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Corporate Brief

Foreigners Regional Registration Office liberalized

GOI has liberalized the process of Foreigners Regional Registration Office ("**FRRO**") registration, visa extension etc. for foreign nationals visiting India. A new online FRRO portal ("**e-FRRO**") has been put in place for foreigners to apply online for uploading documents to get registration done. Important features, inter-alia, include: (i) e-FRRO is mandatory in jurisdiction under FRRO offices at Delhi, Mumbai, Chennai and Bengaluru; (ii) a family can apply through the same user-ID by filling individual online forms for each member of the family; (iii) in case of emergency, the foreigner can approach the concerned FRRO directly for any service, subject to the satisfaction of authority; (iv) in exceptional cases only, the foreigner can be requested to visit FRRO, at scheduled time and date intimated through email and SMS alerts; and (v) there are penal consequences if there is any delay in fee payment/ document upload/ interview. This service is not applicable for diplomats/ officials who are under jurisdiction of CPV Division, Ministry of External Affairs.

RBI notifies revised framework for stressed assets

RBI has notified framework for resolution of stressed assets ("**revised framework**"). The key highlights of the revised framework, inter alia, include: (i) **early identification and reporting of stressed assets**: the revised framework reemphasizes early identification of stressed assets, as well as timely collation of information on stressed assets by central repository, which will enable RBI to effectively monitor the level of stress in the banking system; (ii) **resolution plan**: the revised framework envisages the

concept of Resolution Plan ("**RP**"), which should not be confused with the resolution plan as defined in Insolvency and Bankruptcy Code, 2016 ("**IBC**"). All lenders are now required to mandatorily put in place board approved policies for resolution of stressed assets under revised framework. As soon as there is a default the lenders are required to singly/ jointly initiate steps for cure; (iii) **implementation of RP**: RBI has provided definite criteria for determining the implementation of RP. A RP will be deemed to be implemented only if: (a) the borrower entity is no longer in default with any of the lenders, (b) if the resolution involves restructuring, then, all related documentation, including execution of necessary agreements between lenders and borrower/ creation of security charge/ perfection of securities are completed by the lenders; (iv) **timelines for large accounts for reference to IBC**: the revised framework classifies a "large account" as one where the aggregate exposure of the lenders on or after 1st March 2018 is INR 20 billion and above. It prescribes timelines for RP to be implemented for such accounts and mandates the lenders to file insolvency application under IBC within 15 days of expiry of the prescribed timelines in case the RP is not implemented within such prescribed timelines. [See RBI notification dated 12th February 2018]

SEBI issues circular for the manner of achieving minimum public shareholding

SEBI in order to facilitate listed entities to comply with minimum shareholding requirements, has allowed certain additional methods: (i) **Open market sale**: sale of shares held by promoters/ promoter group up to 2% of the total paid-up equity share capital of the listed entity in the open market, shall be subject to five times average monthly trading volume of the shares of the listed entity; and (ii) **Qualified Institutions Placement**: allotment of eligible securities through Qualified Institutions Placement. SEBI has laid down certain conditions for open market sale: (i) the listed entity shall, at least one trading day prior to such proposed sale, announce the following details to stock exchange(s), where its shares are listed: (a) the intention of the promoter/ promoter group to sell and the purpose of the sale, (b) the details of the promoter(s)/ promoter group, proposing to divest their shareholding, (c) total number of shares and percentage of shareholding proposed to be divested, and (d) the period within which the entire disinvestment process will be completed; and (ii) an undertaking shall also be submitted by the listed entity to the recognized stock exchange(s). [See SEBI Circular No. SEBI/HO/CFD/CMD/CIR/43/2018, dated 22nd February 2018]

➡ *Compensation to Retail Individual Investors in an IPO*

SEBI has established a mechanism for compensation to Retail Individual Investors (“**RIIs**”) in an IPO. The process of Applications Supported by Block Amount (“**ASBA**”) has led to elimination of complaints pertaining to refunds. However, instances have been discovered where the applicants in Initial Public Offering (“**IPO**”) have failed to get allotment of specified securities and in the process may have suffered an opportunity loss due to the following factors: (i) failure on part of the Self Certified Syndicate Banks (“**SCSBs**”) to make bids in the concerned exchange system even after the amount has been blocked in the investor’s bank account with such SCSB; (ii) failure on part of the SCSB to process the ASBA applications even when they have been submitted within time; and (iii) any other failure on part of an SCSB which has resulted in the rejection of the application form. A need has been felt to have uniform policy for calculation of minimum compensation payable to investors, keeping into account the following factors: (i) the opportunity loss suffered by the investor due to non-allotment of shares; (ii) the number of times the issue was oversubscribed in the relevant category; (iii) the probability of allotment; and (iv) the listing gains if any on the day of listing. [See SEBI Circular No. SEBI/HO/CFD/DIL2/CIR/P/2018/22, dated 15th February 2018]

➡ *SEBI eases Access Norms for investment by FPIs*

SEBI in consultation with stakeholders has decided to ease access norms for investment by Foreign Portfolio Investors (“**FPIs**”). The changes, inter-alia, include: (i) Earlier if the FPI wanted to change Designated Depository Participant (“**DDP**”)/ custodian, then the request for change was to be intimated to SEBI through the concerned DDP/ custodian. On receipt of no objection from existing transferor DDP/ custodian and acceptance from the proposed transferee DDP/ custodian, then approval from SEBI shall be sought by concerned FPI. However, in the new provision, in case the FPI or its global custodian wishes to change the local custodian/ DDP, then request for change shall be forwarded to new local custodian/ DDP. In case, the global custodian of FPI wishes to change the local custodian/ DDP, then request for change can be sent by global custodian on behalf of its underlying FPI clients provided such global custodian has been duly authorized to take steps by the client. On receipt of no objection from transferor local custodian/ DDP, transferee local custodian/ DDP shall approve the change and inform SEBI. In case the request for change in local custodian/ DDP is received from global custodian, the transferee local custodian/ DDP shall inform compliance officer of the concerned FPI(s) regarding change in their local custodian/

DDP. (ii) Earlier, with respect to process of change of custodian/ DDP by FPI, it is informed both old (i.e. the transferor) as well as new custodian/ DDP (i.e. transferee) shall be required to carry due diligence in the process. However, under the new provision, the process of change of custodian/ DDP by FPI, it is informed that new DDP (i.e. transferee) may rely on due diligence carried out by old DDP. However, the new DDP is required to carry out adequate due diligence at the time when FPI applies for continuance of its registration on ongoing basis. (iii) Earlier, the request for free of cost transfer of assets by the FPI should be forwarded to SEBI for consideration through the concerned DDP. However, under the new provision, the request for free of cost transfer of assets between the FPIs having same PAN and also registered with SEBI showing multiple investment managers structure may be processed by DDPs at their end. [SEBI Circular No. SEBI/IMD/FPIC/26/2018, dated 15th February 2018]

➡ *Cabinet approves new bill to ban Unregulated Deposit Schemes and Chit Funds (Amendment) Bill, 2018*

Union Cabinet has given its approval to introduce Banning of Unregulated Deposit Schemes Bill, 2018 and Chit Funds (Amendment) Bill, 2018 in the Parliament. The salient features of the Unregulated Deposit Scheme Bill, 2018, inter-alia include: (i) complete prohibition of unregulated deposit taking activity; (ii) stringent punishment for fraudulent default in repayment to depositories; (iii) designation of a competent authority by the state government to ensure repayment of deposits in the event of default by a deposit taking establishment; (iv) powers and functions of the competent authority including the power to attach assets of a defaulting establishment; (v) designation of courts to oversee repayment of depositories and to try offences under the Act; (vi) a substantive banning provision which bans deposit takers from promoting, operating, issuing advertisements or accepting deposits in any unregulated deposit scheme; (vii) severe punishment and heavy fines to act as deterrent; and (viii) clear cut time lines for attachment of property and restitution to depositors. The proposed amendments in the Chit Funds Act, 1982, inter-alia, include: (i) use of the words ‘fraternity fund’ for chit business to signify its inherent nature, and distinguish its working from ‘prize chits’ which are banned under a separate legislation; (ii) increasing the ceiling of foreman’s commission from a maximum of 5% to 7%, as the rate has remained static since the commencement of the Act while overheads and other costs have increased manifold; and (iii) allowing the foreman a right to lien for the dues from subscribers, so that set-off is allowed by the chit company for subscribers who have

already drawn funds, so as to discourage default by them. [See Press Information Bureau release, dated 20th February 2018]

GST Brief

➔ *GST on College Hostel Mess Fees*

Ministry of Finance clarified GST on college hostel mess facilities. The educational institutions have mess facilities for providing food to their students and staff, such facility is either run by the intuitions/ students themselves or is outsourced to a third person. It is clarified that supply of food or drink provided by mess or canteen is taxable at 5%, immaterial whether the service is provided by the educational institution itself or the institution outsources the activity to an outsider contractor. [See C.B.E & C Circular No. 28/02/2018-GST, dated 8th January 2018]

➔ *April 1 as recommended rollout date of e-way bill*

E-way bill ("the Bill") which was supposed to be rolled out from 1st February 2018 has been recommended to roll out from 1st April 2018. The bill for inter-state trade till finalization of the Bill will continue to run on trial basis for both inter and intra-state movement of goods, considering the hardships and difficulties suffered by the trade in generating the Bill due to technical glitches. Further, it would be made compulsory from the date to be announced. [See C.B.E & C Press Release No. 125/2017, dated 16th December 2017]

RERA Brief

➔ *Punjab Real Estate Regulatory Authority issues circular on advertisement by the Promoter*

Punjab Real Estate Regulatory Authority ("the Authority") issued a circular whereby any advertisement of real estate projects in print media, on outdoor hoardings or any other visual medium shall mention the registration number issued by the Authority in the top right corner of the advertisement. Further, the advertisement or prospectus issued or published by the promoter shall also mention the website address of the Authority. In advertisements on FM Radio or through electronic media or SMS, the registration number and website address of the Authority, shall be prominently mentioned. [See Circular No. RERA/ENF/04 dated 13th February 2018]

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