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DOING BUSINESS IN INDIA

We are pleased to share our e-book titled

"Doing Business in India"

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The book intends to give the readers an overview of the various aspects of doing business in India including but not limited to the applicable legislations, compliances and processes.

REFORMS IN INDIA'S ECB FRAMEWORK: RBI AMENDS FEMA BORROWING AND LENDING REGULATIONS

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INTRODUCTION

The Reserve Bank of India (**"RBI"**) regulates cross-border financial transactions in India under the provisions of the Foreign Exchange Management Act, 1999 (**"FEMA"**). FEMA aims to facilitate cross-border trade, payments, and to promote the orderly development and maintenance of the foreign exchange market in India. In pursuance of this objective, the RBI issued the Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 (**"Principal Regulations"**), which govern borrowing and lending transactions between a person resident in India and a person resident outside India.

On October 1, 2025, the RBI issued a Press Release on the Statement on Developmental and Regulatory Policies, and announced a review of the External Commercial Borrowings (**"ECBs"**) framework with the objective of rationalising and simplifying the regulations governing ECBs under the Principal Regulations. The review proposed expansion of the eligible borrower and recognised lender base, rationalisation of borrowing limits and maturity requirements, removal of restriction on the cost of borrowing, review of end-use restrictions and simplification of reporting requirements. Subsequently, after considering stakeholders feedback on the draft framework issued, the RBI notified the Foreign Exchange Management (Borrowing and Lending) (First Amendment) Regulations, 2026 (**"Amended Regulations"**) on February 16, 2026, introducing significant reforms to the ECB framework.

KEY CHANGES INTRODUCED BY THE AMENDED REGULATIONS

- **Consolidated regulatory framework:** While the Principal Regulations provided a broad framework, the ECBs were mostly governed by the Master Directions issued by the RBI in this regard. The Amended Regulations now provide a consolidated framework for ECB provisions.

- **Expansion of Eligible Borrowers:** Under the earlier framework, ECBs could generally be raised only by entities that were eligible to receive foreign direct investment under the extant FDI policy. The Amended Regulations broaden this scope by permitting any person resident in India, other than individuals, incorporated or registered in India under a Central or State Act to raise ECBs, subject to compliance with applicable laws and regulatory requirements. Further, the entities undergoing a restructuring scheme or corporate insolvency resolution process can also raise ECBs, subject to applicable terms and conditions.

- **Expansion of Recognised Lenders:** Under the earlier framework amongst other conditions the lender should be a resident of Financial Action Task Force ('FATF') or the International

Organisation of Securities Commission ('IOSCO') compliant country. Under the revised framework, ECBs may be raised from any person resident outside India, including foreign branches of an entity whose lending business is regulated by the RBI and financial institutions or branches thereof located in International Financial Services Centres (**IFSCs**), subject to the applicable regulatory conditions.

- **Rationalisation of Borrowing Limits:** Under the earlier ECB framework, borrowing limits varied depending on the category of borrower and the applicable regulatory conditions prescribed by the RBI. Under the revised ECB framework notified by the RBI pursuant to the amendments, eligible borrowers may raise ECB up to the higher of following: (i) outstanding ECB up to USD 1 billion or (ii) total outstanding borrowing up to 300% of their net worth, subject to compliance with the conditions specified under the ECB framework from time to time. This provides an increased financial flexibility for borrowers having better financial strength.

- **Rationalisation of Maturity Requirements:** Under the earlier framework, minimum average maturity period (**"MAMP"**) varied from one to ten years depending on the sector, amount of ·borrowing and the end-use of funds. The revised framework introduces a simplified maturity structure by prescribing a general MAMP of three years. Further relaxations have been provided in specific situations, including for manufacturing sector entities, as well as in cases involving conversion, waiver of ECBs, and certain corporate actions such as closure, merger, demerger, arrangement, acquisition of control, amalgamation, resolution, or liquidation,subject to specified conditions and exceptions.

- **Removal of Restrictions on Cost of Borrowing:** Under the earlier framework, ECBs were subject to an "all-in-cost ceiling" prescribed by the RBI, which placed limits on the total cost of borrowing, including interest, fees and other charges payable in foreign currency. The Amended Regulations remove this regulatory ceiling and provide that the cost of borrowing shall be determined in line with prevailing market conditions, subject to compliance with applicable laws. This change provides greater flexibility to borrowers and lenders in negotiating financing arrangements and aligning borrowing terms with international market practices.

- **Review of End-Use Restrictions:** The Amended Regulations clarify the framework governing the utilisation of proceeds raised through ECB. Under the revised framework, ECB proceeds continue to be restricted from being utilised for certain activities such as chit funds, Nidhi companies, real estate business and construction of farm houses, agricultural and plantation activities, except where specifically permitted under the regulatory framework. The framework also provides restrictions on the utilisation of ECB proceeds for repayment of domestic loan in INR and investment in capital markets and equity investment domestically except in the case of certain corporate actions.

- **Simplification of Reporting Requirements:** Under the earlier framework, borrowers were required to file Form ECB for providing details of ECB and obtaining the Loan Registration Number (**"LRN"**), revised Form ECB for reporting changes in ECB parameters within seven days from the date of such change, and Form ECB-2 Return for reporting ECB transactions monthly. Under the Amended Regulations, the reporting structure has been rationalised by introducing Form ECB-1 for obtaining the LRN and reporting details of the ECB, and

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Revised Form ECB-1 for reporting changes in previously reported ECB parameters within seven days from the end of the month in which such change was given effect. Further, Form ECB-2 is now required to be filed for reporting receipt of ECB proceeds and debt servicing within seven days from the end of the month in which such transaction occurred, including any transaction that alters the outstanding borrowing under a particular LRN. Consequently, the reporting framework has shifted from recurring to an event-based reporting mechanism, which is applicable to both new and existing ECBs.

CONCLUSION

The Foreign Exchange Management (Borrowing and Lending) (First Amendment) Regulations, 2026 represent an important development in India's regulatory framework governing ECBs. The amendments expand the scope of eligible borrowers and recognised lenders, rationalise borrowing limits and maturity requirements, remove restrictions on the cost of borrowing, and streamline reporting and compliance procedures. Collectively, these changes provide Indian entities with greater flexibility in accessing overseas financing and enable funding arrangements that are more aligned with prevailing market conditions.

At the same time, the continued presence of end-use restrictions and regulatory oversight ensures that ECB proceeds are utilised in accordance with the prescribed regulatory framework. The amendments therefore reflect a balanced approach aimed at facilitating access to international capital while maintaining appropriate safeguards within India's foreign exchange management regime.

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Disclaimer: This publication is intended for informational purposes only and does not purport to cover every aspect of the laws, regulations, or procedures relating to India's path from informality to corporatisation. This publication should not be construed as legal, financial, or professional advice. Readers are encouraged to seek appropriate professional guidance before making any decisions.

SINGLE INSOLVENCY PETITION FOR INTERCONNECTED CORPORATE ENTITIES UNDER THE IBC

Introduction

In a recent decision concerning Satinder Singh Bhasin v. Col. Gautam Mullick & Ors.,[1] the Hon'ble Supreme Court addressed significant questions concerning the initiation of corporate insolvency resolution proceedings (CIRP) by allottees in a real estate project under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC). The case examines the threshold requirements for allottees as financial creditors, the existence of a financial debt and default, and the permissibility of promoter-led settlements once insolvency proceedings have been validly admitted. The ruling also reinforces the statutory framework governing real estate insolvency and clarifies the limits of judicial interference with the admission of CIRP by the adjudicating authority.

Facts of the Case

The dispute arose from a commercial real estate project known as the Grand Venezia Commercial Tower, which formed part of a larger development including a mall, hotel, and cineplex complex. The land for the project had been leased by the Uttar Pradesh State Industrial Development Authority (UPSIDA) to Bhasin Infotech and Infrastructure Pvt. Ltd., while Grand Venezia Commercial Towers Pvt. Ltd. was responsible for marketing and selling office units in the project.

A group of 141 allottees of office spaces filed an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 before the National Company Law Tribunal (NCLT), alleging that despite having paid substantial amounts for their units, the developers had failed to complete the project and deliver possession within the promised timeline. Possession had initially been assured by May 2013, but the allottees contended that the project remained incomplete and lacked the necessary statutory approvals required for lawful occupation.

Accepting the submissions of the allottees, the NCLT admitted the petition on 4 December 2023 and initiated the CIRP against both corporate entities (i.e. Bhasin Infotech and Infrastructure Pvt. Ltd. and Grand Venezia Commercial Towers Pvt. Ltd.) involved in the project. NCLT held that the allottees qualified as financial creditors and that the delay in delivery of possession constituted a default under the IBC.

The directors of the corporate entities challenged this decision before the National Company Law Appellate Tribunal (NCLAT), which dismissed the appeals and upheld the order of the NCLT. Aggrieved thereby, the appellants approached the Supreme Court, challenging the maintainability of the insolvency petition and the initiation of CIRP against the companies.

Observations of the Court

The Supreme Court considered several issues relating to the maintainability of the insolvency proceedings and the alleged delivery of possession to the allottees.

The argument of the appellant that a single insolvency petition could not be maintained against two separate corporate entities was addressed by the Court. The Court observed that both companies were closely interconnected in the development and marketing of the project. They shared

common directors and had jointly interacted with the allottees regarding the project. In such circumstances, initiating insolvency proceedings against both entities through a common petition was justified to ensure an effective resolution of the project.

The Court further examined the statutory threshold requirement under the second proviso to Section 7(1) of the IBC, which requires that at least one hundred allottees or ten percent of the total number of allottees must support the insolvency application. The appellants argued that several allottees had subsequently settled their claims, thereby reducing the number of petitioners below the statutory requirement.

The Court rejected this contention and clarified that the relevant date for determining compliance with the threshold requirement is the date of filing of the application. If the requirement is satisfied at the time of filing, subsequent withdrawals or settlements by some allottees do not affect the maintainability of the petition.

The Court also considered the issue of whether possession of the units had been delivered to the allottees. It held that mere issuance of possession letters or granting physical access to the premises does not amount to valid possession if essential statutory approvals have not been obtained. In the present case, the project lacked the final completion certificate and certain mandatory legal formalities had not been completed. Consequently, the Court concluded that the developers had failed to deliver legally valid possession to the allottees.

The Court further declined to interfere with the NCLAT's refusal to permit the appellants to deposit ₹15.62 crores as a measure of settlement, observing that the proposal was based on an incorrect assumption regarding the number of remaining claimants.

Conclusion

This ruling provides important clarity on the rights of real estate allottees under the IBC and reinforces the integrity of the CIRP mechanism. The Court has strengthened creditor protection in the real estate sector by affirming that allottees can validly trigger insolvency proceedings upon meeting statutory thresholds and demonstrating default, through a single petition against multiple corporate entities jointly involved in a real estate project.

This decision also underscores that post-admission attempts by promoters to settle selectively with few creditors will not ordinarily derail insolvency proceedings, especially where such offer lacks a sound factual basis. Therefore, the judgment reflects a consistent judicial approach favouring transparency, statutory compliance, and collective resolution over ad hoc settlements in insolvency matters.

FOOTNOTES :

[1] Satinder Singh Bhasin v. Col. Gautam Mullick & Ors., Civil Appeal No. 13628 of 2025.

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1. Securities Exchange Board of India (**"SEBI"**) by press release dated Jan 30, 2026 has announced a special one-time window to help investors who could not transfer and dematerialise their physical securities before April 1, 2019 due to procedural or documentation issues. This window will be open from February 5, 2026 to February 4, 2027, allowing investors to complete the transfer-cum-dematerialisation process and gain rightful access to their securities. The provisions of the circular come into effect from February 05, 2026.

2. SEBI on February 1, 2026 has issued a Master Circular to consolidate and streamline all circulars issued under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations) for listed entities. With the issuance of this Master Circular, all previous directions and instructions covered under the circulars listed in its appendix stand rescinded to the extent they relate to compliance with the LODR Regulations.

3. On February 6, 2026, the International Financial Services Centres Authority (**"IFSCA"**) issued a circular on *"Directions for obtaining International Securities Identification Numbers (ISINs) from a recognised depository in IFSC".* IFSCA noted that while some units operating in the IFSC obtain ISINs from the recognised depository in the IFSC, several units in the IFSC continue to obtain ISINs and hold their securities with the domestic depositories in India. Accordingly, IFSCA has directed that all units in the IFSC intending to dematerialise securities or other permitted financial products shall obtain ISINs from a depository recognised by the IFSCA. Further, the units in IFSC which have already obtained ISINs from the domestic depositories in India for the securities or other permitted financial products, shall obtain new ISINs from a depository recognised by the IFSCA, by August 31, 2026. For removal of doubt, IFSCA has clarified that an issuer may continue to avail the services of International Central Securities Depositories for issuance and listing of debt securities and other financial products.

4. The Department for Promotion of Industry and Internal Trade in supersession of gazette Notification No. G.S.R. 127(E) dated February 19, 2019, released a notification regarding revision of eligibility criteria for definition of recognized startups. The revised framework expands the definition of eligible startups by increasing the turnover threshold for general startup recognition to INR 200,00,00,000 (Indian Rupees Two Hundred Crores) and introducing a distinct

regulatory category for deep tech startups, recognising the longer gestation period of twenty years as against ten years for others and an enhanced turn over ceiling of INR 300, 00,00,000 (Indian Rupees Three Hundred Crores).

5. IFSCA on 26 February 2026, issued amendments/clarifications to the International Financial Services Centres Authority (Registration of Insurance Business) Regulations, 2021, with a view to further streamlining the registration framework for insurance entities operating in International Financial Services Centres (IFSCs). These regulations consolidated and amended up to 08 January, 2026, set out the eligibility and procedural requirements for Indian and foreign insurers and re-insurers to register with IFSCA prior to commencing insurance or re-insurance activities within IFSCs, 1.including provisions on governance, solvency, capital and permissible activities, thereby enhancing regulatory clarity and streamlining entry norms for global insurance players.

6. The Insolvency and Bankruptcy Board of India, on February 25, 2026, issued the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2026. Exercising powers under section 196 read with section 240 of the Insolvency and Bankruptcy Code, 2016, the amendment updates the 2016 regulations governing corporate insolvency resolution. Key amendments include a revised definition of “fair value,” the appointment of two sets of registered valuers for fair value and liquidation value determination, and detailed methodology for valuation, including roles of coordinating valuers, computation, averaging of estimates, and provisions for a third set of valuers in case of significant differences.

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OFF BEAT SECTION

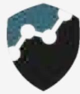
WORLD CONSUMER RIGHTS DAY

World Consumer Rights Day is observed globally on **March 15** to raise awareness about the rights and protection of consumers. The day highlights the importance of fair trade practices, product safety, transparency, and access to accurate information so that consumers can make informed choices in the marketplace. It also serves as an opportunity for governments, businesses, and consumer organisations to reflect on emerging challenges faced by consumers and to strengthen mechanisms that safeguard their interests. The origin of World Consumer Rights Day trace back to **15 March 1962**, when U.S. President John F. Kennedy addressed the U.S. Congress and formally recognised four fundamental consumer rights: the right to safety, the right to be informed, the right to choose, and the right to be heard. This historic recognition laid the foundation for the modern consumer rights movement. In 1983, consumer advocacy groups began observing **March 15 as World Consumer Rights Day**, and since then it has grown into a global event led by consumer protection organisations around the world.

The theme for **World Consumer Rights Day 2026** is "Safe Products, Confident Consumers", it focuses on strengthening product safety in an increasingly interconnected and digital marketplace. With the rapid expansion of global supply chains and online retail platforms, consumers today have access to a wider range of goods than ever before. However, this also raises concerns about unsafe, defective, or non-compliant products entering markets and reaching consumers. The 2026 theme emphasises the need for stronger regulatory frameworks, better monitoring of product safety, and increased accountability from manufacturers and sellers. Ensuring that products meet safety standards not only protects consumers from harm but also builds trust in markets and promotes responsible business practices. Ultimately, **World Consumer Rights Day** reminds us that well informed and protected consumers are essential to a fair and sustainable economy. Strengthening consumer awareness and enforcing safety standards are key steps toward creating markets that are transparent, accountable, and safe for everyone.

Notable Recognitions & Accolades

LEXOLOGY
Legal Influencer



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