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## Reserve Bank of India

### Customer Protection – Limiting Liability of Customers in Unauthorised Electronic Banking Transactions

With the recent surge in customer grievance related to unauthorized transactions and an increased thrust for financial inclusion and customer protection, the criteria for determining customer liability has been evaluated.

Hence, the Reserve Bank of India (“**RBI**”) has addressed the issue of limiting the liability of the customers in unauthorized banking transactions vide its *Notification dated July 6, 2017*.

Some of the major points of deliberation in the notification were:

- Strengthening of systems and procedures designed in such a way so as to ensure that the customers feel secure in carrying out electronic banking transactions.
- Banks must ask the customers to mandatorily register for SMS and/or e-mail alerts. The customer must also do their bit by immediately notifying the bank on the occurrence of any unusual electronic transactions. To facilitate communication the bank shall provide for a 24x7 access through multiple channels.
- The notification has also laid down events in which the liability of the customer will be zero, limited and maximum.
- Based on the notification given by the customer, the bank shall credit the amount involved in the unauthorized electronic transaction to the customer’s account within ten (10) working days from date of such notification.



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- The banks will device clear and transparent policies with regards to customer relations, with the approval of their Boards.
- The burden of proving customer liability in case of unauthorised electronic banking transactions shall lie on the bank.
- The banks shall put in place a suitable mechanism and structure for the reporting of the customer liability cases to the Board or one of its Committees.

#### Documents relied upon to determine investment in plant and machinery for the classification of an enterprise as Micro, Small and Medium

RBI vide its *notification dated July 13, 2017* has come out with the documents to be relied upon for ascertaining the investment in plant and machinery for the classification of an enterprise as Micro, Small and Medium. They are:

- i. A copy of the invoice of the purchase of plant and machinery; or
- ii. Gross block for investment in plant and machinery as shown in the audited accounts; or
- iii. A certificate issued by a Chartered Accountant regarding purchase price of the plant and machinery.

It is further held that the purchase value of the plant and machinery is to be reckoned



## SEBI

### Investments by FPIs in Government Securities

Securities and Exchange Board of India (“SEBI”) has vide its *Circular dated July 04, 2017*, revised the limits for investment by Foreign Portfolio Investors (“FPIs”) in government securities.

1. The revised limit for the July-September quarter of 2017 for investment in government securities by FPIs is Rs. 1,87,700 Crores.
2. The Limit for long term FPIs i.e. Sovereign Wealth Funds, Multilateral Agencies, Endowment Funds, Insurance Funds, Pension Funds and Foreign Central Banks in Central Government securities shall be revised to Rs. 54,300 Crores.
3. Other relevant information is provided in the circular in the link below-

*Investments by FPIs in Government Securities*

### Guidelines for participation/functioning of Eligible Foreign Investors and FPIs in IFSC – Amendment

SEBI vide its *Circular dated July 11, 2017* has provided amendment to Guidelines for participation/functioning of Eligible Foreign Investors (“EFIs”) and FPIs in International Financial Services Centre (“IFSC”) issued vide a *Circular dated January 4, 2017* (“**January Circular**”).

The Clause 2(c) of the January Circular is amended and would now be read as follows-

“In case of participation of an EFI, not registered with SEBI as an FPI, but desirous of operating in IFSC, a trading member of the recognized stock exchange in IFSC may carry out the due diligence on its own or it may rely upon the due diligence carried out by a bank, which is permitted by RBI to operate in IFSC, during the account opening process of an EFI”.

### Amendments to Investor Grievance Redressal System and Arbitration Mechanism

Based on the internal deliberations of the Market Infrastructure Institutions (“MIIs”), SEBI in order to further enhance the effectiveness of grievance redressal mechanism, it has been decided to add/modify certain provisions vide its *Circular dated July 11, 2017*; some of the relevant provisions are as follows:

- i. Documents to be submitted to the Arbitrator are to be converted to the soft copy.
- ii. Exchanges shall create a common database for defaulting clients which shall be made available to all members across the Exchanges.
- iii. Arbitrator’s fee has been revised to Rs. 18,000 per case and additional expenditure shall be borne by the client and the Exchange equally as when applicable.
- iv. A client, who has a claim/counter claim upto Rs. 10,00,000 (Rupees Ten Lakhs only) and files arbitration reference, is exempted from filing the deposit.

Partial modifications have also been prescribed to the *Circular dated September 26, 2013* on Investor Grievance Redressal Mechanism. They are:

- i. Exchanges, in consultation with the Investor Protection Fund Trust (“IPF”) and SEBI, shall review and progressively increase the amount of interim relief available against a single claim for an investor, at least every three years.
- ii. The Exchanges shall disseminate the interim relief limit fixed by them and any change thereof, to the public through a Press Release and also through its website.
- iii. In case, award is in favour of client and the member opts for arbitration wherein the claim value admissible to the client is not more than Rs. 20,00,000 (Rupees Twenty Lakhs), the following steps shall be undertaken by the Exchange:
  - a. In case the Investor Grievance Redressal Panel (“IGRP”) award is in favour of the client then 50% of the admissible claim value or Rs. 2,00,000 (Rupees Two Lakhs), whichever is less, shall be released to the client from IPF of the Exchange.
  - b. In case the arbitration award is in favour of the client and the member opts for appellate arbitration then 50% of the amount mentioned in the arbitration award or Rs. 3,00,000 (Rupees Three lakhs), whichever is less, shall be released to the client from IPF of the Exchanges.

- c. In case the appellate arbitration award is in favour of the client and the member opts for making an application under Section 34 of the Arbitration and Conciliation Act, 1996 to set aside the appellate arbitration award, then 75% of the amount determined in the appellate arbitration award or Rs. 5,00,000 (Rupees Five Lakhs), whichever is less, shall be released to the client from IPF of the Exchanges.
- d. Total amount released to the client through the facility of Interim relief from IPF in terms of this Circular shall not exceed Rs. 10,00,000 (Rupees Ten Lakhs) in a financial year.

#### Investments by FPIs in Corporate Debt

Circular No. SEBI/HO/IMD/FPIC/CIR/P/2016/67 issued by the SEBI forms the basis of its Circular No. IMD/FPIC/CIR/P/2017/81 dated July 20, 2017.

- i. Partially modifying a point in the previously issued circular, the Combined Corporate Debt Limit (“CCDL”) shall be available on tap for investment by foreign investors till the overall investment reaches 95%, after which, the auction mechanism shall be initiated for allocation of the remaining limits.
- ii. Should the overall FPI investments in CCDL go beyond 95% then the procedure to be followed is as under:-
  - a. The depositories, National Securities Depository Limited (“NSDL”) and Central Depository Services Limited (“CDSL”) shall direct the custodians to halt all FPI purchases in corporate debt securities.
  - b. The depositories shall then inform the exchanges i.e. the National Stock Exchange (“NSE”) and the Bombay Stock Exchange (“BSE”) regarding the unutilised debt limits for auctioning. The exchange, upon receiving such information from the depositories shall then conduct an auction for the allocation of the unutilised debt limits on the trading day following such intimation.
  - c. The auction shall be held only if the free limit is greater than or equal to Rs. 100,00,00,000 (Rupees One Hundred Crores).



- d. The circular has also provided with the manner in which the auction is to be conducted.
  - e. The Foreign Portfolio Investors (“FPI”) have an utilisation period of 10 (ten) trading days within which they have to make the investments and the unutilised limits shall be pooled back with the free limits once this period is up.
  - f. The FPIs have a reinvestment period of 2 (two) trading days within which, if the investment is not made the limits shall be pooled with the free limits.
  - g. A single FPI/ FPI Group cannot bid for more than 10% of the limits being auctioned.
- iii. The subsequent auction would be held 12 (twelve) trading days after the previous auction.
- iv. The issuance of Rupee denominated bonds overseas shall be temporarily ceased until the limit utilisation falls back to below 92%.
- v. The auction mechanism shall be discontinued and the limits shall be once again available for investment on tap when the debt limit utilisation falls below 92%.
- vi. FPI investments in unlisted corporate debt securities shall compulsorily be in dematerialized form and subject to a minimum residual maturity of 3 (three) years.
- vii. The depositories shall have in place all the necessary systems for the custodians of the FPIs to report daily. The Exchanges shall put up details regarding the auction on their respective websites.



## Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015 – Amendments

SEBI has vide its Circular dated July 27, 2017 provided amendments to the SEBI (IFSC) Guidelines, 2015 (“IFSC Guidelines”) issued on March 27, 2015. The amendments are as follows-

### 1. Clause 4- Eligibility and Shareholding in Stock Exchanges, Clearing Corporations and Depositories.

Clauses 4 (1), (2) and (3) of IFSC Guidelines which specify the eligibility and shareholding limit for stock exchanges, clearing corporations and depositories desirous of operating in IFSC are being replaced as follows:

*“4 (1) Eligibility and shareholding limit for stock exchanges desirous of operating in IFSC:*

*Any Indian recognised stock exchange or any recognised stock exchange of a foreign jurisdiction shall form a subsidiary to provide the services of stock exchange in IFSC wherein at least fifty one per cent of paid up equity share capital shall be held by such stock exchange and the remaining share capital shall be held by the following:*

- i. any other stock exchange,*
- ii. a depository,*
- iii. a banking company,*
- iv. an insurance company,*
- v. commodity derivatives exchange, whether Indian or of foreign jurisdiction and*
- vi. a public financial institution of Indian jurisdiction, provided that any one of the aforesaid entities may acquire or hold, either directly or indirectly, either individually or together with persons acting in concert, upto fifteen per cent of the paid up equity share capital of such stock exchange.*

### 2. Clause 6(4) Governance of stock exchanges-

Clause 6(4) which stipulates the governance structure of depositories, stock exchanges and clearing corporations is hereby amended to read as follows:

*“Provisions of Chapter IIA of Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996 and Chapter V of Securities Contracts (Regulation) (Stock Exchanges And Clearing Corporations) 3 Regulations 2012 shall not apply to depositories, stock exchanges, clearing corporations in IFSC, as the case may be :*



*Provided that depositories, stock exchanges, clearing corporations operating in IFSC shall adopt the broader principles of governance prescribed by International Organization of Securities Commissions (IOSCO) and Principles for Financial Market Infrastructures (PFMIs) and such other governance norms as may be specified by the Board, from time to time. Further, the parent depository/stock exchange/clearing corporation shall be responsible for the governance of such depository, stock exchange and clearing corporation in IFSC at all times."*

3. Clause 8 Intermediaries in IFSC-

Clause 8 of IFSC Guidelines which specifies that any recognised entity or entities desirous of operating in IFSC as an intermediary, may form a company to provide such financial services relating to securities market has been amended as follows:

*"8. (1) Any SEBI-registered intermediary (except trading member or clearing member) or its international associates in collaboration with such SEBI registered intermediary may provide financial services relating to securities market, in IFSC, without forming a separate company, subject to the prior approval of the Board. (2) Trading members and clearing members desirous of operating in IFSC as an intermediary, shall form a company to provide such financial services relating to securities market, as permitted by the Board."*





## IBBI

### Gujarat High Court

#### Essar Steel Ltd Vs Reserve Bank Of India And Ors

RBI had identified twelve (12) accounts (companies) with each of them having over Rs. 5,00,00,000/- (Rupees Five Thousand Crore Only) of outstanding loans, accounting for 25% of the total Non-Performing Assets (“**NPAs**”) of banks. The RBI vide its circular dated July 13 2017 had directed the lenders to initiate insolvency proceedings against them. Essar Steel India Limited (“**Petitioner**”) being one of them, has challenged the said circular of the RBI by way of filing a writ petition in the High Court of Gujarat (“**Court**”).

The bench had earlier stayed the insolvency proceedings against the Petitioner before the National Company Law Tribunal (“**NCLT**”) as an interim measure on its plea.

With regards to the Writ Petition, the Court has briefly held as follows:

The Court has rejected the pleas of the Petitioner to set aside the Circular citing that the RBI cannot act arbitrarily and has to make schemes without discrimination of any kind.

The Court has also observed that the statutory provisions under the Insolvency and Bankruptcy Code 2016 (“**IBC**”) have to be followed as it has not been declared as unconstitutional.

In conclusion to the writ petition filed the Court has disposed off the petition.



## RERA

### MahaRERA

#### *Standard Operating Procedures for updating projects*

Maharashtra Real Estate Regulatory Authority (“**MahaRERA**”) vide its Circular No. 08/2017 dated July 17, 2017 has notified the Standard Operating Procedure (“**SOP**”) for updating Registered Projects and Revising / Correcting Information with respect to Registered projects and Registered Real Estate Agents wherein the project details should be updated by the Promoter on a regular basis i.e. atleast once in ninety (90) days. The application for the same has already gone live.

The original application by the Promoters would be available online for stakeholder’s views and comments. The documents once uploaded on the site can be updated but can never be deleted.

Additional details regarding the same and the software in the given link below-

*Standard Operating Procedure for Updating Registered Projects and Revising / Correcting Information with respect to Registered projects and Registered Real Estate Agents.*

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Warm Regards,

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