

LEGAL BRIEFS: BI-WEEKLY LEGAL UPDATES

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Synergia Legal is bringing it to you a fortnightly compilation of digestible summaries of key legal developments and case laws impacting the business, commercial and economic landscape in India:

SECURITIES LAWS

- 1. The Securities and Exchange Board of India (SEBI) issued eligibility criteria for launching Options with Commodity Futures as underlying by Stock Exchanges having commodity derivative segments (May 27, 2024):**

The SEBI issued a circular in which the SEBI master circular on Commodity Derivatives Segment has been updated to revise the eligibility criteria for launching options on commodity futures. Previously, the average daily turnover requirement for underlying futures contracts of agricultural and agri-processed commodities was INR 200 Crore. This has now been reduced to INR 100 Crore based on market feedback and discussions by SEBI's Commodity Derivatives Advisory Committee (CDAC). For other commodities, the turnover requirement remains at INR 1000 Crore. This change is effective from June 1, 2024, and applies to all new options on future contracts for these commodities. Stock exchanges must amend their bye-laws, rules, and regulations accordingly, and inform their members and the public via their websites. This update is issued to protect investor interests and regulate the securities market.

(The circular bearing number SEBI/HO/MRD/MRD-PoD- 1/P/CIR/2024/61 issued by the Securities and Exchange Board of India is accessible [here](#).)

- 2. The Securities and Exchange Board of India (SEBI) issued Self Regulatory Organizations for Social Impact Assessors in the context of Social Stock Exchange ("SSE") (May 27, 2024):**

The SEBI issued a circular in accordance with Regulation 292A(f) of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, a Social Impact Assessor is defined as an individual registered with a self-regulatory organization (SRO) under the Institute of Chartered Accountants of India (ICAI) or another specified agency, having completed a certification program by the National Institute of Securities Market. In addition to the SRO under ICAI, SEBI has designated two additional SROs for Social Impact Assessors in the context of the Social Stock Exchange: the ICAI Social Auditors Organization (ICMAI SAO) under the Institute of Cost Accountants of India, and the ICSI Institute of Social Auditors (ICSI ISA) under the Institute of Company Secretaries of India.

(The circular bearing number SEBI/HO/CFD/PoD-1/P/CIR/2024/0060 issued by the Securities and Exchange Board of India is accessible [here](#).)

3. The Securities and Exchange Board of India (SEBI) issued timelines for disclosures by Social Enterprises on Social Stock Exchange (“SSE”) for FY 2023-24 (May 27, 2024):

The SEBI issued a circular providing timelines for disclosures by Social Enterprises on Social Stock Exchange (“SSE”) for FY 2023-24 on 27th May 2024. In accordance with Regulation 91C (1) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, Not for Profit Organizations (NPOs) registered on the Social Stock Exchange (SSE), including those with listed securities, must submit annual disclosures on specified matters by October 31, 2024, for the financial year 2023-24. Additionally, under Regulation 91E (1) of the SEBI LODR Regulations, 2015, Social Enterprises that are registered or have raised funds through SSE must submit their Annual Impact Report to the SSE by the same deadline of October 31, 2024, for the financial year 2023-24.

(The circular bearing number SEBI/HO/CFD/PoD-1/P/CIR/2024/0059 issued by the Securities and Exchange Board of India is accessible [here](#).)

4. The Securities and Exchange Board of India (SEBI) has notified the Securities and Exchange Board of India (Infrastructure Investment Trusts) (Amendment) Regulations, 2024 (May 28, 2024):

The SEBI has introduced amendments to the Infrastructure Investment Trusts (InvIT) Regulations, 2014, effective from the date of their notification. Key changes include the introduction and regulation of "subordinate units," which can be reclassified as ordinary units. These units are restricted to issuance by privately placed InvITs upon acquisition of infrastructure projects and are limited to the sponsor and related entities. Subordinate units do not carry voting or distribution rights, must be issued in dematerialized form, and have specific reclassification and transfer rules. Additionally, the amendments mandate detailed disclosures and approvals for issuance and impact assessment, enforce a cap on the percentage of subordinate units relative to ordinary units, and set out a structured process for their reclassification based on performance benchmarks.

(The Securities and Exchange Board of India (Infrastructure Investment Trusts) (Amendment) Regulations, 2024 is accessible [here](#).)

5. The Securities and Exchange Board of India (SEBI) has formulated Investor Charter for Depositories and Depository Participants (May 29, 2024):

The SEBI has issued a circular to formulate Investor Charter for Depositories and Depository Participants. To enhance investor awareness on activities such as dematerialization/rematerialization of securities, transmission of securities, settlement

instructions, consolidated account statements, and grievance redressal mechanisms, SEBI formulated the Investor Charter for Depositories and Depository Participants (DPs) in November 2021. This charter, designed to inform investors about these processes, was required to be disclosed on the websites of the depositories. In light of recent market developments, including the introduction of the Online Dispute Resolution (ODR) platform and SCORES 2.0, the Investor Charter has been updated to detail services, investor rights, activities of depositories through DPs with timelines, and responsibilities of investors, alongside a code of conduct and grievance redressal mechanisms. Depositories are instructed to publish the updated charter on their websites, ensure DPs inform clients through various means, and provide the charter in account opening kits. This circular, effective immediately, mandates recognized depositories to amend relevant regulations and report implementation status to SEBI monthly. Issued under Section 11 (1) of the SEBI Act, 1992, the circular aims to protect investor interests and promote market regulation and development.

(The circular bearing number SEBI/HO/MRD/MRD-PoD-1/P/CIR/2024/66 issued by the Securities and Exchange Board of India is accessible [here](#).)

6. The Securities and Exchange Board of India (SEBI) has introduced Investor Charter for Stock Exchanges (May 29, 2024):

The SEBI has issued a circular to introduce Investor Charter for Stock Exchanges. To enhance investor awareness regarding activities and services on stock exchanges, including grievance redressal mechanisms, investor rights and obligations, and guidance on market activities due to broker defaults, SEBI introduced the Investor Charter for Stock Exchanges in November 2021. This charter is to be disclosed on the websites of stock exchanges. Recent market developments, such as the introduction of the Online Dispute Resolution (ODR) platform and SCORES 2.0, necessitated modifications to the charter. The updated charter includes detailed services for investors, their rights, stock exchange activities with timelines, dos and don'ts for investors, investor responsibilities, a code of conduct for stock exchanges, and a grievance redressal mechanism. Stock exchanges are required to publish the updated charter on their websites. The circular is effective immediately, and recognized stock exchanges must amend relevant regulations and report implementation status to SEBI monthly. Issued under Section 11 (1) of the SEBI Act, 1992, this circular aims to protect investor interests and promote market regulation and development.

(The circular bearing number SEBI/HO/MRD/MRD-PoD-2/P/CIR/2024/63 issued by the Securities and Exchange Board of India is accessible [here](#).)

7. The Securities and Exchange Board of India (SEBI) has issued Ease of Doing Business – Internet Based Trading for Stock Brokers (May 30, 2024):

The SEBI has issued a circular to enhance ease of doing business – internet based trading for stock brokers. To enhance the ease of doing business and eliminate outdated compliance

requirements for Market Infrastructure Institutions (MIIs), SEBI solicited input from various stakeholders, including the Industry Standard Forum (ISF) of stock brokers, concerning Internet Based Trading (IBT). After reviewing these inputs, SEBI's Working Group of MIIs and Secondary Market Advisory Committee (SMAC) decided on two key changes. Firstly, the timeline for stock brokers to obtain formal permission from stock exchanges to provide IBT services has been reduced from 30 to 7 calendar days. Secondly, the requirement for brokers to periodically confirm IBT statistics before their publication by stock exchanges has been removed. Instead, exchanges will publish IBT statistics based on the details provided by brokers, with exchanges obtaining necessary information as they see fit. These changes, effective immediately, are aimed at protecting investor interests and promoting the development and regulation of the securities market.

(The circular bearing number SEBI/HO/MRD/TPD-1/P/CIR/2024/68 issued by the Securities and Exchange Board of India is accessible [here](#).)

8. The Securities and Exchange Board of India (SEBI) has issued master circular for Foreign Portfolio Investors, Designated Depository Participants and Eligible Foreign Investors (May 30, 2024):

The SEBI has issued master circular for Foreign Portfolio Investors (FPIs), Designated Depository Participants (DDPs), and Eligible Foreign Investors, consolidating various circulars issued since the previous Master Circular dated December 19, 2022 on 30th May 2024. This new master circular supersedes the earlier one and comes into effect immediately. Existing SEBI directions specific to FPIs remain in force, alongside other applicable laws. Actions or processes initiated under the rescinded circulars are deemed valid under the new provisions, ensuring continuity in registrations, approvals, and ongoing investigations. This circular is issued under SEBI's authority as per the Securities and Exchange Board of India Act, 1992.

(The circular bearing number SEBI/HO/AFD/AFD-PoD-2/P/CIR/2024/70 issued by the Securities and Exchange Board of India is accessible [here](#).)

9. The Securities and Exchange Board of India (SEBI) has issued master circular for Bankers to an Issue registered with SEBI (June 03, 2024):

The SEBI has issued a master circular for Bankers to an Issue, consolidating various previous circulars and directions under the SEBI (Bankers to an Issue) Regulations, 1994, and other relevant securities laws. This master circular provides stakeholders with a single, comprehensive reference. Upon its issuance, all previous circulars listed in the Appendix of the master circular are rescinded as they relate Bankers to an Issue. However, actions taken or applications made under the rescinded circulars prior to their rescission are deemed valid under the new master circular. The previous operations, rights, obligations, and legal

proceedings related to the rescinded circulars remain unaffected. This master circular is issued under the authority granted by Section 11(1) of the SEBI Act, 1992.

(The circular bearing number SEBI/HO/CFD/PoD-1/P/CIR/2024/072 issued by the Securities and Exchange Board of India is accessible [here](#).)

10. The Securities and Exchange Board of India (SEBI) has notified the Securities and Exchange Board of India (Foreign Portfolio Investors) (Amendment) Regulations, 2024 (June 03, 2024):

The SEBI issued an amendment to the Foreign Portfolio Investors (FPI) Regulations of 2019 on May 31, 2024. This amendment introduces several key changes. Notably, if an FPI's registration certificate is invalid at the amendment's commencement, they must sell their securities or close derivative positions within 360 days. Additionally, FPIs must pay registration fees every three years, with a 30-day grace period and associated late fees. Non-compliance allows SEBI to mandate the sale of securities within 360 days after the grace period. Amendments also address the notification timelines for material changes, removing the previous seven-day requirement and specifying that such notifications be made as per SEBI's specified manner and timelines. Lastly, late fees for Category I and II FPIs are set at \$50 and \$5 per day, respectively.

(The Securities and Exchange Board of India (Foreign Portfolio Investors) (Amendment) Regulations, 2024 is accessible [here](#).)

11. The Securities and Exchange Board of India (SEBI) issued circular uploading of KYC information by KYC Registration Agencies (KRAs) to Central KYC Records Registry (CKYCRR) (June 06, 2024):

The SEBI issued circular uploading of KYC information by KYC Registration Agencies (KRAs) to Central KYC Records Registry (CKYCRR) on the 6th June 2024. The KYC records of clients are uploaded onto KRAs' systems by intermediaries following SEBI KRA Regulations, 2011, and also onto CKYCRR as per SEBI master circular SEBI/HO/MIRSD/SECFATF/P/CIR/2023/169 dated October 12, 2023, concerning KYC norms in the securities market. To streamline processes and facilitate business operations, certain clauses of the SEBI master circular on KYC norms are being modified based on feedback from stakeholders in the securities market. These modifications include inserting para 114(a) requiring registered intermediaries to manage KYC information on KRA systems and specifying para 115 for KRAs to upload verified KYC information onto CKYCRR within seven days of receipt, with integration to commence from August 01, 2024. Furthermore, para 116 mandates KRAs to ensure existing KYC records of both legal entities and individual clients are uploaded onto CKYCRR within six months from August 01, 2024. This circular is issued under the authority of Section 11(1) of the Securities and Exchange Board of India Act, 1992, and Regulation 17 of the SEBI {KYC (Know Your Client) Registration Agency}

Regulations, 2011, to safeguard investor interests and regulate the securities markets' development.

(The circular bearing number SEBI/HO/MIRSD/SECFATF/P/CIR/2024/79 issued by the Securities and Exchange Board of India is accessible [here](#).)

12. The Securities and Exchange Board of India (SEBI) issued Framework of “Financial Disincentives for Surveillance Related Lapses” at Market Infrastructure Institutions (June 06, 2024):

The SEBI issued circular providing framework of “Financial Disincentives for Surveillance Related Lapses” at Market Infrastructure Institutions on 6th June 2024. The role of Market Infrastructure Institutions (MIIs) in securities markets, such as stock exchanges, clearing corporations, and depositories, has become increasingly vital for market integrity due to rising trading activities, increased retail investor participation, and evolving trading strategies. MIIs, as first-level regulators, are tasked with monitoring and supervising market activities to detect and prevent market abuse effectively. SEBI, under the SEBI Act, 1992, empowers itself to regulate MIIs and take action against any contravention of regulations. Surveillance by MIIs involves various activities aimed at detecting manipulative or abusive trading practices, ensuring market integrity, and supporting regulatory enforcement. To address any lapses in surveillance, SEBI, in consultation with MIIs, has introduced a framework for Surveillance Related Lapses (SRL) at MIIs. This framework includes financial disincentives for lapses in surveillance activities, with the amount determined based on the MII's annual revenue and the number of instances of SRL. Upon identification of SRL, SEBI provides an opportunity for the concerned MII to make submissions before imposing financial disincentives. The circular also outlines disclosure requirements and the applicability of the framework, effective from July 1, 2024, without prejudice to SEBI's authority to take additional actions under relevant laws and regulations.

(The circular bearing number SEBI/HO/ISD/ISD-PoD-1/P/CIR/2024/73 issued by the Securities and Exchange Board of India is accessible [here](#).)

13. The Securities and Exchange Board of India (SEBI) issued Guidelines on Anti-Money Laundering (AML) Standards and Combating the Financing of Terrorism (CFT)/Obligations of Securities Market Intermediaries under the Prevention of Money Laundering Act, 2002 and Rules framed there under (June 06, 2024):

The SEBI issued master circular providing guidelines on Anti-Money Laundering (AML) Standards and Combating the Financing of Terrorism (CFT)/Obligations of Securities Market Intermediaries under the Prevention of Money Laundering Act, 2002 and Rules framed there under on 6th June 2024. The Prevention of Money Laundering Act, 2002 (PMLA) and the Prevention of Money-Laundering (Maintenance of Records) Rules, 2005 (PML Rules), mandate reporting entities, including intermediaries registered under the SEBI Act and stock

exchanges, to adhere to client account opening procedures, maintain records, and report transactions as prescribed. SEBI is empowered by the PML Rules to specify required information maintenance and reporting procedures for intermediaries. Internal mechanisms must be established by reporting entities to detect specified transactions and furnish information accordingly. Enclosed guidelines outline essential principles for combating Money Laundering (ML) and Terrorist Financing (TF), detailing procedures and obligations for registered intermediaries. These guidelines extend to branches of stock exchanges, registered intermediaries, and their subsidiaries abroad, particularly in jurisdictions with inadequate or non-existent FATF recommendations, subject to local laws. SEBI has issued circulars/directives regarding KYC, Client Due Diligence (CDD), AML, and CFT, emphasizing minimum requirements and allowing registered intermediaries to specify additional disclosures as needed. This Circular supersedes earlier SEBI circulars on AML and CFT.

(The circular bearing number SEBI/HO/MIRSD/MIRSDSECFATF/P/CIR/2024/78 issued by the Securities and Exchange Board of India is accessible [here](#).)

FINTECH / BANKING

14. **The Reserve Bank of India (RBI) has launched three major initiatives: the PRAVAAH portal, the Retail Direct Mobile App, and a FinTech Repository (May 28, 2024):**

The Reserve Bank of India (RBI), on 28th May 2024 launched three major initiatives: the PRAVAAH portal, the Retail Direct Mobile App, and a FinTech Repository. These initiatives aim to streamline regulatory processes, enhance retail investment in government securities, and consolidate information on the Indian FinTech sector. The PRAVAAH portal allows individuals and entities to apply online for regulatory approvals, track applications, and receive timely decisions, with 60 forms already available. The Retail Direct Mobile App facilitates retail investors' transactions in government securities, accessible via smartphones. The FinTech Repository captures data on FinTech activities, aiding regulatory understanding and policy design. Simultaneously, a related repository for only RBI regulated entities (banks and NBFCs) on their adoption of emerging technologies (like AI, ML, Cloud Computing, DLT, Quantum, etc.), called EmTech Repository is also being launched. The EmTech Repository focuses on emerging technologies adopted by regulated entities. Both repositories are managed by the RBI Innovation Hub and are intended to support policymakers and industry participants with comprehensive sectoral data and analytics.

(The press release bearing number 2024-2025/393 issued by the Reserve Bank of India is accessible [here](#).)

15. The Reserve Bank of India (RBI) has notified Framework for Recognising Self-Regulatory Organisation(s) for FinTech Sector (May 30, 2024):

The Reserve Bank of India (RBI) released a draft framework on 30th May 2024 for recognizing Self-Regulatory Organisations (SROs) to promote self-regulation within the FinTech sector seeking stakeholder feedback. After reviewing the inputs, the RBI finalized the "Framework for Recognising Self-Regulatory Organisation(s) for FinTech Sector" (SRO-FT framework). Under this framework, the RBI will start the process of recognizing SROs. Accordingly, entities meeting or intending to meet the eligibility conditions and requirements of the SRO-FT framework may submit an application form along with the required enclosures. The name(s) of applicant(s) found eligible for the "Recognition" will be published on the website of RBI.

(The press release bearing number 2024-2025/403 issued by the Reserve Bank of India is accessible [here](#).)

OTHERS

16. The Competition Commission of India has issued draft amendment to the Competition Commission of India (General) Regulations, 2009 (June 06, 2024):

The Competition Commission of India has issued a draft amendment to the Competition Commission of India (General) Regulations, 2009. The Competition Act, 2002 aims to prevent anti-competitive practices, promote market competition, protect consumer interests, and ensure trade freedom in India. Guided by principles of natural justice, the Competition Commission of India (CCI) regulates its procedures under Section 36 of the Act, having established the Competition Commission of India (General) Regulations, 2009. With the passing of the Competition (Amendment) Act, 2023, which introduced new provisions and amended existing ones, there is a need to update the General Regulations accordingly. The proposed amendments aim to align with the 2023 Act, incorporate changes from other regulations, and revise existing provisions based on over a decade of experience. The CCI is soliciting written comments from stakeholders on these draft amendments from June 6, 2024, to July 8, 2024.

(The draft amendment to the Competition Commission of India (General) Regulations, 2009 is accessible [here](#).)

17. The Allahabad High Court highlighted the need for a nuanced tax policy on franchise agreements (May 27, 2024):

The Allahabad High Court ruled that franchise agreements are fundamentally licensing agreements, not sales of goods, in a Sales/Trade Tax Revision petition involving Commissioner Commercial Tax, U.P. vs. M/s Pan Parag India Limited. Justice Shekhar B. Saraf emphasized that franchise agreements grant a representational right to use trademarks and business systems rather than transferring ownership of tangible goods, thus categorizing these agreements as services. This distinction is vital for tax purposes, as it means that VAT should not be applied to franchise fees, which are subject to service tax instead. The court highlighted the ongoing relationship between franchisor and franchisee, characterized by continuous support and payment of royalties, distinguishing these from one-time sales transactions. The High Court upheld the Commercial Tax Tribunal's decision, which recognized the non-exclusive nature of franchise rights and prevented double taxation, affirming that activities taxed as services cannot be recharacterized as sales of goods. Consequently, the revision petition was dismissed, affirming the tribunal's view and rejecting the levy of VAT on franchise agreements.

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THE RECITALS