

## **WEEKLY CORPORATE UPDATES**

*Saturday 01<sup>st</sup> October, 2022*

(Curated & compiled by)

### **Team Indiacorp Law**

**Headed by:**

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## MCA UPDATES

### *Extension of time for filing e-form DIR-3-KYC and web-form DIR-3-KYC-WEB without fee*

General Circular No: 09/2022

Dated: 28<sup>th</sup> September, 2022

*On receipt of representation to Ministry of Corporate Affairs (MCA) for extension of time beyond 30.09.2022 for filing e-form DIR-3-KYC and web-Form DIR-3-KYC-WEB without payment of fee. The MCA on examination of the matter, has decided to allow filing of e-form DIR-3-KYC and web-Form DIR-3-KYC-WEB without filing fee upto 15<sup>th</sup> October, 2022.*

Related Link:

<https://www.mca.gov.in/bin/dms/getdocument?mds=2itVq%252FZQrw%252FU4s9JXtbS1w%253D%253D&type=open>

### *Clarification with respect to figures in Form AOC-4*

Dated: 26<sup>th</sup> September, 2022

*Amendment to Schedule III to the Companies Act, 2013 vide MCA Notification GSR. 207(E) dated 24<sup>th</sup> March 2021 mandates companies to round off the figures appearing in the Financial Statements depending upon their total income. However, if the companies provide absolute figures in e-forms ie. AOC-4, the same shall not be treated as incorrect certification by the Professionals.*

Related Link: <https://www.mca.gov.in/content/mca/global/en/notifications-tender/news-updates/updates.html>

## SEBI UPDATES

### *BSE receives SEBI's final approval to launch EGR on its platform*

Dated: 26<sup>th</sup> September, 2022

*Leading stock exchange BSE said it has received the final approval from the capital markets regulator SEBI for introducing the Electronic Gold Receipt (EGR) on its platform. This comes after the BSE received in-principle approval from the Securities and Exchange Board of India (SEBI) in February, after which the exchange conducted several mock trading sessions in the test environment for its members to facilitate trading in EGRs. EGRs will cater to all market participants, which means that buyers and sellers on the exchange will include individual investors, as well as commercial participants along the value chain like importers, banks, refiners, bullion traders, jewellery manufacturers, and retailers.*

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Related Link: <https://www.moneycontrol.com/news/business/bse-receives-sebis-finalapproval-to-launch-eqr-on-its-platform-9234351.html>

## **Government commits Rs. 7,385 crore under Fund of Funds for Startup India Investment for 88 Alternative Investment Funds (AIFs); 720 startups supported by AIFs**

Dated: 26th September, 2022

*Fund of Funds for Startups (FFS), launched under Startup India initiative in 2016 by the Prime Minister, Shri Narendra Modi has committed Rs. 7,385 crore to 88 Alternative Investment Funds (AIFs) as of 24th September 2022. These AIFs in turn have invested Rs. 11,206 crore in 720 startups. FFS has been playing a monumental role in mobilizing domestic capital in Indian startup ecosystem. Under FFS, support is extended to SEBI registered Alternative Investment Funds (AIFs), which in turn invest in startups.*

Related Link: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1862374>

## **Modalities related to Investment Adviser applications**

Dated: 26th September, 2022

*SEBI, vide circular ref. 2021/579 dated June 18, 2021, granted recognition to BSE Administration and Supervision Ltd. (BASL), a wholly owned subsidiary of BSE to act as an Investment Adviser Administration and Supervisory Body (IAASB) for a period of three years from June 01, 2021 in terms of Regulation 14 of SEBI (Investment Advisers) Regulations, 2013 (SEBI IA Regulations). As per the provisions of Regulation 14(2) of SEBI IA Regulations, the administration and supervision of Investment Advisers (IAs) has been delegated to BASL. In view of the above, it is provided that all the new IA applicants as well as existing IAs are advised to approach BSE Administration and Supervision Limited (BASL) for registration and post registration activities related to Investment Advisers. Further, new IA applicants as well as existing IAs may refer to BASL circular no. 20220718-1 dated July 18, 2022 regarding Revised Process for seeking Membership from BASL and Registration from SEBI.*

Related Link: [https://www.sebi.gov.in/media/press-releases/sep-2022/modalities-relatedto-investment-adviser-applications\\_63385.html](https://www.sebi.gov.in/media/press-releases/sep-2022/modalities-relatedto-investment-adviser-applications_63385.html)

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## ***Modification in the Operational Guidelines for FPIs, DDPs and EFIs pertaining to FPIs registered under Multiple Investment Managers (MIM) structure***

Circular No.: AFD/P/CIR/2022/125

Dated: 26th September, 2022

*The Securities and Exchange Board of India (SEBI) on September 26, 2022 has issued Modification in the Operational Guidelines for FPIs, DDPs and EFIs pertaining to FPIs registered under Multiple Investment Managers (MIM) structure.*

***The following has been stated namely: -***

- *Reference is drawn to circular IMD/FPI&C/CIR/P/2019/124 dated November 05, 2019 under the SEBI (Foreign Portfolio Investors), Regulations 2019, which was issued in this regard.*

***The following has been amended namely: -***

*1. Para 4 of Part A of the Original Guidelines has been substituted with the following:*

*“Where an entity engages multiple investment managers (MIM) for managing its investments, the entity can obtain multiple FPI registrations mentioning name of Investment Manager for each such registration. Such applicants can appoint different DDPs for each such registration. Investments made under such multiple registrations shall be clubbed for the purposes of monitoring of investment limits.”*

*Related Link: [https://www.sebi.gov.in/legal/circulars/sep-2022/modification-in-the-operational-guidelines-for-fpis-ddps-and-efis-pertaining-to-fpis-registered-under-multiple-investment-managers-mim-structure\\_63378.html](https://www.sebi.gov.in/legal/circulars/sep-2022/modification-in-the-operational-guidelines-for-fpis-ddps-and-efis-pertaining-to-fpis-registered-under-multiple-investment-managers-mim-structure_63378.html)*

## ***SEBI comes out with daily price limits framework for commodity futures contracts***

Circular No.: SEBI/HO/MRD/MRD-PoD-1/P/CIR/2022/128

Dated: 27th September, 2022

*Capital markets regulator SEBI came out with a new framework for daily price limit for commodity futures contracts in a bid to resolve the difference in closing price at domestic exchange and global bourse. The Daily Price Limits (DPLs) define the maximum range within which the price of a commodity futures contract can move in one trading session. Such limits protect investors from sudden and extreme price movements and provide a cooling-off period to re-assess the information and fundamentals impacting the price of the commodity futures contract. The Indian bourses have informed that closing price on domestic exchange differs from closing price on international exchanges, after necessary currency conversion, because of a*

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*difference in methodology of calculation of closing price, the Securities and Exchange Board of India (SEBI) said in a circular.*

Related Link: [https://www.sebi.gov.in/legal/circulars/sep-2022/circular-on-modification-in-daily-price-limits-dpl-for-commodity-futures-contracts\\_63404.html](https://www.sebi.gov.in/legal/circulars/sep-2022/circular-on-modification-in-daily-price-limits-dpl-for-commodity-futures-contracts_63404.html)

## **SEBI rolls out framework for credit rating agencies**

Circular No.: SEBI/HO/DDHS/DDHS-RACPOD2/P/CIR/2022/124

Dated: 28th September, 2022

*Markets regulator SEBI came out with a new framework for Credit Rating Agencies (CRAs), involving ratings of securities having explicit credit enhancement features. The new framework, applicable from January 1, 2023, is aimed at enhancing transparency and improving the rating process. Under the rule, CRAs can assign the suffix 'CE' (Credit Enhancement) to the rating of instruments having explicit credit enhancement. To enable investors to understand the extent of credit enhancement provided by a third party or parent or group company and support considerations specified by the regulator, including debt backed by a pledge of shares and a letter of comfort, SEBI said that the press release for credit ratings, with or without the CE-suffix, backed by such support considerations need to contain certain disclosures.*

Related Link: <https://www.sebi.gov.in/legal/circulars/sep-2022/credit-ratings-supported-by-credit-enhancement-ce-63443.html>

## **SEBI lays guidelines on preferential issue, institutional placement for listed REIT, InvIT**

Circular No.: SEBI/HO/DDHS/DDHS\_Div3/P/CIR/2022/129,

SEBI/HO/DDHS/DDHS\_Div3/P/CIR/2022/130

Dated: 28th September, 2022

*Capital markets regulator SEBI came out with guidelines pertaining to preferential issues and institutional placement of units by emerging investment vehicles -- REIT and InvIT. The regulator has specified the manner of issuance of units under preferential issue as well as institutional placement by listed Real Estate Investment Trust (REIT) and Infrastructure Investment Trust (InvIT), according to two separate circulars. With regard to the issuance of units under institutional placement, SEBI said that no allotment will be made, either directly or indirectly, to any institutional investor, who is a sponsor or manager or is a person related to, or related party or associate of the sponsor or the manager.*

Related Link: [https://www.sebi.gov.in/legal/circulars/sep-2022/amendments-to-guidelines-for-preferential-issue-and-institutional-placement-of-units-by-a-listed-invite\\_63450.html](https://www.sebi.gov.in/legal/circulars/sep-2022/amendments-to-guidelines-for-preferential-issue-and-institutional-placement-of-units-by-a-listed-invite_63450.html)

[https://www.sebi.gov.in/legal/circulars/sep-2022/amendments-to-guidelines-for-preferential-issue-and-institutional-placement-of-units-by-a-listed-reit\\_63452.html](https://www.sebi.gov.in/legal/circulars/sep-2022/amendments-to-guidelines-for-preferential-issue-and-institutional-placement-of-units-by-a-listed-reit_63452.html)

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## *SEBI permits FPIs to participate in exchange-traded commodity derivatives market*

*Circular No.: SEBI/HO/MRD/MRD-RAC-1/P/CIR/2022/131*

*Dated: 29th September, 2022*

*Capital markets regulator SEBI allowed Foreign Portfolio Investors (FPIs) to participate in the exchange-traded commodity derivatives segment, a move that will further increase depth and liquidity in the market. The new guidelines, came after SEBI's board approved a proposal in this regard in June, will come into force with immediate effect. The regulator has already allowed institutional investors such as Category III Alternative Investment Funds (AIFs), Portfolio Management Services and Mutual Funds to participate in the Exchange Traded Currency Derivatives (ETCD) market. FPIs will be allowed to participate in cash settled non-agricultural commodity derivative contracts and indices comprising such nonagricultural commodities.*

*Related Link: [https://www.sebi.gov.in/legal/circulars/sep-2022/participation-of-sebi-registered-foreign-portfolio-investors-fpis-in-exchange-traded-commodity-derivatives-in-india\\_63474.html](https://www.sebi.gov.in/legal/circulars/sep-2022/participation-of-sebi-registered-foreign-portfolio-investors-fpis-in-exchange-traded-commodity-derivatives-in-india_63474.html)*

## *Two-Factor Authentication for transactions in units of Mutual Funds*

*Circular No.: SEBI/HO/IMD/IMD-I DOF1/P/CIR/2022/132*

*Dated: 30th September, 2022*

*In order to further safeguard interest of investors, capital markets regulator Sebi on Friday decided to extend the two-factor authentication for subscription transactions in units of mutual funds. The new framework will come into effect from April 1, 2023, the Securities and Exchange Board of India (Sebi) said in a circular.*

*At present, all asset management companies (AMCs) are required to authenticate redemption transactions using two-factor authentication for online transactions and signature method for offline transactions.*

*"It has now been decided to extend the Two-Factor Authentication for subscription transactions in the units of mutual funds as well," Sebi said.*

*In case of subscription and redemption of units, two-factor authentication (for online transactions) and signature method (for offline transactions) will be used for authentication.*

*One of the factors for such authentication for non-demat transactions will be a one-time password sent to the unit holder at his/her email or phone number registered with the AMC.*

*In case of demat transactions, the process of two-factor authentication as laid down by the depositories will be followed.*

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*Sebi has clarified that in case of systematic transactions, the requirement of such authentication will be applicable only at the time of registration.*

Related Link: [https://www.sebi.gov.in/legal/circulars/sep-2022/two-factor-authentication-for-transactions-in-units-of-mutual-funds\\_63557.html](https://www.sebi.gov.in/legal/circulars/sep-2022/two-factor-authentication-for-transactions-in-units-of-mutual-funds_63557.html)

## **Circular for Portfolio Managers**

Circular No.: SEBI/HO/IMD/IMD-I DOF1/P/CIR/2022/133

Dated: 30th September, 2022

*Market regulator Securities and Exchange Board of India (SEBI) has asked portfolio managers to have specific policies with respect to the management of client funds including the order placement, execution of orders, trade allocation amongst clients and other related matters.*

*The provisions of the Sebi's circular dated September 30, 2022 will come into effect from April 1, 2023.*

*Through these policies, investors of the PMS can know the specific situations (not generic) in which the orders will be placed for an individual investor or pooled from the trading account of the portfolio manager.*

*Investors will also get to know the scenarios/situations in which deviation from the allotment of securities as intended is allowed.*

*Further, portfolio managers are required to place certain margins/ collaterals in executing certain transactions. In such cases, details of how margins will be segregated amongst various clients will be provided by the PMS provider.*

*The regulator also mandated portfolio managers to ensure that the 'dealing team' which is responsible for order placement and execution has restricted access to mobile phones, computers and other devices to protect sharing of information.*

### **Audit trail**

*As per the Sebi circular, portfolio Managers with assets under management (AUM) of INR1000 crores or more under discretionary and non-discretionary services, must have an automated system with minimal manual intervention for ensuring effective funds and securities management.*

*They are also mandated to maintain an audit trail of all activities related to the management of funds including order placement, trade execution and allocation. Further, time stamping with respect to order placement, order execution and trade allocation has to be maintained.*

*The APMI (Association of Portfolio Managers in India), which was incorporated on 31st December 2021, will take all the necessary steps for implementing the rules set by SEBI.*

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Related Link: [https://www.sebi.gov.in/legal/circulars/sep-2022/circular-for-portfolio-managers\\_63561.html](https://www.sebi.gov.in/legal/circulars/sep-2022/circular-for-portfolio-managers_63561.html)

## ***Amendment to guidelines and extension of timeline for implementation of Standardized industry classification by Credit Rating Agencies (CRAs)***

Circular No.: SEBI/HO/DDHS/DDHS-RACPOD2/P/CIR/2022/134

Dated: 30th September, 2022

*New Delhi, Markets regulator Sebi on Friday extended the deadline by two months till November 30 for the implementation of standardised framework for the classification of industry by credit rating agencies. The framework is for rating exercise and research activities.*

*The deadline was to end on Friday.*

*In view of representation received from credit rating agencies, it has been decided to extend the date of applicability of the standardised industry classification to November 30 2022, the Securities and Exchange Board of India (Sebi) said in a circular.*

*Under the guidelines, credit rating agencies will have to implement standardised industry classification for the purpose of rating exercise, peer benchmarking and research activities.*

*The standardised framework will help bring about uniformity in the classifications being used across sectors and in securities market.*

*Further, Sebi said that monitoring of implementation of standardised industry classification will be done in terms of the half-yearly internal audit for credit rating agencies.*

Related Link: <https://www.sebi.gov.in/legal/circulars/sep-2022/amendment-to-guidelines-and-extension-of-timeline-for-implementation-of-standardized-industry-classification-by-credit-rating-agencies-cras-63573.html>

### **RBI UPDATES**

## ***IBA forms key working group of banks on sustainability***

Dated: 23rd September, 2022

*In a first, the Indian Banks' Association (IBA) has set up a large working group, comprising representatives of about a dozen-and-a-half key banks, solely for handling issues covering the entire spectrum of sustainability and green financing, in light of the growing importance of this segment in the financial sector. This working group will play an important role in firming up recommendations on sustainability finance and could be a useful tool for authorities ahead of India's G20 presidency in December, where*

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*Environmental, Social And Governance (ESG) issues will be a major talking point among participating countries.*

*Related Link:*<https://www.financialexpress.com/industry/banking-finance/iba-forms-key-working-group-of-banks-on-sustainability/2687854/>

## ***Rupee hits new low vs USD on hawkish Fed; poll shows currency at 81 by December***

*Dated: 23rd September, 2022*

*The rupee on September 22, 2022 hurtled to a new low against the dollar, weakening 1.1 per cent, as the Federal Reserve (Fed) on September 21, 2022 not only raised interest rates but signalled a longer monetary tightening cycle than was expected earlier. After suffering its steepest single-day fall since the Ukraine war broke out, the rupee settled at 80.87 as against 79.98 at the previous close. The domestic currency has depreciated 8 per cent so far in 2022.*

*Related Link:*[https://www.businessstandard.com/article/finance/rupee-sinks-to-new-lowsuffers-worst-single-day-fall-since-ukraine-war122092201032\\_1.html](https://www.businessstandard.com/article/finance/rupee-sinks-to-new-lowsuffers-worst-single-day-fall-since-ukraine-war122092201032_1.html)

## ***Foreign Trade Policy extended for six months***

*Dated: 26th September, 2022*

*The Government has received requests from Export Promotion Councils and leading exporters that we should continue with current Foreign Trade Policy (2015-20), which had been extended from time to time.*

*In recent days, exporters and industry bodies have strongly urged the government that in view of the prevailing, volatile global economic and geo-political situation, it would be advisable to extend the current policy for some time, and undertake more consultations before coming out with the new policy.*

*The Government has always involved all stakeholders in formulating policy. In view of this, it has been decided to extend the Foreign Trade Policy 2015-20, valid till Sept 30, 2022 for a further period of six months, w.e.f. October 1st, 2022.*

*Related Link:* <https://pib.gov.in/PressReleaselframePage.aspx?PRID=1862>

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## **RBI tells banks to make extra provisions for earlier defaults**

Dated: 27th September, 2022

The Reserve Bank of India (RBI) has identified a set of loan accounts, including companies owned by the State Governments which defaulted on repayments between FY20 and FY22, and has asked banks to make provisions against them retrospectively. The regulator recently conducted an inspection for FY22 and insisted that the banks set aside 20% of outstanding loans taken by the entities as provisions. RBI pulled up banks for not following a 07 June 2019 circular on the resolution of stressed assets, which mandated lenders to review loan accounts within 30 days of default.

Related Link: <https://www.livemint.com/industry/banking/rbi-tells-banks-to-make-extra-provisionsfor-earlier-defaults-11664212585845.html>

## **Growth in credit offtake at 9-yr high, with retail driving demand**

Dated: 27th September, 2022

Bank credit grew at 16.2 per cent in the fortnight ended September 9, the highest in about nine years, aided by revival in the economic activity post-Covid, increased working capital demand, rising discretionary spending and low-base effect. The outstanding bank credit stood at Rs. 125.5 lakh crore during the reporting fortnight, Rs. 17.5 lakh crore more than the Rs. 108.02 lakh crore during the fortnight ended September 10, 2021, as per the latest data released by the Reserve Bank of India.

Related Link: <https://indianexpress.com/article/business/banking-and-finance/growth-in-credit-offtake-at-9-yr-high-with-retail-driving-demand-8174784/>

## **Merchants seek wider testing of recurring payments**

Dated: 28th September, 2022

With less than a week remaining for implementation of Reserve Bank of India's (RBI) tokenisation mandate, top merchants have once again approached the regulator to direct banks, payment aggregators and card networks to ensure that recurring payments are tested widely to avoid disruptions.

Related Link: <https://economictimes.indiatimes.com/industry/banking/finance/banking/merchants-seek-wider-testing-of-recurring-payments/articleshow/94490396.cms>

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## **FM asks banks to fill backlog vacancies, boost SC coverage in all schemes**

Dated: 28th September, 2022

Finance Minister Nirmala Sitharaman on September 27, 2022 asked Public Sector Banks (PSBs) to fill the backlog vacancies of Scheduled Castes (SCs) in time bound manner and enhance their coverage in all schemes. It was also directed that the redressal of all pending grievances pertaining to the SC community may also be taken up in the special drive by the Department of Financial Services (DFS) from October 02, 2022. She also advised PSBs heads to look into the need for capacity building and entrepreneurship development as SCs constitute about 18 per cent of the total workforce of the banks and Financial Institutions (FIs).

Related Link: <https://economictimes.indiatimes.com/industry/banking/finance/banking/fm-asks-banks-to-fill-backlogvacancies-boost-sc-coverage-in-allschemes/articleshow/94488562.cms>

## **PSBs plan to set up big data and analytics verticals**

Dated: 28th September, 2022

State-run banks will set up dedicated verticals for big data and analytics, and integrate all data sources, eyeing a shift to a more data-driven decision-making. The move follows the Government's directive to lenders to strengthen data-driven, integrated and inclusive banking. In the next one year, Public Sector Banks (PSBs) will also roll out digital-only products and services, designed for minimum data entry, automated checks, and underwriting for retail customers and micro, small and medium enterprises.

Related Link: <https://economictimes.indiatimes.com/industry/banking/finance/banking/psbs-plan-to-set-up-big-data-andanalytics-verticals/articleshow/94517835.cms>

## **Tokens for card payments RBI unlikely to extend credit card security deadline**

Dated: 29th September, 2022

India's central bank is unlikely to extend a Friday (September 30, 2022) deadline for businesses to set up an additional layer of security for consumers' credit card data even after some concerns remain over payments failing and revenue losses, say bankers and merchants. Despite a demand by smaller merchants to delay the compliance date, there has been no indication so far by the central bank that there is likely to be an extension in deadline.

Related Link: <https://www.thehindubusinessline.com/money-andbanking/rbi-unlikely-to-extend-credit-card-securitydeadline/article65949209.ece>

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## *RBI hikes repo rate by 50 bps as battle on inflation continues in full swing*

*Dated: 30th September, 2022*

*In line with market expectations, the Reserve Bank of India (RBI) on September 30 announced a 50 basis points hike in the Repo Rate stepping up its fight against persistently high inflation. Repo is the rate at which the central bank lends short-term funds to banks. One BPS is one-hundredth of a percentage point. With the latest rate hike, the repo rate now stands at 5.9%. Announcing the policy decision, RBI Governor Shaktikanta Das highlighted the worry of the rate-setting panel on inflation and said the central bank is watching the price situation closely. Out of the six policy members, five voted in favour of a 50 BPS rate hike.*

*Related Link: <https://www.moneycontrol.com/news/business/rbi-hikes-repo-rate-by-50-bps-as-battle-on-inflation-continues-in-full-swing9249581.html>*

## *Liquidity Adjustment Facility- Change in rates*

*Notification No.: RBI/2022-2023/120*

*Dated: 30th September, 2022*

*As announced in the Monetary Policy Statement dated September 30, 2022, it has been decided by the Monetary Policy Committee (MPC) to increase the policy Repo rate under the Liquidity Adjustment Facility (LAF) by 50 basis points from 5.40 per cent to 5.90 per cent with immediate effect.*

*2. Consequently, the standing deposit facility (SDF) rate and marginal standing facility (MSF) rate stand adjusted to 5.65 per cent and 6.15 per cent respectively, with immediate effect.*

*3. All other terms and conditions of the extant LAF Scheme will remain unchanged.*

*Related Link: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12391&Mode=0>*

## *Standing Liquidity Facility for Primary Dealers*

*Notification No.: RBI/2022-23/121*

*Dated: 30th September, 2022*

*As announced in the Monetary Policy Statement 2022-23 today, it has been decided by the Monetary Policy Committee (MPC) to increase the policy repo rate under the Liquidity Adjustment Facility (LAF) by 50 basis points from 5.40 per cent to 5.90 per cent with immediate effect.*

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2. Accordingly, the Standing Liquidity Facility provided to Primary Dealers (PDs) (collateralised liquidity support) from the Reserve Bank would be available at the revised repo rate of 5.90 per cent with immediate effect.

Related Link: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12392&Mode=0>

## Late Submission Fee for reporting delays under Foreign Exchange Management Act, 1999 (FEMA)

Notification No.: RBI/2022-23/122

Dated: 30th September, 2022

The Late Submission Fee (LSF) was introduced for reporting delays in Foreign Investment (FI), External Commercial Borrowings (ECBs) and Overseas Investment related transactions with effect from November 07, 2017, January 16, 2019 and August 22, 2022 respectively. It has now been decided to bring uniformity in imposition of LSF across functions. The following matrix shall be used henceforth for calculation of LSF, wherever applicable:

S. No.	Type of Reporting delays	LSF Amount (INR)
1.	Form ODI Part-II/ APR, FCGPR (B), FLA Returns, Form OPI, evidence of investment or any other return which does not capture flows or any other periodical reporting	7500
2.	FC-GPR, FCTRS, Form ESOP, Form LLP(I), Form LLP(II), Form CN, Form DI, Form InVi, Form ODI-Part I, Form ODI-Part III, Form FC, Form ECB, Form ECB-2, Revised Form ECB or any other return which captures flows or returns which capture reporting of non-fund transactions or any other transactional reporting	$[7500 + (0.025\% \times A \times n)]$

### Notes:

- "n" is the number of years of delay in submission rounded-upwards to the nearest month and expressed up to 2 decimal points.
- "A" is the amount involved in the delayed reporting.
- LSF amount is per return. However, for any number of Form ECB-2 returns, delayed submission for each LRN will be treated as one instance for the fixed component. Further, 'A' for any ECB-2 return will be the gross inflow or outflow (including interest and other charges), whichever is more.
- Maximum LSF amount will be limited to 100 per cent of 'A' and will be rounded upwards to the nearest hundred.
- Where an advice has been issued for payment of LSF and such LSF is not paid within 30 days, such advice shall be considered as null and void and any LSF received beyond this period shall not be accepted. If the applicant subsequently approaches for payment of LSF for the same delayed reporting, the date of receipt of such application shall be treated as the reference date for the purpose of calculation of "n".

### Concerns:

M/s Indiacorp Law, Advocates & Solicitors, Noida & Jangpura Extension (New Delhi)

**Solicitors and Advocates**

- f) The facility for opting for LSF shall be available up to three years from the due date of reporting/ submission. The option of LSF shall also be available for delayed reporting/submissions under the Notification No. FEMA 120/2004-RB and earlier corresponding regulations, up to three years from the date of notification of Foreign Exchange Management (Overseas Investment) Regulations, 2022.
- g) In case a person responsible for any submission or filing under the provisions of FEMA, neither makes such submission/filing within the specified time nor makes such submission/filing along with LSF, such person shall be liable for penal action under the provisions of FEMA, 1999.
2. The above provisions shall come into effect immediately for the delayed filings made on or after the date of this circular.
3. All other provisions of reporting under FEMA remain unchanged. AD Category - I banks should bring the contents of this circular to the notice of their constituents and customers.
4. The 'Master Direction – Reporting under Foreign Exchange Management Act, 1999' and 'Master Direction - External Commercial Borrowings, Trade Credits and Structured Obligations' are being updated to reflect the changes.
5. The directions contained in this circular have been issued under section 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions/approvals, if any, required under any other law.

Related Link: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12393&Mode=0>

## Change in Bank Rate

Notification No.: RBI/2022-23/123

Dated: 30th September, 2022

Refer circular DOR.RET.REC.59/12.01.001/2022-23 dated August 05, 2022 on the captioned subject.

2. As announced in the Monetary Policy Statement 2022-23 dated September 30, 2022, the Bank Rate is revised upwards by 50 basis points from 5.65 per cent to 6.15 per cent with immediate effect.
3. All penal interest rates on shortfall in reserve requirements, which are specifically linked to the Bank Rate, also stand revised as indicated in the Annex.

**Applicability**

4. This circular is applicable to all the banks.

Related Link: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12394&Mode=0>

**Concerns:**

M/s Indiacorp Law, Advocates & Solicitors, Noida & Jangpura Extension (New Delhi)

## **Lending and Deposit Rates of Scheduled Commercial Banks - September 2022**

Press Release No.: 2022-2023/976

Dated: 30th September, 2022

Data on lending and deposit rates of scheduled commercial banks (SCBs) (excluding regional rural banks and small finance banks) for the month of September 2022.

### **Highlights**

#### **Lending Rates:**

- The weighted average lending rate (WALR) on fresh rupee loans of SCBs increased by 15 basis points (bps) from 8.18 per cent in July 2022 to 8.33 per cent in August 2022.
- The WALR on outstanding rupee loans of SCBs increased by 14 bps from 8.99 per cent to 9.13 per cent in August 2022.
- 1-Year median Marginal Cost of Fund based Lending Rate (MCLR) of SCBs increased from 7.65 per cent in August 2022 to 7.75 per cent in September 2022.
- The share of External Benchmark based Lending Rate (EBLR) linked loans in total outstanding floating rate rupee loans of SCBs was 46.9 per cent at end-June 2022 while that of MCLR linked loans was 46.5 per cent.

#### **Deposit Rates:**

- The weighted average domestic term deposit rate (WADTDR) on outstanding rupee term deposits of SCBs increased by 7 bps from 5.22 per cent in July 2022 to 5.29 per cent in August 2022.

Related Link: [https://www.rbi.org.in/Scripts/BS\\_PressReleaseDisplay.aspx?prid=54473](https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=54473)

## **IBC & NCLT UPDATES**

### **Harassing borrowers by approaching multiple Courts amounted to forum shopping, CIRP order was to be rejected: NCLAT**

Dated: 24 Sep 2022

Where financial creditor bank approached multiple Courts just to harass borrowers and guarantor in time consuming and expensive litigation, such action of bank fell under category of forum shopping and, therefore, ex parte CIRP order passed by NCLT against corporate guarantor on application of said bank was to be set aside and matter was to be remanded back to decide matter afresh.

Related Link: [Harassing borrowers by approaching multiple Courts amounted to forum shopping, CIRP order was to be rejected: NCLAT - Taxmann](#)

#### **Concerns:**

M/s Indiacorp Law, Advocates & Solicitors, Noida & Jangpura Extension (New Delhi)

## *No appeal lies u/s 62 to SC against NCLAT order staying constitution of CoC to enable withdrawal of CIRP plea: SC*

*Dated: 24 Sep 2022*

*Before CoC is constituted, applicant allowed to withdraw his admitted CIRP application without consent of creditors.*

*Related Link:* [No appeal lies u/s 62 to SC against NCLAT order staying constitution of CoC to enable withdrawal of CIRP plea: SC - Taxmann](#)

## *In view of section 238, steps taken by AA would have precedence over other authorities in parallel proceedings: NCLT*

*Dated: 24 Sep 2022*

*In view of section 238, steps taken under Code by Authority would have precedence over other authorities in parallel proceedings and provision of I&B Code should prevail in case of any conflict and, therefore application filed by applicant on ground that proceedings before DRT needed to be completed before distribution under IBC took place was misconceived.*

*Related Link:* [In view of section 238, steps taken by AA would have precedence over other authorities in parallel proceedings: NCLT - Taxmann](#)

## *CIRP proceedings u/s 7 can be initiated against both co-borrowers but there can be no double recovery: SC*

*Dated: 24 Sep 2022*

*CIRP proceedings u/s 7 can be initiated against both corporate co-borrowers but there can be no double recovery of same amount from both.*

*Related Link:* [CIRP proceedings u/s 7 can be initiated against both co-borrowers but there can be no double recovery: SC - Taxmann](#)

## *NCLAT dismisses Siemens' plea against encashment of its guarantee in MEL*

*Dated: 24 Sep 2022*

*The National Company Law Appellate Tribunal (NCLAT) has dismissed an appeal by Siemens Ltd against the invocation of its bank guarantees by Meenakshi Energy. Meenakshi Energy Ltd (MEL) which is presently facing insolvency proceedings, was setting up a 700 MW thermal plant, in which Siemens was a sub-contractor for the project. The appellate tribunal has upheld the earlier order of the Hyderabad bench of the National Company Law Tribunal (NCLT)*

### **Concerns:**

*M/s Indiacorp Law, Advocates & Solicitors, Noida & Jangpura Extension (New Delhi)*



*in this regard and noted the bank guarantees were invoked by MEL on the ground that Siemens failed to perform its obligations in terms of the agreements. "... Also keeping in view that we do not find any material on record with respect to any fraud, we do not find any illegality or infirmity in the order of the Impugned Order (of NCLT)," said a two-member NCLAT bench. The Resolution Professional of MEL had sought permission for the release of Rs 2.50 crore and permitted it to be utilised against the overall outstanding amount of Rs 13.06 crore to ensure MEL's plant is kept running. On this NCLAT said, "Having regard to all the aforementioned reasons, we hold that the amount may be utilised for the functioning of the Corporate Debtor' (MEL) as a Going Concern."*

Related Link: [https://www.business-standard.com/article/companies/nclat-dismisses-siemens-plea-against-encashment-of-its-guarantee-in-mel-122092500388\\_1.html](https://www.business-standard.com/article/companies/nclat-dismisses-siemens-plea-against-encashment-of-its-guarantee-in-mel-122092500388_1.html)

## ***Approval of RP with 100% voting and with slight modifications in amount to be paid to workmen was to be upheld: NCLAT***

*Dated: 26 Sep 2022*

*Where successful resolution plan had been considered by CoC and approved by a majority of 100 per cent of members' voting share in CoC according to provisions of section 30(4) and approved resolution plan complied with provisions of IBC with slight modification in amounts proposed to be paid to workmen and employees in relation to their dues including provident fund, approval of resolution plan by Adjudicating Authority was to be upheld with said modifications.*

Related Link: [Approval of RP with 100% voting and with slight modifications in amount to be paid to workmen was to be upheld: NCLAT - Taxmann](#)

## ***Non-executive director who wasn't involved in the management of Co. affairs couldn't be disqualified u/s 29A: NCLAT***

*Dated: 26 Sep 2022*

*Where scheme of compromise and arrangement, was submitted by an independent non-executive director who was neither having control nor involved in management of company affairs, disqualification under section 29A could not be attached to him as per regulation 2B of IBBI (Liquidation Process) Regulations, 2016*

Related Link: [Non-executive director who wasn't involved in the management of Co. affairs couldn't be disqualified u/s 29A: NCLAT - Taxmann](#)

### **Concerns:**

M/s Indiacorp Law, Advocates & Solicitors, Noida & Jangpura Extension (New Delhi)

## *Houses constructed by builder corporate debtor weren't its assets; sale deeds could be executed during moratorium: NCLAT*

*Dated: 27 Sep 2022*

*Where allottees/buyers invested in real estate project of corporate debtor and corporate debtor gave them possession prior to initiation of CIRP, however, sale deed in favour of allottees were not executed, houses so constructed being business of corporate debtor were not assets of corporate debtor for purpose of moratorium and sale deed in respect of same could be executed even during moratorium.*

*Related Link:*[Houses constructed by builder corporate debtor weren't its assets; sale deeds could be executed during moratorium: NCLAT - Taxmann](#)

## *Liquidator can't verify the amount of fee payable to RP as it wasn't a claim and would come under ambit of IRP cost: NCLAT*

*Dated: 27 Sep 2022*

*Liquidator can only verify and adjudicate claims as defined under section 3(6); amount of fees and expenses payable to RP is not a claim and would come under ambit of IRP cost and, therefore, same cannot be determined and verified by liquidator.*

*Related Link:*[Liquidator can't verify the amount of fee payable to RP as it wasn't a claim and would come under ambit of IRP cost: NCLAT - Taxmann](#)

## *Initiation of CIRP by IRP after settlement scheme was contrary to statutory scheme contained in section 12A: NCLAT*

*Dated: 28 Sep 2022*

*Where parties had been entered into settlement and entire operational debt was paid and an application for withdrawal of CIRP application had also been filed by IRP, constituting a CoC after said settlement and proceeding CIRP by IRP was contrary to statutory scheme contained in section 12A, read with regulation 30A(1)(a)*

*Related Link:*[Initiation of CIRP by IRP after settlement scheme was contrary to statutory scheme contained in section 12A: NCLAT - Taxmann](#)

### **Concerns:**

*M/s Indiacorp Law, Advocates & Solicitors, Noida & Jangpura Extension (New Delhi)*

## *Distribution value attributable to each secured creditor approved of by CoC not to be interfered with: NCLAT*

*Dated: 28 Sep 2022*

*Where liquidation value attributable to appellant-financial creditor was reduced pursuant to approval of resolution plan based on 2nd valuation report obtained by CoC due to significant fall in book value of corporate debtor, there was no bar under IBC for CoC to call for a fresh valuation report and, therefore, CoC was justified in obtaining fresh liquidation value*

*Related Link:*[Distribution value attributable to each secured creditor approved of by CoC not to be interfered with: NCLAT - Taxmann](#)

## *IBBI expands scope of term 'professional member'; allows insolvency professional entity to get enrolled as a member*

*Dated: 29 Sep 2022*

*The IBBI has notified the IBBI (Insolvency Professionals) (Fourth Amendment) Regulations, 2022. An amendment has been made to regulation 2, 4, 7, 7A, 12, 13, First Schedule and Second Schedule. As per the amendment, "professional member" means an individual or an insolvency professional entity recognised by the Board under regulation 13 who has been enrolled as a member of an insolvency professional agency. Earlier, only individuals were covered under the term 'professional member'.*

*Related Link:*[IBBI expands scope of term 'professional member'; allows insolvency professional entity to get enrolled as a member - Taxmann](#)

## *Revision of tenure of Members in NCLAT – MCA*

*Dated: 29 Sep 2022 Notification No. SO-4581/SO-4582/SO-4583*

*In exercise of the powers conferred by section 410 of the Companies Act, 2013 (18 of 2013) read with sub-section (2) of section 3 and section 5 of the Tribunals Reforms Act, 2021 (33 of 2021), the Central Government hereby extends the tenure of Shri KanthiNarahari as Technical Member in the National Company Law Appellate Tribunal appointed, vide Notification No. S.O. 2220 (E), dated the 28th June, 2019, published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (ii), with same terms and conditions for a period of one year or till attaining the age of 67 years or until further order, whichever is the earliest with effect from 10th April, 2022.*

*Related Link:*[IBC Laws - Revision of tenure of Members in NCLAT - MCA Notification No. SO-4581/SO-4582/SO-4583 dated 29.09.2022](#)

### **Concerns:**

M/s Indiacorp Law, Advocates & Solicitors, Noida & Jangpura Extension (New Delhi)

## *NCLT's order declaring a transaction as preferential based on auditor's report was free from legal infirmity: NCLAT*

*Dated: 30 Sep 2022*

*Where appellant-director of corporate debtor contended that NCLT erred in entertaining application filed by liquidator invoking section 43 without producing documents on which he relied, liquidator made application before NCLT on basis of auditor's report and was having sufficient evidence/material to establish its case and, therefore, order passed by NCLT was free from any legal infirmity.*

*Related Link:*[NCLT's order declaring a transaction as preferential based on auditor's report was free from legal infirmity: NCLAT - Taxmann](#)

## *Controversy/dispute relating to 'extent of liability' is not a determining factor at stage of initiation of 'CIRP': NCLAT*

*Dated: 30 Sep 2022*

*Controversy/dispute relating to 'extent of liability' is not a determining factor at stage of initiation of 'CIRP'; where corporate debtor executed a corporate guarantee through guarantee agreement for repayment of loan due and payable by principal borrower but when CIRP was admitted against principal borrower and FC invoking guarantee issued demand notice, corporate debtor did not repay financial debt, default committed by corporate debtor was proved and, therefore,*

*Related Link:*[Controversy/dispute relating to 'extent of liability' is not a determining factor at stage of initiation of 'CIRP': NCLAT - Taxmann](#)

## *IBBI amends norms; allows Insolvency Professional Entities to act as IPs*

*Dated: Sep 30, 2022*

*Regulator IBBI has allowed Insolvency Professional Entities (IPEs) to act as insolvency professionals, a move that is likely to help in speedier resolution process. Till now, only individuals were permitted to register as insolvency professionals under the Insolvency and Bankruptcy Code (IBC), which provides for a market-linked and time-bound resolution of stressed assets.*

*"Considering the limitations on the part of an Insolvency Professional (IP), being an individual, in dealing with processes under the Code requiring concurrent efforts, and multi-disciplinary expertise, the board decided to institutionalise the profession of IP," the regulator said in a release on Friday.*

*Related Link:* <https://economictimes.indiatimes.com/news/economy/policy/ibbi-amends-norms-allows-insolvency-professional-entities-to-act-as-ips/articleshow/94561307.cms>

### **Concerns:**

*M/s Indiacorp Law, Advocates & Solicitors, Noida & Jangpura Extension (New Delhi)*

## OTHER UPDATES

### *Amendments to the Finance Act 2022 has been notified w.e.f. October 01, 2022*

Notification No.: 18/2022

Dated: 28th September, 2022

CBIC has notified October 01, 2022 as the date on which provisions of sections 100 to 114 (related to amendments in Central Goods and Services Tax Act, 2017), except clause (c) of section 110 and section 111 of Finance Act, 2022 shall come into force.

Related Link: <https://taxinformation.cbic.gov.in/view-pdf/1009513/ENG/Notifications>

### *Central Goods and Services Tax (Second Amendment) Rules, 2022*

Notification No.: 19/2022

Dated: 28th September, 2022

This notification seeks to make amendments (Second Amendment, 2022) to the CGST Rules, 2017. In rule 96 of the said rules, in sub-rule (3), for the words, letters and figures, —FORM GSTR3 or FORM GSTR-3B, as the case may be, the letters and figure, —FORM GSTR-3B shall be substituted. FORM GSTR-1A, FORM GSTR-2 and FORM GSTR-3 of the said rules shall be omitted.

Related Link: [https://www.cbic.gov.in/resources/htdocs-cbec/gst/19\\_2022\\_CT\\_Eng.pdf](https://www.cbic.gov.in/resources/htdocs-cbec/gst/19_2022_CT_Eng.pdf)

### *CBIC has rescinded the notification extending the due date for filing of the application for GST Refund under section 55 by notified agencies*

Notification No.: 20/2022

Dated: 28th September, 2022

This notification seeks to rescind Notification No. 20/2018-CT dated March 28, 2018. The rescinded notification relates to extension of due date for filing of application for refund under section 55 of Central Goods and Services Act, 2017 by notified agencies.

Related Link: [https://www.cbic.gov.in/resources/htdocs-cbec/gst/20\\_2022\\_CT\\_Eng.pdf](https://www.cbic.gov.in/resources/htdocs-cbec/gst/20_2022_CT_Eng.pdf)

#### **Concerns:**

M/s Indiacorp Law, Advocates & Solicitors, Noida & Jangpura Extension (New Delhi)

***CBDT extends the due date for filing of various reports of audit for Assessment Year 2022-23 from 30th September, 2022 to 7th October, 2022 for certain categories of assesses***

*Circular No.: 19/2022*

*Dated: 30th September, 2022*

*The Central Board of Direct Taxes (CBDT) has extended the timeline for filing various reports of audit for Assessment Year 2022-23 under the Income Tax Act, 1961, for certain categories of assesseees.*

*The CBDT, vide Circular No. 19/2022, dated 30.09.2022, and has extended the due date from 30th September, 2022 to 7th October, 2022.*

*"On consideration of difficulties faced by the taxpayers and other stakeholders in electronic filing of various reports of audit under the provisions of the Income-tax Act, 1961 (Act), the Central Board of Direct Taxes (CBDT), in exercise of its powers under Section 119 of the Act, extends the due date of furnishing of report of audit under any provision of the Act for the Previous Year 2021- 22, which was 30th September 2022 in the case of assesses referred in clause (a) of Explanation 2 to sub-section (1) of section 139 of the Act, to 07th October, 2022", the Circular provides.*

*Related Link: <https://incometaxindia.gov.in/communications/circular/circular-no-19-2022-ita-ii.pdf>*

**Thanking You,**

**Team Indiacorp**

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