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TReDS TO REGISTER FACTORING TRANSACTIONS ON BEHALF OF FACTORS

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The Reserve Bank of India (RBI) on 14 January 2022 notified the Registration of Assignment of Receivables (Reserve Bank) Regulations, 2022 (Regulation). The Regulation provides clarity in the manner of filing of particulars of assignment transactions with the Central Registry set up under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Central Registry) by the Trade Receivables Discounting System (TReDS). The Regulations are intended to (i) allow the TReDS platform to act as an agent of the financing entity for such registration, to provide operational efficiency, and (ii) to provide a time bound registration mechanism of the receivables to avoid double financing.

Background

In 2014, the RBI, after multiple rounds of public consultation, introduced the 'Guidelines for setting up of and operating the Trade Receivables Discounting System' (TReDS Guidelines) to implement the scheme known as TReDS. TReDS is an institutional mechanism for facilitating the financing of trade receivables of Micro, Small and Medium Enterprises (MSMEs) from corporates and other buyers, including government departments and public sector undertakings (PSUs), through multiple financiers. The objective of the scheme was to enable the MSMEs to access adequate finance by converting their trade receivables into liquid funds. In 2016, RBI announced that the factoring transactions taking place through TReDS shall also be eligible for classification under 'priority sector' upon operationalization of the platform. In 2018, the Ministry of MSMEs by notification dated 2 November 2018, mandated all companies registered under the Companies Act, 2013 with a turnover of more than INR 500 crores and all Central Public Sector Enterprises to get themselves onboarded on the TReDS platform and the Government has taken multiple steps towards ensuring the same.

In January 2019, the Reserve Bank of India constituted an Expert Committee on MSMEs under the Chairmanship of Shri U.K. Sinha to suggest long-term measures for the economic and financial sustainability of the MSME Sector. The Expert Committee, *inter alia*, recommended that TReDS entities should be permitted to act as agents for financiers for filing of registration of charge with the Central Registry for gaining operational efficiency, and that the time period for registration of invoice and satisfaction of charge should be reduced in order to check the possibility of dual financing. This same recommendation was also reiterated by the Standing Committee on Finance in its 24th report in relation to the Factoring Regulation (Amendment) Bill, 2020. On 7 August 2021, the Factoring Regulation Act, 2011 (Factoring Act) was amended to, *inter alia*, introduce the definition of 'Trade Receivables Discounting System' and required that where any trade receivables are financed through a TReDS

platform, the particulars specified in clause 19(1) and 19(3) of the Factoring Act shall be filed with the Central Registry on behalf of the factor by the concerned TReDS, in such manner as may be specified by regulations.

In line with the above mentioned amendments to the Factoring Act, the Reserve Bank of India has notified the Regulation.

Modality of registration of assignments of receivables transactions on TReDS platform

For trade receivables financed through TReDS platform, the concerned TReDS on behalf of the factor (as defined in the Factoring Act) shall file with the Central Registry, the particulars of:

- (a) Assignment of receivables in favour of a factor in Form I annexed to the Regulation, which shall be authenticated by the authorized person using a valid electronic signature; and
- (b) Satisfaction of any assignment of receivables on full realization of the receivables in Form II annexed to the Regulation, which shall be authenticated by the authorized person using a valid electronic signature.

Time frame for registration of assignments of receivables transactions on TReDS platform

The concerned TReDS on behalf of the factor shall, within a period of 10 days from the date of such assignment or satisfaction thereof, as the case may be, file with the Central Registry the above-mentioned particulars in Form I or Form II, as the case may be.

In case of the required forms are not filed within the specified time, the Central Registrar (as defined in the SARFAESI Act) may allow the said particulars to be filed within such additional time not exceeding 10 days as he may specify, subject to the following:

- (a) on being satisfied on an application made in this behalf stating the reasons for the delay; and
- (b) upon payment of the fee as prescribed by the Government of India in Registration of Assignment of Receivables Rules, 2012, as amended from time to time (Registration of Assignment Rules).

Fees

Every form for registration of any transaction relating to assignment of receivables or satisfaction of receivables on realisation shall be accompanied by fees, as prescribed by Government of India in the Registration of Assignment Rules, to be paid to the Central Registrar in the manner as may be specified by the Central Registrar from time to time. The fee payable for registration of particulars of assignment of receivables, within a period of 10 days from the date of such assignment, is INR 10 for assignment of receivables of less than INR 5,00,000, and INR 100 for assignment of receivables of INR 5,00,000 and above. For any application for condonation of delay up to ten days, the fees payable would be ten times of the basic fees, as applicable.

Comment

As on January 2022, there are three entities which are operating the TReDS platform in India (namely - RXIL, M1xchange and Invoicemart) and have since collectively discounted invoices worth INR 15,000 crores drawn by 25,000 MSMEs. While the

TReDS platforms over the last three years has shown potential to provide affordable receivables financing to MSMEs across the country, the MSMEs still face challenges in accessing formal financing channels. The Regulation is a step towards providing (i) operational efficiency for exchange of information, and (ii) timebound reporting of such transactions. If the other recommendations of the Standing Committee on Finance are implemented, like the integration of TReDS platform with GSTN e-invoicing portal, it is expected to give a fillip to the volumes of receivables that can be factored thereby resulting in a tremendous boost to the factoring business.

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