



November 2023

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

Introduction of procedural framework by SEBI for dealing with unclaimed amounts lying with entities issuing securities

The Securities and Exchange Board of India (“SEBI”) has issued 3 (three) circulars all dated November 8, 2023, on procedural framework for dealing with unclaimed amounts lying with (a) entities having listed non-convertible securities, (b) Real Estate Investment Trusts (REITs), and (c) Infrastructure Investment Trusts (InvITs), and also the manner in which such amounts can be claimed by investors / unitholders (collectively the “Circulars”).

According to (a) the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, (b) the SEBI (Real Estate Investment Trusts) Regulations, 2014, and (c) the SEBI (Infrastructure Investment Trusts) Regulations, 2014, any unclaimed amount of investors / unitholders lying with listed entities / REITs / InvITs, respectively (collectively the “Issuing Entities”), should be transferred to SEBI’s ‘Investor Protection and Education Fund’ (“IPEF”) in accordance with the provisions of the respective regulations.

Further, the SEBI (Investor Protection and Education Fund) Regulations, 2009, provides that in case any Issuing Entity processes claim of an eligible investor for the entitled amounts which have been transferred to IPEF, then such Issuing Entity may file an application to SEBI for refund of such amount that has been processed out of the IPEF.

By way of these Circulars, SEBI has issued a framework for defining the abovementioned procedures, i.e., (a) for transfer of unclaimed amounts initially to an escrow account, (b) subsequently, for transfer of such amounts to the IPEF, and (c) lastly, for claim thereof by an investor / unitholder. Format has been prescribed by SEBI filing of application for refund by the Issuing Entities to the IPEF. The key provisions for procedural framework dealing with unclaimed amounts lying with entities having listed non-convertible securities are as follows:

1. this framework is applicable to entities having listed non-convertible securities with interest/ dividend/ redemption amount which has not been claimed within 30 (thirty) days from the due date of interest/ dividend/ redemption payment;
2. the listed entity must, within 7 (seven) days from the date of expiry of the said period of 30 (thirty) days, transfer the unclaimed amounts to an escrow account to be opened by it in any scheduled bank;
3. the listed entity must designate a ‘Nodal Officer’ who may either be a Director, Chief Financial Officer, Company Secretary or Compliance Officer of the listed entity as the point of contact for (a) investors entitled to claim their unclaimed amounts and (b) SEBI, stock exchange(s) and depositories; and

4. the listed entity must provide a search facility on its website for investors to verify if there is any unclaimed amount due to them and lying in the escrow account of the listed entity.

The key provisions for procedural framework for dealing with unclaimed amounts lying with REITs/ InvITs are as follows:

1. where a distribution has been made by the manager, but the payment to any unitholders has remained unpaid or unclaimed, up to 15 (fifteen) days from the date of declaration, the manager must, within 7 (seven) working days from the date of expiry of such period of 15 (fifteen) days, transfer such unclaimed amounts to an escrow account to be opened by it on behalf of the InvIT/ REIT in any scheduled bank;
2. the manager, must, within a period of 30 (thirty) days of transferring the unclaimed amount to the 'Unpaid Distribution Account', upload the details on the website of InvIT/ REIT in the prescribed format;
3. the manager must provide a search facility on the website of InvIT/ REIT for unitholders to verify if there is any unclaimed amount due to them and lying in the 'Unpaid Distribution Account' of the InvIT/ REIT; and
4. the manager of the InvIT/ REIT must formulate a policy specifying the process to be followed.

RBI's new guidelines to govern payment aggregator in cross-border transactions

On October 31, 2023, the Reserve bank of India ("RBI"), notified new guidelines ("PA-CB Guidelines") to regulate entities that process online cross-border payments. Until now, these entities were called online payment gateway service providers ("OPGSP"). Now, they will be regulated as 'Payment Aggregators – Cross Border' ("PA-CB"). Most notably, PA-CBs will need RBI's license to operate. Existing OPGSPs need to apply for the license by April 30, 2024. Interestingly, non-bank PA-CBs are also required to register with the Financial Intelligence Unit-India before registering with the RBI. The PA-CB Guidelines replaced the draft Online Export Import Facilitators Directions issued in April 2022 which was abandoned by RBI post consultations with industry stakeholders. Further, entities, including Authorised Dealer banks, PAs and PAs-CB, involved in processing/ settlement of cross-border payment transactions for import and export of goods and services, must also comply with the PA-CB Guidelines.

For a detailed analysis, please refer to the [JSA Prism of November 7, 2023](#).

Sovereign Green Bonds included in Fully Accessible Route for investment by Non-residents

RBI on March 30, 2020, had introduced the 'Fully Accessible Route' ("FAR") for investment by non-residents in securities issued by the Government of India. Under the FAR, non-resident investors were allowed to invest only in certain specified categories of Central Government securities without any restrictions, like any domestic investors.

Now, by way of a notification dated November 8, 2023, RBI has designated all Sovereign Green Bonds issued by the Government of India in the fiscal year 2023-24 as 'specified securities' under the FAR. Thus, the said Sovereign Green Bonds will be fully open for investment by non-resident investors without any restrictions.

Opening of additional current account for exports proceeds

RBI, *vide* circular dated November 17, 2023, has allowed the settlement of India's international trade in rupee. In this regard, the Authorised Dealer Category – I banks maintaining Special Rupee Vostro Account Account as per the provisions of RBI notification dated July 11, 2022, on '*International Trade Settlement in Indian Rupees*', are permitted to open an additional special current account for its exporter constituent exclusively for settlement of their export transactions.

Regulatory measures towards consumer credit and bank credit to Non-Banking Financial Companies (“NBFCs”)

RBI, *vide* circular dated November 16, 2023, has issued regulatory measures towards consumer credit and bank credit to NBFCs. Pursuant to Governor’s Statement dated October 6, 2023, the following key measures have come into effect:

1. **Consumer credit exposure of commercial banks/ NBFCs and credit card receivables** - the risk weights in respect of consumer credit exposure of commercial banks, including personal loans, but excluding housing loans, education loans, vehicle loans and loans secured by gold and gold jewelry, is increased by 25%, i.e., from 100% it is now 125%. The risk weights on such consumer credit exposures of scheduled commercial banks and NBFCs are increased by 25% to 150% and 125% respectively. The risk weights on such exposures of scheduled commercial banks to NBFCs is increased by 25% points in all cases where the extant risk weight as per external rating of NBFCs is below 100%.
2. **Bank credit to NBFCs** – the risk weights of scheduled commercial banks are increased by 25 % points (over and above the risk weight associated with the given external rating) in all cases where the extant risk weight as per external rating of NBFCs is below 100%. For this purpose, loans to housing finance companies, and loans to NBFCs which are eligible for classification as priority sector in terms of the extant instructions will be excluded.
3. **Strengthening credit standards** – Regulated Entities (“REs”) will review their existing sectoral exposure limits for consumer credit. Limits are to be prescribed for all unsecured consumer credit exposures and these limits will be strictly adhered to and monitored on an ongoing basis by the Risk Management Committee. All top-up loans extended by REs against movable assets which are inherently depreciating in nature, such as vehicles, will be treated as unsecured loans for credit appraisal, prudential limits and exposure purposes.

Limited Liability Partnership (“LLP”) to report about significant beneficial owners to the Registrar of Companies (“Registrar”)

The Ministry of Corporate Affairs, *vide* notification dated November 9, 2023, has issued the LLP (Significant Beneficial Owners) Rules, 2023 (“Rules”). The key provisions are as follows:

1. each LLP required to report must take necessary steps to find out if there is any individual who is a significant beneficial owner, in relation to that reporting LLP, and if so, identify him and cause such individual to make a declaration in Form No. LLP BEN- I;
2. every individual who is a significant beneficial owner in a reporting LLP, must file a declaration in Form No. LLP BEN-I to the reporting LLP within 90 (ninety) days from the commencement of the Rules. Subsequent changes in significant beneficial ownership must be reported within 30 (thirty) days;
3. on receiving declarations, reporting LLPs must file a return in Form No. LLP BEN-2 with the Registrar within 30 (thirty) days. Additionally, LLPs are required to maintain a register of significant beneficial owners as prescribed in Form No. LLP BEN-3;
4. each LLP required to report must notify its partner (other than an individual), holding at least 10% of its (a) contribution; (ii) voting rights; or (iii) right to receive or participate in the distributable profits or any other distribution payable in a financial year, as per Form no. LLP BEN -4; and
5. these Rules do not apply to specific entities, such as contributions held by the Central Government, State Government, local authorities, or certain regulated investment vehicles.

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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