

A Monthly Newsletter by Mehta and Mehta

Vedanam

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Research is creating new knowledge.

Why Vedanam?

We, Mehta & Mehta present you with our monthly newsletter which cover regulatory updates, case laws and study articles. We hereby release our July, 2022 issue.



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Disclaimer: All views in this Newsletter are expressed by the concerned individuals only and are not the views of the Department or the Company.

I. MINISTRY OF CORPORATE AFFAIRS (“MCA”) UPDATES:

A. MCA CIRCULARS AND NOTIFICATIONS:

1. MCA Circular on clarification on spending of CSR funds for “Har Ghar Tiranga” campaign - 26th July, 2022

MCA, vide its Circular dated 26th July, 2022 clarified that spending of CSR funds for the activities related to this campaign, such as mass scale production and supply of National Flag, outreach and amplification efforts and other related activities, are eligible CSR activities under item no. (ii) of Schedule VII of the Companies Act, 2013 pertaining to promotion of education relating to culture.

It is to be noted that ‘Har Ghar Tiranga’ is a campaign under the aegis of Azadi ka Amrit Mahotsav, is aimed to invoke the feeling of patriotism in the hearts of the people and to promote awareness about the Indian Flag.

Therefore, companies may undertake the aforesaid activities subject to fulfillment of the Companies (CSR Policy) Rules, 2014 and related circulars/clarifications issued by the Ministry from time to time.

Link to the Circular:

<https://www.mca.gov.in/bin/dms/getdocument?mcs=XE4WFnJDAue38S1SV%252BmaPw%253D%253D&type=open>

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2. MCA notification on Procedure of PAN application & allotment through Simplified Proforma for incorporating Limited Liability Partnerships (LLPs) electronically (Form: FiLLiP) of MCA - 26th July, 2022

MCA, vide its notification dated 26th July, 2022 published Central Board of Direct Taxes notification on procedure of Permanent Account Number (PAN) application for classes of persons, forms, format which is as under:

S. No.	Particulars	
1.	Classes of persons to which FiLLiP form will apply	Newly incorporated Limited Liability Partnership (LLP)
2.	Applicable form	Simplified Proforma for incorporating Limited Liability Partnerships (Form: FiLLiP) of Ministry of Corporate Affairs (MCA) notified vide notification

		G.S.R. 173(E), dated 4th March, 2022
3.	Procedure	Application for allotment of Permanent Account Number (PAN) will be filed in FiLLip form using Digital Signature of the applicant as specified by the Ministry of Corporate Affairs. After generation of Limited Liability Partnership Identification Number (LLPIN), MCA will forward the data in form 49A to the Income-tax Authority under its Digital signature, Class 2/Class 3 of MCA.
4.	Format	Xml

Further, it is to be noted that a Common Application Form (CAF) in the form of Simplified Proforma for incorporating Limited Liability Partnership (LLP) (Form – FiLLiP) has been notified by the Ministry of Corporate Affairs vide notification G. S. R. 173(E), dated 4/03/2022.

Link to the Circular:

<https://www.mca.gov.in/bin/dms/getdocument?mcs=kvBTyn49INIMUOv%252B38VTDg%253D%253D&type=open>

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II. SECURITIES AND EXCHANGE BOARD OF INDIA UPDATES:

A. SEBI CIRCULARS AND NOTIFICATION

1. SEBI asks Stock Exchanges and Depositories to launch online complaint redressal system – 04th July, 2022

SEBI, vide its Circular dated 04th July, 2022 asks Stock Exchanges and Depositories to launch online complaint redressal system to enable investors to lodge and follow up their complaints and track the status of redressal of such complaints.

The new system is intended to expedite redressal / disposal of investors' complaints as it would also obviate the need for physical movement of complaints. Further, possibility of loss, damage or misdirection of the physical complaints would be avoided. It would also facilitate easy retrieval and tracking of complaints at any time.

It is to be noted that this is in line with SCORES which was launched in 2011 by SEBI to help investors lodge their complaints pertaining to security market, against listed companies and SEBI registered intermediaries.

SEBI further added that all recognized stock exchanges including commodity derivatives exchanges / depositories are advised to design and implement an online web-based complaints redressal system of their own, which will facilitate investors to file complaints and escalate complaints for redressal through Grievance Redressal Committee (GRC), arbitration, appellate arbitration etc. in accordance with their respective byelaws, rules and regulations.

SEBI said that the redressal mechanism shall be implemented within 6 months.

Hybrid Mode of Conducting GRC and Arbitration / Appellate Arbitration :

During the Covid-19 pandemic, stock exchanges were advised to conduct GRC and arbitration or appellate arbitration hearings online for faster redressal of complaints. The online process saves time and cost of the parties involved which is in the interest of investors.

SEBI decided that stock exchanges and depositories shall continue with hybrid mode of conducting GRC and arbitration or appellate arbitration process.

Amendment to Clause 1.J.(iii) Speeding up grievance redressal mechanism of SEBI Circular dated 23rd February, 2017:

“(iii) A client, who has a claim / counter claim upto Rs. 20 lakh (Rs. Twenty lakh) and files arbitration reference, will be exempted from payment of the fees specified in Clause 1.J.(i).”

If the dispute involves a claim amount less than or equal to Rs 20 lakh, then the investor, either applicant or respondent, is exempted from payment of fees towards cost of arbitration and the exchange will bear the same on behalf of the investor. Earlier, it was Rs. 10 Lakh.

Link to the Circular:

https://www.sebi.gov.in/legal/circulars/jul-2022/investor-grievance-redressal-mechanism-and-amendment-to-sebi-circular-no-sebi-ho-dms-cir-p-2017-15-dated-february-23-2017_60535.html

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2. SEBI Consultation Paper on Applicability of SEBI PIT Regulations to Mutual Fund units - 08th July, 2022

- SEBI vide its Consultation Paper dated 08th July, 2022 proposes to bring mutual fund units under the ambit of insider trading regulations. SEBI further added that any person associated with the fund who has direct or indirect access to unpublished price-sensitive information (UPSI) or any immediate relative of the connected person, officials or employees subject to the insider trading rules.
- The objective behind proposal is to ensure parity between mutual fund units and other securities as well as to bring purchase and sale of mutual fund units under the purview of insider trading rules under SEBI (Prohibition of Insider Trading) Regulations, 2015 (PIT Regulations).

Sr. No.	Proposals	Impact	Challenge
1.	The words “except units of a mutual fund” in Regulation 2 sub-regulation (1) of clause (i) of PIT Regulations are proposed to be omitted;	Due to proposed amendment, mutual fund units will come under the ambit of insider trading regulations and which results in applicability of SEBI PIT Regulations to mutual fund units.	The challenge here is mutual funds are subject to prescribed code of conduct since 2001 that restricts senior mutual fund officials from redeeming their units in times of crisis. The proposed amendment will result in modification of insider trading rules. Stakeholders

			might feel this as a challenge as there is already a SEBI prescribed code of conduct.
2.	<p>After sub-regulation (2) to Regulation 2, following is proposed to be inserted:“(3) With respect to dealing in the units of a Mutual Fund, only the provisions of Chapter IIA, IIIA and V are applicable;</p>	<p>Due to proposed amendment, No insider shall communicate, provide, or allow access to any unpublished price sensitive information to any person including other insiders except where such communication is in furtherance of legitimate purposes, performance of duties or discharge of legal obligations.</p> <p>No person shall procure from or cause the communication by any insider of unpublished price sensitive information, except in furtherance of legitimate purposes, performance of duties or discharge of legal obligations.</p> <p>Any person in receipt of unpublished price sensitive information pursuant to a “legitimate purpose” shall be considered an “insider” for purposes of this chapter and due notice shall be given to such persons to maintain confidentiality of such unpublished price sensitive information in compliance with these regulations.</p>	<p>The challenge with this amendment could be there is no limit a fund house can have relations with and it might get very hard to prove who took advantage of inside information and who sold mutual fund units without any motive.</p>

2 (i)	Definition of Insider:	“Insider” means any person who is: (i) a connected person; or (ii) in possession of or having access to unpublished price sensitive information pertaining to a scheme of Mutual Fund	----
2 (ii)	Definition of Unpublished Price-sensitive Information:	-Change in the investment objectives of the concerned Mutual Fund Scheme(s); -Change in the accounting policy; -Material change in the valuation of any asset, or class of assets; -Conversion of a close ended scheme to an open-ended scheme or an open-ended scheme to a close ended scheme; -Restrictions on redemptions, winding up of scheme(s); -Creation of segregated portfolio; -Swing pricing framework will be triggered and swing factor will be made applicable; -Material change in the liquidity position of the concerned Mutual Fund Scheme(s) -Default in the underlying securities which is material to the concerned Mutual Fund Scheme(s)etc.”	-----
2(iii)	Definition of Connected person:	i.Any person who is or has during the two months prior to the concerned act been associated with the Mutual Fund, AMC and Trustees, directly or	----

		<p>indirectly, in any capacity including by reason of frequent communication with its officers or by being in any contractual, fiduciary or employment relationship or by being a director, officer or an employee of the AMC and Trustee or holds any position including a professional or business relationship between himself and the MF/AMC/Trustees, whether temporary or permanent, that allows such person, directly or indirectly, access to unpublished price sensitive information or is reasonably expected to allow such access;</p> <p>ii. Without prejudice to the generality of the foregoing, the persons falling within the following categories shall be deemed to be connected persons unless the contrary is established,</p> <p>(a) an immediate relative of connected persons specified in clause (i); or any other person for whom such person takes trading decisions or</p> <p>(b) Sponsor, holding company or associate company or group company or subsidiary company of the Sponsor or Asset Management Company and Trustees; or</p>	
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		<p>(c) Board of Directors and key management personnel of Sponsor of the Mutual Fund;</p> <p>(d) Registrar and Share Transfer Agents, Custodians or Valuation Agencies of the Mutual Fund or its directors or its key management personnel or its employees handling activities relating to concerned Mutual Fund; or</p> <p>(e) an official or an employee of Fund Accountant providing services to a Mutual Fund, or</p> <p>(f) an official or an employee of Association of Mutual Fund of India. or</p> <p>(g) an official or an employee of a self-regulatory organization recognised or authorized by the Board; or</p> <p>(h) an official of a stock exchange or such other independent platforms as specified by SEBI for dissemination of information; or</p> <p>(i) Auditor, Legal Advisor or Consultants of the Mutual Fund or Asset Management Company; or</p> <p>(j) an official or an employee of a Credit Rating Agency; or</p> <p>(k) an intermediary as specified in section 12 of the Act or an employee or director thereof; or</p>	
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		<p>(l) a banker of the Mutual Fund or Asset Management Company;</p> <p>or</p> <p>(m) a concern, firm, trust, Hindu undivided family, company or association of persons wherein a director of an Asset Management Company and Trustees;</p> <p>or his immediate relative or banker of the company, has more than ten per cent of the holding or interest;</p>	
2(iv)	Definition of "Generally available information"	With respect to Mutual Fund units, it is proposed to define Generally available information as information that is made available to the unitholders or made accessible to the public on a non-discriminatory basis on an independent platform/(s) as specified by SEBI, including the platform of the Stock Exchanges	----
2(v)	Designated Persons:	With respect to Mutual Funds, it is proposed to define " Designated Persons" to include the Head of the Asset Management Company (designated as CEO/Managing Director/President or by any other name), Directors of the Asset Management Company or the Trustee Company, Chief Investment Officer, Chief Risk Officer, Chief Operation Officer, Chief Information Security	---

		Officer, Fund Managers, Dealers, Research Analysts, all employees in the Fund Operations Department, Compliance Officer and Heads of all divisions and/or departments or any other employee as designated by the Asset Management Company and/or Trustees	
2(vi)	Legitimate purposes	It is proposed to specify that the board of directors of an AMC, shall with the approval of the Trustees, make a policy for determination of “legitimate purposes”	---
2(vii)	Systematic Transactions:	It is proposed to define Systematic Transactions in units of a Mutual Fund as those transactions which are automatically triggered for execution on aperiodical basis as instructed by the investor such as Systematic Investment Plan (SIP), Systematic Transfer Plan (STP), Systematic Withdrawal Plan (SWP) etc	---
3.	Defenses available to an insider	The insider may prove his innocence by demonstrating the circumstances including the following: – -the transaction is an off-market inter-se transfer between insiders who were in possession of the same unpublished price sensitive information and both parties had made a conscious and informed trade decision.	

		<p>-such transaction in question was carried out pursuant to a statutory or regulatory obligation including subscription/investment in Mutual Fund units pursuant to mandatory requirement prescribed by SEBI for“Alignment of interest of Designated Employees of Asset Management Companies with the Unit holders of the Mutual Fund Schemes.</p> <p>-such transaction in question is triggered by Systematic plans, where such Systematic plans are registered at least sixty days prior to such transaction or triggered by irrevocable Trading plans, where such plan has been approved by Compliance Officer and disclosed on an independent platform as decided by SEBI,at least sixty days before the commencement of trades.</p> <p>Provided that the trading period for each plan shall be at least six months with no overlapping of different trading plans.</p> <p>Provided further that for the trading as per approved plan, no requirements/norms related to pre-clearance of trading or closure period or contra trade shall be applicable.</p>	
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4.	Another proposal is to make it mandatory to report all the tradings of Mutual Fund units executed by the Designated Persons of AMC/Trustees, their immediate relatives and by any other person for whom such person takes trading decisions to the Compliance Officer of AMC.	Due to proposed amendment, all persons mentioned under the list shall within 7 calendar days from the date of transaction and to specify that all such transactions above value of Rupees Ten Lakhs need to be disclosed by the AMC on an independent platform as decided by SEBI within 48 hours of receipt of the same	The challenge here will be that various committees that draw members from across fund houses are at work at all times at AMFI employee or official of the Association of Mutual Funds of India could also be a connected party.
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Observations :

SEBI observed that in the past a registrar and transfer agent of a mutual fund had redeemed all the units from a scheme as they were privy to certain sensitive information pertaining to the scheme of the fund which was not yet communicated to unit holders of that particular scheme.

Therefore, SEBI believes there is a need to harmonise the provisions in PIT Regulations to initiate serious enforcement actions against those who misuse the sensitive, non-public information pertaining to the scheme of mutual fund, directly or indirectly, which they have access to by virtue of their fiduciary capacity.

SEBI have asked stakeholders to look into the proposals made through consultation paper and to provide comments on the same by 29th July, 2022.

Link to the Consultation Paper:
https://www.sebi.gov.in/reports-and-statistics/reports/jul-2022/consultation-paper-on-applicability-of-sebi-pit-regulations-to-mf-units_60689.html

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3. **SEBI Modifies Cyber Security and Cyber resilience framework of KYC Registration Agencies (KRAs) - 05th July, 2022**

- SEBI, vide circular dated 15th October, 2019 and 30th May, 2022 prescribed framework for Cyber Security and Cyber Resilience of KYC Registration Agencies (KRAs).
- Further, SEBI vide its circular dated 05th July, 2022 made partial modifications *in the paragraph 51 of Annexure -1 of SEBI Circular dated 15th October, 2019.*
- SEBI in the Circular said that KYC Registration Agencies (KRAs) must notify the stock exchanges or depositories as well as SEBI of any cyberattacks, threats or breaches within six hours of them becoming aware of the incident or it being brought to their notice.
- The incidents must also be reported to the Indian computer emergency response team (CERT-In).
- SEBI further availed requirement to file quarterly report containing cyberattacks, threats or breaches experienced by KRAs and measures taken for mitigation within 15 days from the quarter ended June, September, December and March.
- Further, KYC Registration Agencies (KRAs) shall take necessary steps for implementation of this Circular.
- The provisions of the Circular shall come into force with immediate effect.

Link to the Circular:

<https://www.sebi.gov.in/legal/circulars/jul-2022/modification-in-cyber-security-and-cyber-resilience-framework-of-kyc-registration-agencies-kras-60562.html>

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4. **SEBI Modifies Cyber Security and Cyber resilience framework of Qualified Registrars to an Issue and Share Transfer Agents (QRTAs) - 06th July, 2022**

- SEBI, vide circular dated 08th September, 2017, 15th October, 2019 and 27th May, 2022 prescribed framework for Cyber Security and Cyber Resilience of Qualified Registrars to an Issue and Share Transfer Agents (QRTAs).
- Further, SEBI vide its circular dated 06th July, 2022 made partial modifications *in the paragraph 51 of Annexure -1 of SEBI Circular dated 08th September, 2017.*
- SEBI in the Circular said that Qualified Registrars to an Issue and Share Transfer Agents (QRTAs) must notify the stock exchanges or depositories

as well as SEBI of any cyberattacks, threats or breaches within six hours of them becoming aware of the incident or it being brought to their notice.

- The incidents must also be reported to the Indian computer emergency response team (CERT-In).
- SEBI further availed requirement to file quarterly report containing cyberattacks, threats or breaches experienced by QRTAs and measures taken for mitigation within 15 days from the quarter ended June, September, December and March.
- Further, Qualified Registrars to an Issue and Share Transfer Agents (QRTAs) shall take necessary steps for implementation of this Circular.
- The provisions of the Circular shall come into force with immediate effect.

Link to the Circular:

<https://www.sebi.gov.in/legal/circulars/jul-2022/modification-in-cyber-security-and-cyber-resilience-framework-of-qualified-registrars-to-an-issue-and-share-transfer-agents-qrtas-60605.html>

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5. SEBI declares Zero coupon Zero principal instrument as securities - 15th July, 2022

Ministry of Finance, vide SEBI notification dated 15th July, 2022 declared Zero coupon Zero principal instrument as securities.

The Notification further added that for the purpose of this notification “zero coupon zero principal instrument” means an instrument issued by a Not for Profit Organization which shall be registered with Social Stock Exchange segment of a recognized Stock Exchange in accordance with the regulations made by the Securities and Exchange Board of India.

This notification can help non-profit organizations to get funds in a more transparent manner and will also help corporates to utilize their fund marked for social responsibility. It is to be noted that, neither any interest is paid nor principal is repaid under Zero coupon Zero principal instrument.

Link to the Circular:

https://www.sebi.gov.in/legal/gazette-notification/jul-2022/declaration-of-zero-coupon-zero-principal-instruments-as-securities-under-the-securities-contracts-regulation-act-1956_60875.html

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6. **Stock exchanges and persons dealing in securities market to pay 18% GST on SEBI's fee - 18th July, 2022**

SEBI, vide its Circular dated 18th July, 2022 informed that exemption granted for payment of GST on services by SEBI has been withdrawn.

The decision has been taken after recommendation made by GST Council in its meeting held on 28th June, 2022 and 29th June, 2022 to withdraw the exemption granted to services by SEBI. The same has been notified on 13th July, 2022.

Therefore, all the market infrastructure institutions, companies who have listed/are intending to list their securities, other intermediaries and persons who are dealing in the securities market are hereby informed that the fees and other charges payable to SEBI shall be subject to GST (Goods and Services Tax) at the rate of 18 per cent with effect from 18th July, 2022.

Link to the Circular:

https://www.sebi.gov.in/legal/circulars/jul-2022/levy-of-goods-and-services-tax-gst-on-the-fees-payable-to-sebi_60880.html

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7. **SEBI Circular on Entities allowed to use e-KYC Aadhaar Authentication services of UIDAI in Securities Market as sub-KUA - 20th July, 2022**

Ministry of Finance, vide its notification dated 13th July, 2022 has notified 155 reporting entities as sub-KUA to use Aadhaar authentication services of UIDAI under section 11A of the Prevention of Money-laundering Act, 2002.

Further, SEBI vide its Circular dated 20th July, 2022 notified same to all the Registered Intermediaries. SEBI in the Circular said that the above mentioned entities shall enter into an agreement with a KUA and get themselves registered with UIDAI as sub-KUAs. The agreement in this regard shall be as prescribed by UIDAI.

Further, the Sub-KUAs shall follow the process as detailed in SEBI circular dated 05th November, 2019 and as may be prescribed by UIDAI from time to time.

The KUAs shall facilitate the onboarding of these entities as sub-KUAs to provide the services of Aadhaar authentication with respect to KYC.

It is to be noted that SEBI issued Circular dated 05th November, 2019 detailing the e-KYC Authentication facility under section 11A of the Prevention of Money Laundering Act, 2002, by entities in the securities market for Resident Investors and subsequently SEBI Circular dated 12th May, 2020 listed the

entities who shall undertake Aadhaar Authentication service of UIDAI as KYC user agency (KUA) in securities market.

This Circular is applicable to KYC Registration Agencies (KRAs), Stock Brokers through Stock Exchanges, Depository Participants (DPs) through Depositories, Mutual Funds (MFs) and AMCs through AMFI, Portfolio Managers (PMs), Collective Investment Schemes (CIS), Investment Advisors, Registrar and Transfer Agents, Custodians and Alternate Investment Funds (AIFs).

Link to the Circular:

https://www.sebi.gov.in/legal/circulars/jul-2022/entities-allowed-to-use-e-kyc-aadhaar-authentication-services-of-uidai-in-securities-market-as-sub-kua_61047.html

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8. SEBI notifies framework for Social stock exchange - 25th July, 2022

SEBI vide its notification dated 25th July, 2022 made amendments SEBI (ICDR) Regulations, 2018, and SEBI (LODR) Regulations, 2015. These amendments will immediately come into effect. The amendment has been made in order to provide social enterprises with an additional avenue to raise funds.

The notification said that framework for the Social stock exchange (SSE) has been developed on the basis of recommendations of a working and technical group constituted by SEBI.

The social stock exchange is a novel concept in India and such a bourse is meant to serve the private and non-profit sectors by channelling greater capital to them. The idea of SSE was first floated by finance minister Nirmala Sitharaman in her Budget Speech 2019-20.

The amendment provides for a framework for Social stock exchange which majorly provides eligibility of organizations to raise funds through Social stock exchange, eligibility of entities to be classified as “Not for Profit Organization”, eligibility of entities to be classified as “For Profit” Social Enterprise, Means through which Social enterprise can raise funds, obligations of Social enterprises.

➤ **Organization eligible to raise funds through Social Stock exchange :**

- a. a Not for Profit Organization seeking to only get registered with a Social Stock Exchange;
- b. a Not for Profit Organization seeking to get registered and raise funds through a Social Stock Exchange;
- c. a For Profit Social Enterprise seeking to be identified as a Social Enterprise under the provisions of this Chapter.

- **“Not for Profit Organization”** means a Social enterprise which is any of the following entities:
 - (i) a charitable trust registered under the Indian Trusts Act, 1882;
 - (ii) a charitable trust registered under the public trust statute of the relevant state;
 - (iii) a charitable society registered under the Societies Registration Act, 1860;
 - (iv) a company incorporated under section 8 of the Companies Act, 2013;
 - (v) any other entity as may be specified by the Board;

- **“For Profit” Social Enterprise”** shall fulfill the following eligibility criteria to be identified as a Social Enterprise:
 - (a) The Social Enterprise shall be indulged in at least one of the following activities:
 - (i) eradicating hunger, poverty, malnutrition and inequality;
 - (ii) promoting health care including mental healthcare, sanitation and making available safe drinking water;
 - (iii) promoting education, employability and livelihoods;
 - (iv) promoting gender equality, empowerment of women and LGBTQIA+ communities;
 - (v) ensuring environmental sustainability, addressing climate change including mitigation and adaptation, forest and wildlife conservation;
 - (vi) protection of national heritage, art and culture;
 - (vii) training to promote rural sports, nationally recognised sports, Paralympic sports and Olympic sports;
 - (viii) supporting incubators of Social Enterprises;
 - (ix) supporting other platforms that strengthen the non-profit ecosystem in fundraising and capacity building;
 - (x) promoting livelihoods for rural and urban poor including enhancing income of small and marginal farmers and workers in the non-farm sector;
 - (xi) slum area development, affordable housing and other interventions to build sustainable and resilient cities;
 - (xii) disaster management, including relief, rehabilitation and reconstruction activities;
 - (xiii) promotion of financial inclusion;
 - (xiv) facilitating access to land and property assets for disadvantaged communities;
 - (xv) bridging the digital divide in internet and mobile phone access, addressing issues of misinformation and data protection;
 - (xvi) promoting welfare of migrants and displaced persons;
 - (xvii) any other area as identified by the Board or Government of India from time to time

 - (b) the Social Enterprise shall target underserved or less privileged population segments or regions recording lower performance in the development priorities of central or state governments

(c) the Social Enterprise shall have at least 67% of its activities, qualifying as eligible activities to the target population, to be established through one or more of the following:

- i. at least 67% of the immediately preceding 3-year average of revenues comes from providing eligible activities to members of the target population;
- ii. at least 67% of the immediately preceding 3-year average of expenditure has been incurred for providing eligible activities to members of the target population;
- iii. members of the target population to whom the eligible activities have been provided constitute at least 67% of the immediately preceding 3-year average of the total customer base and/or total number of beneficiaries.

➤ **A Social Enterprise can raise funds through following means:**

(a) a Not for Profit Organization may raise funds on a Social Stock Exchange through:

- (i) issuance of Zero Coupon Zero Principal Instruments to institutional investors and/or non-institutional investors in accordance with the applicable provisions of this Chapter;
- (ii) donations through Mutual Fund schemes as specified by the Board;
- (iii) any other means as specified by the Board from time to time.

(b) A For Profit Social Enterprise may raise funds through:

- (i) issuance of equity shares on the main board, SME platform or innovators growth platform or equity shares issued to an Alternative Investment Fund including a Social Impact Fund;
- (ii) issuance of debt securities;
- (iii) any other means as specified by the Board from time to time.

Ineligibility for raising of funds :

A Social Enterprise shall not be eligible to register or raise funds through a Social Stock Exchange or Stock Exchange, as the case may be:

- (a) if the Social Enterprise, any of its promoters, promoter group or directors or selling shareholders or trustees are debarred from accessing the securities market by the Board;
- (b) if any of the promoters or directors or trustees of the Social Enterprise is a promoter or director of any other company or Social Enterprise which has been debarred from accessing the securities market by the Board;
- (c) if the Social Enterprise or any of its promoters or directors or trustees is a wilful defaulter or a fraudulent borrower;
- (d) if any of its promoters or directors or trustees is a fugitive economic offender;
- (e) if the Social Enterprise or any of its promoters or directors or trustees has been debarred from carrying out its activities or raising funds by

the Ministry of Home Affairs or any other ministry of the Central Government or State Government or Charitable Commissioner or any other statutory body.

➤ **Obligations of a Social Enterprise which are provided under Chapter IX-A of SEBI LODR Regulations:**

Disclosures by a For Profit Social Enterprise :

A For Profit Social Enterprise whose designated securities are listed on the Stock Exchange(s) shall comply with the disclosure requirements contained in these regulations with respect to issuers whose specified securities are listed on the Main Board or the SME Exchange or the Innovators Growth Platform, as the case may be.

Disclosures by a Not for Profit Organization :

A Not for Profit Organization registered on the Social Stock Exchange(s), including a Not for Profit Organization whose designated securities are listed on the Social Stock Exchange(s), shall be required to make annual disclosures to the Social Stock Exchange(s) on matters specified by the Board, within 60 days from the end of the financial year or within such period as may be specified by the Board.

In addition to the disclosures referred in sub-regulation (1), the Social Stock Exchange(s) may specify matters that shall be disclosed by the Not for Profit Organization on an annual basis.

Intimations and disclosures by Social Enterprise of events or information to Social Stock Exchange(s) or Stock Exchange(s) :

- (1) Framing a policy for determination of materiality, duly approved by its board or management.
- (2) To authorize one or more of its Key Managerial Personnel for the purpose of determining materiality of an event or information.
- (3) Disclosure of any event that may have a material impact on the planned achievement of outputs or outcomes within 7 days from the occurrence of any event.
- (4) The Social Enterprise shall provide updates on a regular basis along with relevant explanations in respect of the disclosures required in sub-regulation (3) till the time the concerned event remains material.
- (5) The Social Enterprise shall provide specific and adequate reply to all queries raised by the Social Stock Exchange(s) or the Stock Exchange(s), as the case may be, with respect to any events or information:
Provided that the Social Stock Exchange(s) or the Stock Exchange(s), as the case may be, shall disseminate the information and clarification as soon as reasonably practicable.
- (6) The Social Enterprise may suo moto confirm or deny any reported event or information to Social Stock Exchange(s) or the Stock Exchange(s), as the case may be
- (7) The Social Enterprise shall disclose on its website all such events or information which have been disclosed to the Social Stock

Exchange(s) or the Stock Exchange(s), as the case may be, under this regulation.

GO UP

9. SEBI extended timelines for applicability of KYC records validation - 27th July, 2022

Synopsis :- SEBI, vide its Circular dated 27th July, 2022 extended timelines from 01st August, 2022 to 01st November, 2022 for applicability of clause 9 and clause 13 of Circular dated 06th April, 2022 and 24th June, 2022 which availed a requirement to validate KYC records of all existing and new clients within 180 days effective from 01st July, 2022 and 01st August, 2022 respectively.

SEBI, further added that extension has been provided after receiving requests from the KRAs. Therefore, KYC records of all existing and new clients shall be validated within 180 days commencing from 01st November, 2022.

This circular is applicable to KYC Registration Agencies (KRAs), Stock Brokers through Stock Exchanges, Depository Participants (DPs) through Depositories, Mutual Funds (MFs) and AMCs Portfolio Managers (PMs), Collective Investment Schemes (CIS), Investment advisors, Registrar and Transfer Agents, Custodians, Alternate Investment Funds (AIFs), Association of Mutual Funds in India (AMFI).

Link to the Circular:

<https://www.sebi.gov.in/legal/circulars/jul-2022/implementation-of-circular-on-guidelines-in-pursuance-of-amendment-to-sebi-kyc-know-your-client-registration-agency-kra-regulations-2011-61220.html>

GO UP

10. SEBI circular on Settlement of Running Account of Client's Funds lying with Trading Member (TM) - 27th July, 2022

SEBI, vide its Circular dated 27th July, 2022 made partial modification to the circular dated 16th June, 2021 regarding guideline for settlement of running account of client's funds / securities to ensure uniformity in settlement of running account.

SEBI said that the settlement of running account of funds of the client shall be done by the TM after considering the End of the day (EOD) obligation of funds as on the date of settlement across all the Exchanges on first Friday of the Quarter (i.e., Apr-Jun, Jul-Sep, Oct-Dec, Jan-Mar) for all the clients i.e., the running account of funds shall be settled on first Friday of October 2022, January 2023, April 2023, July 2023 and so on for all the clients. If first Friday is a trading holiday, then such settlement shall happen on the previous trading day.

SEBI further added that, for clients, who have opted for Monthly settlement, running account shall be settled on first Friday of every month. If first Friday is a trading holiday, then such settlement shall happen on the previous trading day.

Therefore, Clause 5.1 of the circular dated 16th June, 2021 is modified to this extent. All other provisions in the circular dated 16th June, 2021 shall continue to remain applicable.

Link to the Circular:

<https://www.sebi.gov.in/legal/circulars/jul-2022/settlement-of-running-account-of-client-s-funds-lying-with-trading-member-tm-61222.html>

GO UP

11. Addendum to SEBI Circular on development of Passive Funds - 28th July, 2022

Synopsis :- SEBI, vide its Circular dated 28th July, 2022 extended timelines from 01st July, 2022 to 01st November, 2022 for applicability of Clause 2(IV)(A) of the circular dated 23rd May, 2022 which prescribed that in respect of units of ETFs, direct transaction with AMCs shall be facilitated for investors only for transactions above a specified threshold of INR 25 Cr.

SEBI, further added that extension has been provided after receiving feedback from stakeholders expressing certain challenges with respect to implementation of the clause. Therefore, the extension has been provided by SEBI.

This circular is applicable to all Recognized Stock Exchanges, Clearing Corporations, Depositories, Custodians, Mutual Funds, Asset Management Companies (AMCs), Trustee Companies, Boards of Trustees of Mutual Funds, Registrar and Transfer Agents (RTAs), Stock Brokers cum Market Makers, Association of Mutual Funds in India (AMFI).

Link to the Circular:

https://www.sebi.gov.in/legal/circulars/jul-2022/addendum-to-sebi-circular-on-development-of-passive-funds_61320.html

GO UP

12. **SEBI operational Circular for listing obligations and disclosure requirements for Non-convertible Securities, Securitized Debt Instruments and/or Commercial Paper – 29th July, 2022**

SEBI vide its Circular dated 29th July, 2022 came out with an operational circular for listing obligations and disclosure requirements for Non-convertible Securities, Securitized Debt Instruments and/or Commercial Paper. The released operational circular is a compilation of the relevant existing circulars, with consequent changes.

The stipulations contained in these circulars have detailed chapter-wise with footnotes corresponding to the respective erstwhile circulars. Therefore, accordingly, the circulars listed at Annex -1 of this circular stand superseded by this Operational Circular.

Additionally, format for submission of statement indicating the utilization of issue proceeds of listed Non-convertible Securities to the Stock Exchange(s), by the listed entities, as required under regulation 52(7) of the Listing Regulations, has been included in Chapter IV.

Further, Chapter XI has been included, containing format for review of rating obtained by the listed entity with respect to its non-convertible securities from Credit Rating Agency(ies) registered with SEBI, as required under regulation 55 and formats for submissions to be made by listed entity to the stock exchanges for interest/ dividend/ principal under regulations 57(1), 57(4) and 57(5) of the Listing Regulations.

Further, it is to be noted that this circular covers instruments under the NCS Regulations, Chapter X contains provisions applicable to issue of Securitized Debt Instruments under the SEBI (Issue and Listing of Securitized Debt Instruments and Security Receipts) Regulations, 2008. This has been accordingly indicated in the chapter.

The purpose of this operational circular is effective regulation of the corporate bond market and to enable the issuers and other market stakeholders to get access to all the applicable circulars at one place.

This Circular will come into force with effect from 1st August, 2022.

This Circular is applicable to all issuers who have listed Non-convertible Securities, Securitized Debt Instruments and/or Commercial Paper; Recognised Stock Exchanges.

Link to the Circular:

https://www.sebi.gov.in/legal/circulars/jul-2022/lodr-single-operational-circular-for-listing-obligations-and-disclosure-requirements-for-non-convertible-securities-securitized-debt-instruments-and-or-commercial-paper_61345.html

13. SEBI extended timelines for Nomination for Mutual Fund Unit Holders - 29th July, 2022

Synopsis :- SEBI, vide its Circular dated 29th July, 2022 extended timelines from 01st August, 2022 to 01st October, 2022 for submission of nomination details/declaration for opting out of nomination for investors subscribing to mutual fund units which resulted in modification of Para 1 of SEBI Circular dated 1st June, 2022.

Further, SEBI also modified Para 2 of the circular by providing an option to the unit holder(s) to submit either the nomination form or the declaration form for opting out of nomination in physical or online as per the choice of the unit holder(s). In case of physical option, the forms shall carry the wet signature of all the unit holder(s). In case of online option, instead of wet signature(s) of all the unit holder(s), AMCs shall validate the forms:

- i. using e-Sign facility recognized under Information Technology Act, 2000; or
- ii. through two factor authentication (2FA) in which one of the factor shall be a One-Time Password sent to the unit holder at his/her email/ phone number registered with the AMC”.

This circular is applicable to all Mutual Funds (MFs), Asset Management Companies (AMCs), Trustee Companies, Board of Trustees of Mutual Funds, Registrar and Transfer Agents (RTAs), Association of Mutual Funds in India (AMFI).

Link to the Circular:

https://www.sebi.gov.in/legal/circulars/jul-2022/nomination-for-mutual-fund-unit-holders-extension-of-timelines_61395.html

GO UP

14. SEBI circular on Framework for automated deactivation of trading and demat accounts in cases of inadequate KYCs - 29th July, 2022

SEBI, vide its circular dated 29th July, 2022 came out with framework involving stock exchanges and depositories to ensure that the client furnishes accurate/updated details of address and to ensure that KYC details are correct.

Following guidelines/instructions are proposed by SEBI under following framework :

- Where SEBI instructs MIIs to serve any Show Cause Notice (“SCN”) or order issued by SEBI, the MIIs shall arrange to physically deliver the same to the entity. The MIIs shall forward the signed acknowledgement of its receipt to SEBI within a period of 30 working days. If none of the MIIs are

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- i. able to deliver the SCN or order, as the case may be, at any of the addresses mentioned in the KYC records linked to any trading/demat account of the entity; and
 - ii. obtain a signed acknowledgement of its receipt from the entity or its authorized representative,
- Then all MIIs shall deactivate all trading and demat accounts i.e. implement a restraint/freeze on debit and credit (except for corporate actions) of all trading and demat accounts of the entity based on the entity's Permanent Account Number (PAN), within 5 working days from the last unsuccessful delivery report. MIIs shall send an email/SMS to the entity before deactivation. It is clarified that if one of the MIIs is able to deliver the SCN or order, as the case may be, to the entity and obtain signed acknowledgement, then none of the accounts of the entity shall be deactivated. However, the MIIs, through their registered intermediaries, shall ensure that the KYC records linked to all accounts held by the entity, are updated, accurate and confirm the new KYC details to the concerned KYC Registration Agency (KRA).
 - Pending pay-in and pay-out obligations and open positions may be permitted to be settled, squared off or closed out.
 - MIIs shall ensure that they communicate the details of the deactivation along with reasons thereof to the respective registered intermediary.
 - Subject to the above, the MIIs shall ensure that the deactivated accounts are not used for dealing in securities market in any manner whatsoever.
 - Further, the concerned entity can anytime place a request to the registered intermediaries with which the entity holds trading/demat account with necessary documents.
 - The concerned MII shall re-activate all trading accounts/demat accounts of entity after ensuring that entity has provided signed acknowledgement of SEBI and confirmation on KYC records has been received from registered intermediary.
 - The process of reactivating the accounts by the MIIs shall not exceed more than 5 working days after receipt of request from the entity.
 - This circular is applicable to all Recognised Stock Exchanges (except Commodity Derivatives Exchanges) and Registered Depositories.

Link to the Circular:

https://www.sebi.gov.in/legal/circulars/jul-2022/framework-for-automated-deactivation-of-trading-and-demat-accounts-in-cases-of-inadequate-kycs_61407.html

III. OTHER UPDATES / CASE LAWS

➤ INSOLVENCY LAW

1. IBBI Update : Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2022

Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2022.

Disciplinary Proceedings.

Regulation 11. The disciplinary proceedings shall be conducted in accordance with the provisions of Insolvency and Bankruptcy Board of India (Inspection and Investigation) Regulations, 2017.

First Schedule After Clause 8A

8B. An insolvency professional shall disclose his relationship, if any, with the corporate debtor, other professionals engaged by him, financial creditors, interim finance providers, and prospective resolution applicants to the insolvency professional agency of which he is a member, within the time specified hereunder:

Relationship of the insolvency professional with	Disclosure to be made within three days of
(1)	(2)
Corporate debtor	his appointment.
Registered valuers / accountants/ legal professionals/ other professionals appointed by him	appointment of the professionals.
Financial creditors	the constitution of committee of creditors.
Interim finance providers	the agreement with the interim finance provider
Prospective resolution applicants	the supply of information memorandum to the prospective resolution applicant
If relationship with any of the above, comes to notice or arises subsequently	of such notice or arising.

8C. An insolvency professional shall ensure disclosure of the relationship, if any, of the other professionals engaged by him with himself, the corporate debtor, the financial creditor, the interim finance provider, if any, and the prospective resolution applicant, to the insolvency professional agency of which he is a member, within the time specified as under:

Relationship of the other professional with	Disclosure to be made within three days of
(1)	(2)
Insolvency professional	the appointment of the other professional
Corporate debtor	the appointment of the other professional
Financial creditors	constitution of committee of creditors.
Interim finance providers	the agreement with the interim finance provider or three days of the appointment of the other professional, whichever is later.
Prospective resolution applicants	the supply of information memorandum to the prospective resolution applicant or three days of the appointment of the other professional, whichever is later.
If relationship with any of the above, comes to notice or arises subsequently	of such notice or arising.

Explanation: For the purposes of clause 8B and 8C above, 'relationship' shall mean any one or more of the following four kinds of relationships at any time or during the three years preceding the appointment of other professionals:

Kind of relationship	Nature of relationship
(1)	(2)
A	Where the insolvency professional or the other professional, as the case may be, has derived 5% or more of his / its gross revenue in a year from professional services to the related party.
B	Where the insolvency professional or the other professional, as the case may be, is a shareholder, director, key managerial personnel or partner of the related party.
C	Where a relative (spouse, parents, parents of spouse, sibling of self and spouse, and children) of the insolvency professional or the other professional, as the case may be, has a relationship of kind A or B with the related party.
D	Where the insolvency professional or the other professional, as the case may be, is a partner or director of a company, firm or LLP, such as, an insolvency professional entity or registered valuer, the relationship of kind A, B or C of every partner or

	director of such company, firm or LLP with the related party
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15 Information Management

“15A. An insolvency professional shall prominently state in all his communications to a stakeholder, his name, address, e-mail, registration number and validity of authorisation for assignment, if any, issued by the insolvency professional agency of which he is a member.”

25 Remuneration and Cost

25B. An insolvency professional shall raise bills or invoices in his name towards his fees, and such fees shall be paid to him through banking channel.

25C. An insolvency professional shall ensure that the insolvency professional entity or the professional engaged by him raises bills or invoices in their own name towards their fees, and such fees shall be paid to them through banking channel.

27A. An insolvency professional shall, while undertaking assignment or conducting processes, exercise reasonable care and diligence and take all necessary steps to ensure that the corporate person complies with the applicable laws.

27B. An insolvency professional shall not include any amount towards any loss, including penalty, if any, in the insolvency resolution process cost or liquidation cost, incurred on account of non-compliance of any provision of the laws applicable on the corporate person while conducting the insolvency resolution process, fast track insolvency resolution process, liquidation process or voluntary liquidation process, under the Code.

GO UP

2. IBBI Update : Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) (Amendment) Regulations, 2022

These Regulations may be called the Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) (Amendment) Regulations, 2022.

They shall come into force on the date of their publication in the Official Gazette

Disciplinary proceedings.

Reg - 8. The disciplinary proceedings shall be conducted in accordance with the provisions of the Insolvency and Bankruptcy Board of India (Inspection and Investigation) Regulations, 2017.

GO UP

3. Jaipur Trade Expocentre Private Limited v. M/s Metro Jet Airways Training Private Limited - 05th July, 2022

The claim of Licensor for payment of license fee for use of Demised Premises for business purposes is an 'operational debt' within the meaning of Section 5(21) of the Code.

Case Title - Jaipur Trade Expocentre Private Limited v. M/s Metro Jet Airways Training Private Limited

Date of Order - 5th July 2022

Fact of the Case

Adjudicating Authority vide its order dated 04.03.2020 dismissed the section 9 application holding that claim arising out of grant of license to use of immovable property does not fall in the category of goods or services, thus, the amount claimed in Section 9 Application is not an unpaid operational debt and therefore, Application cannot be allowed. Aggrieved by the order of the Adjudicating Authority dated 04.03.2020, this Appeal has been filed by the Operational Creditor.

One of the questions framed in the application was whether dues, if any, arising from the Leave and License Agreement is construed as an 'Operational Debt'?

Decision

Hon'ble NCLAT, New Delhi allowed the appeal and set aside impugned judgment of the Adjudicating Authority dated 04.03.2020 and hold that Application filed by the Operational Creditor (Appellant herein) deserves admission under Section 9 of the Code. NCLAT observed that:

"The Licensee was licensed for a particular kind of service for use by the Licensee for running a business of Educational Institution. Hence, in the present case, debt pertaining to unpaid license fee was fully covered within the meaning of 'operation debt' under Section 5(21) and the Adjudicating Authority committed error in holding that the debt claimed by the Operational Creditor is not an 'operational debt'."

GO UP

4. The Regional Provident Fund Commissioner Employees Provident Fund Organisation v. Mr. Vasudevan, Resolution Professional & Liquidator of M/s.Titanium Tantalum Products Limited - 11th July, 2022

Just because the Appellant is a Statutory Organisation, no 'indulgence' or 'latitude' can be shown, since the 'Law' applies to one and all in a level playing field.

Case Title - The Regional Provident Fund Commissioner Employees Provident Fund Organisation v. Mr. Vasudevan, Resolution Professional & Liquidator of M/s.Titanium Tantalum Products Limited

Date of order - 11th July 2022

Fact of the Case

The Appellant (EPFO) had brought to the notice of the Respondent (Liquidator) that the Respondent as a RP/Liquidator had failed to contribute to the Appellant from Jan 2018 onwards. The prime contention advanced on behalf of the Appellant was that when the Respondent was running the affairs of the Company, it was his duty to make contribution to the Appellant, be it as an 'IRP' or 'RP'. The appellant contended that the amount due in the EPFO would form first charge and should be paid out of the assets of the CD.

However, there was a delay of 936 days in claiming the EPF & MP Act, 1952, dues. The appellant sought condonation of delay based on the fact that it is a Government Statutory Organisation, catering the workmen interests, the protection of the interests of workmen of the Applicant would be in line with larger public interest.

Decision

Hon'ble NCLAT dismissed the appeal and held that,

"Just because the Appellant is a Statutory Organisation, no 'indulgence' or 'latitude' can be shown, since the 'Law' applies to one and all in a level playing field. In reality, the Officials must act with as much as diligent as is expected

from a 'Litigant'...

'Speed' is the essence of I & B Code, 2016. 'Time Wasted'/'Lost' cannot be revisited/regained. The process of Liquidation is time bound, to be completed within one year in the teeth of the I & B Code, 2016. Undoubtedly, the Code is an inbuilt and self-contained one and the object of the I & B Code, 2016, is that, a time barred 'Debt' cannot be resurrected or given a fresh tenure of life, as opined by this 'Tribunal'"

GO UP

5. Tejas Khandhar v. Bank of Baroda – 12th July, 2022

OTS proposal falls within the ambit of ‘acknowledgement of debt’ as defined under Section 18 of the Limitation Act, 1963.

Case Title -Tejas Khandhar v. Bank of Baroda

Date of Order – 12th July 2022

Fact of the Case

Bank of Baroda had extended financial assistance to the ‘Corporate Debtor’ through various term loans. A One Time Settlement (‘OTS’) dated 27.03.2018 was entered into between the parties. The contention of the Appellant is that the ‘date of default’ is 01.07.2013; that the date of NPA mentioned in the Section 7 Application is 22.09.2013 and the Application was filed by BoB (Respondent) on 11.07.2019 and as three years Limitation period has expired on 22.09.2016, the Application was ‘barred by Limitation’. It was also contended that the Respondent Bank did not raise the plea of extension of Limitation or ‘acknowledgement of debt’ under Section 18 of the Limitation Act, and therefore cannot agitate the plea at such a belated stage.

Decision

Hon’ble NCLAT dismissed the appeal and held that,

“We are of the considered view that the OTS proposal dated 01.08.2016 filed vide I.A. 1155/2016 falls within the ambit of ‘acknowledgement of debt’ as defined under Section 18 of the Limitation Act, 1963, which is further fructified by the admitted OTS dated 27.03.2018 again within three years of the previous proposal where the ‘debt’ is acknowledged to be ‘due and payable’. Therefore, we are of the view that the ratio of the Hon’ble Supreme Court in ‘Dena Bank (now

Bank of Baroda)’ Vs. ‘C. Shiv Kumar Reddy and Anr.’, (2021) 10 SCC 330, is squarely applicable to the facts of this case as there is a jural relationship between the ‘Corporate Debtor’ and the Respondent Bank and there is an ‘acknowledgement of debt’ vide the OTS dated 27.03.2018, which falls within the ambit of Section 18 of the Limitation Act, 1963.

...this Tribunal is of the considered view that the OTS proposal dated 01.08.2016 and the subsequent one on 27.03.2018 falls within the definition of the ambit of ‘acknowledgement of debt’ as envisaged under Section 18 of the Limitation Act, 1963 and is therefore squarely covered by the aforementioned Judgement.”

GO UP

1. RBI Updates: Board approved Loan Policy - Management of Advances - UCBs

In several UCBs that these policies not only lack comprehensive coverage, but also do not require a periodic review. In order to ensure that the loan policy reflects approved internal risk appetite and remains in alignment with the extant regulations, it is advised that the loan policy of the bank shall be reviewed by the Board at least once in a financial year.

The above instructions will come into effect immediately.

GO UP

2. RBI Updates : Master Circular - Deendayal Antyodaya Yojana - National Rural Livelihoods Mission (DAY-NRLM)

The Master Circular dated April 01, 2021 on Deendayal Antyodaya Yojana - National Rural Livelihoods Mission (DAY-NRLM).

The Master Circular consolidates and updates all the instructions/ guidelines on the subject issued till date and replaces the earlier Master Circular issued on the subject.

Women SHGs and their Federations

Women SHGs under DAY-NRLM consist of 10-20 members. In case of special SHGs i.e. groups in the difficult areas, groups with disabled persons, and groups formed in remote tribal areas, this number may be a minimum of 5 members.

Financial Assistance to the SHGs

DAY-NRLM, MoRD, will provide Revolving Fund (RF) support as corpus ranging between ₹10,000 - ₹15,000 per SHG to strengthen their institutional and financial management capacity and build a good credit history within the group. SHGs in existence for a minimum period of 3/6 months and follow the norms of good SHGs known as 'Panchasutras', viz., regular meetings, regular savings, regular internal lending, regular recoveries and maintenance of proper books of accounts, and which have not received any RF earlier will be eligible for such support.

Link to the Circular:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12360&Mode=0>

GO UP

3. **RBI Update : Asian Clearing Union (ACU) Mechanism – Indo-Sri Lanka trade**

Attention of Authorised Dealer Category – I (AD Category-I) banks is invited to Regulations 3 and 5 of Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2016 in terms of which export / import transactions between ACU member countries are to be routed through the ACU mechanism.

The extant provisions have been reviewed and in terms of clause b of sub-Regulation 2 of Regulation 3 and clause c of sub-Regulation 2 of Regulation 5 of Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2016, it has been decided that all eligible current account transactions including trade transactions with Sri Lanka may be settled in any permitted currency outside the ACU mechanism until further notice.

It shall come into force with immediate effect.

GO UP

4. **RBI Update: Overseas foreign currency borrowings of Authorised Dealer Category-I banks**

Authorised Dealer Category-I (AD Cat-I) banks is invited to the Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 [Notification dated December 17, 2018] and Master Direction - Risk Management and Inter-Bank Dealings dated July 05, 2016, as amended from time to time.

As announced in paragraph 4 of the press release on “Liberalisation of Forex Flows” dated July 06, 2022, AD Cat-I banks can utilise the funds raised from overseas foreign currency borrowings between July 08, 2022 and October 31, 2022 (both dates included) in terms of paragraph Part-C(5)(a) of the Master Direction - Risk Management and Inter-Bank Dealings dated July 05, 2016, as amended from time to time, for lending in foreign currency to constituents in India. Such lending shall be subject to the end-use prescriptions as applicable to External Commercial Borrowings (ECBs) in terms of paragraph 2.1(viii) of the Master Direction - External Commercial Borrowings, Trade Credits and Structured Obligations dated March 26, 2019, as amended from time to time. This facility will be available till the maturity / repayment of the overseas foreign currency borrowings.

GO UP

5. **RBI Updates : Investment by Foreign Portfolio Investors (FPI) in Debt – Relaxations**

Authorised Dealer Category-I (AD Category-I) banks is invited to paragraph 3 of the press release on “Liberalisation of Forex Flows” dated July 06, 2022 regarding relaxations in the regulatory regime under the Medium-Term Framework. A reference is also invited to:

- a. the Foreign Exchange Management (Debt Instruments) Regulations, 2019 notified vide Notification No. FEMA. dated October 17, 2019, as

amended from time to time, and the relevant directions issued thereunder; and

- b. the A.P. (DIR Series) Circular 31 dated June 15, 2018 (hereinafter, Directions), as amended from time to time.

In terms of paragraphs 4(b)(i) and 4(b)(ii) of the Directions, short-term investments by an FPI in government securities (Central Government securities, including Treasury Bills and State Development Loans) and corporate bonds shall not exceed 30% of the total investment of that FPI in any category. It has been decided that investments by FPIs in government securities and corporate bonds made between July 08, 2022 and October 31, 2022 (both dates included) shall be exempted from the limit on short-term investments till maturity or sale of such investments.

In terms of paragraph 4(b)(ii) of the Directions, FPI investments in corporate bonds were subject to a minimum residual maturity requirement of one year. It has been decided to allow FPIs to invest in commercial papers and non-convertible debentures with an original maturity of up to one year, during the period between July 08, 2022 and October 31, 2022 (both dates included). These investments shall be exempted from the limit on short-term investments till maturity or sale of such investments.

GO UP

6. **RBI Updates : Fully Accessible Route' for Investment by Non-residents in Government Securities - Additional specified securities**

It has been decided to designate the two securities listed in the following Table as well as all new issuances of Government securities of 7-year and 14-year tenors as 'specified securities' under the FAR. Accordingly, these securities will, henceforth, be eligible for investment under the FAR.

Table: Additional 'specified securities' under the Fully Accessible Route	
ISIN	Security
IN0020220011	7.10% GS 2029
IN0020220029	7.54% GS 2036

GO UP

7. **RBI Updates : Exim Bank's Government of India supported Short - Term Line of Credit (STLoC) of USD 55 million to the Government of the Democratic Socialist Republic of Sri Lanka for procurement of urea fertilizer from India**

Export-Import Bank of India (Exim Bank) has entered into an agreement dated June 10, 2022 with the Government of the Democratic Socialist Republic of Sri Lanka, for making available to the latter, Government of India supported Short - Term Line of Credit (STLoC) of USD 55 million (USD Fifty Five Million only) for financing of procurement of urea fertilizer from India. Under the arrangement, financing of export of eligible goods and services from India, as defined under the agreement, would be allowed subject to their being eligible for export under the

Foreign Trade Policy of the Government of India and whose purchase may be agreed to be financed by the Exim Bank under this agreement.

The Agreement under the STLoC is effective from June 20, 2022. Under the STLoC, the terminal utilization period is 6 months from the date of signing the agreement or such other extended date which EXIM Bank may agree at the request of the borrower, provided however that such extended date shall in no case be beyond 12 months from the date of agreement.

Shipments under the STLoC shall be declared in the Export Declaration Form/ Shipping Bill as per instructions issued by the Reserve Bank from time to time.

No agency commission is payable for export under the above STLoC. However, if required, the exporter may use his own resources or utilize balances in his Exchange Earners' Foreign Currency Account for payment of commission in free foreign exchange. Authorised Dealer (AD) Category - I banks may allow such remittance after realization of full eligible value of export subject to compliance with the extant instructions for payment of agency commission.

GO UP

8. **RBI Updates : Section 42 of the Reserve Bank of India Act, 1934 and Section 18 and 24 of the Banking Regulation Act, 1949 - FCNR (B)/NRE Term deposits - Exemption from maintenance of CRR/SLR**

Banks are required to include all Foreign Currency Non-Resident (Bank) [FCNR (B)] and Non-Resident (External) Rupee (NRE) deposit liabilities for computation of Net Demand and Time Liabilities (NDTL) for maintenance of CRR and SLR.

Banks are advised that with effect from the reporting fortnight beginning July 30, 2022, incremental FCNR (B) deposits as also NRE Term deposits with reference to base date of July 1, 2022, mobilised by banks will be exempt from maintenance of CRR and SLR. To amplify, if a bank had total FCNR (B) deposit of say USD 100 as on the base date, and mobilises an incremental deposit of say USD 20, that portion of USD 20 will not be part of liabilities reckoned for the purpose of NDTL computation for CRR and SLR maintenance with effect from the fortnight beginning July 30, 2022. The same principle will apply for calculation of NRE Term deposits for exemption from maintenance of CRR/SLR requirements. However, any transfer from Non-Resident (Ordinary) (NRO) accounts to NRE accounts will not qualify for such exemptions.

The above exemptions are valid for deposits raised till November 04, 2022. The exemption on reserves maintenance will be available for the original deposit amounts till such time the deposits are held in the bank books.

GO UP

9. **RBI Updates : Master Direction on Interest Rate on Deposits - Foreign Currency (Non-resident) Accounts (Banks) Scheme [FCNR(B)] and Non-Resident (External) Rupee (NRE) Deposit**

The banks are advised that with effect from July 07, 2022, the interest rate ceiling applicable to FCNR (B) deposits is being temporarily withdrawn for incremental FCNR (B) deposits mobilized by banks for the period until October 31, 2022.

Interest rates on NRE deposits shall not be higher than those offered by the banks on comparable domestic rupee term deposits. In this regard, the said restriction with respect to interest rates offered on incremental NRE deposits mobilized by banks shall be temporarily withdrawn with effect from July 07, 2022, for the period until October 31, 2022. The above relaxation shall not be applicable to Ordinary Non-Resident (NRO) Deposits.

These concessions will be subject to review.

GO UP

10. **RBI Updates : Inclusion of “Unity Small Finance Bank Limited” in the Second Schedule of the Reserve Bank of India Act, 1934**

“Unity Small Finance Bank Limited” has been included in the Second Schedule to the Reserve Bank of India Act, 1934 vide Notification dated April 28, 2022 and published in the Gazette of India (Part III - Section 4) dated July 02-July 08, 2022.

GO UP

11. **RBI Updates : Requirement for obtaining prior approval in case of takeover / acquisition of control of non-bank PSOs and sale / transfer of payment system activity of non-bank PSO**

The operations of non-bank PSOs (authorised to operate any Payment System) have been reviewed and they shall require prior approval of RBI in the following cases –

Takeover / Acquisition of control, which may / may not result in change of management.

Sale / Transfer of payment activity to an entity not authorised for undertaking similar activity

The non-bank PSOs shall inform RBI within 15 calendar days in the following cases

Change in management / directors.

Sale / Transfer of payment activity to an entity authorised for undertaking similar activity.

GO UP

12. RBI Updates: Note Sorting Machines - Authentication and Fitness Sorting Parameters

The Reserve Bank of India (RBI) has asked banks to test their note sorting machines for accuracy and consistency every quarter to ensure currency notes conform to the prescribed parameters.

'Note Sorting Machines - Authentication and Fitness Sorting Parameters', a fit note is "a note that is genuine, sufficiently clean to allow its denomination to be readily ascertained and thus suitable for recycling".

An unfit note is one that is not suitable for recycling because of its physical condition or belongs to a series that has been phased out by the Reserve Bank of India.

The RBI directed banks that note processing machines/note sorting machines will do the authenticity check from time to time. Any note which is not found to be having all the features of a genuine note shall be classified by the machine as suspect/reject.

Further, as per the circular, the banks will have to send fitness reports of currency notes every three months to the RBI. The banks will have to inform RBI about the number of notes which were found unfit and notes that can be reissued after proper maintenance.

According to the RBI circular, notes with any visual or physical defects are to be sorted as unfit as per the following criteria:

1. Soiling: It refers to the general distribution of dirt across the entire note or in some patterns. It is a measure of the loss of reflectivity from the unprinted areas due to dirt, ageing (yellowing), wear, and extraneous markings and includes decolouration due to ageing, excessive folding and other wearing.

2. Limpness: It relates to structural deterioration resulting in a marked lack of stiffness in the note paper. Notes with a very low stiffness of paper will be sorted as unfit.

3. Dog-ears: Banknotes with dog-ears with an area of more than 100 mm² and a minimum length of the smaller edge greater than 5 mm shall be sorted as unfit.

4. Tears: Notes exhibiting at least one tear at the edge will also be considered unfit.

5. Holes: Notes with holes with area exceeding 8 mm² will be sorted as unfit.

6. Stains: Localised concentration of dirt will also make the note unfit for use.

7. Graffiti: Graffiti refers to the deliberate graphic alteration of the note with, for example, figures or letters. Fitness sorting criteria in case of graffiti shall be the same as those for stains.

8. Crumples/Folds: Crumpled/folded notes shall be sorted as unfit if the folds result in a reduction of the original note in length or width

9. Decolouration: Notes affected by decolouration shall be sorted as unfit if the ink is partially or wholly missing from its surface.

10. Repair: Note that repaired using adhesive tape/ paper/ glue will come under the unfit category.

GO UP

IV. KNOWLEDGE SHARING

PRIVATE PLACEMENT OF SHARES UNDER COMPANIES ACT, 2013

Private Placement is governed under Section 42 of Companies Act, 2013 read with The Companies (Prospectus and Allotment of Shares) Rules, 2014. Private Placement means offer or invitation to subscribe shares to such number of persons as identified by the Board of Directors of the Company through a private placement offer letter.

Private Placement offer shall not be made to more than 50 persons in a single offer;

And not more than 200 persons in a financial year.

Shares offered to Qualified Institutional Buyers and employees of the company under ESOP should be excluded from the limit of 50 persons under Private Placement.

A Company making private placement cannot offer its shares through advertisement, media, marketing or any other mode to inform the public.

Offer Letter procedure under Private Placement

- The Company making Private Placement should invite or offer its shares through a Private Placement offer letter in Form PAS-4.
- The Private Placement offer letter should be numbered and addressed either in writing or electronic mode to such person to whom offer has been made.
- Private Placement offer should be made only to those persons whose names are recorded by the Company before sending invitation for subscription of private placement. The same record of names should be maintained by Company in Form PAS-5.
- The Company making Private Placement should file the complete information of the offer with Registrar of Companies within thirty days after circulation of Private Placement offer letter.

Approval for making Private Placement

The Company making Private Placement needs to take approval of Shareholders of the Company for the proposed offer or invitation to subscribe such shares in the form of Special Resolution.

Mode of Payment for making Private Placement

Every person applying for Private Placement should pay subscription money in the form of Demand draft, Cheque or any other banking mode. Subscription money should not be paid through cash.

Allotment of Private Placement

- The Company should allot its shares to the subscribers within Sixty days from the receipt of the application monies for the shares.
- The Company should repay the application money within fifteen days from the completion of sixty days if the shares were not allotted in the span of sixty days.
- If in case the Company does not repay the application money on the within fifteen days after the expiry of sixty days, then Company shall be held liable to repay application money with an interest rate of 12% per annum from the expiry of sixtieth day.
- The Company must keep the application money in a separate bank account in a scheduled bank and should not utilize it for any other purpose.

Return of Allotment of Private Placement

- The Company must file return of Allotment of shares of Private Placement with the ROC within thirty days in Form PAS-3.

Frequently asked questions

Can a Company make Private Placement offer to existing Shareholders ?

The Companies Act, 2013 does not mention anything specifically on offer of Shares to existing Shareholders. The definition says that an offer of shares should be made to existing shareholders and not to public. Thus, shares can be issued to existing shareholders under private placement.

The limit of 200 persons is applicable for issue of each kind or jointly for all kind of securities ?

The restriction on limit of 200 persons is applicable for issue of each kind of security. Thus, a company can issue 200 equity shares and 200 debentures during the same financial year.

GO UP

THANKYOU
