

September 2026 Edition-Published in October 2026

SECURITIES AND EXCHANGE BOARD OF INDIA (SEBI)

Extended timeline for accredited investor mandate for angel funds

SEBI had, in September 2025, overhauled the regulatory framework for angel funds under the SEBI (Alternative Investment Funds) Regulations, 2012, through amendments to the regulations and an accompanying circular. A key change was the requirement that angel funds must raise money only from 'accredited investors', being investors whose financial standing and ability to bear investment risk has been verified and certified by an accreditation agency. The aim was to limit angel fund investment, which involves high-risk exposure to early-stage start-ups, to investors with the financial capacity and sophistication to evaluate and absorb such risks. Angel funds already registered with SEBI were given a transition period of 1 (one) year to comply with this mandate. During this period, they could continue to offer investment opportunities to a limited number of non-accredited investors.

This transition period was scheduled to end on September 8, 2026, but the SEBI *vide* circular dated September 7, 2026, has extended the timeline (for compliance with the accredited investor mandate applicable to angel funds which were registered with SEBI on or before September 10, 2025) to March 31, 2027 (*from September 8, 2026*). Accordingly, such angel funds may continue to offer investment opportunities to not more than 200 (two hundred) non-accredited investors during the extended transition period and must not accept contributions from non-accredited investors for investment in an investee company after March 31, 2027. Existing investors may continue to hold their investments in such angel funds in accordance with the terms of the private placement memorandum and/or fund documents.

Review of position limits for clients and penalty provisions for commodity derivatives

With the objective of facilitating ease of doing business, SEBI, *vide* circular dated September 9, 2026, has revised the norms relating to position limits and penalties for violations in the commodity derivatives segment.

Some of the key changes are as follows:

1. monetary penalties on the concerned member for client-level open interest violations are now linked to the quantum/value of the violation and are to be charged for every day the violation continues. All penalties are to be credited to the investor protection fund of the exchange;

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2. the definition of a 'Broad Commodity' is revised for agricultural commodities based on an average deliverable supply of at least 10,00,000 (ten lakh) metric tonnes or INR 5,000 crore (Indian Rupees five thousand crore) over the preceding 5 (five) years; and
3. the client-level position limits have been revised to 2% of deliverable supply for broad commodities, 1% for narrow commodities and 0.5% for sensitive commodities, with specified transitional treatment for commodities moving from the narrow to broad category.

RESERVE BANK OF INDIA (RBI)

Foreign Exchange Management (Export and Import of Goods and Services) (Amendment) Regulations, 2026

RBI, *vide* notification dated September 22, 2026, has amended the Foreign Exchange Management (Export and Import of Goods and Services) Regulations, 2026, to revise certain timelines and transitional provisions relating to export and import transactions. The period for realisation and repatriation of export proceeds has been reduced from 15 (fifteen) months to 9 (nine) months, with the extended realisation period under the first proviso reduced from 18 (eighteen) months to 12 (twelve) months. Authorised Dealers are now empowered to handle certain trade transactions undertaken before October 1, 2026, that previously required approval of RBI.

MINISTRY OF FINANCE (MoF)

Foreign Exchange Management (Non-debt Instruments) (Fourth Amendment) Rules, 2026

MoF, *vide* notification dated September 2, 2026, has issued the Foreign Exchange Management (Non-debt Instruments) (Fourth Amendment) Rules, 2026, to further amend the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 ("**NDI Rules**"). This amendment is further to Press Note 3 of 2026 issued by the Department for Promotion of Industry and Internal Trade which permits foreign-invested entities to adopt an inventory-based business to customer ("**B2C**") model exclusively for exporting goods manufactured or produced in India. A new provision is inserted in Schedule I of the NDI Rules which permits an e-commerce entity to engage in inventory-based model of e-commerce exclusively for the export of goods or products manufactured or produced in India. Such exports must be in accordance with the Foreign Trade Policy 2023 read with the Handbook of Procedures and the Foreign Exchange Management (Export of Goods and Services) Regulations, 2015. Accordingly, the restrictions on B2C transactions and the inventory-based model of e-commerce stipulated under serial number 15.2.1 to 15.2.4 of Schedule I will not apply to the export of goods or products through e-commerce as permitted under the new provision.

JSA UPDATES

The Supreme Court of India reiterates that a trust cannot sue or be sued

The Supreme Court of India ("**Supreme Court**"), in a recent judgment has, reiterated that a trust is not a person and cannot sue or be sued. This decision has considered a pending reference before a 3 (three) judge bench on the issue and reiterated the findings of earlier decisions on the subject. This judgment reinforces that a trustee of a trust remains liable for actions purportedly undertaken in the name of the trust. Therefore, as a general consideration and subject to advice, a trustee should consider adopting adequate safeguards before taking any action or decision for and on

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behalf of a trust. These safeguards may include recording the scope of authority in trustee resolutions, ensuring that decisions are taken collectively where the trust deed so requires, and seeking indemnity or insurance cover.

For a detailed analysis, please refer to the JSA Prism of September 30, 2026.

An arbitration clause in loan agreements can bind non-signatory personal guarantors where such guarantees constitute an inseparable part of the loan agreement

The Supreme Court has held that an arbitration clause in a loan agreement can be incorporated into a personal guarantee under Section 7(5) of the Arbitration and Conciliation Act, 1996 ("**Arbitration Act**"). This applies where the contractual framework treats the guarantee as an integral and inseparable part of the loan agreement. The absence of a separate arbitration clause in the guarantee, or the guarantor's failure to sign the loan agreement in his personal capacity, would not, by itself, preclude the guarantor from being bound by the arbitration agreement.

The judgment underscores the significance of the manner by which interconnected transaction documents are structured. For lenders and other commercial entities, the decision highlights the importance of ensuring that the contractual framework clearly integrates ancillary agreements, including personal guarantees, with the principal agreement. On the other hand, guarantors should carefully assess the incorporation and dispute resolution provisions of the principal agreement, as the structure and language of the transaction documents may determine whether they are subject to the agreed arbitral mechanism.

For a detailed analysis, please refer to the JSA Prism of September 24, 2026.

The Supreme Court lays down three-stage framework for attributing *mens rea* to corporations facing criminal prosecution and allows prosecution without identification or arraignment of natural persons

The Supreme Court has laid down a 3 (three) stage framework for determining corporate criminal liability for offences requiring *mens rea* under Indian law. The Supreme Court held that criminal proceedings against corporations for offences requiring mens rea are not liable to be quashed on the sole ground that no natural person has been identified and arraigned alongside the corporation.

The ruling marks a pivotal development in the jurisprudence on corporate criminal liability in India, as it provides a structured three-stage framework for determining when a natural person's conduct and *mens rea* may be attributed to a corporation. By recognising that such attribution turns on an examination of the corporation's internal authority and decision-making structures, the ruling underscores the need for corporations to exercise diligence in their corporate governance practises.

It also prevents genuine prosecutions against corporations from being stifled right at the threshold. Resultantly, corporations cannot seek to avoid criminal prosecution merely because the person concerned with the relevant conduct has not been identified or arraigned. At the same time, the ruling also preserves a threshold safeguard by requiring the allegations to disclose *prima facie* that natural persons acted on behalf of the corporation and that their conduct is capable of attracting the requisite *mens rea*.

For a detailed analysis, please refer to the JSA Prism of September 15, 2026.

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A High Court exercising writ jurisdiction cannot decide the arbitrability of 'excepted matters' under a works contract

The Supreme Court has recently held that the question of whether a particular claim is covered by or falls outside an 'excepted matters' clause of a works contract is a matter squarely within the competence of an arbitral tribunal under Section 16 of the Arbitration Act, and over which a writ court has no jurisdiction. This ruling reinforces the limited scope of judicial intervention in arbitration proceedings and the pro-arbitration approach adopted by courts.

For a detailed analysis, please refer to the JSA Prism of September 22, 2026.

Delhi High Court holds that the Arbitration and Conciliation (Amendment) Act, 2015 is substantive and does not invalidate unilateral appointments made before October 23, 2015

The Delhi High Court ("**Delhi HC**") has held that the Arbitration and Conciliation (Amendment) Act, 2015, is substantive in nature, rather than merely clarificatory and operates prospectively from October 23, 2015. While deciding a batch of 19 (nineteen) petitions, it held that where the arbitration commenced and the tribunal was constituted before that date, the subsequent insertion of Section 12(5) read with the Seventh Schedule of the Arbitration Act cannot retrospectively invalidate an appointment that was lawful when made.

Further, the institution of a petition under Section 34 of the Arbitration Act after the cut-off date does not, by itself, attract the amended regime. The ruling narrows the scope of challenges under Section 34 of the Arbitration Act, both for the parties whose awards pre-date October 23, 2015, as well as for those whose tribunals were constituted before that date, even if the award was rendered later. In either case, the challenge must be mounted within the unamended framework, unless the language of the arbitration clause and the conduct of the parties establish a mutual intention to adopt the amended regime.

For a detailed analysis, please refer to the JSA Prism of September 18, 2026.

Documents forming part of an arbitration are confidential and cannot be used in collateral proceedings

The Delhi HC, in its recent judgement, has upheld the confidential nature of arbitration proceedings in line with the mandate of Section 42A of the Arbitration Act. It categorically held that documents forming part of an arbitration cannot be used in collateral proceedings as it would destroy one of the fundamental features of the arbitration process.

For a detailed analysis, please refer to the JSA Prism of September 2, 2026.

Madhya Pradesh High Court five judges bench holds that a challenge to an order of blacklisting is not referable to the statutory arbitration

A 5 (five) judges bench at Indore, Madhya Pradesh High Court ("**MP HC** "), in ***Nitin Enterprises through Nitin Lodwal vs Urban Administration and Development Department and Ors.***, by a majority of 4:1, held that a challenge to an order blacklisting a contractor from future government contracts does not constitute a 'dispute' under Section 2(1)(d) of the Madhya Pradesh *Madhyastham Adhikaran Adhiniyam*, 1983 ("***Adhiniyam* 1983**"). Accordingly, such a challenge is not referable to the statutory arbitral tribunal constituted under *Adhiniyam* 1983.

The power to blacklist is an inherent executive power traceable to Article 298 of the Constitution of India ("**Constitution**"). It is administrative in nature, and the resulting loss is neither computable nor ascertainable. Accordingly, the contractor's remedy lies in writ jurisdiction under Article 226/227, of the Constitution, including where the order is composite.

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The reference arose out of divergent views expressed by 2 (two) coordinate full bench decisions of the MP HC, *Viva Highways Limited vs M.P. Road Development Corporation Limited* ("**Viva Highways**") and *Gouri Ganesh Shri Balaji Constructions "C" Class Contractor vs Executive Engineer, PWD* ("**Gouri Ganesh**"), on whether the loss occasioned by blacklisting is ascertainable in money. Consequently, *Viva Highways* was affirmed and *Gouri Ganesh* was held not to have laid down the correct law on the point.

The MP HC held that blacklisting is an executive power under Article 298 of the Constitution which operates *in rem*. It further held that the resulting loss cannot be quantified under Section 73 of the Indian Contract Act, 1872. These findings are not necessarily confined to Madhya Pradesh may have persuasive value in other cases where a blacklisting dispute is sought to be referred to arbitration.

For a detailed analysis, please refer to the JSA Prism of September 2, 2026.

Strengthening India's digital evidence analysis capacity with new examiners of electronic evidence

Expanding India's digital forensics infrastructure, the Ministry of Electronics and Information Technology has notified 6 (six) new 'Examiners of Electronic Evidence' under the Information Technology Act, 2000, notably bringing emerging technologies like drones into the fold. For businesses, this expansion aims to ease logistical hurdles and accelerate the analysis of digital exhibits in disputes and investigations. This development serves as a critical reminder for companies to proactively update their incident-response protocols to ensure the immediate preservation and clear chain of custody for all electronic records.

For a detailed analysis, please refer to the JSA Prism of September 3, 2026.

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Corporate Practice

JSA's corporate practice is centered around transactional and legal advisory services including day-to-day business, regulatory issues, corporate and governance affairs. We have an expert team of attorneys who advise on legal issues concerning inbound and outbound investments, strategic alliances, collaborations and corporate restructurings. We advise clients through all stages of complex and marquee assignments including restructuring, mergers and acquisitions (including those in the public space) to private equity and joint ventures. Our vast clientele includes multinational corporations and large Indian businesses in private, public and joint sector. We work closely with in-house counsel teams, investment banks, consulting and accounting firms along with multilateral agencies and policy making institutions on development of policy and legal frameworks. We provide assistance and counsel to start-ups and venture backed companies by drawing upon our in-depth understanding of how companies are incorporated, financed and grown. With an in-depth understanding of the industry combined with years of expertise, our attorneys provide innovative and constructive solutions to clients in complex transactional engagements. We emphasise teamwork across our wide network of offices across India. This allows us to benefit from the various specialisations available for the ultimate benefit of our clients. We also provide assistance in dealing with diverse corporate governance and compliance issues including FCPA /Anti-Bribery/Anti-Corruption matters and investigations.

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