



Highlights

- SEBI issues consultation paper for amendments to SEBI REIT Regulations, 2014
- GOI issues draft Medical Devices Rules, 2016
- MCA notifies the National Company Law Tribunal Rules, 2016
- MCA amends the Companies (Share Capital and Debentures) Rules, 2013
- MCA amends the Companies (Incorporation) Rules, 2014
- MCA notifies on applicability of section 381(i) of the Companies Act, 2013 on Foreign Airlines Companies

Corporate Brief

SEBI issues consultation paper for amendments to SEBI REIT Regulations, 2014

SEBI has issued consultation paper for amendments to SEBI (Real Estate Investment Trusts) Regulations, 2014 ('REIT Regulations') for seeking public comments. Highlights of the consultation paper: (a) Regulation 2(1)(zs) of the REIT Regulations defines SPV as a company or LLP which holds not less than eighty percent of its assets directly in properties and does not invest in other special purpose vehicle. The consultation paper proposes to allow REITs to invest in holding companies which have investment in other SPV, which subsequently hold the real estate asset, provided REIT will hold controlling interest and not less than 50% of the equity share capital or interest in holding company. The holding company shall in turn hold controlling interest and not less than 50% of the equity share capital or interest in underlying SPVs. (b) The consultation paper proposes to amend the definition of 'real estate' or 'property' in Regulation 2(zi) of the REIT Regulations so as to allow rent generating properties captured within the definition of Infrastructure by Ministry of Finance such as hotels, hospitals etc. under REIT as well. (c) Maximum number of sponsors to be increased from 3 to 5, if the holding in REIT is only by the sponsor(s). If the holdings in the REIT is held by sponsor and other group companies or associates of sponsor (collectively identified as 'sponsor group'), maximum number of sponsor group would be 1. (d) The requirement of minimum offer to public and minimum public holding, of the outstanding units to be linked with the requirement of public offer of 25% / 10% as specified under Securities Contracts (Regulation) Rules, 1957. Further the requirement of the minimum number of public unit holders may be amended to allow minimum of 200 public investors at the time of initial offer only. [See SEBI Consultation Paper for amendments to the SEBI (Real Estate Investment Trusts) Regulations, 2014 issued on July 18th 2016]



GOI issues draft Medical Devices Rules, 2016

Government of India has prepared draft notification viz. Medical Devices Rules, 2016 ('the Rules') for regulating manufacturing/import/ sale/clinical investigation and other related matters concerning medical devices for seeking public comments. Highlights of the Rules are: (a) Medical Devices will be classified on the basis of severity of the associated risk as follows: (i) Class A: low risk, (ii) Class B: low moderate risk, (iii) Class C: moderate high risk, (iv) Class D: high risk. (b) No license will be required for manufacturing of Class A medical devices and such devices will be self-regulated in accordance with the applicable standards. (c) The Drugs Controller General of India shall be Central Licensing Authority and shall be competent authority for enforcement of the rules in matters relating to import and manufacture of Class C and Class D medical devices. (d) The State Drugs Controller shall be State Licensing Authority and shall be competent authority for enforcement of the rules in matters relating to manufacture of Class A and Class B medical devices. [See Ministry of Family and Health Welfare, Government of India, Notification No. X.11035/374/2016-DFQC dated July 12th, 2016]



MCA notifies the National Company Law Tribunal Rules, 2016

MCA has notified the National Company Law Tribunal Rules, 2016 ('the Rules') providing *inter alia* power and functions of President, Registry and Secretary, procedure of institution of proceedings, petition, appeal etc. Highlights of the Rules are: (a) Every appeal or petition or application or caveat petition or objection or counter presented to the Tribunal shall be in English. (b) Full name, parentage, age, description of each party and address and in case a party sues or being sued in a representative character, shall also be set out at the beginning of the appeal or petition or application and need not be repeated in the subsequent proceedings in the same appeal or petition or application. (c) Every petition, application, caveat, interlocutory application, documents and appeal shall be presented in triplicate duly appointed in this behalf in the prescribed form with stipulated fee at the filing counter and non-compliance of this may constitute a valid ground to refuse to entertain the same. (d) Where any application, petition or reference is required to be advertised, it shall, unless the Tribunal otherwise orders, or these rules otherwise provide, be advertised in Form NCLT-3A, not less than fourteen days before the date fixed for hearing. [See MCA Notification F. No. 1/30/2013/CL-V(i) dated July 21, 2016]



➔ *MCA amends the Companies (Share Capital and Debentures) Rules, 2013*

MCA has amended the Companies (Share Capital and Debentures) Rules, 2013 ('the Rules'). Highlights of the amendments are: (a) Companies were entirely prohibited to issue equity shares with differential voting rights if it defaults in payment of dividend on preference shares or repayment of term loan or interest payable thereon etc. The amendment now permits companies to issue equity shares with differential voting rights upon expiry of five years from the end of the financial year in which such default was made good. (b) In general, no company can issue sweat equity shares for more than fifteen percent of the existing paid-up capital. The amendment permits Start-up companies to issue sweat equity shares not exceeding fifty percent of its paid-up capital upto five years from the date of its incorporation or registration. (c) In case of issue of convertible securities on preferential basis, price of resultant shares was required to be determined beforehand on the basis of valuation report of a registered valuer. Now companies are permitted to determine price of resultant shares within thirty days of the date when holder of convertible shares becomes entitled to apply for shares. [See MCA Notification F.No. 01/04/2013 CL-V (part-II) dated July 19, 2016]

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

66MCA has amended the Companies (Incorporation) Rules, 2014. Highlights of the amendments are: (a) For the purpose of signing of Memorandum and Articles of Association of the Company, the type written or printed particulars of the subscribers and witnesses shall be allowed as if it is written by the subscriber and witness respectively so long as the subscriber and the witness as the case may be appends his or her signature or thumb impression. (b) No proof of identity and residence of the subscriber are required to be filed with the ROC at the time of filling of application for incorporation of the Company, where the subscriber is already holding a valid DIN and the particulars provided therein have been updated as on the date of application for the Incorporation of the Company. (c) Every company which has a website for conducting online business shall disclose its name, address of its registered office, Corporate Identity Number, telephone number, fax number, email and name of person who may be contacted in case of any grievances. [See MCA Notification F.No. 1/13/2013 CL-V dated July 27, 2016]

➔ *MCA notifies on applicability of section 381(1) of the Companies Act, 2013 on Foreign Airlines Companies*

MCA has notified that provisions of section 381 (1) of the Companies Act, 2013 ('the Act') shall apply to the foreign company which is an airlines company subject to the certain exceptions and modifications. However if the company submits to the appropriate ROC the following documents, it shall be a deemed sufficient compliance of section 381(1) of the Act, namely: (i) documents relating to copies of latest consolidated financial statements of the parent foreign company, (ii) a statement of receipts and payments for the financial year duly authenticated by a practicing Chartered Accountant in India, (iii) documents required to be filed with ROC under Rule 4(2) of the Companies (Registration of Foreign Companies) Rules, 2014. Section 381(1) of the Act requires every foreign company to deliver a copy of balance sheet and profit and loss account with ROC. [See MCA Notification F.No. 1/23/2013-CL-V dated July 19th, 2016]



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