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-LAW IN ACTION



Legal Updates

The Ministry of Power (“**MoP**”), vide its notification dated 17.08.2021, has notified timelines for the replacement of existing meters with smart meters with prepayment feature. All consumers (other than agricultural consumers) in areas with communication network, will be supplied electricity with smart meters working in prepayment mode, conforming to relevant IS, within the following timelines:

1. All Union Territories, electrical divisions having more than 50% consumers in urban areas with Aggregate Technical & Commercial (“**AT&C**”) losses more than 15% in FY 2019-20, other electrical divisions with AT&C losses more than 25% in FY 2019-20, all government offices at block level and above, and all industrial and commercial consumers, shall be metered with smart meters with prepayment mode by December, 2023. The State Electricity Regulatory Commission (“**SERC**”) may, by notification, extend the period of implementation only twice for not more than six months at a time for a class or classes consumers or for such areas as may be specified and give reasons for doing so.
2. All other areas shall be metered with smart meters with prepayment mode by March, 2025. In areas which do not have communication network, installation of prepayment meters, conforming to relevant IS, may be allowed by the respective SERC. All consumer connections having current carrying capacity beyond that specified in relevant IS, may be provided with smart meters having automatic meter reading facility.
3. All feeders shall be metered by December 2022. All distribution transformers (“**DTs**”) in electrical divisions having more than 50% consumers in urban areas with AT&C losses more than 15% in FY 2019-20, and in all other electrical divisions with AT&C losses more than 25% in FY 2019-20, shall be metered by December, 2023. All DTs in other areas shall be metered by March, 2025. DTs and high voltage distribution system transformers having capacity less than 25 kVA may be excluded from the above timelines.

MoP issues notification regarding timelines for replacement of existing meters with smart meters

MNRE provides extension for installation of grid-connected solar power plants under Component A of PM-KUSUM Scheme

The Ministry of New and Renewable Energy (“MNRE”), vide office memorandum dated 27.08.2021, has granted extension of 7.5 months to all renewable energy projects under the PM-KUSUM Scheme, considering the challenges being faced due to the COVID-19 pandemic. Moreover, MNRE has further granted an extension till 31.03.2022 for all such projects where completion timeline, including with extension already given for COVID-19, is before 31.03.2022. It is noteworthy that hitherto, as per PM-KUSUM Scheme Guidelines pertaining to Component-A for installation of grid-connected solar power plants, the project completion timeline was 12 months from issuance of letter of authorization to the farmer/developer.

MNRE provides extension to complete installation of standalone solar pumps under Component-B of PM-KUSUM Scheme against quantities sanctioned for FY 2020-21

The MNRE, vide office memorandum dated 27.08.2021, has granted extension to complete installation of standalone solar pumps under Component-B of PM-KUSUM Scheme against quantities sanctioned for FY 2020-21 till 30.09.2021, on account of challenges faced due to COVID-19.

Further, in order to continue with the seamless implementation of the PM-KUSUM Scheme, the MNRE has decided to allow State Implementation Agencies to issue work orders to the vendors selected under first centralized tender conducted in FY 2019-20 for the quantities sanctioned for FY 2020-21 till the finalization of empanelment of vendors under second centralized tender, provided these vendors are willing to work at the same rates as were discovered in the first tender.

As this is a stop gap arrangement, the total quantity of standalone solar pumps for which the work orders can be issued to such vendors shall be within the limit of 25% of quantity sanctioned during FY 2020-21 or up to 1000 pumps, whichever is higher.

The Insolvency and Bankruptcy Board of India (“IBBI”) has, vide notice dated 27.08.2021, sought comments from certain key stakeholders on the Discussion Paper on ‘Strengthening Regulatory Framework of Liquidation Process’ by 17.09.2021. The Discussion Paper proposes the following, *inter alia*:

IBBI seeks comments from key stakeholders on Discussion Paper on ‘Strengthening Regulatory Framework of Liquidation Process’

1. Enhancing the accountability of liquidator by enlarging the scope of consultation with stakeholders;
2. Amendment of the IBBI (Liquidation Process) Regulations, 2016 (“**Liquidation Regulations**”) such that the liquidator shall consult the stakeholder consultation committee (“**SCC**”) for all significant matters related to liquidation process, including appointment of professionals (and their remuneration), and sale of assets (including major aspects such as fixation of reserve price, manner of sale, etc.);
3. Appropriate checks and balances in appointment of professionals, without curtailing the flexibility of liquidators in such appointments to ensure more process transparency and to safeguard the interests of the stakeholders;
4. Amendment of Liquidation Regulations such that the liquidator may facilitate the stakeholders of each class to nominate their representative(s), while adhering to the voting principle of majority of value of claims of those present and voting, for inclusion in the SCC;
5. Modification of Schedule I of the Liquidation Regulations to provide that: (i) the liquidator shall not engage a professional / agent for sale of asset(s) on commission / success fee basis; and (ii) the liquidator shall prepare a marketing strategy for sale of assets of the corporate debtor in consultation with SCC;
6. Provision in Schedule I of the Liquidation Regulations that for participation in the auction, the liquidator shall not: (i) require payment of any fee or non-refundable deposit from potential bidders; and (ii) prescribe earnest money deposit in excess of 10% of reserve price of the asset(s);
7. Clause 1(11) of Schedule I of the Liquidation Regulations to explicitly provide the clarification that the liquidator shall provide the reason(s) for rejection of highest bid in the auction process, if applicable, to the highest bidder and shall record the same in the quarterly progress report submitted to the adjudicating authority;
8. A need to deliberate whether a guided path is to be explicitly stipulated for the adoption of Swiss Challenge Method (“**SCM**”) for the auction under liquidation, especially in the context of absence of prohibition on adoption of any method of auction in the Liquidation Regulations currently. SCM is a bidding process wherein a bidder makes an unsolicited bid to the auctioneer. Once approved, the auctioneer then seeks counter proposals against the original proposal and chooses the best amongst all options (including the original bid). The original

bidder in most cases is granted the 'right to first refusal'. If the original bidder agrees to match its offer to the challenging proposal, the project is awarded to him, else it is awarded to the challenging bidder; and

9. Provision in the Liquidation Regulations that if the secured creditors having 60% of the value in secured debt decide to relinquish or realize the security interest, such decision shall be binding on the other *pari-passu* charge holders.

The IBBI, vide Discussion Paper dated 27.08.2021, has sought comments from stakeholders on issues related to a corporate insolvency resolution process ("**CIRP**") by 17.09.2021. The Discussion Paper proposes the following, *inter alia*:

1. Putting in place a code of conduct for committee of creditors ("**CoC**") that shall elevate accountability and responsibility of CoC to ensure transparency in the functioning of a CoC. Public comments are sought on whether a code of conduct should be specified by the IBBI; and any item in the draft code of conduct which should be omitted / modified / included.
2. Provision for option of SCM to the CoC.
3. The resolution professional ("**RP**") and CoC to place the Request for Resolution Plan ("**RFRP**") with due consideration of market conditions.
4. The CoC shall decide on allowing for revision of the RFRP, number of such revisions and timelines for the same on ex-ante basis. The number of revisions shall not exceed two.
5. The CoC shall decide the timelines within which it will allow for negotiation and changes to the submitted resolution plans. The CoC and RP shall not entertain unsolicited revision to resolution plans.
6. The CoC shall decide whether it considers appropriate to opt for a SCM and if the same is decided by the CoC, then it should be provided in RFRP on ex-ante basis.
7. The CoC to decide basis for evaluation, time limit within which the challenge process shall be concluded and the minimum threshold for improvement over the resolution plan on ex-ante basis.

In order to remove ambiguity regarding rejection of claims pertaining to bank guarantee ("**BG**") and letter of credit ("**LC**") and enhance faith among stakeholders, it has been proposed that in case letter of credit / bank guarantee is invoked by the beneficiary during the CIRP, the issuer shall be eligible to submit its claim to the RP.

IBBI seeks comments from key stakeholders on Discussion Paper on issues related to a corporate insolvency resolution process

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