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### **NFRA mulls next move after HC junks notices to IL&FS auditors**

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# NFRA mulls next move after HC junks notices to auditors

HC endorses NFRA's powers to review audits done before the regulator's creation in 2018

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NEW DELHI

**T**he National Financial Reporting Authority (NFRA) is weighing its options after the Delhi High Court last week quashed notices that the regulator had issued to Deloitte Haskins & Sells LLP and SRBC & Co. LLP—the auditors of two IL&FS group entities—on “technical grounds,” according to two persons aware of the development.

IL&FS, a non-banking financial company or NBFC, defaulted on its loans in 2018, prompting the Union government to replace its board of directors. This happened at the same time as the NFRA was set up as the nation's audit regulator.

A subsequent NFRA probe on the directions of the government revealed alleged audit lapses in the two group companies—IL&FS Transportation Networks Ltd (ITNL) and IL&FS Financial Services Ltd (IFIN). These findings faced multiple challenges in the Delhi High Court.

The episode occurred amid a wider problem with liquidity faced by NBFCs, prompting the NFRA to look into how audit is practiced in the sector.

Last week's high court order endorsed NFRA's powers to review audits done before the regulator's creation in 2018 as well as its practices like relying on the audit files to prove professional misconduct and not granting any



NFRA has been watching how auditors exercise their mandate.

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cross-examination of witnesses. It, however, quashed notices demanding explanations issued to 11 persons and entities citing a lack of division between the regulator's functions carrying out quality

reviews of the high court in this case are favourable to NFRA,” said the first of the two persons cited earlier, both of whom spoke on the condition of anonymity.

The court left it open to the regulator

The petitioners, who include individual auditors too, had argued that there must be a division of functions between those reviewing an audit and those forming an opinion to initiate disciplinary proceedings, arguing that the ‘prosecutor and the judge’ cannot be the same.

The alleged failures in audit of IL&FS entities—IL&FS Transportation Networks Ltd (ITNL) and IL&FS Financial Services Ltd (IFIN)—for FY18 have been a priority case for NFRA, which in its quality review reports critiqued the affiliations as well as the business model of large audit firms in the country.

NFRA has been paying special attention to how auditors exercise their mandate, especially, whether they showed professional scepticism in evaluating managements' assertions, communicate with the audit committees in companies regularly, thoroughly look into transactions such as inter-corporate loans that are prone to fund diversion, and whether audit firms have been religiously observing the firewall meant to prevent getting into prohibited non-audit services that could compromise their independence.

Queries emailed to NFRA, Deloitte and SRBC on Saturday after the court order became public remained unanswered till press time.

The first person quoted above said that the high court quashing NFRA's notices and orders in 11 instances, primarily in the IL&FS cases, was on a matter of technicality, not on merit.

## REGULATOR REVIEW

**THE** Delhi high court left it open to the regulator to initiate fresh proceedings

**ALLEGED** failures in audit of IL&FS entities for FY18 have been a priority case for NFRA

**NFRA**, in its quality review reports critiqued affiliations as well as biz model of large audit firms

**HC** quashing NFRA's notices, primarily in IL&FS cases, was over a technicality, not on merit

reviews and disciplinary enquiry.

“NFRA is weighing the options, one of which is an appeal specifically against part of the order on this technical aspect of division of functions. The other find-

ing to initiate fresh proceedings, but said any disciplinary action must be taken by NFRA members who were not involved in preparing the audit quality review report.