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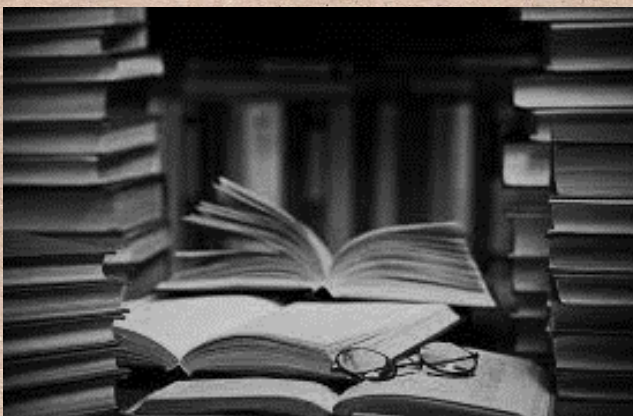
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INDEX[🏠]

SEBI UPDATES

- SEBI notifies the procedure for reclassification of FPI investment to FDI
- SEBI introduces amendments to master circular for InvITs and REITs
- SEBI (Alternative Investment Funds) (Fifth Amendment) Regulations, 2024 – Notified
- SEBI withdraws the Master Circular on Issuance of No Objection Certificate for release of 1% security deposit

RBI & IFSC UPDATES

- Inclusion of sovereign green bonds under fully accessible route for investment by non-residents in Government securities
- Principles to mitigate the risk of greenwashing in ESG labelled debt securities in the IFSC

LABOUR UPDATES

- Deadline for POSH annual report revised in Gurugram
- Scale of assured benefits increased under the EDLI Scheme
- Seeding of Aadhaar dispensed with for certain classes for members

ENVIRONMENTAL UPDATES

- Certain industrial plants exempted from air and water pollution consent requirements
- E-Waste Management Rules and Hazardous and Other Waste Rules - Decriminalised

OTHERS UPDATES

- Coaching sector to be cautious about their misleading advertisements
- PAN becomes mandatory for FSSAI licenses and registrations
- Telecommunications (Telecom Cyber Security) Rules, 2024 – Notified
- Threshold for turnover reduced for MSMEs to access TReDS platform

SEBI UPDATES

SEBI NOTIFIES THE PROCEDURE FOR RECLASSIFICATION OF FPI INVESTMENT TO FDI

Securities and Exchange Board of India ("SEBI"), *vide* its circular dated November 11, 2024, has amended the procedure for reclassification of Foreign Portfolio Investor ("FPI") investment to Foreign Direct Investment ("FDI") by amending Para 17 of Part C of SEBI 'Master Circular for Foreign Portfolio Investors, Designated Depository Participants and Eligible Foreign Investors' dated May 30, 2024. The amended procedure is as mentioned below:

- (a) In case the investment made by a FPI (*along with its investor group*) reaches 10% or more of the total paid up equity capital of a company on a fully diluted basis and the FPI (*along with its investor group*) intends to reclassify its FPI holdings as FDI, it shall follow extant Foreign Exchange Management (Non-debt Instruments) Rules, 2019 and circulars issued thereunder in this regard;
- (b) Pursuant to receipt of such intent from the FPI, the respective custodian shall report the same to SEBI and freeze purchase transactions by such FPI in equity instruments of such Indian company, till completion of the reclassification; and
- (c) On receipt of request from the FPI for transfer of the equity instruments of such Indian company from its FPI demat account to its demat account maintained for holding FDI investments, the custodian shall process the request if the reporting for reclassification, as prescribed by RBI, is complete in all respects.

To read the circular [click here](#)



SEBI INTRODUCES AMENDMENTS TO MASTER CIRCULAR FOR InvITs and REITs

SEBI, *vide* its circular(s) dated November 13, 2024, has introduced certain amendments to the Master Circular for Infrastructure Investment Trusts ("InvITs") dated May 15, 2024 ("InvIT Master Circular") and Master Circular for Real Estate Investment Trusts ("REITs") dated May 15, 2024 ("REIT Master Circular").

- (a) Relaxation from certain provisions for units allotted to an employee benefit trust for the purpose of a unit based employee benefit scheme - The provisions for preferential issue of units to persons other than the sponsor(s) provides for lock-in restriction of 1 year from the date of trading approval for such units. Further, the entire pre-preferential issue unitholding of the allottees, if any, shall be locked-in from the relevant date up to a period of 6 months from the date of trading approval. Further, preferential issue of units shall not be made to any person who has sold or transferred any units of the issuer during the 90 trading days preceding the relevant date. Further, where any person belonging to the sponsor(s) has sold/transferred their units of the issuer during the 90 days preceding the relevant date, all sponsors shall be ineligible for allotment of units on a preferential basis. Such restriction shall

not apply to a sponsor(s), in case any asset is being acquired by the InvIT/REIT from that sponsor(s), and preferential issue of units is being made to that sponsor, as full consideration for the acquisition of such asset.

Pursuant to these circulars, the lock in requirement and allotment restrictions shall not be applicable in case of units allotted to an employee benefit trust for the purpose of a unit based employee benefit scheme in compliance with Chapter IVB of the SEBI (Infrastructure Investment Trusts) Regulations, 2014 ("**InvIT Regulations**")/ SEBI (Real Estate Investment Trusts) Regulations, 2014 ("**REIT Regulations**").

- (b) Format of Quarterly Report and Compliance Certificate - To ensure uniformity across the industry, Bharat InvITs Association ("**BIA**") (*in case of InvITs*) and Indian REITs Association ("**IRA**") (*in case of REITs*), in consultation with SEBI, shall specify the format of quarterly report and compliance certificate required to be submitted by the Investment Manager of the InvIT/REIT to the Trustee under the InvIT Regulations/ REIT Regulations, and publish it on its website. Any future changes to this format shall be made by BIA/IRA in consultation with SEBI, prior to implementation.
- (c) Transfer of unclaimed amount to Unpaid Distribution Account - Where a distribution has been made by the Investment Manager within the timelines specified under Regulation 18(6)(c) of the InvIT Regulations/ REIT Regulations, but the payment to any unitholders has remained unpaid or unclaimed, the Investment Manager/ Manager shall, within 7 working days from the date of expiry of timelines specified under Regulation 18(6)(c) of the InvIT Regulations/ REIT Regulations, transfer such unclaimed amounts to an escrow account to be opened by it on behalf of the InvIT/REIT in any scheduled bank. Such account shall be termed as the 'Unpaid Distribution Account'.

To read the InvIT circular [click here](#) & to read the REIT circular [click here](#)



SEBI (ALTERNATIVE INVESTMENT FUNDS) (FIFTH AMENDMENT) REGULATIONS, 2024 – NOTIFIED

SEBI, *vide* its notification dated November 18, 2024, has notified the SEBI (Alternative Investment Funds) (Fifth Amendment) Regulations, 2024 ("**AIF Amendment Regulations**"), thereby amending SEBI (Alternative Investment Funds) Regulations, 2012.

The key amendments are:

- (a) Pro rata right to investors - The investors of a scheme of an Alternative Investment Fund ("**AIF**") shall have rights, pro-rata to their commitment to the scheme, in each investment of the scheme and in the distribution of proceeds of such investment, except as may be specified by SEBI from time to time. However, the rights of the investors of schemes of AIF issued prior to the notification of AIF Amendment Regulations which are not pro-rata to their commitment to the scheme and not exempted by SEBI, shall be dealt with in the manner specified by SEBI. However, this shall not apply to angel funds.

- (b) Differential rights to investors - The rights of investors of a scheme of an AIF shall be *pari passu* in all aspects other than the rights of the investors which are pro rata to their commitment to the scheme of AIF. SEBI has exempted Large Value Fund for Accredited Investors in this regard.

However, differential rights may be offered to select investors of a scheme of an AIF, without affecting the interest of other investors of the scheme, in the manner as may be specified by SEBI.

Further, any differential right already issued by an AIF prior to the notification of AIF Amendment Regulations, shall be dealt with in the manner as specified by SEBI.

To read the AIF Amendment Regulations [click here](#)



SEBI WITHDRAWS THE MASTER CIRCULAR ON ISSUANCE OF NO OBJECTION CERTIFICATE FOR RELEASE OF 1% SECURITY DEPOSIT

SEBI, *vide* its notification dated May 17, 2024, had made certain amendments under the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 ("**SEBI ICDR Regulations**"). One of the amendment was omission of the requirement to deposit 1% of the issue size available for subscription to the public with the designated stock exchange by the issuer company under Regulation 38 (*pertaining to security deposit by issuer in relation to the public issue*) of the SEBI ICDR Regulations, which was covered in our [earlier edition of Legalaxy](#).

Consequent to the aforesaid amendment, SEBI, *vide* its circular dated November 21, 2024, has now withdrawn its circular dated November 7, 2022, on issuance of no objection certificate for release of 1% of issue amount.

The aforesaid circular dated November 21, 2024, also directs the stock exchanges to frame a joint standard operating procedure for release of 1% security deposit that were deposited with stock exchanges by the issuer prior to the aforesaid amendment in the SEBI ICDR Regulations.

To read the circular [click here](#)



RBI & IFSC UPDATES

INCLUSION OF SOVEREIGN GREEN BONDS UNDER FULLY ACCESSIBLE ROUTE FOR INVESTMENT BY NON-RESIDENTS IN GOVERNMENT SECURITIES

Reserve Bank of India ("RBI"), *vide* its circular dated March 30, 2020, had introduced Fully Accessible Route ("FAR"), wherein certain specified categories of Central Government securities were opened fully for non-resident investors without any restrictions, apart from being available to domestic investors. Government securities that are eligible for investment under FAR ("**Specified Securities**") have been notified by RBI through various circulars.

RBI, *vide* its notification dated November 7, 2024, has now decided to include Sovereign Green Bonds of 10-year tenor issued by the Government in the second half of the fiscal year 2024-25 as Specified Securities under FAR.

To read the notification [click here](#)



PRINCIPLES TO MITIGATE THE RISK OF GREENWASHING IN ESG LABELLED DEBT SECURITIES IN THE IFSC

The International Financial Services Centres Authority ("IFSCA"), *vide* its circular dated November 21, 2024 ("**IFSCA Circular**"), has notified principles to mitigate the risk of greenwashing in Environmental, Social and Governance ("**ESG**") labelled debt securities to be adhered by issuers of such securities in the International Financial Services Centres ("IFSCs"). These principles will ensure and promote transparency, accountability and adequacy of disclosures to investors.

The IFSCA (Listing) Regulations, 2024 ("**Listing Regulations**") provides for the international standards/principles out of which one should be followed in order to label the debt securities as 'green', 'social', 'sustainability' and 'sustainability-linked' bond. Further, the International Organisation of Securities Commissions (IOSCO), published a paper on 'IOSCO Good Sustainable Finance Practices'.

In line with the above, the IFSCA has issued the following principles:

(a) Being True to Label – Avoid misleading labels and terminology -

The issuer of debt securities in IFSC shall not use terms like 'Green', 'Social', 'Sustainability', 'Sustainability-linked' or similar terms or a combination of these terms in issuance of ESG labelled debt securities or its marketing, unless the securities are aligned with any of the frameworks recognised by IFSCA.

(b) Screen the Green – Transparency in methodology for project selection and evaluation -

The issuer shall disclose (i) a statement on ESG objectives; (ii) details of process followed for evaluating and selecting the project(s) and/or asset(s); (iii) proposed use of the proceeds; and (iv) details of the systems and procedures for tracking the deployment of the proceeds as per the Listing Regulations for issuance of securities, in the offer document. The issuer shall refrain from using broad or generic statements to define the investment screening criteria.

(c) Walk the talk – Managing and tracking use of proceeds -

Procedures for ensuring that the funds are directed only towards projects or activities as defined in the offer documents should be outlined and disclosures pertaining to internal control for managing and tracking the use of proceeds should be made in the offer documents. Further, the issuer shall disclose to investors the details of investment and instruments towards temporary placement for unallocated net proceeds along with the environmental impact of such investments.

(d) Overall Impact – Quantification of Negative Externalities -

The issuer shall quantify the negative externalities associated with ESG debt utilization which could include metrics for residual environmental impacts or potential environmental risks associated with the financed projects.

(e) Be alert – Monitoring and Disclose -

The issuers shall continuously monitor and disclose the environmental impact of their projects financed by the issuance. The issuer shall communicate a list of project(s) to which proceeds have been allocated along with certain details and information on processes through which issuers would measure the progress of sustainability target associated with the project(s).

The principles are not exhaustive and issuers may adopt such other measures/disclosures which would assure investors as measures against greenwashing.

To read the IFSCA Circular [click here](#)



LABOUR UPDATES

DEADLINE FOR POSH ANNUAL REPORT REVISED IN GURUGRAM

Additional Deputy Commissioner-cum-District Officer, Gurugram, *vide* its circular dated November 4, 2024, has informed all governmental and non-governmental organisations to submit their annual report in accordance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("**POSH Act**") as well as the checklists uploaded on the official website for both [governmental](#) and [non-governmental](#) organisations by 28th February of every year. The timeline for submission of the annual report in Gurugram for the previous calendar year, i.e., 2023, was April 30, 2024.

The circular further re-iterates that the employers who fail to timely submit the annual report, a penalty of INR 50,000 shall be levied on them and any non-compliance with the POSH Act shall lead to strict actions being initiated against the organisation.

To read the circular [click here](#)



SCALE OF ASSURED BENEFITS INCREASED UNDER THE EDLI SCHEME

Ministry of Labour and Employment, *vide* its notification dated November 18, 2024, has notified the Employees' Deposit-Linked Insurance (Second Amendment) Scheme, 2024 ("**EDLI Amendment Scheme**") thereby substituting paragraph 22(3) of the Employees' Deposit-Linked Insurance Scheme, 1976 ("**EDLI Scheme**"). The EDLI Amendment Scheme has been notified with a retrospective effect and is deemed to be in force from April 28, 2024.

Paragraph 22(3) of the EDLI Scheme deals with the assured benefits upon death of an employee (*who is a member of the fund established under the EDLI Scheme ("**Fund**") or of a provident fund exempted under Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ("**EPF Act**")*, and was in employment for a continuous period of 12 months, preceding the month in which he died) ("**Eligible Employee**"). The substituted sub-paragraph contemplates that upon death of an Eligible Employee, the persons entitled to receive the provident fund accumulations of the Eligible Employee shall, in addition to such accumulations, be paid an amount equal to:

- (a) the average monthly wages drawn (*subject to a maximum of INR 15,000*), during the 12 months preceding the month in which he died, multiplied by 35 times plus 50% of the average balance in the account of the Eligible Employee in the fund or of a provident fund exempted under Section 17 of the EPF Act or under paragraph 27 or 27A of the Employees' Provident Funds Scheme, 1952, during the preceding 12 months subject to a ceiling of INR 1,75,000; provided that the assurance benefit shall not be less than INR 2,50,000 and shall not exceed INR 7,00,000; or
- (b) the amount of benefit under sub-paragraph (i) of paragraph 22,

whichever is higher.

It further provides that in case of a part-time employee who is a member of the Fund or of a provident fund under Section 17 of the EPF Act, who was serving in more than 1 factory or establishment for a continuous period of 12 months, preceding the month in which he died, the quantum of benefit under the EDLI Scheme shall be determined with reference to the average wages of the aggregate of all the wages wherever he was continuously working for more than 12 months, subject to the wage ceiling of INR 15,000.

To read the EDLI Amendment Scheme [click here](#)



SEEDING OF AADHAAR DISPENSED WITH FOR CERTAIN CLASSES FOR MEMBERS

Employees' Provident Fund Organisation, *vide* its circular dated November 29, 2024, has exempted the following classes of members from the requirement of seeding Aadhaar and also prescribed the substitute identification which can be used for the settlement of physical claims:

- (a) International workers - International workers who have already left India after completion of their assignments without obtaining Aadhaar. For this class, passport has been prescribed as the substitute identification;
- (b) Migrated Indian worker - Indian worker who had permanently migrated to a foreign country and subsequently obtained its citizenship without having Aadhaar. Like in the case of international workers, passport has been prescribed as the substitute identification; and
- (c) Citizens of Nepal and Bhutan - Citizens of Nepal and subjects of Bhutan who fall within the definition of employee and work for and on the rolls of an establishment covered under the EPF Act but do not reside in India and consequently do not possess Aadhaar. For this class, any citizenship identification certificate or document has been prescribed as the substitute identification.

Obtaining Universal Account Number (UAN) is mandatory for all the members and the above mentioned classes must necessarily generate UAN. However, the requirement of seeding of Aadhaar with UAN is dispensed with.

To read the circular [click here](#)



ENVIRONMENTAL UPDATES

CERTAIN INDUSTRIAL PLANTS EXEMPTED FROM AIR AND WATER POLLUTION CONSENT REQUIREMENTS

Ministry of Environment, Forest and Climate Change ("MoEFCC"), vide its two notifications dated November 12, 2024, has issued an exemption under Section 21(1) of the Air (Prevention and Control of Pollution) Act, 1981 ("**Air Act**") and an exemption under Section 25(1) of the Water (Prevention and Control of Pollution) Act, 1974 ("**Water Act**") for certain categories of industrial plants from obtaining consent to establish or operate by the relevant State Pollution Control Board ("**SPCB**") for any industrial plant in an air pollution control area and water pollution control area, respectively. The following categories have been exempted:

- (a) Industrial plants having pollution index score up to 20 (*as listed in the Schedule to the notifications, the Schedules list 39 categories of industrial plants classified under the white category of sectors as per the Central Pollution Control Board's 2016 classification methodology*), subject to informing the relevant SPCB or Pollution Control Committee in writing; and
- (b) Industrial plants having already obtained prior environmental clearance under the Environmental Impact Assessment Notification, 2006 for establishment of their plants.


Additionally, the notifications empower the MoEFCC to issue necessary standard operating procedures for streamlining the implementation of these notification, as deemed appropriate.

To read the notification pertaining to Air Act [click here](#) & to read the notification pertaining to Water Act [click here](#) 

E-WASTE MANAGEMENT RULES AND HAZARDOUS AND OTHER WASTE RULES - DECRIMINALISED

MoEFCC, vide its notifications dated November 12, 2024, has notified the E-Waste (Management) Second Amendment Rules, 2024 ("**E-waste Amendment Rules**") to amend the E-Waste (Management) Rules, 2022 ("**Principal E-waste Rules**") and the Hazardous and Other Wastes (Management and Transboundary Movement) Second Amendment Rules, 2024 ("**Hazardous and Other Waste Amendment Rules**") to amend the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 ("**Principal Hazardous and Other Waste Rules**"). The E-waste Amendment Rules and the Hazardous and Other Waste Amendment Rules aim to align the Principal E-waste Rules and the Principal Hazardous and Other Waste Rules with the Jan Vishwas (Amendment of Provisions) Act, 2023 which decriminalizes certain offences under the Environment (Protection) Act, 1986 ("**Environment Act**").

Pursuant to the above notifications, any person who fails to comply or contravenes the provisions of the Principal E-waste Rules or the Principal Hazardous and Other Wastes Rules, as the case may be, shall be liable to a penalty in accordance with Section 15 (*Penalty for contravention of the provisions of the Act and the rules, orders and directions*) of the Environment Act.

To read the E-waste Amendment Rules [click here](#) & to read the Hazardous and Other Waste Amendment Rules [click here](#) 

OTHERS UPDATES

COACHING SECTOR TO BE CAUTIOUS ABOUT THEIR MISLEADING ADVERTISEMENTS

Central Consumer Protection Authority, *vide* its notification dated November 13, 2024, has issued the Guidelines for Prevention of Misleading Advertisement in Coaching Sector, 2024 ("**Coaching Sector Ads Guidelines**"). The Coaching Sector Ads Guidelines aim to curb the deceptive or unfair trade practices that the coaching institutes engage in by way of false or misleading advertisements to promote the sale of goods or service. Any contravention of the Coaching Sector Ads Guidelines attracts the provisions of the Consumer Protection Act, 2019.

The Coaching Sector Ads Guidelines state that any person who establishes, runs, administers coaching center or provides coaching shall be said to be engaged in misleading advertisement, if he:

- (a) makes false claims regarding: (i) course(s) offered, duration of completion, credential of faculty, fee, course exit policy including fee-refund, (ii) number of selection, rank in exam or success rate, or (iii) guaranteed selection, job security, job promotions, salary increase, success at different stages of an examination, admission to any institution or lead the consumer to believe that enrolment in coaching will ensure a good rank, high marks;
- (b) falsely represents that the services are of a particular standard or quality;
- (c) creates a false sense of urgency so as to mislead a person into making an immediate purchase or require taking an immediate action; or
- (d) engages in any other unfair trade practice or misleading advertisement.

Further, the Coaching Sector Ads Guidelines impose following obligations on every person engaged in coaching:

- (a) disclose important information such as rank secured, name and duration of course;
- (b) display disclaimer and any other important information prominently. The font of disclaimer and important information in the advertisement shall be the same as that used in the claim;
- (c) accurately represent the service, facilities, resources and infrastructure of the coaching center;
- (d) truthfully represent, if applicable, that the course(s) offered are duly recognised and have the approval of a competent authority such as All India Council for Technical Education (AICTE), University Grants Commission (UGC), etc.; and
- (e) maintain transparency in making an advertisement.

Additionally, every coaching center shall endeavour on a best effort basis to become a partner in the convergence process of the National Consumer Helpline of the Central Government.

PAN BECOMES MANDATORY FOR FSSAI LICENSES AND REGISTRATIONS

Food Safety and Standards Authority of India ("FSSAI"), *vide* its order dated November 13, 2024, has made it mandatory for food business operators ("FBOs") to link the Permanent Account Number ("PAN") with FSSAI licenses and registrations. From October 22, 2024 onwards, all new applications for FSSAI licenses and registrations, as well as renewals and modifications, must include the PAN of the FBO. Where the FBOs applying for registration do not possess the PAN, they must submit a declaration to that effect.

Further, the existing FBOs, whose renewal or modification is not due in the near future, are required to update their PAN details on the [Food Safety Compliance System \(FoSCoS\) portal](#) as soon as possible. Additionally, the FBOs are advised to keep their contact details, including e-mail ID and mobile number, updated on the FoSCoS portal to facilitate communication from FSSAI.

To read the order [click here](#)



TELECOMMUNICATIONS (TELECOM CYBER SECURITY) RULES, 2024 – NOTIFIED

Ministry of Communications, Department of Telecommunications, *vide* its notification dated November 21, 2024, has notified the Telecommunications (Telecom Cyber Security) Rules, 2024 ("Cyber Security Rules") for the purpose of enhanced cyber security measures pertaining to the telecom entities.

The key provisions of the Cyber Security Rules, *inter-alia*, includes:

- (a) The Central Government or its authorized agencies has been vested with the power to collect traffic data and other relevant information to ensure telecom cyber security which may be exercised by the installation of infrastructure for data collection and data processing.
- (b) The telecom entities have been given the responsibility for: (i) developing cyber security policies (*the said policies would include risk assessments, network testing, and response strategies for security incidents*); (ii) conducting internal as well as government certified security audits; (iii) reporting any security incident (*along with its impact and mitigation*) within 6 hours of such incident; (iv) furnishing the information within 24 hours of becoming aware of a security incident which include: (I) number of users affected, (II) duration of the incident, (III) geographical area impacted, (IV) extent to which the functioning of the telecommunication network/ service is affected, (V) economic as well as societal impact, (VI) the proposed or taken remedial, etc.; (v) establishment of Security Operations Centres (SOCs) which would be responsible for monitoring threats, log incidents, and maintain records which are critical to cyber defence.
- (c) A mechanism for detecting and responding to the cyber threats have been introduced by the government.

- (d) The appointment of Chief Telecommunication Security Officer has been prescribed who (i) would be an Indian citizen; (ii) resident and reports directly to the entity's board; and (iii) acts as the contact point with the government.
- (e) The digital implementation of the Cyber Security Rules which would be done by the virtue of a portal to be notified by the Central Government.

To read the Cyber Security Rules [click here](#)



THRESHOLD FOR TURNOVER REDUCED FOR MSMEs TO ACCESS TReDS PLATFORM

Ministry of Micro, Small and Medium Enterprises, *vide* its notification dated November 7, 2024, has issued a notification, superseding the notification dated November 2, 2018, on registration of companies and Central Public Sector Enterprises ("CPSE") on the trade receivables discounting system platforms ("TReDS").

While previously companies and CPSEs with a turnover of more than INR 500 crores were required to get themselves onboarded on the TReDS, this threshold on turnover has now reduced to INR 250 crores, thereby mandating more micro, small and medium enterprises, companies and CPSEs to register on the TReDS. Further, the deadline for completion of this registration process on TReDS by the eligible entities is March 31, 2025.

To read the notification [click here](#)



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