RECENT DEVELOPMENTS IN INDIA'S CORPORATE & COMMERCIAL LAWS

Highlights | 2025

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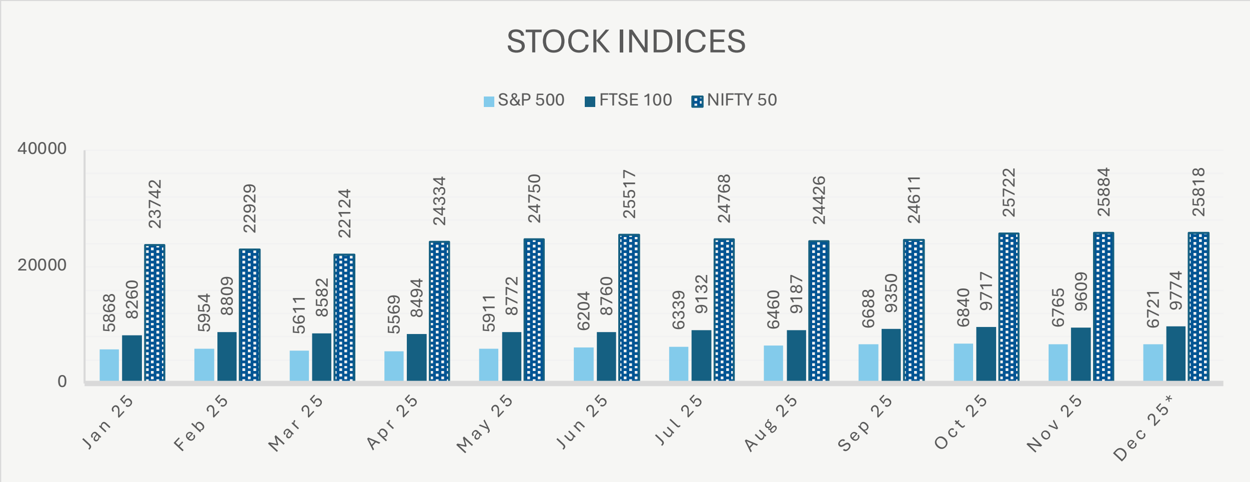
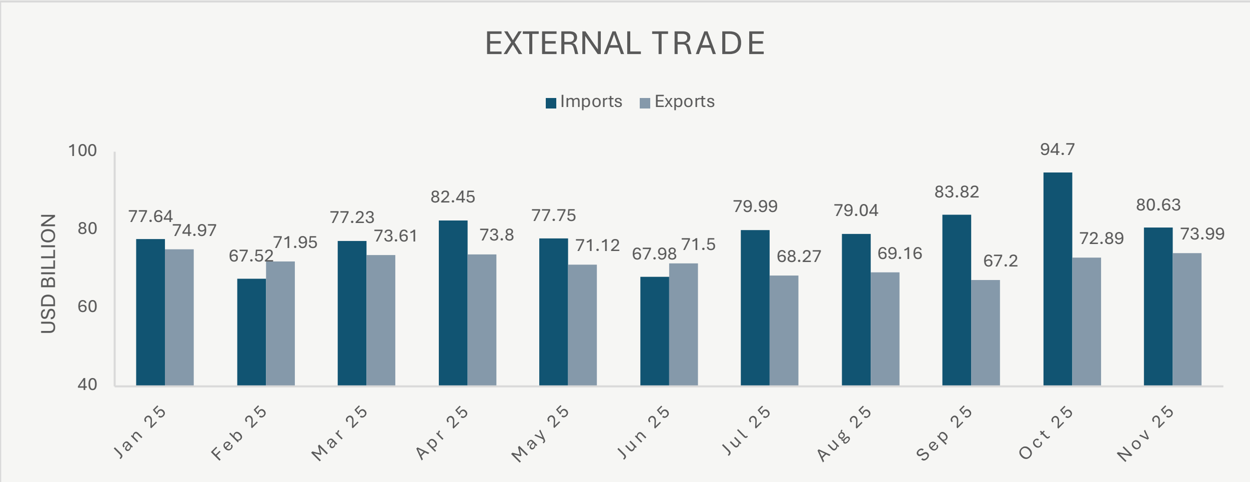
Indian economy | 2025

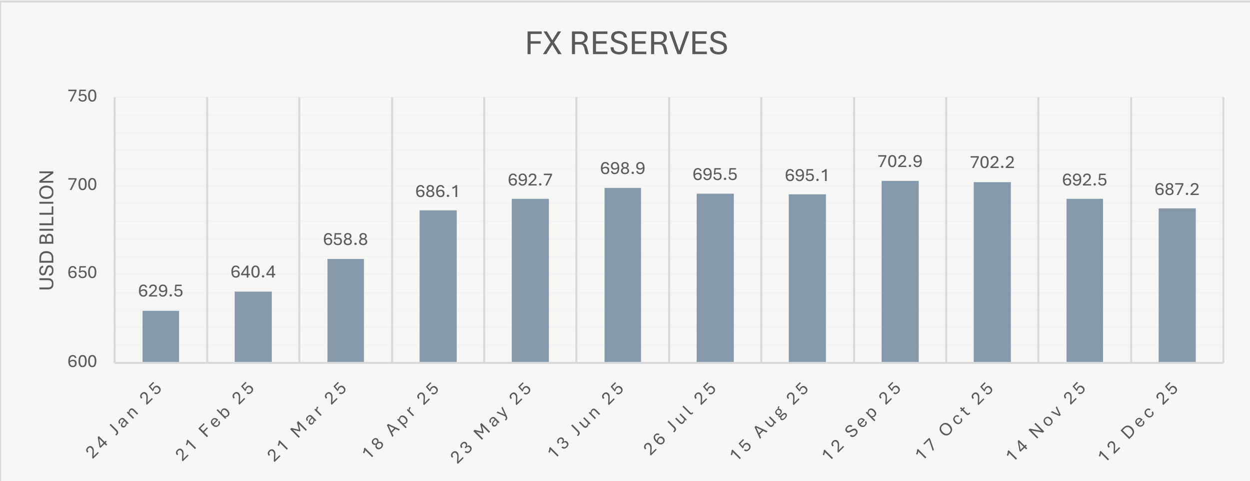
Snapshot of key indicators



Source: S&P Dow Jones, FTSE Russel, NSE



Source: Ministry of Commerce and Industry



Source: Reserve Bank of India

* As per the latest available data for December 2025

CAPITAL MARKETS & SECURITIES LAW

Updates from the Securities and Exchange Board of India

SEBI revises Related Party Transactions compliance framework

SEBI (Listing Obligations and Disclosure Requirements) (Fifth Amendment) Regulations, 2025

In implementation of its consultation paper recommendations issued in August 2025, on November 18, 2025, the Securities and Exchange Board of India (SEBI) introduced a series of substantive amendments to its Listing Obligations and Disclosure Requirements Regulations, 2015 (LODR Regulations), impacting the scope and compliance pertaining to Related Party Transactions (RPTs).

Key changes

- Scale-based materiality thresholds: The current materiality threshold for RPTs – INR 1000 crore or 10% of a listed entity's annual consolidated turnover, whichever is lower – has been replaced by a turnover-linked threshold mechanism, aimed at reducing unnecessary shareholder approvals:

Turnover (annual consolidated) (INR)	Materiality threshold
Up to 20,000 crore	10% of turnover
20,000 to 40,000 crore	INR 2,000 crore + 5% of turnover above INR 20,000 crore
Above 40,000 crore	INR 3,000 crore + 2.5% of turnover above INR 40,000 crore; subject to a cap of INR 5,000 crore

- Clarification on exemptions from the definition of RPTs: The retail purchase exemption under the proviso to Regulation 2(1)(zc) will now be limited to directors, Key Managerial Personnel (KMPs), and their relatives, subject to uniform terms and no business relationship, explicitly excluding employees, as they are not classified as related parties.
- Payment modes: The provisos to Regulation 12, providing for payment of dividend, interest, redemption, or repayment by 'payable-at-par' warrants or cheques in lieu of the methods of payment listed in Schedule I, have been removed.
- Disclosure requirements under Regulations 53 and 58 of LODR Regulations: In addition to the disclosures listed under Regulation 53 and the Companies Act, 2013, the annual report must also contain disclosures as specified in the statute under which the company has been constituted. A web-link including the exact path where complete details of the annual report are available must also be shared with the holders of non-convertible securities under Regulation 58.

SEBI broadens the scope of insider trading regulations

Amendment to the definition of Unpublished Price Sensitive Information

The Securities and Exchange Board of India (SEBI) has recently broadened the scope of insider trading regulations by amending the definition of Unpublished Price Sensitive Information (UPSI) under the SEBI (Prohibition of Insider Trading) Regulations, 2015 (PIT Regulations).

UPSI refers to exclusive/sensitive information (such as financial results, change in capital structure, and mergers) related to a company that could substantially influence its stock prices if revealed, and constitutes a fundamental element of insider trading. Listed entities would often adopt a restrictive interpretation of the existing definition of UPSI that was limited to the specific events expressly mentioned as illustrations below its broad and generic description under Regulation 2(1)(n) of the PIT Regulations, resulting in significant disclosure gaps, inconsistencies in compliance practices, and a lack of clarity in the application of the PIT Regulations. To address these issues and enable informed investor-decisions, the revised definition incorporates 17 additional material events from the 27 listed under Schedule III of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations).

Events recommended by SEBI for inclusion in the definition of UPSI

- Changes in ratings, excluding ESG ratings.
- Fundraising activities proposed by the company.
- Management or control agreements, regardless of nomenclature.
- Fraud or defaults by the company, promoters, or key personnel, including arrests.
- Key personnel changes, excluding superannuation or end of term, and resignation of statutory/secretarial auditors.
- Resolution plans and one-time loan settlements related to borrowings.
- Admission of winding-up petitions and insolvency resolutions under the Insolvency and Bankruptcy Code, 2016.
- Initiation of forensic audits and related reports.
- Regulatory or judicial actions against the company or key personnel.
- Award or termination of contracts not in the normal course of business.
- Litigation outcomes impacting the company.
- Issuance or withdrawal of guarantees or indemnities outside normal business operations.
- Grant or cancellation of licenses or regulatory approvals.

For the identification of these events, SEBI has applied the existing threshold limits prescribed under Schedule III of the LODR Regulations.

Other recent changes to insider trading laws

- Structured Digital Database (SDD) flexibility: Entries for events originating outside the company can now be made on a deferred basis within two days, removing the requirement for mandatory trading window closures.
- Expanded definition of 'connected person': The term now includes 'relatives' instead of just 'immediate relatives', widening the scope of individuals subject to the PIT Regulations.
- Reduction in trading plan cooling-off period: The mandatory cooling-off period for trading plans has been reduced from 6 months to 4 months, and a 20% price range for buying or selling shares under such plans has been introduced.
- Price range flexibility: According discretion to insiders to defer trades if execution prices exceed pre-established limits, provided they notify the company's compliance officer within 2 trading days and furnish justifications.
- Adjustments to trading plans: Trading plans can now be adjusted for corporate actions such as stock splits or bonus issuances, with transparent disclosures required to stock exchanges.
- Application to Asset Management Companies (AMCs): Insider trading regulations now extend to AMC employees managing mutual funds to ensure transparency.

SEBI's move signals its commitment to balancing investor protection with market dynamics by strengthening disclosure practices and enhancing safeguards against insider trading.

Framework for conversion of private-listed InvITs into public InvITs

SEBI's Circular sets out minimum contribution, lock-in, and FPO compliance requirements

The Securities and Exchange Board of India (SEBI) recently issued a Circular revising the extant framework for conversion of private-listed Infrastructure Investment Trusts (InvITs) into a public InvITs (Circular), envisaged under the Master Circular for InvITs dated May 15, 2024. These revisions have been introduced by SEBI pursuant to suggestions received from market participants and the recommendations of the Hybrid Securities Advisory Committee, constituted by SEBI.

An InvIT is defined as a trust registered under the SEBI (InvITs) Regulations, 2014 (InvITs Regulations). It is a collective investment vehicle established in the form of a trust, which raises funds from one or more investors and deploys such funds in accordance with its stated investment objectives, primarily in infrastructure projects or infrastructure assets. In India, InvITs can be structured either as private-listed InvITs (these InvITs are listed on the stock exchange, but the units are not offered to the general public; instead, they are issued through private placement to a select group of investors) or Public InvITs (these InvITs are listed on the stock exchange with units offered to the general public, including retail and institutional investors).

Key changes under the Circular

- Minimum contribution for sponsor holdings: Under the extant regime, the sponsors, which shall mean any company, LLP, or body corporate which sets up the InvIT, were required to ensure that they maintain the minimum contribution prescribed under law, i.e. 15% of the units issued through public issue or to the extent of 15% of post-issue capital. This was further subject to 2 conditions – an 18-month lock-in requirement for the units forming part of the minimum contribution, and a 1-year lock-in requirement for the sponsors holding in excess of the minimum contribution. The amendment removes these requirements, and sponsors and sponsor group(s) would henceforth be subject to the minimum unitholding requirements set out in Regulations 12(3) and 12(3A) of the InvIT Regulations.
- Lock-in requirements: Under the existing regime, upon the conversion of private-listed InvITs to public InvITs, the sponsor unitholders were required to observe a 1-year lock-in period. This is dispensed with under the amendment. In addition, the lock-in obligations for units held by sponsors and sponsor group(s) would be aligned with Regulation 12(5) of the InvIT Regulations, providing for post-conversion periods.
- Alignment with Follow-on Public Offer (FPO) procedures: Under the extant regime, when a private-listed InvIT was converted into a public InvIT, the issuance of units pursuant to such conversion was treated as an Initial Public Offering (IPO), thereby requiring compliance with IPO disclosure requirements set out under Chapter 2 of the Master Circular. The amendment aligns disclosure obligations for conversion-related offers with those applicable to FPOs, rather than treating them as IPOs. Such disclosures typically include details of the size and purpose of the issue, utilisation of proceeds, financial information and historical distributions, material risk factors, unitholding patterns, related party transactions, and compliance status under the InvIT Regulations and related SEBI circulars.

The Circular represents a measured effort to streamline the regulatory framework for InvIT conversions. By revising lock-in requirements and clarifying disclosure obligations, the amendments are designed to facilitate the transition from private to public InvITs while continuing to safeguard investor interests. Eliminating conversion-specific lock-in and minimum contribution norms provides greater operational flexibility to sponsors and reduces compliance burdens without undermining long-term sponsor commitment. Additionally, easing or removing lock-in periods for units during conversion is expected to enhance capital-raising capacity, encouraging broader participation from both existing and new institutional investors, including mutual funds and pension funds.

SEBI streamlines framework for rights issue by listed companies

Eligibility criteria for fast-track route removed

The Securities and Exchange Board of India (SEBI) has significantly simplified the regulatory regime governing rights issue by a listed company through amendments to the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (ICDR Regulations). These changes, effective from April 7, 2025, aim to expedite rights issue, reduce compliance costs, streamline disclosures, enhance investor protection, and introduce flexible participation models, in line with contemporary market dynamics.

A rights issue allows existing shareholders to subscribe to additional shares in proportion to their existing holdings, typically at a discount. Governed under Section 62(1) of the Companies Act, 2013 and Regulation 2(1)(xx) of the ICDR Regulations, this mechanism enables companies to raise capital while offering existing investors the opportunity to maintain their shareholding percentage.

Key changes in the framework for rights issue

- Broadened eligibility criteria:
  - Chapter III of the ICDR Regulations will now apply to all rights issues, irrespective of issue size, removing the earlier threshold of INR 50 crore.
  - The criteria for the fast-track route issue such as a 3-year listing history, INR 250 crore public float, and promoter subscription requirements, have been eliminated.
  - Several previous eligibility conditions are now converted into disclosure items in the Draft Letter of Offer (DLOF) and Letter of Offer (LOF).
- Revised due diligence and role of intermediaries:
  - Appointment of a Book Running Lead Manager (BRLM) is no longer mandatory as the issuer assumes full responsibility for due diligence and preparation of DLOF and LOF, coordinating the marketing, intermediary appointments, and allotment procedures with the Registrar, stock exchanges, and depositories.
  - The DLOF must now be filed with stock exchanges for in-principle approval, and the LOF is submitted to SEBI for information purposes only. A monitoring agency must be appointed, irrespective of the issue size.
- Unified disclosure framework (Part B of Schedule VI):
  - The distinction between disclosure obligations based on listing history and schemes of arrangement has been removed, and there is no requirement for a Management Discussion & Analysis (MD&A) section. The business overview needs to be summarised, and legal proceedings can be presented briefly in tabular form.
- Expedited timelines:
  - The entire rights issue process must now be completed within 23 working days from the date of the board resolution approving the issue. For convertible debt instruments requiring shareholder approval, the second board meeting (to finalise record date, price, and ratio) must be scheduled upon receipt of such approval.
- Flexibility in allotment to specific investors:
  - Promoters and promoter groups may now renounce their rights entitlements in favour of 'specific investors' (defined under Regulation 77B). Issuers must disclose the names of specific investors receiving the entitlements; details of rights renounced by promoters or promoter group; and whether any undersubscribed portion will be allocated to these investors. These details must be included in the DLOF, LOF, advertisements, and must be notified to stock exchanges at least 2 days before the issue opens. However, the amendment does not clarify whether such 'specific investors' must be existing shareholders or may include others, leaving room for interpretation

SEBI's reforms address a long-standing criticism regarding the slow and cumbersome framework of rights issue compared to alternative fundraising modes. As per SEBI's 2024 annual report, rights issues raised INR 6,751 crore and INR 15,110 crore in FY 2022-23 and FY 2023-24, respectively, significantly less than the INR 83,832 crore and INR 45,115 crore raised *via* preferential allotments in the same periods. This progressive regulatory shift is expected to make rights issue a more attractive and viable capital-raising tool for listed companies. For investors, the changes offer enhanced transparency, faster execution, and expanded participation options, marking a robust step toward a modern, efficient, and inclusive securities market.

ESOPs for founders remain valid after being classified as promoters during IPO

SEBI's consultation paper on proposed amendments to the SBEBSE Regulations, 2021

In a significant move aimed at resolving longstanding ambiguity, the Securities and Exchange Board of India (SEBI) has proposed an amendment to the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021 (SBEBSE Regulations) to clarify that Employee Stock Option Plans (ESOPs), Stock Appreciation Rights (SARs), or similar benefits granted to founders before they are identified as 'promoters' in a Draft Red Herring Prospectus (DRHP) will remain valid and exercisable post-listing. To prevent misuse, this exemption will apply only to grants made at least 1 year prior to the company's IPO decision.

Existing framework

- Promoters or members of the promoter group (immediate relatives of the promotor) are not eligible for ESOPs unless they qualified as 'employees' of the company prior to the filing of its DRHP.
- The SBEBSE Regulations explicitly exclude promoters and promoter group members from the definition of an 'employee' once the company's DRHP has been filed. Thus, once a founder is classified as a promoter upon listing, they are ineligible to receive fresh ESOP grants.
- Further, under the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (ICDR Regulations), any person who has direct or indirect control over the affairs of the company is a promoter. As a result, many founders are classified as promoters at the time of listing, making them ineligible for any new issuance of ESOPs.
- Any ESOPs issued in violation of the above restriction may be rendered *void* or subject to regulatory scrutiny. This restriction prevents any undue concentration of ownership and ensures that ESOPs serve as an incentive tool for employees rather than for controlling shareholders.

Since many startup founders initially receive ESOPs as part of their compensation and incentives, they often become classified as promoters when preparing for an IPO. The current framework does not explicitly clarify whether a founder who has been granted ESOPs before the DRHP filing can exercise them upon being reclassified as a promoter at the time of listing, leading to uncertainty and concerns among founders regarding their ESOPs benefits.

Clarification by SEBI

To address this ambiguity, SEBI has proposed to add an Explanation to Regulation 9(6) of the SBEBSE Regulations, and clarify the following:

- ESOPs, SARs, and other such benefits granted to founders before the DRHP filing date will remain valid and exercise-able even if they are later classified as promoters during the IPO process. This ensures that the founders remain financially incentivised.
- The benefit applies only to ESOPs granted at least 1 year prior to the company's IPO filing. Any ESOPs issued within 1 year of the DRHP filing will be subject to existing promoter restrictions. This 'cooling-off period' prevents misuse of the benefit by restricting companies from granting ESOPs immediately before the IPO to increase promoter shareholding.

Benefits of the proposed amendment

- Removes uncertainty: By explicitly allowing pre-DRHP ESOPs to be exercised post-listing, the clarification eliminates ambiguity for founders. The proposed change acknowledges the prevalent practice in new-age companies of granting ESOPs to founders as a means of long-term incentivisation and aligns with the principle that share-based benefits granted while an individual is an employee should not be forfeited merely due to a reclassification as promoter during the IPO process.
- Encourages IPOs: Many startups have hesitated to go public due to the unclear ESOPs framework. With this issue resolved, founders may feel more confident about transitioning to public markets as the proposed amendments will bring more transparency and confidence to both founders and investors during the IPO process.
- Boosts founder retention: ESOPs are crucial for ensuring long-term commitment from key personnel. By allowing founders to retain their pre-DRHP stock options, SEBI ensures they remain invested in the company's success even after the IPO. It strikes a balance between founder retention and regulatory safeguards by allowing exercise only if such grants were made at least 1 year prior to the IPO decision.

The proposed clarification is a progressive step towards fostering a more startup-friendly regulatory environment and will significantly impact how startups approach IPOs in India. It reinforces SEBI's commitment to balancing regulatory oversight with flexibility for high-growth companies, making India's capital markets more attractive for emerging businesses.

CORPORATE & COMMERCIAL

Updates from Reserve Bank of India and Ministry of Corporate Affairs

RBI streamlines the co-lending framework

RBI (Co-Lending Arrangements) Directions, 2025

The Reserve Bank of India (RBI) has recently established a uniform regulatory framework for Co-Lending Arrangements (CLAs) across sectors, ensuring borrower protection, operational clarity, and prudent risk-sharing (Directions). The Directions will be effective from January 1, 2026, with optional early adoption permitted.

Key changes introduced by the Directions

- Scope: The Directions cover both priority sector (e.g. agriculture, MSMEs, education, affordable housing) and non-priority sector lending, superseding the 2020 co-lending Circular, which only addressed priority-sector lending.
- Risk retention and Default Loss Guarantee (DLG): Each Regulated Entity partnering in the co-lending arrangement (Partner RE) must now maintain a minimum 10% share in every loan, reduced from the earlier 20% threshold. The Originating RE may also provide a DLG of up to 5% of the outstanding portfolio.
- Borrower protection and transparency: Loan agreements must now clearly outline each lender's responsibilities and identify a single customer interface point. Any changes in customer-facing arrangements must be communicated to borrowers beforehand. Separately, mandatory Key Facts Statement (KFS) disclosures have been introduced for greater transparency.
- Operational controls: The Directions require that the Partner RE must irrevocably assume its agreed share of loans on a back-to-back basis. The respective loan exposures of both the Originating RE and the Partner RE must be reflected in their books within 15 days from the date of disbursement by the Originating RE. Further, all disbursements and repayments are to be routed through an escrow account, and each RE is required to maintain separate borrower accounts for its respective share of the exposure.
- Asset classification and reporting: Borrower-level asset classification has been mandated, requiring real-time synchronisation between lenders by the next working day. Each lender must independently report to Credit Information Companies (CICs).
- Disclosure requirements: Lenders must publish details of all active Partner REs on their websites. Financial disclosures relating to CLAs, including quantum, weighted average interest rates, fees, sectoral exposure, loan performance, and DLGs, are required on a quarterly/annual basis.

As co-lending as a model has evolved rapidly over the last few years, with increasing collaboration between banks, Non-Banking Financial Companies (NBFCs), and financial institutions, the Directions mark a significant regulatory milestone by harmonising requirements across lending segments and enhancing borrower protection through stronger disclosures, a single point of contact, and improved grievance redressal. However, operational challenges remain, particularly around real-time synchronisation, borrower-level asset classification, and multiple reporting obligations to CICs. Further, the treatment of DLGs, though capped at 5%, may require alignment with RBI's digital lending framework to ensure consistency.

MCA extends fast-track merger framework to unlisted companies

Companies (Compromises, Arrangements and Amalgamations) (Amendment) Rules, 2025

The Ministry of Corporate Affairs (MCA) has substantially widened the scope of companies eligible for the fast-track merger mechanism under Section 233 of the Companies Act, 2013 (Act) through amendments to the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (Rules). Effective September 8, 2025, these changes will reduce reliance on the National Company Law Tribunal (NCLT), thereby making the process more efficient and business-friendly.

The fast-track merger route was originally conceived as an alternative to the time-consuming tribunal-driven process under Sections 230-232 of the Act, allowing small companies, start-ups, and wholly owned subsidiaries of holding companies to restructure through approvals from the Regional Director (RD) instead of the NCLT, within a prescribed 60-day timeline. In 2024, the regime was expanded to permit cross-border mergers of foreign holding companies with their Indian wholly owned subsidiaries. The recent amendments represent a continuation of this liberalisation, extending eligibility and simplifying compliance even further.

Key changes under the recent amendments

- Unlisted companies with higher thresholds: All unlisted companies (other than Section 8 companies) can now undertake fast-track mergers/demergers if their aggregate borrowings (loans, debentures, deposits) do not exceed INR 200 crore, and no repayment defaults exist. This is a 4-fold increase from the earlier proposed INR 50 crore limit, significantly broadening eligibility.
- Holding subsidiary mergers: The route has been extended to include mergers between holding companies and their subsidiaries, even if the subsidiary is not wholly owned, provided the transferor company is unlisted. This removes the earlier restriction that limited the benefit only to wholly owned subsidiaries.
- Fellow subsidiaries: Mergers and demergers between 2 subsidiaries of the same holding company are now permitted under the fast-track route, subject to the transferor company being unlisted. This facilitates smoother intra-group restructuring.
- Cross-border mergers: Provisions relating to mergers of foreign holding companies with their Indian wholly owned subsidiaries, earlier introduced separately under Rule 25A of the Rules, have now been consolidated into Rule 25, making the framework more streamlined and self-contained.
- Additional compliance requirements: These include mandatory notifications to sectoral regulators (Reserve Bank of India, Securities and Exchange Board of India, Insurance Regulatory and Development Authority of India, Pension Fund Regulatory and Development Authority) and stock exchanges in case of listed entities.

The broadened eligibility framework creates more practical and efficient restructuring options, offering greater opportunities for companies with minority shareholders, multi-subsidiary structures, or partially owned entities. By enabling a deemed approval within 60 days, the fast-track mechanism helps conclude transactions in months instead of years, cutting down on tribunal time and costs. Explicit provisions for inbound mergers and reverse flips also make cross-border alignment easier for multinational groups, while shifting simpler schemes away from the NCLT allows tribunals to focus on complex disputes and speed up resolution overall.

Even with the above challenges, the amendments mark a decisive step in modernising India's corporate restructuring regime, aligning with the Government's policy intent, as announced in the Union Budget. By broadening eligibility and strengthening procedural safeguards, the Government has struck a balance between efficiency and oversight. For businesses, the expanded fast-track route is more than just a compliance shortcut; it is a strategic enabler for growth, integration, and competitiveness in a globalised economy.

Key challenges

- The fast-track merger route remains limited to mergers and demergers, with other forms of restructuring like capital reorganisations or buybacks still requiring NCLT approval.
- The Income-tax Bill, 2025, excludes fast-track demergers from tax neutrality, creating uncertainty.
- The 90% shareholder approval requirement under Section 233 reduces the feasibility for listed entities.
- Administrative capacity is limited, with only 7 RDs to handle applications.
- Recognition of RD-approved property transfers may face delays, as local authorities are more accustomed to NCLT orders.

Streamlined framework for investment in debt securities by non-residents

RBI (Non-resident Investment in Debt Instruments) Directions, 2025

To consolidate various circulars and directions issued by the Reserve Bank of India (RBI) on investment in debt instruments by non-residents from time to time, the RBI released Master Directions on non-resident investment in debt instruments on January 7, 2025.

Key features

- Consolidation of laws: The Master Directions consolidate multiple earlier circulars issued under various Regulations under the Foreign Exchange Management Act, 1999 (FEMA) – Permissible Capital Accounts Transactions Regulations, 2000; Borrowing and Lending Regulations, 2018; and Debt Instruments Regulations, 2019 – and directions issued under the RBI Act, 1934 in relation to non-resident investment in debt instruments, creating a comprehensive framework that simplifies governance and compliance.
- Introduction of additional investment channels:
  - The General Route permits investments in government securities and corporate debts within specified limits.
  - The Voluntary Retention Route (VRR) offers long-term investors greater flexibility by exempting them from specific prudential limits if they commit to retaining their investments for a minimum period.
  - The Fully Accessible Route (FAR) allows unrestricted investments in specified government securities.
  - Sovereign Green Bonds facilitate environmentally sustainable investments through the International Financial Services Centre (IFSC).
- Graded regulatory approach: The Master Directions introduce a differentiated regulatory framework based on the profile of Foreign Portfolio Investors (FPIs). Long-term FPIs benefit from fewer restrictions and lighter compliance obligations, while short-term FPIs are subject to stricter regulatory requirements.

By aligning with global best practices, the Master Directions seek to enhance transparency and reduce compliance for sustainable and long-term investments, as increased participation by non-resident investors will support India's fiscal objectives, deepen debt markets, and improve overall market liquidity. This will also enhance confidence for FPIs, particularly for long-term investors utilising the VRR and FAR. The inclusion of Sovereign Green Bond provisions underscores India's commitment to international environmental standards, fostering sustainable investment opportunities while maintaining fiscal discipline.

RBI eases norms for ARCs to settle with defaulters

Amendment to RBI (Asset Reconstruction Companies) Directions, 2024

The Reserve Bank of India (RBI) recently amended the Master Direction – RBI (Asset Reconstruction Companies) Directions, 2024 (Directions) to simplify the process for Asset Reconstruction Companies (ARCs) to settle with defaulters.

Key highlights of the Amendment

- Changes in the approval process: Earlier, the process for settlement required the proposal to be examined by an Independent Advisory Committee (**IAC**) made up of professionals with expertise in finance, law, or technical fields. After receiving the IAC'S recommendations, the settlement proposal would go to the ARC's Board, which included at least 2 independent directors, who would then evaluate the suitability of settlement. The amended Directions now introduce differentiated settlement procedures depending on the loan size:
  - For an outstanding principal of up to INR 1 crore, settlements will now be handled as per the board-approved policy, with specific stipulations (covering aspects such as the cut-off date for one-time settlement eligibility, permissible sacrifice for various categories of exposures while arriving at the settlement amount, methodology for arriving at the realisable value of the security), subject to a key condition that no official who was involved in acquisition of the financial asset can be part of the settlement approval process.
  - For an outstanding principal exceeding INR 1 crore, while an IAC will still review the proposal, the final approval can be made by a Committee of the Board (comprising of at least 2 independent directors including the Chair and at least 3 or one-third strength of the ARC's Board), rather than the entire Board. This change is expected to make the decision-making process more efficient.
  - For loans related to fraudulent or wilful defaulters, the procedure applied to loans above INR 1 crore will be applicable irrespective of the above classification, ensuring heightened scrutiny in high-risk cases, even when the loan size is smaller.
- Exhaustion of recovery options: The amended Directions have also relaxed the earlier requirement for ARCs to exhaust all possible recovery options before agreeing to a settlement. Now, ARCs are only required to examine other recovery avenues before determining settlement as the best option. However, in situations where recovery proceedings are still pending, any settlement reached will need to be ratified through a consent decree by the concerned judicial authority.

These amendments are expected to create a more efficient framework for ARCs to settle bad loans, reducing delays and administrative burden, particularly for smaller loans. The new guidelines aim to strike a balance between facilitating quicker settlements and ensuring the integrity of the process, which could enhance the overall recovery rate in the banking sector.

RBI increases flexibility in the External Commercial Borrowing framework

Draft Foreign Exchange Management (Borrowing and Lending) (Fourth Amendment) Regulations, 2025

The Reserve Bank of India (RBI) released the draft amendments to the current External Commercial Borrowing (ECB) framework *vide* the Foreign Exchange Management (Borrowing and Lending) (Fourth Amendment) Regulations, 2025 (2025 Amendment), aimed at liberalising the existing foreign borrowing structure and accommodating more Indian players in the global market.

ECBs refer to commercial loans, bonds, and other such instruments obtained by eligible Indian resident entities from recognised foreign lenders, subject to compliance with prescribed requirements. They are regulated by the Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 (2018 Regulations) and administered by the RBI. The current framework is stifled with compliance complexities and restrictive cost structures, resulting in non-alignment with global standards and reduced ability of Indian entities to tap foreign capital efficiently.

Key proposed changes

- Eligible borrowers: Schedule-I earlier restricted eligible borrowers to entities permitted to receive Foreign Direct Investment (FDI) under the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017. The draft now expands eligibility to any person resident in India (other than an individual) incorporated or registered under Central or State law, entities covered under approved restructuring or insolvency resolution plans, and entities under investigation, adjudication, or appeal for alleged violations. Such borrowers must inform their Authorised Dealer (AD) Category-I bank, which must notify the relevant enforcement agencies.
- Currency of borrowing: While Schedule-I continues to permit ECBs in freely convertible foreign currency and INR, the draft introduces flexibility to change the borrowing currency between foreign currencies, or between foreign currency and INR at either the prevailing exchange rate or a lower-liability rate.
- Borrowing limits: The fixed cap in Schedule-I of USD 750 million per financial year (USD 3 million for start-ups) is proposed to be replaced with a higher and more flexible limit of USD 1 billion or total outstanding borrowing up to 300% of last-audited net worth, whichever is higher. These revised limits do not apply to entities regulated by financial sector regulators.
- Revised prohibition on end-use of borrowed funds: The 2018 Regulations included a general negative list restricting the use of borrowed funds for activities such as chit funds, Nidhi companies, agricultural or plantation activities, and real estate. Regulation 3A now expands these restrictions by additionally prohibiting on-lending and transactions in listed or unlisted securities. The exceptions to this are where the investments are permitted under the Foreign Exchange Management (Overseas Investment) Rules, 2022 (OI Rules 2022) and the Foreign Exchange Management (Overseas Investment) Regulations, 2022 (OI Regulations 2022), or are undertaken pursuant to mergers, acquisitions, or amalgamations under the Companies Act, 2013, the Securities and Exchange Board of India (SEBI) (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (SAST Regulations), or the Insolvency and Bankruptcy Code 2016 (Code), or involve subscription to primary market instruments issued by non-financial entities for on-lending.
- Recognised lenders: Schedule-I previously limited lenders to residents of Financial Action Task Force/International Organisation of Securities Commissions compliant jurisdictions, certain multilateral/regional institutions, and foreign branches/subsidiaries of Indian banks. The 2025 Amendment significantly broadens this by allowing any non-resident to lend, including foreign or IFSC branches of entities whose lending activities are regulated by the RBI.
- Minimum Average Maturity Period (MAMP): Schedule I's standard 3-year MAMP is retained. A targeted relaxation is proposed for the manufacturing sector, allowing ECBs with a maturity between 1 and 3 years, capped at USD 50 million in total outstanding amount. The draft also clarifies that call and put options cannot be exercised before the minimum maturity period, except in limited cases such as conversion into non-debt instruments, repayment using non-debt instrument proceeds, debt waiver, or closure, merger, acquisition, resolution or liquidation of the lender or borrower.

The expanded scope and relaxations under the new ECB framework are expected to boost participation from both borrowers and lenders by easing compliance and widening access to foreign capital. This is a shift from a restrictive regime to a more liberal, market-oriented approach that strengthens cross-border financial integration. It diversifies funding options and reduces reliance on domestic borrowing.

Impact

- The draft amendments invite more flexible developments with the removal of fixed benchmarks and linking borrowing limits to a company's net worth. This helps strong and well-managed companies raise funds more easily, as borrowing will be proportional to the financial strength of the borrower.
- These amendments simplify the currency exchange rate and add explicit, borrower-favourable mechanics to change one foreign currency to another, and even to INR and vice versa.
- The draft amendments also widen the pool of eligible borrowers and lenders and introduce a short-maturity window for manufacturing.

REAL ESTATE

Updates from the Real Estate Appellate Tribunals and the Supreme Court of India

Amendments to streamline insolvency of real estate developers

Provisions for handover of possession, participation of the Competent Authority, and appointment of facilitators and Monitoring Committee during real estate CIRP

The Insolvency and Bankruptcy Board of India (IBBI) amended the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) to streamline the insolvency process with a special focus on real estate projects.

Key highlights of the amendments are

- Handover of possession: The Resolution Professional (RP) can hand over possession of flats to homebuyers during the pendency of the Corporate Insolvency Resolution Process (CIRP), affording relief to distressed homebuyers.
- Appointment of facilitators: Facilitators may be appointed to ensure effective communication including dissemination of information and clarifications between the authorised representative of a class of creditors and the sub-class represented by the facilitator.
- Participation of the Competent Authority: Land authorities such as New Okhla Industrial Development Authority (NOIDA) and Haryana Urban Development Authority (HUDA) may be invited to participate in the Committee of Creditor (CoC) meetings for inputs on regulatory issues, to ensure feasibility of resolution plans and enhanced homebuyer confidence.
- Report on regulatory requirements: The RP must prepare a report on the status of development rights, approvals, and permissions for real estate projects within 60 days of the commencement of CIRP enabling creditors to make informed decisions promptly.
- Participation of homebuyers: The CoC has been empowered to relax certain conditions such as eligibility criteria, performance security, and deposits for groups/associations of homebuyers that wish to participate as resolution applicants and submit resolution plans.
- Monitoring Committee: The CoC is now mandatorily required to consider setting up a Monitoring Committee to supervise the implementation of the resolution plan.
- MSME registration status: The RP is now required to disclose the Corporate Debtor's registration status as a micro, small, or medium enterprise, encouraging greater participation of resolution applicants to avail the benefits under the Code.

This amendment will help ensure the continuity of real estate development projects, benefiting both homebuyers and creditors by fostering timely project completion and cash inflow. Additionally, it is expected to incentivise resolution applicants to propose more viable and financially beneficial plans, enhancing the overall effectiveness of the insolvency resolution process.

RERA obligations prevail over conflicting mortgage arrangements

Banks cannot enforce security in violation of homebuyer rights

The legal framework governing homebuyer protection has seen steady evolution, particularly as complex financial arrangements between real estate developers and lenders have begun to blur the lines of liability. The following recent decisions offer critical clarity on the contours of mutual liability between banks, developers, and homebuyers:

- Banks cannot proceed against buyers during developer-funded subvention periods:[1] Under various projects launched between 2013 and 2015, developers had offered subvention schemes, structured as tripartite agreements between banks, homebuyers, and developers, under which developers undertook to service the EMIs on home loans until the date of possession or a specified cut-off date. However, from around 2018–2019, many developers began defaulting on these EMI commitments. As a result, banks initiated recovery proceedings against homebuyers, including coercive measures, despite the projects remaining incomplete and no offer of possession having been made. Taking cognisance of the systemic regulatory failure and possible collusion between banks/housing financiers, and developers, resulting in unlawful gains at the cost of homebuyers, the Supreme Court, while hearing a batch of over 170 petitions involving approximately 1,200 homebuyers, strongly condemned the banks' conduct of proceeding against homebuyers, and ordered Central Bureau of Investigation (CBI) to unearth the widespread malpractices involved.

- Developers are not liable for loans independently taken by homebuyers:[2] In this case, the homebuyer had availed a loan to purchase an apartment in a residential project. Due to a 1-year delay in possession, he opted to withdraw from the project and sought a refund of the deposited amount along with interest (as per the agreed-upon terms), as well as reimbursement of the interest component paid to the bank. The Supreme Court denied the claim for reimbursement of bank interest, holding that developers are not concerned with how homebuyers finance their purchase, whether through loans or personal savings. It held that a refund of the deposit along with 8% interest compounded was fair and adequate compensation for being deprived of the investment of that money, in the absence of any exceptional circumstances warranting any additional relief.

- Lenders cannot take possession of flats already conveyed to homebuyers:[3] In 2019, Yes Bank extended a term loan to the developer, secured by a registered mortgage over unsold flats in the developer's project. However, this was done without the prior consent of two-thirds of the allottees and the West Bengal Real Estate Regulatory Authority (WBRERA), and the mortgage had not been disclosed on the WBRERA portal. One such allotted flat was sold to Laxmi Narain Metallics Pvt Ltd in 2021. Following the developer's default, Yes Bank obtained symbolic possession of the mortgaged flats through recovery proceedings before the Debt Recovery Tribunal (DRT). The West Bengal Real Estate Appellate Tribunal (WBREAT) rejected Yes Bank's claim over the subsequently sold flats and held that such mortgages or transfers cannot override the rights of allottees. Even if the mortgage had complied with legal requirements, the bank would have been deemed a 'promoter', liable to fulfil all obligations under the developer's agreements with homebuyers, including completing and conveying the flats. The buyer's rights thus remained unaffected despite the developer's default.

Flat buyers should exercise caution before entering loan-backed transactions, thoroughly review subvention arrangements, and ensure all project encumbrances are transparently disclosed on RERA portals. Developers and lenders must avoid opaque financing structures and ensure rigorous compliance with RERA requirements, including existing buyer rights.

[1] Himanshu Singh v. Union of India, Special Leave to Appeal (Civil) No. 7649 of 2023

[2] Greater Mohali Area Development Authority v. Anupam Garg, 2025 SCC OnLine SC 1312

[3] Yes Bank Ltd v. Laxmi Narain Metallics Pvt Ltd Appeal No. 14 of 2024 (WBREAT)

Homebuyer under a buy-back scheme is an allottee under the Real Estate (Regulation and Development) Act, 2016

Speculative nature of investment does not take away the right of an allottee

In a recent decision, the Delhi Real Estate Appellate Tribunal (REAT) held that a homebuyer purchasing an apartment under a buy-back scheme is classified as an allottee under the Real Estate (Regulation and Development) Act, 2016 (Act).[4]

Vijay Goel booked a flat with Antriksh Infratech under a buy-back scheme. When the project failed, a Memorandum of Understanding (MoU) was signed for Antriksh Infratech to repay the principal paid amount along with 25% interest as per the buy-back scheme. Vijay filed a complaint under the Act, which was dismissed by the Delhi Real Estate Regulatory Authority (RERA), classifying him as an investor instead of an allottee under the Act.

The REAT observed that the agreement involving the buy-back scheme had been intentionally crafted to raise immediate funds by offering enticing returns to attract buyers. Misleading terminology had been employed in the MoU, which mischaracterised 'deposits' as 'investments'. The REAT ruled that the speculative nature of the investment and the use of misleading nomenclature did not invalidate Vijay's rights as an 'allottee'.

In line with the Act's objective to promote transparency, fair practices, and accountability in the real estate sector, the terminology as well as the modus operandi adopted by real estate developers necessitates thorough examination by RERA to ensure that homebuyers are not unjustly denied their rights to seek remedies under the Act.

[4] Vijay Goel v. Antriksh Infratech, Appeal No. 128 of 2023 (REAT Delhi)

Society as landowner is a 'promoter' under the Real Estate (Regulation and Development) Act, 2016

Absence of privity of contract with allottees is not a valid defence

The Maharashtra Real Estate Appellate Tribunal (REAT) has recently held that a Society, being the landowner in a redevelopment project, is a 'promoter' under the Real Estate (Regulation and Development) Act, 2016 (Act).[5]

New Sangeeta CHS Ltd (Society) entered into a development agreement along with a power of attorney in favour of Valdariya Construction (Developer) for the redevelopment of its property involving accommodation of existing flat owners as well as sale to new allottees, in furtherance of which the Developer executed sale agreements with the allottees specifying the date of handover of possession therein. Due to a dispute between the Society and the Developer, the development agreement was terminated and the allottees approached the Maharashtra Real Estate Regulatory Authority (RERA) seeking relief jointly against the Society and the Developer. The Society contended that it was not a 'promoter' under the Act and had not been specified as such in the project's registration. Remedies may be pursued against the Developer as a discontinued promoter under Section 18(i)(b) of the Act.

The REAT held that the Society, being the owner of the land, is covered under the definition of 'promoter' and is jointly liable as co-promoter along with the Developer. The obligations of the 'promoter' under the Act – to execute a registered conveyance deed in favour of the allottees and compensate them for any loss due to defective title of the land – cannot be fulfilled unless the Society, being the landowner, is included within the definition of 'promoter'.

The promoters are jointly liable under the Act and the Society cannot escape liability contending the absence of privity of contract with the allottees. In any case, the sale agreements between the allottee and the Developer were enforceable against the Society after the termination of the development agreement as the Society stepped into the shoes of the Developer and took over the project.

[5] New Sangeeta CHS Ltd v. Kaushal M Haria, Appeal No. 31756 of 2019 (Maharashtra REAT)

INSOLVENCY & RESTRUCTION

Updates from the Insolvency and Bankruptcy Board of India and National Company Law Appellate Tribunals

Revised CIRP framework for enhanced creditor participation

IBBI (Insolvency Resolution Process for Corporate Persons) (Fourth Amendment) Regulations, 2025

The Insolvency and Bankruptcy Board of India (IBBI) has introduced amendments to the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2025 (CIRP Regulations), aimed at refining procedural aspects, promoting value maximisation and timely outcomes, and reducing litigation risks.

Key amendments to the CIRP Regulations

- Part-wise resolution of the Corporate Debtor (CD): Subject to the approval by the Committee of Creditors (CoC), the Resolution Professional (RP) may now invite expressions of interest for resolution plans for the CD as a whole, for individual asset sales, or both, simultaneously. This concurrent approach can optimise value recovery from viable asset segments, reduce resolution timelines, and attract a broader pool of investors, particularly in cases involving large or diverse businesses.
- Staggered payment under resolution plans: Where the resolution plan provides for payment in stages, dissenting financial creditors are now entitled to receive payment *pro rata* and ahead of consenting creditors at each stage. This strikes a balance between the rights of dissenting creditors and the commercial viability of phased implementations.
- Inclusion of interim finance providers in CoC meetings: The CoC may now direct the RP to invite interim finance providers to attend meetings as observers (without voting rights). This measure is intended to bridge the information gap that often deters such interim lenders by allowing them to assess the CD's financial health and operational prospects in real-time, thereby enabling better-informed lending decisions.
- Presentation of all resolution plans to the CoC: The RP must present all received resolution plans to the CoC, including those deemed non-compliant with the provisions of the Insolvency and Bankruptcy Code, 2016 (Code), along with a report detailing areas of non-compliance. This amendment enables the CoC to evaluate all resolution plans comprehensively, allows applicants of otherwise viable but non-compliant plans an opportunity to address deficiencies and resubmit, and mitigates the risk of litigation arising from exclusionary decisions by the RP.

Another recent amendment to the IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 aims to address a long-standing procedural vacuum in personal insolvency matters – specifically, in cases where the debtor fails to submit a repayment plan under Section 105 of the Code. The RP is now required to report the non-submission of the plan to the Adjudicating Authority, which may pass appropriate directions, including the termination of the ongoing proceedings, if warranted, enabling creditors to explore alternate remedies such as bankruptcy. The move is expected to streamline timelines and prevent undue delays caused by debtor inaction.

IBBI allows Resolution Professionals to seek restitution of PMLA-attached assets

Undertaking by RP formulated by IBBI in consultation with the ED

In a significant step towards harmonising the Insolvency and Bankruptcy Code, 2016 (Code) with the Prevention of Money Laundering Act, 2002 (PMLA), reducing conflict between parallel proceedings and strengthening the Resolution Professional's (RP) ability to preserve and maximise the corporate debtor's asset base, the Insolvency and Bankruptcy Board of India (IBBI) recently issued a circular clarifying that RPs can approach the Special Court under Sections 8(7) or 8(8) of the PMLA for restitution of assets attached by the Enforcement Directorate (ED).

Salient features

- Recognition of RP's right to seek restoration: RPs may file applications for the release of assets attached or seized under PMLA.
- Standard undertaking for expedited disposal: With a view to facilitating expeditious disposal of restitution applications, the IBBI, in consultation with the ED, has formulated a standard undertaking to be submitted by the RP along with the restitution application, detailing the usage, disclosures, and reporting obligations concerning the restituted assets.
- Focus on governance and accountability: The undertaking prescribes safeguards to prevent misuse of released assets, ensures transparency during insolvency/liquidation, and strengthens coordination between RPs and the ED.
- Bar on transfer of assets to erstwhile management: Restituted assets will not be directly or indirectly sold or transferred to, or utilised for the benefit of any person covered under Section 32A(2)(i) or (ii) of the Code (promoters, management, persons in control of the corporate debtor, or any persons accused in a crime involving the corporate debtor). This is applicable only when the promoter is ineligible under Section 29A of the Code, which sets out the eligibility criteria for submission of a resolution plan.
- Cooperation with the ED: The RP must provide the details of Preferential, Undervalued, Fraudulent, or Extortionate (PUFE) transactions as identified; the constitution and voting share of the Committee of Creditors; and the successful resolution applicant/successful bidder, including relevant orders by the National Company Law Tribunal.
- Quarterly reporting obligations: From the date of restitution until plan approval/rejection, the RP must submit quarterly reports to the Special Court detailing the status of restituted assets, usage or monetisation, beneficiaries of any distribution, and details of any sale/transfer.

By expressly empowering RPs to seek restitution of attached assets and by introducing a standard undertaking vetted in consultation with the ED, the circular provides procedural clarity, predictability, and efficiency, all of which are crucial for preserving value in stressed companies. The requirement of a detailed undertaking strikes a pragmatic balance: it reassures enforcement agencies that restituted assets will not be misused or diverted, while ensuring that resolution and liquidation processes are not stalled due to prolonged attachments. The safeguards on usage, quarterly reporting, mandatory disclosures, and document sharing create a transparent mechanism that supports both objectives: asset protection under the PMLA and value maximisation under the Code. It is expected to reduce litigation uncertainty and protect asset value, enabling more viable resolution plans.

Recent IBC updates

Insights on joint claims, unliquidated damages, and minority rights in a consortium of lenders

The following are key recent developments under the Insolvency and Bankruptcy Code, 2016 (Code): Multiple communications between the parties raising concerns over the work constitute a pre-existing dispute: A construction contractor raised an insolvency claim against a developer over unpaid dues relating to a commercial project, asserting that all assigned work had been completed, and that invoices had been raised after obtaining required approvals. The developer, however, had been raising concerns highlighting specific performance issues through a series of written communications during the pendency of the works, including a formal show-cause notice, alleging defects, project delays, and potential cost recovery. The Tribunal rejected the insolvency application, finding that such contemporaneous exchanges reflected substantive operational disagreements and could not be dismissed as trivial or an afterthought.[6] The decision sets a realistic threshold for establishing a pre-existing dispute, underscoring that formal legal steps are not a prerequisite to demonstrate a genuine dispute, and even informal communications, such as emails, letters, and meeting notes, can suffice if they point to genuine issues raised before the demand notice. To safeguard their position, parties should document concerns promptly and clearly, as failure to do so may undermine later claims of dispute.

- Unliquidated damages do not constitute operational debt: Under a charter party agreement for shipment of cargo from India to China, the shipping company raised a demurrage claim of over USD 240,000, 8 months after the shipment was completed, without any prior communication. The shipping company filed an insolvency petition in respect of the demurrage claim, which was contested by the charterer, asserting that the demurrage was neither quantified through mutual agreement nor admitted at any stage. The Tribunal set aside the initiation of insolvency proceedings, holding that the demurrage constituted a claim for unliquidated damages, which had not crystallised into a definite, payable sum.[7] Since the liability was not definite and required adjudication, it did not meet the threshold for initiating insolvency. The Code is not intended to enforce contested or stale commercial claims, and a debt must be definite, due, and undisputed. Charges such as demurrage, which often require calculation and assessment, must be resolved through adjudication or mutual settlement. Where claims are delayed, lack supporting documentation, or are actively contested, the insolvency route is unlikely to succeed. As such, timely assertion and formal substantiation of dues is essential.

- Minority consortium members may independently initiate CIRP: Despite 90% of the lenders in a loan consortium arrangement agreeing in principle to restructure the debt and transfer it to the National Asset Reconstruction Company Ltd (NARCL), 1 dissenting member bank initiated insolvency proceedings under the Code against the corporate debtor. The corporate debtor opposed the initiation, citing the consortium's majority resolution and ongoing due diligence by NARCL, and argued that the matter should have been put on hold until the transfer was finalised. Preserving the independence of financial creditors, it was held that unless the loan is formally assigned or settled, the statutory right to initiate CIRP cannot be suspended or overridden even if the majority has agreed to restructure the loan by internal consortium arrangements.[8] Further, the Code does not impose any requirement for consensus among consortium members for one member to proceed with recovery, reinforcing the creditor-centric design of the Code even within consortium frameworks.

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[6] Drilltech Engineers Pvt Ltd v. DLF Ltd, Company Appeal (AT) (Ins) No. 394 of 2025

[7] Navin Madhavji Mehta v. Jaldhi Overseas Pte Ltd, Company Appeal (AT) (Ins) No. 792 of 2024

[8] Apresh Garg v. Indian Bank, Company Appeal (AT) (Ins) No. 396 of 2024

GENERAL

Updates from the Ministry of Micro, Small and Medium Enterprises and the Ministry of Electronics and Information Technology

C&D waste generators are responsible for overall waste management and recycling

Construction and Demolition Waste Management Rules, 2025

To address the waste generated from the ever-increasing infrastructure activities, the Ministry of Environment, Forest and Climate Change has issued the Construction and Demolition (C&D) Waste Management Rules, 2025 (Rules). The Rules, effective from April 1, 2026, apply to construction, renovation, and demolition projects but not to waste generated in relation to atomic energy, defence, natural disasters, and war.

Key features of the Rules

- Extended Producer Responsibility (EPR): The 2025 Rules make developers of projects, having built-up area of 20,000 sq meters or more (Producers), responsible for the entire lifecycle of C&D waste, which includes meeting defined recycling targets – 25% of the waste generated in the year 2025-26, 50% in 2026-27, 75% in 2027-28, and 100% from 2028-29 onwards – and recording compliance by purchasing EPR certificates issued by registered recyclers. Producers must also register on the Central Pollution Control Board's (CPCB) online portal for submission of waste management and utilisation plans and other regulatory compliance.
- Registration and monitoring: The Rules establish an exclusively digital system for oversight through a portal for uploading compliance data and tracking EPR obligations. Monitoring is carried out at the Central and State levels, ensuring dual accountability and enforcement.
- Waste utilisation: This framework mandates the use of processed construction and demolition waste in building activities undertaken by Producers and in road construction. Registered recyclers must supply materials that meet prescribed quality standards. Following are the minimum waste utilisation targets as a percentage of the total construction material used are as follows:

Year	Road construction	Other projects
2026-27	5%	5%
2027-28	10%	10%
2028-29	10%	15%
2029-30	15%	20%
2030-31 onward	15%	25%

These Rules represent a decisive shift toward a circular construction economy. Developers, contractors, and infrastructure companies may be well advised to integrate waste planning early in project design, forge partnerships with registered recyclers, and invest in digital compliance systems. Early alignment with the Rules not only mitigates regulatory risk but also positions companies as leaders in sustainable construction.

Itemised consent notices are mandatory for data collection

Digital Personal Data Protection Rules, 2025

The Ministry of Electronics and Information Technology (MeitY) has notified the Digital Personal Data Protection Rules, 2025 (Rules) on November 13, 2025, completing the operational framework of the Digital Personal Data Protection Act, 2023 (Act) that is centered on empowering individuals (data principals) and imposing accountability on organisations (data fiduciaries), thereby transitioning India's privacy ecosystem from fragmented practices to a uniform framework.

The notification of the Rules is a pivotal milestone in operationalising India's modern privacy regime. The framework successfully balances robust user protection founded on explicit consent, security safeguards, and enforceable rights with a pragmatic 18-month transition period that accounts for market readiness. The creation of a digital-first DPB and the structured consent manager ecosystem will materially strengthen user trust and data governance standards. While the regulatory architecture is robust, organisations are at varying stages of readiness, and many continue to update legacy systems similar to the early compliance curve observed under the General Data Protection Regulation, 2018 (GDPR).

Key highlights

- Enhanced notice and consent requirements: Standalone, itemised consent notices must clearly describe the specific data collected, the precise purposes of processing, and the services enabled, and must also provide direct channels for consent withdrawal and exercising user rights.
- Registration and oversight of consent managers: Consent managers (entities acting as a bridge between data principals and data fiduciaries) must undergo mandatory registration, maintain a minimum net worth of INR 2 crore, retain consent records for 7 years, and operate under the oversight of the DPB, which may suspend or cancel their registration in case of non-compliance.
- Security safeguards: Data fiduciaries are required to implement comprehensive security measures, including encryption, masking, access controls, continuous logging and monitoring, secure data backups, and contractual safeguards with processors, along with a minimum 1-year retention of system logs.
- Breach notification: In the event of a personal data breach, data fiduciaries must immediately inform affected individuals and promptly notify the DPB, followed by a detailed breach report within 72 hours outlining the incident, impact, and mitigation steps.
- Data erasure and retention: Specified classes of data fiduciaries must erase personal data after the prescribed period of user inactivity, issue a 48-hour prior notice before erasure, and maintain logs and traffic data for at least 1 year to meet audit and security requirements.
- Significant Data Fiduciaries (SDFs): SDFs must conduct annual Data Protection Impact Assessments (DPIAs), undergo independent audits, verify the adequacy of technical and organisational safeguards, and comply with restrictions on cross-border transfers of notified categories of data.
- Child and guardian consent: Processing children's personal data requires verifiable parental consent, and similar verification is required from lawful guardians when processing the data of persons with disabilities, in accordance with applicable guardianship laws.
- Strengthened user rights and redress: Data fiduciaries must provide clear and accessible mechanisms for individuals to exercise their statutory rights, with grievance redressal timelines capped at 90 days, and allow users to nominate authorised representatives for exercising such rights.
- Phased implementation: While definitions and administrative provisions take effect immediately, the obligations for consent managers become effective after 12 months, and the majority of operational requirements under the Rules will apply after 18 months from the date of notification.
- Grievance: The DPB is now operational with a digital process for filing and tracking complaints, with appeals directed to the Telecom Disputes Settlement and Appellate Tribunal (TDSAT).

Challenges and scope for clarifications

- Organisations are likely to face substantive implementation challenges, including the scale of technical upgrades required for consent management, security safeguards, and governance processes.
- Questions remain around specific verification mechanisms, localisation expectations, and the operational capacity of the Data Protection Board (DPB) during the initial stages.
- Smaller entities may also face disproportionate compliance burdens.
- Industry engagement and transitional templates from MeitY would support smoother adoption and consistent implementation.

Re-classification and revised turnover limits for MSMEs

Notification by the Ministry of Micro, Small and Medium Enterprises

The Ministry of Micro, Small and Medium Enterprises has recently issued a notification in supersession of its earlier notification dated June 26, 2020, re-classifying Micro, Small, and Medium Enterprises (MSMEs) by revising the limits for investment in plant, machinery, and equipment and for turnover as follows:

Enterprise	Current	Revised
Micro Enterprise	Investment limit: INR 1 crore Turnover limit: INR 5 crore	Investment limit: INR 2.5 crore Turnover limit: INR 10 crore
Small Enterprise	Investment limit: INR 10 crore Turnover limit: INR 50 crore	Investment limit: INR 25 crore Turnover limit: INR 100 crore
Medium Enterprise	Investment limit: INR 50 crore Turnover limit: INR 250 crore	Investment limit: INR 125 crore Turnover limit: INR 500 crore

The re-classification of MSMEs is likely to lead to the following benefits:

- Greater access to credit: More enterprises now qualify for schemes like priority sector lending, collateral-free loans, and interest subvention, easing their credit challenges.
- Incentivising growth: Businesses can scale up operations without the fear of losing MSME benefits, encouraging reinvestment and expansion.
- Strengthening employment and regional development: With fewer regulatory hurdles, MSMEs in smaller towns and rural areas can expand and create more local jobs, driving inclusive economic growth.
- Enhancing global competitiveness: Larger export-oriented enterprises can retain MSME status and benefits, enabling them to scale while staying competitive in international markets.

The reclassification is accompanied by an enhancement of credit guarantee, doubling the credit guarantee cover from INR 5 crore to INR 10 crore. This is expected to unlock INR 1.5 lakh crore in additional credit over 5 years.

Additionally, in line with the mandatory 45-day payment period (for companies procuring goods/services from Micro and Small Enterprises) specified under Section 15 of the Micro, Small and Medium Enterprises Development Act, 2006, any company exceeding such statutory period would be required to submit a half-yearly return to the Ministry of Corporate Affairs (MCA) stating the amount of payment due and the reasons of the delay.

The details, which were earlier required to be filed in Form MSME – 1 with the Registrar of Companies (RoC), are now also to be filed with the MCA by October 31 (for the period of April to September) and by April 31 (for the period of October to March). Failure to do so would entail penalties of upto INR 3 lakh as per Section 405(4) of the Companies Act, 2013.

Input Tax Credit can be used for payment of GST appeal pre-deposits

Supreme Court permits using credit ledger for 10% GST appeal pre-deposits

In a major relief to companies contesting tax demands, businesses can now use Input Tax Credit (ITC) to pay the mandatory pre-deposit (10% of the disputed tax amount) for filing an appeal before the Appellate Authority under the Goods and Services Tax (GST) Act, 2017, through the electronic credit ledger.[9]

This is a significant shift in policy. Under the prevailing GST framework, ITC is generally restricted to offsetting output tax liability, and any unused credit can only be refunded under specific circumstances, typically when ITC exceeds output liability, such as in export or inverted duty scenarios. As such, companies disputing tax assessments were previously required to set aside working capital in cash for pre-deposit payments, despite ample ITC balances.

[9] Union of India v. Yasho Industries Ltd, Special Leave Petition (Civil) No. 14841 of 2025

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CONTRIBUTORS

Arindam Sarkar | Partner
arindam.sarkar@foxandmandal.co.in

Bhargav Mitra | Partner
bhargav.mitra@foxandmandal.co.in

Saurav Bhaumik | Associate Partner
saurav.bhaumik@foxandmandal.co.in

Ashutosh Gupta | Partner
ashutosh.gupta@foxandmandal.co.in

Neytra Nayak | Associate Partner
neytra.nayak@foxandmandal.co.in

Anwesha Sinha | Senior Associate
anwesha.sinha@foxandmandal.co.in

Abhimanyu Kakrania | Associate
abhimanyu.kakrania@foxandmandal.co.in

Aman Maini | Associate
aman.maini@foxandmandal.co.in

Rangita Chowdhury | Associate
rangita.chowdhury@foxandmandal.co.in

Shuvangi Gupta | Associate
shuvangi.gupta@foxandmandal.co.in

Rudresh Mandal | Senior Associate
rudresh.mandal@foxandmandal.co.in

Abhinav Jain | Assistant Manager
abhinav.jain@foxandmandal.co.in

Deeksha Dabas | Assistant Manager
deeksha.dabas@foxandmandal.co.in

Shrinwantu Choudhury | Associate
shrinwantu.choudhury@foxandmandal.co.in

Ayushi Sinha | Trainee Associate
ayushi.sinha@foxandmandal.co.in

OUR OFFICES

BENGALURU
G 102, Embassy One Pinnacle
8 Bellary Road, Bengaluru 560 032
Email: bengaluru@foxandmandal.co.in

KOLKATA
7th Floor, 206 AJC Bose Road
Kolkata 700 017
Email: calcutta@foxandmandal.co.in

KOLKATA
12, Old Post Office Street
Kolkata 700 001
Email: calcutta@foxandmandal.co.in

MUMBAI
105, Arcadia Building, 195 NCPA Marg
Nariman Point, Mumbai 400 021
Email: mumbai@foxandmandal.co.in

NEW DELHI
Fox & Mandal House
D 394, Defence Colony, New Delhi 110 024
Email: newdelhi@foxandmandal.co.in