



# NEWSLETTER <sup>Weekly</sup>

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## RESERVE BANK OF INDIA

### **REFINANCING OF EXTERNAL COMMERCIAL BORROWINGS**

In terms of the extant provisions in [paragraphs 2.15](#) and [2.16 \(xiii\)](#) of Master Direction No.5 dated January 1, 2016 on “External Commercial Borrowings (ECB), Trade Credit, Borrowing and Lending in Foreign Currency by Authorised Dealers and Persons other than Authorised Dealers”, as amended from time to time, Indian corporates are permitted to refinance their existing ECBs at a lower all-in-cost. The overseas branches/subsidiaries of Indian banks are however, not permitted to extend such refinance.

In order to provide a level playing field, it has been decided, in consultation with the Government of India, to permit the overseas branches/subsidiaries of Indian banks to refinance ECBs of highly rated (AAA) corporates as well as Navratna and Maharatna PSUs, provided the outstanding maturity of the original borrowing is not reduced and all-in-cost of fresh ECB is lower than the existing ECB. Partial refinance of existing ECBs will also be permitted subject to same conditions.

The [Master Direction No. 5 dated January 01, 2016](#) is being updated to reflect the changes.

Source: <https://rbidocs.rbi.org.in/rdocs/notification/PDFs/NT11671225A4473744301BE8398C5166813B0.PDF>

### **MASTER DIRECTION – FOREIGN INVESTMENT IN INDIA**

Foreign Investment in India is regulated in terms of clause (b) sub-section 3 of section 6 and section 47 of the Foreign Exchange Management Act, 1999 (FEMA) read with Foreign Exchange Management (Transfer or Issue of a Security by a Person resident Outside India) Regulations, 2017 issued vide [Notification No. FEMA 20\(R\)/2017-RB dated November 7, 2017](#). These regulations are amended from time to time to incorporate the changes in the regulatory framework and published through amendment notifications.

Within the contours of the Regulations, Reserve Bank of India (RBI) also issues directions to Authorised Persons under Section 11 of FEMA. This Master Direction lays down the modalities as to how the foreign exchange business has to be conducted by the Authorised Persons with their customers/ constituents with a view to implementing the regulations framed.

Instructions issued on Foreign Investment in India and its related aspects under the FEMA have been compiled in the Master Direction along with reporting instructions.

Source: [http://rbidocs.rbi.org.in/rdocs/notification/PDFs/MD11\\_04012018B4D0DB4E6DA04CC4B7AF62AA03D902BE.PDF](http://rbidocs.rbi.org.in/rdocs/notification/PDFs/MD11_04012018B4D0DB4E6DA04CC4B7AF62AA03D902BE.PDF)

### **SUBMISSION OF FINANCIAL INFORMATION TO INFORMATION UTILITIES**

The instructions contained in a circular number as ‘DBR.No.Leg.BC.98/09.08.019/2017-18’ dated December 19, 2017 with regard to submission of financial information to information utilities are also applicable to all registered Asset Reconstruction Companies (ARCs).

Source: <https://rbidocs.rbi.org.in/rdocs/notification/PDFs/NT1159E64EA5AB6C841ABB1D9C41B7DCDBF92.PDF>

## **MASTER DIRECTION - DIRECT INVESTMENT BY RESIDENTS IN JOINT VENTURE (JV) / WHOLLY OWNED SUBSIDIARY (WOS) ABROAD**

Direct investments by residents in Joint Venture (JV) and Wholly Owned Subsidiary (WOS) abroad are being allowed, in terms of clause (a) of sub-section (3) of section 6 of the Foreign Exchange Management Act, 1999, (42 of 1999) read with Notification No. FEMA.120/RB-2004 dated July 7, 2004, (GSR 757 (E) dated November 19, 2004), viz. Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004. These Regulations are amended from time to time to incorporate the changes in the regulatory framework and published through amendment notifications.

Within the contours of the Regulations, Reserve Bank of India (RBI) also issues directions to Authorised Persons under Section 11 of FEMA. These directions lay down the modalities as to how the foreign exchange business has to be conducted by the Authorised Persons with their customers/ constituents with a view to implementing the regulations framed.

Instructions issued on Direct Investment by Residents in Joint Venture (JV)/ Wholly Owned Subsidiary (WOS) Abroad have been compiled in the Master Direction.

**Source:** <https://rbidocs.rbi.org.in/rdocs/notification/PDFs/10MD06102016E550559916C346E0BC93720658286729.PDF>

## **AMANATH CO-OPERATIVE BANK LTD., BENGALURU- EXTENSION OF ALL INCLUSIVE DIRECTIONS UNDER SECTION 35A OF THE BANKING REGULATION ACT, 1949(AACS)**

It is hereby notified for information of public that the Reserve Bank of India (RBI) is satisfied that in the public interest, it is necessary to extend the period of operation of the directive dated April 1, 2013 read with subsequent directives, last being dated June 29, 2017 issued to the Amanath Cooperative Bank Ltd, Bengaluru for a further period of 6 months.

Accordingly, the RBI directs that the directive dated April 1, 2013, as modified from time to time, issued to the Amanath Co-operative Bank Ltd., Bengaluru the validity of which was last extended upto January 4, 2018 shall continue to apply to the bank for a further period of 6 months from January 5, 2018 to July 4, 2018 subject to review.

Other terms and conditions of the directive under reference shall remain unchanged.

The issue of the above Directions by the RBI should not per se be construed as cancellation of banking licence by RBI. The bank will continue to undertake banking business with restrictions till its financial position improves. The RBI may consider modifications of these Directions depending upon circumstances.

**Source:** <https://rbidocs.rbi.org.in/rdocs/PressRelease/PDFs/PR1834B987B302AC80476C87A6881E5C34EB7F.PDF>

## **RBI CANCELS CERTIFICATE OF REGISTRATION OF 3 NBFCS**

The Reserve Bank of India (RBI) has cancelled the certificate of registration of the following 3 NBFCS in exercise of the powers conferred on it under Section 45-IA (6) of the Reserve Bank of India Act, 1934.

<b>S. No.</b>	<b>Name of the Company</b>
1	M/s Alchemist Holdings Limited (Formerly known as M/s Mahindra Finlease Private Limited)
2	M/s Sukh-Chain Finance Company Limited
3	M/s Rishab Financial Services Limited

Following the cancellation of registration certificate, these companies cannot transact the business of a non-banking financial institution as laid down under clause (a) of Section 45-I of the Reserve Bank of India Act, 1934.

Source: <https://rbidocs.rbi.org.in/rdocs/PressRelease/PDFs/PR183967CAE63BA66E43399482F937B0825F29.PDF>

### **11 NBFCS SURRENDER THEIR CERTIFICATE OF REGISTRATION TO RBI**

The following NBFCS have surrendered the Certificate of Registration granted to them by the Reserve Bank of India (RBI). The RBI, in exercise of powers conferred on it under Section 45-IA (6) of the Reserve Bank of India Act, 1934, has therefore cancelled their Certificate of Registration.

<b>S. No.</b>	<b>Name of the Company</b>
1	M/s Rajputana Investment Society Private Limited
2	M/s Kripa Finance & Estates Private Limited (Presently M/s Kripa Securities Private Limited)
3	M/s Nandini Steels & Securities Private Limited
4	M/s Amber Mercantiles Limited
5	M/s Tolasariya Trade & Commerce Private Limited
6	M/s Believe Enterprises Limited (Presently M/s Believe Enterprises LLP)
7	M/s Save & Prosper Ltd
8	M/s Mythri Financiers Private Limited
9	M/s Contil India Limited
10	M/s Agarwal Finance Company Pvt Ltd
11	M/s Emjay Business (P) Ltd (Presently M/s Bharat Elevators & Engineers Pvt Ltd)

As such, the above companies shall not transact the business of a Non-Banking Financial Institution, as defined in clause (a) of Section 45-I of the RBI Act, 1934.

Source: <https://rbidocs.rbi.org.in/rdocs/PressRelease/PDFs/PR1838BD9E9C97081A48C8B8CB4C346B735473.PDF>

## **MINISTRY OF FINANCE**

### **ELECTORAL BOND SCHEME, 2018**

In exercise of the powers conferred by sub-section (3) of Section 31 of the Reserve Bank of India Act, 1934 (2 of 1934), the Central Government made the following Scheme, and this scheme may be called the Electoral Bond Scheme, 2018.

The details of the Scheme are mentioned in the link stated herein below.

Source: <http://www.egazette.nic.in/WriteReadData/2018/181434.pdf>

### **NOTIFICATION REGARDING DEPOSITS MADE UNDER THE SPECIAL DEPOSIT SCHEME FOR NON-GOVERNMENT PROVIDENT, SUPERANNUATION AND GRATUITY FUNDS**

It is hereby notified that the deposits made under the Special Deposit Scheme for Non-Government Provident, Superannuation and Gratuity Funds, announced in the Ministry of Finance (Department of Economic Affairs) Notification No.F.16(1)-PD/75 dated 30th June, 1975, shall with effect from 1st January, 2018 to 31st March, 2018 bear interest at 7.6% (Seven point six per cent). The rates will be in force w.e.f. 1st January, 2018.

Source: <http://www.egazette.nic.in/WriteReadData/2018/181399.pdf>

## **MINISTRY OF LAW AND JUSTICE**

### **THE COMPANIES (AMENDMENT) ACT, 2017**

The Companies (Amendment) Act, 2017, an Act of Parliament received the assent of the President on the 3rd January, 2018. This Act may be called the Companies (Amendment) Act, 2017. It contains various amendments and substitutions, omissions and insertions of sections as detailed in the link herein below mentioned. The Companies (Amendment) Act, 2017 also contains lesser penalties for One Person Companies or Small Companies.

Source: [http://ibbi.gov.in/webadmin/pdf/whatsnew/2018/Jan/181439\\_2018-01-04%2021:30:46.pdf](http://ibbi.gov.in/webadmin/pdf/whatsnew/2018/Jan/181439_2018-01-04%2021:30:46.pdf)

## **INSOLVENCY AND BANKRUPTCY BOARD OF INDIA**

### **INSOLVENCY PROFESSIONAL NOT TO OUTSOURCE HIS RESPONSIBILITIES**

1. The Insolvency and Bankruptcy Code, 2016 (Code) read with regulations made thereunder cast specific duties and responsibilities on insolvency professional.
2. It has been observed that a few insolvency professionals are advising the prospective resolution applicants to submit a certificate from another person to the effect that they are eligible to be resolution applicants. This requirement amounts to outsourcing responsibilities of an insolvency professional to another person. Further, this adds to cost of the resolution applicant and delays submission of resolution plans. The Code read with regulations do not envisage such a certification from a third person.
3. It is hereby directed that an insolvency resolution professional shall not outsource any of his duties and responsibilities under the Code. He shall not require any certificate from another person certifying eligibility of a resolution applicant.
4. The circular as mentioned is issued in exercise of powers under section 196 read with section 208 of the Insolvency and Bankruptcy Code, 2016.

Source: [http://ibbi.gov.in/webadmin/pdf/whatsnew/2018/Jan/CIRP%203\\_2018-01-03%2018:42:53.pdf](http://ibbi.gov.in/webadmin/pdf/whatsnew/2018/Jan/CIRP%203_2018-01-03%2018:42:53.pdf)

### **INSOLVENCY PROFESSIONAL TO ENSURE COMPLIANCE WITH PROVISIONS OF THE APPLICABLE LAWS**

The circular as mentioned is issued in exercise of powers under section 196 read with section 208 of the Insolvency and Bankruptcy Code, 2016.

A corporate person undergoing insolvency resolution process, fast track insolvency resolution process, liquidation process or voluntary liquidation process under the Insolvency and Bankruptcy Code, 2016 (Code) needs to comply with provisions of the applicable laws (Acts, Rules and Regulations, Circulars, Guidelines, Orders, Directions, etc.) during such process.

The detail requirement is mentioned in the link below.

Source: [http://ibbi.gov.in/webadmin/pdf/whatsnew/2018/Jan/CIRP%202\\_2018-01-03%2018:41:44.pdf](http://ibbi.gov.in/webadmin/pdf/whatsnew/2018/Jan/CIRP%202_2018-01-03%2018:41:44.pdf)

## **INSOLVENCY PROFESSIONAL TO USE REGISTRATION NUMBER AND REGISTERED ADDRESS IN ALL HIS COMMUNICATIONS**

It has been observed that a few insolvency professionals are using different addresses and emails while communicating with the stakeholders, despite repeated advice from the Insolvency Bankruptcy Board of India (IBBI) to use the addressees and emails. It has been observed that a few insolvency professionals are using different addresses and emails while with the stakeholders, despite repeated advice from the Insolvency Bankruptcy Board of India (IBBI) to use the addressees and emails registered with the IBBI in all their communications.

1. It is directed that in all his communications, whether by way of public announcement or otherwise to a stakeholder or to an authority, an insolvency professional shall prominently state:

- (i) his name, address and email, as registered with the IBBI,
- (ii) his Registration Number as an insolvency professional granted by the IBBI, and
- (iii) the capacity in which he is communicating.

2. Additionally, an insolvency professional may use a process (Example: CIRP, Liquidation, etc.) specific address and email in its communications, if he considers it necessary subject to the conditions that:

- (i) the process specific address and email are in addition to the details required in Para above, and
- (ii) the insolvency professional continues to service the process specific address and email for at least six months from conclusion of his role in the process.

3. This circular is issued in exercise of powers under section 196 read with section 208 of the Insolvency and Bankruptcy Code, 2016.

Source: <http://ibbi.gov.in/webadmin/pdf/whatsnew/2018/Jan/CIRP%2018-01-03%2018:41:16.pdf>

## **INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) (FOURTH AMENDMENT) REGULATIONS, 2017**

In exercise of the powers conferred by clause (t) of sub-section (1) of section 196 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Insolvency and Bankruptcy Board of India hereby makes the following regulations to amend the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and these regulations may be called the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Fourth Amendment) Regulations, 2017.

1. In the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as the principal regulations), in regulation 2, for clause (f) of sub-regulation (1), the following clause shall be substituted, namely: -

“(f) “dissenting financial creditor” means a financial creditor who voted against the resolution plan or abstained from voting for the resolution plan, approved by the committee;”

2. In the principal regulations, in regulation 35, -

(a) for sub-regulation (3), the following sub-regulation shall be substituted, namely: -

“(3) After the receipt of resolution plans in accordance with the Code and these regulations, the resolution professional shall provide the liquidation value to every member of the committee in electronic form, on receiving an undertaking from the member to the effect that such member shall maintain confidentiality of the liquidation value and shall not use such value to cause an undue gain or undue loss to itself or any other person and comply with the requirements under sub-section (2) of section 29.”;

(b) after sub-regulation (3), the following sub-regulation shall be inserted, namely: -

“(4) Subject to sub-regulation (3), the interim resolution professional or the resolution professional, as the case may be, shall maintain confidentiality of the liquidation value.”

3. In the principal regulations, in regulation 36, in sub-regulation (2), clauses (j) and (k) shall be omitted.

4. In the principal regulations, in regulation 39, for sub-regulation (1), the following sub-regulation shall be substituted, namely: -

“(1) A resolution applicant shall submit resolution plan(s) prepared in accordance with the Code and these regulations to the resolution professional within the time given in the invitation made under clause (h) of sub-section (2) of section 25.”

Source: <http://www.egazette.nic.in/WriteReadData/2018/181377.pdf>

#### **INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (FAST TRACK INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) (FOURTH AMENDMENT) REGULATIONS, 2017**

In exercise of the powers conferred by clause (t) of sub-section (1) of section 196 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Insolvency and Bankruptcy Board of India hereby makes the following regulations to amend the Insolvency and Bankruptcy Board of India (Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017 and these regulations may be called the Insolvency and Bankruptcy Board of India (Fast Track Insolvency Resolution Process for Corporate Persons) (Fourth Amendment) Regulations, 2017.

1. In the Insolvency and Bankruptcy Board of India (Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017 (hereinafter referred to as the principal regulations), in regulation 2, for clause (e) of sub-regulation (1), the following clause shall be substituted, namely:

“(e) “dissenting financial creditor” means a financial creditor who voted against the resolution plan or abstained from voting for the resolution plan, approved by the committee;”

In the principal regulations, in regulation 34, -

(a) for sub-regulation (3), the following sub-regulation shall be substituted, namely: -

“(3) After the receipt of resolution plans in accordance with the Code and these regulations, the resolution professional shall provide the liquidation value to every member of the committee in electronic form, on receiving an undertaking from the member to the effect that such member shall maintain confidentiality of the liquidation value and shall not use such value to cause an undue gain or undue loss to itself or any other person and comply with the requirements under sub-section (2) of section 29.”;

(b) after sub-regulation (3), the following sub-regulation shall be inserted, namely: -

“(4) Subject to sub-regulation (3), the interim resolution professional or the resolution professional, as the case may be, shall maintain the confidentiality of the liquidation value.”.

2. In the principal regulations, in regulation 35, in sub-regulation (2), clauses (j) and (k) shall be omitted.
3. In the principal regulations, in regulation 38, for sub-regulation (1), the following sub-regulation shall be substituted, namely: -

“(1) A resolution applicant shall submit resolution plan(s) prepared in accordance with the Code and these regulations to the resolution professional within the time given in the invitation made under clause (h) of sub-section (2) of section 25.”

Source: <http://www.egazette.nic.in/WriteReadData/2018/181378.pdf>

## **SECURITIES AND EXCHANGE BOARD OF INDIA**

### **SCHEMES OF ARRANGEMENT BY LISTED ENTITIES AND (II) RELAXATION UNDER SUB-RULE (7) OF RULE 19 OF THE SECURITIES CONTRACTS (REGULATION) RULES, 1957**

SEBI Circular No CFD/DIL3/CIR/2017/21 dated March 10, 2017 has laid down the framework for Schemes of Arrangement by Listed Entities and relaxation under Rule 19 (7) of the Securities Contracts (Regulation) Rules, 1957.

SEBI has received representations suggesting improvements to the existing regulatory framework governing scheme of arrangement. Considering the above and in order to expedite the processing of draft schemes and to prevent misuse of schemes to bypass regulatory requirements, it has been decided to make certain amendments to the Circular No. CFD/DIL3/CIR/2017/21 dated March 10, 2017, as provided in the Annexure which is mentioned in the below link.

Source: <https://www.sebi.gov.in/legal/circulars/jan-2018/circular-on-schemes-of-arrangement-by-listed-entities-and-ii-relaxation-under-sub-rule-7-of-rule-19-of-the-securities-contracts-regulation-rules-1957-37265.html>

## **LOK SABHA**

### **NEGOTIABLE INSTRUMENTS (AMENDMENT) ACT, 2017**

Bill to amend the Negotiable Instruments Act, 2016 and this act may be called the Negotiable Instruments (Amendment) Act, 2017.

In the Negotiable Instruments Act, 1881 (hereinafter referred to as the principal Act), the following section shall be inserted, namely:—

(i) Section 143A in the said Act to provide that the Court trying an offence under section 138 may order the drawer of the cheque to pay interim compensation to the complainant, in a summary trial or a summons case, where he pleads not guilty to the accusation made in the complaint; and in any other case, upon framing of charge. The interim compensation so payable shall be such sum not exceeding twenty per cent. of the amount of the cheque; and

(ii) Section 148 in the said Act so as to provide that in an appeal by the drawer against conviction under section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent. of the fine or compensation awarded by the trial court.

The complete details of the Bill are mentioned in the link stated herein below

Source: <http://www.egazette.nic.in/WriteReadData/2018/181553.pdf>

***Your suggestions are invited regarding improvement of the format of the newsletter and its relevance to your work.***

***You may send your suggestions at [sujoy@asalegal.in](mailto:sujoy@asalegal.in)***

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