



## LEGAL NEWSLETTER FOR THE MONTH OF DECEMBER 2023

### Table Of Contents

I. SECURITIES EXCHANGE BOARD OF INDIA.....	2
1. Amendment to the Circular Dated July 31, 2023 on Online Resolution of Disputes in the Indian Securities Market .....	2
2. Extension of timeline for implementation of provisions of Circular dated September 20, 2023 on Redressal of investor grievances.....	3
II. RESERVE BANK OF INDIA .....	4
1. Investment in Alternative Investment Fund .....	4
2. Master Direction - Lending to Micro, Small & Medium Enterprises (MSME) Sector (Updated as on December 28, 2023).....	5
3. Minimum Holding Period Exemption for Transfer of Receivables .....	6



## **I. SECURITIES EXCHANGE BOARD OF INDIA**

### **1. Amendment to the Circular Dated July 31, 2023 on Online Resolution of Disputes in the Indian Securities Market**

- **Date of Applicability:** December 20, 2023
  
- **Applicable Entities:** The Amendment is important and applicable to the following entities:
  - All Listed Companies;
  - All Recognized Stock Exchanges;
  - All Clearing Corporations;
  - All Depositories;
  - All Stock Brokers;
  - All Depository Participants;
  - All Registrar & Share Transfer Agents;
  - All Asset Management Companies;
  
- **Brief on Amendment:** The SEBI had in the month of July 2023 issued guidelines (July 31, Circular) for online resolution of disputes in the Indian securities market. However, pursuant to the feedback received from the industry, SEBI *vide* this amendment has modified few aspects of the July 31, Circular.
  - In clause 2 of the July 31, Circular, by virtue of this amendment the SEBI has clarified the scope of the term investor & clients by including the terms institutional and corporate clients in the bracket.
  - In clause 3(b) of the July 31, Circular, the words independent institutional and the word online is substituted with independent.
  - Further after Clause 3(b) of the July 31, Circular, the SEBI has added a paragraph *inter alia* providing that the seat of the mediation or arbitration or conciliation shall always be in India and it can be conducted in an online mode. Whereas in respect to the fees, it has been decided that the parties shall be divided as agreed between the parties and the institution.
  - In respect to the entities that are getting their securities listed after July, 31 2023 they shall have to enroll in the ODR portal immediately upon grant of registration or listing.
  - Under Clause 20(c) of the July, 31 Circular, SEBI has rendered specified timelines within which a market participant shall specify the ODR institution for pursuing online arbitration. Such intimation shall be provided with 10 days of the conclusion of the conciliation process of its intent to do so and within further 5 days of this intimation, shall deposit 100% of the admissible claim value with the relevant MII and make the payment of fees as applicable for online arbitration for initiating the online arbitration
  
- **SGA View:** This set of amendments renders a set of detailed clarification in respect to the July 31, Circular. These clarifications in our view would certainly assist the market participants and the company to understand what is the intent behind the move.
  
- **Actionable if any** The Applicable Entities to take note of these clarifications.

2. **Extension of timeline for implementation of provisions of Circular dated September 20, 2023 on Redressal of investor grievances.**

- **Date of Applicability:** December 01, 2023
  
- **Applicable Entities:** The amendment is important and applicable to the following entities:
  - All Listed Companies;
  - All Recognized Stock Exchanges;
  - SEBI Registered Intermediaries
  - Association of Investment Bankers of India
  - Association of Mutual Funds in India
  - Association of Portfolio Managers in India
  - BSE Administration & Supervision Limited
  - Indian REITs Association
  - Trustees Association of India
  
- **Brief on Amendment:** The SEBI has merely *vide* this Amendment extended the applicability date of the Circular dated September 20, 2023. Earlier the framework was to come into effect from December 04, 2023 however the SEBI has extended this effectiveness of this framework to April 01, 2024. But it shall not be noted that entities shall continue to submit the Action Taken Report on SCORES within 21 calendar days from the date of receipt of complaint as directed in Circular dated September 20, 2023.
  
- **Actionable if any:** The Applicable Entities shall take note of this relaxation in timelines and accordingly undertake required actions.

## II. RESERVE BANK OF INDIA

### 1. Investment in Alternative Investment Fund

- **Date of Applicability/ Notification:** December 19, 2023\_
- **Applicable Entities:** The ambit of this notification extends to the following entities:
  - All Commercial Banks (including Small Finance Banks, Local Area Banks and Regional Rural Banks)
  - All Primary (Urban) Co-operative Banks/State Co-operative Banks/ Central Co-operative Banks
  - All India Financial Institutions
  - All Non-Banking Financial Companies Including Housing Finance Companies
- **Brief on Amendment:** The RBI *vide* this amendment has restricted the investment portfolio of the Applicable Entities by prohibiting Applicable Entities from investing in certain Alternative Investment Funds. These Alternative Investment Funds are limited to those funds that have invested the money into any ***Debtor Company*** of the Applicable Entity. Further with respect to existing such exposures the RBI has given the Applicable Entities a time period of 30 days within which they are required to liquidate their exposure or otherwise make a provision to the extent of 100% of such exposure. Lastly, the scope of the bucket of capital funds has been reduced by essentially providing for full deduction to the extent of the investment in the subordinated units of the AIF scheme with a ***Priority Distribution Model***.
- **SGA View:** This step has been taken as a response to the supposed market practice of undertaking such investment exposure for evergreening of funds. It is believed that this bar will certainly discourage this practice however it is also to be noted that liquidating such investment exposures would not be easy considering that most of the investment exposures of the Applicable Entities is in close ended schemes.
- **Actionable if any:** The Applicable Entities to take note of this bar and further liquidate their investment exposure within 30 days from December 19, 2023.

## 2. Master Direction - Lending to Micro, Small & Medium Enterprises (MSME) Sector (Updated as on December 28, 2023)

- **Date of Applicability:** December 28, 2023
- **Applicable Entities:** All Scheduled Commercial Banks
- **Brief on Amendment:** The RBI on December 28, 2023 has further amended the Master Directions- Lending to Micro, Small and Medium Enterprises (MSME) Sector. This amendment has mandated all MSMEs to register online on the Udyam Registration portal and obtain 'Udyam Registration Certificate' in order to avail Priority Sector Loans from Banks. Further it has also made the Udyam Assist Portal registration for informal Micro Enterprises at par with the Udyam Registration.
- **SGA View:** This move comes on the context of formalizing the MSME sector by mandating them to register themselves in order to avail benefits such as PSL loans. It is believed that more than half of the MSMEs in India are still yet to be formalized such a mandate by RBI would certainly help in reducing this number.
- **Actionable if any:** MSMEs intending to avail PSL loans are required to register themselves online in the Udyam Portal.

### 3. Minimum Holding Period Exemption for Transfer of Receivables

- **Date of Applicability:** December 28, 2023
- **Applicable Entities:** The following are the entities within the scope of this amendment:
  - All Scheduled Commercial Banks (excluding Regional Rural Banks)
  - All India Financial Institutions
  - All Non-Banking Financial Companies
- **Brief on Amendment:** The RBI on December 28, 2023 has further amended the Master Direction – RBI (Transfer of Loan Exposures) Directions, 2021 by tweaking the requirements pertaining to Minimum Holding Period on transfer of loans as provided in Clause 39 of the Master Directions. *Vide* this amendment, the RBI has relaxed the requirement for MHP on receivables acquired as a part of the factoring business as defined in the Factoring Regulation Act, 2011. However, this exemption is subject to satisfaction of 2 conditions which are as follows:
  - The residual maturity of such receivables, at the time of transfer, should not be more than 90 days, and
  - The transferee conducts proper credit appraisal of the drawee of the bill, before acquiring such receivables as per the TLE Master Directions.
- **SGA View:** Factoring as a business in the recent times has seen a lot of relaxation in terms of the regulatory framework, this particular exemption will certainly increase the traction rate in the business of factoring which will assist in increasing the fund flow in the market for factoring.
- **Actionable if any:** The Applicable Entity to take note of this amendment and accordingly leverage this exemption in order to develop the secondary market operations in the factoring framework.

**For more information on this or any further enquiries**

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