

NEWSLETTER

May 2024

TABLE OF CONTENTS

Capital Market	03
05	Competition Law
Dispute Resolution	08
11	Employment Law
Energy & Infrastructure	14
16	Fintech
International Trade/WTO	22
24	Media and Entertainment
RBI and FEMA	27
32	RERA
Technology Law	34
36	White-Collar Crime



CROSS MARGIN BENEFITS FOR OFFSETTING POSITIONS HAVING DIFFERENT EXPIRY DATES

Vide Master Circular dated October 16, 2023, the Securities and Exchange Board of India (“SEBI”) had stipulated cross margining between index futures positions and constituent stock futures positions, as well as cross margining for offsetting positions in correlated equity indices. Initially, cross margin benefits were provided only if both correlated indices or an index and its constituents shared the same expiry day.

After, discussion with the concerned stakeholders, SEBI *vide* circular dated April 23, 2024¹ has decided to extend cross margin benefits to offsetting positions with different expiry dates, subject to certain conditions:

- A spread margin of 40% will be levied for offsetting positions in correlated indices with different expiry dates, while the existing requirement of 30% will continue for positions with the same expiry date.
- For offsetting positions in an index and its constituents with different expiry dates, a spread margin of 35% will be levied. However, if the expiry date of the index futures differs from its constituents, the expiry date of all constituents' futures contracts must be the same to obtain the cross margin benefit. The existing spread margin requirement of 25% will continue for positions with the same expiry date.
- The spread margin benefit will be revoked at the beginning of the expiry day of the position that expires first, in cases where the expiry dates of both legs of the position are different.
- Stock Exchanges and Clearing Corporations are required to establish suitable monitoring mechanisms to track cross margin activities of participants.

Thus, the circular introduces amendments to the existing cross margining provisions, allowing for cross margin benefits on offsetting positions with different expiry dates, although with certain spread margin requirements and monitoring mechanisms in place.

The circular will become effective three months from its date of issuance.

AMENDMENTS IN THE ALTERNATIVE INVESTMENT FUNDS (“AIFS”) FRAMEWORK

Vide gazette notification dated April 25, 2024², SEBI amended the SEBI (AIF) Regulations, 2012 (“**AIF Regulations**”). Pursuant to the amendment, SEBI introduced two circulars both dated April 26, 2024 giving effect to the amendments were introduced. Key aspects of the amendments are as follows:

- (a) Regulation 16(1)(c) and 17(c) of updated AIF Regulations state that Category I and Category II AIFs may create encumbrance on equity of investee company, which is in the business of development, operation or management of projects in any of the infrastructure sub-sectors listed in the ‘Harmonised Master List of Infrastructure’ issued by the Central Government, only for the purpose of borrowing by such investee company and subject to such conditions as may be specified by the SEBI.

Vide circular dated April 26, 2024³, SEBI specified conditions for the same as follows:

- AIFs must disclose the creation of encumbrance and associated risks in their Private Placement Memorandums (“PPMs”).
- Encumbrances created before April 25, 2024, may continue provided explicit disclosure concerning the

¹ SEBI/HO/MRD/TPD-1/P/CIR/2024/24

² CG-MH-E-25042024-253863

³ SEBI/HO/AFD/PoD1/CIR/2024/027

same was made in the PPM. In case the encumbrance was created without making adequate disclosure, consent of all investors in the scheme of the AIF must be obtained to this effect latest by October 24, 2024 provided the encumbrance is permissible as per the existing framework. If it is not, such encumbrance must be removed by October 24, 2024.

- Borrowings against encumbered equity must be utilized only for the development, operation, or management of the investee company.
- Encumbrance duration should not exceed the residual tenure of the AIF scheme.
- AIF with more than 50% foreign investment shall ensure compliance with para 7.11.2 of RBI Master Direction dated January 04, 2018 on 'Foreign Investments in India', as though the AIF is a person resident outside India
- Schemes of AIFs shall not create encumbrance on their investment

(b) Regulation 29(9) of the updated AIF Regulations allows an AIF to distribute investments of a scheme which are not sold due to lack of liquidity, in-specie to the investors or enter into the dissolution period (i.e. the period following the expiry of the liquidation period of the scheme for the purpose of liquidating the unliquidated investments of the scheme of the Alternative Investment Fund), after obtaining approval of at least seventy five percent of the investors by value of their investment in the scheme subject to conditions prescribed by SEBI.

Vide circular dated April 26⁴, 2024, SEBI specified conditions for the same as follows:

- Before seeking investor consent, the AIF/manager must arrange bids for a minimum of 25% of unliquidated investments. If the AIF/manager successfully arranges

bid for a minimum of 25% of the value of unliquidated investments of the scheme, the dissenting investors of the scheme shall be offered an option to fully exit the scheme out of the 25% bid arranged by the AIF. If the AIF/manager fails to arrange bid for a minimum of 25% of the value of unliquidated investments of the scheme, the AIF can still opt for Dissolution Period, provided that it obtains consent of at least 75% of the investors as mentioned in Regulation 29(9).

- The AIF/Manager shall disclose the proposed dissolution period tenure, details of unliquidated investments, and bid values is required. Along with bid value the valuation of the unliquidated investment by two independent valuers is also required.
- The AIF/manager shall intimate SEBI about obtaining the investor consent and the investors' decision to enter into dissolution period.
- During the Liquidation Period, if the AIF to requisite for entering into Period or in-specie distribution, then the unliquidated investments shall be mandatorily distributed to investors in-specie, without requirement of obtaining consent of 75% of investors.

(c) Regulation 29(9A) of the updated AIF Regulations provides that if the liquidation period of the AIF has expired or is about to expire within 3 months of the date of the gazette notification, additional liquidation period may be granted subject to following conditions as specified by the SEBI:

- Such schemes that do not have any pending investor complaint with respect to non-receipt of funds / securities as on April 25, 2024.
- In case a scheme has pending investor complaint(s) with respect to non-receipt of funds / securities, such scheme may avail the fresh Liquidation Period upon resolution of investor complaint(s).

⁴ SEBI/HO/AFD/PoD1/CIR/2024/026



The following are the main highlights in the Competition Law space for the month of April 2024:

CCI DISMISSES INFORMATION FILED AGAINST SEVERAL HOSPITALS, PHARMACEUTICAL COMPANIES, E-PHARMACIES ASSOCIATIONS AND GOVERNMENTAL DEPARTMENTS

The Competition Commission of India (CCI), *vide* its [order](#) dated April 25, 2024, dismissed the information filed by one Mr. Somnath Banerjee (**Informant**) against several entities (including hospitals, pharmaceutical companies, e-pharmacies, associations and certain government departments/authorities) (**Opposite Parties**) in Case No. 01 of 2024.

The Information stated that the Informant is a patent holder of a dietary supplement/ modified ORS sold by the name 'Protestin'. As per the Informant, Protestin was not being marketed or promoted by the Opposite Parties despite the same being reasonably priced. Further, it was stated that the Informant had sent marketing proposals to the Opposite Parties but most of them did not reply back. Based on this, the Information alleged the contravention of Section 3(4) read with Section 3(1) of the Competition Act, 2002 (**Act**).

The CCI noted that Section 3(4) of the Act requires the existence of an agreement between vertically related parties and that such an agreement should cause or is likely to cause an appreciable adverse effect on competition (**AAEC**) in India. The CCI noted that the emails sent by the Informant to the Opposite Parties do not reveal the existence of any agreement or arrangement as envisaged under Section 3(4) of the Act and thus anti-competitive behaviour was not discernible. Accordingly, the CCI held that there did not appear to be a contravention of Section 3(4) read with Section 3(1) of the Act and the matter was closed under Section 26(2) of the Act.

CCI APPROVES PROPOSED ACQUISITION OF PRICOL LIMITED'S SHARES BY MINDA CORPORATION LIMITED

The CCI *vide* [order](#) dated February 20, 2024, approved the proposed acquisition of Pricol Limited's (**Pricol/ Target**) shares by Minda Corporation Limited (**Minda/ Acquirer**). The proposed combination originally envisaged the acquisition of up to an additional 8.79% equity shares of the Target (**Proposed Combination**). The Acquirer had earlier acquired 24.5% of the total equity share capital of the Target via open market transactions through stock exchanges.

The Acquirer is engaged in the manufacturing of auto-components parts and caters to all major Original Equipment Manufacturers (**OEMs**) and Tier-1 suppliers in the segments of Commercial Vehicles, [Light Commercial Vehicles (**LCVs**), Medium & Heavy Commercial Vehicles (**HCVs**), 2-wheelers (**2W**), 3-wheelers (**3W**), 4- wheelers/Passenger Vehicles (**PV**), Tractors and Off-road vehicles] in India.

The Target is engaged in the business of manufacturing automobile components for OEMs, Tier-1 suppliers and replacement markets. The Target manufactures driver information systems, instrument clusters, sensors, pumps & allied products, and telematics catering to leading automotive OEMs in 2W, 3W, PVs, CVs, Tractors and Off-road vehicles across India.

Under Regulation 14(3) of the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011 (**Combination Regulations**), CCI asked the Acquirer to provide certain information and clarification with respect to the Proposed Combination. Considering the Acquirer's responses to the various letters under Regulation 14(3) of the Combination Regulations, Target's responses, and other materials on record, the CCI on December 5, 2023, formed a *prima facie* opinion that the Proposed Combination was likely to cause an AAEC in the relevant market(s) in India. In light of the

same, the CCI issued a show-cause notice (**SCN**) to Minda and Pricol whereby the parties were directed to respond as to why an investigation with respect to the Proposed Combination should not be conducted.

In response to the SCN, the Acquirer submitted that it had sold its entire existing stake of 15.70406% of the Target's total issued and paid-up equity share capital. Thus, the Acquirer was now acquiring up to 8.79594% of the Target's total issued and paid-up equity share capital with the acquisition of such rights that are exercisable by the ordinary shareholders of the Target to the extent of their respective shareholding in the Target. In light of the same, the CCI decided not to further the investigation as the *prima facie* concerns of a likely AAEC laid down in the SCN became infructuous. Thus, CCI approved the Proposed Combination under Section 31(1) of the Act.

CCI CLOSES INFORMATION AGAINST THOOTHUKUDI DISTRICT CHESS ASSOCIATION AND OTHERS

The CCI *vide* its [order](#) in Case No. 37 of 2023 dated April 5, 2024, dismissed the information filed by one Mr. Prem Kumar G. (**Informant**) against Mrs. T. Karpagavalli, General Secretary, Thoothukudi District Chess Association (**TDCA**) (**OP-1**); Mr. G.P. Joe Prakash, President, TDCA (**OP-2**); and Mr. P. Stephen Palasamy, General Secretary, Tamil Nadu State Chess Association (**TNSCA**)(**OP-3**).

As per the Information, the Informant was the Joint Secretary of TDCA in the year 2018 and had organized a friendly inter taluk chess teams match in 2018. However, as per TDCA, the Informant required the prior approval of the TDCA for conducting such a match and since no such formal approval had been acquired by the Informant, the same was an unauthorized match. Consequently, the OP-1 suspended the Informant from all chess activities for a period of 2 years.

As per the Information, due to the decision of the OP-1, the Informant underwent mental agony, financial loss and damage to reputation. The Informant prayed to the CCI that the illegal suspension order passed by TDCA and TNSCA be set aside and the Informant be allowed to be the joint secretary of TDCA. Further, the Informant prayed to the CCI to grant financial compensation of a sum of INR 60,00,000 from both TDCA and TNSCA and an unconditional apology from the Secretary of TNSCA.

Taking note of the Information, the CCI noted that the case appeared to be in the nature of disciplinary proceedings initiated by the OP-1, OP-2 and OP-3 against the Informant for organizing an allegedly unauthorised inter-taluk chess tournament, which was not in accordance with the regulations issued by TDCA and TNSCA.

As per the CCI, *prima facie*, the present case did not appear to raise any competition concern under the provisions of the

Act. In light of the same, the CCI noted that there was no contravention of the provisions of the Act warranting an investigation into the matter and the matter was directed to be closed forthwith under Section 26(2) of the Act.

CCI APPROVED THE PROPOSED COMBINATION OF DICKEY ALTERNATIVE INVESTMENT TRUST, ADANI POWER LIMITED AND COASTAL ENERGEN PRIVATE LIMITED

The CCI *via* its [order](#) dated February 13, 2024, approved the proposed combination between Dickey Alternative Investment Trust (**DAIT**), Adani Power Limited (**APL**) and Coastal Energen Private Limited (**CEPL/Target**). The proposed combination envisaged the acquisition of 100% of the equity share capital of CEPL by DAIT and APL in the ratio of 51:49 respectively (**Proposed Combination**).

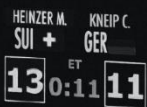
DAIT is a Category II Alternate Investment Fund (**AIF**) registered with the Securities and Exchange Board of India (**SEBI**) and is managed by its investment manager Dickey Asset Management Private Limited, a company incorporated under the laws of India. APL is one of India's leading private power producers with a total installed thermal power capacity of 15,250 MW (of which 1,600 MW is export-oriented capacity supplying power to Bangladesh on a transnational basis). The APL is a part of the Adani group and the ultimate beneficial ownership of the APL is held by certain members of the Adani family.

The Target, is a private limited company, promoted by Coal & Oil Group (**C&O**) through Mutiara Energy Holdings Limited, Mauritius (**MEHL**) and Precious Energy Holding Limited, BVI (**PHEL**). It is engaged in the business of generation and sale of power using coal. It owns and operates a 1200 MW coal-fired thermal power plant in the district of Tuticorin in the state of Tamil Nadu.

The parties submitted that relevant markets for horizontal overlaps may be defined as 'the market for the generation of power in India' (**Broad Relevant Market**) and 'the market for the generation of power through thermal source (using coal) in India' (**Narrow Relevant Market**). Further, there exist vertical relationships between APL and Target. While Target is present in the market of generation of power in India, the Adani Group through Adani its various group companies, is present in the market for transmission of power in India, distribution of power in India and coal management services in India.

Based on the submissions, the CCI noted that the combined market shares of Parties in the Broad and Narrow Relevant Market are in the range of 0-5% and 5-10 % in terms of volume. Further, there are other players present in the market such as NTPC Limited, Tata Power, Torrent Power, Maharashtra State Power Generation Company Ltd and NLC India Limited who will continue to pose competitive constraints to the Parties post the Proposed Combination.

Thus, CCI noted that the Proposed Combination is not likely to have any AAEC in India. Therefore, the CCI approved the Proposed Combination under Section 31(1) of the Act.



WITHOUT A FRESH ISSUE OF FORM G, NO NEW RESOLUTION APPLICANT(S) CAN PARTICIPATE IN CORPORATE INSOLVENCY RESOLUTION PROCESS (“CIRP”) AND SUBMIT A RESOLUTION PLAN

The Hon’ble National Company Law Appellate Tribunal, New Delhi (“NCLAT”) in the matter titled as *Ashdan Properties Private Limited versus Mamta Binami & ors*⁵ has held that the Committee of Creditors (“CoC”) shall not be bound to consider the Resolution Plan submitted by a New Applicant before the Adjudicating Authority, whose name was not mentioned in the list of Prospective Resolution Applicants (“PRAs”). In the present case the Appellant had neither showed their Expression of Interest (“EOI”) upon the Resolution Plan nor were the names included in PRAs.

The Hon’ble NCLAT rejected the said appeal by placing reliance on Regulation 36A (1) of the CIRP Regulations, 2016, which categorically states that FORM G is issued by the Resolution Professional for the PRAs to submit the Resolution Plans. Further, the Regulation 36A also empowers the CoC to opt, modify or allow fresh issuance of the Invitation of EOI as per its discretion.

The observation was concurrently to the Regulation 39(1) (b) of the CIRP Regulations, 2016, which starkly states that a CoC shall not be constrained to entertain any Resolution Plan received from any of the Applicant whose name was not included in the list of PRAs.

Whereas, in the present matter the CoC had decided to not consider any additional new entrants for Resolution Plan and has opted to continue with their consideration to the Resolution Applicants whose names were already reflected in the list of PRAs dated 07.11.2023. Thereby in view of the same the impugned order was set aside and the Appeal was disposed of.

⁵ Company Appeal (AT)(Ins) No. 464 of 2024

CONTENTS OF SECTION 3(31) OF THE CODE, DOES NOT DENOTES ABOUT ANY REGISTRATION OF CHARGES UNDER SECTION 77 OF THE COMPANIES ACT, 2013

Hon’ble National Company Law Appellate Tribunal, New Delhi (“NCLAT”) in the matter titled as *Unity Small Finance Bank Limited versus Sripatham Venkatasubramanian Ramkumar & Anr.*⁶ has categorically held that Section 3(31) “Security Interest” of the Insolvency and Bankruptcy, Code 2016 (Code) does not denotes to the registration charges enumerated under Section 77 of the Companies Act, 2013 (“CA, 2013”).

The Appellant had disbursed a loan to the corporate debtor (“CD”) against the properties of its personal guarantor (“PG”) as mortgage. Subsequently, as Corporate Insolvency Resolution Process (“CIRP”) was initiated against the CD, a claim was filed by the Appellant under the category of secured creditor.

The RP contended that the Appellant had not provided any document with its claim substantiating a creation of charge on the assets of the CD, except of a Sanction letter. Pursuant to the same, RP purportedly categorized the Appellant as unsecured creditor, which was also accepted by the Hon’ble NCLAT.

The present appeal was filed by the Financial Creditor (“Appellant”) of the CD who was categorized as unsecured creditor by the Resolution Professional (“RP”). The RP contended that the Appellant had not provided any document with its claim substantiating a creation of charge on the assets of the CD, except of a Sanction letter.

While adjudicating the matter, the Hon’ble NCLAT examined towards the fact whether any material was present on record to declare the Appellant as ‘secured creditor’ despite

⁶ Company Appeal (AT)(Ins) No. 601 of 2024

the charge being not registered under Section 77 of the CA, 2013.

Hon'ble NCLAT after considering averments of the RP and Section 3(31) of the CA, 2013 simultaneously, observed that no transaction has been placed on record under which security interest was created with respect to the assets of the corporate debtor, since the mortgaged immovable property which were stated in the sanction letter, were mortgaged by the PG and not of CD. Hence the sanction letter cannot be treated to be a transaction, which shall secure payment or performance obligation.

Therefore, the NCLAT held that neither the NCLT nor the RP has not committed any error in considering the Appellant as an unsecured creditor. Thereby in view of the same the Appeal is dismissed.

SERVICE BY EMAIL AND WHATSAPP IS SUFFICIENT TO INVOKE ARBITRATION PROCEEDINGS

The Hon'ble High Court of Delhi in the matter titled as *Lease Plan India Private Limited v. Rudraksh Pharma Distributor and Ors.*⁷ dealt with a case where the Petitioner initiated arbitration proceedings under the Arbitration and Conciliation Act, 1996 due to disputes arising from a lease agreement. Despite facing obstacles in serving the Respondents through traditional means like registered post, the Petitioner successfully utilized modern communication channels i.e., email and WhatsApp for service. Notably, the court highlighted the alignment between the contact details used for service and those specified in the arbitration agreement, affirming the validity of the initiation of arbitration against the Respondents.

Consequently, the Delhi High Court directed the disputes to be adjudicated by the Delhi International Arbitration Centre ("DIAC"), a recognized authority in arbitration matters. The DIAC would nominate an arbitrator from its panel, and the arbitration proceedings would be conducted in accordance with the established rules of the DIAC. This decision underscored the court's commitment to ensuring a fair and efficient resolution of the disputes, despite the Respondents' absence in the proceedings.

Furthermore, the court clarified that the Respondents' non-appearance would not hinder the arbitration process. Their rights and contentions would be fully considered by the appointed arbitrator. This approach aimed to uphold the principles of due process and fairness in arbitration, ensuring that all parties involved had an opportunity to present their arguments and evidence before a neutral arbitrator. Overall, the court's decision reflected a careful balance between procedural requirements and substantive justice in resolving the disputes at hand.

⁷ Arbitration Petition No. 1273 of 2023

ARBITRATION CAN BE INVOKED IN THE ABSENCE OF ARBITRATION CLAUSE IN INTERCONNECTED CONTRACTS

In a recent matter before the Delhi High Court, titled as *M/s KGPS Mechanical Private Limited v. CINDA Engineering and Construction Private Limited*⁸, a petition was filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, seeking appointment of an arbitrator to resolve disputes between the parties. The Petitioner, KGPS Mechanical Pvt. Ltd., registered under the Micro, Small and Medium Enterprises Development Act, 2006 ("MSME Act") operated as a contractor for structural and mechanical jobs. The Respondent, CINDA Engineering and Construction (P) Ltd. was awarded the Engineering, Procurement, Construction, Management contract for a Carbon Black Project in Dahej, Bharuch. The Petitioner secured several contracts related to the project, and a dispute arose regarding payment dues for work completed by the Petitioner, totalling more than Rs 10 crore across nine agreements.

While the contracts initially envisaged three-member arbitral tribunals, the Petitioner invoked arbitration through a notice dated 13.12.2023, prompting the Respondent to propose the appointment of a Sole Arbitrator. Despite the Petitioner suggesting three arbitrators' names, there was no response from the Respondent, leading to the filing of the petition.

The central issue examined by the Court was whether disputes under all nine contracts could be referred to arbitration, considering that only five contracts contained arbitration clauses. The Court noted the interconnectedness of all nine contracts to the Dahej project and emphasized the potential pitfalls of relegating disputes from the four contracts without arbitration clauses to civil proceedings. The court referenced precedents such as *Ameet Lalchand Shah v. Rishabh Enterprises*, where the Supreme Court resolved disputes across agreements within a single project via arbitration, regardless of the presence of arbitration clauses in all contracts.

The Court analysed the correspondence between the parties, which indicated a mutual understanding of treating all contracts as part of the same project. It also highlighted the Respondent's proposal for a Sole Arbitrator covering all nine contracts and the Petitioner's consent to this arrangement. Based on these considerations, the Court concluded that appointing a Sole Arbitrator would be beneficial to avoid multiple disputes, streamline the adjudication process, and ensure consistency in rulings. The court also drew on cases like *S. Ghosh & Associates v. DDA* and *MTNL v. Canara Bank* to support the implication of arbitration from correspondence and the intention of parties to resolve disputes. Ultimately, a Sole Arbitrator was appointed.

⁸ Arbitration Petition No. 143 of 2024

The Delhi High Court emphasized the importance of consolidating disputes arising from interconnected contracts

into a single arbitration process, facilitating efficient resolution and maintaining coherence in adjudication.

EMPLOYMENT LAW

THE GOVERNMENT OF INDIA REVISES BASIC WAGES AND VARIABLE DEARNESS ALLOWANCE FOR EMPLOYEES IN THE AGRICULTURAL AND INDUSTRIAL SECTORS

The office of the Chief Labour Commissioner, Ministry of Labour and Employment, Government of India, *vide* order dated April 1, 2024, has revised the rates of Variable Dearness Allowance (“VDA”) for the employees employed in multiple sectors. VDA is determined by the changes in the Consumer Price Index (“CPI”) for a particular sector. The aforementioned notification acknowledges an increase of 13.73 (Thirteen Point Seven Three) points in the CPI for various sectors including the agricultural and industrial sectors. VDA is generally given to employees to compensate for the impact of inflation in an economy. The aforementioned revised rates of basic wages and VDA have been effective from April 1, 2024.

COLLECTION OF LABOUR CESS UNDER THE DELHI BUILDING AND OTHER CONSTRUCTION WORKERS WELFARE CESS ACT, 1996 TO BE DONE THROUGH ONLINE MODE

The Delhi Building and Other Construction Workers Welfare Board, *vide* notification dated April 2, 2024, has notified that payment of cess under the Delhi Building and Other Construction Workers Welfare Cess Act, 1996, shall only be made in online mode. Presently, labour cess is collected at the rate of 1% (One Percent) on projects where the construction cost amount is more than INR 10,00,000 (Rupees Ten Lakhs) *vide* offline modes (cheques and demand drafts) in designated locations. *Vide* the notification mentioned herein, all such offline modes of cess collection have been discontinued from April 1, 2024.

THE HIGH COURT JHARKHAND HOLDS THAT OBJECTIONS REGARDING DELAY IN REFERENCE UNDER THE ID ACT ARE SUPPOSED TO BE RAISED PRIOR TO THE FINAL ADJUDICATION OF THE AWARD

The High Court of Jharkhand, *vide* order dated April 10, 2024, in the case of *Uttar Bihar Gramin Bank vs. Ramu Mochi* has held that objections to a reference made by the government on grounds of delay are only acceptable prior to the adjudication of the dispute by the industrial tribunal.

In the aforementioned case, the respondent worker was employed on a part-time basis with the bank, the appellant. When the worker was terminated from the service, he contested the termination before the government. When the attempts at conciliation of the issue failed, the government referred the matter to the industrial tribunal. The aforementioned tribunal ruled in favour of the worker and directed the bank to reinstate him, against which the present appeal was filed in the High Court of Jharkhand, on the grounds that the workman had waited 11 (Eleven) years after the date of termination to raise a dispute before any authority and the reference of the government to direct the dispute to the industrial tribunal is invalid in light of the delay in approaching the authorities.

The High Court of Jharkhand rejected the appeal by the bank and held that dismissal on grounds of delay ought to have been challenged before the industrial tribunal adjudicated the award, which is empowered under Section 10 of the ID Act to adjudicate the same.

THE HIGH COURT OF ALLAHABAD RULES THAT WORKING JOURNALISTS AND OTHER NEWSPAPER EMPLOYEES (CONDITIONS OF SERVICE) AND MISCELLANEOUS PROVISIONS ACT, 1955 IS A SPECIAL ACT AND SHALL HAVE AN OVERRIDING EFFECT ON THE INDUSTRIAL DISPUTES ACT, 1947

The Allahabad High Court, *vide* order dated April 12, 2024, in the case of *The Indian Express Private Limited vs. Union of India*, ruled that the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (“1955 Act”), being a special Act, shall have an overriding effect on the ID Act, and the ID Act only supplements the cause of working journalists.

In the abovementioned case, the court considered petitions that questioned the validity of a notification issued by the State Government of Uttar Pradesh under Section 17(1) of the 1955 Act. The impugned notification, specified officers who would dispose of an application made under Section 17 of the 1955 Act, which was challenged on the grounds that the specified officers did not have the authority to adjudicate the dispute and only the labour court was the appropriate authority for adjudication. The High Court of Allahabad held that provisions of Section 17 of the 1955 Act must be construed as a whole.

The grounds have been construed in light of Section 2A of the ID Act, which states that an individual worker’s dispute can only be considered an industrial dispute if it relates to (a) discharge; (b) dismissal; or (c) termination, can issues under section 17(1) of the 1955 Act be considered as ‘industrial disputes’. The petitioner contended that since reference by the prescribed authority under the impugned notification is made to the labour court raises a jurisdictional challenge as the disputes under section 17 of the 1955 Act do not deal with discharge, dismissal and termination of an employee.

The High Court herein held that the 1955 Act provides specialised means to govern the employment of journalists and based on the precedent set in various cases, section 17 of the 1955 Act must be viewed in its entirety, and it constitutes a single scheme of recovery for impending dues. The High Court, therefore, concluded that since the judgement given by an authority under section 17 is a ‘decision and not an award’ it can be discussed before competent authority.

THE EMPLOYEES’ PROVIDENT FUND ORGANISATION ENHANCES THE ELIGIBILITY LIMIT FOR THE AUTO-PROCESSING OF CLAIMS

The Employees’ Provident Fund Organisation, Ministry of Labour and Employment, *vide* notification dated April 16, 2024, has revised the limit for the automatic procession of claims under para 68J of the Employees’ Provident Fund Scheme, 1952. As per para 68J of the aforementioned

scheme, by submitting a self-declaration, a member may withdraw an advance from their fund for a medical illness without submission of a medical certificate or any other documentary proof. The limit on such claims was INR 50,000 (Rupees Fifty thousand) which *vide* the aforementioned notification has been increased to INR 1,00,000 (Rupees One Lakh).

THE HIGH COURT OF BOMBAY HOLDS THAT THE EMPLOYER-EMPLOYEE RELATIONSHIP IS A MUST FOR PROCEEDINGS UNDER THE CONTRACT LABOUR (REGULATION AND ABOLITION) ACT, OF 1970

The High Court of Bombay, *vide* order dated, April 18, 2024, in the case of *Indus Towers Limited vs. Rajendra Patil*, held that an indisputable employer-employee relationship must be established for adjudication on issues between a worker and an employer under the Contract Labour (Regulation and Abolition) Act, 1970 (“CLRA”). In the instant case, the worker approached the industrial tribunal for settlement of an issue. While adjudicating the matter in favour of the worker, the industrial court recorded the finding that there was an absence of the employer-employee relationship between the parties. On appeal, the High Court of Bombay held that once such finding of fact (of the non-existence of employer-employee relationship) is recorded by the industrial court the jurisdictional fact which confers jurisdiction on the industrial court while entertaining complaint under the CLRA, is not in existence. Thus, since there was no employer-employee relationship, and the industrial court could not reject the petitioner’s application due to lack of jurisdiction. The High Court of Bombay thus quashed and set aside the order of the industrial court.

MINISTRY OF SKILL, DEVELOPMENT AND ENTREPRENEURSHIP NOTIFIES APPRENTICESHIP (AMENDMENT) RULES, 2024

The Ministry of Skill Development and Entrepreneurship, *vide* notification dated April 19, 2024, has notified Apprenticeship (Amendment) Rules, 2024. The aforementioned amendment rules amend Schedule I of the Apprenticeship Rules, 1992 which lists the minimum qualifications necessary to apply for apprenticeship training across vocations. The aforementioned amendment lists additional vocations and their necessary qualifications now covered under the Apprenticeship Rules, 1992. There are over 50 (Fifty) new professions which have been notified *vide* the amendment in various groups *inter alia* including ‘beautician trades’ ‘iron and steel trades’, ‘electronics trades group’, amongst others.

THE GOVERNMENT OF MAHARASHTRA AMENDS A PREVIOUSLY ISSUED NOTIFICATION UNDER THE MAHARASHTRA STATE TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS ACT, 1975

The Finance Department, Government of Maharashtra, *vide* notification dated April 24, 2024, has notified an amendment to the notification dated August 21, 2014, under the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975. The original notification exempted payment of late fees, with specified conditions, in case of delay in filing of return. The aforementioned amendment to the notification notifies a new entry to the list of exemptions. Employers who hold the employer liable to file a return between March 1 to March 31, 2024 and were unable to file due to technical difficulties, shall be exempt from the whole of the late fee applicable, provided they file before April 30, 2024, and accordingly pay the professional tax applicable to them.

THE GOVERNMENT OF TRIPURA CLARIFIES THE NON-APPLICABILITY OF THE REQUIREMENT TO OBTAIN A LICENSE UNDER THE TRIPURA SHOPS AND ESTABLISHMENTS ACT, 1970

The Labour Directorate, Government of Tripura, *vide* memorandum dated April 26, 2024, has issued a memorandum to enforce the amendments brought by the state government to the Tripura Shops and Establishments Act, 1970. The memorandum states that in line with the deletion of Section 16 of the aforesaid act, no shopkeeper is

required to apply for registration of his shop or establishment under the applicable act. As per section 16 of the Tripura Shops and Establishments Act, 1970, every shopkeeper or employer was required to apply for registration of his shop or establishment and such license was to be renewed 3 (Three) years from the date of issue. In light of the ease of doing business in the state of Tripura, the government notified an amendment to the Tripura Shops Act on May 15, 2021, which deleted the aforesaid section 16. The aforementioned order clarifies that there is still no requirement for registration of a shop or establishment in the state of Tripura.

THE GOVERNMENT OF WEST BENGAL EXTENDS THE LAST DATE OF FILLING A RETURN UNDER WEST BENGAL STATE TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENT RULES 1979

The Office of the Commissioner of Commercial Taxes and Profession Tax, Directorate of Commercial Taxes, West Bengal, *vide* order dated April 26, 2024, has notified an extension on the last date of filling return in Form III as per section 6 of the West Bengal State Tax on Professions, Trades, Callings and Employment Act 1979 read with rule 12 of the West Bengal State Tax on Professions, Trades, Callings and Employment Rules 1979 for the year ending on March 31, 2024. The last date for electronic transmission of return, which was earlier April 30, 2024, has been extended to May 15, 2024. The last date for furnishing the paper form of the return for the year ending on March 31, 2024, has been extended to May 30, 2024.



ENERGY

THE MINISTRY OF POWER VIDE OFFICE MEMORANDUM BEARING REFERENCE NO. 19/2/2024-TH-II DATED APRIL 02, 2024, APPROVED THE CONSTITUTION OF AN INDEPENDENT THERMAL PROJECT MONITORING GROUP (TPMG)

For conducting site inspections and providing an assessment of each site of the Thermal Power Project under implementation by either central or state utilities and IPPs, the Hon'ble Minister of Power and NRE approved the proposal for the constitution of an Independent Thermal Project Monitoring Group (TPMG). It consists of three designations with a total of 7 members along with the group head [Member (Thermal), CEA]. Out of the seven members, 1 (one) position will be of the Chief Engineer or above level officer of CEA. Such member shall be nominated by CEA, and the remaining 6 (six) will be occupied by retired senior officers of CEA/NTPCDVC, who shall be appointed by the Ministry of Power itself. 2 (two) deputy directors (DD) level officers of CEA shall be assisting the TPMG. The TPMG is entrusted with the preparation of a detailed report outlining its findings after visiting the site visit and progress review, in the given format. Such a report shall bear the latest photographs of the critical areas and achievements and shall be submitted within 7 working days after the site visit.

For more information, the office memorandum can be accessed [here](#).

THE MINISTRY OF POWER VIDE ORDER BEARING REFERENCE NO. 23/05.2024-R&R DATED APRIL 12, 2024, ISSUED DIRECTIONS TO GAS-BASED GENERATING STATIONS (GBSS) TO MEET RAPID ELECTRICITY DEMAND

With the increasing electricity demand, driven by economic growth, it is essential to ensure that the demand is met. *Vide* the abovementioned order, the Government of India has decided to operationalize gas-based power plants to ensure maximum power generation from Gas-based generating stations (GBSS) under Section 11 of the Electricity Act, 2003. Currently, a significant portion of GBSSs are unutilized, due to commercial considerations. The said order aims to optimize power availability during the increased demand. The validity of this order for generation and supply of power extends from May 1, 2024, to June 30, 2024. GRID-INDIA will notify Gas-Based Generating Stations in advance of the days when Gas-based power is needed. Stations with Power Purchase Agreements (PPAs) must offer their power to PPA holders first. Any unutilized power can then be offered in the power market. Stations without PPAs must offer their generation in the power market. A committee chaired by the Chairperson of the Central Electricity Authority will oversee this process.

For more information, the order can be accessed [here](#).

INFRASTRUCTURE

INTEREST RATE APPLICABLE FOR HYBRID ANNUITY PROJECTS

The NHAI *vide* policy circular number 8.4.44/2024 dated April 08, 2024, has notified the following interest rates under Clause 23.6.4 of the model concession agreement for hybrid annuity model (“HAM”) projects (“**Model HAM Agreement**”), payable in relation to the reducing balance of completion cost towards the project:

Sr. No.	Bank's Name	One year MCLR % (as on April 01, 2024)	Average rate applicable for the period from April 01, 2024 to June 30, 2024
1.	State Bank of India	8.65	8.93 % per annum plus 1.25%
2.	HDFC Bank	9.30	
3.	ICICI Bank	9.10	
4.	Bank of Baroda	8.80	
5.	PNB	8.80	

In terms of Clause 23.6.4 of the Model HAM Agreement, the next review of such interest rate will be conducted on September 01, 2024, and the rates will be published for 1st day of every quarter.



RBI ALERTS ABOUT UNAUTHORISED USE OF FOREIGN EXCHANGES

The Reserve Bank of India (RBI) on April 24, 2024 issued a circular to Authorised Dealer Category – I Banks addressing the instances of unscrupulous entities luring Indian residents with promises of exceptionally high returns through unauthorized forex trading activities. These entities employ a clandestine approach by enlisting the help of local agents to open multiple bank accounts. These accounts are then utilized to pool funds from unsuspecting individuals for various purposes like margin requirements and investments, ultimately channeled into unauthorized forex trading operations.

For the same RBI had earlier issued an Alert List containing names of entities which are neither unauthorized to deal in forex under FEMA, 1999 nor unauthorized to operate ETP for forex transactions under [the Electronic Trading Platforms \(Reserve Bank\) Directions, 2018](#). RBI has directed AD Category-I banks to be more vigilant. The said banks should take the onus of reporting, as and when it come across an account being used to facilitate unauthorized forex trading, to the Directorate of Enforcement, Government of India. The customers of the Banks should be made aware about the same by releasing the Alert List and should be advised not to deal with such entities.

DSK View: *The RBI has taken a proactive approach in dealing with the unauthorized forex trading which is prevalent in Indian market. Unauthorized forex trading not only undermines the regulatory framework but also jeopardizes the stability of the financial system. By cracking down on such activities, the RBI aims to maintain market integrity and prevent systemic risks that could arise from unregulated speculative trading. Through these directions RBI aims to safeguard both consumers and stability of the financial system.*

Source

SUPERVISORY ACTION AGAINST KOTAK MAHINDRA BANK LIMITED

The Reserve Bank of India (RBI) under Section 35A of the Banking Regulation Act, 1949, has directed Kotak Mahindra Bank Limited (**Kotak**) to immediately cease and desist, (i) onboarding new customers through its online and mobile banking channels and (ii) issuing fresh credit cards. This action has been taken due to significant concerns arising from the bank's IT Examination for the years 2022 and 2023 and its failure to address these concerns effectively.

RBI found serious deficiencies in Kotak's IT management areas such as inventory, patch and change management, user access, vendor risk, data security, and business continuity. Despite corrective action plans issued by the RBI, Kotak remained significantly non-compliant. Frequent outages in its Core Banking System and digital channels have caused customer inconvenience plethora of times. The RBI has engaged with the bank extensively over the past 2 (Two) years to address these concerns but with unsatisfactory outcomes.

This decision aims to protect customer interests and prevent prolonged outages that could impact the bank's service efficiency and the digital banking ecosystem. Business restrictions will be reviewed after a comprehensive external audit, subject to RBI approval, and remediation of deficiencies.

Source

STATEMENT ON DEVELOPMENTAL AND REGULATORY POLICIES IN FINTECH RELEASED BY RBI

The RBI on April 05, 2024 released a statement to set out various developmental and regulatory policy measures *inter alia* relating to payment systems and Fintech.

- (i) **UPI For Cash Deposit Facility:** The RBI is planning to enable Unified Payments Interface (UPI) for cash deposit facilities through Cash Deposit Machines (CDMs). Currently, these machines only accept cash deposits via debit cards, but with the proposed integration with UPI, the RBI aims to increase convenience for the public and reduce the reliance on physical cards.
- (ii) **UPI access for PPIs through third-party applications:** The RBI intends to expand the accessibility of UPI payments for users of various prepaid payment instruments (PPIs). While bank account holders can already utilize third-party UPI applications for transactions, PPI holders are restricted from using UPI through applications provided by their PPI issuer. To provide greater flexibility, the RBI plans to permit the linking of PPIs through third-party UPI applications, enabling the PPI holders to conduct UPI payments at par with bank account holders.

- (iii) **Distribution of CBDCs through Non-bank Payment System Operators:** The RBI aims to broaden the distribution of Central Bank Digital Currencies (CBDCs) by allowing non-bank payment system operators to offer CBDC wallets. This move comes amidst ongoing CBDC pilots in both retail and wholesale segments, with an aim to further test the resilience of the CBDC platform and expand its accessibility to a wider user base. The RBI intends to implement necessary system to facilitate this initiative, paving the way for increased adoption and usage of CBDCs in the digital payment landscape.

DSK View: *The RBI is striving to enhance and expand digital payment services through its recent policy measures. By integrating UPI with CDMs, the RBI aims to promote cashless transactions and improve convenience for users depositing cash. Additionally, allowing PPI holders to use third-party UPI applications enhances flexibility and accessibility in digital transactions. Furthermore, the RBI's decision to involve non-bank payment system operators in distributing CBDCs seeks to broaden the adoption and usage of CBDCs, thereby advancing India's transition towards a more digitized financial ecosystem.*

Source

RBI RELEASES DRAFT MASTER DIRECTION – ELECTRONIC TRADING PLATFORMS DIRECTIONS, 2024

Reserve Bank of India (“RBI”) on 29th April, 2024 in exercise of the powers conferred under section 45W read with section 45U of the Reserve Bank of India Act, 1934 released Draft Master Direction – Reserve Bank of India (Electronic Trading Platforms) Directions, 2024.

Scope of the Directions

- (i) These Directions apply to entities operating Electronic Trading Platforms (“ETPs”) where transactions in eligible instruments are contracted.
- (ii) ETPs shall mean any electronic system, other than a recognised stock exchange, on which transactions in eligible instruments as defined herein are contracted.
- (iii) ‘Eligible Instruments’ shall mean securities, money market instruments, foreign exchange instruments, derivatives, or other instruments of like nature, as may be specified by the RBI from time to time under section 45 W of Chapter III-D of the Reserve Bank of India Act, 1934.
- (iv) **Exemptions:** ETPs operated by scheduled commercial banks and standalone primary dealers, where the bank or primary dealer is the sole quote/price provider and a party to all transactions, are exempt.
- (v) The Directions apply to offshore ETPs only as specified.

General Conditions:

- (i) Authorisation from RBI is mandatory in order to operate an ETP
- (ii) Those authorized must make sure that the transactions are conducted only through RBI approved instruments.

- (iii) Existing ETPs have been provided with 3 (Three) months to take RBI's authorization

Eligibility Criteria

General	Financial	Technical
<p>(i) The entity must be a company incorporated in India.</p> <p>(ii) Shareholding by non-residents must comply with all applicable laws, including the Foreign Exchange Management Act, 1999.</p> <p>(iii) The entity or its key managerial personnel must have a minimum of 3 (Three) years' experience in operating trading infrastructure in financial markets.</p>	<p>(i) The entity seeking authorisation must maintain a minimum net worth of INR 5,00,00,000/- (Indian Rupees Five crore) and uphold this net worth requirement continuously.</p>	<p>(i) The entity must possess and maintain robust technology infrastructure with high reliability, availability, scalability, and security to support its operations and manage associated risks.</p> <p>(ii) It should have the capability to disseminate trade information in real-time or near real-time.</p>

Concept of In-Principle Approval

Entities seeking authorization to operate an ETP under these Directions may first apply for 'in-principle' approval from the RBI by submitting the required format. If satisfied with the entity's ability to meet eligibility criteria, the RBI may grant 'in-principle' approval, which is non-transferable and valid for 6 (Six) months. Entities with 'in-principle' approval must fulfill eligibility criteria within 6 (Six) months and submit an application for authorisation.

The RBI can withdraw 'in-principle' approval if adverse information arises or if granting authorisation would be detrimental to public interest or the financial system. Transactions can commence only after obtaining full authorisation from the RBI.

Operating Framework

An ETP operator shall adhere to the following requirements.

Access and Participation:	Risk Management:
<ol style="list-style-type: none"> 1. Fair, and transparent membership criteria. 2. Conduct due diligence on member on-boarding and maintain relevant member information. 3. Unique identification of members using Legal Entity Identifier (LEI) and/or Permanent Account Number (PAN). 4. Well-documented rules and regulations covering membership, roles, responsibilities, liability framework, and order processing. 5. Provide pre-trade and post-trade information fairly and non-discriminatively to members. 	<ol style="list-style-type: none"> 1. Comprehensive risk management framework covering all operational aspects. 2. Ensure trading integrity with access control, segregation of services, and fair and orderly trading procedures. 3. Implement controls for algo trading systems, including testing, transparency, and risk management. 4. Establish controls to prevent erroneous transactions or system malfunctions. 5. Develop transparent rules for handling emergencies and dispute resolution among members.

Miscellaneous:

An ETP must adhere to the following:

- (i) **Surveillance:** Implement systems to monitor trading activity in real-time and post facto to ensure fair and orderly trading and maintain market integrity.
- (ii) **Transparency:** Disclose any conflict of interest arising from related parties or group agencies to the RBI. It should implement a fair, non-discriminatory, and transparent fee structure for members.

- (iii) **Outsourcing of Operations:** Maintain effective governance and risk management for outsourced operations. It should ensure outsourcing arrangements do not hinder compliance with regulatory requirements.
- (iv) **Technology and Information Security (IS):**
 - a) Establish Business Continuity Plan (BCP) and disaster recovery arrangements.
 - b) Implement robust information/cyber security controls and processes.
 - c) Conduct IT/IS audit at least once a year by empaneled auditors or as ordered by the RBI.
- (v) **Preservation, Access, and Use of Data:** Maintain ETP data for at least 10 (Ten) years and ensure availability for investigations and ensure confidentiality, security, and controlled access to ETP data.
- (vi) **Reporting Requirements:** It should submit quarterly reports on platform functioning and compliance to the RBI and provide transaction information to trade repositories and other agencies as specified.
- (vii) **Termination of Operation:** It should obtain prior approval from the RBI for termination of operations and surrender the original letter of authorisation to the RBI upon termination.

Offshore ETP

Operators of offshore ETPs desirous of providing residents with access to their platform for transactions with non-residents in eligible derivative instruments involving rupee or rupee interest rate as permitted by the RBI under the Foreign Exchange Management Act, 1999 must apply for registration with the RBI using the prescribed format.

Criteria for Registration of Offshore ETP:

- (i) The operator must be incorporated in a Financial Action Task Force (FATF) member country.
- (ii) The offshore ETP or its transactions must be regulated by the financial market regulator of the country of incorporation.
- (iii) The offshore ETP allows transactions only in eligible derivative instruments involving rupee or rupee interest rates permitted by the RBI under the Foreign Exchange Management Act, 1999.

Note: The RBI has the authority to grant exemptions to ETP operators or classes of operators from certain provisions outlined in the Directions, either temporarily or on a general basis, if deemed necessary in the interest of the public or the financial system.

Source

DRAFT CIRCULAR ON REGULATION OF PAYMENT AGGREGATORS- PHYSICAL POINT OF SALE

The RBI has issued a draft circular for comments in relation to offline Payment Aggregators providing proximity/face-to-face transactions (PA-P) and online payment aggregators (PA-O). The summary of the proposed modifications to the existing guidelines on PAs are provided below:

- (i) **Requirements for Authorisation** - Banks offering (PA-P) services do not need separate RBI authorization but must comply with the instructions provided in the circular within a prescribed timeline. Non-bank entities currently providing PA-P services must seek authorization from the RBI after the issuance of the circular. Non-bank entities engaged in online payment acceptance (PA-O), whether authorized or pending

authorization, must inform the Department of Payment and Settlement Systems, RBI (DPSS), about their existing PA-P activities.

- (ii) **Net-worth** – Non-bank PA-P providers must have a minimum net worth of INR 15,00,00,000/- (Indian Rupees Fifteen Crore) while making an application, with a projected net-worth of INR 25,00,00,000/- (Indian Rupees Twenty Five Crore) by March 31, 2028. They must submit a certificate from their statutory auditors in prescribed format evidencing their compliance with the net-worth criterion, as contained in the proposed circular. Same threshold is applicable for new applicants interested to become non-bank PA-P providers. In case of the new applicants, the statutory auditors can provide the certificate on the net-worth on the basis of provisional balance sheet, if required. Non-bank PA-P providers unable to meet the net worth

requirement or failing to apply for authorization within the specified timeline must cease PA-P activities by July 31, 2025. Banks must close accounts used for PA-P activities by non-bank entities (existing at the time of the issuance of the circular) by October 31, 2025, unless evidence of RBI authorization application is provided by such entities.

DSK View: The RBI in its Statement dated September 30, 2022, stated it intends to apply the regulations governing online payment aggregators to offline payment aggregators.

Source

RBI RELEASES DRAFT CIRCULAR IN RESPECT OF PAS – ONLINE AND PHYSICAL POINT OF SALE

In line with its Statement dated September 30, 2022, the RBI has issued draft guidelines for regulating offline Payment Aggregators. The draft guidelines amend the existing regulations governing Payment Aggregators. The amendments made to the subsisting guidelines are as follows:

- (i) Definition of PAs have been changed to “*entities which on-board merchants and facilitate aggregation of payments made by customers to such merchants, for purchase of goods and services, using one or more payment channels, in online or physical Point of Sale payment modes through a merchant’s interface (physical or virtual), and subsequently settle the collected funds to such merchants. Online PAs (PA-O) facilitate e-commerce transactions in non-Delivery versus Payment mode and Physical Point of Sale PAs (PA-P) facilitate face-to-face / proximity payment for Delivery vs Payment transactions.*”
- (ii) ‘Merchants’ and ‘Marketplace’ have now been specifically defined whereunder merchants have been categorized into ‘Small Merchants’ having a minimum annual turnover of Rs. 5 Lakh only through physical / face-to-face transactions and ‘Medium Merchants’ where the annual turnover threshold is Rs. 40 Lakh through physical as well as online transactions. It is also mandatory now for the PAs to maintain the required net-worth on an on-going basis.
- (iii) Escrow Mechanism - The escrow account established by the PA as per the March 17, 2020 RBI Circular, can be utilized for both PA-O and PA-P. Funds from online delivery vs payment transactions must be routed through escrow accounts only. This, however, is not applicable in case of cash-on-delivery transactions.
- (iv) KYC and Due Diligence Requirements - PAs are required to conduct due diligence on merchants according to Customer Due Diligence (CDD) guidelines outlined in the Master Directions on Know Your Customer (MD-KYC), 2016. For Small Merchants, PAs must perform Contact Point Verification (CPV) and verify the merchant's bank account whereas for Medium Merchants along with CPV, verification of the proprietor/beneficial owner's Officially Valid Document (OVD), and an OVD of the business must also be conducted. For undertaking the CDD through Video based Customer Identification Process (V-CIP), assisted V-CIP shall be permissible when PAs take help of an agent facilitating the process only at the merchant end. PAs shall maintain the details of the agent assisting the merchant, where the services of such agents are employed.
- (v) PA’s must undertake transaction activities of the merchant on an ongoing basis.
- (vi) PA’s will ensure that Marketplaces onboarded by them should not collect or settle funds for services not being offered through their platform.
- (vii) PAs shall ensure that the name of merchant (legal and brand name) and the PA shall be displayed on the web pages (where different payment options are listed as well as on the payment confirmation page) / charge slip (as the case may be) within three months from the date of issue of the circular.
- (viii) PAs to ensure compliance with wire transfer guidelines.
- (ix) All non-bank PAs to registered with Financial Intelligence Unit-India (FIU-IND).
- (x) Existing PAs must complete due diligence processes for all merchants by specified deadlines, being not later than September 30, 2025.
- (xi) Agents of PAs - Non-bank PAs shall be permitted to engage agents to assist their merchants for onboarding subject to the certain conditions such as there must be a policy for such engagement approved by the board of directors, conducting of proper background verification and due diligence on prospective agents before their engagement, consistent monitoring of activities undertaken by the Agents and appropriate preservation of records and maintenance of confidentiality of customers’ information.
- (xii) From August 01, 2025, in cases of face-to-face transactions concluded using cards, no entity, other than the card issuers and / or card networks, shall store the Card-on-File data. Entities can store just last four digits of card number and card issuer’s name.

DSK View: *The above amendments reflect a proactive approach to enhancing oversight and security in the payment ecosystem. The changes in definition brought by RBI have been done to align the laws with evolving payment methods. The regulation of escrow accounts has been done to bring clarity in the operational requirements. The stringent KYC measures introduced are for increased monitoring and at the*

same time, security of the customers. In a nutshell, these directives promote transparency in the system with streamlined approach, ultimately safeguarding the customer interests and financial stability.

Source



NON-TARIFF BARRIERS POSE A SERIOUS CHALLENGE TO EXPORTS OF INDIAN SPICES

The recent findings by Hong Kong's Centre for Food Safety ('CFS') regarding pre-packaged spice-mix products have sparked global concerns. CFS identified ethylene oxide, a carcinogenic pesticide, and traces of salmonella in samples from Indian brands Everest and MDH. Consequently, a directive was issued to halt the sale of these products immediately.

Responding to this, the Singapore Food Agency ('SFA') initiated a recall of imported spice-mix products from India due to ethylene oxide levels surpassing safety limits. The scope of concern expanded as the Food Standards of Australia New Zealand ('FSANZ') announced an investigation into contamination allegations involving spice mixes from Indian companies.

Consequently, the Government of India sought details from all the above-mentioned food safety regulators as well as the Indian spice brands. Even the Spice Board of India, which is the nodal body for the spices sector under the commerce and industry ministry, is also separately ascertaining the cause of the ban along with the Food Safety and Standards Authority of India ('FSSAI').

It should be noted that sovereign governments under the WTO Agreement concerning Sanitary and Phytosanitary measures ('SPS Agreement') have the right to determine the level of health protection it deems necessary and take adequate measures to maintain such level of protection. However, the SPS Agreement also requires that trade restrictive measures by member countries should be based either on scientific evidence or alternatively, should be based/conforms to international standards developed by

international organizations. The SPS Agreement further provides that member countries are required to apply less trade restrictive measures if the same is available and if they achieve the same level of protection as desired by the member country. In summary, the SPS Agreement emphasizes the importance of transparency, risk assessment, and the use of international standards to guide the implementation of sanitary and phytosanitary measures while at the same time ensuring least hindrance to global trade.

In view of the above, while the member countries of WTO are at liberty to determine the Maximum Residue Limits⁹ ('MRLs') for pesticide residues in food, they are also obligated to ensure that in each instance, the less trade restrictive measures are to be applied and such measures should be based upon either scientific evidence or upon an applicable international standard. However, currently there exists no international standards regulating the presence of MRL's in spices.

In the absence of international standards regulating MRLs for pesticides in spices and their effect on global food trade, the Government of India has requested the Committee on Sanitary and Phytosanitary Measures to require Members to work towards developing guidelines for determining default MRLs in the absence of international MRLs standards, in collaboration with Food and Agriculture Organization ('FAO') and Codex the Alimentarius Commission ('Codex'); vide Proposal Document No. G/SPS/W/358 dated 16 April 2024 (available [here](#)). Notably, stringent non-harmonized MRLs have a possibility of being trade-restrictive and thus, act as non-tariff barriers to international trade, disproportionately affecting exporters from developing countries.

⁹ The traces pesticides leave in treated products are called residues and MRL is the highest level of a pesticide residue that is legally tolerated in food or feed in a particular country.

Therefore, it was requested that certain guidelines on permissible MRLs should be developed, after a comprehensive risk- assessment based on scientific evidence, rather than relying on a knee-jerk ‘hazard-based approach’. It was also suggested that the member nations should periodically inform the Sanitary and Phytosanitary Measures Committee about the measures taken by them to collect the additional information after implementation of provisional MRLs to ensure transparency and further, establish that such restrictions are scientifically justified.

DSK View: *India has been the biggest exporter of spices since decades; however, the sudden suspension of sales and subsequent investigation for detecting the presence of contaminants has raised various concerns for all major exporters of spices.*

This has led the Government of India to raise concerns at the WTO in order to urge the member nations to reach a consensus regarding the establishment of clear guidelines on this issue as there are no international guidelines regulating MRLs for pesticides. The member countries should ideally work in collaboration with FAO and Codex to establish scientific evidence-based guidelines on MRLs for pesticides before implementing trade restrictions concerning them. It may be noted that such issues have been pointed out by various developing countries in the past because multiple

developed member nations have developed their own set of MRLs whose compliance is a challenging and time-consuming activity for all developing countries.

Attention is drawn to the fact that there is a concerning trend in the movement towards stringent MRL thresholds for pesticides, which may hinder agricultural trade in India. Moreover, unilateral measures based on considerations other than food safety disregard the local circumstances of agricultural practices. Therefore, such trends are trade-restrictive, lead to the de-harmonization of international standards and act as barriers to international trade, particularly impacting exporters from developing countries. The frequent change in MRL requirements exacerbates the negative impacts on trade, especially when the transition period is not sufficient for compliance by the developing countries.

Therefore, it is crucial to ensure that stringent MRL standards, which are not science-based and are not internationally accepted, should not be used to restrict market access. Ideally, the Sanitary and Phytosanitary Measures Committee should develop a mechanism for monitoring the harmonization of the measures implemented by the member nations in keeping with international standards, in order to balance the interest of free trade and the protection of human, animal, and plant life and health.

MEDIA & ENTERTAINMENT



SUPREME COURT HOLDS THAT TRAILERS OF FILMS ARE NOT BINDING OFFERS

Yash Raj Films (“YRF”) produced a film in 2016 starring Mr. Shah Rukh Khan, called ‘Fan’ (“Film”). Prior to release of the Film, YRF had circulated a trailer for the Film, which contained a song. A teacher from Aurangabad stated that basis the trailer circulated for the Film, she decided to watch the Film in the theatres with her family. When they watched the Film, they found that the Film did not contain the song that was in the trailer. She therefore proceeded to file a complaint before the District Consumer Redressal Forum (“DCRF”) for cheating and deception by YRF and on the grounds that such acts caused her mental agony. The DCRF dismissed the complaint, so she appealed before the state commission, which awarded her Rs. 10,000/- in compensation on the grounds that YRF had engaged in an unfair trade practice, as the song shown in the trailer was widely circulated and then not included in the Film. YRF then appealed to the National Consumer Disputes Redressal Commission (“NCDRC”), which agreed with the state commission and held that if a song is shown in a trailer but not played in the Film, it would be an unfair trade practice. YRF further appealed this decision before the SC (*Yash Raj Films Private Limited vs. Afreen Fatima Zaidi*). The SC *inter alia* held that a trailer is not a binding promise/contract – it is only released to encourage viewers to watch a film and therefore cannot create a contractual relationship/offer. Given there is therefore no contract between YRF and the complainant, there was no deficiency of service provided by YRF by not including the song in the Film and thus the complainant had no cause of action. Further the SC held that only substantive and material discrepancies are covered under ‘unfair trade practices’ as neither does the trailer fall under any of the instances of ‘unfair method or unfair and deceptive practice’ nor does it make any false statement or intend to mislead the viewers.

KERALA HC DIRECTS THE GOVERNMENT TO ADDRESS VIOLATION OF BROADCASTING ADVISORIES DUE TO TELECAST OF MALAYALAM BIGG BOSS

In *Adv. Adarsh S vs. Union of India*, a writ petition was filed before the Kerala High Court (“KHC”) seeking a direction restraining the Malayalam show ‘Bigg Boss’ from being telecast given it telecasted a physical assault on national television which the petitioner alleged was a violation of directives issued by the Union Government. The KHC in its order directed the Union Government to review the violations in line with the directives issued by the Union Government and if necessary to instruct Mohanlal (the host of the show), Endemol Shine India, Asianet and Disney Star (the telecasters) to desist from broadcasting the show on electronic media.

MADRAS HIGH COURT HOLDS THAT ILAIYARAJA CANNOT CLAIM SOLE OWNERSHIP OF HIS WORKS

In the legal dispute between music composer Ilaiyaraaja and Echo Recording Pvt. Ltd. (“Echo Recording”) with respect to the ownership of approximately 4500 songs, the Madras High Court (“MHC”) has ruled that Ilaiyaraaja cannot claim sole ownership of works composed by him as there could be other contributors as well to the songs such as the lyricists, singers etc. The MHC further observed that while Ilaiyaraaja may hold the rights to the musical notes, the entirety of the songs belong to the producers, especially once the composer has been compensated for his work. However, Ilaiyaraaja’s legal team contested this claim, asserting that regardless of entering into agreements with the producers, Ilaiyaraaja retains rights to his songs and that the composer’s contribution to the song should be recognized, as it is a crucial element. The MHC has adjourned the case for further arguments and evidence until June.

MAHARASHTRA CYBER POLICE SUMMONS TAMANNAAH BHATIA IN DIGITAL PIRACY CASE WITH RESPECT TO THE FAIRPLAY APP

In relation to an FIR based on a complaint filed by the Viacom 18 Network (“V18”) against the unauthorized streaming of Indian Premier League (IPL) 2023 matches on the Fairplay App (“App”), the Maharashtra Cyber Police summoned actress Tamannaah Bhatia for questioning. Earlier, the police had summoned rapper Badshah and actor Sanjay Dutt, who were also involved in endorsing the App. The said FIR was filed last year against 41 people, including actors, for allegedly promoting the viewing of the IPL matches on the betting App. In the complaint, V18 stated that the Intellectual Property Rights (IPR) to stream the matches were exclusively owned by V18 and the App was illegally streaming the matches on its platform. The Ministry of Information and Broadcasting (MIB) through an advisory issued in the year 2022 had banned any and all kinds of advertisements/promotions of any online betting websites/platforms.

POLICE COMPLAINT FILED AGAINST ACTOR THALAPATHY VIJAY'S SONG 'WHISTLE PODU'

A police complaint has been lodged against actor Thalapathy Vijay's song 'Whistle Podu' from the film 'GOAT' due to alleged objectionable content. The complaint was filed by a local resident named K. R. Suresh, who claimed that the song contained vulgar lyrics and was promoting violence. The complainant also alleged that the song was promoting the consumption of alcohol and was against the moral values of society. The complaint was lodged at the Kodambakkam Police Station in Chennai, and the police have taken up the matter for further investigation. The police have also requested the producers of the film to provide them with the original copy of the song for further examination.

SUPREME COURT CRITICIZES THE UTTARAKHAND STATE LICENSING AUTHORITY FOR ITS FAILURE TO ADDRESS DECEPTIVE ADVERTISEMENTS BY PATANJALI

The Supreme Court of India (“SC”) has been hearing contempt proceedings against Patanjali Ayurveda (“Company”) over its misleading advertisements that violate the Drugs and Other Magic Remedies (Objectionable Advertisements) Act, 1954 (“Act”). The SC has been critical of the Uttarakhand State Licensing Authority (USLA) for its inaction in the matter, despite SC's earlier orders directing the Company to refrain from publishing such advertisements. On April 4, 2024, the SC had issued notice to the USLA seeking its affidavit regarding the action taken against Divya Pharmacy (which belongs to Patanjali Yogpeeth Trust) regarding its advertisements. The SC has queried the rationale behind USLA not finding that the state authority was in cahoots with the alleged contemnors. The SC has also rejected the second affidavit of apology filed by

Patanjali Ayurveda, its Managing Director Acharya Balkrishna, and co-founder Baba Ramdev. The SC has directed the predecessor of the present Joint Director of USLA to file an affidavit in 2 weeks explaining inaction on his part for the entire tenure of his posting as a licensing authority. In addition, all district Ayurvedic and Unani officers holding post from 2018 till date were also directed to file similar affidavits in the same period. On the previous date of hearing, the SC had also censured the Union Government for turning a blind eye to Patanjali advertising fake cures for COVID-19 during the height of the pandemic.

DELHI HIGH COURT DIRECTS PASS CODE HOSPITALITY TO PAY 15 LAKHS TO PPL IN CONSIDERATION OF THE LICENSE TO PLAY PPL'S MUSIC IN ITS RESTAURANTS

The Delhi High Court (“DHC”) while hearing a copyright infringement suit filed by the performance rights organisation, Phonographic Performance Limited (PPL), against the hospitality firm Pass Code Hospitality Private Limited (“Pass Code”), the owner of popular restaurants Jamun, Saz and PCO, has directed Pass Code to pay a sum of Rs. 15 Lakhs to PPL as an *ad hoc* arrangement to play music in the restaurants owned by Pass Code. PPL had alleged that Pass Code was using sound recordings owned by PPL without obtaining a proper license. PPL had initially filed a civil suit before the Saket District Court, seeking an injunction and other related reliefs and was awarded an interim injunction against Pass Code. Subsequently, the parties reached an amicable settlement through an agreement dated December 4, 2022, by which Pass Code agreed to use PPL's work only after obtaining the appropriate license. The licenses obtained by Pass Code expired on November 3, 2023. After the expiration of the term, Pass Code did not agree to renew the license and insisted on the same license fee proposed by PPL for the first license, however PPL demanded a much higher license fee for the subsequent year. Counsel for PPL submitted that PPL has the liberty to license sound recordings at the rates determined by it. However, counsel for Pass Code submitted that the rates cannot be unreasonable and must be legitimate. After hearing the parties, the DHC created an *ad hoc* arrangement between the parties for licensing of the songs.

DELHI HIGH COURT ACCEPTS THE PROFIT-SHARING UNDERTAKING BETWEEN NETFLIX AND RELIANCE ENTERTAINMENT FOR THE FILM 'AMAR SINGH CHAMKILA'

Super Cassettes Industries Private Limited (“SCIL”) had extended a loan of Rs. 268 crores to Reliance Entertainment Studios Private Limited (“Reliance”) for the production of 11 Hindi cinematographic films *vide* a loan agreement (“Loan Agreement”). Prior to the release of the film ‘Amar Singh Chamkila’ (“Film”), SCIL approached the Delhi High Court and alleged non-compliance by Reliance with the Loan Agreement and suggested that Reliance is proceeding with the release of new films, despite a commitment to the

contrary. Thereafter, SCIL filed the application seeking to prevent Reliance from releasing, exhibiting, and broadcasting cinematographic films and SCIL claimed a lien and charge on the revenues generated by these films, asserting a consequential right to seek an injunction emanating from the Loan Agreement.

Reliance has now offered an undertaking in exchange of the enforcement of the lien – the commitment includes the deposit of a fixed commission of 2% from the licensing fee, to be deducted from the final tranche Reliance receives from Netflix, and 50% of the profits generated by the Film. The Delhi High Court has accepted Reliance’s undertaking to share 50% of its profit from Film with SCIL

MASTER CIRCULAR - GUARANTEES AND CO-ACCEPTANCES

The Reserve Bank of India (“RBI”) vide circular number RBI/2024-25/03 DOR.STR.REC.2/13.07.010/2024-25 dated April 01, 2024 (“G&C Master Circular”) consolidated guidelines/instructions issued to all scheduled commercial banks (excluding payments banks and regional rural banks) till March 31, 2023, on matters relating to guarantees and co-acceptances. The G&C Master Circular aims to regulate the conduct of guarantee business by banks.

Some of the key stipulations under the G&C Master Circular are provided below:

- (a) Banks must confine themselves to the provision of financial guarantees and exercise due caution with regard to performance guarantees. Banks must guarantee shorter maturities and bank guarantees should not have a maturity of more than 10 (ten) years. Banks should, in general, refrain from issuing non-fund-based facilities to/on behalf of constituents who do not enjoy credit facilities with them.
- (b) The G&C Master Circular stipulates norms for unsecured advances and guarantees, precautions to be taken for issuing guarantees, averting frauds, project exports, etc.
- (c) The G&C Master Circular further *inter alia* provides for internal control system of banks, guarantees on behalf of bank’s directors, guidelines relating to personal guarantees by promoters, directors, other managerial personnel, shareholders of borrowing concerns, overseas investments (guarantee on behalf of a foreign entity or any of its step-down subsidiary) and co-acceptance of bills. It also lays down restrictions on guarantees for placement of funds with NBFCs or other non-bank entities.

- (d) Additionally, compliance with the regulations of the Foreign Exchange Management Act, 2000 and prudential norms is mandated under the G&C Master Circular.

DSK View: The G&C Master Circular outlines clear guidelines for scheduled commercial banks to be followed in respect of guarantees and co-acceptance practices. RBI has always emphasized banks to remain cautious and exercise prudence while issuing financial guarantees and ensure compliance with regulatory requirements. The G&C Master Circular may likely contribute to overall banking sector stability especially in terms of extending guarantee facilities and availing guarantees as a form of collateral from borrowing concerns.

MASTER CIRCULAR - BASEL III CAPITAL REGULATIONS

The RBI vide circular number RBI/2024-25/08 DOR.CAP.REC.4/21.06.201/2024-25 dated April 01, 2024 (“BASEL III Master Circular”) consolidated all prudential guidelines on Basel III capital adequacy issued to all scheduled commercial banks (excluding small finance banks, payments banks and regional rural banks).

The BASEL III reforms aim to strengthen the micro-prudential regulations, to raise the resilience of individual banking institutions in periods of stress. The reforms also address system wide risks, which can build up across the banking sector, and the procyclical amplification of these risks.

The BASEL III Master Circular seeks to integrate these reforms in the Indian banking system by relying on three mutually reinforcing pillars:

1. Pillar 1: Minimum Capital Requirements

Three distinct options for computing capital requirement for credit risk and three separate options for computing capital requirement for operational risk have been included.

2. Pillar 2: Supervisory Review of Capital Adequacy

Introduction of a supervisory review process (SRP) to ensure that banks have adequate capital to support all the risks in their business and encourage them to develop and use better risk management techniques for monitoring and managing their risks.

3. Pillar 3: Market Discipline

A set of disclosure requirements have been specified which will allow market participants to assess key pieces of information on the scope of application, capital, risk exposures, risk assessment processes and hence, the capital adequacy of the institution.

MASTER CIRCULAR - PRUDENTIAL NORMS ON INCOME RECOGNITION, ASSET CLASSIFICATION AND PROVISIONING PERTAINING TO ADVANCES

The RBI *vide* circular number RBI/2024-25/12 DOR.STR.REC.8/21.04.048/2024-25 dated April 02, 2024 (“**IRAC Master Circular**”) consolidated guidelines/instructions issued to all commercial banks (except regional rural banks) till March 31, 2023, on matters relating to prudential norms on income recognition, asset classification and provisioning pertaining to advances.

Key provisions of the IRAC Master Circular are highlighted below:

- (a) The policy of income recognition must be objective and based on the record of recovery. Accordingly, banks cannot charge and take into account, interest on any non-performing asset(s) (“**NPA(s)**”).
- (b) NPAs are divided into three categories based on the period for which the asset has remained non-performing and the realisability of the dues: (i) substandard assets; (ii) doubtful assets and (iii) loss assets. Detailed provisioning norms in respect of the aforesaid assets are mandated in the IRAC Master Circular. Further, provisions regarding writing-off of NPAs and NPA management have also been provided.
- (c) The framework for resolution of stressed assets and prudential norms applicable to restructuring, have also been given in the IRAC Master Circular.
- (d) Other provisions include provisions in relation to wilful defaulters and non-cooperative borrowers, specification of due date/repayment date and credit risk management guidelines, etc.

DSK View: *The IRAC Master Circular consolidates guidelines for commercial banks on income recognition, asset classification, and provisioning. The provisions of the aforementioned circular have been constantly refined by the*

RBI to bring it in line with international practices and recommendations from stakeholders, to try and ensure that the policy is based on record of recovery and objective criteria, rather than any subjective criteria.

MASTER CIRCULAR - HOUSING FINANCE

RBI *vide* circular number RBI/2024-25/11 DOR.CRE.REC.No.07/08.12.001/2024-25 dated April 02, 2024 (“**HF Master Circular**”) consolidated guidelines/instructions issued to all scheduled commercial banks (except regional rural banks) till March 31, 2024, on matters relating to housing finance provisioning pertaining to advances.

The HF Master Circular covers regulations in relation to land acquisition, building construction, ready-made housing, slum improvement initiatives, and additional financial support. Clear guidelines are provided thereunder for loans associated with house repairs, modifications, and expansions, as well as for projects funded by public sector bodies.

HEDGING OF GOLD PRICE RISK IN OVERSEAS MARKETS

The RBI *vide* circular bearing number RBI/2024-25/17 A. P. (DIR Series) Circular No. 01 dated April 15, 2024 (“**Hedging Circular**”). Under the Hedging Circular, in order to provide greater flexibility to resident entities to hedge their exposures to price risk of gold, it has been decided to permit resident entities to hedge their exposures to price risk of gold using over the counter (“**OTC**”) derivatives in the Indian Financial System Code (“**IFSC**”) in addition to the derivatives on the exchanges in the IFSC. Transactions will be subject to the stipulations set out in the Master Direction – Foreign Exchange Management (Hedging of Commodity Price Risk and Freight Risk in Overseas Markets) Directions, 2022, as amended from time to time.

DSK View: *The Hedging Circular, in line with existing guidelines, aims to enhance flexibility and efficiency in risk management strategies for resident entities, reflecting RBI’s proactive approach to adapt to evolving market dynamics.*

KEY FACTS STATEMENT (KFS) FOR LOANS & ADVANCES

The RBI *vide* circular bearing number RBI/2024-25/18 DOR.STR.REC.13/13.03.00/2024-25 dated April 15, 2024 (“**KFS Circular**”) issued instructions on key fact statement (“**KFS**”) and annual percentage rate (“**APR**”).

Certain instructions as set out under the KFS Circular have been updated, some of which are detailed below:

- (a) Regulated entities (“**REs**”) must provide a KFS to all prospective borrowers to aid them to take an

informed view before executing the loan contract, as per the standardised format given in the KFS Circular.

- (b) The KFS should be provided with a unique proposal number with a validity period of at least three working days for loans having tenor of seven days or more, and a validity period of one working day for loans having tenor of less than seven days. *In light of this provision, the provision on 'Guidelines on Digital Lending' relating to mandatory minimum number of days for post-sanction cooling-off period, has been partially modified.*
- (c) The KFS must also include a computation sheet of ARR and the amortisation schedule of the loan over the loan tenor. ARR should include all charges which are levied by the RE including charges recovered from the borrowers by the REs on behalf of third-party service providers on actual basis, such as insurance charges, legal charges etc.
- (d) Any fees, charges, etc. which are not mentioned in the KFS, cannot be charged by the REs to the borrower at any stage during the term of the loan, without explicit consent of the borrower. The KFS shall also be included as a summary box to be exhibited as part of the loan agreement.
- (e) Credit card receivables are exempted from the provisions contained under the KFS Circular.

DSK View: *The modifications made by the RBI will help borrowers take an informed view before availing a loan and proceeding with the documentation. Going forward, REs will not be able to charge any fees or costs which have not been explicitly disclosed in the KFS, without prior permission of the customer. The KFS Circular serves as an important tool to ensure greater transparency and accountability in the lending sector in India.*

MASTER DIRECTION – RESERVE BANK OF INDIA (ASSET RECONSTRUCTION COMPANIES) DIRECTIONS, 2024

The RBI *vide* circular bearing number RBI/DOR/2024-25/116 DoR.FIN.REC.16/26.03.001/2024-25 dated April 24, 2024 (“**ARC Master Directions**”) issued master directions with respect to functioning of asset reconstruction companies (“**ARCs**”).

The ARC Master Directions shall apply to all ARCs registered with the RBI under the provisions of Section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (“**SARFAESI**”).

Some of the salient features of the ARC Master Directions are given below:

- (a) The ARCs must have a minimum net owned fund (NOF) of INR 300 Crores (Three Hundred Crores) and thereafter on an ongoing basis.
- (b) ARCs must commence or undertake securitisation and asset reconstruction activities and functions provided under Section 10 of SARFAESI and may act as resolution applicants under the Insolvency and Bankruptcy Code, 2016 subject to fulfilment of other conditions stated in the ARC Master Directions.
- (c) ARCs may *inter alia* invest in the equity share capital of another ARC, deploy its funds for undertaking restructuring of acquired loan account, deploy any surplus funds in terms of a Board-approved policy in certain government and short-term instruments. ARCs cannot invest in land or building (subject to certain conditions contained therein) and cannot raise money by way of deposit.
- (d) ARCs must frame a board-approved policy for rescheduling of debts due from borrowers and conversion of debt to equity. For the enforcement of security interest by ARCs, the consent of secured creditors (including ARCs) holding not less than 60% (sixty percent) of the amount outstanding to a borrower is required to be obtained.
- (e) Every ARC must maintain, on an ongoing basis, a capital adequacy ratio of minimum 15% (fifteen percent) of its total risk weighted assets.
- (f) Every ARC must, after taking into account the degree of well-defined credit weaknesses and extent of dependence on collateral security for realisation, classify the assets held in its own books into following categories, namely: (i) Standard assets; and (ii) NPAs.

DSK View: *ARCs play a vital role with respect to resolution of stressed financial assets of banks and financial institutions and are a key player in enhancing the overall health and integrity of the financial system. The ARC Master Directions have been issued by the RBI in order to ensure prudent and efficient functioning of ARCs and to protect the interest of investors.*

MASTER CIRCULAR - BANK FINANCE TO NON-BANKING FINANCIAL COMPANIES

The RBI *vide* circular number RBI/2024-25/24 DOR.CRE.REC.No.17/21.04.172/2024-25 dated April 24, 2024 (“**NBFC Master Circular**”) consolidated all instructions issued upto April 23, 2024 on matters relating to bank finance to non-banking financial companies (“**NBFCs**”). The NBFC Master Circular is applicable to scheduled commercial banks (excluding regional rural banks).

The NBFC Master Circular covers various aspects such as bank financing, eligibility criteria, and prohibitions on certain activities for NBFCs.

Banks are permitted to extend credit to registered NBFCs for asset financing and other activities subject to specified guidelines, while certain activities like unsecured loans and investments in specific entities remain ineligible for bank credit.

Prudential ceilings and risk weightage guidelines have also been provided to manage banks' exposure to NBFCs, ensuring financial stability and risk management in the sector.

FOREIGN EXCHANGE MANAGEMENT (FOREIGN CURRENCY ACCOUNTS BY A PERSON RESIDENT IN INDIA) (AMENDMENT) REGULATIONS

The RBI has *vide* notification bearing number FEMA. 10(R)(3)/2024-RB dated April 23, 2024 ("**FEMA Amendment Regulations**") notified an amendment to the Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2015 ("**Principal Regulations**").

Sub-regulation (F)(1) of Regulation 5 of the Principal Regulations, have been substituted *vide* the FEMA Amendment to state that funds raised via, external commercial borrowings or resources raised through American depository receipts or global depository receipts or through direct listing of equity shares of companies incorporated in India on international exchanges, (subject to certain conditions) may, pending their utilisation or repatriation to India, be held in foreign currency accounts with a bank outside India.

DSK View: *The FEMA Amendment Regulations will help companies utilise foreign exchange more effectively enabling companies to efficiently use such funds for overseas acquisitions and expansions.*

GUIDELINES ON FAIR PRACTICES CODE FOR LENDERS – CHARGING OF INTEREST

RBI *vide* notification bearing reference no. RBI/2024-25/30 DoS.CO.PPG.SEC.1/11.01.005/2024-dated April 29, 2024 ("**Fair Practices Code**"), directed REs to review their lending practices in line with fair practice code after it found that some lenders are resorting to certain unfair practices while charging interest.

The Fair Practices Code highlights specific unfair practices which include:

- (a) charging interest from the date of sanction of loan or date of execution of loan agreement instead of date of actual disbursement;
- (b) charging of interest from the date of the cheque (for disbursement) even when the cheque was handed over to the customer several days later;
- (c) in the case of disbursal or repayment during the course of a month, charging interest for the entire month, instead of the period for which the loan was outstanding; and
- (d) collecting one or more instalments in advance but reckoning the full loan amount for charging interest.

RBI has specifically cautioned REs from resorting to such unfair practices which it has stated are '*inconsistent with the principles of fairness and transparency, raising concerns for the RBI*'. To address these issues, the RBI is actively advising lenders to refund excess interest and charges to affected customers and promoting the adoption of online account transfers for loan disbursals instead of cheques.

RBI has also directed all REs to review their loan disbursal methods and interest application practices and take corrective action wherever required.

DSK View: *The Fair Practices Code is a consequence of RBI's findings pursuant to a review of the lending practices followed by various REs. The Fair Practices Code is applicable to all commercial banks, including small finance banks, urban co-operative banks, state co-operative banks, district central co-operative banks, all non-banking financial companies, local area banks and regional rural banks, but exclude payments banks. Transparency, fairness and customer protection have been one of the cornerstones of RBI's policies and directives and the Fair Practices Code is RBI's way of ensuring that these principles are observed by REs.*

FAQS ON GUIDELINES ON DEFAULT LOSS GUARANTEE IN DIGITAL LENDING

The RBI on April 26, 2024, issued frequently asked questions ("**FAQs**") to provide more clarity on its guidelines for default loss guarantee ("**DLG**") in digital lending. The RBI had, originally, in June 2023, issued guidelines directing banks to ensure that the total DLG cover on any outstanding portfolio, specified upfront, does not exceed 5% (five percent) of the loan portfolio amount. In case of implicit guarantee arrangements, the DLG provider is not permitted to bear performance risk of more than the equivalent amount of 5% of the underlying loan portfolio.

On April 26, while issuing the FAQs, the RBI reiterated that the portfolio eligible for DLG must comprise identifiable and measurable loan assets, remaining fixed for DLG cover without changes.

Additionally, once invoked, DLG amounts cannot be reinstated, even through loan recovery process. RBI has also stated that banks accepting DLG cover need a board-approved policy but DLG providers must also have such a policy in place as a prudent measure.

RBI has also clarified that DLG is not permitted on loans arranged through NBFC-P2P platforms, nor are DLG arrangements allowed for credit cards.

DSK View: *DLG is a contractual arrangement between the bank and an entity under which the latter guarantees to compensate the bank for losses due to default up to a certain percentage of the loan portfolio of the bank. The FAQs have simplified several queries on the subject. RBI has also provided illustrations for certain queries, to try and make the intent of the law clear and leave little room for doubt.*

GUIDANCE NOTE ON OPERATIONAL RISK MANAGEMENT AND OPERATIONAL RESILIENCE

The RBI, *vide* notification bearing reference no. RBI/2024-25/31 DOR.ORG.REC.21/14.10.001/2024-25 on April 30, 2024 (“**Revised Guidance Note**”) notified a ‘Guidance Note on Operational Risk Management and Operational Resilience’.

The Revised Guidance Note is applicable to Non-Banking Financial Companies (“**NBFCs**”), housing finance companies and scheduled commercial banks. The Revised Guidance Note intends to:

- (a) promoter and further improve the effectiveness of operational risk management of regulated entities; and
- (b) enhance their operational resilience given the interconnections and interdependencies, within the financial system, that result from the complex and dynamic environment in which the regulated entities operate.

The Revised Guidance Note is a result of the Basel Committee on Banking Supervision (“**BCBS**”) principle documents and adopts a principle-based and proportionate approach to ensure smooth implementation across regulated entities of various sizes, nature, geographic location and risk profile.

DSK View: *The Revised Guidance Note provides a broad framework to guide regulated entities on how to further strengthen and improve their operational risk management framework. Regulated entities have a fair amount of flexibility under the Revised Guidance Note to adopt a method to ensure operational resilience using the tools and systems provided under the Revised Guidance Note.*

DRAFT MASTER DIRECTION ON RBI (ELECTRONIC TRADING PLATFORMS) DIRECTIONS, 2024

The RBI on April 29, 2024 (“**Draft ETP Master Direction**”), released a draft Master Direction for Electronic Trading Platforms (“**ETPs**”). RBI has invited interested stakeholder to provide their comments and feedback by May 31, 2024.

ETP is any electronic system, other than a recognised stock exchange, on which transactions pertaining to eligible instruments are contracted. ‘*Eligible Instruments*’ means securities, money market instruments, foreign exchange instruments, derivatives, or other instruments of like nature, as may be specified by the RBI from time to time under section 45 W of Chapter III-D of the RBI Act, 1934.

The draft ETP Master Directions contain stringent criteria for entities aspiring to operate as ETPs. To qualify, an entity must uphold a minimum net worth of Rs. 5 Crore, maintaining this threshold continuously. Moreover, the entity must be an Indian-incorporated company, with any non-resident shareholding complying with all relevant laws and regulations, including the Foreign Exchange Management Act, 1999. Additionally, the entity or its key managerial personnel must have at least three years’ experience in managing trading infrastructure within financial markets.

The RBI also have the authority to cancel an authorisation issued to an ETP, after affording a reasonable opportunity to represent its version, if it is satisfied that *inter alia*, the ETP operator has violated a statutory provision or applicable laws or the terms on which it was granted a license, etc.

DSK View: *The draft ETP Master Directions do not apply to electronic systems operated by scheduled commercial banks and standalone primary dealers for transactions in eligible instruments where the bank or the primary dealer operating the electronic system is the sole quote/price provider and invariably a party to all transactions contracted on the system. In October 2018, RBI had put into place a regulatory framework for ETPs to ensure a safe and transparent trading environment. However, due to an increase in the integration of onshore and offshore markets, the RBI has issued the draft master directions, to address the developments in recent years.*



UTTAR PRADESH REAL ESTATE REGULATORY AUTHORITY ISSUES STANDARD OPERATING PROCEDURE FOR NOMINATION OF REAL ESTATE PROMOTERS

The Uttar Pradesh Real Estate Regulatory Authority has issued the standard operating procedure for nomination of Real Estate Promoter by virtue of an office order bearing no. 5075/ U.P. RERA / Tech. Cell dated April 12, 2024. The said standard operating procedure provides that before submitting the online application for registration of the project, the promoter will be required to first enrol on the RERA portal. Pursuant thereto, the promoters will be able to submit applications for project registration through their dashboard on the RERA portal. Promoters will be required to verify the details using email id, Aadhar card verified mobile number. Promoter will then be able to create his / her profile by choosing the details such as partnership firm, proprietorship firm, limited liability partnership (LLP), private limited company, public limited company as applicable and enter the basic details of the promoter such as the PAN details, permanent address etc. The promoter is also required to give details of the developed, ongoing and the new projects (if any) for the last five years, registration of RERA of other states / union territories, audited financial statement and income tax returns for the last three years.

Further, in terms of the standard procedure, the promoter is also required to give details of the authorised representative appointed by the Board to liaise with the authority in matters related to the project. After submitting details of the promoter, the same shall be scrutinised by the technical section of RERA and if any objection has been received then the same will be resolved by the promoter through its dashboard.

HIMACHAL PRADESH REAL ESTATE REGULATORY AUTHORITY ORDERS THAT BUILDER CANNOT DEMAND FULL PAYMENT FROM HOMEBUYER IF PROJECT'S OCCUPANCY CERTIFICATE HAS NOT BEEN OBTAINED

The Himachal Pradesh Real Estate Regulatory Authority ("HPRERA") in *Amit Rana vs. Ahlawat Developers and Promoters & Others*-(HPRERA2023025/C) held that a builder cannot demand full payment from the homebuyer if the Project's Occupancy Certificate has not been obtained and the construction of flat is not complete within the agreed time for delivery of possession. An agreement to sell was executed between the builder and homebuyer on June 14, 2016, for a total sale consideration of Rs. 25,00,000, plus service tax, out of which Rs. 3,96,168, was paid for booking of the flat on June 10, 2016. The builder was obligated to deliver the possession of the apartment by September 30, 2016. The homebuyer had paid Rs. 17,99,692 out of Rs. 25,00,000, the builder however failed to deliver the possession of the flat within the promised timeline. The homebuyer filed a complaint before the HPRERA seeking either a refund of the paid amount or compensation for delayed possession. The builder contended that the homebuyer is in default of Rs. 7,00,308, had failed to make timely payments of the sale consideration as agreed between the parties and therefore the homebuyer cannot demand the offer of possession until the entire dues have been paid.

The HPRERA directed the builder to refund the amount paid by the homebuyer with interest in terms of Section 18 of the Real Estate Regulation and Development Act, 2016, which provides that if the promoter fails to complete or is unable to give possession of an apartment, plot or building in accordance with the agreement for sale, he shall be liable on demand to the allottees in case the allottee wishes to withdraw from the project, to return the amount received by him in respect of that apartment, plot, building as the case may be and further held that the builder cannot demand full payment from the homebuyer if the Project's

Occupancy Certificate has not been obtained and the construction of flat is not complete within the agreed time for delivery of possession, as it amounts to a deficiency in service.

HIMACHAL PRADESH HIGH COURT DECLARES THAT NEW PROPERTY OWNERS ARE NOT LIABLE FOR UNSECURED ELECTRICITY DUES FROM PREVIOUS OWNERS

The High Court of Himachal Pradesh ("**Court**"), in *M/s Pure & Cure Healthcare Pvt. Ltd vs. Himachal Pradesh State Electricity Board ("HPSEBL")* (CWP No. 2585 of 2024) clarified that the electricity dues of an earlier occupier would not be payable by subsequent creation of charge under the Transfer of Property Act, 1882 ("**Act**"). M/s Pure & Cure Healthcare Pvt. Ltd. purchased a property free from

encumbrances at an auction under The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (**SARFESI**), but the Himachal Pradesh State Electricity Board ("**HPSEBL**") refused a new connection due to outstanding electricity dues from the previous owner. The Court ruled that a new owner is not responsible for the previous owner's outstanding electricity dues if HPSEBL did not create a legal charge on the property as mandated by the Act. The court emphasized the need for proper procedures to claim them from new owners. Since the Sale Certificate declared the property free from encumbrances and the HPSEBL failed to register a charge, the Court directed them to grant a new electricity connection to the new owner without requiring payment of the previous owner's dues.



INFORMATION TECHNOLOGY

IT MINISTRY INTRODUCES MANDATORY SECURITY REQUIREMENTS FOR CCTV SYSTEMS

The Ministry of Electronics and Information Technology has amended the 'Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2021' ("Order") vide a gazette notification (accessible [here](#)) dated April 9, 2024. The Order prohibits the manufacture, sale or distribution of any electronic goods that do not conform to the standard described therein. The amendment, inter alia, incorporates essential requirements such as tamper-resistant camera enclosures, role-based access control for CCTV systems to be abided by to ensure their security. The amendment to the Order will come into effect six months from the date of the gazette notification.

FIN-TECH

RBI RELEASES DRAFT GUIDELINES FOR LOAN AGGREGATORS

The Reserve Bank of India ("RBI"), vide its press release dated April 26, 2024, has unveiled draft guidelines (accessible [here](#)) for a comprehensive regulatory framework governing web-aggregators of loan products. These platforms, termed Lending Service Providers (LSPs) by the RBI, collect loan offers from various lenders, empowering borrowers to compare and select the most suitable lender. The draft guidelines aim to enhance transparency in the aggregation process of loan products from multiple lenders and further enable the borrowers to have prior information about the potential lenders in order to make an informed decision.

Comments on the draft guidelines are invited by May 31, 2024.

RBI RELEASES DRAFT CIRCULARS FOR INCLUDING PHYSICAL POS PAYMENT PROVIDERS WITHIN PAYMENT AGGREGATORS AND REGULATION OF PAYMENT AGGREGATORS

The RBI, vide its press release dated April 16, 2024, has released two draft circulars for including physical point-of-sale payment providers within the scope of payment aggregators (accessible [here](#)) and for amending the existing directions on payment aggregators (accessible [here](#)), respectively.

The draft circular on inclusion of physical point-of-sale payment providers within the scope of payment aggregators seeks to, inter alia, mandate physical point-of-sale payment providers to apply for authorization with the RBI and comply with the extant Guidelines on Regulation of Payment Aggregators and Payment Gateways 2020.

The draft circular on amending the existing directions on payment aggregators provide clarifications in respect of online and physical point of sale payment aggregators, and, inter alia, seek to regulate aspects such as KYC and due diligence of merchants, operations in escrow accounts, etc.

Comments on the draft circulars are invited by May 31, 2024.

TELECOM

TRAI RECOMMENDS TELECOMMUNICATION INFRASTRUCTURE AND SPECTRUM SHARING

The Telecom Regulatory Authority of India ("TRAI") vide a press release (accessible [here](#)) dated April 24, 2024, published its recommendations on 'Recommendations on Telecommunication Infrastructure Sharing, Spectrum Sharing and Spectrum Leasing' (accessible [here](#)). The recommendations have been conceived in the background of requests of stakeholders to permit inter-band spectrum

sharing and leasing of spectrum in the country. TRAI has recommended that telecommunication service licensees should be allowed to share the active and passive infrastructure elements owned, established, and operated by them. TRAI has further recommended that spectrum leasing and inter-band spectrum sharing should also be permitted.

TRAI RECOMMENDS ENCOURAGING INNOVATIVE TECHNOLOGIES, SERVICES THROUGH REGULATORY SANDBOX IN DIGITAL COMMUNICATION SECTOR

The TRAI vide a press release (accessible [here](#)) dated April 12, 2024, published its recommendations on 'Recommendations on Encouraging Innovative Technologies, Services, Use Cases and Business Models through Regulatory Sandbox in Digital Communication Sector' (accessible [here](#)). Recognising the need to provide an environment where new technologies, services, use cases and business models can be tested in live networks, the Central Government had provided for, inter-alia, made enabling provisions in the Telecommunication Act 2023 for regulatory sandboxes. Regulatory sandbox makes real-time but regulated access to telecom network and customer

resources, something that is not possible in conventional methods of lab testing or pilots.

The recommendations outline all the relevant components in detail, such as the objective and boundaries of the framework, clear documentation requirements, application evaluation & approval procedures, and reporting requirements, thereby offering a comprehensive framework conducting sandbox testing for the Digital Communication sector.

TRAI INVITES INPUTS FOR FORMULATION OF NATIONAL BROADCASTING POLICY 2024

The TRAI vide its consultation paper dated April 2, 2024 (accessible [here](#)), has invited comments on the formulation of a national policy which shall act as a roadmap of the broadcasting sector in India. The consultation paper outlines the issues in the broadcasting sector with an objective of making India a 'Global Content Hub' and seeks inputs on stipulating the vision, mission, objectives and strategies for the planned development and growth of the broadcasting sector in the country under the proposed National Broadcasting Policy.

WHITE COLLAR CRIME

ARREST OF A PERSON IS LEGAL IF HE IS PRODUCED BEFORE THE MAGISTRATE WITHIN 24 HOURS OF ARREST

An accused filed a writ petition challenging his arrest by Directorate of Enforcement (ED) on the ground that he was not produced before the nearest Magistrate within 24 hours. The **Bombay High Court** dismissed the petition and held that the arrest was legal because time spent in response to a summons under Section 50 of Prevention of Money Laundering Act, 2002, (PMLA) does not count towards the 24 hours' time-limit, which begins from the time of arrest under Section 19 of PMLA and excludes the time taken to travel to the Magistrate, which was within 24 hours. The Court also criticised the ED for recording statements post-midnight, emphasizing that a person summoned is not any accused and cannot be deprived of his basic human right (right to sleep) beyond a reasonable time and directed ED to issue circulars/directions as to the timings for recording statements.

Case - Ram Kotumal Issrani vs. Directorate of Enforcement [Criminal Writ Petition (Stamp) No. 15417 of 2023]

CRIMINAL PROCEEDINGS FOR CHEQUE DISHONOUR UNSUSTAINABLE IF CIVIL COURT HAS ALREADY DECREED IT A SECURITY CHEQUE

An accused was convicted by the criminal court for dishonour of cheque even though a civil court had declared such cheque to be only for the purpose of security and had passed an order restraining the complainant from encashing the cheque. The **Supreme Court** held that the criminal court would be bound by the civil court's order and the criminal proceedings resulting from the cheque being returned unrealised would be unsustainable in law and quashed the same.

Case - Prem Raj vs. Poonamma Menon & Anr. [Special Leave Petition (Crl.) No.9778/2018]

ORDER ISSUING PRODUCTION WARRANT MUST BE A REASONED ORDER

The **Punjab & Haryana High Court** quashed the order issuing production warrant under Section 267 of Code of Criminal Procedure, 1973 (CrPC) (which empowers a criminal court to issue orders for production of an arrested accused in any inquiry, trial or other proceeding) on the ground that it did not state any reasons for production of the accused. The Court relying upon *State of Rajasthan vs. Santosh Yadav, 2005 SCC OnLine Raj 317*, held that under Section 267 of the CrPC, the term 'other proceeding' includes investigation and the Court can issue a production warrant to remove an accused from judicial custody to police custody for investigation in other proceedings. However, such an order has serious consequences and therefore must clearly state why the attendance of the accused is necessary.

Case - Naveen Dabas @ Bali vs. State of Haryana [CRM-M-15605-2024 (O&M)]

REMISSION POLICY IS APPLICABLE TO MCOCA CONVICTS IF CONVICTION IS PRIOR TO 2015

The **Bombay High Court** upheld a convict's challenge to an order rejecting remission of his sentence by the State Authority and his consequent early release. The person convicted on August 31, 2012 under the Maharashtra Control of Organized Crime Act, 1999 (MCOCA) had claimed remission on the basis of a remission policy dated January 10, 2006. However, there was a modification to the remission policy in 2015, which excluded its applicability to convicts under certain statutes, including MCOCA. The State argued that the modification rendered the petitioner ineligible for the benefits of the policy, however, the court held that the petitioner was entitled to the benefits of the remission policy dated January 10, 2006, which was in effect at the time of his conviction.

Case - Arun Gulab Gawli vs. State of Maharashtra and Ors. [Criminal Writ Petition No. 155 OF 2023]

UNDERTRIAL PRISONERS CAN STAND TRIAL WHILE RELEASE ON INTERIM BAIL

The **Calcutta High Court** held that an undertrial may be granted interim bail if there is difficulty to grant regular bail during trial unless there are very serious exceptional circumstances. The Court adopted a humanitarian approach noting that long incarceration pending trial can lead to stress and depression, which is not desirable specially during pre-trial detention. The Court held that this may be done even if there is possibility to conclude trial within a short time frame.

Case - Manaranjan Mandal @ Manoranjan Mandal @ Liton vs. The State of West Bengal [CRM (DB) 129 of 2024]

PROSECUTION CANNOT BE QUASHED ON COMPROMISE FOR HEINOUS AND SERIOUS OFFENCES

The **Allahabad High Court** held prosecution under Protection of Children from Sexual Offences Act, 2012 (**POSCO**), cannot be quashed on the basis of compromise between the victim and offender. The Court relied upon *Narinder Singh vs. State of Punjab*, (2014) 6 SCC 466, and held that power under Section 482 of CrPC for quashing of prosecution should not be exercised for prosecutions

involving heinous and serious offences like rape, murder, dacoity etc., which are not private in nature and have a serious impact on the society. Further, offences under special statutes like Prevention of Corruption Act, 1988 or the POSCO cannot be quashed merely because of compromise. In such cases, the courts must have regard to the nature and gravity of the offence and its impact on the society.

Case - Sanjeev Kumar vs. State of Uttar Pradesh [Application U/S 482 No. - 9169 of 2024]

SUPREME COURT TO DECIDE QUESTION OF VALIDITY OF ONEROUS BAIL CONDITIONS LIKE GOOGLE MAP PIN AND EMBASSY'S ASSURANCE

The **Supreme Court** issued notice to Google India Private Limited for the purposes of obtaining information regarding working of 'Google PIN' subject to deciding whether the same infringes an individual's fundamental right to privacy. The court also stated that *prima facie* the condition of furnishing assurance from the embassy cannot be imposed as no embassy will be in a position to give such assurance, though the same will have to be decided. The court has reserved the judgment in the matter.

Case - Frank Vitus vs. Narcotics Control Bureau & Ors. [(Crl.) No(s).6339-6340/2023]



DSK Legal Knowledge Center

Contact Details for any queries: knowledge.management@dsklegal.com

Mumbai

1701, One World Centre,
Floor 17, Tower 2B,
841, Senapati Bapat Marg,
Mumbai - 400013.
Tel +91 22 6658 8000

Mumbai

C-16, Dhanraj Mahal,
3rd Floor,
Apollo Bunder, Colaba,
Mumbai - 400001.
Tel +91 22 6152 6000

Bengaluru

201, 2nd floor, Prestige Loka,
7/1 & 7/7, Brunton Road,
Craig Park Layout, Ashok Nagar,
Bengaluru - 560025.
Tel +91 80 6954 8770

New Delhi

Max House, Level 5,
Okhla Industrial Area, Phase 3,
New Delhi - 110020.
Tel +91 11 4661 6666

Pune

Ground Floor, 1 Modibaug,
Ganesh Khind Road, Shivajinagar,
Pune - 411016.
Tel +91 20 6684 7600

✉ contactus@dsklegal.com

in DSK Legal

🌐 www.dsklegal.com

Disclaimer

This document intends to provide general information on a particular subject/s and is not an exhaustive treatment of such subject/s and is intended merely to highlight issues. It is not intended to be exhaustive or a substitute for legal/professional advice. The information is not intended to be relied upon as the basis for any decision which may affect you or your business and does not constitute legal advice and should not be acted upon in any specific situation without appropriate legal advice. DSK Legal shall not be responsible for any loss whatsoever sustained by any person relying on this material.