

Highlights

- DIPP revises FDI norms for Asset Reconstruction Companies
- RBI eases deal structuring and permits deferment of Consideration and Escrow Mechanism under Automatic Route
- MCA designates Special Courts for speedy trial of offences
- RBI issues Procedural Guidelines for establishment of Branch Office / Liaison Office / Project Office in India
- RBI to host compounding orders on website
- SEBI issues Guidelines for public issue of units InvTs
- DIPP issues National Intellectual Property Rights Policy
- MCA clarifies with regard to the provisions of Corporate Social Responsibilities
- SEBI revises formats for reporting of acquisition details to Stock Exchanges

Corporate Brief

➔ *DIPP revises FDI norms for Asset Reconstruction Companies*

DIPP has revised FDI norms for Asset Reconstruction Companies to permit 100% foreign direct investment (FDI) in Asset Reconstruction Companies ('ARCs') without prior approval under automatic route. Earlier, FDI upto 49% was permitted in ARCs through automatic route and government approval was required for FDI beyond 49%. Further FII / FPIs are now permitted to invest upto 100% of each tranche in the Security Receipts issued by ARCs subject to guidelines of RBI, as against the earlier cap of 74%.

➔ *RBI eases deal structuring and permits deferment of Consideration and Escrow Mechanism under Automatic Route*

RBI has amended the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000. Highlights of the amendments are: (a) In case of transfer of shares between a resident buyer and a non-resident seller or vice-versa, deferment of purchase consideration is permitted for a maximum period of 18 months from the date of transfer agreement. The amount of the consideration that is sought to be deferred under the share purchase agreement shall not be more than 25% of the total consideration. (b) For the purpose of deferred payment, the buyer and the seller can enter into an escrow arrangement for an amount not more than 25% of the total consideration and the duration of the escrow account shall not be more than 18 months from the date of the transfer agreement. (c) If total consideration is paid by the buyer to the seller, the seller may furnish an indemnity for a maximum period of 18 months from the date of payment of full consideration. The indemnity could be of a maximum amount of 25% of the total consideration. Further the total consideration must be compliant with applicable pricing guidelines. [See *RBI Notification No. FEMA-368/206-RB dated May 20th, 2016*]

➔ *MCA designates Special Courts for speedy trial of offences*

MCA has, in exercise of the power conferred by Section 435(1) of the Companies Act, 2013 ('the Act'), designated eight Special Courts for the purpose of providing speedy trial of offences punishable under the Act with imprisonment of two years or more. Further 18th May, 2016 has been appointed as the date on which the provisions of Section 2(29)(iv), Section 435 to 438 and Section 440 will come into force. [See *MCA Notification F.No. 01/12/2009-CL-I (Vol IV) dated May 18th, 2016*]

➔ *RBI issues Procedural Guidelines for establishment of Branch Office / Liaison Office / Project Office in India*

RBI has notified procedural guidelines for establishment of Branch Office / Liaison Office / Project Office (BO/LO/PO) in India by foreign entities ('the Guidelines'). Highlights of the Guidelines are: (a) Applications from person resident of India for establishing BO/LO/PO or any other place of business in India will be considered by the AD Category Bank as per the guidelines of RBI. (b) Prior approval of RBI will be required in following cases: (i) If the applicant is a citizen of Pakistan; (ii) If the applicant is a citizen of Bangladesh, Sri Lanka, Afghanistan, Iran, China, Hong Kong or Macau and the application is for opening a BO/ LO/PO in Jammu and Kashmir, North East region or Andaman and Nicobar Islands; (iii) If principal business of the applicant falls in any of the four sectors namely defence, telecom, private security and Information and broadcasting; (iv) If applicant is a Non-Government Organization, a Non-Profit Organization or a body / agency / department of a foreign government. (c) Non-resident entity desirous of establishing a BO/LO in India should have a financially sound track record. An applicant that is not financially sound and is a subsidiary of another company may submit a Letter of Comfort from its parent / group company. Provided the partner/ group company satisfies the net worth and profit criteria. [See *A. P. (DIR Series) Circular No. 69 dated May 12, 2016*]

➔ *RBI to host compounding orders on website*

RBI has notified that in order to ensure transparency and greater disclosure and for disseminating information pertaining to compounding orders, it has been decided to host the compounding orders passed on or after June 1, 2016 on the RBI's website (www.rbi.org.in). The data on the website will be updated at monthly intervals. Furthermore RBI has decided to put the guidance note, broadly indicating the basis on which the amount imposed is derived by the compounding authorities in RBI, on the RBI's

website for information of general public. [See A.P.(DIR Series) Circular No. 73 dated May 26, 2016]

➔ **SEBI issues Guidelines for public issue of units InvITs**

SEBI has issued guidelines for public issue of units of Infrastructure Investment Trust (InvITs). Highlights of the guidelines are: (a) Investment Manager on behalf of InvIT will have to appoint one or more merchant banker and other intermediaries to carry out the obligations relating to the issue, (b) Not more than 75% of the units can be allocated to Institutional Investor and not less than 25% of the units can be allocated to other investors. (c) Investment Manager may allocate upto 60% of the portion available for allocation to Institutional Investors to anchor investors. However, the anchor investor will have to make an application of a value of at least Rs. 10 crore in the public issue. (d) The application form and the abridged version of the offer document for the issue will be prepared by the lead merchant banker. (e) Investment Manager, on behalf of the InvIT, will have to deposit an amount @ 0.5% of the amount of units offered for subscription to the public or Rs. 5 crore, whichever is lower. [See SEBI Circular No. CIR/IMD/DF/55/2016 dated May 11, 2016]

➔ **DIPP issues National Intellectual Property Rights Policy**

DIPP has notified the National Intellectual Property Rights Policy ('The Policy') on May 12th, 2016 that will lay future roadmap for intellectual property in India. The Policy lays down the following objectives: (a) To create public awareness about the economic, social and cultural benefits of IPRs among all sections of society; (b) To stimulate the generation of IPRs; (c) To have strong and effective IPR laws, which balance the interests of rights owners with larger public interest (d) To modernize and strengthen service-oriented IPR administration; (e) Get value for IPRs through commercialization; (f) To strengthen the enforcement and adjudicatory mechanisms for combating IPR infringements; and (g) To strengthen and expand human resources, institutions and capacities for teaching, training, research and skill building in IPRs. [See National Intellectual Property Rights Policy dated 12th May, 2016 issued by DIPP, GOI]

➔ **MCA clarifies with regard to the provisions of Corporate Social Responsibilities**

MCA has issued clarification that companies, while undertaking Corporate Social Responsibility activities under the provisions of the Companies Act, 2013 shall not contravene any other prevailing laws of the land including

Cigarettes and Other Tobacco Products Act, 2003. [See MCA Circular No. 05/2016 dated May 16th, 2016]

➔ **SEBI revises formats for reporting of acquisition details to Stock Exchanges**

SEBI has revised the formats for reports to be furnished to stock exchanges under Regulation 10(5) of the SEBI (Substantial Acquisition of Shares and takeovers) Regulations, 2011 ('The Regulations') in respect of acquisition made under Regulation of 10(1)(a) of the Regulations (which deals with acquisition pursuant to inter se transfer of shares amongst qualifying persons). While filing the reports, the acquirers are required to report compliance under Chapter-V of the Regulations. However there is no specific time period mentioned in the formats for reporting of such compliance. In order to bring it in line with the requirement under Regulation 10(1)(a), it is necessary that the compliance should be reported for a period of 3 (Three) years. Accordingly the formats for reports have been modified. [See SEBI Circular SEBI/HO/CFD/DCR1/CIR/P/2016/52 dated May 02, 2016]



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