Newsletter

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Editor's note

I am pleased to share with you our newsletter for the month of November, 2024, which covers significant legal and regulatory developments.

The Arbitration and Conciliation Act, 1996, continues to evolve as the judiciary clarifies its provisions. Recent judgments from the Supreme Court and High Courts shed light on interpreting Section 29A and the interaction of arbitral awards with statutory entitlements under the MSMED Act.

On the SEBI front, reforms to enhance transparency and operational efficiency take centre stage. From updated valuation norms for mutual funds to the withdrawal of the 1% NOC requirement for issue amounts, these measures aim to align market practices with global benchmarks. The simplified registration process for Foreign Portfolio Investors and trading supported by blocked amounts further strengthen India's capital markets.

IBC continues to make ripples in legal word. IBBI has partnered with the Indian Banks' Association (IBA) to use the eBKray platform, for listing and auctioning assets under IBC, which will ensure transparency and efficiency of auction process. Tribunals have ruled that there is neither any provisions for set off/counter claim in IBC nor pendency of civil suit has any bearing on proceedings under the Code and corporate debtor cannot take refuse thereunder. Tribunal have also ruled that shareholder disputes fall outside the scope of the Code and shareholders are not 'aggrieved person' who may file appeal against decisions of Adjudicating Authority.

Meanwhile, the RBI introduces an operational framework for reclassifying Foreign Portfolio Investments as Foreign Direct Investments, emphasizing seamless transitions and accurate reporting. Updates to the KYC Master Direction and inclusions under the Fully Accessible Route for Sovereign Green Bonds reflect RBI's focus on fostering an inclusive and compliant financial ecosystem.

As a special feature to this edition, we have included an article, "Reforms in the Insurance Sector" authored by our Partner, Ravi Bhadani and Associate, Tripti Sharan which highlights transformative regulatory initiatives by the IRDAI to increase insurance penetration in India. Key measures include raising the Foreign Direct Investment (FDI) cap to 100% and reducing the Net Owned Funds (NOF) requirement to 50 crores. These reforms aim to attract global players, enhance competition, and foster innovation with products tailored to diverse regional needs. Additionally, the lowered NOF threshold paves the way for niche and micro-insurers, addressing localized risks. Together, these initiatives promise to expand coverage, improve financial resilience, and align with India's vision of "Insurance for All, by 2047."

I hope you will find this edition useful.

Best wishes,

Rajesh Narain Gupta

Founder & Chairman,
SNG & Partners

A. ARBITRATION AND CONCILIATION ACT, 1996

1. Supreme Court Explains: How to interpret Section 29A of the Arbitration and Conciliation Act.

Recently, the Supreme Court addressed whether an application under Section 29A(4) of the Arbitration and Conciliation Act, 1996, for extending the mandate of an arbitral tribunal can be entertained after the expiry of the stipulated period. The Court held that such an extension is permissible and clarified the scope of "sufficient cause" under the provision. It also emphasised that the judiciary has discretionary power to extend the mandate even after its termination, promoting arbitration as a mechanism for dispute resolution.

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2. Delhi High Court upholds arbitral award, dismissing petition challenging MSMED Act benefits, Read Judgment

Delhi High Court dismissed a petition challenging an arbitral award under Section 34 of the Arbitration and Conciliation Act. The dispute centred around the respondent's entitlement to benefits under the Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter "MSMED Act"). The Court, applying principles from Supreme Court rulings, upheld the arbitral award, dismissing the petition and affirming the respondent's statutory rights under the MSMED Act.

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B. INSOLVENCY AND BANKRUPTCY CODE, 2016 (IBC)

1. NCLAT expounds moratorium under Sec 96 of IBC would strictly apply to the security interest created by the Appellant in his personal capacity.

The NCLAT, Principal Bench New Delhi, observed that the interim moratorium under Section 96(1)(b)(ii) creates a prohibition on the other creditors of the debtor from initiating any legal action in respect of the 'debt' for which Section 95 has been initiated.

It has been held that the moratorium imposed under Section 96 of IBC, 2016, would strictly apply to the security interest created by the Appellant in his personal capacity wherein personal guarantee is given in respect of the operational debt and will not extend to the cover the subject property being the property of the partnership firm against which Section 95 had not been invoked, as the partners of a firm are entitled only to the profits of the firm and upon dissolution of the firm they are entitled to the surplus of the sale proceeds of the assets and properties of the firm after meeting the liabilities of the firm in the share agreed upon in the Partnership Deed and the partners do not have any right, title or interest in respect of the assets and properties of a firm.

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2. NCLAT reiterates that no application can be filed, even after expiry of the period under Section 10A for the default which occurred during the 10A period

The NCLAT, Principal Bench New Delhi ruled that the language of the statute provides that no application for initiation of Corporate Insolvency Resolution Process of a Corporate Debtor shall be filed for any default arising on or after 25.03.2020.

The provision cannot be read to mean that the application can be filed after the period is over. If such an interpretation is accepted, the whole purpose and object shall be defeated. The purpose and object of the introduction of Section 10A was to give relief to the Corporate Debtor who committed default during the period which is covered by Section 10A.

The Bench opined that no application can be filed, even after expiry of the period under Section 10A for the default which occurred during the 10A period.

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3. **NCLAT holds that the pendency of the Civil Suit cannot be grounds to reject Sec 7 when the debt and default were proved**

The NCLAT, Principal Bench New Delhi, ruled that the pendency of the Civil Suit was no reason for not proceeding to admit Section 7 Application, when the debt and default were proved.

In the present case, the Civil Suit was filed after the filing of the Company Petition in the High Court, which stood transferred to the NCLT.

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4. **NCLAT rules that there is no provision under the IBC for a set of/adjustment/counterclaims**

The NCLAT, Principal Bench New Delhi, expounded that there is no provision under the IBC for a set of/adjustment/counterclaims.

In the present case, it was held that the financial debt is due and payable and is within limitation, which is an admitted fact. There is no entry in the balance sheet before the date of filing of a petition under Section 7 regarding the said amount. Even in the books of account of the Corporate Debtor, the amounts are not adjusted against the financial debt and are shown separately in the balance sheet. Therefore, the NCLT has erred in allowing an adjustment of Rs. 10,85,850/- against the financial debt for the reasons aforesaid.

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5. **NCLAT rules that relief under Sec 43 of the Code is not available if the outstanding is more than 2 years before the CIRP commencement date**

The NCLAT, Principal Bench New Delhi expounded that even when all the requirements of sub-section (2) of Section 43 of the Code are satisfied, in order to fall within the mischief sought to be remedied by Section 43, the questioned 'preference' ought to have been given at a relevant time. In other words, for a 'preference' to become an avoidable one, it ought to have been given within the period specified in sub-section (4) of Section 43. The extent of 'relevant time' is different concerning the relationship of the beneficiary with the corporate debtor since, for the persons falling within the expression 'related party' within the meaning of Section 5 (24) of the Code, such period is of two years before the insolvency commencement date whereas it is one year in relation to the person other than a related party.

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6. NCLT Clarifies Dissolution Process: 'Liquidator is Empowered for Dissolution

In a recent ruling, the National Company Law Tribunal addressed the dissolution of a corporate debtor without a liquidation process. After insolvency proceedings began in November 2023, the Committee of Creditors, without initiating the liquidation process, resolved for dissolution due to the company's lack of assets, which was rejected by the Adjudicating Authority. On appeal, NCLAT upheld the decision, stating that dissolution could only occur after liquidation by a liquidator. It was held that the scheme of the IBC provides that dissolution is a step after the Corporate Debtor has been completely liquidated. In the present case, the liquidation proceedings have not been undertaken and resorting to Section 54 could not have been taken as per the scheme of the IBC. The Tribunal held that the Resolution Professional may get the name of the Corporate debtor strike off from the Registrar of Companies u/s 240 of the Companies Act 2013 and may close the proceedings

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7. Appellate Tribunal upholds NCLT's ruling and allows Creditors to initiate Bankruptcy after Guarantor's Non-Compliance.

TRecently, the NCLAT dismissed an appeal by the Personal Guarantor of a Corporate Debtor challenging the NCLT's order permitting creditors to initiate bankruptcy proceedings. As the Appellant failed to submit a repayment plan despite repeated requests from the Resolution Professional (RP), it has been held that Section 115 provides that where the Adjudicating Authority reject the Repayment Plan, the Debtor and Creditor shall be entitled to file an Application for Bankruptcy under Chapter IV. However, in the case when the Repayment Plan has not been received, the effect and consequence of rejection of the Plan has to ensue by Section 115, and the natural consequence is for Creditors to file an Application for Bankruptcy under Chapter IV.

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8. NCLAT Clarifies IBC precedence over shareholder disputes: 'CIRP admission is not challengeable by shareholders'

National Company Law Appellate Tribunal dismissed the appeal filed by M/s. Clarion Health Foods LLP, the majority shareholder in M/s. Goli Vada Pav Pvt., challenging the initiation of Corporate Insolvency Resolution Process (hereinafter referred to as CIRP). Tribunal ruled that shareholder disputes fall outside the scope of the Insolvency and Bankruptcy Code (hereinafter referred to as IBC) and that only debtor-creditor disputes are relevant at the CIRP admission stage.

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9. Centralized Electronic Listing and Auction Platform for Liquidation Assets

Regulation 33(1) of the IBBI (Liquidation Process) Regulations requires assets to be sold via auction, with Clause (7) mandating sales through an electronic platform. A centralized platform is proposed to address information asymmetry and improve recovery rates. IBBI has partnered with the Indian Banks' Association (IBA) to use the eBKray platform, managed by PSB Alliance, which has been used for SARFAESI Act auctions for five years. PSB Alliance has developed a module within eBKray for listing and auctioning assets under IBC, ensuring transparency and efficiency. The platform will host liquidation assets, requiring liquidators to list details like status, coordinates, and auction dates. Initially in pilot mode, the platform will be fully deployed later. IPs can access it via the IBBI platform, and buyers can visit https://ebkray.in.

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C. RESERVE BANK OF INDIA (RBI)

1. Operational framework for reclassification of Foreign Portfolio Investment to Foreign Direct Investment (FDI)

Schedule II of the Rules prescribes those investments made by foreign portfolio investors and their investor groups (referred to as 'FPI') must be less than 10 per cent of the total paid-up equity capital on a fully diluted basis. If the FPI exceeds the prescribed limit, the option to either divest holdings or reclassify such holdings as FDI is available. An operational framework for the reclassification of foreign portfolio investment by FPI to FDI is provided in the Annex. The AD Category-I banks are required to facilitate the reporting of such transactions as per the framework outlined.

These directions are effective immediately. The AD Category-I banks are instructed to bring the contents of this circular to the attention of their concerned customers and constituents.

The directions in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are issued without prejudice to any permissions or approvals that may be required under other laws.

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2. Reporting of Foreign Exchange Transactions to Trade Repository

Reference is made to the Master Direction – Risk Management and Inter-Bank Dealings, dated July 5, 2016, as amended from time to time, which requires, among other things, that Authorised Dealers report all over-the-counter (OTC) foreign exchange derivative contracts and foreign currency interest rate derivative contracts, undertaken directly or through their overseas entities (including overseas branches, IFSC Banking Units, wholly owned subsidiaries, and joint ventures of Authorised Dealers), to the Trade Repository (TR) of Clearing Corporation of India Ltd. (CCIL).

To ensure the completeness of transaction data in the TR for all foreign exchange instruments, the reporting requirement has been expanded to include foreign exchange spot (including value cash and value tom) deals in a phased manner. Accordingly, transactions in the following foreign exchange contracts, involving INR or otherwise, shall now be reported to the TR:

- Foreign exchange cash
- Foreign exchange tom
- Foreign exchange spot

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3. Fully Accessible Route' for Investment by Non-residents in Government Securities – Inclusion of Sovereign Green Bonds

Reference is made to the Press Release on the 'Issuance Calendar for Marketable Dated Securities for October 2024 - March 2025,' which includes the calendar for Sovereign Green Bonds. The FAR, introduced by the Reserve Bank in March 2020, allows non-residents to invest in specified Central Government securities without restrictions.

It has now been decided to include 10-year Sovereign Green Bonds, issued in the second half of fiscal year 2024-25, as 'specified securities' under FAR.

These directions have been issued under Section 45W of the Reserve Bank of India Act, 1934, and are effective immediately.

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4. Amendment to the Master Direction - Know Your Customer (KYC) Direction, 2016

The Master Direction has been updated to (a) align with amendments to the Prevention of Money Laundering Rules, 2005, (b) incorporate instructions from a corrigendum issued by the Government on April 22, 2024, related to the Unlawful Activities (Prevention) Act, 1967, and (c) revise certain existing instructions. The changes are provided in the Annex and are effective immediately.

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D. CONSUMER PROTECTION ACT

1. Guidelines for the Prevention and Regulation of Greenwashing and Misleading Environmental Claims, 2024

TCCPA has issued guidelines for the Prevention and Regulation of Greenwashing and Misleading Environmental Claims. "Environmental claims" refer to representations suggesting eco-friendly attributes of goods, services, or processes, "Greenwashing" has been defined as deceptive practices involving exaggerated or false environmental claims. The guidelines apply to manufacturers, service providers, advertisers, and endorsers, prohibiting greenwashing and misleading claims. As per the guidelines, claims like "eco-friendly" or "carbon neutral" must be substantiated with accurate and accessible qualifiers and all material information must be disclosed in advertisements, either directly or through QR codes/URLs. Any violations will be addressed under the Consumer Protection Act, 2019.

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E. SECURITIES AND EXCHANGE BOARD OF INDIA (SEBI)

1. Valuation of repurchase (repo) transactions by Mutual Funds

It has been decided that repo transactions, including TREPS, with a tenor of up to 30 days, will now be valued on a mark-to-market basis, ensuring uniformity in valuation. Clause 9.6.2 of the SEBI Master Circular has been updated accordingly. Additionally, the valuation of all repo transactions, except overnight repos, will be obtained from valuation agencies.

These changes will take effect from January 1, 2025.

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2. Guidelines to Stock Exchanges, Clearing Corporations and Depositories

Certain guidelines have been issued based on the Committee's recommendations to strengthen Market Infrastructure Institutions (MIIs) governance.

Public Interest Directors (PIDs) of MIIs must meet at least once every six months to review compliance, critical operations, resources, conflict of interest issues, and corrective actions on SEBI inspection findings. PIDs must attend these meetings, consult with relevant staff, and submit a report to SEBI and the MII Governing Board within 30 days.

As a result, specific paragraphs from previous Master Circulars for Stock Exchanges, Clearing Corporations, Depositories, and Commodity Derivatives Segments are rescinded, effective immediately.

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3. Withdrawal of Master Circular on issuance of No Objection Certificate (NOC) for release of 1% of Issue Amount

The requirement for issuer companies to deposit 1% of the issue size for public subscription with the designated stock exchange under regulation 38(1) of SEBI (ICDR) Regulations, 2018, has been dispensed with. Following the amendment to the ICDR Regulations on May 17, 2024, the Master Circular on the issuance of No Objection Certificates for the release of the 1% issue amount has been withdrawn.

Stock exchanges are required to create a joint standard operating procedure (SoP) for the release of the 1% security deposit deposited before the amendments.

The circular is effective immediately. Stock exchanges are advised to inform all listed companies and update relevant bylaws, rules, and regulations as needed.

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4. Amendment to Para 15 of Master Circular for Credit Rating Agencies (CRAs) dated May 16, 2024 ("Master Circular")

A circular has been issued amending Para 15 of the Master Circular for Credit Rating Agencies (CRAs) dated May 16, 2024.

The definition of default for debentures/bonds, which specifies a delay of 1 day or a shortfall of even 1 rupee from the scheduled repayment date, remains unchanged. This requirement is reiterated since the SEBI (Credit Rating Agencies) Regulations, 1999, does not provide exemptions, except in cases of debt rescheduling before the due date.

In response to the COVID-19 pandemic, a provision for post-default curing was introduced in 2020, allowing CRAs to upgrade ratings from default to non-investment grade after 90 days, based on satisfactory performance. Deviations from this 90-day period may occur on a case-by-case basis, provided CRAs establish and publish a policy on their websites. The policy should address scenarios like technical defaults or changes in management that affect the credit risk profile.

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5. Relaxation from certain provisions for units allotted to an employee benefit trust for a unit-based employee benefit scheme

The SEBI (Infrastructure Investment Trusts) Regulations, 2014 were amended on July 13, 2024, to introduce a framework for the unit-based employee benefit (UBEB) scheme. This framework stipulates that the issuance of units to the employee benefit trust shall follow the preferential issue guidelines, including pricing regulations set by the Board.

The Master Circular for Infrastructure Investment Trusts (InvITs) dated May 15, 2024, outlines guidelines for preferential issue and institutional placement of units by InvITs. The circular includes lock-in and allotment restrictions, such as:

- Units allotted to persons other than the sponsor(s) shall be locked-in for one year from the date of trading approval.
- Pre-preferential issue unitholding of allottees shall be locked-in for six months from the relevant date.
- Preferential issuance of units is restricted for any person who sold or transferred units in the 90 trading days preceding the relevant date. This also applies to

sponsors who transferred units during the same period, unless the units are issued as consideration for asset acquisition by the InvIT.

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6. Relaxation from certain provisions for units allotted to an employee benefit trust for the purpose of a unit-based employee benefit scheme

On July 13, 2024, the SEBI (Real Estate Investment Trusts) Regulations, 2014 were amended to establish a framework for the unit-based employee benefit (UBEB) scheme. This framework mandates that unit issuance to the employee benefit trust comply with preferential issue guidelines, including pricing rules set by SEBI.

The Master Circular for REITs, dated May 15, 2024, details lock-in and allotment rules for preferential issues. Units issued to non-sponsors are locked in for one year, and pre-preferential holdings are locked in for six months. Persons who sold units in the 90 days before the relevant date are ineligible for preferential allotments, including sponsors, unless the units are part of an asset acquisition by the REIT.

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7. Simplified registration for Foreign Portfolio Investors (FPIs)

SEBI's Master Circular for Foreign Portfolio Investors (FPIs), Designated Depository Participants (DDPs), and Eligible Foreign Investors, dated May 30, 2024, mandates that every FPI applicant submit a duly filled and signed Common Application Form (CAF) and its annexure, along with the required documents for registration.

It has been noted that for FPI applicants from certain categories, information about the Investment Manager (IM) and other details are already captured in the depositories' CAF module. These categories include:

- Funds operated by investing/non-investing IMs where the IM or any fund operated by the IM is already registered as FPI.
- Sub-funds of a master fund, where the master fund or any sub-fund is already registered as FPI.
- Sub-funds or separate classes of shares or equivalent structures with segregated portfolios, where the fund or its sub-fund or class is already registered as FPI.

- Insurance company schemes where the parent entity or any scheme of the insurance company is already registered as FPI.

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8. Trading supported by Blocked Amount in Secondary Market

SEBI introduced a supplementary process in its Master Circular (October 16, 2023) to protect investors by blocking funds in their bank accounts for secondary market trading instead of transferring them upfront to TMs, effective January 1, 2024. This UPI block mechanism, outlined in para 25.4.1.2, is optional for stock brokers.

To encourage broader adoption of the facility, public consultation and discussions with market participants were conducted. Some TMs already offer 3-in-1 trading accounts, which integrate the trading, demat, and bank accounts of clients. Key features include:

- Blocking of funds in the client's bank account based on buy orders, with funds released if the orders are not executed.
- Blocking of securities in the client's demat account based on sell orders, with the block removed if the orders are not executed.
- Post-market transfer of blocked funds/securities to the Clearing Corporation, with clients earning interest on available funds until the transfer.

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9. Procedure for reclassification of FPI investment to FDI

ISEBI's regulations 20(7) and 22(3) of the SEBI (Foreign Portfolio Investors) Regulations, 2019, state that if an FPI fails to divest its holdings exceeding the prescribed threshold within five trading days, the entire investment shall be classified as Foreign Direct Investment (FDI).

The procedure under Para 17 of Part C of the Master Circular (SEBI/HO/AFD/AFD-PoD-2/P/CIR/P/2024/70, May 30, 2024) has been modified as follows:

- If an FPI's investment (along with its investor group) reaches 10% or more of a company's equity capital and

- intends to reclassify as FDI, it must follow the relevant FEMA rules and circulars.
- Upon receiving this intent, the Custodian will report it to SEBI and freeze further purchases by the FPI in the company's equity.
- The Custodian will process requests for transferring equity instruments from the FPI demat account to the FDI account once the reclassification reporting is complete, as prescribed by RBI.

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10. Disclosure of expenses, half yearly returns, yield and risk-o-meter of schemes of Mutual Funds

SEBI's circular dated June 27, 2024, updates disclosures for Mutual Funds to enhance transparency. Key decisions include:

- Separate disclosures for direct and regular plans on expenses, returns, and compounded annualized yields.
- A colour scheme is introduced for risk levels in Mutual Funds, ranging from Low Risk (Irish Green) to Very High Risk (Red).
- Changes in risk levels must be communicated to unitholders through notices and emails, displaying both existing and revised risk-o-meter levels.
- The provisions come into effect on December 5, 2024.

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11. Investments in Overseas Mutual Funds/ Unit Trusts by Indian Mutual Funds

SEBI's circular permits Mutual Funds to invest in overseas MF/UTs with up to 25% exposure to Indian securities, under specific conditions. The investment must follow guidelines on pooling, pari-passu rights, independent management, and public disclosure. Breaches of the 25% limit allow a 6-month observation period for rebalancing, with liquidation required if the exposure exceeds the limit. Non-compliance results in restrictions on new subscriptions and scheme launches. The provisions come into effect immediately.

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12. Master Circular for Issue of Capital and Disclosure Requirements

A circular has been issued by SEBI consolidating all relevant circulars under the ICDR Regulations, 2018, into an updated Master Circular. This new circular supersedes the previous one issued on June 21, 2023, and includes all circulars issued up to September 30, 2024. The Master Circular provides a chapter-wise framework for compliance with ICDR Regulations, with footnotes for easy reference.

All instructions in the circulars listed in the Appendix are rescinded to the extent they relate to ICDR Regulations. Actions taken under the rescinded circulars remain valid, and applications pending before SEBI will be considered under the new provisions.

Recognized Stock Exchanges and Depositories are directed to notify stakeholders, update systems, and make necessary changes to rules and regulations. Listed entities must comply with the conditions specified in this circular.

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13. Master Circular for Compliance with LODR Regulations by Listed Entities

SEBI issued the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations) effective from December 1, 2015. To consolidate the circulars related to compliance, a Master Circular was issued on July 11, 2023, including all circulars until June 30, 2023.

- The Master Circular has been updated to include circulars issued until September 30, 2024, superseding the July 11, 2023 circular.
- The updated Master Circular provides a chapter-wise compliance framework, with footnotes linking to the corresponding circulars.
- Circulars listed in Appendix (Sl. No. 68-74) are rescinded, but actions taken under them remain valid under the updated Master Circular.
- Recognized Stock Exchanges and Depositories are directed to: a) Disseminate the circular to all stakeholders. b) Implement necessary monitoring systems.
- All listed entities, exchanges, depositories, and stakeholders must comply with the provisions of this circular as applicable.
- This circular is issued under SEBI Act, 1992, and the LODR Regulations.

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F. Reforms in the Insurance Sector

1. Background

Insurance Regulatory and the Developmental Authority (IRDAI) has undertaken significant reforms in the insurance sector in the year 2024, intending to significantly increase the Insurance penetration in India, as part of its vision “Insurance for All, by 2047”. Some of the key reforms include the protection of policyholders’ interests, reforms relating to insurance products, reforms and simplification of the framework governing the expenses of management and payment of commission, corporate governance, actuarial, finance and investment aspects, and reinsurance.

Even with the above-stated reforms undertaken by the IRDAI in 2024, additional measures have been introduced to address critical structural and operational challenges faced by the insurance industry. These initiatives, including amendments to foreign direct investment thresholds, entry norms, and product frameworks, have been designed to foster an environment conducive to sustainable growth

India’s insurance sector has historically faced challenges in achieving robust growth in insurance penetration. While the Foreign Direct Investment (FDI) cap was increased to 74% in 2021, it failed to significantly attract foreign investment. Additionally, the Net Owned Funds (NOF) requirement of 100 crore restricted smaller, niche players from entering the market. The latest proposal seeks to address these challenges through two pivotal reforms:-

1. Raising the FDI cap to 100%.
2. Reducing the NOF requirement to 50 crores.

In this article, the positive impact of the two abovementioned key changes is detailed below.

2. Potential Benefit of Increasing FDI Limit to 100%

More Capital for Growth, Enhance Competition and Innovation

Raising the Foreign Direct Investment (FDI) limit to 100% is likely to attract global insurers, increasing the capital base of the Indian insurance sector. These entities are expected to introduce innovative products such as parametric and usage-based insurance, catering to India’s diverse demographic and economic needs. Such products can address specific regional and sectoral challenges, particularly in underinsured and rural areas, where high costs and logistical issues have hindered penetration.

The increased capital will assist Indian insurers in addressing operational inefficiencies. Advanced digital platforms for sales and claims processing can reduce dependency on costly distribution channels. Additionally, expertise from foreign insurers in areas like commercial and cyber insurance could bolster under-penetrated business lines. Embedded insurance models, already prevalent in other Asian markets, could offer streamlined and affordable coverage, making insurance more accessible and inclusive for India's population.

Enhanced competition, driven by the entry of global players, is likely to lower premiums and improve service quality. This aligns with global trends where increased foreign participation in insurance markets fosters customer-centric approaches and market growth. India's insurance penetration, currently at 3.8% compared to the global average of 6.5%, stands to benefit significantly from this initiative.[1]

3. Benefits of Reducing NOF Requirement to ₹50 Crores

a) Emergence of Micro-Insurance and Industry-Specific Insurance:

Reducing the Net Owned Funds (NOF) requirement to ₹50 crores will enable smaller entities to enter the insurance market, leading to the development of microinsurance and industry-specific insurance. Such products can address localized and specialized needs, including coverage for agriculture, natural disasters, or region-specific risks. For example, agricultural insurance using parametric models is gaining traction globally, providing efficient claim processing based on predetermined triggers such as weather patterns. India has seen success with similar schemes like the Restructured Weather-Based Crop Insurance Scheme, which has been brought with an aim to service the farmers. Expanding these models can better address underserved rural populations, particularly in the face of climate-related challenges.

b) Increase in Penetration of Insurance:

Lowering the entry threshold will attract more niche players, fostering competition and innovation in product offerings. This competition could lead to reduced costs, simplified processes, and expanded digital platforms. These advancements are critical for increasing insurance penetration in India. Specialized insurers focusing on underserved areas, such as remote regions

1 India's insurance market: growing fast, with ample scope to build resilience, Swiss Re Institute, January 2024.

or low-income groups, can significantly enhance financial resilience among vulnerable populations. Similar frameworks in the banking sector, such as small finance banks, have demonstrated the potential of differentiated models in reaching unbanked and underserved markets.

4. Conclusion

The proposed reforms in the Insurance Sector are aimed at revitalizing India's insurance sector. The raising of the FDI cap to 100% and reducing NOF requirements will ease entry barriers, and foster competition, innovation, and inclusion. These measures are expected to expand insurance penetration, cater to diverse consumer needs, and ensure the sector aligns with the vision of financial inclusion by 2047. Implementing these reforms, coupled with strategic regulatory support, is poised to unlock the full potential of the insurance sector and contribute to India's economic growth.

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