

SAGUS SPEAKS



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

REGULATORY AND POLICY UPDATES

SEBI issues guidelines on monitoring of minimum investment threshold under Specialized Investment Funds

The Security Exchange Board of India (“SEBI”) by way of circular no. SEBI/HO/IMD/IMD-PoD-1/P/CIR/2025/107 dated 29.07.2025¹ (“SIF Circular”), has issued guidelines for monitoring compliance with the minimum investment threshold under Specialized Investment Funds (“SIFs”). This SIF Circular follows the earlier SEBI circulars dated 27.02.2025, 09.04.2025, and 11.04.2025 that established the regulatory framework for SIFs. The provisions of the SIF Circular have come into effect from 29.07.2025.

Through the SIF Circular, SEBI has established a mechanism for handling breaches of the minimum

investment threshold of INR 10 lakhs, whereby in case of any active breach by an investor (including through transactions on stock exchanges or off-market transfers), all units of such investor held across investment strategies of the concerned SIF shall be frozen for debit, and a notice of thirty (30) calendar days shall be given to the investor to rebalance their investments. If the investor rebalances within the notice period, the units will be unfrozen with no further action required.

However, if the investor fails to rebalance within thirty (30) calendar days, the frozen units shall be automatically redeemed by the asset management company at the applicable net asset value of the next immediate business day after the thirtieth (30th) calendar day of the notice period. The SIF Circular defines “Active Breach” as the fall in aggregate value of an investor’s total investment across all investment strategies of SIF below the INR 10

¹ Monitoring of Minimum Investment Threshold under Specialized Investment Funds (SIF).

lakhs threshold on account of transactions initiated by the investor.

SEBI issues circular on operational efficiency in monitoring of NRIs position limits in exchange traded derivatives contracts

SEBI by way of circular no. SEBI/HO/MIRSD/MIRSD-PoD/P/CIR/2025/109 dated 29.07.2025² ("NRI Circular"), has simplified the monitoring of non-resident Indian ("NRI") position limits in exchange traded derivatives contracts.

Previously, SEBI had, *inter alia*, specified the operational modalities of monitoring of NRI position limits in circular dated 29.10.2003. This required NRIs to notify the names of their clearing member(s) to the stock exchange for derivative trades and obtain a unique client code, i.e., Custodial Participant ("CP") code, from the stock exchange. The stock exchange would then use this information to track the position limits of NRI clients.

The NRI Circular has done away with the mandatory requirement for NRIs to notify the names of the clearing member/s and subsequent assignment of CP code to the NRIs by the stock exchange. Accordingly, for NRIs trading in exchange traded derivative contracts without CP code, the stock exchange/clearing corporation shall monitor the NRI position limits in the same manner as client level position limits.

Further, the stock exchanges and clearing corporations must update their operational procedures within thirty (30) days, allowing existing NRI clients to exit the CP code on submission of request via email communication within ninety (90) days from issuance of the NRI Circular. The stock exchanges and clearing corporations also need to provide an option for NRIs who initially opt for CP code but later decide to exit from CP code.

RBI notifies RBI (Investment in AIF) Directions, 2025

The Reserve Bank of India ("RBI") through notification dated 29.07.2025 notified the RBI (Investment in AIF) Directions, 2025³ ("RBI AIF Directions") to regulate investments by regulated entities ("REs") in units of Alternative Investment Funds ("AIFs"), superseding the earlier circulars dated 19.12.2023 and 27.03.2024 ("Existing Circulars"). The RBI AIF Directions shall come into force from 01.01.2026 or any earlier date as decided by REs as per its internal policy.

The salient features of the RBI AIF Directions are as follows:

- (a) Applicability: The RBI AIF Directions shall apply to investments by the following REs in AIF schemes:
 - (i) Commercial Banks (including Small Finance Banks, Local Area Banks and Regional Rural Banks);
 - (ii) Primary (Urban) Co-operative Banks, State Co-operative Banks, and Central Co-operative Banks;
 - (iii) All-India Financial Institutions; and
 - (iv) Non-Banking Financial Companies (including Housing Finance Companies).
- (b) Investment Limits and Provisioning:
 - (i) An individual RE shall not contribute more than 10% of the AIF scheme corpus.
 - (ii) Aggregate contribution by all REs shall not exceed 20% of the AIF scheme corpus.
 - (iii) Where a RE contributes more than 5% of the AIF scheme corpus, which has downstream investment (excluding equity instruments) in a debtor company of the RE, the RE shall make 100% provision to the extent of its proportionate investment in the debtor company, capped at the amount of the RE's direct loan and/or investment exposure to the debtor company.
 - (iv) However, if an RE's investment is in the form of subordinated units, RE shall deduct the full amount from its capital funds.
- (c) Exemptions:
 - (i) Outstanding investments or commitments made with prior RBI approval under the RBI (Financial Services provided by Banks) Directions, 2016, shall be exempt from the investment limits set out under (ii) (a) and (ii) (b) above.
 - (ii) RBI may, in consultation with the Government of India, exempt certain AIFs from the scope of the Existing Circulars and the RBI AIF Directions.

² Operational Efficiency in Monitoring of Non-Resident Indians (NRIs) Position Limits in Exchange Traded Derivatives Contracts - Ease of Doing Investment.

³ Reserve Bank of India (Investment in AIF) Directions, 2025.

GOVERNMENT NOTIFICATIONS

Ministry of Labour and Employment notifies the Employees' Deposit Linked Insurance (Amendment) Scheme, 2025

The Ministry of Labour and Employment through its notification dated 18.07.2025 notified Employees' Deposit-Linked Insurance (Amendment) Scheme, 2025 ("Amendment Scheme")⁴, to amend Paragraph 22 of the Employees' Deposit Linked Insurance Scheme, 1976 ("EDLI Scheme").

The Amendment Scheme introduces a minimum assured benefit of INR 50,000 in event of death of employee during the preceding twelve (12) month or during the period of his membership, even if the average provident fund balance of the deceased employee is less than this amount. The same is applicable on employees who are members of the employees' provident fund or an exempted provident fund under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

Further, Amendment Scheme provides that for determination of twelve (12) months required, a gap of up to sixty (60) days between two spells of employment shall be ignored. Additionally, employees who died within six (6) months of their last provident fund contribution, while still being on the rolls of the employer, shall also get the assurance benefits under ELDI Scheme.

Ministry of New and Renewable Energy amends procedure for inclusion/Updating wind turbine model in the revised list of models and manufactures of wind turbine (RLMM)

The Ministry of New and Renewable Energy through its notification dated 31.07.2025 amended the 'Procedure to apply for inclusion of a Wind Turbine Model in Revised List of Models and Manufacturers of Wind Turbines (RLMM) issued on 01.11.2018 and renamed it as the Approved List of Models and Manufacturers (Wind), i.e., ALMM (Wind) ("Amended Procedure")⁵.

The salient aspects of the procedure are as follows:

- (a) Manufacturers are now required to provide the vendor/ sources of blade, tower, generator, gearbox and special bearing (main, pitch and yaw bearing).

- (b) The type certificate of wind turbine model now has to mandatorily include blade tower, gearbox, generator and special bearing.
- (c) Mandatorily locating data centre and/or servers in India. All the data pertaining to wind turbine now must be stored and maintained within India.
- (d) Transferring of real-time operation data outside India is prohibited. Further, operational control of the wind turbine must be conducted exclusively from a facility located within India.
- (e) Within the one (1) year of the issuance of Amended Procedure, the R&D centre must be located in India.
- (f) The following cases will be exempted:
 - (i) the already bidder projects (projects where bids have been closed before issuance of Amended Procedure), subject to commissioning of the project within three (3) years of issue of Amended Procedure;
 - (ii) wind power projects to be commissioned within eighteen (18) months under captive/open access/ C&I/ third party sale mode; and
 - (iii) new Wind Turbine Manufacturer and/or new model, limited to 800 MW for period of two (2) years from the date of enlistment in ALMM (Wind).
- (g) Any import required for manufacturing wind turbines needs to be in compliance with the provisions of Renewable Energy Equipment Import Monitoring System.

Department for Promotion of Industry and Internal Trade published the Draft Patent (Amendment) Rules, 2025

The Department for Promotion of Industry and Internal Trade ("DPIIT"), on 18.07.2025, published the Draft Patents (Amendment) Rules, 2025 ("Draft Rules")⁶.

The Draft Rules propose several changes by insertion of Rules 107A to 107L, and provide a detailed procedures to file complaint, appeal, and conduct inquiry through a digitally administered process. The key changes introduced are as follows:

⁴ Employees' Deposit-Linked Insurance (Amendment) Scheme, 2025.

⁵ MNRE's Amendment to Procedure for Inclusion/Updating of Wind Turbine Models in the RLMM.

⁶ Draft Patents (Amendment) Rules, 2025.

- (a) As per Rule 107B, any person may file a complaint with the adjudicating officer regarding violations of Sections 120, 122, and 123 of the Patents Act, 1970, using e-Form 32.
- (b) Rule 107C sets out the procedure to conduct inquiries into such complaints or defaults. The adjudicating officer is required to issue notice to show cause as to why an inquiry should not be held against them.
- (c) Rule 107D provides that any party aggrieved by an adjudicating officer's order may file an appeal within 60 (sixty) days of such order, using e-Form 33.
- (d) Additionally, Rule 107E requires that all communications be made exclusively through electronic means.

JUDICIAL PRONOUNCEMENTS

Supreme Court holds that the Limitation Act is not applicable on conciliation proceedings under the MSMED Act

The Supreme Court of India, through its judgment dated 17.07.2025 in the matter of *M/s Sonali Power Equipments Pvt. Ltd. v. Chairman, Maharashtra State Electricity Board, Mumbai & Ors.*⁷ held that Limitation Act, 1963 ("Limitation Act") only applies to suits, appeals and application filed before courts. Conciliation being an out-of-court and non-adjudicatory process of dispute resolution, the Limitation Act cannot be extended to it.

The Supreme Court further held that there is no provision that extends the applicability of the Limitation Act to conciliation proceedings under Micro Small and Medium Enterprises Development Act, 2016 ("MSMED Act"). Further, neither Section 29(2) nor any other provision of the Limitation Act has the effect of extending its application to conciliation proceedings.

The Supreme Court also clarified that Limitation Act applies to arbitration proceedings under Section 18(3) of the MSMED Act. The applicability of the provisions of Arbitration and Conciliation Act, 1996 ("A&C Act") to such arbitrations is determined as per Section 18(3) and other provisions of MSMED Act, as these are special laws, rather than by Section 2(4) of the A&C Act, which is under a general law.

Supreme Court holds that the doctrine of merger is not applicable to judgments/orders vitiated by fraud

The Supreme Court of India, through its judgement dated 23.07.2025 in the matter of *Vishnu Vardhan @ Vishnu Pradhan v. The State of Uttar Pradesh & Ors.*⁹ held that order/judgment obtained by fraud invalidates the judgment/order and doctrine of merger is not applicable on said judgements/orders.

In the present matter, one Mr. Reddy obtained the High Court's order in its favour by suppressing material facts. The High Court's decision was later on upheld by the Supreme Court. Being aggrieved by the conduct of Mr. Reddy, Mr. Vishu filed the civil appeal against the order of the High Court (which was upheld by the Supreme Court) and also filed a writ petition under Article 32 of the Constitution of India.

The Supreme Court held that extent of merger is determined by the subject matter of the appeal. The merger can only operate on issues which were the subject-matter of the appellate court's judgment and order cannot have any application to issues which are not being taken on appeal by either party or which had not been touched upon by the appellate court. Further, it was held that fraud is an exception to the doctrine of merger. In view of the same, it was held that since the High Court's order was tainted by fraud as material facts were not disclosed, its subsequent affirmation by the Supreme Court did not result in a true merger. As a result, the High Court's order remained open to challenge through a civil appeal.

Delhi High Court held that civil suit is not maintainable where arbitration clause governs a composite contractual dispute

The High Court of Delhi through its judgment dated 16.07.2025 in *Canara Bank v. Sanjeev Sharma & Ors.*⁹ held that when a dispute arises from a composite contractual arrangement governed by an arbitration clause, recourse to civil proceedings is barred and the entire dispute must be referred to arbitration in accordance with A&C Act.

In the present case, primary issue before the High Court was whether the arbitration agreement embedded in one of several interconnected contracts could compel reference to arbitration for all disputes arising out of the transaction, including those involving non-signatories or ancillary agreements.

⁷ Civil Appeal Nos. 9524-9532 of 2025.

⁸ Civil Appeal No. 7777 of 2023.

⁹ RFA(COMM) 54/2022, CM APPL. 36812/2022 (O-20 R-6A CPC) & CM APPL. 3397/2025.

The High Court relied on judgment of the Supreme Court in *Ameet Lalchand Shah v. Rishabh Enterprises*¹⁰ wherein it was held that a civil suit cannot be maintained where the subject matter is integrally linked to an arbitration agreement forming part of a composite transaction. The High Court reiterated the principle that disputes under interrelated agreements with an arbitration clause must be referred in entirety to arbitration.

Kerala High Court held that mere publication of an employee's dismissal in a newspaper does not amount to sufficient compliance of service of the dismissal order

The High Court of Kerala through its judgment dated 28.07.2025 in *K.S. Hariharan v. The Labour Court, Kollam and Anr.*¹¹ held that publication of an employee's dismissal in a newspaper does not constitute valid service of the dismissal order for the purposes of triggering limitation under Section 2-A (3) of the Industrial Disputes Act, 1947 ("Industrial Dispute Act").

In the present case, K.S. Hariharan, a journalist formerly employed with Deshabhimani Daily ("DD"), challenged the order of Labour Court dismissing his application as time barred. In October 2008, DD published a news item stating that K.S. Hariharan was dismissed from service. However, a formal copy of the dismissal order was never served until 2015, when it was produced during conciliation proceedings.

The High Court of Kerala held that the news item published in a newspaper is not sufficient compliance of service of the order of dismissal. It further held that a certificate of posting is a rebuttable presumption under Sections 16 or 114 of the Indian Evidence Act, 1872 and cannot be treated as conclusive proof of service, particularly when K.S. Hariharan denied receipt and had made bona fide efforts to seek communication of the dismissal order.

APTEL upholds deemed distribution licensee status of IPCTPL under Section 14(b) of the Electricity Act, 2003

The Appellate Tribunal for Electricity ("APTEL") through its judgment dated 23.07.2025 in *Tamil Nadu Generation and Distribution Corporation Limited v. The Secretary, Tamil Nadu Electricity Regulatory Commission & Ors.*¹² held that India Power Corporation (Tuticorin) Private Limited (now, Tuticorin Electricity Supply Private Limited) ("IPCTPL") is a deemed distribution licensee under Section 14(b) of Electricity Act, 2003 ("EA Act"), read with notification dated 03.03.2010 ("SEZ Notification") issued by the Ministry of Commerce and

Industry under Section 49(1) of the Special Economic Zones Act, 2005 ("SEZ Act")

APTEL held that the SEZ Notification introduces a legal fiction by which the developer of a Special Economic Zone is treated as a deemed distribution licensee for the purpose of Section 14(b) of the EA Act.

Further, APTEL observed that conferment of deemed licensee status does not operate in vacuum. While the SEZ Notification relieves the entities covered by the said notification from the requirement of applying for a license under Section 14(b) of the EA Act, it does not and cannot divest the State Commission of its jurisdiction to ensure that any such entity is equipped to discharge the functions of distribution licensee in accordance with the statutory framework.

APTEL also observed that deemed licensee status granted to entities is to enable competition and efficiency of supply. Where a licensee fails to establish a functional network and does not serve consumers, the purpose is entirely defeated. Therefore, State Commission should evaluate the performance of the deemed distribution licensees.

Further, the EA Act does not provide for the deemed revocation or automatic cessation of licensee status on the ground of inactivity or non-performance. Action for revocation or suspension can only be taken on the basis of duly initiated process, identifying persistent non-compliance, providing notice and hearing and basing penal action on established facts.

¹⁰ Civil Appeal No. 4690 of 2018.

¹¹ W.P (C) No. 14688 of 2019.

¹² Appeal No. 47 of 2019.

ABOUT SAGUS LEGAL

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