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THE MONTHLY BULLETIN

Official newsletter of the Clasis Law

In this Issue

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GUEST ARTICLE

Public Interest Litigation Two sides of the coin

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CCS Global Tech

Introduction - What is PIL?

In simple words it means litigation filed in a court of law, for the protection of "*Public Interest*". Public Interest Litigation helps to serve the people at large. It does not benefit the individual but instead it benefits the public and mainly the objective of PIL is to give the common people access to the courts to obtain legal redress in the public interest, it can be individual or in groups. It empowers weaker section of the society, who cannot afford to move to the court in order to protect their Fundamental Rights and basic human rights. It is to make justice accessible to the poor and the marginalized. A PIL does not restrict any person to file a PIL irrespective of caste, class, gender, organization etc. Supreme Court has relaxed the rule of *locus standi* by which, a person can file a PIL regardless of whether the person is an aggrieved person or not.

It is a relaxation on the traditional rule of locus standi. Before 1980s the judiciary and the Supreme Court of India entertained litigation only from parties affected directly or indirectly by the defendant. It heard and decided cases only under its original and appellate jurisdictions. However, the Supreme Court began permitting cases on the grounds of public interest litigation, which means that even people who are not directly involved in the case may bring matters of public interest to the court. It is the court's privilege to entertain the application for the PIL.

Constitutional provisions

Any citizen can approach the court for public case (upon the interest of public) by filing a petition:

- In Supreme Court under Article 32 of the Constitution.
- In High Court under Article 226 of the Constitution.
- In the Court of Magistrate under Section 133 CRPC.

When can we use PIL?

Public interest litigation is not defined in any statute or in any act. It has been interpreted by judges to consider the intent of public interest at large. Although, the main and only focus of such litigation is only Public Interest there are various areas where a Public interest litigation can be filed. For e.g.

- Neglected children;
- Unpaid minimum wages;

- Exploitation of workers;
- Atrocities on humanity;
- Environmental pollution and related issues;
- Debt slavery.;
- Violation of basic human rights of the poor;
- Content or conduct of government policy;
- Compel municipal authorities to perform a public duty;
- Violation of religious rights or other basic fundamental rights.

Justice through PIL

Parmanand Katara vs. Union of India

Parmanand Katara, a human rights activist, filed a writ petition in the Supreme Court. His basis was a newspaper report concerning the death of a scooterist after an accident with a speeding car. Doctors refused to attend to him. They directed him to another hospital around 20 kms. away that could handle medico-legal cases. Based on the petition, the Supreme Court held that:

- Preservation of human life is of paramount importance.
- Every doctor, at a government hospital or otherwise, has the professional obligation to extend his/her services to protect life.
- There should be no doubt that the effort to save the person should receive top priority. This applies not only to the legal profession, but also to the police and other citizens part of the matter.

M.C. Mehta vs. Union of India

MC Mehta filed a Public Interest Litigation for escape for poisonous gases by a plant in Bhopal. The court in this case extended the scope of Article 21 and 32 of the Constitution of India. The case is also famous as *Bhopal Gas Tragedy*.

M.C Mehta filed a PIL under Articles 21 and 32 of the Constitution and sought closure and relocation of the Shriram Caustic Chlorine and Sulphuric Acid Plant which was located in a thickly populated area of Delhi. Factories were closed down immediately as Inspector of Factories and Commissioner (Factories) issued separate orders dated December 8 and 24, 1985 . This incident took place only a few months before Environment (Protection) Act came into force, thus became a guiding force for having an effective law like this.

Abuse of the PIL

PIL is being used by people for:

- Personal vendetta,
- Business scores,
- Political scores,
- For being famous,
- For Media Coverage.

Consequences of misuse of PILs

- The PIL had seriously reduced the efficiency of the judicial system by detracting from the ability of the court to devote its time and resources to cases which legitimately require attention.
- Huge backlog of cases.
- Delayed judgements.
- Right to speedy trial under Article 21 affected.

Conclusion

PIL has given relief to most of the people in society. Social activists have been fighting for the rights of the society. PIL is a blessing to the society as along with providing justice, it is also a cost effective tool. Judges of the Apex courts have tried a lot to maintain balance in society and have tried to protect the rights of every individual. However, even after so much of hard work there is still a hole in our system where people with malafide intention use this blessing for their personal benefits. Young lawyers file fake PIL for media coverage and becoming famous to boost their career. We still believe that someday our society will become a better place to live in.

Disclaimer

The views expressed here are of the author alone and readers should not act on the basis of this information without seeking professional legal advice.

LEGAL UPDATE

Delhi High Court Distinguishes Arbitrability of Disputes under the Trademark Act and the Trademark Agreements

The Delhi High Court in its judgment dated June 4, 2021 in **M/S. Golden Tobie Private Limited (formerly known as Golden Tobie Limited) vs M/s. Golden Tobacco Limited***(1)* has clarified the type of trademark disputes which can be arbitrated. As per the current position, the matters relating to grant and issue of patents and registration of trademarks are exclusive matters falling within the sovereign and government functions and cannot be arbitrated. However, the disputes arising from assignment of trademarks pertain to rights emanating from the contract not the statute and therefore can be arbitrated.

Brief facts of the case are that the parties had first entered into a Master Long Term Supply Agreement dated 16.08.2019 by which the Defendant on an exclusive basis had supplied to the Plaintiff the exclusive brands of the Defendant "Golden's Gold Flake, Golden Classic, Taj Chhap, Panama and Chancellor". The Plaintiff was selling, supplying, and distributing exclusively the said brands in domestic and international market. Subsequently, the Plaintiff entered into a trademark license agreement dated 12.02.2020 and amendment agreement dated 29.08.2020. Pursuant to the said agreements, the Plaintiff has been granted exclusive non-assignable, non-transferable license to manufacture the defendant's product to be manufactured exclusively at the Plaintiff's factory and were to be marketed and distributed accordingly. The Plaintiff argued that despite huge capital and operational expenditure made by the Plaintiff including on advertisements and promotional schemes to increase the availability of the Defendant's product, the Defendant arbitrarily cancelled the trademark license agreement.

On 14.08.2020 the Defendant ignoring the prevailing Pandemic chose to issue the termination notice stating that as per the trademark license agreement dated 12.02.2020 the licensor (Defendant) had granted an exclusive non-transferable and non-assignable license to use the exclusive brands and blend formulations during the term of the agreement. Since commercial production had not yet started the agreement was terminated with immediate effect. The termination communication dated 14.08.2020 was withdrawn and an amendment agreement dated 29.08.2020 was entered into between the parties.

Subsequently on 13.02.2021 by another termination notice the Defendant stated that timely payment had not been made in terms of the agreement. The Defendant terminated the agreement dated 12.02.2020 and amendment agreement dated 29.08.2020 with immediate effect and the Plaintiff was to have no right to manufacture and sell the exclusive brands of the Defendant in the market from that point onwards. Hence the present suit was filed before the Delhi High Court. During the pendency of the suit, the Defendant moved an application under section 8 of the Arbitration and conciliation Act, 1996 ("Act") for referring the matter to arbitration as per the arbitration clause contained in the trademark license agreement.

While adjudicating on the aforementioned application, the Court examined the judgment of **Vidya Drolia and Ors. vs. Durga Trading Corporation***(2)* and the judgment of a Coordinate Bench of Delhi High Court in **Hero Electric Vehicles Pvt. Ltd. & Anr. vs. Lectro E-Mobility Pvt. Ltd. & Anr.***(3)*. In light of **Vidya Drolia (supra)**, the Court observed that the said judgment had held that actions in rem including grant and issue of patents and registration of trademarks are exclusive matters falling within the sovereign and government functions and have erga omnes effect.

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(1) CS(COMM) 178/2021
(2) (2021) 2 SCC 1
(3) 2021 SCC OnLine Del 1058

Such grants confer monopolistic rights, and they are non-arbitrable. Further, this principle had also been followed by the Delhi High Court in Hero Electric Vehicles Pvt. (supra).

Further, the Court relying on the judgment of **Hero Electric Vehicles Pvt. (supra),** observed that the said judgment applied on all fours to the facts of the present case. The Coordinate Bench in the said judgment had held that the dispute did not pertain to infringement of a trademark on the ground that the defendants are using a deceptively similar trademark but the right to use the trademark was conferred by a particular agreement. The essential infraction as allegedly committed by the defendant was not the provisions of the Trademark Act but the provisions of the agreements in question. The dispute which emanated out of the agreement between the parties was held to be arbitrable. The Coordinate Bench had also clarified that the controversy in the said case did not relate to grant or registration of trademark which stood granted and registered.

It was also held that assignment of a trademark is by a contract and is not a statutory sanction. It does not involve any exercise of sovereign functions.

Applying the aforementioned principles, the Court noted that in the present case, the dispute in question primarily relates to interpretation of the terms of the Agreement dated 12.02.2020 and the amendment agreement dated 29.08.2020 executed between the parties and as to whether the termination of the said agreements by the defendant and cancellation of the assignment of the trademark in favour of the Plaintiffs is legal and valid. The right that is asserted by the Plaintiff is not a right that emanates from the Trademark Act but a right that emanates from the agreements therefore, it cannot be said that the disputes are not arbitrable.

Accordingly, the application preferred by the Defendant was allowed and the matter was referred to arbitration.

CORPORATE REGULATORY UPDATES

Master Direction – Reserve Bank of India (Certificate of Deposit) Directions, 2021

On 4 June 2021, the Reserve Bank of India (**"RBI"**), issued the Master Direction-Reserve Bank of India (Certificate of Deposit) Directions, 2021 (which came into effect from 7 June 2021) to all persons and agencies eligible to deal in Certificate of Deposit (CDs). The Directions, inter-alia, provide the eligible issuers and investors, general guidelines, reporting guidelines, obligation to provide information sought by the RBI.

Submission of returns under Section 31 of the Banking Regulation Act, 1949 (AACS) – Extension of time

On 4 June 2021, the RBI decided to extend the said period of 3 months for the furnishing of the returns under Section 31 of the Banking Regulation Act, 1949 for the financial year ended on 31 March 2021, by a further period of 3 months as many of the Primary (Urban) Co-operative Banks (UCBs), State Co-operative Banks and Central Co-operative Banks are facing difficulties in finalising their Annual Accounts due to the ongoing COVID-19 pandemic. Accordingly, all UCBs, State Co-operative Banks and Central Co-operative Banks shall ensure submission of the aforesaid returns to the RBI on or before 30 September 2021. The State Co-operative Banks and Central Co-operative Banks shall also ensure submission of the aforesaid returns to NABARD on or before 30 September 2021.

Payment of margins for transactions in Government Securities by Foreign Portfolio Investors

On 4 June 2021, the RBI decided to allow banks in India having an Authorised Dealer Category-1 licence under FEMA, 1999 to lend to Foreign Portfolio Investors (FPIs) in accordance with their credit risk management frameworks for the purpose of placing margins with CCIL in respect of settlement of transactions involving Government Securities (including Treasury Bills and State Development Loans) by the FPIs. Necessary amendments to Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 have been carried out vide Notification dated 24 May 2021. These Directions shall be applicable with immediate effect.

Resolution Framework - 2.0: Resolution of Covid-19 related stress of Micro, Small and Medium Enterprises (MSMEs) – Revision in the threshold for aggregate exposure

On 4 June 2021, the RBI decided to enhance the limit in clause 2(v) of the circular DOR.STR.REC.12/21.04.048/2021-22 on "Resolution Framework 2.0 – Resolution of Covid-19 related stress of Micro, Small and Medium Enterprises (MSMEs)" dated 5 May 2021 from INR 25 crore to INR 50 crore.

Clause 2 of the above circular specifies the eligibility conditions for MSME accounts to be considered for restructuring under the framework, which inter alia include sub-clause (iii) which states that the aggregate exposure, including non-fund based facilities, of all lending institutions to the MSME borrower should not exceed INR 25 crore as on 31 March 2021. Based on a review, the RBI has decided to enhance the above limit from INR 25 crore to INR 50 crore. Consequently, clause 2(v) would stand modified as under:

"(v) The borrower's account was not restructured in terms of the circulars DOR.No.BP.BC/4/21.04.048/2020-21 dated August 6, 2020; DOR.No.BP.BC.34/21.04.048/2019-20 dated February 11, 2020; or DBR.No.BP.BC.18/21.04.048/2018-19 dated January 1, 2019 (collectively referred to as MSME restructuring circulars) or the circular DOR.No.BP.BC/3/21.04.048/2020-21 dated August 6, 2020 on "Resolution Framework for COVID-19-related Stress."

All other provisions of the circular remain unchanged.

Resolution Framework - 2.0: Resolution of Covid-19 related stress of Individuals and Small Businesses – Revision in the threshold for aggregate exposure

On 4 June 2021, the RBI decided to enhance the limit in clause 2(v) of the circular DOR.STR.REC.12/21.04.048/2021-22 on "Resolution Framework – 2.0: Resolution of Covid-19 related stress of Individuals and Small Businesses" dated 5 May 2021 from INR 25 crore to INR 50 crore.

Clause 5 of the above circular specifies the eligible borrowers who may be considered for resolution under the framework and includes the following sub-clauses:

(b) Individuals who have availed of loans and advances for business purposes and to whom the lending institutions have aggregate exposure of not more than INR 25 crore as on 31 March 2021.

(c) Small businesses, including those engaged in retail and wholesale trade, other than those classified as MSME as on 31 March 2021, and to whom the lending institutions have aggregate exposure of not more than INR 25 crore as on 31 March 2021.

Based on a review, the RBI decided to enhance the above limits from INR 25 crore to INR 50 crore. All other provisions of the circular remain unchanged.

CORPORATE REGULATORY UPDATES

Centralized Database for Corporate Bonds/Debentures

On 4 June 2021, the Securities and Exchange Board of India ("SEBI") decided to further streamline the database and provide further ease of access of information for investors in terms of the SEBI circular dated 22 October 2013, on 'Centralized Database for Corporate Bonds/Debentures' which mandated Depositories to jointly create, host, and maintain a Centralized Database of corporate bonds held in demat form. In view of the same, it is proposed to supersede the above referred circular and provide an updated list of data fields to be maintained in the database along with the manner of filing the same as prescribed in this circular of 4 June 2021.

Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2021

On 10 June 2021, SEBI issued the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2021 which apply to delisting of equity shares of a company including equity shares having superior voting rights from all or any of the recognised stock exchanges where such shares are listed. These Regulations inter-alia also provide for conditions for delisting and voluntary delisting.

Risk Based Internal Audit (RBIA)

On 11 June 2021, the RBI decided that the provisions of the circular dated 3 February 2021(related to RBIA), shall be applicable to Housing Finance Companies (HFCs) also, as stipulated below:

(a) All deposit taking HFCs, irrespective of their size
(b) Non-deposit taking HFCs with asset size of ₹5,000 crore and above

The above-mentioned entities shall put in place a RBIA framework by 30 June 2022, in accordance with the provisions of the aforesaid circular.

Revised Framework for Regulatory Sandbox

On 14 June 2021, SEBI revised the framework for Regulatory Sandbox dated 5 June 2020, with the intent to promote innovation in the securities market, in order to enhance the reach and achieve the desired aim, the eligibility criteria of the Regulatory Sandbox. The objective of the Regulatory Sandbox is to grant certain facilities and flexibilities to the entities regulated by SEBI so that they can experiment with FinTech solutions in alive environment and on limited set of real users for a limited time frame.

The updated guidelines pertaining to the functioning of the Regulatory Sandbox are provided at Annexure A of the circular which includes the stages of sandbox testing, eligibility criteria for the project, application and approval process, evaluation criteria, regulatory exemptions, etc.

Investment in Entities from FATF Non-compliant Jurisdiction

On 14 June 2021, RBI issued a circular in relation to investment in NBFCs from FATF non-compliant jurisdictions. With a view to maintaining consistency, the corresponding regulations for investments in Payment Systems Operators (PSOs) are as follows.

The Financial Action Task Force (FATF) periodically identifies jurisdictions with weak measures to combat money laundering and terrorist financing (AML/CFT) in its following publications:

(a) High-Risk Jurisdictions subject to a Call for Action, and

(b) Jurisdictions under Increased Monitoring.

A jurisdiction whose name does not appear in these two lists is referred to as a FATF compliant jurisdiction. Investments in PSOs from FATF non-compliant jurisdictions shall not be treated at par with that from compliant jurisdictions.

Investors in existing PSOs holding their investments prior to the classification of the source or intermediate jurisdiction/s as FATF non-compliant may continue with the investments or bring in additional investments as per extant regulations so as to support continuity of business in India.

New investors from or through non-compliant FATF jurisdictions, whether in existing PSOs or in entities seeking authorisation as PSOs, are not permitted to acquire, directly or indirectly, 'significant influence' as defined in the applicable accounting standards in the concerned PSO. In other words, fresh investments (directly or indirectly) from such jurisdictions, in aggregate, should account for less than 20 per cent of the voting power (including potential1 voting power) of the PSO.

The above instructions, as amended from time to time, shall also apply to any entity that has applied for or that intends to apply for authorisation as a PSO under the Payment and Settlement Systems Act, 2007.

Review of FDI Policy on Insurance Sector

On 14 June 2021, the Department of for Promotion of Industry and Internal Trade (DPITT) issued press note 2 of 2021 series

per which the extant policy on foreign direct investment (FDI) in the insurance sector has been reviewed and the following amendments have been made:

(a) FDI in an insurance company is permitted upto 74% under the automatic route (which was earlier at 49%).

(b) Terms 'Indian Control of an Indian Insurance Company' and 'Indian Ownership' have been removed from para 5.2.22.3 (k) of the extant FDI policy dated 28 October 2020.

(c) Para i(b) of Annexure 8 of the extant FDI policy dated 28 October 2020 has been amended to read as under:

Applications for foreign direct investment in private banks having joint venture/subsidiary in insurance sector may be addressed to the RBI for consideration in consultation with the Insurance Regulatory and Development Authority of India (IRDAI) in order to ensure that the limit of foreign shareholding applicable for the insurance sector is not breached.

The provisions of this press note and the amendments will come into effect from the date of the FEMA notification.

The Companies (Meetings of Board and its Powers) Rules, 2021

The Ministry of Corporate Affairs, India (MCA) on June 15, 2021 issued the Companies (Meetings of Board and its Powers) Rules, 2021 (Rules) to further amend the provisions of the Companies (Meetings of Board and its Powers) Rules, 2014. The Rules provide for omission of rule 4 of the Companies (Meetings of Board and its Powers) Rules, 2014, by which the restriction on conducting board meeting through audio visuals means/video conference for the below provided agenda items has been done away with:

(i) the approval of annual financial statements;
(ii) the approval of board's report;
(iii) the approval of the prospectus;
(iv) the Audit Committee Meetings for consideration of financial statement including consolidated financial statement, if any, to be approved by the board under sub-section (1) of section 134 of the (Indian) Companies Act, 2013; and
(v) the approval of the matter relating to amalgamation, merger, demerger, acquisition and takeover.

Liberalised Remittance Scheme (LRS) for Resident Individuals – Reporting

On 17 June 2021, RBI issued a circular on reporting under the LRS. Prior to the issue of this circular, AD Category – I banks were required to upload the data in respect of number of applications received and the total amount remitted under the LRS Scheme on Online Return Filing System (ORFS). Now, RBI decided to collect this information through XBRL system instead of the ORFS. Accordingly, AD Category – I banks shall upload the requisite information on XBRL system on or before the 5th of the succeeding month from 1 July 2021 onwards. The XBRL site can be accessed through URL https://xbrl.rbi.org.in/orfsxbrl. User ids are being issued separately. In case no data is to be furnished, AD banks shall upload 'nil' figures.

Framework for administration and supervision of Investment Advisers under the SEBI (Investment Advisers) Regulations, 2013

On 18 June 2021, SEBI issued a Framework for administration and supervision of Investment Advisers (IA) under the SEBI (Investment Advisers) Regulations, 2013. In terms of Regulation 14 of the SEBI (Investment Advisers) Regulations 2013 ("IA Regulations"), SEBI may inter-alia recognize any body or body corporate for the purpose of regulating IAs and delegate administration and supervision of the IAs on such terms and conditions as may be specified. Accordingly, an entity granted recognition under the IA Regulations shall be designated as "Investment Adviser Administration and Supervisory Body" ("IAASB") and shall be entrusted with the administration and supervision of IAs. In this regard, BSE Administration & Supervision Limited (BASL), a wholly owned subsidiary of BSE Limited, has been granted recognition as IAASB for a period of 3 years from 1 June 2021. IAASB shall inter-alia have following responsibilities:

(a) Supervision of IAs including both on-site and offsite
(b) Grievance redressal of clients and IAs
(c) Administrative action including issuing warning and referring to SEBI for enforcement action
(d) Monitoring activities of IAs by obtaining periodical reports
(e) Submission of periodical reports to SEBI
(f) Maintenance of database of IAs

The Board of the IAASB shall, at all times, be chaired by a Public Interest Director and shall also have, at all times, a Director who will bring investor perspective. SEBI shall continue to concurrently administer and supervise all registered IAs and IAASB shall be subject to periodic inspection by SEBI. Pursuant to grant of the aforementioned recognition, SEBI registered IAs are required to ensure compliance with the provisions of this circular.

The Companies (Indian Accounting Standards) Amendments Rules, 2021

The MCA vide its notification dated June 18, 2021 issued the Companies (Indian Accounting Standards) Amendments Rules, 2021 to further amend the provisions of the Companies (Indian Accounting Standards) Rules, 2015.

CORPORATE REGULATORY UPDATES

The Companies (Creation and Maintenance of databank of Independent Directors) Amendment Rules, 2021

The MCA vide its notification dated June 18, 2021 issued the Companies (Creation and Maintenance of databank of Independent Directors) Amendment Rules, 2021, thereby amending the provisions of the Companies (Creation and Maintenance of databank of Independent Directors) Rules, 2019. By way of the amended rules sub rule 8 has been inserted in Rule 3, which provides that in case of delay on the part of an individual in applying to the Indian Institute of Corporate Affairs ("Institute") for inclusion of his name in the data bank maintained for independent directors, or renewal thereof, the Institute shall allow such inclusion or renewal, as the case may be, under rule 6 of the Companies (Appointment and Qualification of Directors) Rules, 2014 after charging a further fees of INR 1000 on account of such delay.

Special Economic Zones (Amendment) Rules, 2021

On 21 June 2021, the Ministry of Commerce and Industry issued the Special Economic Zones (Amendment) Rules, 2021 which comes into effect from 21 June 2021. In terms of these amendment rules the Special Economic Zones Rules, 2006 have been amended. Accordingly, after rule 21 of the Special Economic Zones Rules, 2006, the following rule shall be inserted, namely:

"*21A. Setting up of Unit by Multilateral or Unilateral or International agencies in International Financial Services Centre. –*

(1) A Multilateral agency or Unilateral agency or International agency notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947) shall be allowed to set up their local or regional office in the International Financial Services Centre as an Unit.

(2) The application for setting up and operation of such Unit in the International Financial Services Centre shall be made before the Board of Approval through the concerned Development Commissioner.

(3) The terms and conditions for setting up and operations by such Units shall be laid down by the Board of Approval based on the recommendation of the Development Commissioner.

(4) Notwithstanding anything contained under these Rules, the Board of Approval may exempt such Units from any provisions of these Rules including provisions relating to positive Net Foreign Exchange earning or filing of Annual Performance Report or such other exemption, based on the recommendation of the Development Commissioner.

(5) The proposal for extension of the Letter of Approval of such Units shall be considered by the Board of Approval."

Relaxation for convening extraordinary general meetings through video conference

On account of the situation due to COVID-19, the MCA vide its earlier circulars had, inter alia, allowed Indian companies to convene the extraordinary general meetings of their shareholders through video conference or any other audio visual means till June 30, 2021. In furtherance to the aforesaid relaxation, the MCA issued a fresh circular on June 23, 2021, thereby allowing Indian companies to convene the extraordinary general meeting of their shareholders through video conference or any other audio visual means till December 31, 2021.

Declaration of dividends by NBFCs

On 24 June 2021, the RBI decided to prescribe guidelines on distribution of dividend by NBFCs, in order to infuse greater transparency and uniformity in practice.

These guidelines shall be applicable to all NBFCs regulated by RBI as below:

(a) Applicable NBFCs as defined in Paragraph 2(2) of Non-Banking Financial Company – Systemically Important Non-Deposit taking Company and Deposit taking Company (Reserve Bank) Directions, 2016; and

(b) Applicable NBFCs as defined in Paragraph 2(2) of Non-Banking Financial Company – Non-Systemically Important Non-Deposit taking Company (Reserve Bank) Directions, 2016.

These guidelines shall be effective for declaration of dividend from the profits of the financial year ending 31 March 2022 and onwards. The guidelines provide for the eligibility criteria to declare dividend, quantum of dividend payable and the reporting system.

Micro, Small and Medium Enterprises

On 25 June 2021, the RBI decided to extend the validity of the existing Entrepreneurs Memorandum (EM) Part II and Udyog Aadhaar Memorandum (UAMs) of the MSMEs obtained till 30 June 2020 to remain valid till 31 December 2021. Earlier, the existing Entrepreneurs Memorandum (EM) Part II and Udyog Aadhaar Memorandum (UAMs) of the MSMEs obtained till 30 June 2020 was to remain valid till 31 March 2021. Further, the Government of India, vide their Gazette Notification S.O. 2347(E) dated June 16, 2021, has notified amendments in paragraph (7) sub-paragraph (3) in the notification of Government of India, Ministry of Micro, Small and Medium Enterprises number S.O. 2119 (E), dated June 26, 2020, published in the Gazette of India.

CORPORATE REGULATORY UPDATES

Reserve Bank of India (Call, Notice and Term Money Markets) Directions, 2021

On 25 June 2021, the RBI issued the Reserve Bank of India (Call, Notice and Term Money Markets) Directions, 2021 in terms of which the prudential borrowing limits for transactions in Call, Notice and Term Money Markets have been revised. Accordingly, in Part 4 (b) of the Master Directions - Reserve Bank of India (Call, Notice and Term Money Markets) Directions, 2021 dated 1 April 2021, Table 1 is being revised as under:

Prudential limits for outstanding borrowing transactions in Call, Notice and Term Money Markets.

(1) **Participant Category** - Scheduled Commercial Banks (including Small Finance Banks)

Prudential Limit -

Call and Notice Money:

(i) 100% of capital funds, on a daily average basis in a reporting fortnight, and

(ii) 125% of capital funds on any given day.

Term Money:

(i) Internal board approved limit within the prudential limits for inter-bank liabilities.

(2) **Participant Category** - Payment Banks and Regional Rural Banks

Prudential Limit -

Call, Notice and Term Money:

(i) 100% of capital funds, on a daily average basis in a reporting fortnight, and

(ii) 125% of capital funds on any given day.

(3) **Participant Category** - Co-operative Banks

Prudential Limit -

Call, Notice and Term Money:

(i) 2.0% of aggregate deposits as at the end of the previous financial year.

(4) **Participant Category** - Primary Dealers

Prudential Limit -

Call and Notice Money:

(i) 225% of Net Owned Fund (NOF) as at the end of the previous financial year on a daily average basis in a reporting fortnight.

Term Money:

(i) 225% of Net Owned Fund (NOF) as at the end of the previous financial year.

Amendment to SEBI (Alternative Investment Funds) Regulations, 2012

On 25 June 2021, SEBI issued the Amendment to SEBI (Alternative Investment Funds) Regulations, 2012. The amendments are as follows:

(A) Framework for AIFs to invest simultaneously in units of other AIFs and directly in securities of investee companies

(a) In terms of Regulation 15(1) (c) and (d) of the AIF Regulations, AIFs may invest in an Investee Company up to a specified limit, directly or through investment in the units of other AIFs.

(i) In partial modification to Paragraph 3.f. of SEBI Circular No. CIR/IMD/DF/14/2014 dated June 19, 2014, AIFs may invest in units of other AIFs without labelling themselves as a Fund of AIFs.

(ii) Existing AIFs may also invest simultaneously in securities of investee companies and in units of other AIFs, subject to appropriate disclosures in the Private Placement Memorandum (PPM) and with the consent of at least two-thirds of unit holders by value of their investment in the AIF in terms of Regulation 9(2) of the AIF Regulations.

(iii) AIFs which propose to invest in units of other AIFs shall provide, certain information in their PPMs such as (A) proposed allocation of investment in units of other AIFs; (B) out of total fees and expenses charged to investors of the AIF, portion of fees and expenses which may be attributed to investment in units of other AIFs; (C) process to be followed by the Manager to ensure compliance with investment conditions as specified in Regulation 15 and Regulation 16, 17 or 18 (as applicable) of the AIF Regulations; etc,

(b) In partial modification to Paragraph 3.4. (iii) of the SEBI Circular No. CIR/IMD/DF/10/2013 dated July 29, 2013, Category III AIFs investing in units of other AIFs may undertake leverage not exceeding two times of the value of portfolio (NAV) after excluding the value of investment in units of other AIFs.

(B) Applicability of Code of Conduct on key management personnel

(a) In terms of Regulation 20(1), the key management personnel of the AIF and the Manager shall abide by the Code of Conduct as specified in the Fourth Schedule of the AIF Regulations. For the purpose of this Regulation, 'key management personnel' shall mean:

(i) members of key investment team of the Manager, as disclosed in the PPM of the fund;

(ii) employees who are involved in decision making on behalf of the AIF, including but not limited to, members of senior management team at the level of Managing Director, Chief Executive Officer, Chief Investment Officer, Whole Time Directors, or such equivalent role or position;

(iii) any other person whom the AIF(through the Trustee, Board of Directors or Designated Partners, as the case may be)or Manager may declare as a key management personnel.

(b) AIFs shall disclose the names of all the key management personnel of the AIF and Manager as specified in Paragraph (b)a. above, in their PPMs. Any change in key management personnel shall be intimated to the investors and the Board.

(C) Clarifications with respect to Investment Committee

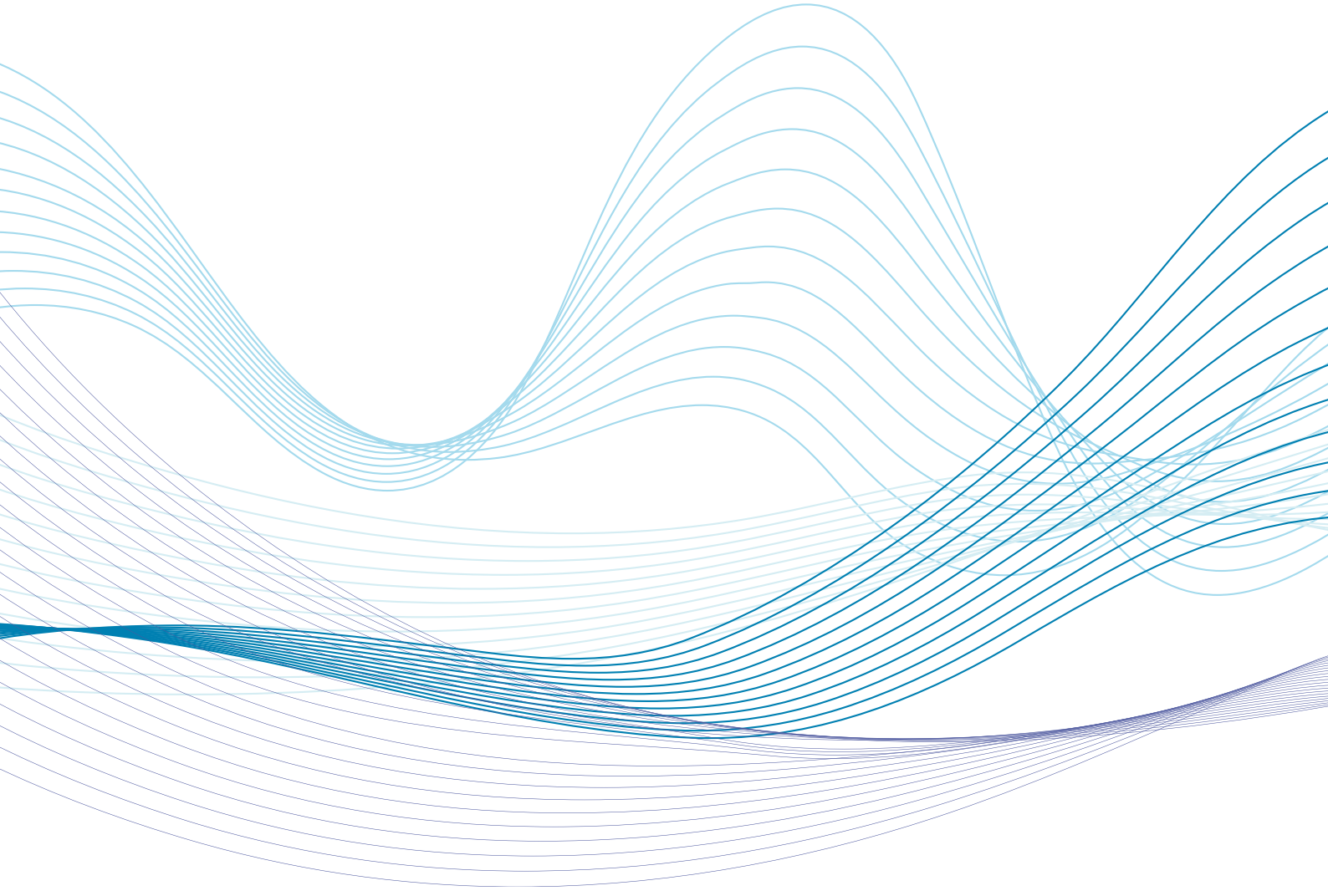
(a) In terms of proviso to Regulation 20(8) of AIF Regulations, there is a requirement to furnish a waiver to AIF in respect of compliance with the said Regulation. The format for waiver to be furnished by the investors in this regard is specified in Annexure I to the aforementioned circular.

(b) For the purpose of Regulation 20(10) of AIF Regulations, consent of the investors of the AIF or scheme may not be required for change in ex-officio external members (who represent the sponsor, sponsor group, manager group or investors, in their official capacity), in the investment committee set up by the Manager.

Guidelines for Managing Risk in Outsourcing of Financial Services by Co-operative Banks

On 28 June 2021, the RBI issued the guidelines for managing risk in outsourcing of financial services by co-operative banks. While it is entirely the banks' prerogative to take a view on the desirability of outsourcing a permissible activity having regard to all relevant factors, including the commercial aspects of the decision, such outsourcing results in banks' being exposed to various risks. To enable the co-operative banks to put in place necessary safeguards for addressing the risks inherent in outsourcing of activities, guidelines on managing risks in outsourcing are given in the annexure to this circular.

Co-operative banks are advised to conduct a self-assessment of their existing outsourcing arrangements and bring the same in line with these guidelines within a period of 6 months from 28 June 2021.



OFFBEAT SECTION

HISTORICAL FACTS "INTERNATIONAL JUSTICE DAY"

*World Day for **International Justice**, also referred to as **Day of International Criminal Justice** or **International Justice Day**, is an international day celebrated throughout the world on **July 17** as part of an effort to recognize the emerging system of international criminal justice. Let's read about some of the historical facts of this day.*

It honors the signing of the Rome Statute, a treaty that established the International Criminal Court on July 17, 1998.

The Nuremberg trials in Germany during World War II were the first time anyone had been tried for crimes against humanity.

Since 1998, the ICC has conducted 200 cases for heinous crimes.

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