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COMPETITION

Enforcement Matters

Madras High Court upholds the CCI's jurisdiction to decide on Google's payment systems

On 19 January 2024, the division bench of the Madras High Court ("MHC") upheld the rejection of various suits that *inter-alia* challenged aspects of Google's billing policies and the way they were being implemented. Holding that the terms of the payment/billing systems between Google and app developers had already been tested before the CCI and as such any variation to such terms ought to also be tested by the CCI and not any other fora. The division bench observed that the provisions of the Competition Act that dealt with (i) the exclusion of the jurisdiction of civil courts and (ii) the applicability of other laws (Sections 61 & 62 of the Competition Act, respectively) must be read in conjunction to give a wholistic meaning to their applicability. Merely because the Competition Act provides that it is to be in addition to and not in derogation of the provisions of any other law in force, it cannot be interpreted to mean that any individual can institute proceedings in a commercial court alleging abuse of dominance, while completely ignoring Section 61 of the Competition Act.

CCI initiates investigation into Google's billing policies for in-app purchases and paid apps

On 15 March 2024, the CCI ordered the Director General ("DG") to investigate whether Google is abusing its dominance through its billing and service fee policies.

Observing that market regulators may be inclined to directly regulate price if, (i) there is a market with significant entry barriers coupled with (ii) a dominant player that is engaging in practices that harm consumers or stifle

competition, and (iii) the market is not self-correcting, the CCI analyzed factors such as Google's market position; the take-it or leave-it unilateral nature of Google's policies; types of services being offered; Google's costs compared to the quantum of fees being charges for service offered; type of purchases on which service fees were being charged etc. Based on an analysis of the aforesaid, the CCI *prima-facie* found these policies to be unfair in nature and discriminatory in application. Further noting that such conduct constrained the growth of the app market since fewer resources were available to app developers to enhance or develop their apps and that unfair service fees could increase operational costs of app developers thereby leading to denial of market access.

CCI dismisses complaint against PVR Limited

On 3 January 2024, the CCI dismissed a complaint filed against PVR Limited ("PVR") alleging competitive harm caused to independent filmmakers due to PVR's (i) discriminatory screen allocation policies for movie exhibition in favour of certain filmmakers and (ii) vertical integration in film production, distribution and exhibition segments.

In relation to the screen allocation policies, the CCI recognized that an exhibitor's commercial decisions are governed by consumer demand and unless harm to competition is apparent, any intervention would lead to undesirable consequences by taking away the exhibitor's autonomy and substituting it with the decision of the regulator. Additionally observing that exhibitors must be able to deal with movies the way they want, subject to the provisions of the Competition Act. Further, while dismissing allegations pertaining to PVR's vertical integration, the CCI highlighted that vertical integration *per se* is not prohibited under the Competition Act.

CCI dismisses complaint against Kerala State Road Transport Corporation

On 22 January 2024, the CCI dismissed a complaint filed against Kerala State Road Transport Corporation (“**KSRTC**”) alleging that the exclusivity granted to KSRTC by the Government of Kerala for operating buses on the route to reach the Sabarimala temple coupled with the exorbitant fares charged from passengers on the said route amounted to an abuse of dominance.

In relation to the KSRTC's exclusivity, the CCI observed that the grant of exclusivity under the provisions of the Motor Vehicles Act, 1988 (“**MV Act**”) was a policy decision of the Government of Kerala and as such may not be considered to be anticompetitive. Further in relation to the excessive fares being charged by KSRTC to its passengers, the CCI noted that (i) these fares were fixed in accordance with a Government notification that was applicable to both nationalized and non-nationalized routes and (ii) this notification also provisioned for enhancement of fares based on factors such as ghat roads, festival occasions etc. In this regard the CCI also observed that the fares on per kilometer basis were being charged on a uniform basis as per the said notification by both public and private operators and accordingly dismissed these allegations against KSRTC.

CCI dismisses complaint against manufacturers and sellers of Electric Two Wheelers

On 23 January 2024, the CCI dismissed a complaint filed against Ola Electric Ltd., VIDA Hero Moto Corp Limited, TVS Motors and Ather Energy Private Limited, (collectively the “**OPs**”) which alleged that the OPs had abused their dominance by underpricing and/or undertaking deceptive pricing and sales practices so that their electric two wheelers could avail the benefit of

Government subsidies under the Faster Adoption and Manufacturing of Electric & Hybrid Vehicles Policy. In its order, the CCI analyzed factors such as the unstable market shares of players, recent entries into the market, and the presence of significant competitors. Further taking note of the nascency of the electric two wheeler market, the CCI observed that this market was in a 'growth stage' and as such competition is expected to intensify as market players fight for market share. Consequently, the CCI held that none of the OPs appeared to be dominant in the relevant market since no (single) player was able to exert market power in its favour or appeared to demonstrate a position of strength to operate independently of market forces.

Developments in the Legal Framework

Updated Leniency Regime has come into effect

The newly updated leniency regime was brought into force with effect from 20 February 2024. These changes were implemented through the simultaneous enforcement of certain provisions of the Competition Amendment Act, 2023 (“**Amendment Act**”) by the Central Government and the notification of the Competition Commission of India Lesser Penalty Regulations, 2024 (“**Lesser Penalty Regulations**”) by the CCI, which replaced the earlier 2009 regulations in this regard. The CCI has also issued ‘FAQs on Lesser Penalty Regime’ (“**FAQs**”) to provide additional clarity on this new leniency regime. One of the most significant changes to the erstwhile leniency regime is the introduction of the leniency plus mechanism, which provides that if a cartel participant seeks leniency for its involvement in a known cartel (first cartel) and also provides information regarding another undisclosed cartel

(second cartel) to the CCI, then it stands to benefit from additional penalty reductions for its conduct in the known cartel as well as the newly disclosed cartel.

To know more about (i) the quantum of penalty reductions for leniency applicants; (ii) the procedure to apply for leniency and how it is granted; (iii) confidential treatment of information submitted in the leniency application; (iv) timelines to be followed; (v) who can file for leniency; (vi) the factors that the CCI will consider while granting leniency etc.; please read our detailed article available here.

New Commitments and Settlements Regime has come into effect

The commitments and settlements regime, under the Competition Act (as amended) was brought into force with effect from 6 March 2024. These changes were implemented through the simultaneous enforcement of certain provisions of Amendment Act and the notification of the Competition Commission of India (Commitment) Regulations, 2024 and the Competition Commission of India (Settlement) Regulations, 2024, collectively "**Regulations**". Through these changes, a framework has been set up for the expedited resolution of matters pertaining to abuse of dominance and anti-competitive vertical agreements. This is done by allowing the entities under scrutiny to offer commitments and /or settlements to the CCI.

To know more about (i) when commitment or settlement applications can be made before the CCI; (ii) the nature of information and undertakings applicants are required to submit to the CCI; (iii) the CCI's adjudication process, fees and the timelines within which proceedings are to be concluded; (iv) factors that the CCI may consider during its assessment; (v) nature and effect of commitment and/or settlement orders and when they can be revoked; (vi) how settlement amounts will be

calculated; (vii) confidential treatment of information submitted to the CCI etc., please read our detailed article available here.

CCI notifies Turnover Regulations and Penalty Guidelines

The Competition Commission of India (Determination of Turnover or Income) Regulations, 2024 ("**Turnover Regulations**") and the Competition Commission of India (Determination of Monetary Penalty) Guidelines, 2024 ("**Penalty Guidelines**") were published in the official gazette on 6 March 2024. Through the introduction of the Turnover Regulations, the CCI has provided clarity on the nature of income that will be considered for calculating penalties relating to anticompetitive agreements and abuse of dominance violations. Whereas, the Penalty Guidelines provide a method for determining the quantum of penalty that can be imposed for the contravention of various provisions of the Competition Act as well as the various aggravating and mitigating factors that the CCI would consider while determining the quantum of penalty for offences related to (i) anticompetitive agreements and abuse of dominance violations by individuals or enterprises (including their KMPs); (ii) failure to comply with the CCI's orders and/or directions; (iii) submission of false or misleading information; and (iv) gun-jumping violations.

To know more about (i) the types of income that will be considered 'turnover' for the purposes of imposing penalties; (ii) the method for calculating penalties; (iii) factors that the CCI will consider at the time of determining the quantum of penalty for various offences etc., please read our detailed article available here.

Changes to the Monetary Thresholds that Trigger Merger Notifications

Vide two notifications dated 7 March

2024, the Ministry of Corporate Affairs has (i) enhanced the wholesale price index of the monetary thresholds provided under Section 5 of the Competition Act (“**Jurisdictional Thresholds**”) by 150% and (ii) increased the monetary thresholds provided under the existing small target or De-minimis Exemption (“**De-minimis Thresholds**”). Pursuant to these revised De-minimis Thresholds, transactions where the target enterprise has (i) assets of less than INR 450 crore (~ apx. USD 54 million) or (ii) a turnover of less than 1250 crore (~ apx. USD 151 million) in India will be exempt from needing CCI approval. To know more about these revisions and see the details of each of the new Jurisdictional Thresholds please read our detailed article available [here](#).

Committee on Digital Competition Law suggests ex-ante regulation of digital enterprises and introduces a Draft Digital Competition Bill

On 12 March 2024, the Ministry of Corporate Affairs published the report of the Committee on Digital Competition Law (“**CDCL**”), which includes a draft of the proposed Digital Competition Bill, 2024 (“**DC Bill**”), and has invited comments on the same up to 15 May 2024 (as extended). By way of a brief background, it may be noted that the CDCL was formed on 6 February 2023 with the primary objective of determining whether the existing provisions of the Competition Act could efficiently deal with the digital markets or whether a separate law was needed to regulate the same. At the end of its deliberations, the CDCL concluded that (i) the ex-post framework of the Competition Act may not be sufficient to address competition concerns in digital markets since these markets were propelled by strong network effects and tended to ‘tip’ quickly, which often resulted in a ‘winner-takes-most’ outcome; and (ii) the existing legal framework pertaining to digital enterprises regulated such entities in a piecemeal fashion and did

not consider challenges to digital markets from a competition law perspective.

To allay these concerns and after considering global best practices, the draft DC Bill was formulated. Through this bill, it is envisaged that if an entity provides any of the 9 identified ‘Core Digital Services’ (“**CD Service(s)**”) (i.e., (i) online search engines; (ii) online social networking services; (iii) video-sharing platform services; (iv) interpersonal communications services; (v) operating systems; (vi) web browsers; (vii) cloud services; (viii) advertising services; and (ix) online intermediation services) and if it meets certain financial and user thresholds, it would be designated as a ‘Systematically Significant Digital Enterprise’ (“**SSD Enterprise**”). If so designated, then it, along with its group enterprises that provide CD Services (“**Associate Digital Enterprise /AD Enterprise**”), will be subjected to certain ex-ante obligations which are aimed to regulate such entity’s market facing conduct.

To know more about (i) the monetary and user thresholds to be categorized as SSD Enterprise and the CCI’s discretion in this regard; (ii) duration of the SSD Enterprise designation and how it can be revoked; (iii) ex-ante obligations of an SSD Enterprise with respect to (a) self-preferencing, (b) data usage, (c) third party applications, (d) anti-steering, (e) tying and bundling and (f) compliance reporting; (iv) the proposed adjudication process, anticircumvention safeguards, and penalties etc. please read our detailed article available [here](#).

Other Regulatory updates

Draft Merger Control Rules: On 11 March 2024, the MCA published three draft rules relating to the Indian merger regime for public consultation. More particularly, these rules aim to provide clarity on the types of transactions that (i) can avail the benefit of the existing

green channel filing route, through the Competition Commission of India (Green Channel) Rules 2024; (ii) can avail the benefit of the De-minimis Exemption, through the Competition Commission of India (De-minimis) Rules 2024; and (iii) will be exempt from requiring CCI approval even if the Jurisdictional Thresholds are met, through the Competition Commission of India (Exempted Combination) Rules 2024

Proposed Changes to the General Regulations: On 26 February 2024, the CCI proposed certain amendments to the CCI General Regulations with an aim of *inter-alia* streamlining the processes relating confidentiality rings and their review of documents in order to ensure timely & effective disposal of matters. Further, these proposed amendments also contemplate a revision to the charges for carrying out inspection(s) for documents submitted to the CCI.

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FINANCE

Regulatory Updates

Review of the NBFC credit/ investment concentration norms

In order to ensure uniformity and consistency in computation of concentration norms among Non-Banking Financial Companies ("NBFC"), the Reserve Bank of India has, *vide*, notification dated 15 January 2024, carried out a review of the extant concentration norms. The key points highlighted are as follows:

- **NBFC - Middle Layer - Computation of exposures:** RBI has now permitted the exposures of NBFC- Middle Layer to be offset with the following credit risk transfer instruments: (a) Cash margin/ caution money/ security deposit held as collateral on behalf of the borrower against the advances for which right to set off is available; (b) Central Government guaranteed claims which attract zero per cent risk weight for capital computation; (c) State Government guaranteed claims which attract twenty per cent risk weight for capital computation; and (d) Guarantees issued under the Credit Guarantee Schemes of Credit Guarantee Fund Trust for Micro and Small Enterprises, Credit Risk Guarantee Fund Trust for Low Income Housing and individual schemes under National Credit Guarantee Trustee Company Ltd. Provided that to be eligible as a credit risk transfer instrument, guarantees shall be direct, explicit, irrevocable and unconditional.
- **NBFC- Middle Layer - Exempted exposures:** In addition to the exposures already exempted, the exposures listed below shall also be exempt: (a) Exposure to the Government of India ("GOI") and State Governments which are eligible for zero percent risk weight under capital regulations applicable to NBFCs; and (b) Exposure where

the principal and interest are fully guaranteed by the GOI.

- **NBFC- Base Layer:** NBFC- Base Layer shall have in place an internal board approved policy for credit/ investment concentration limits for both single borrower/ party and single group of borrowers/ parties. Additionally, computation of exposure shall be on similar lines as that for NBFC- Middle Layer.
- **NBFC- Upper Layer:** It has been clarified that, to be eligible as a credit risk transfer instrument, guarantees shall be direct, explicit, irrevocable and unconditional.

Revised instructions on inoperative accounts/ unclaimed deposits

The Reserve Bank of India, *vide* notification dated 1 January 2024, has, (i) as a measure to assist the account holders and with a view to consolidate and rationalise the extant instructions on inoperative accounts; and (ii) compliment the ongoing efforts to reduce the quantum of unclaimed deposits in the banking system and return such deposits to their rightful claimants, issued comprehensive guidelines on the measures to be put in place by the banks covering various aspects, including but not limited to, classifying accounts and deposits as inoperative accounts and unclaimed deposits, periodic review of such accounts and deposits, measures to prevent fraud in such accounts/ deposits, grievance redressal mechanism for expeditious resolution of complaints, etc.

Increase in ceiling of fixed remuneration of non-executive directors in private banks

With effect from 9 February 2024, the ceiling in respect of remuneration of non-executive directors has been revised from INR 2 million per annum to INR 3 million per annum. This revised

ceiling is applicable to all the private sector banks including small finance banks and payment banks and the wholly owned subsidiaries of foreign banks. This step was taken with the view of recognizing pivotal role of non-executive directors and aiming to attract qualified individuals to board positions in banks. As was the position before the notification, the private sector banks still must seek regulatory approval regarding remuneration to part-time chairman as per the Banking Regulation Act, 1949. Annual financial statements of banks must disclose the remuneration paid to the director, at least, on an annual basis.

Clarifications regarding investments in AIFs by Regulated Entities

On 27 March 2024, RBI has issued clarification in relation to investment by Commercial Banks, Non-Banking Financial Companies, Co-operative Banks, and All-India Financial Companies (collectively “REs”) in Alternative Investment Funds (“AIFs”) in respect of its earlier circular dated 19 December 2023. REs are prohibited to make investments in any schemes of AIFs which has downstream investment directly or indirectly in a debtor company to which RE has or previously had a loan or investment exposure anytime during the preceding 12 months.

It has been clarified that downstream investment excludes investment in equity shares of the debtor company but shall include all other investments, including investment in hybrid instruments. Further, 100% provisioning of investments shall be required only to the extent of investment by the RE in the AIF scheme which is further invested by the AIF in the debtor company, and not the entire investment of RE in the AIF scheme. Investment by REs in the subordinated units of any AIF scheme with a ‘priority distribution model’ shall be subject to full deduction from RE’s capital funds only if the AIF does not

have any downstream investment in a debtor company of the RE. It is further clarified that the investments by REs in AIFs through intermediaries such as fund of funds or mutual funds is not prohibited.

Omnibus framework for recognising SROs for REs

In view of the potential role of Self-Regulatory Organisations in strengthening compliance culture among their members and also providing a consultative platform for policy making, RBI has issued omnibus framework for recognising self-regulatory organisations (“SROs”) for Regulated Entities (“REs”) of the RBI. The framework lays down broad objectives, functions, eligibility criteria and governance standards, which will be common for all SROs, irrespective of the sector along with broad membership criteria to be followed by the SROs for grant of recognition by the RBI. The SRO is expected to adhere to a set of overarching objectives for betterment of the sector they represent, foster advancement and address critical industry concerns within the broader financial system. SRO shall frame a code of conduct to be followed by its members and monitor adherence to the code as well as compliance with the regulatory instructions by its members. The SRO shall keep the RBI regularly informed of the developments in the sector. It shall also promptly inform the RBI about any violation by its member of the provision of the acts or the rules/ guidelines/ regulations/ directions issued by the RBI, that comes to its notice and act as a bridge between the REs and the RBI.

Amendment to the master direction on prepaid payment instruments

The RBI has, on 23 February 2024, *vide* amendment to the Master Direction on Prepaid Payment Instruments decided to permit authorised banks and non-bank prepaid instrument (“PPI”) issuers to issue

PPIs for making payments across various public transport systems such as metro, buses, rail & waterways, tolls and parking. Some of the features of these PPIs are as follows: (a) The PPIs are reloadable in nature; (b) The PPIs can be issued without know- your customer verification of the holders; (c) The amount outstanding in such PPIs shall not exceed INR 3,000; (d) The PPIs will have perpetual validity; and (e) No cash withdrawal, refund or fund transfer will be permitted in such PPIs.

Master Direction on Commercial Paper and Non-convertible Debentures of original or initial maturity up to one year

On 3 January 2024, RBI issued the Master Directions (Commercial Paper and Non-Convertible Debentures of Original or Initial Maturity up to One Year) 2024 (“**Master Directions**”). The Master Directions shall come into effect from 1 April 2024, and they shall supersede the Master Direction on Money Market Instruments: Call/Notice Money Market, Commercial Paper, Certificates of Deposit and Non-Convertible Debentures (original maturity up to one year), 2016 and the Reserve Bank Commercial Paper Directions, 2017.

Under the Master Directions, commercial paper(s) (“**CPs**”) is defined as an unsecured money market instrument issued in the form of a promissory note. Additionally, non-convertible debenture(s) (“**NCDs**”) refers to a secured money market instrument with an original or initial maturity up to one year. CPs and NCDs can only be issued by such entities who have not defaulted on any of their fund-based facilities availed from banks, NBFCs, and All India Financial Institutions (“**AIFIs**”). In addition to companies, they can also be issued by AIFIs, Infrastructure Investment Trusts (“**InvITs**”), Real Estate Investment Trusts (“**REITs**”), and any other body corporate statutorily permitted to incur debt or issue debt instruments in India

with minimum net-worth of INR 1 billion.

The Master Directions have also laid down the conditions around eligibility of investors, allowing all residents, and non-residents who are permitted to invest in CPs and NCDs under the Foreign Exchange Management Act, 1999, to invest in such instruments. However, no person is permitted to invest in such instruments issued by a related party. CPs and NCDs shall be issued in a dematerialised form, and they shall be issued in minimum denomination of INR 5 lakh and in multiples of INR 5 lakh thereafter. The tenor of a CP shall not be less than seven days or more than one year and of an NCD shall not be less than ninety days or more than one year. Furthermore, instruments cannot be issued with an attached call or put option.

The issuance of such instruments continues to have credit rating requirements. Further, an updated set of disclosures is required to be made at the time of issuance and reporting requirements have also been prescribed. The RBI has also prescribed a timeline of 4 days for completion of funding and issuance of such instruments, to be calculated from the date on which the trade details, including price/rate are agreed by the issuer and the investor(s). Furthermore, an Issuing and Paying Agent is now required to be appointed for each issue of NCDs or CPs. Similarly, each NCD issuance is required to have a debenture trustee in line with the requirement of debenture trustee for issuance of secured NCDs.

The total subscription by all individuals in any primary issuance of NCDs and CPs is restricted to 25% of the total amount issued. The Master Directions now permit the trading of such instruments on recognised stock exchanges (as approved by RBI) in addition to trading on Over-the-Counter markets.

Earlier, in case of non-bank entities (including corporates) providing guarantees for credit enhancement of NCDs and CPs issued by a group entity, the guarantor was required to have a credit rating at least one notch higher than the issuer. This requirement has now been removed under the Master Directions. Additionally, NCDs have now been brought to par with CPs in the terms of the consequence of repayment defaults. Issuers are restricted from accessing the market of the relevant instrument for 6 months from the date of such default. Further, the Master Directions now require all default details to be publicly disseminated on F-TRAC platform and on the website of the issuer.

Amendment to the Master Direction - Credit Card and Debit Card – Issuance and Conduct Directions, 2022

On 7 March 2024, the RBI issued the amendment to the Master Direction - Credit Card and Debit Card – Issuance and Conduct Directions, 2022 ("**Amended Directions**"). This amendment applies to all banks and NBFCs issuing credit cards, with the goal of enhancing regulations governing credit card issuance and conduct in India. The key objectives to the amendment include improving customer control, increasing transparency, simplifying procedures, and enhancing data protection measures.

Under the Amended Directions, card issuers shall be required to establish effective mechanisms for monitoring the end use of funds. Additionally, it has been provided that the card issuers shall not share card data (including transaction data) of the cardholders with the outsourcing partners unless sharing of such data is essential to discharge the functions assigned to the latter. In case of sharing of any data as stated above, explicit consent from the cardholder shall be obtained. It shall also be ensured that the storage and

the ownership of card data remains with the card-issuer. Additionally, it has also been provided that card issuers shall not issue unsolicited credit cards and they will be required to seek prior approval from the customer before issuing a card.

With respect to co-branding arrangements, it has been provided that the data in relation to co-branded card transactions shall be displayed on the co-branding partner's platform with the proper security measures in place. Additionally, co-branded partners shall not have access to customer data as it will be transmitted in encrypted form by the card issuer.

Arrangements with Card Networks for issue of Credit Cards

On 6 March 2024, the RBI issued a notification which instructed credit card providers to offer customers the choice of selecting from various card networks, prohibiting them from engaging in exclusive agreements with any single network for issuing credit cards. Card issuers and card networks shall ensure that the above requirements are met with respect to fresh agreements executed with new customers and existing agreements at the time of amendment or renewal.

Master Direction – Reserve Bank of India (Bharat Bill Payment System) Directions, 2024

On 29 February 2024, the Master Directions on Bharat Bill Payment Systems ("**BBPS Master Directions**") were issued by the RBI, allowing non-bank payment aggregators ("**non-bank PAs**") to function as operating units inside the system. These updated guidelines, which shall take effect on 1 April 2024, supersede the previous BBPS-related guidelines.

Bharat Bill Payment System (BBPS) is an integrated bill payment platform that facilitates bill collection and payment via a variety of channels, such as bank

branches and mobile apps.

In addition to non-bank PAs, participating banks in the BBPS include all scheduled commercial banks, state and district central cooperative banks, regional rural and urban cooperative banks, and other currently operating entities authorized as Bharat Bill Payment Operating Units ("**BBPOUs**").

Under the BBPS Master Direction, the Bharat Bill Pay Central Unit ("**BBPCU**") shall be responsible for guaranteeing the settlement of all transactions processed through NPCI Bharat Bill Limited (NBBL). It mandates that every transaction must have a BBPS reference number from the moment payment is initiated, prohibiting any funds from passing through a third-party service provider, and establish a mechanism for resolving consumer disputes.

Additionally, the Biller Operating Unit ("**BOU**") is tasked with onboarding billers to the BBPS, and for ensuring that merchants adhere to due diligence requirements during the on-boarding process. On the other hand, Customer Operating Units ("**COUs**") are responsible for providing customers with digital or physical interfaces, either directly or through agent institutions. The roles and responsibilities of BBPCU, BOUs and COUs are fairly similar to their respective roles under the erstwhile regime.

Under the BBPS Master Directions, non-bank BBPOU shall be required to open an escrow account with a scheduled commercial bank exclusively for BBPS transactions. Additionally, settlement must be carried out only through a single escrow account for all transactions instead of a nodal settlement account. Thus, transactions such as the credit of funds collected from the customers/debit of funds due to billers, debit towards settlement of BBPS transactions, credit/debit of failed/disputed transactions, recovery

of charges/commissions pertaining to bill payment transactions must be routed through the escrow account of COUs and BOUs.

Appointment/re-appointment of Director, MD or CEO in Asset Reconstruction Companies

As per section 3(6) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) and the guidelines attached to the RBI circular dated 11 October 2022, Asset Reconstruction Companies ("**ARCs**") are required to obtain prior approval of the RBI for the appointment or re-appointment of any director, MD or CEO. Pursuant to this, the RBI on 27 February 2024, released a notification which prescribes the formats for furnishing the requisite information about the candidate along with an indicative list of documents to be submitted with the application.

Further, ARCs are advised to submit complete applications along with duly signed annexures within 90 days before a vacancy arises or the proposed date of appointment or re-appointment. Also, the RBI may call for additional information/documents for processing the application, if required.

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INSURANCE

Regulatory Updates

Investments in Infrastructure Debt Funds - NBFC

The Insurance Regulatory and Development Authority of India ("IRDAI") has, by way of a circular dated 5 January 2024, eased certain regulations on investment by insurance companies in infrastructure debt funds ("IDFs") of non-banking financial companies ("NBFCs") ("IDF-NBFC"). Previously, insurers were permitted to obtain case-by-case approval for investment in IDFs. IRDAI has now done away with the requirement for case-by-case approval for IDFs.

Any investments by insurers in IDF-NBFCs shall, however, be subject to the following conditions: (i) IDF-NBFC must be registered with the Reserve Bank of India ("RBI"), (ii) debt securities shall have residual tenure of not less than 5 years, (iii) a minimum credit rating of AA or its equivalent by a credit rating agency registered with the Securities and Exchange Board of India ("SEBI") shall be eligible for approved investments, and (iv) exposure norms as per Note 3 of Regulation 9 of the IRDAI (Investment) Regulations, 2016 shall be applicable.

IRDAI (Expenses of Management, including Commission of Insurers) Regulations, 2024

The IRDAI, has by way of a circular dated 22 January 2024 issued the IRDAI (Expenses of Management, including Commission, of Insurers) Regulations, 2024 ("EoM Regulations"), providing a consolidated framework to govern expenses of management including commissions, by insurers. The EoM Regulations replace the IRDAI (Expenses of Management of Insurers transacting General or Health Insurance Business) Regulations, 2023, IRDAI (Expenses of Management of Insurers transacting

Life Insurance Business) Regulations, 2023, and IRDAI (Payment of Commission) Regulations, 2023 (collectively, "2023 Regulations"), which consisted of a product-based commissions regime.

The EoM Regulations closely align with the 2023 Regulations in terms of expenses of management, commission limits, compliance obligations, and reporting requirements and consolidate the 2023 Regulations.

Denotification of Arbitration Clause

The IRDAI had by way of a circular dated 4 December 2006, and pursuant to the withdrawal of tariffs by the Tariff Advisory Committee, stated that the tariff general regulations (except the regulations relating to rating), terms, conditions, clauses, warranties, policy and endorsement wordings which were applicable to certain classes of businesses such as fire, engineering, motor, workmen's compensation and other classes of insurances which were then under tariffs would continue to be followed until further orders.

The IRDAI has now, by way of a circular dated 22 January 2024, stated that the arbitration clause related provisions in the tariff general regulations, terms, conditions, clauses, warranties, policy, add-ons, endorsement wordings and proposal form applicable to risks of insurance business governed by the erstwhile tariffs stand de-notified with effect from 28 October 2023. Further, with effect from 27 October 2023, the said arbitration clause in insurance risks contracts shall be subject to the circular issued by the IRDAI in this regard and amended from time to time.

IRDAI (Registration and Operations of Foreign Reinsurers Branches and Lloyd's India) Regulations, 2024

The IRDAI notified the IRDAI (Registration and Operations of Foreign Reinsurers Branches and Lloyd's India) Regulations, 2024 ("Registration and

Operations of Foreign Reinsurers Branches and Lloyd's India Regulations") on 23 March 2024 with the aim to promote the growth of the reinsurance market and streamline the regulations for reinsurers in the country. The Registration and Operations of Foreign Reinsurers Branches & Lloyd's India Regulations repeal the: (i) IRDAI (Lloyd's India) Regulations, 2016 and (ii) IRDAI (Registration and Operations of Branch Offices of Foreign Reinsurers other than Lloyd's) Regulations, 2015. The Registration and Operations of Foreign Reinsurers Branches and Lloyd's India Regulations consolidate the requirements for registration of foreign reinsurer branches, syndicates, and service companies of Lloyds India, including the procedure to be followed for registration in each afore-mentioned category, actions which may be taken the IRDAI in case of any default, and other operational matters. The Registration and Operations of Foreign Reinsurers Branches and Lloyd's India Regulations also provide that the branch offices of foreign reinsurers who are granted the certificate of registration by the IRDAI shall ensure that the specified minimum requirements in relation to operation are complied with at all times. The branch offices shall be required to submit the necessary approval of their board of directors or the executive committee of their management (duly delegated by the board), as the case maybe to the IRDAI.

IRDAI (Protection of Policyholders' Interests, Operations and Allied Matters of Insurers) Regulations, 2024

The IRDAI notified the IRDAI (Protection of Policyholders' Interests, Operations and Allied Matters of Insurers) Regulations, 2024 ("**Protection of Policyholders' Regulations**") on 22 March 2024. The Protection of Policyholders' Regulations are applicable to all insurers and distribution channels except for those engaged in the

reinsurance business exclusively. The Protection of Policyholders' Regulations provides that the following regulations shall be repealed: (i) The IRDAI (Manner of Receipt of Premium) Regulations, 2002, (ii) The IRDAI (Places of Business) Regulations, 2015, (iii) The IRDAI (Fee for registering cancellation or change of nomination) Regulations, 2015, (iv) The IRDAI (Fee for granting written acknowledgement of receipt of Notice of Assignment or Transfer) Regulations, 2015, (v) The IRDAI (Issuance of e-Insurance Policies) Regulations, 2016, (vi) IRDAI (Outsourcing of Activities by Indian Insurers) Regulations, 2017, (vii) The IRDAI (Protection of Policyholders' Interests) Regulations, 2017 and (viii) The IRDAI (Insurance Advertisements and Disclosure) Regulations, 2021.

The Protection of Policyholders' Regulations set out the norms in relation to sale of insurance policies, payment and refund of premium, nomination and assignment, servicing of policyholders, grievance redressal, operations and allied matters of the insurers and outsourcing of activities by Insurers. Further, the Protection of Policyholders' Regulations also provides the principles in relation to issuance of insurance policies in electronic form. All insurers are required to issue insurance policies only in electronic form with effect from 1 April 2024.

IRDAI (Rural, Social Sector and Motor Third Party Obligations) Regulations, 2024

The IRDAI notified the IRDAI (Rural, Social Sector and Motor Third Party Obligations) Regulations, 2024 ("**Rural, Social Sector and Motor Third Party Obligations Regulations**") on 1 April 2024. The Rural, Social Sector and Motor Third Party Obligations Regulations have repealed the following: (i) Insurance Regulatory and Development Authority of India (Obligation of Insurer to Rural and

Social sector) Regulations, 2015 and (ii) Insurance Regulatory and Development Authority of India (Obligation of Insurer in Respect of Motor Third Party Insurance Business Regulations, 2015. The Rural, Social Sector and Motor Third Party Obligations Regulations provides that all insurers (life, general and health) shall ensure that they undertake the minimum rural and social obligations set out by the IRDAI for the specific financial years.

IRDAI (Bima Sugam – Insurance Electronic Marketplace) Regulations, 2024

The IRDAI notified the IRDAI (Bima Sugam – Insurance Electronic Marketplace) Regulations, 2024 (“**Bima Sugam Regulations**”) on 20 March 2024 for the establishment of a ‘Digital Public Infrastructure called Bima Sugam – Insurance Electronic Marketplace’. The Bima Sugam Regulations provide the regulatory framework for establishment, governance and functioning of the Bima Sugam - Insurance Electronic Marketplace, an online marketplace to provide services to insurance stakeholders. Bima Sugam – Insurance Electronic Marketplace shall be set up as a not-for-profit company. The Bima Sugam Regulations provide the norms in relation to establishment and governance of the not-for-profit company and also the functions, duties and responsibilities of the not-for-profit company and the marketplace. The marketplace shall operate on a self-sustainable revenue model and the consumers shall not be charged for availing the services of the marketplace.

IRDAI (Corporate Governance for Insurers) Regulations, 2024

The IRDAI notified the IRDAI (Corporate Governance for Insurers) Regulations, 2024 on 20 March 2024 (“**Corporate Governance Regulations**”). The Corporate

Governance Regulations provide the framework for insurers to adopt sound and prudent principles and practices for their governance structures and provide norms in relation to, inter alia, constitution of the board of directors of insurers, appointment of key managerial persons, appointment of statutory auditors and other governance requirements. The Corporate Governance Regulations also provide for establishment of certain committees of the board of directors of all insurers (in addition to committees specified by the Companies Act, 2013). Further, all insurers are required to formulate a board approved ‘Stewardship Policy’ which identifies and defines the stewardship responsibilities that the insurer wishes to undertake and how the policy intends to fulfill the responsibilities to enhance the benefits to its policyholders.

IRDAI (Actuarial, Finance and Investment Functions of Insurers) Regulations, 2024

The IRDAI notified the IRDAI (Actuarial, Finance and Investment Functions of Insurers) Regulations, 2024 on 20 March 2024 (“**Actuarial Regulations**”). The Actuarial Regulations have repealed the following regulations: (i) IRDAI (Actuarial Report and Abstract for Life Insurance Business) Regulations, 2016 and subsequent amendments, (ii) IRDAI (Distributions of Surplus) Regulations, 2002, (iii) IRDAI (Assets, Liabilities and Solvency Margin of Life Insurance Business) Regulations, 2016, (iv) IRDAI (Assets, Liabilities and Solvency Margin of General Insurance Business) Regulations, 2016 and subsequent amendments, (v) IRDAI (Appointed Actuary) Regulations, 2022, (vi) IRDAI (Investment) Regulations, 2016, (vii) IRDAI (Preparation of Financial Statements and Auditors’ Report of Insurance Companies) Regulations, 2002 and subsequent amendments, (viii) IRDAI (Inspection and Fee for Supply of Copies of Returns)

Regulations, 2015 and (ix) IRDAI (Loans or Temporary Advances to Full Time Employees of the Insurers) Regulations, 2016.

The Actuarial Regulations *inter alia* provide the principles governing the actuarial, finance and investment functions of insurers, the procedure for appointment of an appointed actuary, powers and obligations of appointed actuary, valuation of insurance businesses and also the norms in relation to maintaining solvency margin. The Actuarial Regulations also provide the procedure for preparation of actuarial reports and the formats for the same.

IRDAI (Insurance Products) Regulations, 2024

The IRDAI notified the IRDAI (Insurance Products) Regulations, 2024 on 20 March 2024 (“**Product Regulations**”). The Product Regulations have repealed the following regulations: (i) IRDAI (Micro Insurance) Regulations, 2015, (ii) IRDAI (Minimum Limits for Annuities and other benefits) Regulations, 2015, (iii) IRDAI (Acquisition of Surrender and Paid up values) Regulations, 2015, (iv) IRDAI (Health Insurance) Regulations, 2016, (v) IRDAI (Unit Linked Insurance Products) Regulations, 2019 and (vi) IRDAI (Non-Linked Insurance Products) Regulations, 2019.

The Product Regulations, *inter alia*, provide the principles in relation to product development, pricing and design and also set out certain specific principles applicable to life insurance products, general insurance products and health insurance products.

IRDAI (Registration, Capital Structure, Transfer of Shares and Amalgamation of Insurers) Regulations, 2024

The IRDAI notified the IRDAI (Registration, Capital Structure, Transfer of Shares and Amalgamation

of Insurers) Regulations, 2024 on 20 March 2024 (“**Registration Regulations**”). The Registration Regulations have repealed the following regulations: (i) Insurance Regulatory and Development Authority of India (Registration of Indian Insurance Companies) Regulations, 2022, (ii) Insurance Regulatory and Development Authority of India (Other Forms of Capital) Regulations, 2022, (iii) Insurance Regulatory and Development Authority of India (Manner of Assessment of Compensation to Shareholders or Members on Amalgamation) Regulations, 2021, (iv) Insurance Regulatory and Development Authority of India (Issuance of Capital by Indian Insurance Companies transacting other than Life Insurance business) Regulations, 2015, (v) Insurance Regulatory and Development Authority of India (Issuance of Capital by Indian Insurance Companies transacting Life Insurance business) Regulations, 2015, (vi) Insurance Regulatory and Development Authority (Scheme of Amalgamation and Transfer of Life Insurance Business) Regulations, 2013 and (vii) Insurance Regulatory and Development Authority (Scheme of Amalgamation and Transfer of General Insurance Business) Regulations, 2011.

The Registration Regulations provide the norms in relation to, *inter alia*, registration of insurers, capital structure of insurers, listing of equity shares of insurers on stock exchange, amalgamation and transfer of insurance business and issuance of other forms of capital by insurers. The regulations in relation to capital structure, *inter alia*, provide the lock-in period for shareholders of insurers, the fit and proper criteria, minimum paid-up equity capital, norms in relation to classification as ‘investor’ or ‘promoter’, criteria for investment by private equity funds and the manner of calculation of equity capital held by foreign promoter and foreign investor.

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PROJECTS & INFRASTRUCTURE

Regulatory Updates

Standard Operating Procedure for recycling of lead scrap/ used acid batteries

The Central Pollution Control Board has issued a standard operating procedure, dated 4 January 2024, listing down the requirements for seeking permission for import of lead scrap/ used lead acid batteries for recycling ("**SOP**"). As per the said SOP any unit that is desirous of importing lead scrap/ used lead acid batteries should have valid authorization from the concerned state pollution control board/ pollution control committees under the Hazardous and Other Waste (Management & Transboundary Movement) Rules, 2016. Additionally, the SOP also states the requirements for: (i) grant of such authorization to the units; and (ii) those desirous of importing used lead acid batteries (rains & rinks).

Standard Operating Procedure for recovery of tyre pyrolysis oil, pyro gas and char in tyre pyrolysis oil units

The Central Pollution Control Board, in furtherance of orders of the Hon'ble National Green Tribunal, dated 6 January 2020 and 25 October 2021 and studies conducted, and in consultation with expert members from NEERI & IIT Delhi, has revised the existing standard operating procedure with respect to recycling of waste tyre scrap for recovery of tyre pyrolysis oil, pyro gas and char in tyre pyrolysis oil unit as on 16 January 2024.

Penalty provisions eased on delay in commencement of supply of power beyond 6 months

Through a series of resolutions dated 2 February 2024, Ministry of Power has amended (i) guidelines for tariff based competitive bidding process for procurement of firm and dispatchable

power from grid connected renewable energy power projects with energy storage systems, (ii) guidelines for tariff based competitive bidding process for procurement of power from grid connected solar PV power projects, (iii) guidelines for tariff based competitive bidding process for procurement of power from grid connected wind solar hybrid projects, and (iv) guidelines for tariff based competitive bidding process for procurement power from grid connected wind power projects. Through these resolutions, the penalty provision stands deleted which could debar a (a) renewable power generator, (b) generator, (c) hybrid power generator, or (d) wind power generator, as applicable under the respective guidelines, from participating in bids by any procurer or intermediary procurer for a period of 1 year in case of first default, and for a period of 2 to 3 years for second and any subsequent default, on account of delay in commencement of supply of power beyond 6 months from scheduled commencement of supply date.

Ministry of Power amends the Electricity (Rights of Consumers) Rules, 2020

On 22 February 2024, Ministry of Power notified the Electricity (Rights of Consumers) Rules, 2024 to amend the Electricity (Rights of Consumers) Rules, 2020. The key aspects of the amendment are as follows:

- **Facilitating easier installation of rooftop solar systems:** to enhance the ease of setting up rooftop solar PV systems at the premises of the consumers, exemption has been granted for requirement of technical feasibility study for systems upto 10 kW. For systems of capacity higher than 10 kW the timeline for completing the feasibility study has been reduced from 20 days to 15 days, after which the approval is deemed to have been given. Further, the timeline for

the distribution licensee to commission rooftop solar PV systems has been reduced from 30 days to 15 days. Association, or owners of flats, or any other consumer can also request for a separate electricity connection for charging their electric vehicles.

- **Timeline for obtaining new connections:** The time period for obtaining a new electricity connection under the rules has been reduced from 7 days to 3 days in metropolitan areas, from 15 days to 7 days in other municipal areas, and from 30 days to 15 days in rural areas.
- **Rights for consumers in residential colonies and flats:** Owners residing in co-operative group housing societies, multi-storied buildings, residential colonies, etc., will now have the option to choose from the distribution licensee either individual connections for everyone or a single-point connection for the whole premises. Parity has also been brought in the tariff charged to consumers who get electricity supplied through single-point connection and to those who avail of individual connections. Metering, billing, and collection will be done separately for: (i) individual electricity consumption sourced from the distribution licensee, (ii) individual consumption of backup power supplied by the residential association, and (iii) electricity consumption for common areas of such residential associations, which is sourced from the distribution licensee.
- **Installation of additional meters in cases of complaints:** In cases where consumers raise complaints about meter reading not aligning with their actual electricity consumption, the distribution licensee is now required to install an

additional meter within 5 days from the date of receipt of the complaint. This additional meter will be used to verify the consumption for a minimum period of 3 months, thus reassuring consumers and ensuring accuracy in billing.

Incentive for Procurement of Green Ammonia Production (under Mode-2A) of the National Green Hydrogen Mission

On 16 January 2024, as part of the National Green Hydrogen Mission ("NGHM"), the Union Ministry of New and Renewable Energy ("MNRE") has released incentives and guidelines to encourage the procurement of green ammonia under "Mode-2A". These incentives are intended to support both quick expansion and cost reduction.

The present scheme seeks to increase the amount of green ammonia produced in India, make it more cost-competitive than alternatives produced from fossil fuels, and encourage the broad application of green ammonia. As the implementing agency, Solar Energy Corporation of India Limited ("SECI") will carry out the scheme on behalf of MNRE.

A three-year direct incentive will be given under the system, and it will depend on how much green ammonia is produced and supplied. The incentive structure comprises Rs 8.82/kg in the first year, Rs 7.06/kg in the second year, and Rs 5.30/kg in the third year. Recipients will be chosen through a competitive process.

To qualify for incentives under the scheme, the bidder will have to ensure that the green hydrogen utilized in the production and supply of green ammonia aligns with the detailed criteria outlined in the 'National Green Hydrogen Standard' notified by MNRE.

Allocated capacity will remain constant over a period of three years. The incentive under this scheme shall be

disbursed to each successful bidder on an annual basis, after the requisite claim is received from the successful bidder, and duly verified by MNRE, through SECI.

During the bidding process, bidders will have to submit Earnest Money Deposit ("**EMD**") along with the tender document. The tender document shall contain provisions regarding forfeiture of EMD in case of selected bidder refuses to submit the requisite documents, performance bank guarantees or any other performance guarantee instruments as per tender document or relevant guidelines. Periodically, the performance and implementation status of the green ammonia production and supply capacity granted under the plan will be evaluated by a scheme monitoring committee and it will have the power to recommend solutions to resolve problems. The MNRE shall have the power to make amendments to the scheme guidelines.

Incentive for Procurement of Green Hydrogen Production (under Mode-2B) of the National Green Hydrogen Mission

On 16 January 2024, as part of the National Green Hydrogen Mission ("**NGHM**"), the Union Ministry of New and Renewable Energy ("**MNRE**") has released incentives and guidelines to encourage the procurement of green hydrogen under "Mode-2B".

The program's goals, which place a strong emphasis on increasing production, improving cost-competitiveness, and promoting the widespread use of green hydrogen, are in line with the larger aim of the NGHM. The scheme's execution will be entrusted to agencies nominated by the Union Ministry of Petroleum and Natural Gas ("**MoPNG**"), primarily oil and gas companies, guided by the Centre for High Technology.

Bidders must adhere to the requirements specified in the "National Green Hydrogen Standard", as announced by MNRE, in order to be eligible for incentives. Three-year incentives are offered in direct proportion to the output and availability of green hydrogen. The first year's incentive payments are fixed at Rs. 50/kg, the second year's at Rs. 40/kg, and the third year's at Rs. 30/kg. Under the scheme, the allocated capacity shall remain constant throughout the period of the hydrogen purchase agreement, with incentives disbursed annually based on successful bidder claims.

As per the scheme, Earnest Money Deposits ("**EMD**") must be submitted by bidders at the time of submission of bids. The tender document shall contain information for forfeiture of EMD in case of the selected bidder refuses to submit the requisite documents/performance bank guarantees /or other similar performance guarantee instruments as per tender document/ extant guidelines or the selected bidder not meeting eligibility criteria upon submission of documents, and compliance requirements.

Periodically, the performance and implementation status of the green hydrogen production and supply capacity granted under the plan will be evaluated by a scheme monitoring committee. The committee will provide solutions to problems, and MNRE, in collaboration with the MoPNG, holds the power to modify the Scheme Guidelines as needed, with the MNRE's permission.

Advisory to all GENCOs for timely Import of Coal for blending purposes and maximizing production in captive coal mines

On 4 March 2024, the Ministry of Power issued an advisory which said that in order to ensure a steady power supply and meet the high demand expected

during the summer season, mandating all coal-fired thermal power plants to continue importing coal at a rate of 6 percent (by weight) for blending. This directive is an extension of the previous order issued in October 2023, which required the blending of imported coal at the same percentage until March 2024. In order to maintain sufficient coal reserves in domestic coal-based plants, both Central/State GENCO's and independent power producers are expected to comply with this advisory. The Ministry of Power has decided to extend the advisory until June 2024, in order to ensure uninterrupted power supply throughout the country.

CERC's Directions on Shadow Pilot on Power System and Cost Optimization through Market Coupling

The Central Electricity Regulatory Commission ("**CERC**"), in an order dated 6 February 2024, issued directions for implementation of a shadow pilot for market coupling to optimize power system operations and costs, under the CERC (Power Market) Regulations, 2021. The order aims to integrate bids across all power exchanges to establish a uniform market price, enhancing economic efficiency and transmission utilization.

To explore the potential of market coupling and inform CERC's future regulatory strategies for market coupling, including its integration with Security Constrained Unit Commitment (SCUC), CERC has initiated a shadow pilot involving Real-Time Market (RTM), Day Ahead Market (DAM), and Security Constrained Economic Dispatch (SCED), which will be run by Grid-India.

Amendments to the Electricity Rules, 2005

The Ministry of Power has introduced three amendments to the Electricity Rules, 2005 on 10 January 2024, 17 January 2024 and 12 March 2024, aiming to enhancing operational

efficiency, promoting renewable energy, and providing financial clarity in India's power sector, and bring forth the following key modifications:

- **Dedicated Transmission lines:** Entities like generating companies, large consumers, developers of captive generation plant or energy storage system, or a consumer having load of not less 25 MW in case of Inter State Transmission System and 10 MW in case of Intra-State Transmission System can set up dedicated transmission lines without obtaining a separate license, provided they comply with existing regulations and technical standards.
- **Capping of charges for STU network:** A cap of 110% of long-term access rates on charges for short-term access or temporary-GNA to State Transmission Utility networks has been introduced.
- **Additional Surcharge:** Additional surcharge on open access consumers has been limited and provision for its gradual elimination over four years for those maintaining contract demand with distribution licensees has been introduced.
- **Wheeling charges:** Amendment have been made to wheeling charge calculations to allow different voltage level charges, enabling the Appropriate Commission to set these charges based on the specified formula.
- **Central RE pools:** Modification to provisions for central government to form distinct central pools for renewable energy sources, setting a three-year duration for such pools from the specified order date.

Scheme Guidelines for pilot projects for green hydrogen in shipping sector under the National Green Hydrogen Mission

The MNRE has issued a circular conveying the approval of the scheme of pilot projects for utilizing Green Hydrogen in the shipping sector under the National Green Hydrogen Mission (NGHM), on 1 February 2024. The initiative aims to support Green Hydrogen as a fuel for ship propulsion, including bunkering and refueling, and to assess its technical feasibility, economic viability, and operational performance. The Shipping Corporation of India, or its successor post-disinvestment, will handle the retrofitting of ships, while the creation of bunkering and refueling infrastructures will be managed by an agency appointed by the Ministry of Ports, Shipping and Waterways (MoPSW). The scheme will follow the detailed guidelines provided and will draw funding from the National Green Hydrogen Mission's budget.

Scheme Guidelines for pilot projects for green hydrogen in steel sector under the National Green Hydrogen Mission

The MNRE has issued a circular conveying the approval of the scheme of pilot projects for utilizing Green Hydrogen in the steel sector under the National Green Hydrogen Mission (NGHM), on 2 February 2024. The initiative aims to support Green Hydrogen and its derivatives in the steel making process and iron and steel manufacturing, and to assess its technical feasibility, economic viability, and operational performance. The scheme will follow the detailed guidelines provided and will draw funding from the National Green Hydrogen Mission's budget.

Scheme Guidelines for setting up Hydrogen Hubs in India under the National Green Hydrogen Mission

The MNRE has issued a circular conveying the approval of the scheme of setting up Hydrogen hubs in India under the National Green Hydrogen Mission (NGHM), on 15 March 2024.

The objectives of the scheme are to create Green Hydrogen Hubs for large-scale production and use, develop cost-competitive Green Hydrogen projects, maximize production and exports, and enhance the viability of Green Hydrogen assets. The scheme will follow the detailed guidelines provided and will draw funding from the National Green Hydrogen Mission's budget.

Scheme Guidelines for the implementation of R&D Scheme under the National Green Hydrogen Mission

The MNRE has issued a circular conveying the approval of the implementation of the Research & Development (R&D) Scheme under the National Green Hydrogen Mission (NGHM), on 15 March 2024. The scheme aims to enhance the affordability, efficiency, safety, and reliability of Green Hydrogen production, storage, transport, and use, foster industry-academia-government partnerships for an innovation ecosystem in Green Hydrogen technologies and support the scaling and commercialization of these advancements. The scheme will follow the detailed guidelines provided and will draw funding from the National Green Hydrogen Mission's budget.

Direction for issue of EPR Certificates by waste tyre and e-waste recyclers

In furtherance of Extended Producer Responsibility (“EPR”) obligations of the producers under Hazardous and Other Wastes (Management and Transboundary Movement) Amendment Rules, 2022, and E-Waste (Management) Rules, 2022 who are required to fulfil their assigned EPR obligation by online purchase of EPR Certificates from registered recyclers of waste tyres and registered recyclers of E-Waste respectively, on 19 February 2024, the Central Pollution Control Board has issued directions to the State

Pollution Control Board (“**SPCBs**”) and Pollution Control Committee (“**PCC**”) to ensure no false EPR certificates are being generated in the State/Union Territory. SPCB/PCC are directed to issue notice to all recyclers, who are recycling waste tyre or e-waste, as applicable, but not uploading requisite documents, invoices as per the above-mentioned guidance document, for generation of EPR certificates on the waste tyre/e-waste EPR portal; and to withdraw/suspend/cancel Consent to Operate of such waste tyre recyclers or e-waste recyclers, as applicable for non-compliance. Further, SPCB/PCC are required to carry out verification of various documents / invoices / information uploaded by the waste tyre recyclers or the e-waste recyclers on the EPR Portal for quantity of waste procured/collected/imported, recycled, end product produced and sold for generation of EPR certificates and also verify their installed plant & machinery and their capacities and capability.

Directions to States on alignment with Open Access Regulations, on aggregation basis

On 23 May 2023, the Ministry of Power (“**MoP**”) notified the Electricity (Promoting Renewable Energy through Green Energy Open Access) (Second Amendment) Rules, 2023 (“**Amended Rules**”) which brought significant changes to the existing Rules. On 12 February 2024, a directive was issued by the MoP which required all States and Union Territories to align their respective Open Access Regulations in accordance with the Amended Rules at the earliest.

Under the Amended Rules, the definition of “entity” is noteworthy since it includes any consumer, except captive consumers, having a contracted demand or sanctioned load of at least 100 kW through a single connection or several connections totaling 100 kW or more inside the same energy division of a distribution licensee. However, for captive

consumers, they can use green energy open access without any load intimation. The Amended Rules also allow consumers with multiple small-capacity connections to avail open access with a minimum of 100 kW capacity. Additionally, offshore wind energy projects commissioned by December 2032 and supplying electricity to open access consumers would be exempt from additional surcharges.

The directive requires that the status of compliance be notified within 15 days from the date of the directive’s issuance. The issued directive underlines the government’s determination to promote renewable energy by providing access to green energy resources.

Case of Great Indian Bustard: Constitution of Expert Committee

The Supreme Court of India *vide* its order dated 19 April 2021 in *M.K.Ranjit Singh v. Union of India (WP(Civil) 838/2019)* identified certain areas in the states of Rajasthan and Gujarat as priority areas and potential areas for the purpose of protecting the species of Great Indian Bustard and lesser flamingos, and imposed inter alia the following blanket directions in relation thereof: (i) wherever feasible, all overhead low-voltage and high-voltage powerlines existing in priority areas and potential areas as on date of this order, should be converted into underground powerlines within one year; (ii) where undergrounding the powerlines might not be feasible, steps should be taken to install diverters in relation to any overhead powerlines in priority areas and potential areas; and (iii) all low-voltage powerlines to be laid in priority and potential areas shall be laid underground in the future.

In recognition of the submissions that the aforesaid blanket directions may not be feasible and requires calibration by domain experts, the Supreme Court *vide* its order dated 21 March 2024 has

modified its earlier order and held the following:

- an expert committee of 9 members has been formed which shall inter alia: (a) determine the scope, feasibility and extent of overhead and underground electric lines identified as priority areas, (b) identify measures and suitable alternatives to be adopted in priority areas; and
- the injunction in respect of potential areas stands relaxed subject to the parameters to be laid down by the expert committee.

The expert committee is required to submit its report by 31 July 2024.

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