issuing various circulars from time to time. In order to enable the stakeholders to have access to all the applicable circulars in one place, the provisions





of the circulars issued till July 06, 2023, are incorporated in this Master Circular for Infrastructure Investment Trusts.

### **1.1.15 Master Circular for Real Estate Investment Trusts (REITs)**

For effective regulation of Real Estate Investment Trusts, the Securities and Exchange Board of India has been issuing various circulars from time to time. In order to enable the stakeholders to have access to all the applicable circulars in one place, the provisions of the circulars issued till July 06, 2023, are incorporated in this Master Circular for Real Estate Investment Trusts.

### **1.1.16 Master Circular for issue and listing of Non-convertible Securities, Securitised Debt Instruments, Security Receipts, Municipal Debt Securities and Commercial Paper.**

For effective regulation of the corporate bond market and to enable the issuers and other market stakeholders to get access to all the applicable circulars in one place, this Master Circular has been prepared. The master circular covers various chapters relating to the application process, abridged prospectus, and standardization of timelines for the listing of securities issued, etc.

### **1.1.17 Consultation Paper on Consolidated Cybersecurity and Cyber Resilience Framework (CSCRF) for SEBI Regulated Entities.**

- a. The consultation paper is on Master Framework on Cybersecurity and Cyber Resilience is a set of guidelines developed by SEBI to address cybersecurity risks and enhance cyber resilience for SEBI Regulated Entities (REs).
- b. The framework follows a graded approach and divides the guidelines into three parts: Applicable to all Res, Applicable to specified Res, and Applicable to Market Infrastructure Institutions (MIIs).
- c. The framework is based on five concurrent and continuous functions of cybersecurity as defined by NIST – Identify, Protect, Detect, Respond, and Recover. It references globally recognized standards, e.g., NIST Special Publication 800-53 Revision 5, COBIT 5, and CIS controls for cybersecurity controls, outcomes, and guidance to achieve those outcomes.
- d. The framework will continue to be updated and improved as technology and the securities market evolves. The framework includes many key requirements which are provided in the consultation paper.

#### **Impact:**

In order to enhance the scope of cybersecurity and cyber resilience framework and to address the need of uniformity of cybersecurity guidelines for all REs and to strengthen the mechanism to deal with cyber risks / threats / incidents, the master framework on cybersecurity and cyber resilience has been drafted after discussion with SEBI's High Powered Steering Committee.



### 1.1.18 Consultation paper on 'Prudential norms for exposure of Clearing Corporations'

Consultation Papers are issued by SEBI regarding prudential norms in order to mitigate the concentration risk of Clearing Corporations (CCs) to various entities through the stipulation of Prudential Norms. In the consultation papers, various exposure limits and timelines have been discussed. CCs are MMI that essentially assume the counterparty or credit risk by being the party to the trade and thus acting as legal counterparts. This laid on the importance of having prudential norms to mitigate such risks.

### 1.1.19 Resources for Trustees of Mutual Funds

- a. Trustee shall have standing arrangements with independent firms for special purpose audit and/or to seek legal advice in case of any requirement as identified and whenever considered necessary.
- b. Arrangements with the firms shall be available on a continuous basis, and confirmation shall be provided by the trustee on a half-yearly basis to SEBI. Provisions shall be applicable on an immediate basis.

**Impact:**

Trustees play a pivotal role in the case of mutual funds. The aforesaid arrangements in case of any specific requirements will help the trustees to discharge his duties effectively and contribute for better governance of the Mutual Funds.

### 1.1.20 Framework for Corporate Debt Market Development Fund (CDMDF)

- a. The Corporate Debt Market Development Fund (CDMDF) is an alternative investment fund that is subject to the Guarantee Scheme for Corporate Debt (GSCD). The CDMDF is authorized to purchase investment-grade corporate debt securities during market dislocation.
- b. The CDMDF shall deal only in the following securities during normal times: Low-duration Government Securities, Treasury bills, Tri-party Repo on G-sec Guaranteed corporate bond repo with maturity not exceeding 7 days.
- c. The fees and expenses of the Fund shall be as follows: During Normal times: (0.15% + tax) of the Portfolio Value charged on a daily pro-rata basis. During Market stress: (0.20% + tax) of the Portfolio Value charged on a daily pro-rata basis.
- d. Corporate debt securities to be bought by CDMDF during market dislocation include listed money market instruments.
- e. The long-term rating of issuers shall be considered for the money market instruments. However, if there is no long-term rating available for the same issuer, then based on credit rating mapping of CRAs between short-term and long-term ratings, the most conservative long-term rating shall be taken for a given short-term rating.
- f. CDMDF shall follow the Fair Pricing document as placed in Annexure A while the purchase of corporate debt securities during market dislocation. CDMDF shall follow the loss waterfall accounting, as prescribed in Annexure B.
- g. CDMDF shall disclose the Net Asset Value (NAV) of the fund by 9:30 PM on all business days on the website of its Investment Manager and AMFI. For times when CDMDF would have exposure to corporate debt, such NAV shall be disclosed by 11 PM on all business days.



- h. Purchase allocation and trade settlement of corporate debt securities bought by CDMDF during market dislocation: Keeping in view the prudential limits and various other guidelines as prescribed in the scheme as mentioned in para 2 above, AMFI shall specify the detailed guidelines for the purchase of securities by CDMDF in consultation with SEBI.
- i. Stock exchanges shall provide a separate window on the existing Request for Quote (RFQ) platform to facilitate the purchase as per AMFI issued guidelines, within 3 months of issuance of this circular.
- j. Clearing Corporations shall provide the required infrastructure to facilitate the trade settlement of corporate debt trades by CDMDF during market dislocation, within 3 months of issuance of this circular.

**Impact:**

This would help in developing the corporate debt market and it would instil confidence among the investors. This framework is focused to avoid the liquidity crisis in the debt market.

**1.1.21 Investment by Mutual Fund Schemes and AMCs in the Units of Corporate Debt Market Development Fund**

- a. As SEBI rolled out CDMDF, it was recommended to Mutual Fund to invest in CDMDF. The units of CDMDF shall be subscribed by AMCs of Mutual Funds and “specified debt-oriented MF Schemes”. Contribution from specified debt-oriented MF schemes and AMCs, including the appreciations on the same, if any, shall be locked in till the winding up of the Fund. However, in case of winding up of contributing MF Schemes, inter-scheme transfers within the same Mutual Fund or across Mutual Funds may be undertaken.
- b. Funds are required to invest their AUM in the CDMDF as per the requirements given in the circular. The initial contribution, as mandated shall be based on the AUM of the specified MF schemes as on December 31, 2022.
- c. The initial contribution shall be made within 10 working days of request from CDMDF. The Half-yearly contributions shall start from December 2023 onwards, which shall be made within 10 working days from the end of each half-year.
- d. The respective Mutual Funds shall have access to sell corporate debt securities during market dislocation, held in the portfolio of contributing schemes, to the CDMDF. Access to the Fund shall be in proportion to the contribution made to the Fund at a Mutual Fund level.

**1.1.22 Mandating Legal Entity Identifier (LEI) for all Non- Individual Foreign Portfolio Investors (FPIs)**

- a. The Securities and Exchange Board of India (SEBI) hereby mandates that all non-individual Foreign Portfolio Investors (FPIs) shall provide their Legal Entity Identifier (LEI) details to their Designated Depositories Participants (DDPs) within 180 days from the date of issuance of this circular.



- b. Failure to provide LEI details within the stipulated time period shall result in the blocking of the FPI's account for further purchases until LEI is provided to the DDP.
- c. All fresh registrations of FPIs, subsequent to the issuance of this circular, shall be carried out upon receipt of the FPIs' respective LEI details.
- d. FPIs are also required to ensure that their LEI is active at all times. Accounts of FPIs whose LEI code has expired / lapsed shall be blocked for further purchases in the securities market till the time the LEI code is renewed by such FPIs.

**Impact:**

With the rise in Foreign Portfolio investors, there is an increase in cross-border transactions, thereby increasing the chances of money laundering activities, therefore such regulated identification for FPI's shall protect against market abuse and financial fraud and promote market integrity.

**Reserve Bank of India**

**1.1.1.**

**1.2. International Financial Services Centre Authority**

**1.2.1. International Financial Services Centres Authority (Capital Market Intermediaries) (Amendment)**

The International Financial Services Centres Authority (IFSCA) has announced the implementation of the International Financial Services Centres Authority (Capital Market Intermediaries) (Amendment) Regulations for 2023.

These modifications are intended to make significant changes to the regulations that regulate capital market intermediaries operating within international financial services hubs.

The existing regulations provide for regulatory requirements in respect of registration, obligations and responsibilities, inspection and enforcement of various types of capital market intermediaries such as broker dealers, clearing members, depository participants, investment bankers, portfolio managers, investment advisers, custodians, credit rating agencies, debenture trustees and account aggregators.

Now, the IFSCA amendment regulations aim to improve the regulatory environment for capital market intermediaries. Regulation 2 of the Principal Regulations has been amended to incorporate a fresh definition of "capital market intermediary," which refers to those registered with the Authority under these regulations. In addition, the term "distributor" is defined as an individual who works with clients on behalf of issuers or service providers to facilitate investment or subscription in "capital market products" or "capital market services."



The amendment also introduces the concept of a “registered distributor,” denoting a distributor who is registered with the Authority under these regulations.



## 2. Discussion Papers

### I. Securitisation

Securitisation in a general parlance refers to a process by which a company pools its illiquid financial assets (usually on Fixed Interest Debts) and subsequently repackaged in the form of securities to be distributed to investors. Hence, it is a process of bundling of non-marketable illiquid assets and unbundling them to marketable liquid securities.

Roots of securitisation can be traced to as early as 18th Century, but it was only in 1970's that a formalized structure of the transaction was introduced. The Securitisation markets as we see today can be primarily bifurcated into Asset/Mortgage Backed and non-asset backed Securitisation transactions.

Asset Backed Securitisation was a preferred mode of transaction until the outburst of sub-prime mortgage crisis of 2008, which contributed to the Global Recession in 2007 to 2010. The incident demanded a change in regulations for the mortgage-backed securities (MBS) and collateralized debt obligations (CDOs) markets. After the hiccup, Global Securitisation markets have soared to new heights. Naturally the growth of the securitisation market was significantly impacted due to the recent Covid 19 outbreak followed by the inflationary pressures and the global political uncertainties, yet the securitisation market assumes an essential position in the market

Indian Scenario

At present, the secondary market for corporate loans in India involves inter-bank/ Financial Institutions (FIs) transactions, transfer of borrower accounts from one bank/FI to another, inter-bank participation certificates, take-out financing, securitisation/assignment transactions and sale of stressed assets by banks to ARCs.

Securitisation was welcomed in India, in early 2000's with the introduction of The Securitisation & Reconstruction Financial Assets and Enforcement of Security Interest Act, 2002. While the eligible participants as well as enforcement of security was governed by the Act, the actual transaction was only regulated by RBI vide its regulation dated 1st February 2006 and was restricted to be undertaken only by Banks. Observing the benefits from securitisation, it was permitted to be undertaken by NBFCs vide its notification dated 21 August 2012. The regulations have been revised from time to time with the most recent being in September 2021.

In India, securitisation as financial tool has come in to vogue since the past decade. It has been mainly utilised by private and foreign banks and financial institutions to create additional liquidity out of long-term loan/assets. Most of the vehicle financing leasing entities, white goods financing leasing entities and housing finance companies have



already raised funds by way of Asset Based Securitisation. However, the Indian Securitisation Market is yet to operate at its full potential in comparison to world markets which can be witnessed

At present, securitisation transaction can be undertaken only for standard assets. The Non-Performing Assets however are eligible for direct assignment to the eligible buyers through RBI's notification dated September 2021.

**Mechanisms to Securitisation:**

There are primarily 2 industry wide mechanisms, through which securitisation can be given effect: (i) Through a Special Purpose Vehicle (SPV) or (ii) Through Issuance of PTC in the Originator Company

Securitisation in India mainly takes the form of a trust structure, wherein the underlying assets are sold to a trustee company special-purpose vehicle (SPV), which holds the security in trust for investors, and for which issues securities in the form of pass-through or pay-through certificates (PTCs). Investors holding the PTCs are entitled to beneficial interest in the underlying assets held by the trustee.

The parties involved in the securitisation process and their respective roles are:

1. **Originator:** The original lender and seller of receivable such as a bank, an NBFC, or a housing finance company.
2. **Borrower:** The counterparty to whom the originator makes a loan. Payments (typically in the form of equated monthly instalments) by borrower fund investor payouts.
3. **Issuer (SPV):** The entity that issues marketable securities (can be a SPV as well as the originator) and ensures that transactions are executed on specific terms which is typically set up as a trust form in India.
4. **Arranger:** Investment banks responsible for structuring the securities. They coordinate with other parties to execute the transaction successfully.
5. **Investor:** The purchaser of securities. In India, investors are typically banks, insurance funds, and mutual funds.
6. **Rating agency:** These agencies analyse risks associated with each transaction, stipulate credit enhancements commensurate with the ratings of the PTCs, monitor the performance of the transactions until maturity, and take appropriate rating actions.
7. **Credit enhancement provider:** Typically, the originator, as a facility that covers any shortfall in pool collections in relation to investor payouts. The enhancement can also be provided by a third party for a fee.
8. **Servicer:** The entity that collects periodic instalments due from individual borrowers, makes payouts to investors, follows up on delinquent borrowers,



and furnishes periodic information about pool performance to the rating agency. In India, the originator typically acts as the servicer.

The regulator provides broad framework for the transaction to be executed in a standardized manner, which includes:

1. Eligible Participants
2. Minimum Due Diligence of pool
3. Maintenance of Quality of Pool by mechanisms of Minimum (Exposure) Retention Ratio, Minimum Holding Period, Credit Enhancements and other supporting securitisation structures based on type of securitisation
4. Payment/Collection Mechanism and accounting in books of accounts of originator
5. Special conditions for Special Purpose Vehicles
6. Accounting in the books of participants (Indian Accounting Standards or otherwise)
7. Disclosures to be made in financial statements and to Debenture Trustee

Benefits for securitisation can be centred primarily to:

1. Off-Balance sheet Financing-Securitisation enable Financial Intermediaries and Banks to source additional funds/financing by derecognizing assets from its balance sheet (subject to certain performance guarantees in form of credit enhancements)
2. Focus on Core Business- Lending Assets are generally illiquid requiring the Banks and Financial Intermediaries to develop a strong collection system. However, they can serve the customers better and improve financial inclusion which is their core business, if the collection function is outsourced to the service agencies.
3. Better Financial Statements- Financing through the mechanism, shall present a rosier picture of the financial statements since the facility is not recorded in the financial statements if the instruments are issued through a SPV.
4. Reduced Borrowing Cost- The transaction usually enables a lower borrowing cost as the amount provided by investors is secured against a loan asset, which is rated and quality is high. However, it is generally observed that the investors ask for additional credit enhancement to get a further assurance on the quality of the assets.
5. Better Asset Liability Management-It can be utilized as a tool to manage the Structural Risk as well as Interest Rate Risk faced by the company contributing to the overall risk management.

However, the transaction may subject the originator to interest rate risk. Further, the investor' payout shall be affected by risk in terms of Credit Risk, Legal Risk and





Counterparty Risk (also interest rate risk if the rating of PTC and its borrowings are different).

However, at present securitisation requires a higher transaction cost due to non-exemption to the securitisation trust formulated, variable Stamp Duty Rates, ratings to be obtained, etc. A formalized committee of regulators is suggested by industry experts to address the ease of business shall be instrumental for securitization transaction to expand in India.

#### Electronic Mortgage and Securitization:

A concept of electronic mortgage has been initiated in the international markets (Mortgage Electronic Registration System), whereby a single digital trail of the mortgage shall be maintained at the time of initial mortgage creation inter-financial markets transfer. Introduction of such mechanism for securitisation shall reap benefits in the securitisation through increase in automation, increased efficiency and transparency and reduced counterparty risk while also reducing the overall cost of the transaction. Also, by tracking loan transfers electronically, will eliminate the long-standing practice that the lender must record an assignment with the county recorder every time the loan is sold from one bank to another.

#### Future of Securitisation Market:

As per CRISIL, Securitisation volume soared approx. 60% on-year to approx. Rs 55,000 crore in the 1st Quarter of FY 2023-24, the highest ever in a fiscal first quarter, on strong demand for retail assets from banks coupled with increased use of securitisation as an alternative funding route by NBFCs (CRISIL). To complement the growing volumes of the market, the regulator vide its Annual Report for FY 2022-23 released on May 2023, has proposed to extend the enabling of securitisation transaction even for Non-Performing Asset. The securitisation markets for which a discussion paper has been rolled out on 25 January 2023, addressing therewith challenge.

Hence it can be said that despite a tardy progress of securitisation in India it has tremendous scope for growth. With the emerging markets and growing digital innovations, there is lots of room for innovation in the secondary lending markets as well; making it not far to see a digitized secondary market for Securitized Debt Exposures as currently exists for the vanilla bond market. The innovations although being disruptive but under the broad parameters and principles of the regulator shall sustain and adapt to the changing regulatory supervision and directions. To conclude it shall be valid to say that there exists an unexplored terrain in the securitisation market which can reap benefits not only for the financial intermediaries but for the overall Industry.





X-X-X-X  
**About Basilstone**

Basilstone Consulting Private Limited ('Basilstone") has been promoted to partner with the society and its businesses to achieve their true potential and help realize their vision. We work closely with our clients and enrich their growth by offering them solution driven consultancy services in the areas of strategic planning, incubation, impact analysis, idea validation, product validation, feasibility study, synergy evaluations, fund raising, restructuring, transaction advisory, representation – guiding on regulatory / non-regulatory meetings, succession planning, Inbound and outbound investment, due diligence, dealing with regulatory / statutory authorities, etc.

We, at Basilstone aim to position ourselves as the 'Go to Consultants' for **Simple Solutions & Value Creation** recognised by our clients for delivering ultimate desired results.

The Purpose of Basilstone is to provide simple solutions and create value backed by:

---

			
<b>Strong</b> Processes	<b>In-Depth</b> Knowledge	<b>Invaluable</b> Experience	<b>Deep-Rooted</b> Values

We clearly resonate ourselves with the ever-growing Basil, inspiring us to imbibe the quality of being natural and pure while we adapt to changing conditions and innovation. The rock-solid Stone is representative of our endurance, stability, permanence and our determination, paving the path of value creation for our clients and our firm allegiance to our principles.

Basilstone is the quintessential blend of traditional values and modern thoughts which are echoed in the experience, enthusiasm and energy of its people and translated in the services rendered to its clients.

**Contact Us**

connect@basilstone.com | www.basilstone.com | +91 22 4017 2050  
 8A-2, Chander Mukhi, Plot No. 316, Rajani Patel Marg, Nariman Point, Mumbai 400 021, MH, India



***Disclaimer:** This document is the property of Basilstone Consulting Private Limited and no part of it can be copied, reproduced or distributed in any manner without our prior written consent. The Key Regulatory changes and key impacts have been addressed thereof, however detailed impact analysis may have to be done on a case-to-case basis. The insights are informative in nature and cannot be construed as an opinion. Basilstone Consulting Private Limited reserves the right to amend or replace this document at any time.*

