

Highlights

- DIPP issues FAQs in Start-up India Scheme
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- Commencement of the Real Estate (Regulation and Development) Act, 2016
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- RBI clarifies on acceptance of deposits by Indian Companies for nomination as Director
- RBI reduces monetary limit and minimum maturity period for issuance of rupee denominated bonds.

Corporate Brief

➔ *DIPP issues FAQs on Start-up India Scheme*

DIPP has released Frequently Asked Questions (FAQs) on 'Startup India' for (a) Startups, (b) Incubators providing recommendation / support /endorsement letter to Startups and (c) Funding bodies providing recommendation / support / endorsement letter to Startups. Highlights of the FAQs are: (a) An entity shall be considered as 'Startup'- (i) upto 5 years from the date of its incorporation/ registration, (ii) If its turnover for any of the financial years is less than INR 250 million, and (iii) It is working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property. (b) For availing various benefits, an entity would be required to be recognized as a Startup by applying on Startup Indi Mobile App / Portal. (c) An entity would cease to be a 'Startup' upon expiry of 5 years from the date of incorporation or if its turnover for any financial year has exceeded INR 25 crore. (d) Incubator must fall in one of the following categories to be authorized to provide recommendation/ support/ endorsement letter to startup: (i) Incubator established in a post-graduate college in India, (ii) Incubator funded by GOI or any state government as part of any specified scheme to promote innovation, and (iii) Incubator recognized by GOI.

➔ *RBI clarifies on foreign investment in units issued by REITs, INVITs, AIFs*

RBI has clarified norms for investment in units of Investment Vehicle registered and regulated by SEBI or other competent authority, viz. Real Estate Investment Trust (REIT), Infrastructure Investment Trust (INVITs) and Alternative Investment Funds (AIFs) governed by SEBI regulations. Highlights of the clarification are: (a) A person outside India including a Registered Foreign Portfolio Investor and a Non-resident Indian may invest in units of Investment Vehicles. (b) The payment for acquiring such units shall be made by an inward remittance through the

normal banking channel including by debit to an NRE/FCNR account. (iii) Downstream investment by an Investment Vehicle shall be regarded as foreign investment if either the Sponsor or the Manager or the Investment Manager is not Indian 'owned and controlled'. (iv) As foreign investment in any entity engaged/proposes to engage in "real estate business" is prohibited, foreign investment in units of REITs registered and regulated under the SEBI (REITs) regulations, 2014 will not be included in 'real estate business' for this purpose. [See RBI A.P.P (DIR Series) Circular No. 63 dated April 21st, 2016]

➔ *Commencement of the Real Estate (Regulation and Development) Act, 2016*

Ministry of Housing and Urban Poverty Alleviation has notified 69 out of 90 section of the Real Estate (Regulation and Development) Act, 2016 ("The Act") and has appointed the 1st day of May, 2016 as the date on which the following sections of the Act will come into force, namely: (a) Section 2 (which deals with Definitions), (b) Section 20 to 39 (which deals with some of the provisions of Chapter V i.e. Real Estate Regulatory Authority), (c) Sections 41 to 58 (which deals with Chapter VI, i.e. Central Advisory Council and Chapter VII, i.e. the Real Estate Appellate Tribunal), (d) Sections 71 to 72 (provisions pertaining to power to adjudicate compensation), (e) Sections 73 to 78 (which deals with Chapter IX, i.e. Finance Accounts, Audits and Reports), and (e) Sections 81 to 92 (Miscellaneous provisions). [See Ministry of Housing and Urban Poverty Alleviation Notification F.No. O-17034/18/2009-H, the Gazette of India dated April 26th, 2016]

➔ *MCA exempts certain companies from XBRL filing*

MCA has amended the Companies (Filing of Documents and Forms in Extensible Business Reporting Language) Amendment Rules, 2016 to exempt housing finance companies from filing of financial statements in e-form AOC-4 XBRL. [See MCA Notification F.No.1/19/2013 CL-V dated April 04, 2016]

➔ *RBI notifies new norms on remittance of assets*

RBI has notified the Foreign Exchange Management (Remittance of Assets) Regulations, 2016 ('the Regulations') which has repealed and superseded the Foreign Exchange Management (Remittance of Assets) Regulations, 2000. Highlights of the Regulations are: (a) Remittance of capital assets in India held by a person whether resident in or outside India would require the approval of the RBI except to the extent specifically provided. (b) ADs may allow remittance of assets, upto USD one million per financial

year, by a foreign national in case: (i) the person has retired from employment in India, (ii) the person has inherited the assets from a person referred to in section 6(5) of FEMA, (iii) the person is a non-resident widow / widower and has inherited assets from the person's deceased spouse who was an Indian citizen resident in India. (c) ADs may allow NRIs and PIOs to remit upto USD one million, per financial year: (i) out of balances held in their NRO accounts / sale proceeds of assets / assets acquired in India by way of inheritance / legacy; (ii) out of assets acquired under a deed of settlement made by either of his parents or a relative. The settlement should take effect on the death of the settler. [See A.P.(DIR Series) Circular No. 64/2015-16 dated April 28, 2016]

➔ **RBI issues advisory on submission of 'Annual Performance Report' by Indian Party / Resident Individual**

RBI has observed that Indian Party / Resident Individual ('IP/RI') which has made an Overseas Direct Investment ('ODI') are either not regular in submitting the Annual Performance Report ('APR') or are submitting it with delay. In order to provide AD banks greater capability to track submission of APRs and also to improve compliance level in the matter of submission of APRs by the IPs/RIs, the online ODI application has been suitably modified to enable the nodal office of AD bank to view the outstanding position of all the APRs pertaining to an applicant. Furthermore certification of APRs by the Statutory Auditor or Chartered Accountant need not be insisted upon in the case of RI. Self certification may be accepted. [See RBI A.P.P (DIR Series) Circular No. 61 dated April 13rd, 2016]

➔ **RBI rationalizes reporting norms for Overseas Direct Investment**

RBI has rationalized and revised the Overseas Direct Investment (ODI) reporting form. RBI has also introduced a new reporting form for Venture Capital Fund / Alternate Investment Fund, Portfolio Investment and overseas investment by Mutual Funds. Online ODI application has also been revamped to further reduce the traditional paper based filing system, to provide the AD banks fast and easy accessibility to data for reference purpose, to improve the AD banks fast and accessibility to data for reference purpose and to improve the coverage and ensure proper monitoring of the flows in a dynamic environment. [See A.P. (DIR Series) Circular No. 62 dated April 13, 2016]

➔ **RBI reduces monetary limit and minimum maturity period for issuance of rupee denominated bonds**

RBI has modified the criteria for investors and location for issuance of rupee denominated bonds. Highlights of the

modifications are: (a) Minimum maturity period for Rupee denominated bonds issued overseas has been reduced to three years in order to align with the maturity prescription regarding foreign investment in corporate bonds through the FPI route. (b) Borrowers issuing Rupee denominated bonds overseas should incorporate clause in the agreement / offer document so as to enable them to obtain the list of primary bond holders and provide the same to the regulatory authorities in India as and when required. [See A.P. (DIR Series) Circular No. 60 dated April 13rd, 2016]

➔ **RBI clarifies on acceptance of deposits by Indian Companies for nomination as Director**

RBI has clarified that deposit received by an Indian Company from a person resident outside India for nomination as a director under section 160 of the Companies Act, 2013 is a current account (payment) transaction and doesn't require any approval from the RBI.

Section 160 of the Companies Act, 2013, requires that a person who intends to nominate himself or any other person as a director in an Indian Company is required to place deposit with the said Company. In this context, there was this ambiguity whether such deposits will require any specific approval from the RBI, in case where the deposit is received from a person resident outside India. [See A.P. (DIR Series) Circular No. 59 dated April 13, 2016]



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