WCC WATCH

Your Monthly Digest to Stay Ahead in the Evolving Realm of White Collar Crime

FEB' 2026

The Brains Behind The Shells

COVER STORY

PIVOTAL ISSUES

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Editor's Note

Piercing the Veil, Preserving Integrity, our cover story of this month captures a seismic shift in international taxation and anti-abuse jurisprudence, examining how the Supreme Court is looking past the "Mauritius Route" to ask a fundamental question: **Can a Tax Residency Certificate (TRC) mask the reality of tax avoidance?** In the landmark **Tiger Global case**, we see a turning point where the law prioritizes the "head and brain" of corporate control over procedural shields, ensuring that treaty benefits are a reward for genuine investment rather than a cloak for conduit entities.

This evolution marks a broader trend across the Indian legal landscape, where accountability is increasingly being placed above technicality. This edition of WCC Watch further explores the "accountability revolution," from the evolving vicarious liability of directors deciphering when oversight becomes **"directing mind and will"** to the urgent need to modernise the Negotiable Instruments Act for a high-speed digital economy.

We also navigate the disturbing rise of **"Digital Arrests,"** a psychological heist that weaponizes the public's trust in virtual judiciary systems, and analyze the Supreme Court's recent stance on the **right to a speedy trial under the PMLA. From decoding the PMLA Appellate Tribunal's power gaps to exploring the 2026 SEBI (Stock Brokers) Regulations,** this month's digest is designed to help you master the boundaries of modern corporate governance.

As the legal framework moves toward **substance over form and precision over paperwork,** we invite you to explore the insights that are keeping the industry ahead of the curve.

Let's dive in.

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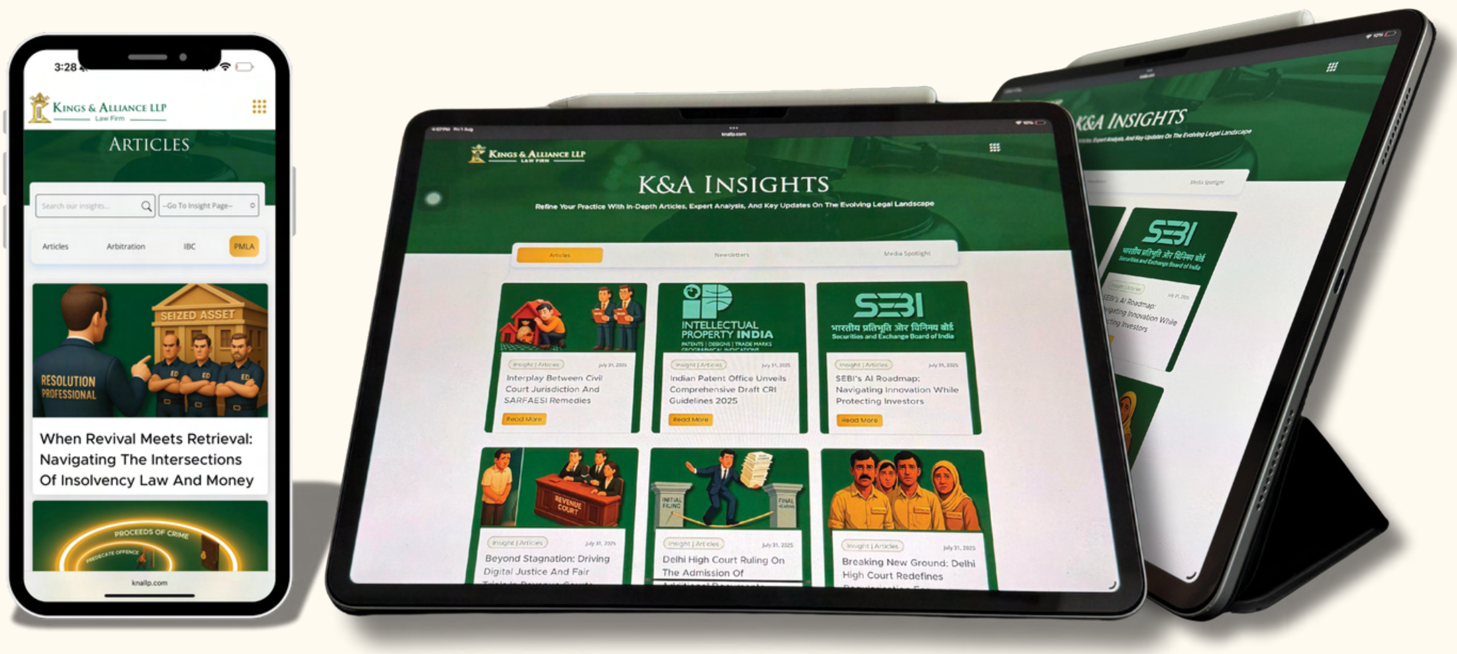

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COVER STORY

Can a Tax Residency Certificate Mask the Reality of Tax Avoidance? The Supreme Court's Decisive Stance in the Tiger Global Case

The Brains Behind The Shells

> *A certificate may prove residence, but it cannot disguise where control truly resides.*

In the complex theater of international taxation, does a formal certificate of residence provide an absolute shield against domestic tax scrutiny, or can the "head and brain" of an entity be traced to another jurisdiction to uncover tax avoidance? This question sat at the heart of the landmark dispute in The Authority for Advance Rulings (Income Tax) & Ors v. Tiger Global International II Holdings (2026). This case challenged the long-held sanctity of the "Mauritius Route" in the face of modern anti-abuse frameworks, placing the Indian Revenue and the Tiger Global group at the center of a fundamental debate over treaty entitlement.

The primary respondents in this matter were Tiger Global International II, III, and IV Holdings, incorporated under the laws of Mauritius and established as holding entities. While they claimed to be managed by a local Board of Directors, they were part of a larger web of entities ultimately belonging to Tiger Global Management LLC (TGM), based in the United States. The appellant, the Authority for Advance Rulings (AAR), along with the Indian Income Tax Department, contended that these Mauritian entities were merely "see-through" conduit companies created to exploit the India-Mauritius Double Taxation Avoidance Agreement (DTAA). The dispute arose from a multi-billion-dollar global transaction where Tiger Global International (hereinafter referred to as the assessee) sold its shares in Flipkart Private Limited, a Singapore-based company, to Fit Holdings S.A.R.L. (a Luxembourg entity) as part of Walmart Inc.'s majority acquisition of Flipkart. Although the sold entity was Singaporean..

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PIVOTAL ISSUES

Vicarious Liability of Directors in India: When does corporate oversight become “directing mind and will”

> *Vicarious liability is an exception, not a consequence of corporate designation.*

As modern Indian jurisprudence evolves in response to rising economic offences from fraud and money laundering to environmental degradation, a critical question arises: when does corporate oversight cross the line and transform into the “directing mind and will”, thereby attracting vicarious liability of directors? This question lies at the heart of a delicate balancing exercise, where courts must ensure accountability for financial misconduct while preserving foundational principles of criminal law, such as mens rea, separate legal personality, and the fair attribution of culpability.

In India, this tension is framed by a robust statutory landscape. While a company is an artificial person and a separate legal entity, it operates through its Board of Directors. The Companies Act, 2013, under Section 2(60), introduces the concept of an "officer who is in default," providing a specific gateway to personal liability when a director is demonstrably responsible for an act or omission. However, broad criminal statutes like the Indian Penal Code (IPC) notably lack general deeming provisions that automatically make directors vicariously liable for offences committed by the company. This distinction is vital because, as the Supreme Court highlighted in Rabindranath Bajpe v. Mangalore SEZ Ltd., IPC offences demand proof of personal culpability that cannot be bypassed by mere corporate designation. The judicial narrative on this issue has evolved through a series of landmark tests. In S.M.S. Pharmaceuticals Ltd. v. Neeta Bhalla, the Supreme Court clarified that under Section 141 of the Negotiable Instruments Act, liability is not a byproduct of status; it requires...

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Is the Negotiable Instruments Act 1881 Fit for 21st Century Digital Economy?

> *By mistaking default for fraud, the NI Act criminalises failure while leaving deception largely untouched.*

The fundamental question facing modern Indian commercial jurisprudence is whether a legal framework drafted in the nineteenth century can effectively safeguard the integrity of a twenty-first-century digital economy against the rising tide of sophisticated financial misconduct. This tension is epitomised by the Negotiable Instruments Act, 1881, which remains the primary defensive line against financial fraud despite being conceived in an era of physical ledgers and maritime trade. As the velocity of commerce shifts from the deliberate stroke of a pen to the instantaneous pulse of a digital transaction, the Act has been forced to evolve through judicial intervention and legislative "patchwork," struggling to reconcile its Victorian procedural rigor with the borderless, high-speed nature of modern insolvency and cyber-enabled defaults. Consequently, the NI Act stands today not merely as a colonial relic, but as a "cyborg" statute, a living instrument caught in a perpetual race to bridge the widening chasm between the sanctity of a physical signature and the complex anonymity of the digital frontier.

The juristic concept of fraud is fundamentally rooted in "deception at inception" a deliberate misrepresentation or concealment that induces another to part with property or credit. However, there is a profound misalignment with Section 138 of the NI Act, which criminalises payment default rather than the deceptive inducement itself. While traditional criminal jurisprudence requires proving mens rea at the point of inducement, Section 138 dispenses with this inquiry, triggering liability purely through the dishonor of a cheque...

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PIVOTAL ISSUES

The Anatomy of a Digital Arrest: Navigating the Indian Legal Framework

> *Liberty is not the absence of restraint; it is the presence of law that protects the innocent from fear.*

The rapid digitisation of the Indian judiciary following the COVID-19 pandemic, while enhancing accessibility, has inadvertently created a legislative vacuum exploited by sophisticated cybercriminals through the phenomenon of "digital arrest." This psychological heist weaponises the public's new familiarity with virtual legal processes, as seen in the harrowing January 2026 case where an NRI doctor couple in Delhi was defrauded of ₹14.85 crore. By impersonating law enforcement and maintaining constant virtual surveillance, fraudsters bypass traditional procedural safeguards to extort massive sums under the guise of "national security" investigations. This evolution in crime demonstrates that even highly educated individuals are vulnerable to these digital sieges, highlighting an urgent need to align modern technology with robust legal security frameworks to ensure that our digital lifeline does not remain a digital trap..

In recent years, incidents of so-called digital arrest have increased at an alarming rate. In these cases, victims receive calls or messages from individuals posing as police officers, investigating agencies, or judicial authorities. The victims are falsely informed that they are involved in serious offences and are threatened with immediate arrest unless they comply with demands, usually monetary. The soft targets of such crimes are often retired persons, women, and children, particularly those with limited legal awareness. Many victims, out of fear and confusion, part with their hard-earned savings. These crimes are not isolated incidents but part of a larger, organised pattern of cyber fraud. Recognising the gravity of cyber offences..

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PIVOTAL ISSUES

Supreme Court Weighs the Right to a Speedy Trial under Article 21 against the Twin Conditions of Section 45 PMLA in Arvind Dham

Ruling solidifies the principle that pre-trial detention must remain preventive, not punitive.

Can the constitutional guarantee of a speedy trial under Article 21 override the statutory twin conditions for bail under Section 45 of the Prevention of Money-Laundering Act? This question lies at the heart of the Supreme Court's decision in Arvind Dham v. Directorate of Enforcement, where the Court confronted the growing reality of prolonged pre-trial detention in complex economic offence cases.

The judgment addresses a recurring tension in bail jurisprudence: whether the gravity of an offence and statutory bail restrictions can justify continued incarceration when a trial shows no real prospect of timely conclusion. By reaffirming that pre-trial detention cannot be allowed to become a form of punishment, the Supreme Court has recalibrated the balance between statutory rigour and constitutional liberty.

A recurring argument by prosecuting agencies is that economic offenses constitute a "special class" of crimes that warrant a blanket denial of bail. However, a key holding in Arvind Dham is that economic offences cannot be treated as a homogeneous class. Rejecting the argument that the seriousness of these offences alone justifies prolonged incarceration, the Court noted that such crimes vary widely in degree and circumstances. Relying on the decision in Satender Kumar Antil v. CBI (2022),it was established that each case must be examined on its own facts, including the period of incarceration. In Dham's case, the Court found it "incredulous" to keep him detained when 210 prosecution witnesses...

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PIVOTAL ISSUES

Does PMLA Appellate Tribunal Have Power to Remand? Interpreting Section 26(4) of PMLA

> *Ruling solidifies the principle that pre-trial detention must remain preventive, not punitive.*

Can the PMLA Appellate Tribunal exercise a power that the law never explicitly granted it? This question lies at the heart of a growing legal debate surrounding the Prevention of Money-Laundering Act, 2002 (PMLA). While the Act was designed to create a robust system of checks and balances against the Enforcement Directorate's (ED) vast powers of attachment, the procedural reality often tells a different story. When an attachment order is challenged, the PMLA Appellate Tribunal (PMLA-AT) frequently finds itself in a "power gap," specifically regarding its authority to remand matters back to lower authorities for fresh consideration. This lack of explicit statutory backing has birthed a complex landscape of conflicting judicial interpretations and operational hurdles.

The statutory timeline of the property attachment under the PMLA follows a strict, time-bound trajectory. Under Section 5, the ED may provisionally attach property it believes to be "proceeds of crime." Within 30 days, a complaint must be filed with the Adjudicating Authority (AA), which then has a total of 180 days from the date of attachment to either confirm or reject it. Section 26(4) of the PMLA governs the powers of the Appellate Tribunal. It states that the Tribunal may pass "such orders as it thinks fit, confirming, modifying or setting aside" the order of the AA. Notably absent from this list is the word "remand." Unlike other statutes that explicitly allow an appellate body to send a case back for a re-trial, the PMLA remains silent. This "power gap" forces a difficult question: Is the power to remand inherent in the power to "set aside," or does the omission signify a deliberate legislative...

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One Debt, Multiple Complaints: Supreme Court Tightens Noose on Cheque Bounce Defaulters

In the case of Sumit Bansal v. M/s MGI Developers and Promoters (2026), the Supreme Court has held that the dishonour of multiple cheques, even if they arise from the same underlying transaction, gives rise to separate and distinct causes of action under Section 138 of the Negotiable Instruments Act. Overturning a restrictive view, the Court clarified that these prosecutions cannot be quashed at the outset simply because there are multiple complaints for a single debt. The Bench emphasized that as long as the legal formalities of presentation, notice, and non-payment are fulfilled for each instrument, they do not merge into one. The Court further noted that the statutory presumption of liability under Section 139 stays in favor of the complainant, and the burden remains on the accused to disprove this during the trial.

The High Court in this case had previously quashed one of the complaints on the grounds that parallel prosecutions for the same liability were impermissible. It reasoned that since the complainant had already opted to proceed against the promoter’s personal cheques, the complaints based on the firm's cheques for the same debt were redundant. However, the Supreme Court disagreed, ruling that the High Court exceeded its jurisdiction under Section 482 CrPC by conducting a "mini-trial" of facts. The Apex Court maintained that whether cheques were issued as substitutes, alternatives, or additional security is a complex question of fact that must be decided through evidence at trial, rather than being dismissed at a preliminary stage.

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Civil Recovery is No Shield for Fraud: Kerala High Court Rules That Debt Decrees Cannot Erase Criminal Corruption

The Kerala High Court, in the case of P V Ravi v. SPE/CBI Kochi (2026), has held that the existence of a civil court decree for the recovery of loan dues does not absolve an accused of criminal liability for conspiracy and misappropriation under the Prevention of Corruption Act. Justice A. Badharudeen clarified that criminal culpability must be assessed independently of civil remedies, rejecting the argument that a bank's ability to recover money through civil litigation negates the commission of a crime. The Court emphasized that while a civil decree might place the financial burden on a victim to repay a loan, it does not erase the "corrupt or illegal means" used by an official and a private party to siphon off funds for their own pecuniary advantage.

In the present case, a private contractor (the appellant) and a bank manager were convicted for fraudulently obtaining a housing loan in the name of a college student by misrepresenting that the funds would be used for her house construction. Instead, the loan amount was encashed and misappropriated by the accused through a web of transfers. Although the appellant argued that the bank could recover the money through civil proceedings, the Court noted the grim irony that the civil decree was against the victim's property, making her the "ultimate loser" while the fraudsters remained the "gainers." Consequently, the Court upheld the conviction for criminal conspiracy and abuse of official position, though it modified the sentence from three years to one year of rigorous imprisonment.

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SIGNIFICANT CASE LAWS

Substance Over Form: Supreme Court Slams "Hyper-Technical" Quashing of Corruption Cases and Revives Stalled Investigations

The Supreme Court, in the case of The Joint Director (Rayalaseema), Anti-Corruption Bureau, A.P. & Anr v. Dayam Peda Ranga Rao Etc. (2026), has sharply criticized the Andhra Pradesh High Court for quashing a series of corruption FIRs on "hyper-technical" jurisdictional grounds. A Bench comprising Justices MM Sundresh and Satish Chandra Sharma described the High Court's approach as a "travesty of justice," noting that it had nipped serious corruption probes in the bud without identifying which authority would otherwise hold jurisdiction. The Apex Court clarified that under the Andhra Pradesh Reorganisation Act, 2014, laws and notifications including the 2003 government order designating ACB offices as police stations continue to operate in the successor states unless specifically repealed, meaning no fresh "adoption" or new notification was required post-bifurcation.

The Court further held that a "police station" under Section 2(s) of the CrPC is not confined to a physical building but includes any "post" declared by the state, rendering the High Court's insistence on a formal Gazette notification for the Vijayawada unit legally untenable. Setting aside the previous judgment in its entirety, the Supreme Court revived the 13 quashed FIRs and directed the Anti-Corruption Bureau to conclude its investigations and file final reports within six months. While the Court protected the accused from immediate arrest to ensure their cooperation, it barred the High Court from entertaining any further challenges to these FIRs on the same jurisdictional grounds, ensuring that administrative transitions do not become a shield for public servants accused of amassing disproportionate assets.

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SIGNIFICANT CASE LAWS

WhatsApp & Email Summons: Uttarakhand High Court Goes Digital to Tackle Cheque Bounce Delays

The Uttarakhand High Court, in connection with the case of Sanjabij Tari v.. Kishore S. Barcar & Anr. has officially authorized the service of summons through electronic modes, including WhatsApp and email, for cases filed under the Negotiable Instruments Act, 1881. In a circular issued on January 5, 2026, the Court directed all criminal courts across the state to adopt these digital methods to align with Supreme Court guidelines aimed at reducing judicial delays. Under the new rules, complainants are now required to provide the accused's electronic contact details at the time of filing, supported by an affidavit confirming the authenticity of the information.

To ensure accountability and ease of resolution, the High Court mandate includes a provision for the accused to settle the cheque amount immediately through the e-Courts online payment facility. While the digital shift is intended to speed up legal proceedings, the Court has warned that any complainant filing a false affidavit regarding service of summons will face strict legal action. This initiative, governed by the Uttarakhand Electronic Processes Rules, 2025, marks a significant step toward the modernization of the state's legal system by integrating technology into traditional trial procedures.

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SIGNIFICANT CASE LAWS

"Face Trial Like Ordinary Citizens": Supreme Court Rebuffs 'Affluent' Accused's Challenge to PMLA Provision

The Supreme Court of India, led by CJI Surya Kant and Justice Joymalya Bagchi, in the case of Gautam Khaitan v Union of India dismissed a writ petition by lawyer Gautam Khaitan challenging the validity of Section 44(1)(c) of the Prevention of Money Laundering Act (PMLA). The Court strongly criticized the petition as an attempt by "affluent persons" involved in the AgustaWestland Scam to "bypass the system" and escape trial. Section 44(1)(c) requires that money laundering offences be tried alongside their connected "scheduled offences" by the same Special Court a provision the petitioner sought to invalidate while facing ongoing proceedings.

Refusing to grant a special hearing, the Bench emphasized that wealthy individuals must face the legal process like any ordinary citizen rather than filing fresh challenges to statutes to stall trials. While the Court dismissed the individual petition, it left the question of law open, noting that the validity of this provision could be examined during the upcoming review of the Vijay Madanlal Choudhary case. This ruling reinforces the judiciary's stance against "unique litigations" designed to delay high-stakes financial fraud cases, with the Court hinting that review proceedings on PMLA provisions may begin by the end of January 2026.

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Private Complaints Barred: SFIO Holds Exclusive Key to Prosecuting Corporate Fraud

The Supreme Court of India, in the case of Yerram Vijay Kumar vs. The State of Telangana & Anr. (decided January 9, 2026), has ruled that private individuals cannot directly file criminal complaints for fraud under the Companies Act, 2013. A bench of Justice J.K. Maheshwari and Justice K. Vinod Chandran clarified that under Section 212(6), cognizance of such offences can only be taken by a Special Court upon a formal complaint from the Serious Fraud Investigation Office (SFIO) or an authorized government official. This decision effectively centralizes the prosecution of corporate fraud, ensuring that complex financial crimes are handled by specialized experts rather than being subject to fragmented or potentially malicious private litigation.

The Court emphasized that while direct criminal complaints are barred, aggrieved stakeholders are not without recourse; they must instead approach the National Company Law Tribunal (NCLT) to seek an SFIO investigation. Furthermore, the ruling creates a clear distinction between statutory corporate offences and general criminal acts, allowing related charges under the Indian Penal Code (IPC)—such as forgery or cheating—to still be pursued in regular magistrate courts. By streamlining the process, the judiciary aims to protect corporate directors from frivolous lawsuits while reinforcing the SFIO's role as the primary watchdog for India's corporate sector.

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SIGNIFICANT CASE LAWS

Glitch to Gold: Bombay High Court Rules Trader Can Keep ₹1.75 Cr Profit Earned via System Error

In a significant ruling for the financial services sector, the Bombay High Court in the case of Kotak Securities v. Gajanan Ramdas Rajguru upheld an arbitral award allowing a trader, Gajanan Ramdas Rajguru, to retain approximately ₹1.75 crore in profits earned through a technical glitch. Despite having a balance of only ₹3,175, Rajguru was mistakenly granted a massive margin credit by Kotak Securities, which he utilized to execute high-stakes F&O trades worth nearly ₹95 crore. While Kotak argued that the trader's gains constituted "unjust enrichment" stemming from a system malfunction, the Court dismissed the brokerage's challenge, emphasizing that the erroneous margin merely provided an "opportunity to trade." Justice Sandeep V. Marne noted that the trader utilized his own skill and assumed the substantial risk of loss; had the trades turned sour, the broker would have undoubtedly held the client liable for the deficit.

The Court's decision also highlighted critical lapses in Kotak's risk management and its contradictory conduct following the incident. Justice Marne pointed out that the brokerage failed to trigger risk control protocols, continued to allow trades, and even initially charged interest and statutory levies on the transactions before attempting to reverse the profits. By characterizing the margin error as a temporary loan rather than a bailment of goods, the Court ruled that a broker cannot benefit from its own "wrong" (the system error) by forfeiting a client's hard-won gains. This judgment reinforces the principle that while technology provides the platform, the legal responsibility for system integrity lies with the provider, and the rewards of market risk belong to the person who bears it.

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REGULATORY UPDATE:

From Legacy to Modernity: Decoding the SEBI (Stock Brokers) Regulations, 2026 and the New Era of Market Governance

The landscape of the Indian broking industry took a definitive turn on January 7, 2026. With the official notification of the Securities and Exchange Board of India (Stock Brokers) Regulations, 2026, a new era of market governance has begun. These regulations are not merely administrative updates; they represent a wholesale modernization of a framework that had remained largely unchanged since 1992. By consolidating three decades of circulars into a single rulebook, SEBI is signaling a shift toward higher professional standards, rigorous fraud prevention, and expanded business horizons for financial intermediaries.

Historically, stock brokers were largely confined to the silo of securities trading. While the market evolved, the regulatory framework often created barriers for brokers wishing to offer a broader suite of financial products. The 2026 Regulations break this mold by allowing brokers to evolve into comprehensive financial entities.

Cross-Regulator Activity: Brokers are now permitted to carry out activities governed by other financial regulators (such as the RBI or IRDAI), provided they obtain SEBI's approval and follow prescribed conditions. Integrated Oversight: While SEBI facilitates the entry into these new domains, the activities will continue to be governed by the specific regulator overseeing that sector, ensuring no dilution of specialized oversight.This shift transforms the traditional brokerage into a "financial...

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