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** Private Circulation Only*

OCTOBER 2015

RESERVE BANK OF INDIA

INVESTMENT BY FOREIGN PORTFOLIO INVESTORS (“FPI”) IN GOVERNMENT SECURITIES.

Reserve Bank of India vide [Circular No. RBI/2015-16/198](#) provides for Investment by Foreign Portfolio Investors (“FPI”) in Government Securities.

RBI states that limit for investment by FPI in Government securities was increased to USD 30 billion vide earlier Circular No.111 dated June 12,2013. Also the allocation of limits between long term investors and other FPIs was modified and a residual maturity three years for investment by FPIs in securities was put in place. Further vide policy statement for the year 2015-16, issued on September 26, 2015 a Medium Term Framework (“MTF”) for FPI limits in government securities was announced. The features of MTF are as under:-

1. Limits for FPI investment will be fixed in Rupee.
2. Limit for FPI investment in Central Government securities increased in phases to reach 5% of the outstanding stock by March 2018. In aggregate, there will be additional investment of Rs. 1,200 billion in the

limit for Central Government Securities by March 2018, over and above the existing limit of Rs.1,535 billion for all Government securities.

3. Separate limit for investment by all FPIs in the state Development Loans (**SDLs**) to be increased in phases to reach 2 per cent of the outstanding stock by March 2018 which would amount to additional limit of about 500 billion by March 2018.
4. Increase in limits to be announced every half year in March and September.
5. The existing requirement of investment made in G-sec (including SLDs) with a residual maturity of three to be applicable to all FPIs.
6. Aggregate FPI investments in any Central Government security would be capped at 20% of the outstanding stock of the security.

The Limit for Investment by FPIs in Government Securities has been enhanced in two tranches from October 12,2015 and January 01, 2016 respectively as under:-





	Central Government Securities			State Development Loans	Aggregate
	For all FPIs	Additional for long term FPIs	Total	(including Long Term FPIs)	
Existing Limit	1244	291	1535	NIL	1535
Revised limits with effect from October 12, 2015	1299	366	1665	35	1700
Revised limits with effect from January 1, 2016	1354	441	1795	70	1865



Presently the security-wise limit for FPI investments will be monitored on daily basis and the central Government securities in which aggregate amount exceeds the threshold 20% will be put in a negative investment list and no fresh investments by FPIs in these securities will be permitted till they are removed from the negative list.

FOREIGN EXCHANGE MANAGEMENT (TRANSFER OR ISSUE OF SECURITY BY A PERSON RESIDENT OUTSIDE INDIA) (NINTH AMENDMENT) REGULATIONS, 2015

RBI vide its [Notification No. FEMA.353/2015](#) RB dated October 06, 2015, makes the following amendments in the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 namely:-

A. Short Title & Commencement:

1. These Regulations may be called the Foreign Exchange Management (Transfer or Issue of Security by a person resident outside India) (Ninth Amendment) Regulations, 2015.
2. They shall come into force from the date of their publication in the Official Gazette.

B. Amendment to Schedule 5:-

- i. The existing sub-paragraph (3) shall be re-numbered as Paragraph 2C .





ii. After the existing sub-paragraph (2), the following shall be added namely:-

“(3) A Non- Resident Indian may subscribe to National Pension System governed and administered by Pension Fund Regulatory and Development Authority (PFRDA), provided such subscriptions are made through normal banking channels and the person is eligible to invest as per the provisions of the PFRDA Act. The annuity/ accumulated saving will be repatriable.”

iii. After adding sub-paragraph (3) in paragraph 2, the existing paragraph 2C shall be re-numbered as sub-paragraph (4) in Paragraph 2.

C. In paragraph 3, after the existing sub-paragraph (2), the following shall be inserted namely:-

“(2A) A non-resident Indian who subscribes to the National Pension System, under sub-paragraph (3) of paragraph (2) of this Schedule shall make payment either by inward remittance through normal banking channels or out of funds held in his NRE/FCNR/NRO account.”



NON BANKING FINANCIAL COMPANY-MICRO FINANCE INSTITUTIONS (NBFC-MFIS) – DIRECTIONS & MODIFICATIONS

RBI vide [Circular No. RBI/2015-16/196](#) dated October 01, 2015 provides for modification to Non-Banking Financial Company-Micro Finance Institutions (“NBFCs-MIFs”)- Directions.

1. The Variance between the maximum and minimum interest rate on loans cannot exceed 4 per cent.
2. The National Scheduled Castes Finance & Development Corporation (“NSFDC”) has proposed to expand its outreach at lower interest by channelizing funds through NBFC-MFIs. The main objective of NSFDC is to work for economic empowerment of persons living below the Double Poverty Line.
3. The maximum variance permitted shall not applicable to loans extended by NBFC-MFIs against funding by NSFDC , to enable NBFC-MFIs to be the channelizing agents of NSFDC. The on-lending to individuals out of funds of NSFDC shall be through direct credit to their accounts with banks. NBFC-MFIs shall exclude borrowing from NSFDC to arrive at average cost of funds of the Company for the purpose of pricing of credit and proper records of funds received from NSFDC shall be maintained by NBFC-MFIs.



4. Disclosures required shall be made in balance sheet of NBFC-MFIs. Minimum disclosures should include quantum of funds received from NSFDC, cost of funds, loans disbursed therefrom and rate of interest.
5. NBFC-MIFs shall inform Regional office of RBI of their appointment as a channelizing agent by NSFDC within one month from date of appointment.



APPELLATE TRIBUNAL FOR ELECTRICITY

THE HON'BLE APPELLATE TRIBUNAL FOR ELECTRICITY VIDE ITS ORDER DATED 13TH OCTOBER, 2015 IN APPEAL NO. 6 OF 2015

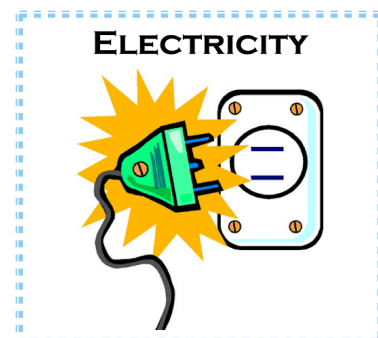
The Hon'ble Appellate Tribunal for Electricity (“**APTEL**”) vide its order dated October 13, 2015 in [Appeal No. 6 of 2015](#) in Gujarat Electricity Transmission Corporation Ltd vs Gujarat Electricity Regulatory Commission & M/s. OPGS Power Gujarat Private Limited, stated that question to be considered was whether the State Commission has erred in granting the extension of the effective date of the BPTA from March 30, 2013 upto December 31, 2014 in their impugned order dated October 21, 2014 thereby causing non payment of transmission and other related charges as applicable by OPG to Gujarat Energy Transmission Corporation Ltd (“**GETCO/APPELLANT**”) for this extended period.

The Appeal under Section 111 (1) of the Electricity Act, 2003 filed by GETCO, a State transmission company against the order dated October 21, 2014 passed by the Gujarat Electricity Regulatory Commission (“**State Commission/RESPONDENT NO.1**”) in Petition no. 1301 of 2013 filed by M/s. OPGS Power Gujarat Pvt. Ltd. (“**OPG/RESPONDENT NO.2**”), for extension of effective date of Long Term Open Access (under Bulk Power Transmission Agreement dated December 21, 2010 entered into between the OPG and GETCO) from March 30, 2013 to December 31, 2014.



This Appeal No. 6 of 2015 is filed by the GETCO against the impugned order dated October 21, 2014 passed by the State Commission whereby the State Commission has revised the Long Term Open Access effective date from March 30, 2013 to December 31, 2014 in the Bulk Power Transmission Agreement (hereinafter called "BPTA") entered between GETCO and OPG. Subsequently, the State Commission has rejected the claim of GETCO for payment of transmission charges by OPG for the period from March 30, 2013 to December 31, 2014 as per the BPTA and has further directed the GETCO not to encash the bulk guarantee upto December 31, 2014.

The Hon'ble APTEL in its order stated that the impugned order dated October 21, 2014 passed by the GERC to be set aside and Respondent no.2 was directed to pay the transmission charges and other related payments applicable under the BPTA to the Appellant. The Hon'ble APTEL thus allowed the present Appeal.



THE HON'BLE APPELLATE TRIBUNAL FOR ELECTRICITY VIDE ITS ORDER DATED 13TH OCTOBER, 2015 IN APPEAL NO 280 OF 2014

The Hon'ble Appellate Tribunal for Electricity vide its order dated 13th October, 2015 in [Appeal No. 280 of 2014](#) in Andhra Pradesh State Load Dispatch Centre vs Andhra Pradesh Electricity Regulatory Commission & M/s Roshni Powertech Private Limited, stated that question to be considered was whether a RE Generator, like Respondent No.2, by a transaction of selling power to the distribution licensee through a trader at a price higher than the average pooled power purchase cost can claim accreditation and REC benefits.

The instant Appeal under Section 111 of the Electricity Act, 2003, has been preferred by Andhra Pradesh State Load Dispatch Centre ("**Appellant**"), against the Orders, dated 12.8.2013, passed by the Andhra Pradesh Electricity Regulatory Commission ("**State Commission**") in OP No. 56 of 2013, by which the State Commission has held that M/s Roshni Powertech Private Limited, Respondent No. 2/petitioner herein, is liable to be received accreditation under the Renewable Energy Certificate ("**REC**") mechanism for receiving RECs against the power supplied by them to the state distribution licensees through the trading licensee, M/s Power Transmission Corporation India Limited ("**PTC**"). The State Commission has determined/decided to grant accreditation to Respondent No. 2/ Petitioner despite acknowledging that the power being supplied from the Respondent No. 2 to the distribution licensees is at a rate higher than the pooled



power purchase cost of the distribution licensees which is not envisaged under the REC mechanism.

The main grievance of the Appellant in this appeal is that the State Commission has committed illegality in the impugned order, dated August 12, 2013, in directing the Appellant to grant M/s Roshni Powertech Private Limited, Respondent No. 2 herein, accreditation under the REC mechanism evolved by the Central Electricity Regulatory Commission ("**Central Commission**") under the CERC (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 ("**CERC (REC) Regulations, 2010**"), and the State Commission, as per the APERC Renewable Power Purchase Obligation (Compliance by purchase of Renewable Energy/ Renewable Energy Certificates) Regulations, 2012 ("**APERC RPO Regulations**").

According to the Appellant, the impugned Order is passed in direct violation of the APERC RPO Regulations and, the CERC REC (Second Amendment) Regulations, 2013. The main contention of the Appellant is that the State Commission has failed to pierce the veil and acknowledge the true nature of the sale through PTC which is effectively a sale to the distribution utilities of the state at a price which is higher than the distribution utility's pooled cost of power. The sale of electricity by a RE generator to a distribution utility at a price, which is higher than its pooled cost of power will disentitle such RE generator from obtaining accreditation under the APERC RPO Regulations. Further, the terms of power supply between the parties clearly established that Respondent No. 2



was supplying both energy and environment component to the distribution utilities through PTC and could not make a double claim on the energy component by getting RECs issued against the same.

The Hon'ble APTEL in its order stated that the impugned order, dated August 12, 2013, pronounced by the Andhra Pradesh Electricity Regulatory Commission to be upheld. The Hon'ble APTEL thus dismissed the present appeal without any order as to costs.



FACTORIES (AMENDMENT) ACT, 2015

DRAFT AMENDMENT PROPOSALS TO AMEND THE FACTORIES ACT, 1948 (ACT NO. 63 OF 1948)

THE FACTORIES ACT
1948



The Ministry of Labour and Employment vide [Draft Amendment Proposals](#), has proposed to amend the Factories Act, 1948 (herein to be referred as “**Old Act**”)

These Draft Amendment Proposals to amend the Factories Act, 1948 may be called the Factories (Amendment) Act, 2015 (herein referred as “**New Act**”) and will come in to force with the effect from the date of their publication in the Official Gazette.

The Amendments made in the draft proposals are described as follows:

1. Sub-clause (ii) of Clause (n) of Section 2 which is pertaining to definition of "occupier" is omitted.
2. Proviso of Section 3 is omitted.
3. Section 7C which is pertaining to “Regulator” (OSHBI-Occupational Safety and Health Board of India) has been inserted in this Draft Amendment under which Central government shall constitute Occupational Safety and Health Board of India for framing regulations on occupational safety, health, welfare and general working conditions of the workers employed in the factories and also to notify Standards and Standard Operating Procedure for Activities contained in Schedule II. The said section provided in the draft Amendment is as follows:

i. **CHAPTER IA. Regulator (OSHBI) Occupational Safety and Health Board of India**

Section 7 C Regulator (OSHBI)

The Central government by notification in the official Gazette shall constitute Occupational Safety and Health Board of India. It shall come in to effect, the day it is notified in the official gazette of India.

It shall have a Chairman and two Members or any changes made thereto from time to time by Government of India through amendments in Rules.

Role and Functions

a. *The regulator shall frame regulations on occupational safety, health, welfare and general working conditions of the workers employed in the factories. Government of India may assign such other additional functions and roles as may be warranted for the purpose of this Act.*

b. *It shall conduct its regulatory functions, including formulation of regulatory content and practice, standards setting, monitoring and data management, follow up and feedback, licensing of competent persons, inspection scheme, to ensure safety of the work place.*

Provided it shall conduct its regulatory affairs in a manner to reflect scientific opinion, stake holder views, and objective and rational decision making and maintain a contemporary safety regulation. Detailed list of the functions of the regulator for the purposes of this Act is in Schedule I.

- c. *It shall also notify Standards and Standard Operating Procedure for Activities contained in Schedule II, and any revision made there-to.*
- d. *It shall notify appropriate and adequate regulations to :-*
- *regulate the conduct and activities of person with ultimate control*
 - *regulate the conduct and activities of occupier,*
 - *regulate the conduct, activities and responsibility of manufacturer/ importer/ supplier of machinery or parts or both*
 - *regulate the qualification , experience, competency level , role functions and requirement of competent persons*
 - *regulate licensing, qualification, experience, competency level, role and functions and requirement of the safety officer*
 - *regulate the power of Chief Inspector*
 - *lay down regulations for deemed approval of factories migrating from the Small Factories (Facilitation and Regulation of Employment and Conditions of Service) Act, 2015 to Factories Act.*
 - *regulate on use and processing of hazardous substance*
 - *regulate dangerous operations*
 - *regulate the inquiry procedure on accident in factories.*

Explanation:

The power exercisable under this section and all regulations so notified shall be treated as legislative activity to make the legislative instrument extensively operative by making it applicable to places where the manufacturing process was carried on.

- Sub-Section 2, 2A, 3, 4, 5 of Section 8 pertaining to “Inspectors” is omitted.
- Proviso of Section 9 is omitted.
- Proviso of Sub-Section 3 of Section 10 is omitted.
- Section 11 of Old Act pertaining to “Cleanliness” is omitted.
- Section 12 of Old Act pertaining to “Disposal of Waste and Effluents” is omitted.
- Section 13 of Old Act pertaining to “Ventilation & Temperature” is omitted.
- Section 14 of Old Act pertaining to “Dust & Fumes” is omitted.
- Section 15 of Old Act pertaining to “Artificial Humidification” is omitted.
- Section 16 of Old Act pertaining to “Overcrowding” is omitted.
- Section 17 of Old Act pertaining to “Lightning” is omitted.
- Section 18 of Old Act pertaining to “Drinking Water” is omitted.
- Section 19 of Old Act pertaining to “Latrines & Urinals” is omitted.
- Section 20 of Old Act pertaining to “Spittoons” is omitted.
- Section 21 of Old Act pertaining to “Fencing of Machinery” is omitted.
- Section 22 of Old Act pertaining to “Work on & near Machinery in Motion” is omitted.
- Section 23 of Old Act pertaining to “Employment of Young Person on Dangerous Machines” is omitted.
- Section 24 of Old Act pertaining to “Striking Gear & Devices for Cutting Off Power” is omitted.
- Section 25 of Old Act pertaining to “Self-acting Machines” is omitted.

- Section 25 of Old Act pertaining to “Self-acting Machines” is omitted.
- Section 26 of Old Act pertaining to “Casing of New Machinery” is omitted.
- Section 27 of Old Act pertaining to “Prohibition of employment of Women & Children near Cotton-openers” is omitted.
- Section 28 of Old Act pertaining to “Hoists & Lifts” is omitted.
- Section 29 of Old Act pertaining to “Lifting machines, chains, ropes and lifting tackles” is omitted.
- Section 30 of Old Act pertaining to “Revolving machinery” is omitted.
- Section 31 of Old Act pertaining to “Pressure plant” is omitted.
- Section 32 of Old Act pertaining to “Floors, Stairs & means of access” is omitted.
- Section 33 of Old Act pertaining to “Pits, sumps & opening of floors” is omitted.
- Section 34 of Old Act pertaining to “Excessive weights” is omitted.
- Section 35 of Old Act pertaining to “Protection of eyes” is omitted.
- Section 36 of Old Act pertaining to “Precautions against dangerous fumes, gases, etc.” is omitted.
- Section 37 of Old Act pertaining to “Explosive & Inflammable dust, gas, etc.” is omitted.
- Section 38 of Old Act pertaining to “Precautions in case of Fire” is omitted.
- Section 39 of Old Act pertaining to “Power to require specifications of defective parts or tests of stability” is omitted.
- Section 40 of Old Act pertaining to “Safety of buildings & machinery” is

omitted.

- Sub-Section 3, 5, 6 of Section 41B of Old Act is omitted.
- Section 41 AB is inserted in this Draft Amendment to notify hazardous process, hazardous substance & to provide various regulations to be followed in hazardous process. The said section provided in the draft Amendment is as follows:

Section 41 AB Hazardous process

(1) The regulator shall notify hazardous process, hazardous substance, either by name or by features or properties or in any combination deemed fit and prescribe standard operating procedure for handling of such substance and process to secure to workers safety during work. The regulator shall make regulations:

(a) Specifying standards of health and safety to be followed in hazardous process;

(b) Prohibiting or restricting employment of young persons, pregnant women and any class, of adult workers in manufacture, storage or handling involving hazardous process;

(c) Prohibiting, restricting or controlling the use of hazardous substances.

(d) prescribing procedure, and time limit to accord approval or approval with conditions or rejection of proposal on sufficient grounds.

- Proviso of Section 41C of Old Act is omitted.
- Sub-Section 2 of Section 41F of Old Act is omitted.
- Section 42 of Old Act pertaining to “Washing facilities” is omitted.
- Section 43 of Old Act pertaining to “Facilities for drying & storing clothing” is omitted.
- Section 44 of Old Act pertaining to “Facilities for sitting” is omitted.
- Section 45 of Old Act pertaining to “First-aid appliances” is omitted.
- Section 46 of Old Act pertaining to “Canteens” is omitted.
- Section 47 of Old Act pertaining to “Shelters, rest rooms & lunch rooms” is omitted.
- Section 48 of Old Act pertaining to “Creches” is omitted.
- Section 49 of Old Act pertaining to “Welfare officers” is omitted.
- Section 50 of Old Act pertaining to “Power to make rules to supplement this chapter” is omitted.
- sub-section 2 of 55 of Old Act is omitted.
- Sub-Section 2 to 10 of Section 61 of Old Act is omitted.
- Sub-Section 2 of Section 62 of Old Act is omitted.
- Further Section 66A is inserted in this Draft Amendment which relates to Employment of Transgender persons and their rights at work place. The said section provided in the draft Amendment is as follows:



Section 66 A Employment of Transgender persons

(1) Every transgender worker shall have equal right to work opportunities in a factory,

(2) The State Government may make rules providing to secure the rights of transgender workers to ensure:

a) respect for inherent dignity

(b) non-discrimination;

(c) full and effective participation and inclusion in society;

(d) respect for difference and acceptance of transgender persons as part of human diversity and humanity;

- Section 67 of Old Act pertaining to “Prohibition of employment of young children” is omitted.
- Section 68 of Old Act pertaining to “Non-adult workers to carry tokens” is omitted.
- Section 69 of Old Act pertaining to “Certificates of fitness” is omitted.
- Section 70 of Old Act pertaining to “Effect of certificate of fitness granted to Adolescent” is omitted.
- Section 71 of Old Act pertaining to “Working hours for children” is omitted.
- Section 72 of Old Act pertaining to “Notice of period of work for children” is omitted.
- Section 73 of Old Act pertaining to “Register of child workers” is omitted.
- Section 74 of Old Act pertaining to “Hours of work to correspond with notice under section 72 & register under section 73” is omitted.

- Section 75 of Old Act pertaining to “Power to require medical examination” is omitted.
- Section 76 of Old Act pertaining to “power to make rules” is omitted.
- Section 77 of Old Act pertaining to “Certain other provisions of law not barred” is omitted.
- Sub-Section 2, 3(a) of Section 80 of Old Act is omitted.
- Sub-Section 2 of Section 88 of Old Act is omitted.
- Further, Section 41 D (chapter IV A) is moved to Section 90A (chapter IX) which provides power to Central Government to appoint Inquiry Committee **and** Section 41 E (chapter IV A) is moved to Section 90 B (chapter IX) which provides emergency standards for enforcement of suitable standards in respect of hazardous processes. The said sections provided in the draft Amendment is as follows:

Section 90 A Power of Central Government to appoint Inquiry Committee:

(1) The Central Government may, in the event of the occurrence of an extraordinary situation involving a factory engaged in a hazardous process, appoint an Inquiry Committee to inquire into the standards of health and safety observed in the factory with a view to finding out the causes of any failure or neglect in the adoption of all measures or standards prescribed for the health and safety of the workers employed in the factory or the general public affected, or likely to be affected, due to such failure or neglect and for the prevention of recurrence of such extraordinary situations



in future in such factory or elsewhere.

(2) The Committee appointed under sub-section (1) shall consist of a Chairman and two other members and the terms of reference of the Committee and the tenure of office of its members shall be such as may be determined by the Central Government in consultation with the regulator according to the requirements of the situation.

(3) The recommendations of the Committee shall be advisory in nature.

Section 90 B Emergency standards:

(1) Where the Central Government is satisfied that no standards of safety have been prescribed in respect of a hazardous process or class of hazardous processes, or where the standards so prescribed are inadequate, it may direct the regulator to lay down emergency standards for enforcement of suitable standards in respect of such hazardous processes.

(2) The emergency standards laid down under sub-section (1) shall, until they are incorporated in the rules made under this Act, be enforceable and have the same effect as if they had been incorporated in the rules made under this Act.

- Section 99 of Old Act pertaining to “Penalty for permitting double employment of child” is omitted.
- Section 100 (Omitted by Act 20 of 1987)

The proposed amendment once notified will provide great relief to industries from cumbersome and outdated law.

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Warm Regards,

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