

Clarification 1 dated January 30, 2019 on the e-auction notice in relation to sale of financial assets pertaining to Essar Steel India Limited (“Corporate Debtor”)

Based on some of the queries received by us from potential purchasers and further deliberations in relation to the e-auction notice published by State Bank of India (the “Bank”) for the sale of financial assets pertaining to the Corporate Debtor (“E-Auction Notice”), the following amendments and clarifications are being issued.

This document is subject to further amendments and / or clarifications as the Bank deems fit in its own discretion and for the ease of reference by the potential purchasers, each such amendment / clarification shall be sequentially issued and dated. The E-Auction Notice stands amended to the extent of this Clarification 1 and any and all references to the E-Auction Notice shall be deemed as a reference to the same as amended to the extent of this Clarification 1, or such other clarifications/amendments as may be issued from time to time.

1. Amendment to the terms and conditions set out in the E-Auction Notice

The conditions (a) and (b) as set out under ‘Other Terms and Conditions’ in the E-Auction Notice are hereby deleted in its entirety and shall be substituted by the following:

“Other terms and conditions:

(a) The facility wise Reserve Price has been segregated as per the admitted claim as under:

	Facility	Admitted Claim on 02.08.2017 (in Rs. in crores)	Reserve Price (in Rs. in crores)
i.	**Working Capital I	2975.63	2157.89
	***Working Capital II	1436.49	1041.73
ii.	Term Loan (CDP)	1979.91	1435.81
iii.	Corporate Loan-I	3035.06	2200.99
iv.	Corporate Loan-II	1819.92	1319.78
v.	**** EPBG & SBLC	1973.89	1431.44
	Total	13220.91	9587.64

** This includes a bill discounting facility of Rs. 2.06 crores. Further, this also includes a non-fund based facility of Rs. 301.98 crores, which has not devolved.

*** This includes a non-fund based facility of Rs.7.28 crores, which has not devolved.

**** The EPBG/ SBLC facilities are in Indian Rupees.

The various facilities set out in the table above which are being offered for sale under this E-Auction Notice are hereinafter collectively referred to as ‘Facilities’, and individually a ‘Facility’.

The Facilities may be assigned individually or in groups without recourse to The Bank and the security in relation to the same will be transferred and shared *pari passu* to the extent of the amount of Facility assigned. It is reiterated that the Bank retains the sole and absolute right for any decision in this regard.



- (b) The successful purchaser(s) must share the surplus realisation with the Bank on such terms and conditions as specified herein and as amended from time to time.
- (c) The assignment of all the financial assets/Facilities referred to in condition (a) above shall be done on a facility wise basis.
- (d) A potential purchaser may choose to simultaneously participate in bidding for various individual Facilities being offered as per the E-Auction Notice. With a view to provide for better price discovery and for better consolidation of the financial assets, the Bank, may at its sole discretion, give preference to such purchaser who has submitted bids for multiple Facilities, even when such bids individually may not be the best bid for those relevant Facilities. The Bank reserves the right to decide on this in its sole and absolute discretion.
- (e) The Bank, shall at all times, reserve the right to annul (in part or in full) / extend the date of the auction process, at any stage before the execution of the definitive documents with the successful purchaser(s). The Bank may invite new bids for the sale and as set out in the E-Auction Notice, the sale will be subject to the final approval of the Competent Authority of the Bank.
- (f) The Bank retains an outstanding of Rs. 5.39 crores which is unsecured and is in the nature of 'rupee notes investments' issued by the Corporate Debtor. Such exposure is presently not included in the Facilities and in accordance with applicable regulations, the Bank retains the right to also offer such exposure for sale to the successful purchaser(s) pursuant to this E-Auction.
- (g) The non-fund based facilities are intended to be sold to the successful purchaser(s) pursuant to this E-Auction Notice itself on the same terms as the Facility to which it pertains. For the purpose of the sale of the non-fund based facility/facilities a binding agreement to assign such facility/facilities shall be executed between the Bank and the relevant successful purchaser(s). Such facility/facilities shall be assigned upon devolvement (or otherwise) on the same terms on which the Facility stands assigned, subject to the below clarification on costs and charges if any. The terms for such assignment shall be a part of the documentation for the agreement to assign.
- (h) It is also clarified that in case the Bank decides to assign both the Working Capital I and Working Capital II facilities, the Bank will not issue any fresh LC / BG. However, existing non-fund based facilities will be renewed at the request of the Corporate Debtor, at the sole and absolute discretion of the Bank and upon devolvement, will be assigned and all costs, charges, if any in relation to such devolved facilities shall also be payable by the successful purchaser(s) over and above the consideration for the purchase of such Facilities.
- (i) The Bank retains the sole and absolute right to amend any condition stipulated herein and / or to annul the process of assignment in part or in full, without assigning any reason whatsoever. The potential purchaser, at the time of submitting their bid and / or participating in the auction process in any manner, recognise and unconditionally and unequivocally accept this sole and absolute right of the Bank.



2. Mode of transfer to the successful purchaser(s)

Upon the closure of the e-auction and subject to the expression of interest (including the clarifications), a potential purchaser for each of the Facilities shall be identified as the successful purchaser and transfer of the Facilities shall take place through an assignment mechanism under the relevant guidelines of the Reserve Bank of India. An assignment deed, based on the model assignment deed format of the Indian Banks' Association with suitable amendments and modifications shall be executed between a successful purchaser and the Bank. As set out in 1 above, for non-fund based facilities a separate agreement to assign may be executed. Time is of essence and it is expected that the successful purchaser(s) shall execute all the relevant documents and complete the transaction within the timelines as decided by the Bank and as conveyed to the successful purchaser(s). Pursuant to the completion of the transaction, a successful purchaser will be a successor in interest of the assignor as contemplated under law. The Bank reserves the right to annul the process at any stage before the execution of the definitive documents.

3. Manner of sharing of surplus realisation between the successful purchaser(s) and the Bank

The surplus realisation to be paid to the Bank shall be computed in the manner set out below. It is clarified that the two (2) situations given below are independent and operate simultaneously.

A. Surplus Realisation where recovery of the successful purchaser(s) is upto Rs. 11,313.42 crores

Where the realisation by the successful purchaser(s) upon resolution of the Corporate Debtor's account is upto Rs. 11,313.42 crores and such realisation is achieved within 1 year of receipt of purchase consideration by the Bank from a successful purchaser, then the successful purchaser(s) shall be required to share a portion of such realisation with the Bank based on time factor as per the following details:

The time period shall be calculated on the basis of the number of calendar days on a 365 days basis elapsed from the date of receipt of purchase consideration by the Bank from a successful purchaser(s) up till the date of distribution of resolution proceeds to the financial creditors pursuant to a resolution of the Corporate Debtor's account. Both these dates shall be included for the purpose of calculation.

The following formula and illustrations have been provided for guidance of the potential purchaser(s) based on bidding for all the facilities together. The actual numbers may vary based on the facilities bid for and actual bid price.

Methodology of Sharing Surplus Realisation with SBI

Period = [Time Taken for Realisation in Days] subject to Minimum of 243

Amount to be Retained by Bidder = [Bid Amount * (1 + Period * 18%/365)] subject to Maximum of 11313.42 crores.

SBI Share in Surplus Realisation = Rs. 11313.42 crores less Amount to be Retained by Bidder.



Illustrative SBI Share in Surplus Realisation is as follows:

i) Bid Amount: Bid at Reserve Price i.e. Rs. 9,587.64 crores

Period for Realisation	Upto 243 Days	On 274th Day	On 304th Day	On 335th Day	On 365th Day
Recovery as per resolution plan of ArcelorMittal India Private Limited ("AM Resolution Plan")	11,313.42	11,313.42	11,313.42	11,313.42	11,313.42
Amount to be Retained by Bidder	10,736.59	10,883.16	11,025.00	11,171.58	11,313.42
SBI Share in Surplus Realisation	576.83	430.26	288.42	141.84	0.00

ii) Bid Amount: Bid Above Reserve Price i.e. Rs. 10,000 crores

Period for Realisation	Upto 243 Days	On 274th Day	On 304th Day	On 335th Day	On 365th Day
Recovery as per resolution plan of ArcelorMittal India Private Limited ("AM Resolution Plan")	11,313.42	11,313.42	11,313.42	11,313.42	11,313.42
Amount to be Retained by Bidder	11,198.36	11,313.42	11,313.42	11,313.42	11,313.42
SBI Share in Surplus Realisation	115.06	0.00	0.00	0.00	0.00

B. Sharing of Upside over and above Rs. 11,313.42 crores

Where the realisation by the successful purchaser(s) upon a successful resolution of the Corporate Debtor's account is over and above Rs. 11,313.42 crores, then the successful purchaser(s) shall be required to share the upside on such realisation with the Bank in the following manner:

Period for Realisation	Upto 365 Days		More than 365 Days	
	Bank's Share	Successful Purchaser(s)	Bank's Share	Successful Purchaser(s)
Upside Upto Rs. 800 Crore	90%	10%	70%	30%
Upside Above Rs. 800 Crore	100%	0%	70%	30%



The time period for the upside shall be calculated on the basis of the number of calendar days, on a 365 days basis, elapsed from the date of receipt of purchase consideration by the Bank from a successful purchaser up till the date of distribution of resolution proceeds to the financial creditors pursuant to a resolution of the Corporate Debtor's account. Please note that both these dates shall be included for the purpose of calculation.

4. Recovery under the AM Resolution Plan

The minimum recovery on the Facilities has been calculated on the assumption that (a) the AM Resolution Plan which is approved by the committee of creditors of the Corporate Debtor as per the provisions of the Insolvency & Bankruptcy Code, 2016, is approved by the Adjudicating Authority (as defined under the Code) "as is"; and (b) the claim of certain financial creditors challenging the distribution is upheld by the Adjudicating Authority. No other factor, including payouts by other resolution applicants etc. have been considered for payouts hereunder. It is further clarified that the minimum recovery is not guaranteed in any manner. Therefore, if the recovery from the Facility/Facilities purchased by a successful purchaser, for any reason whatsoever (including on account of the AM Resolution Plan being modified and/or rejected and/or another resolution plan being approved by the Adjudicating Authority and/or recovery through any other method), is lower than the minimum recovery amount stated in the E-Auction Notice, the Bank shall have no liability or responsibility for such difference in any manner whatsoever.

It is being re-iterated that the Facilities may be assigned individually or in groups and all the security in relation to the same will be transferred and shared *pari passu* to the extent of the amount of Facility assigned, and that the Bank retains the sole and absolute right for any decision in this regard.

5. Other requirements

Prior to the Bank allotting User ID and password to the potential purchaser(s) in accordance with point 8 of the E-Auction Notice, the potential purchaser(s) will be required to submit the following details to the Bank:

- i. The names of the authorised officials along with their names and contact details who would be operating the E-Auction process on behalf of the potential purchaser. It is clarified that each potential purchaser shall only be provided one access right and the domain for such access should only be that of a potential purchaser;
- ii. Composition and ownership structure of the potential purchaser;
- iii. The name of the entities with which would provide the funding for the purchase consideration;
- iv. The name of the entities with which would be used as the investment vehicle for the purchase contemplated herein, for example- the name of the ARC.

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