

SAGUS SPEAKS



This Newsletter covers key Regulatory & Policy Updates, Government Notifications and Judicial Pronouncements.

REGULATORY AND POLICY UPDATES

SEBI notifies SEBI (Listing Obligations and Disclosure Requirements) (Second Amendment) Regulations, 2025.

The Securities Exchange Board of India (“SEBI”) notified the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Second Amendment) Regulations, 2025 (“Second Amendment”) on 01.05.2025¹, by notification bearing reference no. F. No. SEBI/LAD-NRO/GN/2025/244, to amend certain regulations of the SEBI(Listing Obligations and Disclosure

Requirements) Regulations, 2015 (“LODR Regulations”). The Second Amendment shall come into force on the date of notification in the official gazette.

Certain key provisions of the Second Amendment are as follows:

- i. **Grievance Redressal Mechanism:** Regulation 13(2) of the LODR Regulations mandates listed entities to ensure registration on the SEBI Complaints Redressal System (“SCORES”) platform, in order to handle investor complaints electronically in the manner specified by SEBI from time to time. A new proviso has been inserted under Regulation 13(2) of the LODR Regulations

¹SEBI (Listing Obligations and Disclosure Requirements) (Second Amendment) Regulations, 2025.

wherein it has been clarified that in case of Securitised Debt Instruments (“SDIs”), SCORES registration shall be undertaken at the trustee level for all special purpose distinct entities, they are trustee of.

- ii. Certain additional disclosures by listed entities having SDIs – Certain additional disclosures have been added to Schedule III, Part D of the LODR Regulations to be disclosed by listed entity having listed SDI’s or their trustee appointed in this regard, in relation to: (i) outstanding litigations and material developments concerning the originator, servicer, or any other party involved in the transaction that could potentially harm investor interests; and (ii) annual disclosure regarding any defaults related to servicing obligations undertaken by the servicer shall be disclosed by the entity or its trustee to the stock exchanges.

SEBI notifies SEBI (Issue and Listing of Securitised Debt Instruments and Security Receipts) (Amendment) Regulations, 2025.

SEBI notified SEBI (Issue and Listing of Securitised Debt Instruments and Security Receipts) (Amendment) Regulations, 2025² (“Amended Regulations”) by notification bearing F. No. SEBI/LAD-NRO/GN/2025/247 dated 05.05.2025 to amend the SEBI (Issue and Listing of Securitised Debt Instruments and Security Receipts) Regulations, 2008 (“ILSD Regulations”). The Amended Regulations shall come into force on the date of their notification in the official gazette.

The Amended Regulations apply to all listed SDIs issuances, covering financial and non-financial issuers. The Amended Regulations have, *inter alia*, made the following changes:

- i. Regulations 2 of the ILSD Regulations: SEBI has revised Regulation 2 to define “advertisement”, “issue”, and “minimum holding period”, and narrows “debt or receivables” to exclude re-securitisation, short-term instruments, and certain debts (e.g., revolving credit). It aligns “registration certificate” with the definition provided under the SEBI (Debenture Trustees) Regulations, 1993.
- ii. Regulations 10A, 11, 11B of the ILSD Regulations: SEBI introduces Regulation 10A, mandating originators to submit quarterly asset pool performance reports and auditor certificates for securitisation trusts. Regulation 11 strengthens trustee duties, requiring trust deed compliance, SEBI reporting of non-compliance, quarterly servicer updates, and auditor certificates. It mandates investor meetings via video-conferencing with e-voting (>50% majority) and adds sub-regulations for trustee accountability, asset protection, and Schedule III compliance. Regulation 11B requires SPDEs/trustees to submit half-yearly data to SEBI for automated processing.
- iii. Regulation 14 of the ILSD Regulations: The Amended Regulations, *inter alia*, requires regulated liquidity providers to offer arm’s-length facilities for short-term use only. It prohibits use for credit enhancement or loss coverage, deems non-compliant facilities as credit enhancement, and limits facilities to non-consecutive repayment cycles.
- iv. Regulations 23 of the ILSD Regulations: SEBI revises Regulation 23(2) to mandate dematerialised issuance and transfers of SDIs.
- v. Regulations 30B, 30C, 30D of the ILSD Regulations: SEBI introduces Regulation 30B, requiring originators to retain 10% of securitised debt (5% for short-term or mortgage-backed securities) with restrictions on risk reduction. Regulation 30C mandates a three-month (tenors up to two years) or six-month (longer tenors) holding period, with rules for project loans and mortgages. Regulation 30D permits clean-up calls at up to 10% of asset value, prohibiting loss avoidance or credit enhancement.
- vi. Schedule III of the ILSD Regulations: SEBI adds clause 3A to Schedule III, mandating corporate governance policies, prohibits sharing price-sensitive information, and inserts provisions for client identification, conflict resolution, investor grievance redressal, and SEBI compliance.

SEBI notifies SEBI (Real Estate Investment Trusts) (Amendment) Regulations, 2025 and the SEBI (Infrastructure Investment Trusts) (Amendment) Regulations, 2025.

SEBI has amended the disclosure requirements for Real Estate Investment Trusts (“REITs”) and Infrastructure Investment Trusts (“InvITs”) under the SEBI (Real Estate Investment Trusts) Regulations, 2014 (“REIT Regulations”) and SEBI (Infrastructure Investment Trusts) Regulations, 2014 (“InvIT Regulations”) by notifying the SEBI (Real Estate Investment Trusts) (Amendment) Regulations, 2025³ and the SEBI (Infrastructure Investment Trusts) (Amendment) Regulations, 2025⁴ respectively, both dated 01.05.2025 (collectively, the “Amended Regulations”).

²SEBI (Issue and Listing of Securitised Debt Instruments and Security Receipts) (Amendment) Regulations, 2025.

³ SEBI (Real Estate Investment Trusts) (Amendment) Regulations, 2025.

⁴ SEBI (Infrastructure Investment Trusts) (Amendment) Regulations, 2025.

effective immediately from the date of notification, except for Chapter 4 provisions of the respective Amended Regulations, which shall apply to financial information disclosures from 01.04.2025 onwards.

- i. A new Schedule IIIA, titled 'mandatory disclosures in scheme offer document', has been inserted into the REIT Regulations and InvIT Regulations, respectively, mandating disclosures such as the trust's name, address, registration status, principal place of business, contact details, and background information. For Initial Public Offerings ("IPOs"), audited combined financial statements must be disclosed in the offer document/placement memorandum. Follow-on offers require audited consolidated financial statements for the last three financial years and stub period (if applicable), or for the period of existence if less than three years, with stub period financials required if audited financials are older than six months from the filing date.
- ii. The use of condensed financial statements has been discontinued, requiring full financial statements in offer documents and post-listing disclosures, aligning with the provisions of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 ("ICDR Regulations"), and LODR Regulations. Additional audited disclosures include project-wise operating cash flows, contingent liabilities, and commitments, audited by peer-reviewed auditors approved under the respective REIT Regulations and InvIT Regulations.
- iii. For continuous compliance, REITs and InvITs must submit quarterly and year-to-date financial results within 45 (forty-five) days of the quarter-end (except the final quarter) and annual financial results within 60 (sixty) days of the financial year-end, reconciling full-year audited figures with third-quarter reports. Unit holding patterns must be reported one day prior to listing, quarterly within 21 (twenty-one) days, and within 10 (ten) days of any capital restructuring exceeding a two percent change in total outstanding units, as per the Amended Regulations.

SEBI extends timeline for AIF key investment team NISM Certification to 31.07.2025

SEBI by way of Circular No. SEBI/HO/AFD/AFD-PoD-1/P/CIR/2025/066⁵ dated 13.05.2025 ("Circular"), has extended the timeline for compliance with the certification requirement for the key investment team of the manager of Alternative Investment Funds ("AIFs"). This Circular is issued in exercise of the powers conferred under Section 11(1) of the SEBI Act, 1992, read with Regulations 4(g)(i)

⁵ SEBI extends timeline for AIF key investment team NISM Certification to 31.07.2025.

and Regulation 36 of the SEBI (Alternative Investment Funds) Regulations, 2012, and follows the earlier SEBI circular dated 13.05.2024 ("SEBI AIF Circular").

SEBI has extended the deadline for schemes of AIFs existing as on 13.05.2024 and schemes with pending applications as on 10.05.2024 to obtain the 'NISM Series-XIX-C: Alternative Investment Fund Managers Certification Examination' from 09.05.2025 to 31.07.2025, while maintaining all other provisions of the SEBI AIF Circular.

RBI relaxes limitations on Investments in Corporate Debt Securities by FPIs.

The Reserve Bank of India ("RBI") through notification no. RBI/2025-26/35 dated 08.05.2025⁶ ("RBI Notification on FPI") has provided certain relaxations to Foreign Portfolio Investors ("FPIs") investing in Corporate Debt Securities ("CDS") through the general route. The notification amends the provisions of the Master Direction - Reserve Bank of India (Non-resident Investment in Debt Instruments) Directions, 2025, dated 07.01.2025 ("Master Direction") to withdraw the requirement for investments by FPIs into CDS to comply with the short-term investment limit and the concentration limit to provide greater ease of investment to FPIs.

Earlier, investments made by FPIs into CDS with residual maturity of up to 1 (one) year through the general route were subject to the short-term investment limit of a maximum of 30% (Thirty Percent) of total investment of the FPI for investments in CDS, as prescribed in paragraphs 4.4(iii) of the Master Direction, and the concentration limit of 15% (Fifteen Percent) of prevailing investment limit for long term investments in CDS and 10% ("Ten Percent") of prevailing investment limit for other investments by the FPI (including their related FPIs taken together) as prescribed in paragraphs 4.4(v) of the Master Direction. Both above-mentioned paragraphs have now been deleted from Master Directions by the RBI Notification on FPI.

RBI notifies RBI (Digital Lending) Directions, 2025

RBI has issued notification bearing no. RBI/2025-26/36 dated 08.05.2025 to notify RBI (Digital Lending) Directions, 2025⁷ ("Directions") which consolidate the earlier instructions and guidelines issued by RBI along with certain new measures for arrangements involving Lending Service Providers ("LSPs") partnering with multiple regulated entities, and for creation of a directory of digital lending apps.

⁶ RBI Notification on Investments by Foreign Portfolio Investors in Corporate Debt Securities.

⁷ RBI (Digital Lending) Directions, 2025.

The Directions have provided detailed frameworks to be adhered to by the Regulated Entities (“RE”) with respect to the following:

- i. Agreements with LSPs and their diligence and periodic checks.
- ii. Default loss guarantee contracts for losses in the loan portfolio of REs.
- iii. Initial cooling-off period for prepayment of loans by the borrowers.
- iv. Borrower’s control over data collection, audit trails, and consent for third-party access to their data.
- v. Data Storage rules for deletion and transfer of data stored in servers outside India.
- vi. Interface for grievance redressal mechanism and borrowers’ options to make complaints through apps and websites, apart from nodal officers.
- vii. Reporting of the LSPs and digital lending apps by the RE on the centralised information management system portal of the RBI and compliance certification, along with public disclosure in this respect.
- viii. Prohibitions on the usage of dark patterns, bias, and misleading designs to unfairly push offers and disclosure of clear and fair information regarding all options.
- ix. Rules for treatment of non-performing assets, capital provisioning, and loss sharing arrangements in case of defaults.

CERC issued Central Electricity Regulatory Commission (Deviation Settlement Mechanism and Related Matters) (Second Amendment) Regulations, 2025.

The Central Electricity Regulatory Commission (“CERC”) on 10.05.2025 has issued Draft Central Electricity Regulatory Commission (Deviation Settlement Mechanism and Related Matters) (Second Amendment) Regulations, 2025⁸ (“Draft Amendment”) amending Regulation 8 of the CERC (Deviation Settlement Mechanism and Related Matters) Regulations, 2024 (“DSM Regulations”).

The following amendments have been made under Regulation 8(8) of the DSM Regulations:

- i. Regulation 8(8)(2) of the Draft Amendment provides that where the infirm power injected (in case of thermal generating stations) into the grid from the date of first synchronization of the unit up to the successful completion of the trial run shall be paid @ normal rate of

charges for deviation for each time block with a price ceiling of Rs. 2.86/kWh.

- ii. Regulation 8(8)(3) provides that if the infirm power is scheduled from a thermal generating station after its successful trial run in terms of the Grid Code, the charges for deviation over the scheduled infirm power applicable shall be determined based on the nature of seller i.e., general seller or wind / solar / hybrid seller.
- iii. Regulation 8(8)(4) provides that if the system frequency is greater than 50.5 Hz, notwithstanding clauses (2) and (3), the charges for injection of infirm power or for deviation of scheduled infirm power after successful trial run by way of over injection by a seller, shall be zero.

The Draft Amendment shall come into force from 01.07.2025. Further, CERC has also invited comments from all stakeholders which shall be submitted on or before 10.06.2025.

BCI introduced regulated framework for foreign legal practice and expand cross-border scope for Indian law firms amending the Bar Council of India Rules for Registration and Regulation of Foreign Lawyers and Foreign Law Firms in India, 2022.

The Bar Council of India (“BCI”), through its notification dated 13.05.2025⁹ (“BCI Amended Rules”), has notified the amended BCI Rules for Registration and Regulation of Foreign Lawyers and Foreign Law Firms in India, 2022 (“BCI Rules”), originally published on 10.03.2023.

The BCI Amended Rules aim to regulate the practice of foreign law, international law, and arbitration in India by foreign lawyers and foreign law firms and further encourage reciprocal legal collaboration.

The key highlights of the BCI Amended Rules are inter-alia as follows:

- i. Rule 2 provides for definitions wherein several key terms have been defined such as foreign lawyer, foreign law firm, Indian-Foreign law firm, international commercial arbitration.
- ii. Rule 3 provides for registration requirements for foreign lawyers and foreign law firms and the eligibility criteria for practicing in India. Notably, registration with the BCI has been mandated unless the foreign lawyer or foreign law firm qualifies for the Fly-In-Fly-Out (“FIFO”) exemption, which permits advisory services for up to 60 days annually without office presence.

⁸ Central Electricity Regulatory Commission (Deviation Settlement Mechanism and Related Matters) (Second Amendment) Regulations, 2025.

⁹ BCI notifies BCI rules for Registration and Regulation of Foreign Lawyers and Foreign Law Firms.

- iii. Under Rule 4 the Indian advocates and Indian law firms may seek registration as foreign lawyers or foreign law firms in other jurisdictions while retaining their rights to practice Indian law domestically. However, foreign lawyers may be registered in India only if there is reciprocal treatment available to Indian lawyers in the foreign jurisdiction, supported with a certification from the relevant foreign government.
- iv. Rule 8 provides for the scope of permitted practice of foreign lawyers and foreign law firms whereunder the foreign lawyers and foreign law firms may only handle non-litigious matters involving international law and international arbitration. Further, foreign lawyers and foreign law firms are barred from court appearances, filing of pleadings, and conveyancing.
- v. Under Rule 10, the foreign lawyers and foreign law firms are subject to BCI's Code of Ethics. Further, in case of violations BCI may issue warnings, suspend or cancel registration, or refer cases to foreign disciplinary bodies, while retaining final decision-making authority.

GOVERNMENT NOTIFICATIONS

Ministry of Power notified the Electricity (Late Payment Surcharge and Related Matters) (Amendment) Rules, 2025

The Ministry of Power ("MoP") through its notification dated 02.05.2025 issued the Electricity (Late Payment Surcharge and Related Matters) (Amendment) Rules, 2025 ("LPS Amendment Rules")¹⁰ amending the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 ("Principal Rules").

The LPS Amendment Rules have introduced an amendment under Rule 1 which provides for the applicability of the Principal Rules. The Principal Rules under Rule 1(3) shall now be applicable on all transmission licensees and generating companies. Earlier, under Rule 1(3) the applicability of the Principal Rules was limited to the generating companies and, inter-state transmission licensees only. Accordingly, under the LPS Amendment Rules, the term 'inter-state transmission licensees' has been substituted with 'transmission licensees', thereby broadening the scope of applicability of the Principal Rules.

JUDICIAL PRONOUNCEMENTS

Supreme Court held that the resolution plan of JSW Steel for Bhushan Steel and Power Limited is illegal and contrary to the provisions of the IBC and orders liquidation.

The Supreme Court of India, through its judgement dated 02.05.2025 in *Kalyani Transco v. M/S Bhushan Power and Steel & Ors.*,¹¹ set aside the resolution plan of JSW Steel ("JSW") who was the Successful Resolution Applicant ("SRA"), directing the liquidation of Bhushan Power & Steel Limited ("BPSL").

The Supreme Court observed that the Corporate Insolvency Resolution Process ("CIRP") was vitiated by gross violations of the Insolvency and Bankruptcy Code, 2016 ("IBC") and its accompanying regulations by the Resolution Professional ("RP"), the Committee of Creditors ("CoC"), and the SRA, i.e., JSW.

The key violations as highlighted by the Supreme Court in its judgment are *inter-alia* as follows:

- i. Delay in completion of CIRP without seeking necessary extension thereby violating Section 12 of IBC.
- ii. Failure of the RP to file applications for avoidance transactions and failure to perform statutory duties by the RP.
- iii. Failure of the RP to comply with Section 29A of IBC to certify the SRA as per the qualifications laid down.
- iv. The resolution plan of the SRA was not in compliance with Section 30(2) of the IBC and the failure of the RP to confirm the compliance of Section 30(2).
- v. Failure of the CoC to apply commercial wisdom while approving the resolution plan and failure to check the compliance of the mandatory requirements under IBC.
- vi. Deliberate and intentional delay in implementation of the resolution plan by the SRA.

Supreme Court held that cross subsidy surcharge is not mandatorily required to be determined along with the applicable tariff.

The Supreme Court of India, through its judgement dated 29.04.2025 in *Jaipur Vidyut Vitaran Nigam Limited & Ors. vs. Rajasthan Textile Mills Association & Anr.*,¹² set aside the judgement passed by the Appellate Tribunal for Electricity ("APTEL"). The Supreme Court held that while the determination of Cross Subsidy Surcharge ("CSS") should be consistent with the applicable tariff rates for the relevant financial year, it is not mandatory for the CSS to be determined simultaneously with the tariff.

The Supreme Court while setting aside the order of the APTEL observed that, upon a plain reading of Regulation 90 of the Rajasthan Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2014, it is understood that CSS can be determined separately

¹⁰ Electricity (Late Payment Surcharge and Related Matters) (Amendment) Rules, 2025.

¹¹ Civil Appeal No. 1808 of 2020.

¹² Civil Appeal Nos. 8862-8868 of 2022.

based on the prevailing rate of tariff applicable to the relevant consumer category.

Supreme Court held that NCLAT does not have power to condone delay in filing an appeal beyond the prescribed period of 45 days.

The Supreme Court of India, through its judgement dated 07.05.2025 in *Tata Steel Limited v. Raj Kumar Banerjee & Ors.*,¹³ held that the National Company Law Appellate Tribunal (“NCLAT”) does not has power to condone delays in filing an appeal beyond the prescribed limit of 45 days (30 days + 15 days) under Section 61(2) of the IBC.

Section 61 (2) of the IBC stipulates that an appeal to NCLAT must be filed within 30 days. Further, if the appeal is not filed within the prescribed time limit of 30 days, NCLAT has power to condone delay upto 15 days, provided it is satisfied that there was sufficient cause for such delay.

The Supreme Court observed that the period of limitation begins from the date of pronouncement of order/judgment and since 45 days had elapsed before the appeal was filed, NCLAT cannot condone any delay beyond 15 days even on equitable grounds. It was observed that appellate mechanism under IBC is strictly time-bound and has been designed to preserve the certainty of the CIRP.

High Court of Delhi affirmed that an arbitrator can grant interest under Section 16 of MSMED Act even if a reference was not made.

The High Court of Delhi, through its judgment dated 01.05.2025, in *Shristi Infrastructure Development v. Scorpio Engineering Pvt. Ltd.*,¹⁴ dismissed the petition filed by Shristi Infrastructure Development under Section 34 of the Arbitration and Conciliation Act, 1996 (“A&C Act”) and upheld the arbitral award.

The High Court of Delhi held that the jurisdiction of the arbitral tribunal was not affected by the Micro, Small and Medium Enterprises Development Act, 2006 (“MSMED Act”) merely because Scorpio Engineering Pvt. Ltd. was a registered MSME. Since neither party had invoked Section 18 of the MSMED Act (which provides for reference to the Facilitation Council), the arbitration clause in the contract remained fully enforceable.

The High Court clarified that Section 18 of the MSMED Act is discretionary in nature, and the arbitration was validly initiated as per the mechanism provided under the contract. Further, the right to claim interest under Section 15 and 16 of the MSMED Act is substantive in nature and is not dependent

on the initiation of arbitration in terms of the resolution process provided under Section 18.

APTEL held that a trading licensee functions as an intermediary and cannot be held responsible for sealing of meters installed at plant-end.

The APTEL by its order dated 14.05.2025 in *NTPC Ltd. v. CERC and Ors.*¹⁵, held that the role of a trading licensee is limited to co-ordinating between the seller and the buyer, and it has no role in sealing of meters installed at the plant-end, either individually, or jointly with the developer.

The APTEL held that the role and functions of the generator, transmission licensee, trading licensee and distribution licensee is clearly demarcated under the Electricity Act, 2003 (“EA 2003”). It was noted that under the EA 2003, ‘trading’ entails purchase of electricity for the purpose of sale to a buyer. The trading licensee does not maintain any networking assets, equipment, or facilities for receiving or trading of such electricity, and only acts as an intermediary. Therefore, a trading licensee cannot be held responsible for the sealing of meters at plant-end.

Further, the role of a trading licensee is limited co-ordinating between the seller and the buyer, and additionally, for the payments made thereon.

NCLAT held that the penalty imposed by SEBI qualifies as ‘fine’ and is an ‘excluded debt’ under Section 79(15)(a) of IBC.

The NCLAT, Chennai, through its judgment dated 30.04.2025 in *Mrs. G.V. Marry v. Securities and Exchange Board of India*¹⁶, upheld the order of National Law Company Tribunal (“NCLT”) Hyderabad which affirmed that penalties imposed by the SEBI qualify as ‘fines’ and hence, can be classified as ‘excluded debt’ under Section 79(15)(a) of the IBC.

NCLAT observed that the regulatory penalties, such as those imposed by SEBI, are not dischargeable under IBC proceedings. Further, the NCLAT clarified that given a clear mandate prescribed by the statute itself, once a special statute creates a bar and does not include within itself the debts in the shape of a fine, it has to be excluded as a debt and the same cannot be read in any other way than what was intended by the legislature.

NCLAT held that absence of assignee’s name in balance sheet does not negate the applicability of Section 18 of Limitation Act, 1908.

¹³ Civil Appeal No. 408 of 2023.

¹⁴ O.M.P.(COMM.) 246/2022.

¹⁵ Appeal No. 202 of 2022.

¹⁶ IA No. 450/2025 in Company Appeal (AT) (CH) (Ins) No.165/2025.

NCLAT, Delhi, on 01.05.2025, in *Saurabh Jhunjhunwala (Suspended Board Director of Fairdeal Supplies Ltd v. Pegasus Assets Reconstruction Co. Pvt. Ltd.*¹⁷, held that omission of the assignee's name in the balance sheet of the corporate debtor does not preclude the applicability of Section 18 of the Limitation Act, 1963, for the purpose of extending limitation even when the debt has been assigned.

NCLAT observed that even if the assignment deed is void as to rights over immovable property, the debt assignment itself remains valid for the purpose of proceedings under Section 7 of IBC. Further, it was held that the absence of the assignee's name in balance sheet does not dilute the legal effect of continuous acknowledgements made towards the debt.

¹⁷ Company Appeal (AT) (Insolvency) No. 648 of 2024.

ABOUT SAGUS LEGAL

Sagus Legal is a full-service law firm that provides comprehensive legal advisory and advocacy services across multiple practice areas. We are skilled in assisting businesses spanning from start-ups to large business conglomerates including Navratna PSUs, in successfully navigating the complex legal and regulatory landscape of India. Our corporate and M&A, dispute resolution, energy, infrastructure, banking & finance, and insolvency & restructuring practices are ranked by several domestic and international publications. We also have an emerging privacy and technology law practice.

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