

INFORM: Infrastructure Projects & Finance

JUNE 2024

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.

>>> HIGHLIGHTS

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2. Arbitral Awards Cannot be Set Aside Unless Patent Illegality is Clearly Proved
3. Infrastructure Development Must Co-Exist in Compliance with Environmental Law
4. Interest Free Loans Provided to Bank Employees Are Taxable as Perquisites
5. Recovery Proceedings Under SARFAESI Act Applicable to Housing Finance Companies

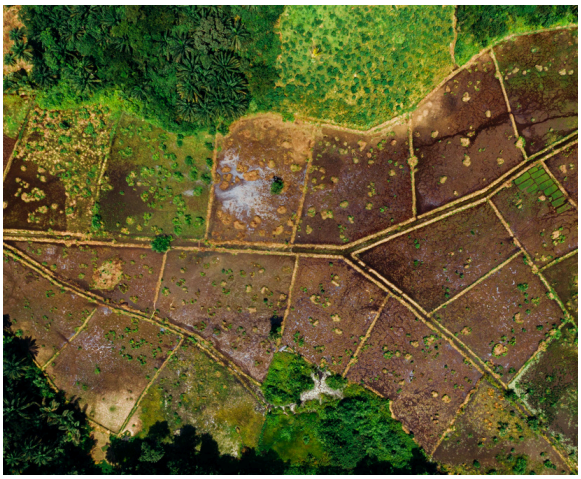
NOTIFICATIONS/CIRCULARS:

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3. MNRE Clarifies ALMM Order Applicability to Solar Projects
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5. RBI Imposes Supervisory Actions on ECL Finance and Edelweiss ARC for Regulatory Breaches
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10. RBI Permits Opening of Rupee Accounts Abroad
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>>> CASE LAWS



Rehabilitation Award for Acquisitions Under NH Act To Be Passed By Competent Authority

The Allahabad High Court, in the case of Rampal Singh and 12 others v. National Highway Authority of India and 2 others [2024 AHC 72392-DB] held on April 24, 2024, that for acquisitions under the National Highways Act, 1956 the rehabilitation and resettlement award should be passed by the competent authority and not the Collector of the district.

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Arbitral Awards Cannot Be Set Aside Unless Patent Illegality is Clearly Proved

In Union of India through Garrison Engineer AF v. Yauk Engineers [2024 AHC 59078] dated April 5, 2024, the Allahabad High Court held that an arbitrator being a creature of the contract undermines the sanctity of contracts and trust in the arbitration process by granting an award that goes beyond the confines of clear and explicit contractual terms.

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Infrastructure Development Must Comply with Environmental Law

In a decision delivered on May 6, 2024, in the case of Tapas Guha and Ors. v. Union of India and Ors. [2024 INSC 399] the Supreme Court observed that while infrastructure development is important, it must exist in harmony and compliance with environmental laws.

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Interest Free Loans Provided to Bank Employees are Taxable as Perquisites

In a decision delivered by the Supreme Court on May 7, 2024 in the case of All India Bank Officers' Confederation vs. The Regional Manager, Central Bank of India & Others [2024 INSC 389] it was held that Rule 3(7)(i) of the Income Tax Rules, 1962 is not violative of Article 14 of the Constitution and therefore interest-free or concessional loans provided by banks to their employees are taxable as perquisites under Section 17 of the Income Tax Act, 1961.

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Recovery Proceedings Under SARFAESI Act Applicable to Housing Finance Companies

In Union of India through Garrison Engineer AF v. Yauk Engineers [2024 AHC 59078] dated April 5, 2024, the Allahabad High Court held that an arbitrator being a creature of the contract undermines the sanctity of contracts and trust in the arbitration process by granting an award that goes beyond the confines of clear and explicit contractual terms.

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NOTIFICATIONS/CIRCULARS



RBI Amends Risk Management and Inter-Bank Dealing Rules

On May 3, 2024, the Reserve Bank of India (RBI) issued amendments to its Master Direction on Risk Management and Inter-Bank Dealings, impacting Authorized Persons, including Standalone Primary Dealers (SPDs). The amendments are effective immediately, overriding any previous circulars listed in the Master Direction.

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RBI Issues New Guidelines on Margins for Derivative Contracts

The Reserve Bank of India (RBI) has announced new directives vide circular dated May 08, 2024 which allows authorized dealers to post and collect margins for permitted derivative contracts with persons residing outside India. These transactions can take place both within India and abroad, and dealers are also permitted to receive and pay interest on these margins, according to an RBI release.

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RBI Mandates Regularization of Partly Paid Units Issued by AIFs to Foreign Investors

In a move aimed at fostering transparency and empowering borrowers to make well-informed financial decisions, the Reserve Bank of India (RBI) has issued a circular dated April 15, 2024, regarding the Key Facts Statement (KFS) for Loans and Advances.

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MoRTH issues Circular Regarding the Applicability of RFCTLARR Act in Certain Land Acquisitions

The Ministry of Road Transport and Highways (Land Acquisition Division) has issued a circular dated May 15, 2024, regarding the applicability of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013, in land acquisition processes under the National Highways (NH) Act, 1956.

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RBI Issues Draft Guidelines on Prudential Framework for Project Loan Advances

The Reserve Bank of India (RBI) released a draft guidelines on May 3, 2024, detailing the prudential framework for financing project loans. The new guidelines aim to provide a comprehensive framework for regulated entities to manage the complexities and risks associated with project finance.

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SEBI Issues Master Circular on Non-Convertible Securities and Related Instruments

On May 22, 2024, the Securities and Exchange Board of India (SEBI) issued a Master Circular addressing the issuance and listing of Non-Convertible Securities, Securitised Debt Instruments, Security Receipts, Municipal Debt Securities, and Commercial Paper, effective immediately.

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SEBI Releases Comprehensive Master Circular for Infrastructure Investment Trusts

On May 15, 2024, the Securities and Exchange Board of India (SEBI) issued a Master Circular on Infrastructure Investment Trusts (InvITs) which consolidates all previous regulations and guidelines related to InvITs up to Mat 15, 2024, ensuring that all relevant provisions are now accessible in a single document.

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>>> QUICK READS



RBI Directs NBFCs to Adhere to Rs 20,000 Cash Limit for Gold Loans

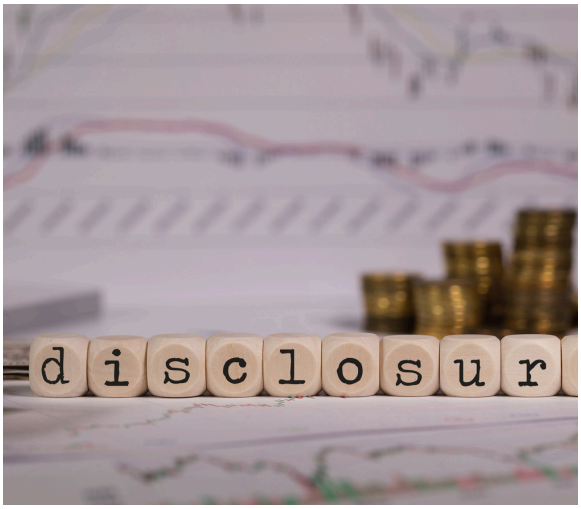
The Reserve Bank of India (RBI) has recently reinforced regulatory measures to ensure that non-banking financial companies (NBFCs) adhere to a cash loan disbursement limit of Rs 20,000. Despite the prohibition against disbursing cash loans over Rs 20,000, some NBFCs have been circumventing this rule by requiring customers to sign indemnity agreements to assume liability against income-tax actions.

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SEBI Proposes Relaxing Disclosure Requirements for Non-Convertible Securities

The current regulatory framework, as per SEBI's (Issue and Listing of Non-Convertible Securities) rules or NCS norms, mandates full disclosure of promoters' profiles, including PAN and personal addresses as well as disclosure of branch/unit details in offer documents.

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MNRE Clarifies ALMM Order Applicability to Solar Projects

The Ministry of New and Renewable Energy (MNRE) has issued a clarification regarding the applicability of the Approved Models and Manufacturers of Solar Photovoltaic Modules (Requirements for Compulsory Registration) Order, 2019, for solar projects.

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Issue of Subordinate Units by InvITs: Framework Finally in Place

Months after sharing its proposals on the subject, the Securities and Exchange Board of India (SEBI) has notified amendments to the SEBI (Infrastructure Investment Trusts) Regulations, 2014 ("InvIT Regulations"), prescribing a mechanism for the issuance of subordinate units by InvITs to the sponsor, its associates and the sponsor group.

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RBI Imposes Supervisory Actions on ECL Finance and Edelweiss ARC for Regulatory Breaches

The RBI has taken supervisory actions against ECL Finance Limited (ECL) and Edelweiss Asset Reconstruction Company (ARC), both part of the Edelweiss Group, due to significant supervisory concerns and regulatory circumventions. ECL to immediately cease any structured transactions involving its wholesale exposures, except for the repayment or closure of accounts in the normal course of business.

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RBI Fines HSBC Rs 36.38 Lakh for FEMA Violations

The Reserve Bank of India (RBI) has imposed a fine of Rs 36.38 lakh on HSBC for violations of the Foreign Exchange Management Act (FEMA). The central bank stated that HSBC failed to adhere to the reporting requirements under the Liberalized Remittance Scheme of FEMA, 1999.

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SEBI Imposes Rs 5 Lakh Fine on AGI Greenpac for Disclosure Failures

The Securities and Exchange Board of India (SEBI) has fined AGI Greenpac Rs 5 lakh for failing to provide accurate and adequate information to shareholders, resulting in misrepresentation to stock exchanges. The SEBI order charged the company for withholding crucial information regarding its deal to acquire Hindustan National Glass (HNG).

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RECPDCL Transfers Two SPVs for Power Transmission Projects

REC Power Development and Consultancy Limited (RECPDCL), a subsidiary of REC Limited, has handed over two Special Purpose Vehicles (SPVs) to successful bidders on May 30, 2024, for power transmission projects. The SPVs, namely Khavda IV-E2 Power Transmission Limited and NERES XVI Power Transmission Limited, are established for executing Inter-State Transmission Schemes (ISTS) initiated by the ministry of power.



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SEBI Rolls Out Settlement Calculator

In a bid to streamline and enhance transparency in the calculation of indicative settlement amounts under the SEBI (Settlement Proceedings) Regulations, 2018, the Securities and Exchange Board of India (SEBI) has rolled out the Settlement Calculator (Beta version). ·As part of SEBI's settlement mechanism, alleged wrongdoers can settle pending matters by paying settlement charges without admitting or denying guilt.

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RBI Permits Opening of Rupee Accounts Abroad

The Reserve Bank of India (RBI) has announced its decision to allow persons resident outside India (PROIs) to open rupee (₹) accounts, marking a significant step in the agenda to globalize the domestic currency for the fiscal year 2024-25.

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SEBI Penalizes Five Entities, Bars for Three Years

The Securities and Exchange Board of India (SEBI) took action on against five entities, imposing penalties totaling Rs 50 lakh and restraining them from participating in the securities markets for three years due to violations of regulatory norms related to Bhatia Communications and Retail (India) Ltd.

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