

Highlights

- GOI simplifies the environmental clearance processes for building projects
- Guidelines for public issue of units of REITs issued
- MCA amended Companies (Incorporation) Rules, 2014
- Commencement of provisions of Winding Up of Companies under the Companies Act, 2013
- Reduction of Share Capital-Procedure before NCLT notified
- Rules on the Compromises, Arrangements and Amalgamations of Companies notified
- Companies (Transfer of Pending Proceedings) Rules, 2016 notified

Corporate Brief

➤ *GOI simplifies the environmental clearance processes for building projects*

Ministry of Environment, Forest and Climate Change, Government of India has made amendments in the Environment Impact Assessment Notification, 2006, simplifying the process of environmental clearance for building projects by integration of environmental condition in building bye-laws. The amendments *inter alia* include the following: (a) Currently all building and construction covering 20,000 square meter and above are subject to environment clearance given by the State Level Environmental Impact Assessment Authority. Under the revised norms, the environment clearance will now be issued in an integrated manner alongwith the building permission under building bye laws for all building constructions covering 20,000 to 1,50,000 sq. mtr of built-up area. (b) Area less than 20,000 sq mtr will be subject to self declaration. However buildings of size 5,000 sq. mtr to 20,000 sq. mtr. will also follow environmental norms for construction and maintenance phase. (c) Qualified Building Environment Auditors empanelled by the Ministry of Environment and Forests would assess and certify the building projects. (d) Environmental cell will be mandatorily required to be constituted in the local authorities to support appraisal, compliance and monitoring of building projects and to provide environmental planning in this area. (e) No Consent To Establish And Operate under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 will be required from the State Pollution Control Boards for residential buildings of built-up area up to 1,50,000 square meters. [Ministry of Environment, Forest and Climate Change Notification dated December 9th, 2016]

➤ *Guidelines for public issue of units of REITs issued*

SEBI has notified the guidelines for public issue of units of REITs ('The Guidelines') setting out procedure and manner related to issue and allotment of units by a REIT. Highlights

of the Guidelines *inter alia* include the following; (a) Manager of REIT will appoint one or more merchant banker, on behalf of REIT, to carry out the obligations relating to the issue. (b) A draft offer letter will be filed with SEBI and designated stock exchanges by the merchant banker. (c) Allocation in the public issue will be as follows: (i) not more than 75% to Institutional Investors and (ii) not less than 25% to other investor. (d) The application form and the abridged version of the offer document will be prepared by the merchant banker. (e) A public issue will be kept open for at least 3 working days but not more than 30 days. The manager on behalf of the REIT may issue advertisements for issue opening and issue closing. (f) The manager, on behalf of the REIT, will allot the units to the applicants on receipt of the sum payable on application. [SEBI Circular No. CIR/IMD/DF/136/2016 dated December 19, 2016]

➤ *MCA amends the Companies (Incorporation) Rules, 2014*

MCA has amended the Companies (Incorporation) Rules, 2014 ('The Rules'). The amendments made in the Rules *inter alia* include the following: (a) the Integrated Process of Incorporation introduced by Rule 36 in May 2015 and amended thereafter in January 2016 has been removed. Accordingly Form INC – 29, INC – 30 and INC – 31 has also been omitted. (b) If Articles of Association contain entrenchment provisions, the company will be required to notify the Registrar of such entrenchment provision in Form INC-7 or INC-32 at the time of incorporation of company. [See MCA Notification F.No. 1/13/2013 CL-V dated December 2th, 2016]

➤ *Commencement of provisions of Winding Up of Companies under the Companies Act, 2013*

MCA has notified applicability / commencement of various sections of the Companies Act, 2013 dealing with compromise, arrangements, reconstruction, liquidation and winding up of companies. The notified sections are effective from 15th December, 2016. NCLT will have jurisdiction over the matters relating to the notified sections, which were earlier within the jurisdiction of High Court. [See MCA Notification F.No. 2/31/CAA/2013-CL-V-pt dated December 15th, 2016]

➤ *Reduction of Share Capital Procedure notified*

MCA has notified commencement of Section 66 of the Companies Act, 2013, which deals with 'procedure for reduction of share capital', which has come into force with effect from December 15th, 2016. MCA has further notified the NCLT (Procedure for reduction of share capital of Company) Rules, 2016 ('The Rules'), setting out the

procedure and manner for reduction of share capital before NCLT. The notified section and the Rules *inter alia* provide that a Company may reduce its share capital by passing a Special Resolution and obtaining confirmation by NCLT. Confirmation from NCLT is to be obtained by filing an application in Form RSC-1 accompanied *inter alia* with list of creditors, certificate of auditor etc. Within 15 days of submission of application, NCLT will send a notice to ROC, SEBI and creditors of the Company, seeking their representation and objections. NCLT will also give direction to the Company to publish the notice in newspaper. [See *MCA Notification F.No. 1/28/2013-CL V dated December 26th, 2016 and MCA Notification F.No. 1/30/2013/CL.V dated December 15th, 2016*]

➔ *Rules on the Compromises, Arrangements and Amalgamations of Companies notified*

MCA has notified the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 ('The Rules') for *inter alia* setting out the procedure and manner of the following activities: (a) filing application with the National Company Law Tribunal ('NCLT'), (b) hearing of the application at NCLT, (c) convening of meeting of shareholders / creditors, (d) convening of meeting of members/creditors, (e) filing of representation by the regulators / statutory authorities to NCLT, (f) filing of representation by the regulators / statutory authorities to NCLT, (g) filing of petition with the NCLT. [MCA Notification [F. No. 2/31/CAA/2013/-CL-V dated 15th December, 2016]

➔ *Companies (Transfer of Pending Proceedings) Rules, 2016 notified*

MCA has notified the Companies (Transfer of Pending Proceedings) Rules, 2016 ('The Rules') to come into force on December 15th, 2016. Highlights of the Rules are: (a) All proceedings under the Companies Act, 1956 relating to arbitration, compromise, arrangements and reconstruction, other than proceedings relating to winding up of companies, will be stand transferred to the Benches of National Company Law Tribunal ('NCLT'). (b) All applications and petitions relating to voluntary winding up companies pending before a High Court on the date of commencement of the Rules, will continue with and dealt with by the High Court. [MCA Notification F. No. 01/5/2016 CL-V dated 7th December, 2016]

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