

INDIA JURIS

Peer to Peer Lending Platform (Reserve Bank) Directions, 2017

Peer-to-peer lending (P2P) is a method of debt financing that enables individuals to borrow and lend money. The advantage to the lenders is that the loans generate income in the form of interest. The borrower may either be a person or a legal entity (e.g., a company) and the rates of interest may either be set by the online P2P platform or both the parties to the loan agreement.

The Reserve Bank of India (hereinafter, the Bank) vide notification number *DNBR/2017-18/57* dated 4th October, 2017 in exercise of the powers conferred under section 45IA, 45JA, 45L, and 45M of the Reserve Bank of India Act, 1934 has issued directions for compliance by every Non-Banking Financial Company that carries on the business of a Peer to Peer Lending Platform. These guidelines are based on the Consultation Paper released by the Bank in April, 2016 in order to regulate P2P platforms as Non-Banking Financial Companies. Under the directions of the Bank, Non-Banking Financial Companies (hereinafter, NBFC) can act as an intermediary providing an online marketplace or platform for participants involved in P2P and it shall also be required to maintain and store all data with regard to its activities in hardware situated in India.

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"Existence of dispute" under Section 8 (2) (a) of the IB Code, 2016

The Supreme Court of India in its judgement dated on 21st September, 2017 in the case of *Mobilox Innovations Private Limited v Kirusa Software Private Limited* has laid down the principle of "plausible contention" to be implemented by the National Company Law Tribunal in cases of involving the question whether there is an 'existence of dispute' between the corporate debtor and creditor. It has further discussed the elements required to construe the "existence of dispute" under Section 8(2)(a) of the Insolvency and Bankruptcy Code, 2016 (hereinafter, IB Code) in the context of applications filed by a operational creditor for the initiation of corporate insolvency resolution process of corporate debtors. The term "dispute" is defined in Section 5(6) of the IB Code as "*dispute includes a suit or arbitration proceedings relating to: (a) the existence of the amount of debt; (b) quality of goods or service; or (c) the breach of a representation or warranty*"

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