



April 2023

This Newsletter sets out some of the key legislative and regulatory updates in the banking and finance and insolvency space for the month of March 2023.

## **Revised format for serving copy of application for initiating corporate insolvency resolution process to the Insolvency and Bankruptcy Board of India (“IBBI”)**

The IBBI, *vide* circular dated March 4, 2023, has prescribed a revised format for serving a copy of the application for initiating insolvency against a corporate debtor by the applicant before filing it with the adjudicating authority. This ensures filing of authentic information and enables the IBBI to share information with the information utility efficiently. A step-by-step guide for submission of the application has also been provided.

## **Foreign Trade Policy (“FTP”) 2023**

The Ministry of Commerce and Industry (“MCI”), *vide* press release dated March 31, 2023, has issued the FTP. The Export Promotion Capital Goods Scheme (“EPCG Scheme”), which allows import of capital goods at zero customs duty for export production, has been further rationalised. The FTP will be adopted with a 'long-term' focus and there will not be an end date. Some key provisions are as follows:

1. Prime Minister Mega Integrated Textile Region and Apparel Parks (PM MITRA) scheme has been added as an additional scheme eligible to claim benefits under the Common Service Provider Scheme of the EPCG Scheme;
2. the FTP benefits have been extended to e-commerce exports, which are estimated to grow to US\$ 200,000,000,000 (US Dollars two hundred billion) to US\$ 300,000,000,000 (US Dollars three hundred billion), by 2030. The value limit for exports through courier service has been increased from INR 5,00,000 (Indian Rupees five lakh) to INR 10,00,000 (Indian Rupees ten lakh) per consignment;
3. the dairy sector is to be exempted from maintaining Average Export Obligation – to support upgrade of the technology in the sector; and
4. Battery Electric Vehicles of all types, Vertical Farming Equipment, Wastewater Treatment and Recycling, Rainwater Harvesting Systems and Rainwater Filters, and Green Hydrogen have been included in Green Technology products and will now be eligible for reduced Export Obligation requirement under EPCG Scheme.

## Extended compliance period for large corporates raising funds through debt securities

The SEBI, *vide* circular dated March 31, 2023, has extended the compliance period for fund raising by large corporates. Currently, large corporates must raise a minimum of 25% of their incremental borrowings in a financial year through issuance of debt securities over a contiguous block of 2 (two) years from the financial year 2021-22. It has been decided to extend the compliance period from the contiguous block of 2 (two) years to a contiguous block of 3 (three) years reckoned from the financial year 2021-22. In case a large corporate is unable to comply with the requirement, such entities are required to provide an explanation for the shortfall to the stock exchanges in the manner prescribed.

## Operational guidance on buy-back through stock exchange route

The SEBI, *vide* circular dated March 8, 2023, has released guidelines chalking out restrictions on placements of bids, price and volume for a company seeking to buy back its shares through the exchange route. Restrictions placed on companies undertaking buy-back through stock exchange route are as follows:

1. the company must not purchase more than 25% of the average daily trading volume (in value) of its shares or other specified securities in the 10 (ten) trading days preceding the day on which such purchases are made;
2. the company must not place bids in the pre-open market, the first 30 (thirty) minutes, and the last 30 (thirty) minutes of the regular trading session; and
3. the company's purchase order price should be within the range of  $\pm 1\%$  from the last traded price.

## Revised timelines for disclosures by foreign portfolio investors

The SEBI has amended the SEBI (Foreign Portfolio Investors) Regulations, 2019, by notifying the SEBI (Foreign Portfolio Investors) (Amendment) Regulations, 2023 ("**Amendment Regulations**"). Brought into effect from March 15, 2023, the Amendment Regulations, have, *inter alia*, revised the timelines for making certain disclosures to the SEBI, stock exchange and the designated depository participant.

1. A foreign portfolio investor must, within 7 (seven) working days, inform the SEBI and designated depository participant:
  - a) if any information or particulars previously submitted to the SEBI or designated depository participant are found to be false or misleading, in any material respect;
  - b) if there is any material change in the information including any direct or indirect change in its structure or common ownership or control or investor group previously furnished by the foreign portfolio investor to the SEBI or designated depository participant; and
  - c) if there is any penalty, pending litigation or proceedings, findings of inspections or investigations for which action may have been taken or is in the process of being taken by an overseas regulator against such foreign portfolio investor.
2. All designated depository participants who have been granted approval by the SEBI must, within 2 (two) working days, inform the SEBI in writing:
  - a) if any information or particulars previously submitted to the SEBI are found to be false or misleading, in any material respect; and
  - b) if there is any material change in the information previously furnished to the SEBI.
3. All designated depository participants who have been granted approval by the SEBI must, inform the SEBI, depositories and stock exchange within 2 (two) working days, in case of any penalty, pending litigation or

proceedings, findings of inspections or investigations for which action may have been taken or is in the process of being taken by any regulator against a designated depository participant.

## **Extension of timelines for submission of nomination details**

The SEBI, vide circular dated March 27, 2023, has extended the timeline for mandatory submission of 'choice of nomination' for existing trading and demat accounts till September 30, 2023 (earlier this was March 31, 2023).

## **Revised time limit for disclosure of Net Asset Value ("NAV") of mutual fund schemes investing overseas**

SEBI vide circular dated March 29, 2023, has revised the time limit for disclosure of NAV of mutual fund schemes investing overseas. With effect from July 1, 2023, the revised timelines for declaration of NAV for the following schemes are as follows:

1. for (a) schemes investing atleast 80% of total assets in permissible overseas investments; and (b) index funds and exchange traded funds investing atleast 80% of total assets in permissible overseas investments - 10 AM on T+1 day (earlier it was 11 PM on T day); and
2. for schemes unable to disclose NAV as per the prescribed timelines, due to inability in capturing same day valuation of underlying investments- Such time as per disclosure made in the Scheme Information Document along with reasons for such delayed disclosure (earlier it was 11 PM on T day or 10 AM on T+1 day).

While complying with the new timelines, asset management companies must ensure that NAV of schemes are disclosed based on the value of underlying securities/ funds as on the T day (i.e., date of investment in mutual funds units in India).

## **Finance Practice**

JSA has a widely recognised market leading banking & finance practice in India. Our practice is partner led and is committed to providing quality professional service combining domain knowledge with a constructive, consistent, comprehensive and commercial approach to issues. Clients trust our banking lawyers to take a practical and business-oriented approach to achieving their objectives. Our lawyers have a clear understanding of the expectations and requirements of both sides to a financing transaction and provide tailored advice to each client's needs. The practice is especially praised for its accessibility and responsiveness and its ability to work well with international firms and clients. We represent a variety of clients including domestic and global banks, non-banking finance companies, institutional lenders, multi-lateral, developmental finance and export credit institutions, asset managers, funds, arrangers and corporate borrowers in different sectors on a wide range of financing transactions.

Our full spectrum of services includes advising clients on corporate debt transactions (including term and working capital debt), acquisition finance, structured finance, project finance, asset finance, real estate finance, trade finance, securitisation, debt capital markets and restructuring and insolvency assignments.

Our practice has been consistently ranked in the top-tier for several years, and several of our partners are regarded highly, by international publications such as Chambers and Partners, IFLR, Asia Law, Legal 500, Asia Legal Business, IBLJ and Leaders League.

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17 Practices and  
24 Ranked Lawyers



16 Practices and  
11 Ranked Lawyers



7 Practices and  
2 Ranked Lawyers



11 Practices and  
39 Ranked Partners  
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Banking & Finance Team  
of the Year

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Fintech Team of the Year

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Restructuring & Insolvency  
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