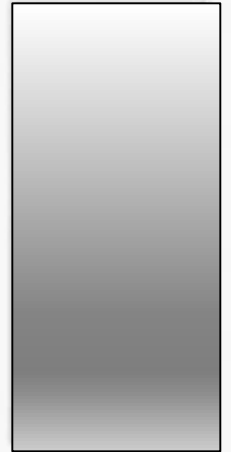


LEGALITE ADVISORS

IMPORTANT LEGAL UPDATES FOR AUGUST, 2022



Ministry of Corporate Affairs

- **Reference:** G.S.R 663 (E) - The Companies (Acceptance of Deposits) Amendment Rules, 2022
- **Notification Date:** August 29, 2022
- **Effective Date:** August 29, 2022
- **Subject:** Amendment to rule 16 of the Companies (Acceptance of Deposits) Rules, 2014 and substitution of formats of e-forms DPT- 3 and DPT- 4 ("**Notification**").
 - ✓ The Ministry of Corporate Affairs ("MCA") has vide the Notification further amended the Companies (Acceptance of Deposits) Rules, 2014 as under:
 - *"(a) in rule 16, after the words 'auditor of the company', the words, letters and figure 'and declaration to that effect shall be submitted by the auditor in Form DPT-3' shall be inserted.*

Accordingly, the auditor of the company has to submit a declaration in e-form DPT-3 while filing the said return. While the said amendment has been made applicable from 'Date of publication in the official gazette', the revised format will be actually relevant for the filing of e-form DPT-3 for FY 23, since the due date for filing e-form DPT-3 for FY22 has already expired on June 30, 2022.

- The formats of e-form DPT-3 i.e. Return on deposits and e-form DPT-4 i.e. Statement regarding deposits existing as on the date of commencement of the Act, has been amended pursuant to the Notification.

Ministry of Corporate Affairs (Contd...)

▪ **Link of the Notification:**

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MTc4NzQ1NTc4&docCategory=Notifications&type=open>

Ministry of Corporate Affairs (Contd...)

- **Reference:** G.S.R 662(E) - The Companies (Appointment and Qualification of Directors) Third Amendment Rules, 2022.
- **Notification Date:** August 29, 2022.
- **Effective Date:** August 29, 2022.
- **Subject:** Substitution of formats of e-forms DIR-3 KYC and DIR-3 KYC Web (“**Notification**”)
 - ✓ The Ministry of Corporate Affairs (“**MCA**”) has *vide* this Notification further amended the Companies (Appointment and Qualification of Directors) Rules, 2014 pursuant to which the formats of KYC of Directors viz. DIR-3 KYC and DIR-3 KYC Web have been substituted with the respective formats provided in the Notification.
- **Link of the Notification:**
<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MTc4NzQ2NTk4&docCategory=Notifications&type=open>

Ministry of Corporate Affairs (Contd...)

- **Reference:** G.S.R 664(E) - The Companies (Registration of Charges) Second Amendment Rules, 2022.
- **Notification Date:** August 29, 2022.
- **Effective Date:** August 29, 2022.
- **Subject:** Substitution of formats of e-forms CHG-1, CHG-4, CHG-6, CHG-8 and CHG-9 (“**Notification**”).
 - ✓ The Ministry of Corporate Affairs (“**MCA**”) has *vide* the Notification further amended the Companies (Registration of Charges) Rules, 2014 (“**Principal Rule**”) pursuant to which a new rule 13 has been inserted after rule 12 of the Principal Rule. The said insertion of rule 13 *inter alia* mandates the insolvency resolution professional or resolution professional or liquidator for companies under resolution or liquidation to sign e-form pertinent to charge viz. CHG-1, CHG-4, CHG-8 and CHG-9 (“**Charge Forms**”).
 - ✓ The said Charge Forms shall be substituted with the new formats annexed to the Notification.
- **Link of the Notification:**
<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MTc4Nzc1MjU1&docCategory=Notifications&type=open>

Ministry of Corporate Affairs (Contd...)

- **Reference:** G.S.R 658(E) - The Companies (Removal of Name of Companies from the Registrar of Companies) Second Amendment Rules, 2022.
 - **Notification Date:** August 24, 2022.
 - **Effective Date:** August 24, 2022.
 - **Subject:** Alterations in Form no. STK-1, STK-5 and STK-5A (**“Notification”**).
- ✓ The Ministry of Corporate Affairs (**“MCA”**) has *vide* the Notification introduced few alterations in Form no. STK-1, STK-5 and STK-5A as under, to bring the same in line The Companies (Incorporation) Third Amendment Rules, 2022

Sl. No.	Form No.	Amendments/Alterations
1	STK-1	In paragraph (1), for the brackets and words <i>“(tick whichever is applicable)”</i> , the words <i>“ the company is not carrying out under sub-section (9) of section 12</i> <i>(tick whichever is applicable)”</i> shall be substituted.

Ministry of Corporate Affairs (Contd...)

Sl. No.	Form No.	Amendments/Alterations
1	STK-1	<p>In paragraph (1), for the brackets and words “<i>(tick whichever is applicable)</i>”, the words “<i>the company is not carrying out under sub-section (9) of section 12</i>” shall be substituted.</p> <p><i>(tick whichever is applicable)</i>” shall be substituted.</p>
2	STK-5	<p>In paragraph (1), after sub-paragraph (iii) and before the long line, the following shall be inserted, namely:-</p> <p><i>“(iv) the following companies are not carrying on any business or operations, as revealed after the physical verification carried out under sub-section (9) of section 12.</i></p> <p>M/s. _____ (indicate names of companies)</p> <p>M/s. _____.”</p>

Ministry of Corporate Affairs (Contd...)

Sl. No.	Form No.	Amendments/Alterations
3	STK-5A	<p>In paragraph (1), for the brackets and words “[Strike off whichever is not applicable]”, the following shall be substituted namely:-</p> <p>(iv) are not carrying any business or operations, as revealed after the physical verification carried out under sub-section (9) of section 12.</p> <p>[Strike off whichever is not applicable]”</p>

▪ **Link of the Notification:**

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MTc4NzM3NTM2&docCategory=Notifications&type=open>

Ministry of Corporate Affairs (Contd...)

- **Reference:** G.S.R 643 (E) - The Companies (Incorporation) Third Amendment Rules, 2022.
- **Notification Date:** August 18, 2022.
- **Effective Date:** August 18, 2022
- **Subject:** Physical verification of the registered office of the company by the Registrar of Companies (“**Notification**”).
- ✓ The Ministry of Corporate Affairs (“**MCA**”) has *vide* the Notification inserted a new rule 25B (“*Physical verification of the Registered Office of the Company*”) after rule 25A of the Companies (Incorporation) Rules, 2014, key highlights whereof are summarised below.
 - The Registrar shall, per the data and documents available on the MCA Portal, carry out physical verification of the registered office of the company.
 - The said physical verification shall be carried out manner in presence of the two independent witnesses of the locality in which the registered office of the company is situated and may also seek assistance of the local police if the situation warrants the same.
 - To check the authenticity of documents, the same should be cross verified with the copies of supporting documents of such address collected during the physical verification, duly authenticated from the occupant of the property where the registered office is situated.

Ministry of Corporate Affairs (Contd...)

- The Registrar shall take a photograph of the registered office at the time of physical verification and prepare a physical verification report which shall *inter alia* contain name, CIN, latest address of the registered office, name of Registrar of Companies, date and time of physical verification, location details, person available at the time of physical verification, remarks etc.
- Where the registered office of the company is found to be not capable of receiving and acknowledging all communications and notices, the Registrar shall send a notice to the company and all the directors of the company, of its intention to remove the name of the company from the RoC and requesting them to send their representations along with copies of relevant documents, if any, within a period of 30 (thirty) days from the date of the notice before taking further actions.
- The Notification removes discretion of authorities by introducing a detailed process for physical verifications of the registered office under the Companies Act, 2013.
- **Link of the Notification:**
<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MTcyODE0NDc2&docCategory=Notifications&type=open>

Ministry of Corporate Affairs (Contd...)

- **Reference:** G.S.R 624(E) - The Companies (Accounts) Fourth Amendment Rules, 2014.
- **Notification Date:** August 05, 2022.
- **Effective Date:** August 05, 2022.
- **Subject:** Amendment to the Companies (Accounts) Rules, 2014 pertaining to maintaining of books by companies (**“Notification”**).
- ✓ The Ministry of Corporate Affairs (**“MCA”**) has *vide* the Notification further amended the Companies (Accounts) Rules, 2014 (**“Principal Rules”**), as under:
 - *In rule 3, in sub-rule (1) of the Principal Rules, for the words “accessible in India”, the words “accessible in India, at all times,” shall be substituted;*

Accordingly, pursuant to the Notification, the companies are now required to maintain books of accounts and other documents in electronic mode which shall remain ‘**accessible in India, at all times**’, as opposed to erstwhile ‘*accessible in India*’, which now allows for an augmented level of access and scrutiny by Indian authorities.

- *In rule 3, in sub-rule (5) of the Principal Rules, in the proviso, for the words “periodic basis”, the words “daily basis” shall be substituted;*

Ministry of Corporate Affairs (Contd...)

In order to ensure the proper storage of the books of accounts and other documents maintained in electronic mode, MCA has suggested that there shall be a proper system for storage, retrieval, display or printout of the electronic records and that the back-up of the books of account and other books and papers of the company maintained in electronic mode, including at a place outside India, if any, shall be kept in servers physically located in India on a '**daily basis**' and not just on a '**periodic basis**'.

- *In sub-rule (6), after clause (d) of the Principal Rules, the following clause shall be inserted, namely:- “(e) where the service provider is located outside India, the name and address of the person in control of the books of account and other books and papers in India.”.*
- The Notification requires the companies to maintain the name and address of the person in control of the books of account and other books and papers in India where the service provider is located outside India.
- **Link of the Notification:**
<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MTcyODIyOTI0&docCategory=Notifications&type=open>

Securities Law

- **SEBI Circular Reference:** SEBI/HO/AFD-1/PoD/CIR/P/2022/108
- **Notification Date:** August 17,2022.
- **Effective Date:** August 17,2022
- **Subject of the Notification:** Guidelines for overseas investment by Alternative Investment Funds (AIFs) / Venture Capital Funds (VCFs).
- **Analysis:** The Securities Exchange Board of India (“**SEBI**”) has updated the framework applicable to Alternative Investment Funds (AIFs) / Venture Capital Funds (VCFs), seeking to make portfolio investments in offshore companies, details whereof are given below:
 - ✓ The need for AIFs/VCFs to invest in the overseas investee company having Indian connection has been done away with. This move will enable domestic funds to explore investments in offshore companies with overseas operations without requiring an Indian connection.
 - ✓ SEBI has standardized and simplified the application process by prescribing an application format (as per the Annexure A of this Circular) required to be submitted by the AIFs/VCFs aspiring to get SEBI approval for making offshore investments.
 - ✓ AIFs/VCFs shall invest in an overseas investee company, which is incorporated in a country whose securities market regulator is a signatory to the:

Securities Law (Contd...)

- International Organization of Securities Commission's Multilateral Memorandum of Understanding (Appendix A Signatories) or
- bilateral Memorandum of Understanding with SEBI.
- ✓ AIFs and VCFs shall not invest in an overseas investee company which is incorporated in a country identified in the public statement of Financial Action Task Force ("**FATF**") as:
 - Nations having anti-money laundering or tackling the financing of terrorism deficiencies to which counter measures apply or
 - Nations that have not made satisfactory progress in addressing the deficiencies or has uncommitted to the action plan developed with FATF to address the deficiencies.
- ✓ If an AIF/VCF liquidates investment made in an overseas investee company, the sale proceeds received from such liquidation, to the extent of investment made in the said overseas investee company shall be available to all AIFs/VCFs (including the selling AIF/VCF) for reinvestment. The said change can be inferred to mean that AIFs/ VCFs don't have to take fresh SEBI approval for acquiring interest in a new portfolio entity in case of reinvestments.
- ✓ AIFs/ VCFs shall transfer or divest in overseas investee company only to the entities permitted to undertake offshore investments in accordance with the Foreign Exchange Management Act, 1999.
- ✓ The Trustee/Board/Designated Partners of the AIFs/VCFs shall submit an undertaking to SEBI as specified in **Annexure A** wrt the proposed overseas investment.

Securities Law (Contd...)

- ✓ AIFs/ VCFs will have to furnish divestment details of the overseas investments to SEBI per the format prescribed in Annexure B within 3 working days of divestments. Also all the past disinvestments till the date made by AIFs / VCFs shall be reported to SEBI as per the format prescribed in **Annexure B** within 30 days of the Circular.
- **Link of the Notification.**
<https://www.sebi.gov.in/legal/circulars/aug-2022/guidelines-for-overseas-investment-by-alternative-investment-funds-aifs-venture-capital-funds-vcfs-62020.html>

Securities Law (Contd...)

- **SEBI Circular Reference:** SEBI/HO/ISD/ISD-SEC-4/P/CIR/2022/107
- **Notification Date:** August 05, 2022.
- **Effective Date:** September 30, 2022.
- **Subject of the Notification:** Trading Window closure period under Clause 4 of Schedule B read with Regulation 9 of SEBI (Prohibition of Insider Trading) Regulations, 2015 – Framework for restricting trading by Designated Persons by freezing PAN at security level.
- **Analysis:** The Securities Exchange Board of India (“SEBI”) issued a circular on “**Framework for restricting trading by Designated Persons (“DPs”) by freezing PAN at security level**” on August 05, 2022 with the intention to strengthen and practically bring in force regulation 9 of SEBI (Prohibition of Insider Trading) Regulations, 2015 pertaining to closure of Trading Window.
- **Applicability**
 - ✓ Declaration of financial results of the listed company that is or were part of benchmark indices i.e. NIFTY 50 and SENSEX
 - ✓ Restriction on trading shall be for on-market transactions, off-market transfers and creation of pledge in equity shares and equity derivatives contracts (i.e. Futures and Options) of such listed companies.

Securities Law (Contd...)

- ✓ The Compliance Officer and DPs of listed companies shall continue to independently comply with the obligations under PIT Regulations, as applicable to them, till further communication.
- ✓ **Process:**
 - The Designated Depository (DD) shall provide access to the listed entity on a portal for specifying the window closure portal.
 - The Listed Entity will have to update PAN of Designated Personnel (DP) to be frozen and “start & end date” of trading window closing period.
 - The Company will have to select or de-select PANs of (DP) at least two trading days prior to the start of trading window closing period.
 - Subsequently the (DD) shall provide relevant data to the Stock Exchange and other Depository by the next trading day i.e T-1 day (i.e September 30,2022 assuming that the trading window will be closed from October 01,2022) and on daily basis for any updation in (DPs).
 - In case of any addition/deletion/updation pertaining to the details of DP, changes shall be effected by the Stock Exchanges within Two (2) trading days of receipt of intimation from the listed company.

Securities Law (Contd...)

- **Example:** Assuming the trading window closure period is October 01 - 15, 2022 and if the listed company adds any DP on October 10, 2022, then the change i.e. freeze shall be effected on or before October 12, 2022.
- There is the provision for the DP to be exempted by listed company from Trading Window restriction. In such cases, the restriction shall be removed within 2 trading days from the date of receipt of request from the listed company. The restrictions shall be re-introduced automatically post lapse of the exemption period or completion of the transaction by the DP.

Example: As mentioned in point E if the listed company provides exemption to any DP on October 11, 2022, then the change i.e. de-freeze shall be effected on or before October 13, 2022.

- The freezing/de-freezing of PAN at the security level on account of changes due to addition or deletion will be effected post market hours i.e after 3.00 P.M.

- **Link of the Notification.**

<https://www.sebi.gov.in/legal/circulars/aug-2022/trading-window-closure-period-under-clause-4-of-schedule-b-read-with-regulation-9-of-sebi-prohibition-of-insider-trading-regulations-2015-framework-for-restricting-trading-by-designated-persons-b-61781.html>

Securities Law (Contd...)

- **SEBI Circular Reference:** SEBI/HO/DDHS/DDHS_Div1/P/CIR/2022/106
- **Notification Date:** August 04, 2022.
- **Effective Date:** August 04, 2022
- **Subject of the Notification:** Enhanced guidelines for debenture trustees and listed issuer companies on security creation and initial due diligence.
- **Analysis:** SEBI has issued revised circular to strengthen matters pertaining to SEBI (Debenture Trustees) Regulations, 1993, SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and SEBI (Issue and Listing of Debt Securities) Regulations, 2008 for encumbrance, creation of security and related due diligence by DTs.
 - ✓ The changes in the circular is divided into five parts viz.
 - Manner of change in security/ creation of additional security/ conversion of unsecured
 - to secured in case of already listed non-convertible debt securities
 - Encumbrance on securities for issuance of listed debt securities
 - Due Diligence Certificate in case of Shelf Prospectus/ Memorandum
 - Empanelment of External Agencies by Debenture Trustee(s)
 - Security & Covenant Monitoring System

Securities Law (Contd...)

- ✓ **Manner of change in security/ creation of additional security/ conversion of unsecured**
 - Regulation 59 of SEBI (LODR) Regulation, 2015 provides for the changes in the terms and conditions of the listed non-convertible debt securities (NCDs) including:
 - A change in security,
 - Creation of additional security
 - Creation of security in case of unsecured debt securities.
 - So in order to synchronize the process of creation of security pursuant to listing, the following directions are issued
 - Before commencing Due Diligence a Debenture Trustee (DT) and the listed entity shall enter into an amended debenture trust agreement to incorporate the obligations arising out of provisions of para 4 to 7 of SEBI Circular No. SEBI/HO/MIRSD/CRADT/CIR/P/2020/218 relating to creation of security in issuance of listed debt securities and 'due diligence' by debenture trustee(s) to dated November 03, 2020 and obligations prescribed in terms of SEBI Circular No. SEBI/ HO/ MIRSD/ CRADT/ CIR/ P/ 2020/230 dated November 12, 2020 relating to Monitoring and Disclosures by Debenture Trustee(s) and SEBI Circular No. SEBI/ HO/ MIRSD/ CRADT/ CIR/ P/ 2022/ 67 dated May 19, 2022 for continuous monitoring and any other stipulations of SEBI from time to time with respect to security creation, initial due diligence and continuous monitoring by DTs
 - DD shall be carried out in the manner as prescribed in para 4 to para 7 of SEBI Circular dated November 03, 2020 accordingly DT shall issue a no-objection certificate (NOC) to issuer company

Securities Law (Contd...)

for going ahead with proposed change in the structure/ creation of security.

- After this issuer company shall create the proposed security and the charge in favour of DT and the same shall be registered with the sub-registrar, Registrar of Companies, CERSAI, Depository etc., as applicable, within 30 days of creation of such charge in compliance with the provisions of Section 77 of the Companies Act, 2013
- On account of creation and registration of charge, the issuer company and DT shall enter into a supplemental/ amended debenture trust deed including all the terms and conditions arising out of the due diligence carried out by the DT as well as of the security created by Issuer Company.
- After this the issuer entity pursuant to execution of supplemental/ amended debenture trust deed, shall submit the following to the Depositories and Stock Exchanges:
 - (i) NOC by DT for change in security or creation of security.
 - (ii) Executed supplemental/ amended debenture trust deed
 - (iii) Undertaking from DT
 - (iv) Other documents required to be submitted in terms of Regulation 59 of LODR, circulars issued thereunder and bye – laws of Stock Exchanges and Depository, as applicable.

Securities Law (Contd...)

➤ The Depository shall assign a new ISIN to the non-convertible debt securities pursuant to submission of documents mentioned above only and shall share the information with respect to change in ISIN of debt securities, with the recognized Stock Exchanges.

✓ **Encumbrance on securities for issuance of listed debt securities**

➤ Creation of encumbrance on the securities for securing the non-convertible debt securities shall be through the depository system in accordance with the Depositories Act, 1996, the SEBI (Depositories and Participants) Regulations, 2018, Depository bye laws and other applicable regulations and circulars.

✓ **Due Diligence Certificate in case of Shelf Prospectus/ Memorandum**

➤ The DT shall issue due diligence certificate, confirming that it has carried out due diligence for the matters other than security creation

➤ At the time of the issuance of the tranche memorandum/ prospectus when the issue structure including terms related to security has been determined and finalized, the DT shall issue a due diligence certificate covering all clauses of formats prescribed under regulations 40(a) and 44(3) of the NCS Regulations and Annexure A of SEBI Circular dated November 03, 2020, as applicable.

Securities Law (Contd...)

✓ Empanelment of External Agencies by Debenture Trustee(s)

- The issuer Company should bear in mind following two points while shortlisting external agencies for carrying out due diligence.
- Formulation and empanelment criterion/ policy as approved by the Board of Directors and shall disclose the same on their website.
- Formulate a policy on mitigating conflict of interest and shall disclose the same on their website; the policy shall, inter-alia, include a condition in the policy that the empanelled agency would have no pecuniary relationship with the issuer company for minimum 3 years prior to the issue

✓ Security & Covenant Monitoring System

- Lastly to ensure efficient and full proof recording of details with respect to creation of security and monitoring of covenants through the systems laid by Depositories using the Distributed Ledger Technology various stakeholders, viz. Issuers, Depositories, DTs and CRAs shall ensure that they are in compliance of SEBI circulars SEBI/HO/MIRSD/MIRSD_CRADT/CIR/P/2021/618, SEBI/ HO/ MIRSD/ CRADT/ CIR/ P/ 2022/ 38 and various circulars issued in respect of the DLT system issued by SEBI from time to time.

Securities Law (Contd...)

- **Link of the Notification.**

https://www.sebi.gov.in/legal/circulars/aug-2022/enhanced-guidelines-for-debenture-trustees-and-listed-issuer-companies-on-security-creation-and-initial-due-diligence_61629.html

Securities Law (Contd...)

- **NSE Circular Reference:** NSE/CML/2022/39 (“Circular”)
- **Notification Date:** August 02, 2022.
- **Effective Date:** September 01, 2022.
- **Subject of the Notification:** Use of digital signature certificate (“DSC”) for the outcomes submitted by listed companies.
- **Analysis:**
 - ✓ In wake of the Covid-19 pandemic, the Securities Exchange Board of India (“SEBI”) vide *various* circulars as referenced in the enclosed Circular permitted the use of digital signature certification for authentication/certification of filings/submissions made to stock exchanges.
 - ✓ The aforesaid measure by SEBI, has been received well by the market participants. Considering the advantages of using DSC for authentication of documents / filings, Stock Exchanges, in consultation with each other and SEBI, have decided to make it mandatory to file announcements under various SEBI regulations using DSC to the stock exchange except for following disclosures/events:
 - Outcome of the Board meeting except for the approval of Financial Results and Limited review report/Audit report as the case may be under regulation 33.

Securities Law (Contd...)

- Outcomes in which document(s) is issued by entity/entities other than listed entity itself.
Example: Auditor Certificate, NCLT / other court's order, credit rating agencies etc.
 - Outcomes pertaining to Newspaper Advertisement.
 - Any other outcome(s) as specified by Stock Exchanges from time to time.
 - More planning is needed to ensure valid Digital Signature Certificates of Compliance Officer/Authorised Signatory are in place before its expiry.
- **Link of the Circular**
<https://static.nseindia.com//s3fs-public/inline/files/Circular%20on%20use%20of%20digital%20signature%20certificate.pdf>

Reserve Bank of India (Contd...)

- **Master Direction notified via-** External Commercial Borrowings, Trade Credits and Structured Obligations
- **Notification date:** August 01, 2022
- **Superseded*** - Master Direction - External Commercial Borrowings, Trade Credit, Borrowing and Lending in Foreign Currency by Authorised Dealers and Persons other than Authorised Dealers

✓ Abbreviations

External Commercial Borrowings	ECB
Foreign Currency	FCY
Indian Currency	INR
Alternative Reference Rates	ARR
London Interbank Offered Rate	LIBOR

✓ Amendments

Reserve Bank of India (Contd...)

Particulars	Earlier Limit	Increased Limit	Introduced via	Time-frame
Limits of raising ECB	USD 750 million or equivalent per financial year	USD 1500 million or equivalent	to Para 2.2 of FED Master Direction No.5 on External Commercial Borrowings, Trade Credits and Structured Obligations, dated March 26, 2019	Till December 31, 2022
All-in cost ceiling per annum				

Reserve Bank of India (Contd...)

Particulars	Earlier Limit	Increased Limit	Introduced via	Time-frame
All-in cost ceiling per annum	<p><u>FCY Denominated ECB</u></p> <p>For existing ECB linked to LIBOR whose benchmarks are changed to ARR – Benchmark Rate plus 550 bps spread</p> <p>New ECB – Benchmark rate plus 500 bps spread</p> <p><u>INR denominated ECB</u></p> <p>Benchmark rate plus 450 bps spread</p>	USD 1500 million or equivalent	to Para 2.2 of FED Master Direction No.5 on External Commercial Borrowings, Trade Credits and Structured Obligations, dated March 26, 2019	Till December 31, 2022

Reserve Bank of India (Contd...)

**Reporting requirement in compliance of Master Circular is governed by Master Direction – Reporting under Foreign Exchange Management Act, 1999.*

***The enhanced all-in-cost ceiling shall be available only to eligible borrowers of investment grade rating from Indian Credit Rating Agencies (CRAs). Other eligible borrowers may raise ECB within the existing all-in-cost ceiling as prescribed in the Master Direction No. 5 on External Commercial Borrowings, Trade Credits and Structured Obligations, dated March 26, 2019.*

Note:

- 1) The above relaxation is also incorporated in press release on “Liberalisation of Forex Flows” dated July 06, 2022.
- 2) The amendment w.r.t. the increased limit has been made in Foreign Exchange Management (Borrowing and Lending) (Amendment) Regulations, 2022 (“**Regulation**”) vide Foreign Exchange Management (Borrowing and Lending) (Third Amendment) Regulations, 2022

▪ **Link of the Master Circular and Notification**

Master Circular - [Reserve Bank of India - Master Directions \(rbi.org.in\)](https://www.rbi.org.in)

Notification for amendment in Regulation - [GN3RFEMA01082022.pdf \(rbi.org.in\)](https://www.rbi.org.in)

Reserve Bank of India (Contd...)

- **Rule introduced** – the Foreign Exchange Management (Overseas Investment) Rules, 2022 vide notification dated August 22, 2022 (“**OI Rules**”)
- **Regulation introduced** – the Foreign Exchange Management (Overseas Investment) Regulations, 2022 vide notification dated August 22, 2022 (“**OI Regulations**”)
- **Regulations superseded** – (i) the Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004; and (ii) the Foreign Exchange Management (Acquisition and Transfer of Immovable Property Outside India) Regulations, 2015 (“**Erstwhile Regulations**”)
- Effective August 22, 2022, the Reserve Bank of India (“**RBI**”) has combined erstwhile FEMA (Transfer or Issue of Foreign Security) Regulations, 2004 and FEMA (Acquisition and Transfer of immovable property outside India) Regulations, 2015 into OI Rules, and OI Regulations thereby completely replacing the Erstwhile Regulations, regulating the overseas investment by Indian persons.
- The RBI has also issued FEMA (Overseas Investment) Directions, 2022 (“**OI Directions**”), which is a comprehensive coverage of the OI Regulations and the OI Rules and covers key aspects thereof with respect to regulation of the overseas investments, compliance related thereto, interpretational guidance and other nitty-gritties that may not be dealt with in detail in the OI Regulations and OI Rules.

Reserve Bank of India (Contd...)

- While the the detailed summary of changes brought by the OI Regulations OI Rules shall be rolled out separately, the aforesaid legislations could be accessed in the below links.
- **Links of the OI Regulations, OI Rules and OI Directions:**
- **OI Regulations:** <https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12380&Mode=0>
- **OI Rules:** <https://rbidocs.rbi.org.in/rdocs/content/pdfs/GazetteRules23082022.pdf>
- **OI Directions:** <https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12381&Mode=0>

Deets / Disclaimer

❑ Deets.

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Thank You



There is no wealth like knowledge and no poverty like ignorance - Buddha