

Highlights

Corporate Brief

- DIPP announces the Japan-India Roadmap for Investment Promotion
- Definition of 'subsidiaries' under Companies Act, 2013 notified
- MCA notifies rules on restriction on number of layers of subsidiaries
- MCA amends Companies (Acceptance of Deposit) Rules, 2014
- MCA clarifies the meaning of joint venture
- MCA delegates power to Regional Directors
- SEBI in its board meeting amends SEBI (Infrastructure Investment Trusts) Regulations, 2014 and SEBI (Real Estate Investment Trusts) Regulations, 2014 ("The Regulations")
- SEBI strengthens regulations preventing unauthorized trading by stock brokers
- Time limit for filing of returns under IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015
- P2P lending firms to be regulated by RBI

GST Brief

- GST on industrial rough diamonds reduced to 0.25%
- Government allows consumers to file complaints on GST profiteering
- Delhi HC allows exporter to import without paying IGST
- No GST on packaged food products if rights foregone on brand

mechanism for issue resolutions and approvals to speed up problem solving process for facilitating increased investments in India, Indian state governments will be requested to further strengthen single window clearance systems, for fast tracking various permission and approval processes for facilitating increased investment in India; (v) DIPP and Ministry of Economy, Trade and Industry of Japan will continue to work together on Japan Industrialtownship ("JITs") to create enabling environment for Japanese investments in collaboration, inter alia, with relevant Indian Ministries and Departments, Indian state governments as well as JETRO, the state governments have informed that they will provide incentives for JITs as per the industrial policies. [See DIPP notification dated 14th September, 2017]

➤ Definition of 'subsidiaries' under Companies Act, 2013 notified

MCA has notified that section 2(87) of the Companies Act, 2013 (i.e. the definition of "subsidiaries" or "subsidiary company") came into force from 20th September 2017. [See MCA Notifications No. F.No. 1/13/2013-CL-V) dated 20th September 2017]

➤ MCA notifies rules on restrictions on number of layers of subsidiaries

MCA has notified the Companies (Restriction on number of layers) Rules, 2017. Highlights of the rules are: (i) No company shall have more than two layers of subsidiaries. This restriction shall not affect a company from acquiring a company incorporated outside India with subsidiaries beyond two layers as per the laws of such country; (ii) Existing companies having layers in excess of two shall have to file a return with ROC in Form CRL-1 disclosing the details; (iii) in case any company contravenes with the above provisions, then such company and officers in default shall be liable to pay penalty up to Rs. 10,000, and for repeated violation Rs. 1000 for every day. The above restriction shall not be applicable to the following classes of companies: (i) banking companies (ii) non-banking financial companies; (iii) insurance companies and; (iv) government companies. [See MCA Notifications No. F.No. 01/13/2013-CL-V (Vol.III), dated 20th September 2017]

➤ MCA amends Companies (Acceptance of Deposit) Rules, 2014

MCA has amended the Companies (Acceptance of Deposit) Rules, 2014 and provided further relaxation to certain classes of companies. In addition to private companies, International Financial Service Centre (IFSC) public companies are also allowed to accept deposits from its members, not exceeding

Corporate Brief

➤ DIPP announces the Japan-India Roadmap for Investment Promotion

DIPP, Ministry of Commerce & Industry of India, Ministry of Economy, Trade and Industry of Japan have jointly identified focal areas to accelerate Japanese investments in India. The key highlights are : (i) Indian Embassy in Japan will continue to organize promotional activities for the purpose of realizing Japanese investment potential in India. Japan External Trade Organization ("**JETRO**") will provide necessary support to Indian embassy in Tokyo in organizing such activities: (a) Indian embassy in Japan along with JETRO will conduct outreach programmes for promoting Japanese companies' operation in India, (b) Invest India would assist JETRO and Japanese companies including SMEs in interacting with Ministries/Departments of Government of India and state governments/ agencies in India, (c) Invest India will create an Indo-Japanese microsite to guide and assist Japanese companies to invest and operate in India; (ii) JETRO will cooperate with Indian Embassy in Japan for investment promotion and to assist Japanese SME investments, JETRO will establish its fourth business support center in India; (iii) Japanese investment may be invited to four industrial cities of the Delhi Mumbai Industrial Corridor-Dholera Special Investment Region (Gujarat), Shendra Bidkin Industrial Park (Maharashtra), Integrated Industrial Township (Greater Noida- Uttar Pradesh) and Vikram Udyogpuri (Ujjain- Madhya Pradesh) where trunk infrastructure work is at an advanced stage and the process of land allotment has been initiated; (iv) Indian state governments will be requested to further strengthen review

100% of the aggregate of paid-up share capital, free reserves and securities premium account. The maximum limit i.e. 100% of the aggregate paid-up share capital in respect of deposits to be accepted from members shall not be applicable to: (i) private company which is a start-up, for first five years from the date of its incorporation.; (ii) a private company which fulfills all of the following conditions: (a) which is not an associate or subsidiary of any other company; (b) the borrowings of such company from banks or financial institutions or any body corporate less than twice of its paid-up share capital or Rs. 50 crores, whichever is less and; (c) such company which has not defaulted in the repayment of such borrowings subsisting at the time of accepting deposits. [See MCA Notification No. F.No. 1/8/2013-CL-V, dated 19th September 2017]

➤ *MCA clarifies the meaning of “joint venture”*

MCA had notified the Companies (Appointment and Qualification of Directors) Amendment Rules, 2017 on 5th July, 2017, by which it had, *inter-alia*, amended Rule 4, which provided that an unlisted company which is a joint venture, wholly owned subsidiary or a dormant company will not be required to appoint Independent Directors. Pursuant to the abovementioned notification, stakeholders had sought clarification for the meaning of joint venture. MCA clarified that a “joint venture” means joint arrangement, entered into in writing, whereby the parties that have joint control of the arrangement, have rights to the net assets of the arrangement. The usage of the term is similar to that under the Accounting Standards. [See MCA General Circular No.09/2017, dated 5th September 2017]

➤ *MCA delegates its power to regional directors*

MCA has delegated its power to the Regional Directors at Mumbai, Kolkata, Chennai, New Delhi, Ahmedabad, Hyderabad and Shillong, allowing it to receive notice of every application for reduction of share capital of a company and make representations to the creditors of such companies. [See MCA Notification No. F.No. 1/06/2014-CL-V, dated 6th September 2017]

➤ *SEBI in its board meeting amends SEBI (Infrastructure Investment Trusts) Regulations, 2014 and SEBI (Real Estate Investment Trusts) Regulations, 2014 (“The Regulations”)*

SEBI in its board meeting in its order to facilitate growth of Infrastructure Investment Trusts (InvITs) and Real Estate Investment Trusts (REITs), approved certain changes to the Regulations. The highlights of the amendments are: (i) REITs and InvITs are now allowed to raise debt capital by issuing debt

and securities; (ii) the concept of Strategic Investor for REITs has been introduced; (iii) single asset REITs are now allowed; (iv) REITs are now allowed to lend to underlying holding company/SPV; (v) the definition of valuer has been amended for both REITs and InvITs and (vi) further consultations with stakeholders on a proposal allowing REITs to invest atleast 50% of the equity share capital or interest in the underlying Holdco/SPVs and similarly allowing Holdco to invest with atleast 50% of the equity share capital or interest in the underlying SPVs. [See SEBI PR No.: 57/2017, dated 18th September 2017]

➤ *SEBI strengthens regulations preventing unauthorized trading by stock brokers*

SEBI, to further strengthen the regulatory provisions against unauthorized trades and to harmonise requirements across market, has decided that all brokers shall execute trades of clients only after keeping evidence of client placing such order, it could be in the form of: (i) physical record written and signed by the client; (ii) telephone recording; (iii) email from authorized email id; (iv) log for internet transactions; (v) record of SMS messages and; (vi) any other legally verifiable record. The circular further provides that order instructions received over the telephone must be mandatorily recorded. The circular shall come into effect from 1st January 2018. [See SEBI Circular No.: CIR/HO/MIRSD/MIRSD2/CIR/P/2017/108, dated 26th September 2017]

➤ *Time limit for filing of returns under IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015*

IRDAI has specified time limit for filing returns under Regulation 21 of the IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015 wherein insurers are required to submit the annual policy and quarterly/ half yearly returns. Insurers are advised to submit the documents as per the following time frame: (i) the copy of annual policy formulated by the company to be submitted within 90 days from the beginning of the financial year; (ii) quarterly report on misconduct of licensed surveyors to be submitted within 45 days from the end of quarter and (iii) half yearly report on claims to be submitted within 45 days from the end of half year. [See IRDAI notification IRDA/SUR/CIR/222/09/2017, dated 21st September 2017]

➤ *P2P lending firms to be regulated by RBI*

RBI has notified that non-banking financial institution carrying on the business of peer-to-peer lending (P2P) platforms will come under the category of Non-Banking Financial Company. RBI has further clarified the meaning of ‘business of a peer to peer lending platform’ as the business

of providing a contract, the service of loan facilitation, via online medium or otherwise, to the participants who have entered into an arrangement with that platform to lend on it or to avail of loan facilitation provided by it. [See RBI notification No. ADVT-III/4/Ext/225/17 dated 24th August 2017, published 18th September 2017]

GST Brief

➤ *GST on industrial rough diamonds reduced to 0.25%*

Mumbai GST Council has reduced GST rate on rough diamonds imported for industrial use to 0.25% from 3%. The discrepancy was leading to confusion among the importers and customs as rough diamonds imported for non-industrial use attracted 0.25% while unsorted and industrial use attracted 3%. [See <http://cbec.gov.in>]

➤ *Government allows consumers to file complaints on GST profiteering*

The anti-profiteering mechanism under GST has kicked in with Government allowing consumers to file complaints against any irrational profit made by businesses by not passing on cost reduction benefit to buyers. As per the structure of anti-profiteering mechanism in the GST regime, complaints of local nature would be first sent to state level screening committee and national level would be sent to the standing committee. [See <http://cbec.gov.in>]

➤ *Delhi HC allows exporter to import without paying IGST*

Delhi High Court has granted interim relief to an exporter, to import goods without payment of IGST to extent allowed by advance authorizations received by him prior to 1st July 2017. [See <http://cbec.gov.in>]

➤ *No GST on packaged food products if rights foregone on brand*

Packaged food products will not face Goods and Service Tax at the rate 5% if the manufacturer voluntarily forego any actionable claim or enforceable right on the brand name. [See <http://cbec.gov.in>]

Disclaimer:

For private circulation to the addressee only and not for re-circulation. Any form of reproduction, dissemination, copying, disclosure, modification, distribution and/ or publication of this Newsletter is strictly prohibited. This Newsletter is not intended to be an advertisement or solicitation. The contents of this Newsletter are solely meant to inform and is not a substitute for legal advice. Legal advice should be obtained based on the specific circumstances of each case, before relying on the contents of this Newsletter or prior to taking any decision based on the information contained in this Newsletter. ZEUS Law disclaims all responsibility and accepts no liability for the consequences of any person acting, or refraining from acting, on such information. If you have received this Newsletter in error, please notify us immediately by telephone.

Copyright © 2014 ZEUS Law. All rights reserved. Replication or redistribution of content, including by caching, framing or similar means, is expressly prohibited without the prior written consent of ZEUS Law.