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Solicitors & Advocates

INFORM: Infrastructure Projects & Finance

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We bring you the latest updates on the dynamic intersection of infrastructure projects with banking and finance. Join us to navigate the evolving landscape of infrastructure curated to empower you with strategic intelligence.



From the Partner's Desk -

Margaret Thatcher once said, "You and I come by road or rail, but economists travel on infrastructure". Having said that, I am thrilled to present the first issue of our newsletter on Infrastructure Projects & Project Finance. This newsletter is dedicated to all those who are passionate about this sector and seek to broaden their Infrastructure and Project Finance horizons.

This newsletter focuses on the recent developments in the sphere of infrastructure, public-private partnerships, banking and financing in India.

It seeks to provide a comprehensive overview of the sector as well as an appreciation of the potential opportunities that lie ahead of us.

The objective of this newsletter is to provide an overview of developments in this field in order to cater to our infrastructure clients and clients from banks and financial institutions, including non-banking finance companies. I hope our readers find it insightful.

Chandrasekaran R., Partner
+91 94443 98172
r.chandrasekaran@foxmandal.in
To see the complete profile, click here.

>>> HIGHLIGHTS

QUICK READS:

1. SBI Raises 10 Billion Through 15-year Infrastructure Bonds with a Coupon Rate of 7.54 Percent
2. Infrastructure Along the LAC Could Treble in Pace Due to New Forest Laws
3. TRAI Recommends No License Fee for Telecom Infrastructure Providers
4. India to Launch First Public INVIT for Road and Highway Projects
5. Concerns are Raised by CAG Over the Devolution of Authority to NHAI to Evaluate and Approve Government-Funded Projects
6. RBI Sets Target for Lenders on CBDC, Unclaimed Deposits

CASE LAWS:

1. Cessation of Letter of Intent due to Change in the Business Structure Without Prior Permission of the Authority is Valid
2. Secured Creditors can use Section 14 of the SARFAESI Act, 2002 After Withdrawing Procedures Under Section 13(4)
3. Section 34(4) of The Arbitration and Conciliation Act, 1996 Cannot Save an Award Suffering from Illegality

NOTIFICATIONS/CIRCULARS:

1. New Guidelines Issued on Penal Charges in Loan Accounts
2. Revised Regulatory Framework for IDF-NBFCs
3. Reset of Floating Interest Rate on EMI-based Personal Loans: Important Instructions
4. Guidelines Released on Bitumen: Demand-Supply, Type A Grade, Specifications, Procurement Source, and Quality for National Highways Projects
5. Maintenance of Additional CRR under Section 42(1A) of Reserve Bank of India Act, 1934
6. Secretary, Ministry of Road Transport and Highways is Empowered to Extend the Validity of Provisional Permission Beyond Two Years
7. States and UTs Urged to Refrain from Imposing Additional Taxes/Fees on Tourist Cars with Valid Permits Under All-India Tourist Cars (Permit) Rules, 2023

>>> QUICK READS



Infrastructure Along the LAC Could Treble in Pace Due to New Forest Laws

This amendment aims to offer benefits to various strategic projects situated in proximity to the borders. A comprehensive plan has been developed to establish a network of 37 roads, covering a distance of approximately 1,200 kilometres, with the objective of connecting Ladakh and Arunachal Pradesh along the LAC.

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SBI Raises 10 Billion Via 15-Year Infrastructure Bonds With a Coupon Rate of 7.54 Percent

The State Bank of India (SBI) has successfully raised Rs. 10,000 crore through its third infrastructure bond issuance, with a coupon rate of 7.54 per cent. The bidding process for the 15-year tenor bonds occurred on July 31, 2023.

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TRAI Recommends No Licence Fee for Telecom Infrastructure Providers

In a proposal titled "Introduction of Digital Connectivity Infrastructure Provider (DCIP) Authorization under Unified License, TRAI suggested that entities registered under the proposed license should be able to offer telecom operators both active and passive infrastructures, excluding core network elements and spectrum.

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India to Launch the First Public INVIT for Road and Highway Projects

Centre Plans to Launch New InvIT for National Highways, Allowing Domestic Retail Investors to hold trust units. Due to regulatory challenges surrounding the public InvIT, the scope of the target is limited to funds raised exclusively from institutional investors and debt.

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Concerns Raised by CAG over Devolution of Authority to NHAI in Government-Funded Projects

Concerns have been raised by the Comptroller and Auditor General of India about the National Highways Authority of India (NHAI) transferring responsibilities inside the institution for the appraisal and approval of entirely government-funded projects. The delegation of power implies a lack of separation of project execution, assessment, and approval functions, denying the ability for independent inspection.

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RBI Sets Target for Lenders on CBDC, Unclaimed Deposits

The Reserve Bank of India (RBI) has implemented a system of assigning business targets to banks, in line with the guidance from the finance ministry. This is aimed at promoting initiatives such as the central bank digital currency and the recovery of unclaimed deposits.

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>>> CASE LAWS



Cessation of Letter of Intent due to Change in the Business Structure Without Prior Permission of the Authority is Valid

The High Court of Calcutta held that the change in the nature of distributorship from a proprietorship to a partnership without obtaining prior approval from the Indian Oil Corporation was a violation of the terms laid down in the LOI and therefore the cessation of the LOI was valid.

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Secured Creditors can take Recourse under Section 14 of the SARFAESI Act, 2002 after Withdrawing Procedures under Section 13(4)

A secured creditor is free to decide the remedy that they wish to adopt, and the borrower or guarantor has no say in the manner or mode in which recourse is opted to be taken by the secured creditor.

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Section 34(4) of the Arbitration Act Cannot Save Award Suffering From Illegalities

In National Highways Authority of India v. Trichy Thanjavur Expressway Limited, the Court held that Section 34(4) of the Act, could not save an award that suffers from any illegalities under Section 34(2) (a) or (b), from being set aside.

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>>> NOTIFICATIONS/CIRCULARS



Guidelines Issued on Penal Charges in Loan Account

Under the existing guidelines, lending institutions are granted the authority to independently develop board-approved policies for the imposition of penal rates of interest. However, RBI observed that there are varying practices among the REs in terms of imposing penal interest/charges, which has resulted in customer complaints and disagreements.

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Revised Regulatory Framework for IDF-NBFCS

To enable IDF-NBFCs to play a larger role in the financing of the infrastructure sector and to harmonize the regulations regulating NBFCs' financing of the infrastructure sector, a review of the applicable guidelines for IDF-NBFCs has been conducted.

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Reset of Floating Interest Rate on EMI-Based Personal Loans: Important Instructions

In the case of EMI-based floating rate personal loans, multiple consumer complaints about loan tenure extension and/or EMI increase without sufficient communication with and/or approval of the borrowers have been received in the aftermath of rising interest rates.

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Instructions on Use of Bitumen in Construction of National Highway Projects

Durable flexible pavement requires the selection of an appropriate grade of bituminous binder for a particular section of the National Highway based on the prevailing loading, ambient temperature, and precipitation, as well as the maintenance of bituminous binder quality during construction.

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Maintenance of Additional CRR Under Section 42(1A) of RBI Act, 1934

Banks are required to maintain an additional average daily balance over and above the average daily balance maintained under sub-section (1) of Section 42. The minimum amount of the additional average daily balance shall not be lower than 10% of the increase in net demand and time liabilities from May 19, 2023 to July 28, 2023.

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Guidelines Issued on Grant of Permission for Construction of Access to Fuel Stations, Wayside Amenities & Such Other Facilities

The existing guidelines stipulate that the Oil/Gas company/owner of the private property may construct fuel station along with its access within 12 months from the date of issue of provisional permission for access.

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States & UTs Urged Not to Levy Fee on Tourist Vehicles Plying Under All India Tourist Permit

States and UTs have been advised not to impose any other type of tax/fee from tourist cars operating throughout the country with a valid permit issued under the All-India Tourist Vehicles (Permit) Rules, 2023.

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Connect with us: r.chandrasekaran@foxmandal.in

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