

WEEKLY CORPORATE UPDATES

Saturday 10th June, 2023

(Curated & compiled by)

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SEBI UPDATES

SEBI to digitise investor service requests, complaints by RTA's processing

Dated: 8th June, 2023

SEBI has floated Capital markets regulator Sebi on Thursday decided to provide a mechanism for processing of investors' service requests and complaints through online mode by RTAs

Capital markets regulator Sebi on Thursday decided to provide a mechanism for processing of investors' service requests and complaints through online mode by RTAs and thereafter track the status as well as obtain periodical updates.

Looking to digitise the process in two phases, Sebi said that the mechanism would provide benefits such as a database for service requests and complaints, online acknowledgement and intimation to the investor and online tracking of status of service requests and complaints by investors.

At present, holders of physical security certificates are required to submit various documents to the registrars to an issue and share transfer agents (RTAs) with respect to various service requests such as issuance of duplicate security certificates, folio consolidation and services through depository participants such as dematerialisation and rematerialisation.

In the first phase, Sebi said that all RTAs servicing listed companies will have a functional website. Such a website will mandatorily display basic details of the RTA like registration number, registered address of head office and branches, names and contact details of key managerial personnel (KMPs) including compliance officer, according to a circular.

In addition, such websites will have to display step-by-step procedures for various service requests, Frequently Asked Questions (FAQs), procedure for filing a complaint and finding out the status of the complaint.

Further, all RTAs will have to set up a user-friendly online mechanism or portal for service requests with certain minimum features.

Sebi has directed qualified RTAs or QRTAs to implement the direction of an online system along with a functional website from January 1, 2024, while the same for all RTAs is June 1, 2024.

Thereafter in the second phase, the markets regulator said that a common website will be made and operated by QRTAs from July 1, next year, through which investors will be redirected to individual web-based portals of the concerned RTA for further resolution by putting the name of the listed company.

This website will have the functionality of adding companies and RTAs to its search list as and when required.

Related Link: https://www.business-standard.com/markets/news/sebi-to-digitise-investor-service-requests-complaints-by-rtas-processing-123060800830_1.html

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SEBI releases framework for stock brokers, clearing members to upstream client funds

Dated: 8th June, 2023

The market regulator has released the framework for stock-brokers and clearing members for the upstreaming of client funds.

The Securities and Exchange Board of India (Sebi) had decided on the upstreaming of all client funds held by stock-brokers (SBs) and clearing members (CMs) to protect client funds.

In the latest circular, Sebi has said that the client funds have to be upstreamed to the clearing corporation (CCs) only in the form of cash, lien on fixed-deposits receipts (FDRs) or the pledge of units of Mutual Fund Overnight Schemes (MFOS).

“Units of Mutual Fund Overnight Schemes (MFOS) is a new avenue being made available to SBs/ CMs to deploy client funds into. MFOS ensures minimal risk transformation of client funds (that are withdrawable on demand) available with SBs/ CMs because of overnight tenure and exposure to only risk-free government securities,” said the circular.

The tenure of such FDRs should not be more than one year and the FDR should be pre-terminable on demand. The principal amount of the FDR should remain protected throughout the tenure, even after accounting for all possible pre-termination costs.

The circular added that the SBs/CMs should not avail any funded or non-funded banking facilities based on FDRs created out of clients’ funds.

For upstreaming via MFOS units, the SBs/CMs have to ensure that client funds are invested only in such MFOS that deploy funds into risk-free government bond overnight repo markets and overnight Triparty Repo Dealing and Settlement (TREPS). Such MFOS units should be in dematerialised (demat) form, and must necessarily be pledged with a CC at all times, stated the circular.

Related Link: <https://www.moneycontrol.com/news/business/markets/sebi-releases-framework-for-stock-brokers-clearing-members-to-upstream-client-funds-10766951.html>

Finmin notifies Delhi Court to speed up trial in SEBI, Depositories Act offences

Dated: 6th June, 2023

The finance ministry has notified a special court for speedy trial for those who have committed offences under the Securities Exchange Board of India (Sebi) Act, 1992 and Depositories Act, 1996.

According to the notification, the Chief Justice of Delhi High Court has concurred with the ministry's proposal and has designated Additional Sessions Judge-03 at Dwarka, Delhi as the Special Court for this purpose.

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Section 26A of the Sebi Act and Section 22C of the Depositories Act empowers the government to notify a special court for the purpose of speedy trial of offences committed under the Act. Similarly, Section 22C of the Depositories Act empowers the government to designate a court for trial of offence. Both the laws mandate that a special court should be designated in consultation with the chief justice of the high court in whose jurisdiction the special court is to be established.

Violation of these laws have both civil and criminal consequences. While civil consequences are dealt with by SEBI and Securities Appellate Tribunal (SAT), the criminal consequences will have to be tried (undergo a trial) in the court of law. Criminal law demands that any offence must be proved beyond reasonable doubt for conviction, hence the trial process which evaluates the documents on record and the witnesses must be conducted before adjudicating whether a person is guilty or not.

Related Link: <https://www.moneycontrol.com/news/trends/legal/finmin-asks-delhi-court-to-speed-up-trial-in-sebi-depositories-act-offences-10748481.html>

RBI UPDATES

RBI notified regarding the Expanding the scope of Trade Receivables Discounting System

Dated: 07th June, 2023

The Reserve Bank of India (RBI) on June 07, 2023, issued a notification regarding the Expanding the Scope of Trade Receivables Discounting System.

The following has been stated namely: -

The Reserve Bank of India (RBI) issued the 'Guidelines for the Trade Receivables Discounting System (TReDS)' to allow financing/discounting of MSME receivables on a "without recourse" basis by permitted financiers.

- Currently, three entities operate TReDS platforms in the country; one more entity has also been given in-principle authorisation to operate such platforms.

- The following enhancements are made to the TReDS guidelines: -

1. Facilitate insurance for transactions: The insurance facility is being permitted for TReDS transactions, which would aid financiers to hedge default risks, subject to the following:

- a. Apart from MSME sellers, buyers, and financiers, insurance companies are permitted to participate as "fourth participant" in TReDS.

- b. In their business/operational rules, the TReDS platform operators may specify the stage at which the insurance facility can be availed.

- c. Premium for insurance shall not be levied on the MSME seller.

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2. *Expand the pool of financiers: All entities/institutions allowed to undertake factoring business under FRA and the rules/regulations made thereunder, are now permitted to participate as financiers in TReDS. This would augment the availability of financiers on TReDS platforms.*

3. *Enable secondary market for Factoring Units (FUs): TReDS platform operators may, at their discretion, enable a secondary market for the transfer of FUs within the same TReDS platform. Such transfers shall, however, be subject to the applicable provisions of RBI.*

Related Link: <https://www.teamleasereqtech.com/updates/article/24178/rbi-notified-regarding-the-expanding-the-scope-of-trade-receivables-di/>

RBI updates 'Alert List' of entities not authorized to deal in forex trading

Dated: 07th June, 2023

The Reserve Bank on Wednesday updated its 'Alert List' for the public on unauthorized forex trading platforms by adding eight more entities taking the total to 56. In September last year, the central bank came out with an 'Alert List' of unauthorized forex trading platforms containing the names of 34 entities.

The list was updated in February also. Now there are 56 entries in the list.

The names added on Wednesday are: QFX Markets, WinTrade, Guru Trade7 Limited, Bric Trade, Rubik Trade, Dream Trade, Mini Trade, and Trust Trade.

The authorization status of any person/Electronic Trading Platform (ETP) can be ascertained from the list of authorized persons and authorized ETPs available on the RBI's website.

The RBI had cautioned residents against entities/platforms/websites promoting unauthorized forex trade.

It had also reiterated that residents using any means to remit/deposit funds, directly or indirectly, in INR or in any other currency, for undertaking forex transactions for purposes other than those permitted under the FEMA or on ETPs not authorized by the RBI shall render themselves liable for penal action under the provisions of FEMA.

Related Link: <https://economictimes.indiatimes.com/markets/stocks/news/rbi-updates-alert-list-of-entities-not-authorized-to-deal-in-forex-trading/articleshow/100828562.cms?from=mdr>

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RBI Governor launches financial inclusion dashboard 'Antardrishti'

Dated: 05th June, 2023

The dashboard, presently intended for internal use in the RBI, will further facilitate greater financial inclusion through a multi-stakeholder approach

RBI Governor Shaktikanta Das on Monday launched a financial inclusion dashboard named 'Antardrishti'.

The dashboard would, as its name suggests, provide the necessary knowledge to evaluate and track the development of financial inclusion by recording relevant data, according to a statement.

Related Link: https://www.business-standard.com/finance/news/rbi-governor-launches-financial-inclusion-dashboard-antardrishti-123060501160_1.html

RBI Framework for Compromise Settlements and Technical Write-offs

Dated: 09th June, 2023

The Reserve Bank of India (RBI) on Thursday issued a framework for governing compromise settlements and technical write-offs. Regulated entities shall put in place board-approved policies for undertaking compromise settlements with the borrowers as well as for technical write-offs.

Compromise settlement refers to any negotiated arrangement with the borrower to fully settle the claims of the regulated entity against the borrower in cash. It may entail some sacrifice of the amount due from the borrower on the part of the regulated entity with corresponding waiver of claims of the regulated entity against the borrower to that extent.

Regulated Entities shall put in place board-approved policies for undertaking compromise settlements with the borrowers as well as for technical write-offs. Technical write-off refers to cases where the non-performing assets remain outstanding at borrowers' loan account level, but are written-off either partially or fully by the regulated entity only for accounting purposes, without involving any waiver of claims against the borrower, and without prejudice to the recovery of the same.

The board-approved policy shall comprehensively lay down the process to be followed for all compromise settlements and technical write-offs, with specific guidance on the necessary conditions precedent such as minimum ageing, deterioration in collateral value. The policies shall also put in place a graded framework for examination of staff accountability in such cases with reasonable thresholds and timelines as may be decided by the board.

The regulated entities must undertake settlements or technical write-offs in respect of accounts categorised as wilful defaulters or fraud without prejudice to the criminal proceeding underway against such debtors.

Related Link: <https://www.financialexpress.com/industry/banking-finance/rbi-issues-framework-for-compromise-settlements/3119008/>

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RBI issues guidelines on default loss guarantee in digital lending

Dated: 09th June, 2023

The Reserve Bank on Thursday came out with guidelines on default loss guarantee (DLG) in digital lending, a move aimed at ensuring the orderly development of the credit delivery system. DLG is a contractual arrangement between a regulated entity (RE) and an entity meeting prescribed norms, under which the latter guarantees to compensate the RE, loss due to default up to a certain percentage of the loan portfolio specified upfront.

RE refers to entities, like banks and NBFCs, which are regulated by the RBI.

Last year, the Reserve Bank issued the regulatory framework for digital lending.

With a view to further promoting responsible innovation and prudent risk management, it has been decided to issue guidelines on Default Loss Guarantee arrangements in Digital Lending, RBI Governor Shaktikanta Das said while announcing the monetary policy earlier in the day.

This, he said, will further facilitate the orderly development of the digital lending ecosystem and enhance credit penetration in the economy.

The guidelines further said RE should ensure that the total amount of DLG cover on any outstanding portfolio, which is specified upfront, should not exceed 5 per cent of the amount of that loan portfolio.

"In case of implicit guarantee arrangements, the DLG provider shall not bear performance risk of more than the equivalent amount of five per cent of the underlying loan portfolio," it added.

It also said recognition of individual loan assets in the portfolio as NPA and consequent provisioning will be the responsibility of the RE.

Also, the REs will have put in place a Board approved policy before entering into any DLG arrangement.

Related Link: <https://legal.economictimes.indiatimes.com/news/regulators/rbi-issues-guidelines-on-default-loss-guarantee-in-digital-lending/100882903>

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IBBI Proposes Measures to Enhance Resolution Chances, RP Value & Timely Resolution in Insolvency Cases

Dated: 9th June, 2023

IBC Paper, Dated 07.06.2023

The IBBI has observed that the resolution process under the code is criticized on 2 grounds namely fewer companies are being resolved with lesser value realisation & time taken for resolution is longer than the time prescribed by law. Therefore, IBBI has floated discussion papers to resolve the same.

The proposals include timeline for providing information for assignment of debt, seeking information from personnel of the corporate debtor, Modification of Timelines for Submission and Consolidation of Claims, Increase of duties of Authorised Representative, etc.

1. IBBI Proposes fee increase for Authorised Representatives in CIRP to streamline costs and avoid administrative complexities

The discussion papers have proposed the increase of fee of Authorised Representative. Now, it is proposed that the fee for the AR is designed to be incorporated within the overall cost of the CIRP.

2. Propose to amend the norms w.r.t replacement of authorised representative

It is proposed that the creditors in a class with 10% voting powers may seek replacement of the AR by making a request to the RP and may choose to give a choice of insolvency professional who shall act as an AR in the matter.

3. IBBI proposes to mandate requirement of providing a detailed chronology of debt & default

It is proposed that along with the application under sections 7 or 9, as the case may be, for the initiation of corporate insolvency resolution process, the financial creditor or the operational creditor shall also submit an affidavit, providing a detailed chronology of the debt and default, and explaining why the application is not barred by the limitation.

4. IBBI in plan to introduce preference voting for approval of resolution plan

In order to ensure that preference of plan is captured, and creditors are able to vote freely, it is proposed to use system of voting with preference.

5. IBBI proposes to mandate audit of Insolvency Resolution Process Cost (IRPC)

The existing CIRP Regulations provide what constitutes Insolvency Resolution Process Cost (IRPC) but they do not necessitate an audit of these costs. However, considering the significant bearing these costs can have on the overall resolution process, it becomes crucial to assure their veracity.

Therefore, it is proposed to introduce an audit requirement for CIRPs involving CDs of a certain asset size within the CIRP Regulations. Audit timing, eligibility and disqualifications were also provided. Various other proposals were notified. The Comments may be submitted electronically by 27th June, 2023.

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Customised IBC resolutions in the works for real estate

Dated: June 9th, 2023

The government would probably change the insolvency law to permit "customised resolutions" of insolvent residential real estate projects to assure prompt delivery of flats to homebuyers in troubled housing projects, according to a media report by the Economic Times (ET).

The proposed revisions to the Insolvency and Bankruptcy Code (IBC) would permit resolution depending on the nature of the projects rather than imposing a rigid framework on the whole real estate sector, people familiar with the matter said to ET.

According to them, the action will aid in halting the value erosion of distressed housing projects. It is one of a number of adjustments the government is preparing to strengthen the corporate insolvency resolution procedure under the IBC.

"After comprehensive discussions with stakeholders, it's felt that we can't have one standard method for resolution of stress in real estate where issues are much complex and sensitive unlike many other sectors," one of the persons told ET. "So, there could be enabling provisions for innovative, customised resolutions (in addition to other provisions) for this sector," the person said.

Such resolutions might, however, be required to follow the fundamental IBC structure. Additionally, according to the sources, such settlement formats might need approval from the National Company Law Tribunal (NCLT).

Some analysts said the real estate sector, being unique in nature where homebuyers are also financial creditors under the IBC, warrants "unique resolution process", said ET in its report.

Anoop Rawat, partner, insolvency and bankruptcy, at law firm ShardulAmarchandMangaldas & Co, pointed out that issues of financing, construction and completion of each real estate project are different. "It is, therefore, apt to have project-specific insolvency processes for realty except where the entire company is in stress and defaults have taken place across all or in most of the projects," he said to ET.

Related Link: <https://www.livemint.com/market/stock-market-news/customised-ibc-resolutions-in-the-works-for-real-estate-11686278868707.html>

Filing of a claim under a wrong category cannot be substantial ground for condoning the delay-Mr. Toral Rathod vs.Mr. Gopalsamy Ganesh Babu (RP of Milan Textile Enterprises Pvt. Ltd.)- NCLAT Chennai

Dated: June 9th, 2023

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Case Citation: (2023) ibclaw.in 365 NCLAT

NCLAT held that the ground taken by the Counsel for the Appellant that it was initially filed under Form-B as an Operational Creditor which was rejected, and thereafter the Appellant had resubmitted her Claim under Form-C on 07.08.2022, does not strengthen or substantiate her case as the timelines given under IBC are to be strictly adhered to and any latches on behalf of the Appellant in filing, the claim under a wrong category cannot be a substantial ground for condoning the delay. It is also significant to mention that the Appellant approached the Adjudicating Authority with a further delay of 100 days, and the only reason that was given is that they were seeking legal advice, which the Adjudicating Authority has rightly held is only a bald explanation and does not construe a sufficient cause for the delay.

Related Link: <https://ibclaw.in/mr-toral-rathod-vs-mr-gopalsamy-ganesh-babu-rp-of-milan-textile-enterprises-pvt-ltd-nclat-chennai/>

BCI signs MOU with Bar Council of England & Wales for Mutual Exchange Program of Lawyers & Law Students

Dated: June 6th, 2023

The Bar Council of India has entered into a Memorandum of Understanding with Bar Council of England and Wales & Law Society of England and Wales for an exchange programme of Lawyers and Law Students for mutual exchange of training & learning amongst each other's jurisdiction.

Under the MoU, the Bar Council of India has been authorized to recommend some young Lawyers to the Law Society and to the Bar Council of England & Wales to provide opportunities of training and learning in International Law Firms, good Law Offices and in English Law Courts.

However, the Lawyers recommended by the Bar Council of India shall have no right to practice in UK in terms of the MOU. The purpose is to only facilitate an opportunity of learning and gaining experience in both jurisdictions.

In a similar manner, selected Law Students will be recommended by BCI for undergoing internships to the Bar bodies of U.K.

The MoU further provides for extending training facilities to the solicitors & Barristers of England and Wales. Such trainee Solicitors & Barristers shall not be allowed to practice in any form in India under the terms of the MOU and the 90 days programme shall only be confined to training and learning only.

The MoU was signed at a meeting held at London on June 5 by the Chairman of Bar Council of India, the President of Bar Council of England and Wales as well as President of Law Society of England and Wales.

In the course of the meeting, the Chairman of BCI, Mr. Manan Kumar Mishra informed the delegates that the Regulations regarding entry of Foreign Lawyers in India needed certain crucial changes. The Vice-Chairman Mr. S.

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Prabakaran stated that BCI has received representations from Indian Law Firms and a section of the Indian Bar. The opinion of foreign bodies will also be welcomed on this issue.

The BCI clarified in a press release that the issue of practice of foreign/UK Lawyers in India and vice versa in UK in any form including International Commercial Arbitration, relating to laws of their respective countries, and in non-litigious areas are not governed or touched upon in the MoU and they remain to be governed by Bar Council of India Rules for Registration and Regulation of Foreign Lawyers and Foreign Law Firms in India, 2022 framed by BCI (which the BCI is proposing to revisit, with a view to address the issues raised by Law Firms & a few Lawyers of India & abroad).

Related Link: <https://www.livelaw.in/top-stories/bci-signs-mou-with-bar-council-of-england-wales-for-mutual-exchange-program-of-lawyers-law-students-230156>

OTHERS

Delhi High Court directs All District Courts to allow Hybrid Hearings for All Cases in National Capital

Dated: June 5th 2023

The Delhi High Court on Monday directed all district courts in the national capital to permit any of the parties or their lawyers to appear through hybrid or video-conferencing mode during court proceedings, without any requirement of a prior request.

“The hearings shall be conducted in hybrid/video-conferencing mode in conformity with the High Court of Delhi Rules for Video Conferencing for Courts, 2021, and also bearing in mind the provisions of the Live Streaming and Recording of Court Proceedings Rules of the High Court of Delhi, 2022,” the office order said.

It also stated that the judicial officers, while conducting hearing through hybrid/video conferencing mode, shall ensure that no person other than the parties and the counsel should digitally access or join the proceedings of that particular case.

Related Link- <https://lawbeat.in/news-updates/delhi-high-court-directs-all-district-courts-allow-hybrid-hearings-all-cases-national-capital>

Competition Commission of India approves deal involving Manipal Group

Dated: June 7th, 2023

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The deals beyond a certain threshold require approval from the regulator, which keeps a tab on unfair business practices as well as promotes fair competition in the marketplace.

The Competition Commission of India (CCI) on Tuesday said it has cleared the proposed deal involving Manipal Health Enterprises Pvt Ltd and Manipal Education and Medical Group India Pvt Ltd (MEMG India).

Manipal Health Enterprises Pvt Ltd (MHEPL) operates a chain of multi-speciality hospitals under the brand name 'Manipal Hospitals', while MEMG India is a wholly-owned subsidiary of RSP Trust India and belongs to the Pai family group.

In a tweet on Tuesday, CCI said it has approved the "proposed combination involving Manipal Health Enterprises Private Limited and Manipal Education and Medical Group India Private Limited".

The deals beyond a certain threshold require approval from the regulator, which keeps a tab on unfair business practices as well as promotes fair competition in the marketplace.

Related Link:https://www.business-standard.com/companies/news/competition-commission-of-india-approves-deal-involving-manipal-group-123060601159_1.html

Google launches 4 generative artificial intelligence consulting offerings

Dated: June 8th, 2023

The Google on Thursday launched four new generative AI consulting offerings designed to help customers activate their AI deployments.

The offerings will help customers use AI to discover trends within their company data using AI-enhanced search engines and assistive experiences, summaries information from large volumes of content, automate time-consuming and expensive business processes, and assist in creating new content that's more personalized.

"These new offerings can give customers hands-on experiences with production-ready AI solutions using their own data and aligned with practical use cases for their organizations. They are designed to help organizations quickly implement generative AI solutions relevant to their businesses," Google said in a blog post.

Moreover, Google Cloud consulting is launching a series of learning journey targeted at different audiences available at no cost.

According to the company, these high-touch training will help c-suite leaders of top global companies reap the full, transformative benefits of generative AI while maintaining responsible development and deployment.

In addition, the tech giant is launching their first set of new sample reference architectures and business-oriented workflows for a variety of business processes and industry-specific use cases.

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Solicitors and Advocates

The initial blueprints are intended to help customers jumpstart their generative AI work, and include frameworks for business processes such as improving developer efficiency and accelerating content creation in marketing, as well as industry, use cases in financial services, retail, automotive, healthcare and media.

Related Link: https://www.business-standard.com/technology/tech-news/google-launches-4-generative-artificial-intelligence-consulting-offerings-123060800536_1.html

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