

NEWSLETTER

OCTOBER, 2026



Monthly Bulletin



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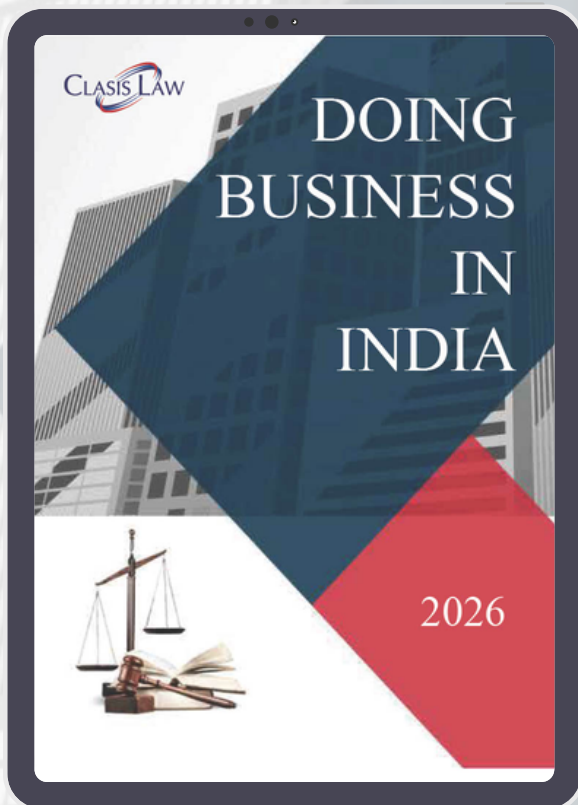
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Notable Recognitions

NEW EDITION 2026

We are pleased to share our e-book titled
"Doing Business in India"



The book deals with several topics which are key for setting up and conducting business in India, including corporate structures, foreign investment, labour and employment, taxation, data protection, white collar crimes, dispute resolution.



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FEATURED ARTICLE



INDIA'S DPDP CONSENT MANAGEMENT ARCHITECTURE FORM NOVEMBER 2026

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Introduction

India's data protection framework has continued to evolve since the enactment of the Digital Personal Data Protection Act, 2023 (the **"DPDP Act"**) and the subsequent introduction of the Digital Personal Data Protection Rules (the **"Rules"**) (together, the **"DPDP regime"**). The broader framework, including the applicability and commencement timeline, processing of personal data based on consent, recognition of consent managers and obligations of data fiduciaries, has already been discussed in our earlier article, which may be accessed [here](#).

The position has since moved beyond the stage of anticipating the road ahead. With the scheduled commencement of the provisions relating to consent managers in November 2026, the regulatory framework is moving towards a more operational phase, including the ability for eligible entities to seek registration as consent managers in accordance with the applicable requirements.

This development gives rise to a new set of practical and legal considerations for organisations, particularly in relation to how data fiduciaries may engage with consent managers within the emerging framework. Against this backdrop, this article examines the current status of the consent manager framework, its legal and operational implications and the key steps that organisations should consider as they prepare for the next stage of implementation of the DPDP regime.

The November 2026 Commencement

The implementation of the DPDP framework has been structured in three stages, with different provisions taking effect at different points in time. The first phase has already commenced, while the second phase is scheduled to take effect in November 2026 and the remaining provisions in May 2027. For consent managers, November 2026 marks an important stage in this transition, as the provisions governing their registration, eligibility, operational requirements and regulatory oversight will become effective. These provisions together establish the statutory framework within which consent managers will operate under the DPDP regime.

(i) Establishing the Registration Requirement: The November 2026 commencement will make registration with the Data Protection Board (**"Board"**) a prerequisite for an entity seeking to operate as a consent manager. This requirement under Section 6(9) of the DPDP Act places consent managers within a formal regulatory structure, with their ability to undertake the role linked to compliance with prescribed technical, operational, financial and other requirements. The significance of this provision is therefore not limited to registration as a procedural step; it establishes that the role of a consent manager can be undertaken only by an entity that has satisfied the regulatory conditions applicable to it.

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(ii) Registration and Operational Requirements: The eligibility framework for consent managers is set out in Rule 4, read with the first schedule to the DPDP Rules, which will also become operational in November 2026. The framework requires an applicant to meet prescribed standards relating to its corporate constitution, financial standing, management, operational capability and technological infrastructure. In particular, the applicant must be a company incorporated in India, maintain a minimum net worth of INR 20 million and demonstrate adequate financial and operational capacity to undertake the role. It must also have an interoperable platform capable of enabling data principals to give, manage, review and withdraw consent. The platform is required to undergo independent certification and incorporate appropriate technical and organisational measures to ensure its reliability and security. Collectively, these conditions establish that registration is intended for entities with the financial capacity, governance framework and technological infrastructure necessary to perform the consent manager function on a continuing basis.

The obligations applicable to a registered consent manager are continuing in nature. Its responsibilities include maintaining records of consents, notices and data sharing for at least seven years and providing data principals access to the relevant records, including in machine-readable form where required. It must maintain appropriate security safeguards and ensure that personal data shared through its platform remains unreadable to the consent manager. The DPDP regime also prescribes safeguards concerning conflicts of interest, management and shareholding disclosures, audit mechanisms, subcontracting and changes in control. These requirements are intended to ensure that entities performing this function maintain appropriate standards of independence, transparency, security and accountability throughout their operation.

(iii) Regulatory Oversight and Enforcement: The November 2026 regime also places registered consent managers under continuing oversight of the Board. The framework enables the Board to require corrective measures where a consent manager does not comply with the applicable requirements and, after providing an opportunity of being heard, suspend or cancel its registration where warranted. In addition, Section 27(1)(d) of the DPDP Act enables the Board to inquire into a breach of a condition of registration upon receiving an intimation of such breach and to impose the prescribed penalty where the breach is established.

Taken together, these provisions establish the regulatory framework for consent managers from November 2026, ahead of the wider commencement of the substantive consent provisions in May 2027. This commencement does not, by itself, require data fiduciaries to appoint or integrate with a Consent Manager.

When Should Organisations Consider a Consent Manager?

Companies that collect personal data from their customers, employees or users for their own purposes operate as data fiduciaries and do not become consent managers merely by obtaining consent. The DPDP regime does not require every data fiduciary to appoint a consent manager, as registration is relevant only to entities intending to operate in that capacity. Data fiduciaries may nevertheless integrate with a registered consent manager where appropriate and should assess whether such integration is required based on the nature of their processing activities and the manner in which consent is obtained, managed and withdrawn.

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Preparing for May 2027

The November 2026 milestone should consequently be treated as an opportunity to test the organisation's readiness for the more substantive phase of implementation. From May 2027, provisions concerning notice, consent, legitimate uses, data fiduciary obligations, data security, breach notification, erasure and data principal rights are scheduled to become operational. Organisations should use the intervening period to undertake a structured review of their existing data practices, including the personal data being processed, the purposes for which it is used, the systems in which it is stored, applicable retention requirements and the third parties with whom it is shared. This should also extend to reviewing existing consent notices, consent-capturing mechanisms and withdrawal processes, and whether these can be effectively implemented across the organisation's systems.

The exercise should not, however, be limited to policy documentation. Organisations should test whether the legal position reflected in their privacy notices is supported by their systems and operational processes. A withdrawal mechanism that exists on paper but does not effectively update downstream processing systems may create a material compliance gap. Similar attention should be given to data flows, internal ownership of consent-related processes and the ability to maintain appropriate records. At the same time, organisations should consider retention requirements arising under other applicable laws and avoid treating erasure obligations in isolation. A balanced approach will therefore be necessary to ensure that legal requirements are reflected in day-to-day data practices while remaining aligned with the organisation's operational needs.

Conclusion

The consent management framework marks a significant development in India's evolving data protection landscape by introducing a regulated mechanism for managing consent between data principals and data fiduciaries. The November 2026 commencement establishes the regulatory foundation for this ecosystem, including the standards applicable to entities seeking to perform the consent manager role and the Board's continuing oversight of such entities.

The broader significance of the complete DPDP regime framework will become clearer as the substantive provisions of the DPDP regime take effect in May 2027. Its effectiveness will depend on how the regulatory framework, consent managers and data fiduciaries operate together in practice, and whether consent management can provide greater transparency and control to data principals while remaining workable for organisations. For organisations, the preparation required for this transition will necessarily vary depending on their business, the nature and volume of personal data handled and the complexity of their data practices. While preparation should begin in advance, organisations that have not yet commenced the exercise still have an opportunity to complete the necessary preparations for implementation before May 2027.

The coming transition will therefore be an important stage in the development of India's data protection framework, with May 2027 bringing the wider obligations into operation and providing greater clarity on how the consent management ecosystem functions within the broader DPDP regime. Ultimately, effective implementation will depend not merely on the existence of policies and regulatory mechanisms, but on their integration into day-to-day business processes.

LEGAL UPDATES

FRAUDULENT INITIATION VS. COLLECTIVE RESOLUTION: EXAMINING THE SUPREME COURT'S RULING IN ORRIS INFRASTRUCTURE V. RAKESH KUMAR GUPTA

Introduction

In a recent judgement concerning *Orris Infrastructure Private Limited v. Rakesh Kumar Gupta & Ors.* [2026 INSC 1070], the Supreme Court of India, examined the power of the Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016 ("**IBC**") to recall the admission of an insolvency application initiated through fraud and collusion. The principal question was whether the discovery of such misconduct necessarily requires termination of the entire Corporate Insolvency Resolution Process ("**CIRP**"), or whether the proceedings may continue in the interests of other creditors and stakeholders. The judgment clarifies the distinction between the fraudulent initiation of insolvency proceedings and their subsequent continuation as a collective process.

Facts of the Case

Orris Infrastructure Private Limited ("**Orris**") owned approximately 47.218 acres of land in Sector 89, Gurugram, Haryana. Under a development agreement dated November 2, 2011, Orris engaged Three C Shelters Private Limited ("**the Corporate Debtor**") to develop a residential project known as Greenopolis, comprising 1,862 flats. The project subsequently encountered substantial delays, leading to disputes involving homebuyers, the landowner and the developer.

The Greenopolis Welfare Association approached the Haryana Real Estate Regulatory Authority ("**HRERA**") seeking directions for completion of the project and delivery of possession. HRERA passed an order on January 23, 2019 directing completion of construction and restricting the use of funds maintained in the escrow account. Subsequent proceedings before the use of funds maintained in the escrow account. Subsequent

use of funds maintained in the escrow account. Subsequent proceedings before the appellate tribunal and the National Consumer Disputes Redressal Commission also addressed the responsibilities of the parties towards homebuyers.

Simultaneously, Straight Edge Contracts Private Limited, claiming to be an operational creditor of the Corporate Debtor, filed an application under Section 9 of the IBC on October 17, 2019. The Corporate Debtor admitted the alleged operational debt through an affidavit and the Adjudicating Authority admitted the application on July 20, 2020, thereby commencing CIRP.

The admission was challenged on the ground that the application had been initiated through fraud and collusion between the operational creditor and the Corporate Debtor. It was alleged that the proceedings were intended to serve the interests of the suspended directors rather than to pursue a bona fide insolvency resolution.

The National Company Law Appellate Tribunal ("**NCLAT**"), by its order dated January 6, 2021, declined to interfere with the admission. It considered the existence of the operational debt and the involvement of other creditors, concluding that setting aside the admission would serve no useful purpose.

The dispute ultimately reached the Supreme Court, which considered two principal questions vis-à-vis whether the Adjudicating Authority could recall an admission obtained through fraudulent or collusive jurisdictional facts, and whether such a finding necessarily required termination of the entire CIRP.

Observations of the Court

The Supreme Court recognised that the Adjudicating Authority possesses the power to recall the admission of an application under

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Sections 7, 9 or 10 of the IBC where the jurisdictional facts forming its basis are subsequently established to be fraudulent and collusive.

The Court rejected the proposition that the Adjudicating Authority becomes entirely *functus officio* after admitting an insolvency application. Fraud cannot be permitted to confer legitimacy upon proceedings initiated by misleading the adjudicatory forum regarding material jurisdictional facts. The power of recall is therefore necessary to preserve the integrity of the insolvency framework.

The Court emphasised that, following admission, CIRP acquires an *in rem* character. The proceedings cease to be the exclusive concern of the original applicant and become a collective process affecting the corporate debtor, its creditors and other stakeholders. Consequently, the fraudulent conduct of the initiating applicant does not automatically extinguish the legitimate interests of other creditors. The insolvency process must be assessed in its entirety, rather than treated merely as a bilateral dispute between the applicant and the corporate debtor.

Further, the Supreme Court clarified that a finding of fraud or collusion does not invariably require termination of the entire CIRP. The Adjudicating Authority must independently determine whether continuation of the proceedings would serve the objectives of the IBC and protect the legitimate interests of other stakeholders. The Court directed that the decision regarding continuation of CIRP must be taken after hearing the resolution professional, the Committee of Creditors, homebuyers and other relevant stakeholders. These considerations must be evaluated consistently with the requirements of integrity, transparency and fairness.

The Supreme Court further observed that where CIRP is found to have been initiated through fraud and collusion, the original applicant should be disallowed from participating in the process.

Proceedings under Section 65 of the IBC may also be initiated, where appropriate. This approach seeks to prevent the misuse of insolvency proceedings without necessarily sacrificing the interests of innocent creditors. It combines accountability for fraudulent conduct with the possibility of preserving a legitimate resolution process.

Consequently, the Supreme Court found that the lower forums had not adequately addressed the consequences of the established collusion. The Adjudicating Authority had incorrectly considered itself lacking the power to recall the admission, while the NCLAT had failed to undertake the necessary independent assessment of whether CIRP should continue.

The Supreme Court therefore set aside the impugned NCLAT orders and restored the proceedings before the Adjudicating Authority. It directed the latter to determine whether CIRP should continue after considering the relevant circumstances, and the Supreme Court did not itself order unconditional continuation or final termination of CIRP. The Supreme Court left that determination to the Adjudicating Authority in accordance with the principles laid down in the judgment.

Conclusion

This judgment provides an important clarification concerning the powers of the Adjudicating Authority under the IBC. It affirms that an admission secured through fraud and collusion is amenable to recall, thereby ensuring that insolvency jurisdiction cannot be exploited through manipulation of jurisdictional facts. Hence, the judgment confirms that fraudulent initiation may justify recall of admission, but the continuation of CIRP must be determined independently in light of the collective interests of stakeholders and the objectives of the IBC. It strengthens procedural integrity while preserving judicial discretion to ensure that innocent stakeholders are not unfairly prejudiced by the misconduct of the original applicant.

COMPILED REGULATORY UPDATES

Securities and Exchange Board of India has issued a Consultation Paper to seek comments/views/suggestions from the public on certain proposals relating to the Closing Auction Session

SEBI has issued a Consultation Paper, on September 12, 2026, to seek comments/views/suggestions from the public on certain proposals relating to the Closing Auction Session ("CAS"), settlement methodology for derivatives contracts and market timings. Based on the initial experience with CAS and feedback received from various stakeholders and market participants, SEBI has proposed, inter alia, changes in the settlement methodology for index and stock derivatives, non-dissemination of IEP-derived Indicative Index Value during CAS, reduction of the transition period from five minutes to up to one minute, reduction of the post-CAS derivatives trading period from ten (10) minutes to five (5) minutes, and transition of unexecuted Iceberg orders from CTS to CAS. The comments/suggestions were invited to be submitted to SEBI latest by October 3, 2026.

Reserve Bank of India vide a notification has amended the Foreign Exchange Management (Export and Import of Goods and Services) Regulations, 2026

The Reserve Bank of India ("RBI"), vide Notification No. FEMA 23(R)/(1)/2026-RB dated September 22, 2026, has amended the Foreign Exchange Management (Export and Import of Goods and Services) Regulations, 2026, effective October 1, 2026. The amendment reduces the timeline for realisation and repatriation of export proceeds from 15 months to 9 months, and the extended period under the first proviso from 18 months to 12 months. Further, exporters appearing on the Caution List as on September 30, 2026 will continue to be governed by the existing orders until their removal from the Caution List. The amendment also empowers Authorised Dealers to handle certain export, import and merchanting trade transactions undertaken prior to October 1, 2026, which previously required RBI approval.

Insolvency and Bankruptcy Board of India vide a notification notified the Insolvency and Bankruptcy Board of India (Liquidation Process) (Fifth Amendment) Regulations, 2026 to amend the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016

The Insolvency and Bankruptcy Board of India, through a notification dated September 22, 2026, notified the Insolvency and Bankruptcy Board of India (Liquidation Process) (Fifth Amendment) Regulations, 2026 to amend the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. The amendment substitutes sub-regulations (3) and (4) of Regulation 31 with a new sub-regulation (3), under which the liquidator may modify an entry in the list of stakeholders upon coming across additional information warranting such modification. The liquidator is required to intimate the Adjudicating Authority regarding such modification within 30 days of making the modification. The amendment comes into force from the date of its publication in the Official Gazette.

COMPILED REGULATORY UPDATES

Ministry of Corporate Affairs has issued an advisory to the common public about 'Nidhi Companies'

The Ministry of Corporate Affairs ("**MCA**"), dated September 22, 2026, has issued an advisory to the common public about 'Nidhi Companies' and their functioning, warning against investment decisions without their proper background check, especially if there is a promise of high returns. Every company desirous to function as "Nidhi" is required to file application in Form "NDH-4" for getting itself declared/ updated as "Nidhi". The Nidhi companies are mutual-benefit companies regulated by the MCA under the Companies Act, 2013 and Nidhi Rules, 2014, which can accept deposits and give loans only to their members. A list of 395 companies declared as Nidhis by the Central Government is published on MCA portal.

It has come to the notice that many companies lure their members by promising unusually high returns. Hence, Members of the public are advised not to rely solely on promises of unusually high returns by agents or informal assurances while making financial decisions and to independently verify whether the company has been declared as a Nidhi by the Central Government and should carefully consider the term.

WORLD SPACE WEEK

World Space Week, observed annually from 4 to 10 October, is the world's largest annual space event, celebrating the contribution of space science and technology to humanity. Proclaimed by the United Nations General Assembly through Resolution 54/68 in 1999, the observance commemorates two significant milestones: the launch of Sputnik 1, the first human-made satellite to orbit the Earth, on 4 October 1957, and the entry into force of the Outer Space Treaty on 10 October 1967. These milestones reflect both the beginning of the Space Age and the international commitment to the peaceful exploration and use of outer space.

The theme for 2026, Rocket Revolution, highlights the rapid transformation of space launch capabilities through reusable rockets, commercial spaceflight, technological innovation and increased participation by emerging spacefaring nations. Space exploration, once largely driven by government-funded programmes, is increasingly shaped by private enterprises, research institutions and international partnerships. These developments are expanding access to orbit and creating new opportunities in satellite communications, scientific research, navigation and Earth observation.

However, this transformation also raises important questions concerning the sustainability of space activities, orbital debris, environmental impact and equitable access to space. It underscores the need for international cooperation and effective regulatory frameworks to ensure that technological advancement is accompanied by responsible conduct. The Outer Space Treaty remains a cornerstone of international space law, establishing fundamental principles governing the exploration and use of outer space. World Space Week serves as an important platform for public engagement, scientific education and international collaboration, particularly among young people. As commercial and national space capabilities continue to expand, the Rocket Revolution represents more than a technological milestone; it highlights the importance of balancing innovation with legal accountability, environmental responsibility and the peaceful use of outer space for the benefit of all humankind.

Notable Recognitions & Accolades

