# CENTRE FOR CORPORATE LAW

## NATIONAL LAW UNIVERSITY ODISHA

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# #IN

# S I G H T S

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## IN THIS ISSUE

## GARUDA: THE NEXT FLIGHT IN INDIA'S AIF STORY

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The Securities and Exchange Board of India ("**SEBI**"), vide a gazette notification dated July 10, 2026, has notified one of the most significant amendments for alternative investment funds ("**AIF**") in India. The amendment has formally introduced the Green-Channel: AIF Rollout Upon Document Acknowledgement ("**GARUDA**") Mechanism for SEBI's processing of an AIF's Private Placement Memorandum ("**PPM**").

Since the notification of the SEBI (Alternative Investment Funds) Regulations, 2012, almost a decade and a half year, SEBI has taken various measures to streamline and standardize India's AIF industry. This is evident from various measures of SEBI, including prescribing formats for different categories of AIFs, simplifying processes for accredited investors and Accredited Investor-only Funds, and digitizing regulatory reporting, among others. It is to further this very objective that SEBI has now introduced GARUDA as the next step.

Prior to the notification of GARUDA and the SEBI circular dated April 30, 2026, an AIF was required to file the PPM of a new scheme with SEBI (other than for certain types of schemes), following which SEBI would issue its comments or queries, if any, and only after the same was addressed or resolved, as the case may be, the scheme could be launched. However, as the AIF industry evolved and the frequency of AIF registration and scheme launches increased, a need was identified to ease the process by SEBI. Therefore, SEBI first introduced a fast-track mechanism on April 30, 2026, wherein AIFs were permitted to launch their new schemes and circulate the same with investors for soliciting funds within thirty days from the date of filing of the scheme application with SEBI. This was followed by the gazette notification as discussed at the very beginning, through which GARUDA was introduced, and the time period was reduced to ten working days.

As a result of this evolution, today an existing AIF can launch a new scheme within ten days of filing the scheme application with SEBI and start fund-raising, a change which has the potential to significantly impact investments in India where economic situations are changing overnight due to economic and geopolitical factors.

However, it needs to be particularly noted that the relaxation is not available for a new AIF for its first scheme. Further, any comments provided by SEBI after the launch of a scheme shall be required to be incorporated in the PPM. Lastly and most importantly, the change, while welcome, also puts an obligation on the fund managers and merchant bankers that the PPM and features of the scheme align with the applicable regulatory framework, failing which they may be subject to regulatory action.

Therefore, GARUDA is bound to change the fund-raising process in India; however, the leniency provided by SEBI is not unfettered and it is necessary to be mindful of the checks provided by SEBI.

# INSOLVENCY & BANKRUPTCY

## The Insolvency and Bankruptcy Board of India ("IBBI") has introduced a new framework for Personal Guarantors. [Link]

The IBBI has recently notified the Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) (Amendment) Regulations, 2026 ("**Amended Regulations**"), to amend the Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 ("**Bankruptcy Process Regulations**") and the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 ("**Insolvency Resolution Process Regulations**").

In January 2024, the IBBI removed the restriction on appointing a Resolution Professional ("**RP**") or bankruptcy trustee who had previously acted in the insolvency process of the related corporate debtor. In May 2025, the regulations were again amended to require resolution professionals to inform the Adjudicating Authority if a personal guarantor failed to submit a repayment plan. This had to be done with the approval of creditors. Further, in March 2026, the IBBI introduced an electronic filing framework to improve the monitoring of insolvency resolution processes involving personal guarantors.

One of the key changes in the presently amended regulations is the insertion of Regulation 6A. It requires every personal guarantor who files an application under Sections 94 or 95 of the IBC to submit a complete and truthful statement of assets, along with supporting documents. The disclosure must cover a wide category of assets. Any assets held jointly, indirectly, in a fiduciary capacity, or through any arrangement in which the guarantor exercises control or derives economic benefit must be disclosed.

Further, the amendments have also introduced Regulation 11A under the Insolvency Resolution Process Regulations, which provides a framework for the transfer of assets under Section 28A of the IBC. If a personal guarantor is undergoing an insolvency resolution process, the RP must coordinate with the RP of the related corporate debtor before facilitating any transfer of assets. Such transfers can only take place after obtaining the approval of the personal guarantor's creditors.

These amendments will improve transparency and accountability in insolvency proceedings that involve personal guarantors through the means of asset disclosure. This new framework will ensure better coordination between the insolvency proceedings of corporate debtors and their personal guarantors.

## The IBBI amends the framework governing the Committee of Creditors ("CoC"), Corporate Insolvency Resolution Process ("CIRP") costs and disclosure requirements of resolution plans. [Link]

The IBBI has notified amendments to the composition and oversight of the CoC, the framework for approval of CIRP costs and the disclosure requirements for resolution plans under the CIRP. The amendments were notified through the IBBI (Insolvency Resolution Process for Corporate Persons) (Fourth Amendment) Regulations, 2026.

Prior to the amendment, the eighteen largest Operational Creditors ("**OCs**") were required to be included in the CoC without distinguishing between related and unrelated creditors. This allowed related-party OCs to occupy seats meant for the unrelated creditors. Unrelated creditors could otherwise attend CoC meetings only where their aggregate dues met the 10% threshold under the Code leaving smaller suppliers and statutory authorities with no dedicated mechanism for their participation, especially in cases where non-institutional financial creditors, such as homebuyers, held a dominant voting share.

Under the amended framework, after the words "eighteen largest", "unrelated" is inserted to ensure adequate representation of unrelated OCs. The amended proviso states that only if the number of such unrelated OCs is less than eighteen, the committee shall include all such unrelated OCs. If the creditors, other than the scheduled banks or public financial institutions, have more than 66% of the voting power in the CoC, the RP shall invite the top five OCs to attend the CoC meetings as non-voting observers and take note of their observations in the minutes. At the first meeting and later at each meeting, the RP shall also submit a Going Concern Assessment Report to the CoC for its approval, prior to the commencement of the CIRP, of the costs of the CIRP. Finally, when evaluating resolution plans, the CoC shall document its considerations and analysis on the feasibility and viability of the plan, probable recovery of creditors as compared to the fair value and the liquidation value and the level of market discovery conducted.

Moving forward, the amendments are expected to enhance the representation of the non-institutional creditors of the company on the CoC and make the oversight more effective in the case of non-institutional creditors with concentrated voting power. The updated cost-approval framework will likely introduce more cost discipline and transparency in the costs incurred in the resolution process, and the better disclosure of resolution plan costs will lead to more reliable and accountable CoC decisions.

### The Supreme Court ('SC') holds that once the statutory period under Section 62 of the Insolvency and Bankruptcy Code, 2016 ("IBC") has expired, delay in re-filing cannot be condoned and the right to appeal stands extinguished. [*CA Ramchandra Dallaram Choudhary v. Adani Infrastructure and Developers Pvt. Ltd.*]. [Link]

In this case, a liquidator had appealed under Section 62 of the Code against a National Company Law Appellate Tribunal ("**NCLAT**") order that was presented 7 days beyond the 45-day limitation period but within the 15-day grace period under Section 62(2). The appeal was marked defective by the Registry, and after curing the defects, it was re-filed with a further delay of 82 days, prompting separate applications for condonation of the filing and re-filing delays before the SC. Contending that the lapse arose from an internal administrative oversight, the appellant pleaded that re-filing delay ought to be viewed more leniently.

The SC held that Section 62 permits an outer limit of 60 days for filing, and Rules 6(3) and (4) of Order VIII of the Supreme Court Rules, 2013 ("**Supreme Court Rules**"), permit a further 28 days for curing defects. Once both periods lapse, the right to appeal itself stands extinguished, leaving no room for condoning the delay in re-filing, regardless of the cause shown. Distinguishing an earlier order in the appellant's own favour under Section 61 of IBC, the SC held that the Supreme Court Rules are subordinate legislation that cannot override the IBC's stricter, self-contained timeline, and declined to invoke Article 142 of the Constitution to relax the statutory bar.

The judgment signals that insolvency professionals must build compliance buffers into their internal processes rather than rely on judicial indulgence to cure administrative delay. Going forward, litigants under IBC can expect little leniency for re-filing delay beyond this period, even where the lapse is attributable to internal administrative oversight rather than deliberate default.

# SECURITIES LAW

## The Securities and Exchange Board of India ("SEBI") approves key capital market reforms to enhance market efficiency and Ease of Doing Business. [Link]

SEBI has approved a set of major regulatory reforms across the Indian capital markets ecosystem at its Board Meeting held on 19 June 2026. The reforms relate to Alternative Investment Funds ("**AIFs**"), open market buy-backs, mutual funds, transmission of securities, securitised debt instruments, municipal debt securities and governance standards within SEBI. These initiatives, taken together, aim to simplify regulatory processes, enhance efficiency, strengthen investor protection and facilitate the continued evolution of India's capital markets.

SEBI has approved a major reform of the introduction of the Green-Channel: AIF Rollout upon Document Acknowledgement ("**GARUDA**") mechanism under the SEBI (Alternative Investment Funds) Regulations, 2012. The framework cuts down the time taken to launch AIF schemes significantly and allows Accredited Investor-only schemes and Angel Funds to start operations immediately upon registration or filing of the placement memorandum. The GARUDA mechanism is expected to reduce procedural bottlenecks and facilitate faster deployment of capital and ease of doing business in alternative investment sector.

SEBI also approved amendments to the SEBI (Buy-back of Securities) Regulations, 2018, including re-introduction of open market buy-backs through stock exchanges from 1 August 2026. The new framework provides companies more flexibility in undertaking buy-backs, reduces operational requirements and makes the appointment of a Merchant Banker optional in certain cases. In the interest of investor protection, enhanced disclosure requirements and safeguards regarding promoter participation have also been introduced for enhancing capital management flexibility for listed entities.

In another important development, SEBI has simplified the framework relating to transmission of securities. The revised regime introduces Quick Transmission Processing ("**QTP**") for small value claims, increases thresholds for simplified documentation and removes several procedural requirements, including the mandatory submission of probate of wills in certain cases. These changes are expected to ease delays and procedural hardships for legal heirs and claimants and to improve efficiency for market intermediaries.

The SEBI Board-approved reforms are indicative of a broader regulatory strategy to reduce compliance friction, improve market efficiency and facilitate capital formation, while maintaining robust investors protection standards. The success of the measures will depend on how they are implemented through detailed regulations and operational guidance. But the reforms represent an important step forward in building a more efficient, accessible and resilient capital market framework in India.

**SEBI releases guidelines for the winding up of AIFs and registered Venture Capital Funds ("VCFs"). [Link]**

Through a recent circular, SEBI has provided the guidelines for winding up of AIFs with respect to retention of proceeds and inoperative fund status. The guidelines were released to give effect to the amended winding up provisions of the AIFs.

Earlier, through the SEBI (Alternative Investment Funds) Regulations, 2012 **("AIF Regulations")** changes were made to Regulation 29, which deals with winding up. To provide some flexibility, it was provided that AIFs could retain liquidation proceeds beyond their fund life while being tagged as 'inoperative fund'. The guidelines provide conditions for such retention and grant of status.

Earlier, changes were introduced to the AIF Regulations to offer more flexibility to AIFs. After the amendment, Regulation 29(10A) mentioned that AIFs can be tagged as an 'inoperative fund'. The conditions for obtaining such tag have been notified through the guidelines.

According to the circular, AIFs can retain liquidation proceeds beyond their permissible fund life if, (i) they demonstrate that they had received a litigation notice, demand notice or similar communication; (ii) 75% of investors by value consent to retain proceeds due to anticipated liabilities; (iii) for covering residual expenses for winding up if such retention is substantiated by documents. If any one of the above conditions is met, the AIF can avail the exemption to retain funds.

Additionally, if funds are retained with investor's consent, the AIF manager is required to disclose the amount and period of retention to the investors. Further, funds for residual expenses can be retained only for operational heads as formulated by Standard Setting Forum of AIFs ("**SFA**") in consultation with SEBI. Retention for these purposes can also not exceed a period of three years.

AIFs which have thus retained the funds or AIFs intending to continue with registration due to expectation of a favourable outcome from a pending litigation can apply for 'Inoperative Fund' status. Such AIFs must submit an annual status report and are prohibited from launching a new scheme. Finally, once liabilities are satisfied and the remaining funds are distributed amongst investors, the AIF can be wound up.

Therefore, the circular gives effect to the changes introduced in the winding up provisions by establishing the procedural framework. The guidelines also bring ease of doing business because now AIFs which have concluded their investments are not required to stay operative and bear full compliance burden merely because of any outstanding liability. The guidelines thus account for industry realities while providing adequate safeguards for investors.

# TAXATION LAW

**The Delhi High Court ("HC") broadens the scope of Fees for Technical Services ("FTS") under the India – US Double Taxation Avoidance Agreement ("DTAA"). [*Commissioner of Income Tax (International Taxation) – 1, New Delhi v. Ernst & Young U.S. LLP*]. [Link]**

In a recent judgment, the HChas provided a broad interpretation of FTS under the India – US DTAA. It has adopted a substance-over-form approach, clarifying that tax treatment should be determined by the actual nature of the service rendered rather than their contractual description or billing structure.

Earlier, the position was unclear as to whether the payments made to seconded employees or inter-company support services were to be considered as cost reimbursements when they were made on a "no mark-up" basis. Relying on the precedents set in *Principal Commissioner of Income Tax – 1 v. Boeing India Pvt. Ltd.* and *AT&T Communications Services (India) Pvt. Ltd. v. Deputy Commissioner of Income Tax*, the enterprises and taxpayers argued that such payments would qualify as FTS only if technical knowledge was available in a way Indian entities could independently apply it in the future. Therefore, many cross-border secondment agreements were structured in a manner which helped it avoid FTS characterisation and its resulting tax obligations.

Through this ruling, the Delhi HC has now adopted a broader interpretation of the "make available" test under Article 12(4)(b) of the India-US DTAA. It clarified the scope of making technical knowledge available to not just include a formal transfer of know-how but also global policies, quality standards and specialised expertise. Further, FTS classification will include "no mark-up" reimbursement as the nature of the services is more important than the pricing model. The Delhi HC also emphasised on the employer-employee relationship, relying on factors such as the employees' continued lein with the foreign entity, the social security benefits and repatriation rights to decide if the entity should be considered the true employer. Hence, DHC, in taking a different view has distinguished from earlier rulings like Boeing and AT&T and aligned its reasoning with *Centrica India Offshore (P) Ltd. v. Commissioner of Income Tax – 1.* This shows the judicial preference for viewing secondment as a service-delivery mechanism rather than merely a human resource provision.

In conclusion, the judgment is expected to have a wider impact on multinational enterprises engaged in cross-border employment and service arrangements. Merely relying on contractual drafting or cost-to-cost reimbursement for tax treatment of secondment payments will not suffice. Emphasis will now be placed on the commercial substance of the arrangement, the actual functions of the seconded personnel, and the transfer of technical knowledge to the Indian entity.

# MISCELLANEOUS

## The Reserve Bank of India ("RBI") introduces a comprehensive framework for Credit Derivatives. [Link]

The RBI recently issued the Master Direction – Reserve Bank of India (Credit Derivatives) Directions, 2026 **("the Directions")**, superseding the earlier 2022 framework. This marks a significant step towards transforming the corporate bond market by enlarging the range of credit derivative products, the market base and strengthening governance and reporting standards, along with aligning it with international market practices.

Earlier, the credit derivatives field remained largely underdeveloped. Though the 2022 framework permitted the Credit Default Swaps **("CDSs")**, it had limited participation, narrow range of products and heavy restrictions on usage for institutional investors. The lack of products such as Total Return Swaps **("TRSs")**, limited exchange-traded offerings, and standardised settlement mechanisms limited the options that market participants had to hedge credit risk. Hence, liquidity in the corporate bond market remained low, attracting fewer domestic and foreign investors.

The present directions substantially expand this framework by permitting TRSs on corporate bonds and exchange-traded futures on credit indices, which has expanded the range of tools available for managing credit exposure. Eligible market-makers now include Scheduled Commercial Banks except certain categories, Standalone Primary Dealers, Non-Banking Financial Companies in the Middle and Upper Layers, and institutions like Exim Bank, the National Bank for Agriculture and Rural Development, etc. Further, users have been divided into retail and non-retail categories, wherein the former are allowed usage of these products only for hedging purposes while the latter, including mutual funds, Foreign Portfolio Investors, etc. have greater flexibility subject to regulatory safeguards.

The Directions have also laid certain safeguards such as establishment of a Credit Derivatives Determinations Committee by the Fixed Income Money Market and Derivatives Association of India to determine the occurrence of credit events, oversee action settlements and pronounce binding decisions. The scope of eligible reference assets has been expanded to include rated corporate bonds, money market instruments and approved credit indices, though structured products such as asset-backed securities, mortgage-backed securities and convertible bonds remain excluded. The framework has further been aligned with global standards by allowing settlements to take place through cash, physical delivery or auction mechanisms. Moreover, all over-the-counter credit derivative transactions must be reported to the Clearing Corporation of India Limited trade depository within 30 minutes, strengthening transparency and regulatory oversight.

In conclusion with the expansion of range of permissible products market participation and settlement mechanisms and implementation of operational safeguards, RBI has sought to create a more liquid credit derivatives market while ensuring risk management. If implemented effectively, it will strengthen risk-transfer mechanisms, attract greater market participation and encourage long-term growth of financial markets in India.

**The RBI liberalises the Special Non-Resident Rupee ("SNRR") framework to strengthen Rupee Internationalisation. [Link]**

The RBI has recently notified the Foreign Exchange Management (Deposit) (Sixth Amendment) Regulations, 2026 **("the amendment")**, which significantly liberalises the framework governing SNRR accounts. It seeks to simplify access to these accounts by removing certain eligibility restrictions and expanding the scope of permissible transactions. Likewise, it aims to facilitate cross-border Rupee transactions and further the long-term objective of promoting the internationalisation of the Indian Rupee.

Earlier, only non-residents were permitted to open SNRR accounts if they have any business interest in India. Their usage was restricted with limited operational flexibility and fewer permissible transactions under the Foreign Exchange Management Act, 1999 **("FEMA").** Further, the transfers from Non-Resident Ordinary **("NRO")** accounts to SNRR accounts were not expressly permitted, which led to inefficient movement and management of such funds. This caused undue hardship for foreign investors, overseas businesses, and financial institutions that were involved in Rupee transactions.

The amendment substantially relaxes this framework by removing the requirement of having a business interest in India. Non-residents can now open and maintain SNRR accounts with an Authorised Dealer Bank in India, its overseas branches, or branches located in an International Financial Services Centre. It has also expanded the range of permissible transactions according to FEMA and removed certain earlier operational restrictions that existed. Further, the amendment now expressly allows transfers from NRO accounts to SNRR accounts which provide greater flexibility in managing funds within the FEMA framework.

In conclusion, the amendment is expected to provide greater practicality to the usage of SNRR accounts for foreign investors, multinational corporations and overseas entities engaged in Rupee-denominated transactions. By simplifying account eligibility, improving fund mobility and expanding operational flexibility, it strengthens India's position in the global financial ecosystem, the ease of doing business and the internationalisation of Rupee.

## The RBI has exempted certain Non-Banking Financial Companies ("NBFCs") from complying with Section 45IA and 45IC of the Reserve Bank of India Act, 1934 ("RBI Act"). [Link]

The RBI has issued a notification exempting a new category of NBFCs from the requirements of Sections 45IA and 45IC of the RBI Act. The notification will come into effect from 1 July 2026 .

Previously, all NBFCs were generally required to register with the RBI under Section 45IA of the RBI Act, and maintain a statutory reserve fund under Section 45IC. These requirements even applied to NBFCs that neither raised money from the public nor directly dealt with customers. As a result, this led to a higher compliance burden for small NBFCs.

To address this, the RBI has issued this notification to exempt a specific category of NBFCs from this additional compliance burden. The notification applies to NBFCs that do not avail public funds, do not have any customer interface, and have an asset size of less than ₹1,000 crore. Such companies must operate without public funds and customer interaction as part of their long-term business model. Further, they also have to pass an annual Board resolution confirming that they will continue to do so during the financial year and disclose in their financial statements that they are an "Unregistered Type I NBFC" along with the status of their public funds and customer interface.

This notification is expected to reduce the compliance burden for small and low-risk NBFCs by exempting them from unnecessary regulatory requirements. The prescribed eligibility conditions and disclosure requirements ensure that only genuinely low-risk entities can avail the exemption. It will allow the RBI to focus its supervision on NBFCs that raise public funds or directly deal with customers, which pose a greater risk to the financial system. The move is also expected to promote a more proportionate framework without compromising financial stability.

# #IN SIGHTS

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