



NEWSLETTER ^{Weekly}

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INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

1. 84% cases filed for personal guarantors' insolvency pending for admission: IBBI

The latest IBBI data showed nearly 2,496 insolvency cases against personal guarantors (PG) to corporate debtors (CD) are awaiting admission at various tribunals across the country. This translates to 84 per cent of the total 2,964 cases that were eligible for admission under IBC. Of this, only 468 cases have been admitted so far up to June 2024. As per the IBBI data 468 admitted cases, only 26 cases yielded approval of repayment plan leading to a recovery of ₹102.78 crore which is 2.16 percent of their admitted claims. This pendency to admission of PG cases comes even as the government had recently emphasised that it was focused on expanding the number of NCLT benches and Debt Recovery Tribunals (DRTs) to improve the overall efficiency of IBC ecosystem. The provisions relating to PG were introduced under the Insolvency and Bankruptcy Code (IBC) in 2019, but were subsequently challenged before various Courts and the matter travelled to the Supreme Court. The Supreme Court through a catena of judgments in Lalit Kumar Jain, Mahendra Kumar Jajodia, and most recently with the judgment in Dilip B. Jiwrajka rendered in November 2023, settled the position of law with respect to the process, liability and constitutional validity of the provisions governing insolvency proceedings against Personal Guarantors under IBC.

SECURITIES AND EXCHANGE BOARD OF INDIA

1. Advisory regarding investment in securities of the Companies listed on the SME Segment of Stock Exchanges

The Securities and Exchange Board of India (SEBI) vide press release dated August 28th 2024 has issued advisory regarding investments in companies listed on the SME Segment of stock exchanges. Established in 2012 to support emerging businesses, the SME platform has seen significant growth, raising over ₹14,000 Crores, including ₹6,000 Crores in financial year 24. SEBI has observed that some SME companies and their promoters engage in practices that create an unrealistic positive outlook on their operations through announcements of bonus issues, stock splits, and preferential allotments. These actions can mislead investors and provide promoters with opportunities to sell their shares at inflated prices. SEBI urges investors to remain cautious, avoid relying on unverified social media information, and not to base their investment decisions on rumors or tips. The advisory aims to protect investors by highlighting these practices and encouraging careful scrutiny of investment opportunities.

For more information, you can access the SEBI press release here:

<https://www.sebi.gov.in/media-and-notifications/press-releases/aug-2024/advisory-regarding-investment-in-securities-of-the-companies-listed-on-the-sme-segment-of-stock-exchanges-86205.html>

2. Review of eligibility criteria for entry/exit of stocks in derivatives segment

The Securities and Exchange Board of India (SEBI) vide circular dated August 30th 2024 issued a circular revising the eligibility criteria for the entry and exit of stocks in the derivatives segment. The new guidelines significantly raise the thresholds for key metrics such as Median Quarter Sigma Order Size (MQSOS), Market Wide Position Limit (MWPL), and Average Daily Delivery Value (ADDV). To qualify for entry, stocks must meet a revised MQSOS of INR 75 lakhs, MWPL of INR 1500 crores, and ADDV of INR 35 crores, each measured over a rolling six-month period. Exit norms have also been tightened; stocks failing to meet these criteria for three consecutive months will be excluded from the derivatives segment and barred from re-entry for one year. Additionally, SEBI introduced a Product Success Framework (PSF) requiring a minimum level of trading activity, turnover, and open interest for stocks to remain in the derivatives market. These updates aim to enhance market stability by ensuring only actively traded and financially robust stocks participate in the derivatives segment.

For more information, you can access the SEBI circular here:

https://www.sebi.gov.in/legal/circulars/aug-2024/review-of-eligibility-criteria-for-entry-exit-of-stocks-in-derivatives-segment_86373.html

MINISTRY OF FINANCE

1. No Restrictions on LGBTQIA+ Couples to Open Joint Bank Accounts; Can Name Partner as Nominee: Ministry of Finance

In a big boost to widen the ambit of financial inclusion, the Finance Ministry has clarified that there is no restriction on LGBTQIA+ couples to open joint bank account. The finance ministry further said that queer people can also name their partners as the nominee. An advisory issued by the Finance Ministry on 28.08.2024 had said, "In connection with Hon'ble Supreme Court of India's judgement dated 17.10.2023 in the case of Supriyo @Supriya Chakraborty and another Vs. Union of India (Writ Petition Civil No. 1011/2022), this is to clarify that there are no restrictions for persons of the Queer community to open a joint bank account and also to nominate a person in queer relationship as a nominee to receive the balance in the account, in the event of death of the account holder." The petitioners in the marriage equality case had argued that LGBTQIA+ persons faced discrimination as they were denied benefits that are available to more 'traditional' married couples. Along with having joint ownership of assets, this included access to succession rights, rights to maintenance and alimony, financial benefits under the Income tax Act, 1961, and the ability to make medical decisions for terminally ill partners as members of their family. In October 2023, the Supreme Court unanimously held that there was no fundamental right to marry and a majority (3 of the 5 Judges) held that LGBTQIA+ people did not have the right to form civil unions. However, the Centre during the hearing agreed to form a committee to increase the access of queer couples to benefits that were previously only available to married couples. Chief Justice of India D Y Chandrachud, in his written opinion, directed that the committee must include "experts with domain knowledge and experience in dealing with the social, psychological, and emotional needs of persons belonging to the queer community as well as members of the queer community". He also specifically directed the committee to consider "Enabling partners in a queer relationship to have the facility of a joint bank account with the option to name the partner as a nominee, in case of death". In April 2024 the Centre constituted a six-member committee following the

court's decision. The committee is being led by the Cabinet Secretary and includes secretaries from the Home Department, the Ministry of Women and Child Development, the Department of Health and Family Welfare, the Legislative Department and the Department of Social Justice and Empowerment. The Centre's notification on the committee's creation describes its mandate. It has been charged with examining and submitting recommendations for measures to ensure there is no discrimination in access to goods, services and social welfare entitlements for the queer community, that members of the queer community do not face any threats of violence, harassment or coercion, that their mental health is taken care of and they are not subjected to involuntary medical treatments.

2. CBDT announces e-Dispute Resolution Scheme, 2022 to Minimise Litigation.

The Central Board of Direct Taxes (CBDT) has rolled out the e-Dispute Resolution Scheme (e-DRS), 2022. This scheme is designed to offer eligible taxpayers a streamlined, electronic mechanism for resolving disputes under the Income-tax Act, 1961, specifically under section 245MA. The initiative is part of the broader "Azadi Ka Amrit Mahotsav" initiative of the Central Government. The e-DRS allows taxpayers to file an application for dispute resolution electronically through the Income Tax Department's e-filing portal. To facilitate this, Dispute Resolution Committees (DRCs) have been constituted in all 18 jurisdictional Principal Chief Commissioner of Income-tax (Pr. CCIT) regions across the country. These DRCs will handle cases where the aggregate sum of variations in a specified order does not exceed Rs. 10 lakh and where the taxpayer's returned income for the relevant assessment year does not exceed Rs. 50 lakhs. However, the order should not be based on searches, surveys, or information received under international agreements. A significant feature of the e-DRS is the flexibility it offers to taxpayers. For instance, if an appeal is already pending before the Commissioner of Income-tax (Appeals), the taxpayer can still opt for e-Dispute Resolution by filing an application on or before 30th September 2024. The application must be filed using Form No. 34BC, as specified in rule 44DAB of the Income-tax Rules, 1962. Once an application is admitted, the DRC is mandated to pass its order within six months from the end of the month in which the application was received. The DRC has the authority to modify variations in the specified order and decide on the reduction or waiver of penalties and prosecution, offering much-needed relief to taxpayers. The process for filing the e-DRS application is straightforward. Taxpayers need to log in to the Income Tax Department's e-filing portal using their PAN or TAN as their user ID, navigate to the appropriate section under the 'Persons not dependent on any source of Income' tab, and submit Form No. 34BC. The form must be e-verified using Aadhaar OTP, EVC, or DSC. This initiative is expected to significantly reduce the burden of litigation on taxpayers and the Income Tax Department.

For more information you can access the GOI release over here-
<https://pib.gov.in/PressReleasePage.aspx?PRID=2050261>

RESERVE BANK OF INDIA

1. Scheme for Trading and Settlement of Sovereign Green Bonds in the International Financial Services Centre in India

The Reserve Bank of India vide notification dated August 29th 2024 has introduced a new scheme for the trading and settlement of Sovereign Green Bonds (SGrBs) in the International Financial Services Centre (IFSC) in India. This scheme, effective immediately, allows eligible foreign investors to invest in SGrBs issued by the Indian government. It

involves amendments to existing Foreign Exchange Management regulations and outlines the scope, eligible investors, participation procedures, and settlement processes within the IFSC. The scheme stipulates that only authorized entities like depositories and clearing corporations in the IFSC can manage the accounts and settlements. It also defines the roles of IFSC Banking Units (IBUs) and sets guidelines for Know Your Customer (KYC) and Anti-Money Laundering (AML) practices. The scheme requires strict data management and reporting protocols to ensure transparency and compliance. The scheme's terms also clarify taxation, trading procedures, and the applicability of other relevant Indian laws. The RBI emphasizes that any violations or disruptions in the settlement process will be subject to penalties, and it maintains the right to share anonymized trade data with relevant authorities.

For more information, you can access the RBI notification here:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12730&Mode=0>

2. RBI cautions against Fraudulent Activities in its name

The Reserve Bank of India vide press release dated August 29th 2024 reiterated the following:

- RBI does not maintain any account in the name of individuals/ companies/ trusts in India to hold funds for disbursement. It also does not open accounts for individuals or ask them to deposit money in those accounts.
- RBI does not send emails intimating award of lottery funds, etc, or any SMS, letter or email to communicate fictitious offers of lottery winnings or funds received from abroad.
- Beware of calls, emails, and any other communication by cybercriminals posing as officials from Government agencies/ RBI, asking for transfer of money under the pretext of any enticing offer or alarming issue.
- Do not share account login details, personal information, copies of KYC documents, card information, PIN, password, OTP, etc. with unidentified persons or agencies. Further, such details should not be shared through unverified/unauthorised websites or applications. In case they receive any such requests, customers are requested to get in touch with their bank/branch.
- List of all entities regulated by RBI are uploaded in the Bank's website (<https://rbi.org.in/>). Members of the public are advised not to fall for fake accreditations of RBI by any other websites or apps.

For more information, you can access the RBI press release here:

https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=58595

3. RBI launches the September 2024 round of the Inflation Expectations Survey of Households

The Reserve Bank of India vide press release dated August 29th 2024 informed that RBI has been regularly conducting Inflation Expectations Survey of Households (IESH). The September 2024 round of the survey is being launched. The survey aims at capturing

subjective assessments on price movements and inflation, based on their individual consumption baskets, across 19 cities, viz., Ahmedabad, Bengaluru, Bhopal, Bhubaneswar, Chandigarh, Chennai, Delhi, Guwahati, Hyderabad, Jaipur, Jammu, Kolkata, Lucknow, Mumbai, Nagpur, Patna, Raipur, Ranchi and Thiruvananthapuram. The survey seeks qualitative responses from households on price changes (general prices as well as prices of specific product groups) in the three months ahead as well as in the one year ahead period and quantitative responses on current, three months ahead and one year ahead inflation rates. The results of this survey provide useful inputs for monetary policy.

For more information, you can access the RBI press release here:

https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=58592

4. Interest Equalization Scheme (IES) on Pre and Post Shipment Rupee Export Credit

The Reserve Bank of India (RBI) vide notification dated August 29th 2024 extended the Interest Equalization Scheme (IES) on Pre and Post Shipment Rupee Export Credit until August 31, 2024, effective from July 1, 2024. This extension, approved by the Government of India, includes key modifications: from July 1, 2024, only Micro, Small, and Medium Enterprise (MSME) Manufacturer exporters are eligible for the scheme, excluding non-MSME exporters. Additionally, the interest subvention is capped at ₹1.66 Crore per Importer-Exporter Code (IEC) for the extended period. Other provisions of the scheme remain unchanged.

For more information, you can access the RBI notification here:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12729&Mode=0>

5. Recognition of Self-Regulatory Organisation(s) in the FinTech Sector (SRO-FT)

The Reserve Bank of India vide press release dated August 28th 2024 issued the 'Framework for Self-Regulatory Organisation(s) in the FinTech Sector' (Framework) and invited applications for recognition as Self-Regulatory Organisation in the FinTech Sector (SRO-FT). Three applications for recognition as SRO-FT have been received. Each application was examined against the relevant requirements under the framework. It has been decided to recognise the Fintech Association for Consumer Empowerment (FACE) as an SRO-FT. Of the remaining two applications, one application has been returned with a provision for resubmission after meeting certain requirements. The third application is under examination.

For more information, you can access the RBI press release here:

https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=58586

6. Implementation of Section 51A of UAPA, 1967: Updates to UNSC's 1267/1989 ISIL (Da'esh) & Al-Qaida Sanctions List: Amendments in 01 Entry

The Reserve Bank of India (RBI) vide notification dated August 27th 2024 updated with regard to UNSC's 1267/1989 ISIL (Da'esh) & Al-Qaida Sanctions List which pertains to Section 51A of the Unlawful Activities (Prevention) Act (UAPA), 1967, which mandates that Regulated Entities (REs) avoid holding accounts for individuals or entities listed by the UNSC for suspected terrorist links. The UNSC recently removed Yassine Chekkouri from the ISIL (Da'esh) and Al-Qaida sanctions list, as announced in their press release SC/15800

dated August 23, 2024. Regulated Entities (REs) must follow the updated procedures outlined in the Master Direction on Know Your Customer (KYC) and the latest UAPA amendments. For more details, REs is directed to consult the UNSC websites and ensure compliance with these regulations.

For more information, you can access the RBI notification here:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12728&Mode=0>

You may send your suggestions at kartikey@asalegal.in

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DELHI

3, Birbal Road, Ground & First Floor,
Jangpura Extension, New Delhi 110014.
Phone: +91-11-43108998, 45661440,
43552440, +91-11-24327050-52,
9311052521

MUMBAI

404-405, 4th Floor, Magnum Opus,
Near Grand Hyatt,
Behind Mudra Group,
Santacruz (East),
Mumbai – 400 055.
Phone: +91-22-62368654, 26661979

BENGALURU

1007, A-Wing, 10th Floor,
Mittal Tower, M.G. Road,
Bengaluru – 560001.
Phone: +91-80-48536504

AHMEDABAD

Office No.10, Business Centre,
5th Floor, Kalapunam Complex,
Near Municipal Market,
C.G. Road, Navrangpura,
Ahmedabad-380009.
Phone: +91-079-66660888,
+91-9173660088