

# SAGUS SPEAKS



This Newsletter covers key Regulatory & Policy Updates, Government Notifications and Judicial Pronouncements.

## REGULATORY AND POLICY UPDATES

### **SEBI modifies framework for creation/ invocation of pledge of securities through depositories.**

The Securities and Exchange Board of India (“SEBI”) by way of circular dated 05.02.2026 (“Pledge Circular”)<sup>1</sup>, has introduced enhanced compliance requirements in the framework for creation and invocation of pledge of securities through the depository system as prescribed under Paragraph 4.13 of the SEBI Master Circular for Depositories dated 03.12.2024 (“Master Circular for Depositories”).

The Pledge Circular introduces the following changes to ensure compliance with Sections 176 (Pawnee’s right

where Pawnor makes Default) and Section 177 (Defaulting pawner’s right to redeem) of the Indian Contract Act, 1872 (“Contract Act”):

- i. Pledge Request Forms for the depositories shall make provision whereby: (a) the pledgee undertakes to provide reasonable notice to the pledger(s), and comply with Sections 176 and 177 of the Contract Act; and (b) both pledger and pledgee must undertake to abide by the Contract Act, Depositories Act, 1996, SEBI Regulations, circulars, and bye-laws;
- ii. The depositories shall maintain a standardized format of Pledge Request Form; and

<sup>1</sup> Creation/Invocation of pledge of securities through depository system.

iii. The depositories shall send intimation/notification to both pledger and pledgee at the time of invocation confirming the invocation and recording of the pledgee as “beneficial owner” in terms of Regulation 79(8) of SEBI (Depositories and Participants) Regulations, 2018 which provides that the pledgee shall invoke the pledge subject to the provisions of the pledge document.

The depositories are required to make necessary amendments to bye-laws and rules, carry out system changes (if required), and disseminate the provisions to participants and on their websites.

The provisions of this Pledge Circular shall be implemented by the depositories on or before 06.04.2026.

### **RBI notifies Draft RBI (NBFC – Registration, Exemptions and Framework for Scale Based Regulation) Amendment Directions, 2026.**

Reserve Bank of India (“RBI”) by way of notification dated 10.02.2026 issued the Draft RBI (Non-Banking Financial Companies – Registration, Exemptions and Framework for Scale Based Regulation) Amendment Directions, 2026 (“NBFC Amendment Directions”)<sup>2</sup> to amend the RBI (Non-Banking Financial Companies – Registration, Exemptions and Framework for Scale Based Regulation) Directions, 2025 dated 28.11.2025 (“NBFC Principal Directions”).

The proposed key amendments under the draft NBFC Amendment Directions are as follows:

i. Insertion of the following terms:

- (a) ‘NBFC not availing public funds and not having any customer interface’ shall mean an NBFC registered with RBI as Type I NBFC or otherwise and: (i) Not accepting public funds and not intending to accept public funds in the future; and (ii) Not having customer interface and not intending to have customer interface in the future. The terms ‘public funds’ and ‘customer interface’ shall have the meaning as provided under the NBFC Principal Directions.
- (b) ‘Type I NBFC’ shall mean ‘NBFC not availing public funds and not having any customer interface’ and holding Certificate of

Registration (“CoR”) as ‘Type I NBFC’ issued by the RBI.

- (c) ‘Type II NBFC’ means an NBFC which is granted CoR by the RBI as NBFC other than ‘Type I NBFC’.
  - (d) ‘Unregistered Type I NBFC’ means ‘NBFC not availing public funds and not having any customer interface’ as defined in these NBFC Amendment Directions and exempt from the provisions of Section 451A of the RBI Act, 1934 (“RBI Act”) which mandates registration of NBFC with the RBI.
- ii. Insertion of framework for Registration for ‘NBFCs not availing public funds and not having any customer interface’:

- (a) ‘NBFCs not availing public funds and not having any customer interface’ having asset size of less than INR 1,000 crore stand exempted from the requirement of registration with the RBI as prescribed under Section 451A of the RBI Act with effect from 01.04.2026. Existing NBFCs including those holding CoR as ‘Type I NBFC’ as on 01.04.2026 and fulfilling the exemption criteria may apply for deregistration within 6 months of effectiveness of the NBFC Amendment Directions, i.e. by 30.09.2026.
- (b) The application for deregistration shall be made through PRAVAAH on the company’s letter head along with the following documents: (i) Original CoR to be submitted physically to RBI. (ii) Audited financial statements for the last three financial years. (iii) Status of public funds and customer interface for the last three financial years. (iv) Statutory Auditor’s Certificate confirming absence of public funds and customer interface as on date. (v) Board Resolution confirming that the Company does not currently have public funds or a customer interface and does not intend to access the same in the future; that it shall obtain registration as a Type II NBFC if it proposes to avail public funds and/or have a customer interface, or as a Type I NBFC if its asset size reaches INR 1,000 crore or above; and undertaking to disclose its status as an ‘Unregistered Type I NBFC’ and the position regarding public funds and customer interface in the Notes to Accounts to its financial statements.

<sup>2</sup> Draft RBI (Non-Banking Financial Companies – Registration, Exemptions and Framework for Scale Based Regulation) Amendment Directions, 2026.

- (c) ‘NBFCs not availing public funds and not having any customer interface’, having asset size of INR 1,000 crore or more shall mandatorily apply for registration as ‘Type I NBFC’ through PRAVAAH portal along with prescribed documents. RBI shall issue CoR upon satisfaction of registration conditions. Existing such NBFCs not holding CoR as ‘Type I NBFC’ shall not be eligible for relaxed regulatory requirements available to NBFCs holding such Certificate. If any such NBFC intends to access public funds and/or have customer interface, it shall seek registration as ‘Type II NBFC’ under section 45IA of the RBI Act.
- (d) If an ‘Unregistered Type I NBFC’ intends to undertake overseas investment in the financial services sector, it shall obtain registration with RBI and comply with provisions of RBI (Non-Banking Financial Companies – Undertaking of Financial Services) Directions, 2025 including obtaining prior approval of RBI.
- iii. Corresponding revisions have been carried out in the ‘Applicability Clauses’ of other RBI Directions governing NBFCs, whereby the reference to “NBFC not availing public funds and not having any customer interface” has been substituted with “NBFC holding a CoR as a ‘Type I NBFC’”.

The NBFC Amendment Directions, upon approval, shall come into force from 01.04.2026.

## GOVERNMENT NOTIFICATIONS

### **Finance Minister introduces Finance Bill, 2026 under Union Budget, 2026-27.**

The Union Minister for Finance and Corporate Affairs presented the Finance Bill, 2026 by Bill No. 3 of 2026 (“Union Budget”)<sup>3</sup> in the Parliament on 01.02.2026.

The key proposals introduced under the Union Budget are as follows:

- i. Reduction in Tax Collected at Source (“TCS”): The Union Budget proposes rationalisation of TCS rates under Section 394 of the Income-tax Act, 2025 (“IT Act 2025”), with effect from 01.04.2026, including the following revisions: (a) TCS on overseas tour programme packages is proposed to be reduced to a uniform rate of 2% without any threshold, in place of the existing structure of 5% up to INR 10 Lakhs and 20% on the excess amount; (b) TCS on remittances under the Liberalised Remittance Scheme (“LRS”) for education and medical treatment exceeding INR 10 Lakhs is proposed to be reduced from 5% to 2%; (c) TCS on sale of tendu leaves is proposed to be reduced from 5% to 2%; and (d) other categories including scrap, specified minerals, and alcoholic liquor are proposed to be aligned to a uniform rate of 2%.
- ii. Investment limit for Persons Resident Outside India (“PROI”) under FEMA (Non-debt Instruments) Rules, 2019 (“NDI Rules”): The Union Budget proposes to permit PROI India to invest in equity instruments of listed Indian companies under the Portfolio Investment Scheme (“PIS”), with the individual investment limit proposed to be increased from 5% to 10% of the paid-up capital of the company and the aggregate investment limit for all PROIs in a company proposed to be increased from 10% to 24%. These changes are proposed to be implemented through amendments to NDI Rules and related directions issued by the RBI.
- iii. Taxation of buy-back of shares: The Union Budget proposes a change in the taxation of share buy-backs by treating the consideration received by shareholders as capital gains instead of taxing the entire amount as income from other sources. For buy-backs undertaken on or after 01.04.2026, the taxable amount shall be the excess of buy-back consideration over the cost of acquisition, chargeable as capital gains under the IT Act 2025. Long-term capital gains are proposed to be taxed at 12.5% and short-term capital gains at 20%. Promoter shareholders are proposed to be subject to higher effective tax rates, being approximately 22% where the promoter is a domestic company and 30% for other promoter categories. Any capital loss arising on account of buy-back shall be available for set-off in accordance with the prescribed provisions.
- iv. Tax holiday for foreign companies procuring data centre services from India: The Union Budget proposes an income-tax exemption for foreign companies by amending Schedule IV of the IT Act 2025, in respect of income accruing or deemed to accrue in India solely due to procurement of data centre services from a specified data centre in India. The exemption is proposed to be applicable from tax year 2026-27 up to the tax year ending on 31.03.2047, subject to the following conditions: (a) the foreign company is specifically notified for the purposes of the exemption; (b) the data centre is owned and operated by an Indian company and

<sup>3</sup> Finance Bill, 2026.

notified by the Ministry of Electronics and Information Technology (“MeitY”) as a specified data centre; (c) the foreign company does not own or operate the data centre infrastructure; and (d) where services are provided to users in India, all sales are routed through an Indian reseller company, failing which the exemption shall not be available.

- v. **Amendments to Safe Harbour Rules:** The Union Budget proposes consolidation of information technology, information technology enabled services, knowledge process outsourcing, and contract research and development services into a single category of “IT services” for safe harbour purposes, with a unified safe harbour margin of approximately 15.5% on costs. The turnover threshold for eligibility is proposed to be increased from INR 300 crores to INR 2,000 crores. The Union Budget also proposes introduction of new safe harbour provisions for Indian entities providing data centre services to foreign associated enterprises at 15% on costs and for bonded warehousing of electronic components at 2% on invoice value, along with a move towards automated and rule-based acceptance of safe harbour positions for multiple years.

### MeitY notifies IT (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2026.

MeitY by way of notification dated 10.02.2026, has notified the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2026 (“IT Amendment Rules”)<sup>4</sup>, amending the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (“IT Rules”).

The IT Amendment Rules introduce a regulatory framework which shall govern synthetically generated information and imposes enhanced due diligence obligations on intermediaries and significant social media intermediaries (“SSMIs”).

i. **Insertion of new definitions:**

- (a) “audio, visual or audio-visual information” which shall mean any audio, image, photograph, graphic, video, sound recording or similar content created, generated, modified or altered through a computer resource.
- (b) “synthetically generated information” which shall mean audio, visual or audio-visual

information artificially or algorithmically created, generated, modified or altered using a computer resource in a manner that appears real or authentic and is likely to be perceived as indistinguishable from a natural person or real-world event.

ii. **Clarificatory changes to Rule 2 of the IT Rules:**

- (a) any reference to “information” used for unlawful acts under the IT Rules shall be construed to include synthetically generated information.
- (b) removal or disabling of access to information, including synthetically generated information, by deploying reasonable and appropriate technical measures in compliance with the IT Rules shall not amount to a violation of the conditions under Section 79(2)(a) or (b) of the Information Technology Act, 2000 (“IT Act”).

- iii. **Amendments to Due Diligence Obligations:** Rule 3 of the IT Rules, which prescribes due diligence obligations of intermediaries, has been amended wherein intermediaries are now required to periodically inform users, at least once every three months, through their rules, privacy policies or user agreements, regarding consequences of non-compliance, including suspension or termination of access, removal of non-compliant information, and potential liability under applicable laws. Further, where intermediaries enable the creation or dissemination of synthetically generated information, additional disclosures must be made to users regarding potential penalties under various statutes including the IT Act, the Bharatiya Nyaya Sanhita, 2023, and the Protection of Children from Sexual Offences Act, 2012.

- iv. **Reduced Statutory Timelines:** The requirement to remove or disable access to content within 36 hours (under clause (d) of sub-rule (1) of Rule 3 of the IT Rules) of receiving appropriate governmental directions has now been reduced to 3 hours. The grievance redressal timeline has been reduced from 15 days (under clause (a) of sub-rule (2) of Rule 3 of the IT Rules) to 7 days. The acknowledgment timeline has been reduced from 72 hours (under clause (a) of sub-rule (2) of Rule 3 of the IT Rules) to 36 hours. The obligation to remove certain categories of content has been reduced from 24 hours (under clause (b) of sub-rule (2) of Rule 3 of the IT Rules) to 2 hours.

<sup>4</sup> Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2026.

- v. **Due Diligence for Synthetic Content Generation:** The IT Amendment Rules under sub-rule (3) of Rule 3 of the IT Rules, require the intermediaries that enable synthetic content generation to conduct due diligence in relation to synthetically generated information. Such intermediaries must deploy reasonable and appropriate technical measures to prevent generation of unlawful synthetic content, including child sexual abuse material, non-consensual intimate imagery, obscene material, false documents or electronic records, content relating to explosives or arms, and deceptive portrayal of persons or events.
- vi. **Additional Obligations for SSIMs:** The IT Amendment Rules further prescribe additional due diligence requirement for SSIMs, whereby SSIMs, prior to display or publication of information, require users to declare whether content is synthetically generated, deploy appropriate technical measures to verify such declarations, and ensure clear and prominent labelling where content is confirmed to be synthetic. Knowingly permitting non-compliant synthetic content may amount to failure of due diligence. Further, the earlier obligation to “endeavour to deploy” technology-based measures has been replaced with a mandatory requirement to “deploy appropriate technical measures.”

The IT Amendment Rules shall come into force from 20.02.2026.

## JUDICIAL PRONOUNCEMENTS

**Supreme Court holds that an arbitral award is not invalid merely because it is pronounced after the expiry of arbitral mandate, where time has been subsequently extended under Section 29A of the A&C Act.**

The Supreme Court through its judgment dated 03.02.2026 in *C. Velusamy v. K. Indhera*<sup>5</sup>, held that an application under Section 29A(5) of the Arbitration and Conciliation Act, 1996 (“A&C Act”) seeking extension of an arbitrator’s mandate remains maintainable even after an arbitral award is rendered, including where the award is passed after expiry of the statutory limit of 18 month period.

The Supreme Court clarified that an award delivered after the mandate had expired is unenforceable under Section 36 of the A&C Act, but the arbitrator’s indiscretion in rendering such an award does not denude the Court of its

statutory power to extend the mandate. The jurisdiction of the Court under Section 29A operates independently and is not impaired merely because an award has been made without a subsisting mandate.

The Supreme Court observed that the termination of mandate under Section 29A(4) of A&C Act is not absolute but remains subject to judicial intervention. Supreme Court also clarified that while a belated award remains unenforceable unless time is extended, the court retains discretion to extend the mandate, impose conditions, reduce fees, substitute the arbitrator, or impose costs depending on the facts. Accordingly, the Supreme Court set aside the High Court’s refusal to entertain the application under Section 29A of A&C Act and affirmed that procedural delay by the arbitrator cannot defeat the Court’s jurisdiction under the A&C Act.

**Supreme Court affirms that acceptance of Section 11 A&C Act order bars subsequent challenge to arbitration clause under Pre-2015 Arbitration framework.**

The Supreme Court through its judgment dated 04.02.2026 in *M/s Eminent Colonizers Private Limited v. Rajasthan Housing Board & Ors.*<sup>6</sup>, held that under the pre-2015 amendment regime of the A&C Act, a party which has accepted an order passed under Section 11 appointing an arbitrator cannot subsequently challenge the existence or validity of the arbitration clause either before the arbitral tribunal or in proceedings under Section 34 of the A&C Act.

Supreme Court clarified that under the pre-2015 regime, the court was required to adjudicate jurisdictional issues, including the existence and validity of the arbitration agreement under Section 11 A&C Act, and such determination remained final and binding on the parties at all subsequent stages, including proceedings under Sections 34 and 37 A&C Act.

**Supreme Court affirms that High Courts cannot nullify arbitral proceedings while exercising power under Section 15(2) of the A&C Act.**

The Supreme Court, through its judgment dated 04.02.2026 in *Ankhim Holdings Pvt. Ltd. & Anr. v. Zaveri Construction Pvt. Ltd.*<sup>7</sup>, held that while exercising powers under Section 15(2) of the A&C Act, a High Court could not declare prior arbitral proceedings as a nullity. Supreme Court held that the proper course under Section 15(2) was to appoint a substitute arbitrator to

<sup>5</sup> SLP (C) NO. 6551/2025.

<sup>6</sup> Civil Appeal No. 753/2026 of SLP (C) No.8299/2021.

<sup>7</sup> Civil Appeal No. 779/2026 of SLP (C) No. 11667/2024.

continue the proceedings from the stage at which they stood terminated.

The Supreme Court held that Section 15 must be read harmoniously with Sections 15(3) and 15(4) of the A&C Act, which preserve prior orders and proceedings. Emphasizing minimal judicial intervention and the self-contained nature of the A&C Act, the Supreme Court held that the High Court could not, under the guise of substitution, set aside orders passed under Sections 16 or 17 of the A&C Act, outside the statutory remedies under Sections 37 or 34 of the A&C Act.

### **Supreme Court holds that once an order under Section 8(3) of the PMLA is challenged, a deemed embargo operates on the conclusion of proceedings under Section 8(7) of the PMLA.**

Supreme Court through its judgement dated 06.02.2026 in *M/s Nav Nirman Builders & Developers Pvt. Ltd. v Union of India*<sup>8</sup> held that, once an order confirming attachment under Section 8(3) of the Prevention of Money Laundering Act, 2002 (“PMLA”) is assailed before the Appellate Tribunal under Section 26 of the PMLA, any proceedings seeking confiscation under Section 8(7) of the PMLA ought not to be taken up for adjudication during the pendency of such appeal.

The court observed that once a challenge is made to an order passed under Section 8(3) of PMLA, either to the Appellate Tribunal, High Court or Supreme Court, the order passed by such higher forum supersedes and replaces the earlier order under Section 8(3). Hence, once an order under Section 8(3) of the PMLA is challenged, a deemed embargo operates on the conclusion of proceedings under Section 8(7) of the PMLA.

### **High Court of Delhi applies principle of parity to condone delay in filing written statement before DRT.**

The High Court of Delhi through its judgment dated 12.02.2026 in *Avantha Holdings Limited v. ICICI Bank Limited & Ors.*<sup>9</sup> while applying the principle of parity held that where substantial delay on one side is overlooked, a shorter delay on the other side cannot be treated with undue strictness.

The issue before the High Court was whether the Debts Recovery Tribunal (“DRT”) and the Debts Recovery Appellate Tribunal (“DRAT”) were justified in refusing to condone a delay of 14 days in filing the written statement under Section 19(5)(i) of the Recovery of Debts and Bankruptcy Act, 1993, when service of

summons and the complete paper book had been affected belatedly by the other party.

The High Court while applying the principle of parity held that the other party had itself failed to comply with the DRT’s directions with respect to prompt service of summons and had itself taken considerable time to affect the effective service. In light of this, High Court applying the principle of parity held that where substantial delay on one side is overlooked, a shorter delay on the other side cannot be treated with undue strictness. Consequently, the delay of 14 days in filing the written statement was condoned.

### **APTEL holds timeline for commissioning under PPA has to be reckoned from effective date and not the execution date.**

The Appellate Tribunal for Electricity (“APTEL”), through its judgment dated 03.02.2026 in *Krishna Windfarms Developers Pvt. Ltd. v. CERC & Ors.*<sup>10</sup>, held that the scheduled commissioning period has to be computed from the ‘effective date’ stipulated in the Power Purchase Agreement (“PPA”) and Request for Selection (“RfS”), irrespective of the actual date of execution of the PPA, particularly when the developer itself had delayed the execution of the PPA.

The APTEL held that when as per the RfS, the effective date of the PPA was specified as one month from the issuance of letter of intent to the developer, and when the PPA itself specified the effective date, the mere fact that RfS elsewhere provides for the effective date of execution of PPA as the actual date of execution would be irrelevant. It further held that the procurer had reminded the developer to submit all the relevant documents for execution of PPA, which was furnished with a delay, and therefore, the developer cannot be allowed to take advantage of its own wrong.

### **CERC recognises Supreme Court GIB directions and GST rate increase as Change in Law for solar projects.**

The CERC through its order dated 04.02.2026 in *Avaada Sunrays Energy Private Limited v. NHPC Ltd. & Ors.*<sup>11</sup>, has held that the increase in GST on solar power generating systems pursuant to the notification dated 30.09.2021 and the additional compliance requirements arising from the Supreme Court’s order dated 19.04.2021 relating to protection of the Great Indian Bustard (“GIB Order”) qualify as Change in Law events under the PPA in the said matter.

<sup>8</sup> SLP (CrI.) No. 9216 of 2023.

<sup>9</sup> CM APPL. 82791/2025 of W.P.(C) 19835/2025.

<sup>10</sup> Appeal No. 04 of 2020.

<sup>11</sup> Petition No. 294/MP/2024.

The petition was filed seeking compensation for additional expenditure incurred due to the increase in the applicable rate of GST on solar power generating systems, and due to compliance with the directions under the GIB Order requiring installation of bird diverters and related measures for overhead transmission lines in GIB habitat areas.

CERC held that both the GST notification dated 30.09.2021 and the GIB Order have the force of law and have directly resulted in additional costs to the project and therefore, constitute Change in Law events. The CERC allowed reimbursement of the additional expenditure along with carrying cost, subject to reconciliation and one-to-one correlation of invoices supported by auditor certification.

## ABOUT SAGUS LEGAL

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