Doing Business in India

- An Overview

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PREFACE

This guide is intended to provide foreign investors and their advisors a broad legal perspective on doing business in India. The guide is written in general terms and its application to specific situations will depend on the particular circumstances involved. Readers should obtain their own professional advice and this guide should not be seen as replacing the need to seek such specific legal advice.

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J. SAGAR ASSOCIATES
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CHAPTER 1: FOREIGN INVESTMENT

1.1 INTRODUCTION

Ever since India embarked on the path of liberalisation and economic reforms a couple of decades ago, the GoI (see Glossary of Terms) has been keen to attract foreign capital and investment. To this end, the GoI has put in place a policy framework on foreign investment, which is transparent, predictable and easily comprehensible.

Over the past several years, the policy and procedures regulating and governing the inflow of foreign investments into India have been progressively liberalized and simplified. The initiatives taken by the GoI in this regard have resulted in significant inflows of foreign investment in almost all areas of the economy, except a select few, that continue to remain reserved for strategic reasons.

A non-resident entity may invest or participate in India in the following ways:

- Foreign Direct Investment ("**FDI"**)
- As a registered Foreign Institutional Investor or a registered ("FII") Foreign Portfolio Investor **("FPI"**) under the Portfolio Investment Scheme
- As a registered Foreign Venture Capital Investor ("**FVCI"**) under the Venture Capital route
- As a holder of American Global Depository Receipts **("ADR**") and Global Depository Receipts ("**GDR"s**) under the ADR / GDR Scheme
- Technology and Trademark Licence Agreements

1.2 ENTRY OPTIONS FOR FOREIGN INVESTORS

Foreign entities have the option to set-up their business operations in India either in the form of incorporated entities or unincorporated entities. A foreign company opting for the incorporation route for setting up its operations in India is required to incorporate a company in India through either (1) a Joint Venture or (2) a Wholly Owned Subsidiary.

Companies in India are regulated under the provisions of the Companies Act. A "Company" can be formed and registered under the Companies Act, in one of the following two ways:

(a) **Private Company** is a company which (i) by its articles restricts the right to transfer its shares; (ii) limits the number of its members to two hundred; and (iii) prohibits invitation to the public to subscribe for any shares in or debentures of the company; or

(b) **Public Company** (listed or unlisted) is a company which is (i) not a private company; and (ii) a private company, which is a subsidiary of a public company.

The Companies Act prescribes specific requirements for incorporation depending on the type of entity established. Once incorporated, a company set up by the foreign entity is required to carry on business in India in accordance with Indian law.

A foreign company not opting to be incorporated in India is permitted to conduct its business operations in India through any of the following offices:

A. Liaison Office
B. Branch Office
C. Project Office

Such offices can only undertake activities permitted to them under the Regulations framed by FEMA for such offices. These offices are further required to be in compliance with provisions of the Companies Act as applicable to them[1].

The approvals for these offices are accorded by the RBI on a case-to-case basis, except project offices for which the RBI has granted a general permission.

Liaison Office (or Representative Office):

A "Liaison Office" means a place of business to act as a channel of communication between the principal place of business or head office and entities in India but which does not undertake any commercial / trading / industrial activity, directly or indirectly. A liaison office is not permitted to undertake any business activity in India and cannot earn any income in India and therefore is required to maintain itself out of inward remittances received from the head office outside India.

The activities of the liaison office are typically restricted to the following:

- Representing the parent company or group companies in India;
- Promoting exports from and imports to India;
- Promoting technical and financial collaborations between parent or group companies and companies in India; and
- Acting as a channel of communication between the parent company and Indian companies.

Foreign insurance companies can establish liaison offices in India, after obtaining approval from the Insurance Regulatory and Development Authority ("**IRDA**"). Foreign banks can establish liaison offices in India only after obtaining approval from the Department of Banking Regulation, RBI.

Permission to set up a liaison office is initially granted for a period of three years and can be extended subject to certain conditions.

Branch Office

Foreign entities engaged in manufacturing or trading activities outside India are allowed to set-up a "Branch Office" in India with specific approval from the RBI. Such Branch Offices are permitted to represent the parent or group companies and undertake the following activities in India, which are wider in scope as compared to the activities permitted to a liaison office:

- Export and Import of goods;
- Rendering professional or consultancy services;[2]
- Carrying out research work, in areas in which the parent company is engaged;
- Promoting technical or financial collaborations between Indian companies and their parent or overseas group company;
- Representing the parent company in India and acting as buying / selling agent in India;
- Rendering services in Information Technology and development of software in India;
- Rendering technical support to the products supplied by parent / group companies; or
- Foreign airline or shipping company.

The profits of a branch office are permitted to be remitted outside India subject to the payment of applicable Indian taxes. A branch office is not permitted to engage in any manufacturing or processing activities in India directly or indirectly. Retail trading activities of any nature are also not allowed for a branch office in India.

[1] Such provisions include requirements pertaining to delivering of certain documents to the relevant authorities and provisions relating to the disclosure of accounts.
[2] Procurement of goods for export and sale of goods after import are allowed only on wholesale basis.

Project Office

A "Project Office" means a place of business established to represent the interests of a foreign company executing a project in India. Such offices are prohibited from undertaking or carrying on any activity other than the activity relating and incidental to the execution of the project for which such office is established.

In order to set up a project office, a foreign company has to secure a contract to execute a project in India from an Indian company, and the fulfillment of one of the following conditions:

- Such project is funded directly by inward remittance from abroad; or
- Such project is funded by bilateral or multilateral international financing agency; or
- Such project has been cleared by an appropriate authority; or
- The company or entity in India awarding the contract has been granted a term loan by a public financial institution or a bank in India for the project.

If either of the above conditions is not met, the foreign entity has to approach the RBI for approval.

Further, Project Offices can be set up by foreign non-government organisations or non-profit organisations or foreign government bodies and departments, by whatever name called, only through the approval route.

1.3 FOREIGN DIRECT INVESTMENT

Foreign Direct Investment and the mechanisms (both substantive and procedural) governing its inflow into India are regulated by the policies of the GoI and subjected to review on an ongoing basis.

The GoI decided that a consolidated circular would be issued every year to update the FDI policy. The latest FDI Policy (issued vide Consolidated FDI Policy of 2015), which is effective from May 12, 2015 ("**Consolidated FDI Policy**"), reflects the current policy framework on FDI.

(1) Areas where FDI is prohibited:

Under the current Consolidated FDI Policy, FDI is prohibited in the following areas or activities: (i) Gambling and Betting, including Casinos, (ii) Lottery Business including Government, private and online lotteries[3], (iii) Business of Chit Funds, (iv) Real Estate Business[4] or Construction of farm houses, (v) Trading in Transferable Development Rights, (vi) Manufacturing of cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes and certain agricultural and plantation, (vii) activities/ sectors not opened to private sector including Atomic Energy and Railway Operations (other than permitted activities) and (viii) Nidhi company[5].

(2) Areas where FDI is permitted:

Other than in the sectors mentioned above, FDI is allowed in all other sectors, subject to the prescribed limits. FDI can be made by non-residents by subscribing to equity shares and/or fully and compulsorily convertible debentures /

[3] Foreign technology collaboration in any form including licensing for franchise, trademark, brand name, management contract is also prohibited for lottery business and gambling and betting activities.

[4] Except for the development of townships, housing, built-up infrastructure and construction development projects.

[5] Nidhi company is a non-banking finance company in the business of lending and borrowing with its members or shareholders.

preference shares[6] of an Indian company, through the following two routes:

(A) The Automatic Route:

The GoI has placed a significant majority of sectors under the automatic route for FDI investment. Under this route, Indian companies are authorized to accept FDI without obtaining any prior regulatory approvals (although subject to the compliance of certain conditions). For FDI investment under the automatic route, the RBI must be notified in Advance Reporting Form within 30 days from receipt of such investment by the Indian company.[7] Further, the equity or equity linked instruments should be issued within 180 days from the date of receipt of the inward remittance. Thereafter the Indian company has to file the Form FC-GPR (including certain supporting documents) with the RBI not later than 30 days from the date the shares (or other equity linked instruments, as the case may be) are issued to the concerned foreign investor.[8]

For most sectors under the automatic route, the GoI has permitted up to 100% FDI by non-residents. In some sectors, such as financial services, minimum capitalization norms have been prescribed. Investment in power, construction development projects[9] and non-banking finance companies (subject to certain conditions)[10], manufacturing activities, venture capital funds are some of the sectors where the GoI has permitted FDI up to 100% or all of the capital required.

For certain specified sectors under the automatic route, FDI is permitted up to the prescribed limits (popularly called sectoral caps). FDI in excess of the sectoral caps is either not permitted or requires the prior approval of the GoI. For instance, FDI in Airports (existing projects as opposed to greenfield projects) is permitted up to 74% of the capital requirements under the automatic route without prior GoI approval, however FDI in excess of the prescribed 74% would require prior approval from the GoI.

(B) The Prior Approval Route:

FDI in areas or activities, sectors which do not fall within the automatic route or where the proposed FDI exceeds the specific sectoral caps requires prior approval of the GoI through the Foreign Investment Promotion Board ("**FIPB**").

Further, investment in certain specific sectors of strategic importance including broadcasting, aviation, publishing, defence production, telecom, railway infrastructure etc. is subject to guidelines issued by relevant ministerial departments and also requires the prior approval of the FIPB.

Approval route process

When a proposal for FDI is accorded approval by the FIPB, permission is granted for such proposal in the form of an approval letter issued by the FIPB. The terms and conditions of the said approval letter are binding both, on the investing foreign company as well as on the Indian investee company. Subject to any specific terms of the approval letter, upon securing the FIPB approval, the Indian company may then arrange to receive the investment and issue shares to the foreign investor without having to secure any further approvals from the RBI. Depending on the sector as discussed above, the Indian company is however required to undertake filings pertaining to the issuance of shares in Form FC-GPR with the concerned regional office of the RBI within 30 days from when the shares (or other equity

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[6] Under the FDI Policy, only preference shares and debentures which are fully, compulsorily & mandatorily convertible are treated as equity for the purposes of reckoning FDI.

[7] Under the aegis of the eBiz project of GoI, the Advance Reporting Form can now be filed online. The said facility is in addition to the manual filing facility which has hitherto been in place.

[8] Under the aegis of the eBiz project of GoI, Form FC-GPR can now be filed online.

[9] Construction development projects including housing, commercial premises, educational institution.

[10] Non banking finance companies including merchant banking, stock broking, investment advisory services, financial consultancy services, etc.

linked instruments, as the case may be) are issued to the foreign investor.

Procedural requirements

A company in India issuing equity shares or fully and compulsorily convertible debentures / preference shares to a person resident outside India is required to receive the amount of consideration for such shares by inward remittance through normal banking channels or in the case of Non-Resident Indian ("**NRI**") investor, by debiting the non-resident external / foreign currency non-resident account of the person concerned maintained with an authorized dealer / authorized bank.

An Indian company is allowed to issue partly paid shares and warrants to a person resident outside Inida subject to terms and conditions as stipulated by the Reserve Bank of India in this behalf, from time to time.

The pricing of the partly paid equity is to be determined upfront. 25% of the total consideration amount (including share premium, if any) is to be received upfront. The balance consideration towards the fully paid equity shares is to be received within a period of 12 months (except in cases where the issuer complies with SEBI ICDR Regulations).

The pricing of the warrants and price/ conversion formula is to be determined upfront. 25% of the consideration amount is required to be received upfront, and the balance consideration towards fully paid up equity shares is to be received within a period of 18 months. The price at the time of conversion should not be lower than the FMV at the time of issuance of such warrants..

Foreign investment can be made for consideration other than cash by way of swap of shares in sectors which fall under the approval route. No approval of Government is required for undertaking investment in automatic route sectors by way of swap of shares.

Pricing Guidelines

All issuances and transfers of shares under the automatic route of the FDI policy have to comply with the prescribed "pricing guidelines" issued by the RBI from time to time in respect of unlisted companies and valuation in terms of the ICDR Regulations for listed companies.

In respect of compulsorily convertible instruments such as fully and compulsorily convertible debentures and fully and compulsorily convertible preference shares, the price / conversion formula should be determined upfront at the time of issue of such instruments. The price at the time of conversion should not in any case be lower than the fair market value worked out, at the time of issue of such instruments in accordance with valuation guidelines for unlisted companies and valuation in terms of the ICDR Regulations for listed companies.

Important Amendments

- Subject to prior FIPB approval, equity and preference shares may now also be issued in the following cases, subject to prescribed conditions:
    - against import of capital goods / machinery / equipment (excluding second hand machinery);
    - against pre-operative / pre-incorporation expenses (including payment of rent etc.)
- FDI in limited liability partnerships is permitted with prior FIPB approval and subject to fulfillment of certain prescribed conditions.

- Banks and registered depository participants are permitted to open and maintain in India, interest bearing escrow accounts in Indian Rupees towards purchase of share consideration and keeping of securities to facilitate FDI transactions.

Recent developments

The recent developments pertaining to foreign direct investment in India are as follows:

- **FDI in Defence** – FDI up to 49% is permitted in the Defence sector under the automatic route and subject to certain conditions. FDI above 49% will be requires to be undertaken under the government approval route. Further, the initial validity of industrial license for defence sector has been revised to 15 (fifteen) years, further extendable upto 18 (eighteen) years for existing as well as future licenses. However if a license has already expired, the Licensee has to apply afresh for issue of license.

- **FDI in Railways** – FDI up to 100% is permitted in construction, operation and maintenance of Railway infrastructure projects subject to certain conditions.

- **FDI in Insurance -** The GoI has also approved an increase in the FDI cap in the insurance sector to 49% (inclusive of all forms of foreign investment), whereby, foreign investment up to 26% is under automatic route and beyond 26% and up to 49% is under the approval route.

- **FDI through issuance of Depository Receipts –** The GoI has revised the legal regime governing depository receipts by notifying the Depository Receipts Scheme, 2014 thereby repealing the erstwhile Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 (except in relation to foreign currency convertible bonds).

- **Composite Sectoral Caps –** The GoI issued a press release dated July 16, 2015 pursuant to which FDI Policy was sought to be modified by introducing composite foreign investment caps in all the sectors in which foreign direct investment is permitted. Pursuant to the abovementioned press release, the Department of Industrial policy and Promotion (**"DIPP"**) released press note 8 of 2015 dated July 30, 2015, whereby the consolidated FDI Policy Circular of 2015 was amended to include the abovementioned composite caps. As per the amended position, the GoI has done away with the investment sub-limits existing for FII/FPI/QFI etc. within the overall FDI investment limit/sectoral cap. However, in a few sectors, namely, Banking (Private sector), where the sectoral cap is 74%, investments by FII/FPI/QFI is subject to a limit of 49%.

- **FDI in Single Brand Product Retail Trading** ("**SBRT**") **–** FDI is permitted up to 49% via automatic route and above 49% through approval route. The GoI has recently issued a clarification whereby a non-resident entity can undertake SBRT activity in India, directly or through a legally tenable agreement with the brand owner. The GoI has also clarified that FDI Policy on SBRT applies to Indian brands seeking foreign investment. Further, an entity undertaking wholesale cash and carry is permitted to undertake SBRT, subject to certain conditions.

- **FDI in pension sector –** The GoI has recently permitted FDI in pension funds.[11] FDI is permitted up to an overall sectoral cap of 49%, wherein 26% is permitted under automatic route and FDI beyond 26% and up to 49% is under the approval route.

- **FDI in Pharmaceutical Sector (carve out for manufacturing of medical devices) –** The GoI has permitted FDI up to 100% under automatic route for manufacturing of medical devices,.

[11] FDI in pension sector has been permitted vide press note 4 (2015 Series) dated April 24, 2015.

- **FDI in Limited Liability Partnerships –** The GoI has permitted FDI under the automatic route in LLP's operating in sectors/ activities where 100% FDI is allowed, through the automatic route and there are no FDI-linked performance conditions. An Indian company or an LLP, having foreign investment, will be permitted to make downstream investment in another company or LLP in sectors in which 100% FDI is allowed under the automatic route and there are no FDI-linked performance conditions.[12]

- **Definition of 'manufacture'/FDI in manufacturing sector** – Recently, the term 'manufacture' has been defined under the FDI Policy. Further the GoI has clarified that FDI in manufacturing sector is permitted under the automatic route. It is also clarified that a manufacturer is permitted to sell its products manufactured in India through wholesale and/or retail, including through e-commerce without Government approval.[13]

- **FDI in Duty Free Shops –**FDI upto 100% is permitted under automatic route in duty free shops operating in custom bonded of any international airport/seaport and land customs stations.

- **The Union budget 2016-17**- The GoI has proposed to allow foreign investment in the automatic route up to 49%, subject to the extant guidelines on Indian management and control to be verified by the sectoral regulators. Further to assist the banks and financial institutions in addressing the problem of huge bad loans, the union budget has proposed a 100% FDI in asset reconstruction companies through automatic route. The union budget has also proposed that Foreign Portfolio Investors (FPI) will be allowed up to 100% of each tranche in securities receipts issued by asset reconstruction companies, subject to sectoral caps. The GoI has also proposed to allow 100% FDI through approval route in marketing of food products produced and manufactured in India. The GoI has also proposed to hike the investment limit for foreign entities in Indian stock exchanges from 5% to 15% on par with the domestic institutions. Also the existing 24% limit for investment by FPI in central public sector enterprises sector, other than banks, listed in stock exchanges, will be increased to 49%.

1.4 PORTFOLIO INVESTMENT SCHEME

Foreign Institutional Investment

A non-resident entity wishing to invest / trade as a foreign institutional investor is required to register itself with SEBI and comply with the Securities and Exchange Board of India (Foreign Institutional Investors) Regulations 1995.[14] Only SEBI registered FIIs may invest / trade through a registered broker in the capital of Indian companies on recognised Indian Stock Exchanges.

A FII may invest in the capital of an Indian company under the Portfolio Investment Scheme which limits the individual holding of an FII to 10% of the capital of the company and the aggregate limit for all FII investments to 24% of the capital of the company. This aggregate limit of 24% can be increased to the sectoral cap / statutory ceiling, as applicable, by the Indian company concerned through a resolution of its Board of Directors followed by a special resolution to that effect of its shareholders and subject to prior intimation to RBI. The aggregate FII investment taking into consideration all forms of FDI should be within the overall sectoral limits for the particular industry. FIIs may also purchase dated securities / treasury bills, non-convertible debentures / bonds issued by Indian companies and units of domestic mutual funds either directly from the issuer of such securities or through a registered stock broker on a recognized stock exchange in India.

NON RESIDENT INDIAN INVESTMENT

[12] Press Note 12 (2015 Series) dated November 24, 2015.

[13] Press Note 12 (2015 Series) dated November 24, 2015.

[14] With the enforcement of Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014, the erstwhile Securities and Exchange Board of India (Foreign Institutional Investors) Regulations, 1995 has been repealed. However, any registered FII or its sub-account can operate as such till the expiry of its registration.

A NRI may invest in the capital of an Indian company under the Portfolio Investment Scheme under both repatriation or non-repatriation basis which limits the individual holding of a NRI to 5% of the capital of the company and the aggregate limit for NRI investment to 10% of the capital of the company. This aggregate limit of 10% can be increased to 24% through a resolution by its Board of Directors followed by a special resolution to that effect by its General Body and subject to prior intimation to RBI.

NRIs may also purchase without any limits, Government dated securities, Treasury bills, units of domestic mutual funds, units of money market mutual funds or National Plan / Savings certificates, bonds issued by public sector undertakings and shares in public sector enterprise being divested by the GOI.

Investment by a NRI (on a non-repatriation basis) will be treated on par with any domestic investment made by residents.[15] Further, a company, trust or partnership firm incorporated outside India and owned and controlled by NRIs will be eligible for investments (on a non-repatriation basis) and such investment will also be treated on par with any domestic investment made by residents.[16]

Qualified Foreign Investors[17]

Qualified Foreign Investors ("**QFIs**[18]") are permitted to invest through SEBI registered Depository Participants (DPs) only in equity shares of listed Indian companies through recognized brokers on recognized stock exchanges in India as well as in equity shares of Indian companies which are offered to public in India in terms of the relevant and applicable SEBI guidelines / regulations.

The individual and aggregate investment limits for a single QFIs are 5% and 10% respectively of the paid up capital of an Indian company. These limits are over and above the FII and NRI investment ceilings prescribed under the Portfolio Investment Scheme for foreign investment in India. Further, wherever there are composite sectoral caps under the extant FDI policy, these limits for QFI investment in equity shares shall also be within such overall FDI sectoral caps.

Foreign Portfolio Investors

A non-resident entity wishing to invest / trade as a Foreign Portfolio Investor is required to register itself with SEBI and comply with the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014 ("**FPI Regulations**").

[15] Press Note 7 (2015 Series) dated June 3, 2015 and effective from June 18, 2015.

[16] Press Note 12 (2015 Series) dated November 24, 2015.

[17] The Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014 allows existing registered QFIs to operate as QFIs for a period of 1 year after commencement of the regulations subject to such QFIs obtaining registration as a FPI earlier than the expiry of the registration or end of the 1 year period respectively.

[18] QFI means a person who fulfils the following criteria:
(i) Resident in a country that is a member of Financial Action Task Force (FATF); or a member of a group which is a member of FATF; and
(ii) Resident in a country that is a signatory to IOSCO's MMOU (*Appendix A Signatories*) or a signatory of a bilateral MOU with SEBI:

An FPI may invest in the capital of an Indian company under the Portfolio Investment Scheme which limits the individual holding of the FPI to 10% of the capital of the company (or 10% (ten per cent) of the paid-up value of each series of convertible debentures issued by an Indian company). The aggregate limit for all FPI investments in the Indian company is 24% of the capital of the company. This aggregate limit of 24% can be increased to the sectoral cap / statutory ceiling, as applicable, by the Indian company concerned through a resolution of its Board of Directors followed by a special resolution to that effect of its shareholders and subject to prior intimation to RBI. The aggregate FPI investment taking into consideration all forms of FDI should be within the overall sectoral limits for the particular industry.

1.5 COMPOSITE PORTFOLIO INVESTMENT CAP

As per the press note 8 of 2015 dated July 30, 2015 issued by the DIPP, portfolio investment into the capital of an Indian company is permissible up to an extent of 49% or specific sectoral cap, whichever is lower, under the automatic route, subject to such investment not resulting in transfer of ownership or control of Indian entities from resident Indian citizens to non-resident entities. The said investment is permissible into any Indian entity engaged in activities falling within automatic route as well as government approval route. In other words, portfolio investments to the extent of 49% (or the sectoral cap, whichever is lower) will not be subject to either government approval or compliance of sectoral conditions, provided such investment does not result in transfer of ownership and/ or control of Indian investee companies.

1.6 FOREIGN VENTURE CAPITAL INVESTMENT

A SEBI registered Foreign Venture Capital Investor (“**FVCI**”) may contribute up to 100% of the capital of an Indian Venture Capital Undertaking (“**IVCU**”) and may also set up a domestic asset management company to manage the fund. A SEBI registered FVCI may also invest in a domestic fund registered under the SEBI (Venture Capital Funds) Regulations 1996 or SEBI (Alternate Investment Funds) Regulations, 2012.

Such investments would also be subject to the extant FEMA regulations and extant FDI policy including sectoral caps, etc. SEBI registered FVCIs are also allowed to invest under the FDI Scheme as non-resident entities subject to the FDI Policy and FEMA regulations.

1.7 DEPOSITORY RECEIPTS

FDI is permitted through the issuance of Depository Receipts (“**DRs**”) in accordance with the Depository Receipts Scheme, 2014 and FEMA Regulations. ‘Depository Receipt’ means a foreign currency denominated instrument, (listed on an international exchange or unlisted), issued by a foreign depository in a permissible jurisdiction[19] on the back of eligible securities issued or transferred to that foreign depository and deposited with a domestic custodian and includes global depository receipt.

The proceeds from inward remittances received by the Indian company vide issuance of DRs are treated and counted towards FDI.

1.8 FOREIGN CURRENCY CONVERTIBLE BONDS

FDI is permitted through the issuance of Foreign Currency Convertible Bond(s) (“**FCCBs**”) in accordance with the Scheme for issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 and guidelines issued by the Government of India from time to time. The proceeds from inward remittances received by the Indian company vide issuance of FCCBs are treated and counted towards FDI.

1.9 FOREIGN TECHNOLOGY AND TRADEMARK LICENSE AGREEMENTS

[19] At present, the Depository Receipts Scheme, 2014 has prescribed a list of 34 permissible jurisdictions.

The FDI policy and FEMA allows foreign technology collaboration agreements for the acquisition of foreign technology and trademark license agreements for the use of trademarks and brand names without requiring financial contributions on the part of foreign companies.

In the context of technology collaborations, the foreign company can, in lieu of the transfer of technology, receive technical know-how fees, payments for design and drawing, payment for engineering service and royalty. The payment may be in the nature of lump sum payments and royalty. In the context of trademark licenses, the payment is normally in the form of royalty.

In 2010, the exchange control regulations pertaining to payment of royalties were liberalised and accordingly, all limits / caps imposed on payments for royalty, lump sum fee for transfer of technology and payments for use of trademark / brand name were done away with.

It may be noted that payments for hiring of foreign technicians, deputation of Indian technicians abroad, are governed by separate RBI procedures and rules and are not covered by the foreign technology collaboration approvals. Under the FEMA Regulations, the limit for remittance towards consultancy services procured from outside India is US$ 1 million per project. However, for consultancy services in respect of infrastructure projects the limit is US$ 10,000,000 per project.

Until recently, if a foreign investor had a joint venture or a technology transfer or trademark agreement which was in "existence" as on January 12, 2005, the proposal for fresh investment in a new joint venture/ technology transfer/ trademark agreement, in the 'same field'[20] would require prior approval of the FIPB. As a welcome move, the Consolidated FDI policy has now abolished the erstwhile condition of obtaining prior FIPB approval in such cases.

1.10 INVESTMENT VEHICLES

As per the notification dated November 16, 2015[21], subsequently amended by notification dated February 15, 2016[22],both issued by RBI, the FEMA Regulations have been amended to incorporate Schedule 11 which governs the investment by a person resident outside India in an 'investment vehicle'. An investment vehicles has been defined to mean an entity registered and regulated under relevant regulations framed by SEBI or any other authority designated for the purpose and includes Real Estate Investment Trusts, Infrastructure Investment Trusts and Alternative Investment Funds (AIFs) governed by the SEBI regulations.

As per Schedule 11, a non-resident including a registered FPI and a NRI is permitted to invest in units of investment vehicles. Downstream investment by an investment vehicle will be regarded as foreign investment if either the sponsor or the manager or the investment manager, is not Indian 'owned and controlled'. In case of sponsors who are neither in the form of a company or an LLP, the determination as to whether whether the sponsor, manager or investment manager is foreign owned and controlled, will be undertaken as per SEBI guidelines. Any downstream investments by an investment vehicle must be in compliance with FEMA Regulations. Further, an Alternate Investment Fund-category III which has foreign investment in it is permitted to make portfolio investment in only those securities or instruments in which a registered FPI is allowed to invest.

[20] This is a defined term in the FDI Policy and refers to the classification of industries in the National Industrial Classification Code of 1987.

[21] Notification No. FEMA. 355/2015-RB
[22] Notification No.FEMA.362/2016-RB

CHAPTER 2: BUSINESS REGULATIONS

2.1 THE COMPANIES ACT

Companies incorporated in India and foreign corporations with a branch or liaison office in India are regulated by the provisions of the Companies Act.

The GoI has so far enforced certain provisions of the Companies Act in three phases which have been effective from different dates viz. September 12, 2013, April 1, 2014 and June 6, 2014 respectively. While a majority of the provisions of the Companies Act have come into force, the GoI is yet to notify certain provisions such as those relating to mergers and amalgamations, winding-up, tribunal mandated reduction of capital.

The Ministry of Company Affairs ("**MCA**") through the Registrar of Companies ("**RoC**") and the Company Law Board ("**CLB**") are responsible to ensure compliance with the provisions of the Companies Act (Old). Once the pending provisions of the Companies Act are notified, the National Company Law Tribunal ("**NCLT"**) will be set up and it will take over the functions of the CLB.

As stated earlier in this Guide, companies in India may broadly be classified as public or private companies. A company can also be registered as a guarantee company where the profits are not distributed to its members but are retained to be used for the purposes of the company. Shares of companies are either equity shares (common stock) or preference shares (preferred stock). Capital issued by publicly listed companies need to comply with the ICDR and other regulations issued by SEBI.

The management of a company is entrusted to its Board of Directors ("**Board"**) who, subject to the Articles of Association, have full powers to act on behalf of the Company within the provisions of the Companies Act. A company can appoint executive, non-executive and independent directors. An executive director can be a managing director or a whole time director. There is no restriction on appointing foreign nationals as directors, however, every company is required to have at least one resident director. All directors regardless of nationality or residence must obtain a Directors Identification Number ("**DIN"**). All listed companies are required to appoint up to half or one third of the Board, as the case may be, as independent directors and every public company with a paid-up capital of ` 50 million is also required to have an audit committee. The Companies Act requires companies to hold a minimum of four board meetings and at least one shareholders' meeting as an Annual General Meeting ("**AGM**") in a calendar year. Also, with effect from July 1, 2015, all the companies are required to comply with the Secretarial Standards ("**SS**") issued by the Institute of Company Secretaries of India ("ICSI"), which further provide for certain compliances to be undertaken by a company in relation to the meetings of its Board and the shareholders. Also, the MCA is in the process of notifying other SS pertaining to dividend, maintenance of registers etc.

Recently, the GoI has issued certain amendments to the Companies Act in the endeavor to make it easier for doing business in India. These amendments include:

- Introduction of a single step incorporation form for incorporation of companies.
- Doing away with the requirement for a company to file with the RoC, a declaration of commencement of business.

Further, the GoI has also issued certain relaxations to private limited companies from the applicability of certain provisions of the Companies Act, which include:

- Relaxations in relation to share capital and voting rights attached to shares.
- Relaxation in relation to conducting the general meeting and matters associated therewith.
- Relaxation in relation to acceptance of deposits from members, subject to such deposit not exceeding specified amounts.
- Relaxation in relation to related party arrangements.

2.2 COMPETITION LAW

The main objectives of the Competition Act, 2002 ("**Competition Act**") are to promote and sustain competition in markets in India, to protect the interests of consumers and to ensure freedom of trade for market participants.

The Competition Act prohibits anti-competitive agreements and abuse of dominance; regulates acquisitions, mergers and amalgamations of a certain size; establishes Competition Commission of India ("**CCI**") and sets its functions and powers.

The substantive provisions of the Competition Act dealing with anti-competitive agreements and abuse of dominant market positions have been made effective since May 2009. The provisions of the Competition Act governing acquisitions, mergers and amalgamations have been made effective since June 1, 2011.

Anti-Competitive Agreements

In terms of the Competition Act, agreements with respect to production, supply, distribution, storage, acquisition or control of goods, or provision of services, which cause or are likely to cause an appreciable adverse effect on competition in a relevant market in India may be considered to be anti-competitive.

Horizontal agreements i.e. agreements entered by persons operating at the same level of the production chain (i.e. competitors) are presumed to be anti-competitive. This presumption is however rebuttable. Vertical agreements i.e. agreements entered by persons operating at the different stages of the production chain are subject to the Rule of Reason[23].

Abuse of Dominant Position

The Competition Act proscribes enterprises from abusing their dominant positions. "Dominant Position" means the position of strength enjoyed by an enterprise in the relevant market in India, which enables it to operate independently of competitive forces prevailing in that relevant market, or affects its competitors or consumers or the relevant market in its favour.

It is pertinent to note that the Competition Act does not prohibit an enterprise from acquiring a position of dominance as such; it prohibits the abuse of such dominance.

[23] Not been defined under the Competition Act but means 'based on merits' of the matter.

Combination

The merger control provisions of the Competition Act have introduced the concept of 'Combination'.

The provisions of the Competition Act prohibit any Combination, which causes, or is likely to cause, an appreciable adverse effect on competition within the relevant market in India.

A 'Combination' includes an enterprise formed by an acquisition of control, shares, voting rights, or assets of an enterprise, a demerger of an undertaking or the merger or amalgamation of enterprises. To classify as a 'Combination' the transaction must exceed the prescribed thresholds of assets and turnover.

The Competition Act authorizes the CCI to investigate anti-competitive agreements; abuses of a dominant position by initiating *suo moto* inquiries; or upon receipt of a complaint from any person; or upon a reference made to it by the GoI or a State Government or a statutory authority. In cases of Combinations, parties are required to file a notice with the CCI, seeking mandatory prior approval for the consummation of the Combination.

The Competition Act also empowers the CCI to scrutinize Combination within one year from the date the Combination has come into effect. The CCI would be empowered to launch an investigation on its own initiative or in response to information received from any person.

The CCI has powers to pass, among others, all or any of the following orders in case of an adverse finding:

- Orders to cease and desist;
- Orders that impose very substantial penalties ;
- Orders directing the modification of agreements;
- Orders that an acquisition, acquiring of control and merger or amalgamation shall not be given effect to or should be modified;
- Orders directing the break-up of a dominant entity.

Appeals may be filed before the Competition Appellate Tribunal ("**COMPAT**") and thereafter to the Supreme Court of India.

It may be pointed out that given the early stage of the competition regime, jurisprudence under the Indian competition regime is yet to evolve and certain ambiguity about certain key aspects still exist.

2.3 MERGERS AND ACQUISITIONS

Mergers and amalgamations are the subject matter of the Companies Act. The power to approve amalgamations, mergers and de-mergers rests with the High Courts of India of each state for both listed and unlisted companies. This power is proposed to be transferred, pursuant to the Companies Act, 2013, to the National Company Law Tribunal (the "**NCLT**"), once the provisions pertaining to amalgamations, mergers and demergers are enforced by the MCA.

The GoI may order the amalgamation of two or more companies if it believes this to be in the public interest. The Board for Industrial and Financial Reconstruction ("**BIFR**") can issue orders under the Sick Industrial Companies (Special Provisions) Act, 1985 ("**SICA**"), for the amalgamation of a sick industrial company with another company.

SEBI regulates takeovers and substantial acquisitions of shares of a listed company vide the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ("**SEBI Takeover Regulations**") as amended from time to time. The SEBI Takeover Regulations provide for acquirers to make disclosures of encumbrances and holding of shares and public announcements and launch open offers in cases of acquisition of shares or voting rights beyond a certain threshold percentage, consolidation of holdings and acquisition of control over a company. The SEBI Takeover Regulations also contain certain exemptions where an open offer need not be made. The regulations also provide for bail out takeovers i.e. the substantial acquisition of shares in a financially weak company in pursuance of an approved scheme of rehabilitation.

2.4 FOREIGN EXCHANGE LAWS

The Foreign Exchange Management Act, 1999 ("**FEMA**") consolidates the law relating to foreign exchange with the objective of facilitating external trade and payments and for promoting the orderly development and maintenance of the foreign exchange market in India.

FEMA, along with the rules and regulations framed under it, governs foreign exchange transactions in and from India.

FEMA places all foreign exchange offences under the purview of civil law, thus subjecting them only to monetary penalties in contrast with their categorization as criminal offences under the previous regime.

2.5 STARTUP INDIA

The GoI has announced 'Startup India' initiative for creating a conducive environment for startups in India. The various Ministries of the GoI have initiated a number of activities for the purpose. To bring uniformity in the identified enterprises, an entity shall be considered as a 'startup'-

a) Up to five years from the date of its incorporation/ registration;
b) If its turnover for any financial years has not exceeded Rupees 25 crore; and
c) It is working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property.

Provided that any such entity formed by splitting up or reconstruction of a business already in existence shall not be considered a 'startup'.

CHAPTER 3: THE FINANCIAL SECTOR

3.1 BANKING

The Indian financial sector has undergone a process of rapid transformation. These reforms are continuing as part of the overall structural reforms aimed at improving the productivity and efficiency of the economy and to stimulate and sustain economic growth.

Increase in incomes with potentially high penetration of both banking and insurance products to increase the market size, are expected to be the powerful drivers of growth in the financial sector. Continued de-regulation and increased competition is expected to result in Indian financial services reaching previously unattained revenue targets.

RBI formulates the banking policy in India from time to time in the interest of the banking system, monetary stability and sound economic growth. Such policy is formulated with due regard to inter alia, the interests of the depositors, the volume of deposits and other resources of the banks and the need for equitable allocation and efficient use of these deposits and resources.

Foreign banks may operate in India through one of three channels viz. (i) branches; (ii) wholly owned subsidiary; or (iii) a subsidiary with aggregate FDI of up to 74 percent in a private sector bank, which may be established through acquisition of shares of an existing private sector bank provided at least 26 percent of the paid up capital is held by resident Indians at all times.

FDI up to 49% is permitted in Indian private sector banks under the automatic route and beyond that up to 74% through the approval route. The automatic route is not applicable to a transfer of existing shares in a banking company from residents to non-residents. Also, the foreign investor's total voting rights in private sector banks is presently capped at 10% of the total voting rights of all the shareholders irrespective of their actual shareholding.

FDI and portfolio investments in nationalized banks are subject to overall statutory limits of 20% as provided under the Banking Companies (Acquisition and Transfer of Undertakings) Acts 1970 and 1980.

Banking companies in India are regulated under the Banking Regulation Act, 1949 ("**BR Act**"). The BR Act regulates the business of banking companies, prohibitions on trading, disposal of non-banking assets, rules pertaining to Boards of Directors, management; powers of the RBI, minimum paid-up capital and reserves requirements, reserve fund, cash reserves and restrictions on loans and advances, among others.

Key developments

In February 2013, the RBI released guidelines for licensing of new banks in the private sector.

Some of the key features of the guidelines are:

- The initial minimum paid-up voting equity capital for a bank shall be INR 5 billion.
- A Non-Operative Financial Holding Company ("**NOFHC**") shall be setup which shall initially hold a minimum of 40 per cent of the paid-up voting equity capital of the bank which shall be locked in for a period of five years and which shall be brought down to 15 per cent within 12 years.
- The bank shall get its shares listed on the stock exchanges within three years of the commencement of business by the bank.
- The NOFHC shall be wholly owned by the Promoter / Promoter Group.
- The NOFHC shall hold the bank as well as all the other financial services entities of the group.
- At least 50% of the Directors of the NOFHC should be independent directors.

In November 2014, the RBI also released guidelines for licensing of small finance banks (SFBs) in the private sector with a view to further financial inclusiveness in India.

Some of the key features of the guidelines are:

- The SFB will be registered as a public limited company under the Companies Act, 2013. It will be licensed under Section 22 of the Banking Regulation Act, 1949 and governed by the provisions of the BR Act; Reserve Bank of India Act, 1934; FEMA; Payment and Settlement Systems Act, 2007; Credit Information Companies (Regulation) Act, 2005; Deposit Insurance and Credit Guarantee Corporation Act, 1961; other relevant Statutes and the Directives, Prudential Regulations and other Guidelines/Instructions issued by RBI and other regulators from time to time.

- Resident individuals/professionals with 10 years of experience in banking and finance; and Companies and Societies owned and controlled by residents will be eligible as promoters to set up small finance banks. Further, existing NBFCs, Micro Finance Institutions (**"MFIs"**), and Local Area Banks that are owned and controlled by residents can also opt for conversion into small finance banks
- The minimum paid up equity capital for small finance banks shall be INR 100 crore. In view of the inherent risk of a small finance bank, it shall be required to maintain a minimum capital adequacy ratio of 15%of its risk weighted assets on a continuous basis, subject to any higher percentage as may be prescribed by RBI from time to time. Tier I capital should be at least 7.5% of Risk weighted assets. Tier II capital should be limited to a maximum of 100% of total Tier I capital. As small finance banks are not expected to deal with sophisticated products, the capital adequacy ratio will be computed under Basel Committee's standardised approaches.
- The promoter's minimum initial contribution to the paid up equity capital of such small finance bank will at least be 40%. If the initial shareholding by promoter in the bank is in excess of 40%, it should be brought down to 40% within a period of five years. The promoter's minimum contribution of 40% of paid-up equity capital shall be locked in for a period of five years from the date of commencement of business of the bank. Further, the promoter's stake should be brought down to 30% of the paid-up equity capital of the bank within a period of 10 years, and to 26% within 12 years from the date of commencement of business of the bank.
- The foreign shareholding in the small finance bank would be as per the FDI policy for private sector banks as amended from time to time[24].
- As per Section 12(2) of the BR Act, any shareholder's voting rights in private sector banks are capped at 10%. Further, as per Section 12B of the BR Act, any acquisition of 5% or more of paid up share capital in a private sector bank will require prior approval of RBI. The abovementioned conditions will apply to the small finance banks also.

[24] As per the current FDI policy, the aggregate foreign investment in a private sector bank from all sources will be allowed upto a maximum of 74% of the paid-up capital of the bank, subject to prescribed conditions (automatic upto 49% and approval route beyond 49% to 74%).

3.2 NON-BANKING FINANCIAL COMPANIES

In recent times, non-banking financial companies ("**NBFCs**") have become one of the preferred vehicles for entering and operating in the financial services sector. An NBFC is an Indian company engaged in the business of loans and advances, acquisition of shares/ stock/ bonds/ debentures/ securities issued by government or local authority or other securities of like marketable nature, leasing, hire-purchase, insurance business, chit business, but does not include any institution whose principal business is that of agriculture activity, industrial activity, sale / purchase / construction of immovable property.

Considering that obtaining a banking license is a complex and long drawn procedure NBFCs are being recognised as complementary to the banking sector due to their customer-oriented services, simplified procedures, attractive rates of return on deposits, flexibility and timeliness in meeting the credit needs of specified sectors.

The RBI has classified NBFCs into the following types:

(i) Asset Finance Company (AFC);
(ii) Investment Company;
(iii) Loan Company;
(iv) Infrastructure Finance Companies;
(v) Systemically Important Core Investment Companies (CIC);
(vi) Microfinance Institutions;
(vii) Infrastructure Debt Fund; and
(viii) Factoring Company.

The above type of companies may be further classified into those accepting deposits or those not accepting deposits.

3.3 CAPITAL MARKETS

Capital markets and securities transactions are regulated by the SEBI. The markets have witnessed a transformation over the last decade placing India amongst the mature markets of the world. SEBI has been functioning effectively as an independent regulator with statutory powers. Key progressive initiatives include:

- Depository and share dematerialization systems that have enhanced the efficiency of the transaction cycle;
- Replacing the flexible, but often exploited, forward trading mechanism with rolling settlement, to bring about transparency;
- The technology of the National Stock Exchange ("**NSE**") has been complemented with a national presence and other initiatives to enhance the quality of financial disclosures;
- Corporatization of stock exchanges;
- Indian capital markets have rewarded FII(s) with attractive valuations and increasing returns; and
- Many new instruments have been introduced in the markets, including inter alia, index futures, index options, derivatives and options and futures in select stocks.

SEBI has taken and continues to take several measures for widening and deepening different segments of the capital markets and promotion of investor protection and market development. In case of the primary market, the core focus is to safeguard and stimulate investors' interest in capital issues by strengthening norms for and raising standards of disclosure in public issues. Measures for the secondary market are aimed at making the market more transparent, modern and efficient. The safety and integrity of the markets have been strengthened through the institution of risk management measures which included a comprehensive system of margins, intra-day trading and exposure limits.

The SEBI (Disclosure and Investor Protection) Guidelines, 2000 which dealt with issues relating to the capital market in India were replaced by the ICDR Regulations in 2009.

3.4 VENTURE CAPITAL AND PRIVATE EQUITY

Domestic Funds

The SEBI regulates private pools of capital in India under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations 2012 ("**AIF Regulations**"). In May 2012, the AIF Regulations replaced an earlier set of regulations called the Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 as the latter was outdated in light of the developments in the Indian market since 1996.

As a result, all privately pooled investment vehicles established in India in any form are required to register with the SEBI and comply with the AIF Regulations. Certain funds and pools of capital[25] are excluded from the scope of the AIF Regulations. The AIF Regulations permit all funds registered under the repealed regulations and existing as of the date of issue of the AIF Regulations to continue to be governed by the repealed regulations until the relevant fund life is completed and subject to certain restrictions.

The AIF Regulations categorise funds into 3 (Three) categories, *Category I Alternative Investment Funds*, *Category II Alternative Investment Funds* and *Category III Alternative Investment Funds*, based on the nature of the funds and their investment focus. The 3 (Three) categories of funds have distinct investment conditions and restrictions to comply with during their life.

- A fund can be registered as a Category I Alternative Investment Fund if it falls within one of the 5 identified sub-categories[26].

[25] Family trusts, ESOP trusts, employee welfare trusts, funds managed by securitisation companies, pools of funds directly regulated by any other regulator in India and certain other kinds of entities specified under the AIF Regulations as well as those funds and pools of capital that are governed by the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996, the Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999 and any other regulations issued by the SEBI to regulate fund management activities are excluded from the purview of the AIF Regulations.

[26] The 5 sub-categories under a Category I Alternative Investment Fund are (1) Venture Capital Fund - which invests primarily in unlisted securities of start-ups or early-stage unlisted Indian companies in specified sectors, (2) SME Fund - which invests primarily in unlisted securities of investee companies which are small or medium enterprises or securities of such enterprises which are listed or proposed to be listed on an exchange, (3) Social Venture Fund - which invests primarily in securities of social ventures, sets certain social performance obligations for itself and whose investors accept restricted or muted returns, (4) Infrastructure Fund - which invests primarily in entities formed for the purpose of operating, developing or holding infrastructure projects and (5) Angel Fund – which raises funds from angel investors for investment in start-up or emerging or early-stage ventures.

- A fund can be registered as a Category II Alternative Investment Fund if it is not a Category I Alternative Investment Fund or a Category III Alternative Investment Fund and does not leverage other than to meet day to day operational requirements and subject to prescribed limits.

- A fund can be registered as a Category III Alternative Investment Fund if it employs diverse or complex trading strategies and proposes to leverage, including through investment in listed and unlisted derivatives[27].

Foreign Funds

Foreign funds may invest in India either under the FDI route as outlined in 1.1 above or under the Portfolio Investment Scheme ("**PIS**") route as Foreign Portfolio Investors or as Foreign Venture Capital Investors ("**FVCIs**"). While entities making FDI investments are not required to be registered with any Indian regulator, FPIs and FVCIs are required to be registered with the SEBI.

FPIs are regulated by the SEBI under the FPI Regulations[28] (and FVCIs are regulated by the SEBI under the Securities and Exchange Board of India (Foreign Venture Capital Investors) Regulations, 2000. Both FPI as well as FVCI investments are required to meet the investment norms of SEBI set out in the respective regulations that govern them as well as the investment norms of the Government of India and the RBI with respect to foreign investments in India.

The FPI Regulations categorise funds into 3 (three) categories, Category I FPIs, Category II FPIs and Category III FPIs.

- Category I FPIs include foreign investors related with the government such as central banks, government agencies, sovereign wealth funds and international or multilateral organizations or agencies.

- Category II FPIs include regulated entities like banks, assets management companies, investment managers etc. and broad-based funds,[29] which may be regulated (such as mutual funds, investment trusts etc.) or non-regulated.

- Category III FPIs include investors, which are not covered under Categories I and II, such as endowments, charitable societies, charitable trusts, foundations, corporate bodies, trusts, individuals and family offices.

FPIs could be funds investing their own corpus or fund managers making investments on behalf of other registered foreign entities referred to as *sub-accounts*[30].

FVCIs could either be funds or special purpose vehicles of funds making investments in India. FVCIs are permitted to make investments in securities of unlisted companies in India other than in certain identified sectors and in SEBI registered domestic funds without prior approval.

3.5 INSURANCE

A well-developed and evolved insurance sector is critical for economic development as it provides long term funds for infrastructure development and strengthens risk taking abilities.

Insurance is a federal subject in India. There are two legislations that govern this sector: the Insurance Act, 1938 ("**Insurance Act**") and the Insurance Regulatory and Development Authority Act, 1999 ("**IRDA Act**"). The GoI has recently notified the Indian Insurance Companies (Foreign Investment) Rules, 2015 that

[27] SEBI has said that funds in the nature of hedge funds or funds which trade with a view to making short terms returns or such other funds which are open ended and which receive no specific incentives or concessions from the Government or any other regulator would fall within this category.

[28] With the enforcement of the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014, the Securities and Exchange Board of India (Foreign Institutional Investors) Regulations, 1995 has been repealed. Subject to payment of a prescribed conversion fee, any existing FII or its sub-account is permitted to continue to buy or sell securities, till the earlier of the following: (i) expiry of registration as a FII or sub-account; or (ii) until it obtains a certificate of registration as a FPI.

[29] Broad based fund has been defined to mean a fund, established or incorporated outside India, which has at least twenty investors, with no investor holding more than 49% of the shares or units of the fund. However, if the broad based fund has an institutional investor who holds more than 49% of the shares or units in the fund, then such institutional investor must itself be a broad based fund.

[30] Sub-accounts are typically funds managed / advised by the FIIs and are also required to be registered with the SEBI and are regulated under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014.

specifies the terms and conditions pertaining to foreign investment in an Indian insurance company.

The GoI liberalized the insurance sector in the year 2000 by lifting entry restrictions for private players and allowing foreign players to enter the market under the automatic route with limits on direct foreign investment and has very recently approved an increase in the FDI limit in the insurance sector to 49%. This activity is subject to the necessary license from the Insurance Regulatory & Development Authority for undertaking insurance activities.

The IRDA provides for the protection of the interests of holders of insurance policies and regulates, promotes and ensures orderly growth of the insurance sector.

With the opening of the Indian market, foreign and private Indian players are keen to convert untapped market potential into opportunities by providing tailor-made products. The presence of a host of new players in the sector has resulted in a shift in approach and the launch of innovative products, services and value-added benefits. Foreign majors have entered the country and have announced joint ventures in both life and non-life areas.

CHAPTER 4: LABOUR AND EMPLOYMENT REGULATIONS

INTRODUCTION

India has an abundant workforce of well-educated individuals and competent staff including technicians and engineers. The increasing number of multinational companies operating from India has promoted competition increasing the demand for managers and executives in industries and sectors such as consumer products, financial services, information technology, telecom and infrastructure. Employment exchanges also channel skilled workers and technicians into the workforce.

Wages and fringe benefits vary considerably by industry, company size and region. Wages have two components: basic salary and a dearness allowance (which is linked to the cost-of-living index). Mandatory annual bonus also supplements wages.

Companies use both time and piece rates in relation to industrial wages. The former are more common in organized industries, such as engineering, chemicals, cement, paper and glass. Piece rates are encouraged to boost productivity. Some industries also pay production premiums.

In the organized sector, wages are often set by settlements reached between trade unions and management. The GoI sets the national floor minimum wage and specific higher minimum wages for different industries. By law, women are entitled to remuneration equal to men for performing equivalent work. Further, fringe benefits are provided by an employer to its employees (including former employees) for their employment such as any privilege, service, facility or amenity directly or indirectly in connection with their employment.

Share options are also offered to employees especially in the information technology sector. All share option schemes are required to be in accordance with rules and guidelines and approved by a shareholders' meeting and overseen by a compensation committee in case of listed companies. Sweat equity shares are another form of compensation given to employees. Sweat equity shares are shares issued to employees or directors at discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions. There are separate rules and regulations for the issue of options and sweat equity shares for listed and unlisted companies.

Retrenchments and lay-offs of workmen require full explanation to and prior approval from state governments. Compensation is required to be paid in accordance with various labour and industrial laws.

4.1 EMPLOYMENT LEGISLATION

In India, the employment laws applicable to employees are based on the category into which the employee falls. Such employees can be broadly divided into two categories:

a) "**Managerial Personnel**" performing predominantly managerial, administrative and supervisory duties. Typically, Managerial Personnel are governed by the terms and conditions of their contracts of employment, service rules and agreements negotiated with the employer, if any, and do not enjoy any additional protection of law or security of service.

b) "**Workmen**" performing non-supervisory work including any manual, unskilled, skilled, technical operation or clerical work for hire or reward. Workmen enjoy several protections, (majority of which deal with social security measures) benefits and amenities including terminal benefits.

Some of the relevant statues applicable to employees in India (particularly workmen) are discussed under the following heads:

Insurance

The Employees' State Insurance Act, 1948 ("**ESI Act**") deals with insurance of employees in India. The main objective of the ESI Act is to provide workers whose monthly wages do not exceed a stipulated amount, medical and sickness benefits, maternity benefits (to the women workers), benefits to dependents of workers and compensation to them for fatal and other work related injuries.

Maternity

The Maternity Benefit Act, 1961 provides for maternity benefits to women working in any establishment for a period of six weeks immediately following the day of her delivery, miscarriage or medical termination of pregnancy.

Disciplinary and Grievance Procedures

The Industrial Disputes Act, 1948 ("**ID Act**") provides for the settlement of industrial disputes through negotiations. The ID Act applies to all industrial establishments all over India whatever the strength of their workforce may be. The law provides that no employee in any industrial establishment who has worked for duration greater than one year may be retrenched without adequate notice and compensation as prescribed under the ID Act.

Working time regulations

The Shops and Commercial Establishment Act, promulgated by various states and the Factories Act, 1948 regulates the working time and conditions of employment of workers in commercial establishments or shops and factories respectively.

Minimum Wage

The Minimum Wages Act, 1948 provides for minimum statutory wages and the basis for fixing them. These minimum wages are fixed in order to curb exploitation.

Trade Unions

Indian law recognizes the existence of trade unions. The Trade Unions Act, 1926 provides for the registration of trade unions and the rights and obligations of the trade unions and their officers. It is applicable to unions of workers as well as associations of employees.

Equal Remuneration

The Equal Remuneration Act, 1976 provides for equal remuneration to men and women and prevents discrimination against women on the ground of sex, in matters of employment.

Payment of Gratuity

The Payment of Gratuity Act, 1972 provides for payment of gratuity to an employee who has rendered continuous service for five (5) years or more and is linked to the number of years in service. A statutory right of gratuity has also been given to all employees whose services are terminated on account of superannuation, retirement, resignation, death, or disablement.

Payment of Bonus

The Payment of Bonus Act, 1965 provides that every employee shall be entitled to be paid a bonus by his employer in an accounting year (as per the provisions contained in the Act), provided that such employee has worked in the concerned establishment for a period not less than thirty (30) working days during the course of that year.

Regulation of Contract Labour

The Contract Labour (Regulation and Abolition) Act, 1970 applies to every establishment in which twenty or more workmen are employed on any day in the preceding twelve months, as contract labour. Its aims is to place the contract labourers at par with labourers employed directly, with respect to the working conditions and other benefits under labour law.

Employees Provident Fund

India has specific legislation dealing with the pensions for employees'. Under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ("**PF**" Act), an employer employing more than twenty (20) employees earning less than a stipulated wage has to set up a compulsory contributory fund, which has to be paid to the employee following his retirement, or is paid to his dependents in the case of employee's premature death. In 2008 this legislation was also extended to an 'International worker' and every international worker employed with an establishment in India to whom the PF Act applies, would be required to become a member of PF fund unless he/she qualifies as an "excluded employee".

Workmen's Compensation

The Workmen's Compensation Act, 1923 provides for the payment of compensation by certain classes of employers to their workmen for injury caused by an accident which occurs in the course of their employment.

4.2 RULES FOR FOREIGN NATIONALS

Indian companies are permitted to engage the services of a foreign national (including a non-resident Indian (NRI) or a person of Indian origin (PIO)) on both short and long term assignments. Indian companies may engage services of such persons on short-term assignments without prior approval of the RBI subject to compliance with certain procedural requirements. Indian companies can engage the services of foreign nationals on a long- term basis after acquiring prior RBI approval.

A foreign national who is an employee of a foreign company on a deputation to an office, or branch, or subsidiary or joint venture of such foreign company is allowed to open, hold and maintain a foreign currency account with a bank outside India and may receive the entire salary payable to him in India by credit to such account abroad provided that the income tax chargeable should be paid on the entire salary in India.

A citizen of a foreign State, who is resident in India and is employed by a company incorporated in India, may open, hold and maintain a foreign currency account with a bank outside India and remit the whole salary received in India in Indian Rupees, to such account, for the services rendered to such an Indian company, provided that income-tax chargeable under the Income Tax Act, 1961 ("**Income-tax Act**") is paid on the entire salary accrued in India.

Registration and Visa Requirements

An employment visa is granted to foreigners desiring to come to India for the purpose of employment subject to the fulfillment of certain conditions, including:

(a) The applicant is a highly skilled and/or qualified professional, who is being engaged or appointed by a company / organization / industry / undertaking in India on contract or employment basis.

(b) The foreign national seeking to visit India for employment in a company / firm / organization registered in India or for employment in a foreign company / firm / organization engaged for execution of a project in India.

(c) The foreign national being sponsored for an employment visa in any sector should draw a salary in excess of US$ 25,000 per annum. However, this condition of annual floor limit on income will not apply to: (i) ethnic cooks; (ii) language teachers (other than English language teachers) / translators; and (iii) staff working for the concerned embassy / high commission in India.

(d) The foreign national must comply with all legal requirements including payment of tax liabilities. Employment visas are generally not be granted for jobs for which qualified Indians are available. An employment visa shall also not be granted for routine, ordinary or secretarial / clerical jobs.

In the case of employment visa issued for a period of 180 days or less, registration is not required. However, if the employment visa is valid for a period of more than 180 days, it should carry an endorsement to the effect that the employment visa holder must register with the Foreigners Registration Office concerned within 14 days of arrival.

An employment visa may be extended by the state government / Union Territory / Registration Offices beyond the initial visa validity period, up to a total period of 5 years from the date of issue of the initial employment visa on an year to year basis subject to good conduct, production of necessary documents in support of continued employment, filing of income tax returns and no adverse security inputs about the foreigner. The period of extension shall not exceed five years from the date of issue of the initial employment visa.

Any foreign national coming to India for executing projects / contracts will have to obtain an employment visa.

Business Visa

A business visa may be granted to a foreigner for the following purposes:

(a) foreign nationals who wish to visit India to establish industrial / business venture or to explore possibilities to set up industrial / business venture in India.

(b) foreign nationals coming to India to purchase / sell industrial products or commercial products or consumer durables.

(c) foreign nationals coming to India for technical meetings / discussions, attending board meetings or general meetings for providing business services support.

(d) foreign nationals who are partners in the business and/or functioning as directors of the company.

FRRO

Foreigners entering India on a student, employment, research or missionary visa that is valid for a period of over 180 days are required to register with the Foreigners Regional Registration Officer under whose jurisdiction they propose to stay within 14 days if arrival in India, irrespective of their actual period of stay in India.

STARTUP ACTION PLAN

Regulatory formalities requiring compliance with various labour and environment laws are time consuming and difficult in nature. Often, new and small firms are unaware of nuances of the issues and can be subjected to intrusive action by regulatory agencies. In order to make compliance for Startups friendly and flexible, simplifications are required in the regulatory regime.

Accordingly, the process of conducting inspections shall be made more meaningful and simple. Startups shall be allowed to self-certify compliance (through Startup mobile app) with 9 labour and environment laws (refer below). In case of the labour laws, no inspections will be conducted for a period of 3 years. Startups may be inspected on receipt of credible and verifiable complaint of violation, filed in writing and approved by atleast one level senior to the inspecting officer.

a) The Building and Other Construction Workers' (Regulation of Employment & Conditions of Service) Act, 1996;
b) The Inter-State Migrant Workmen (Regulation of Employment & Conditions of Service) Act, 1979;
c) The Payment of Gratuity Act, 1972;
d) The Contract Labour (Regulation and Abolition) Act, 1970;
e) The Employees' Provident Funds and Miscellaneous Provisions Act, 1952; and
f) The Employees' State Insurance Act, 1948.

CHAPTER 5: INTELLECTUAL PROPERTY

The importance of intellectual property in India is well established at all levels - statutory, administrative and judicial. India ratified the agreement establishing the World Trade Organization ("**WTO**"). This agreement contains an agreement on Trade Related Aspects of Intellectual Property Rights ("**TRIPS**"). India has laid down minimum norms and standards with respect to Patents, Trademarks, Copyright, Geographical indications, and Designs.

TRIPS lays down minimum standards for the protection and enforcement of intellectual property rights in member countries. Such countries are required to promote effective and adequate protection of intellectual property rights with the objective of reducing distortions and impediments to international trade. The obligations under the TRIPS agreement relate to the provision of minimum standards of protection within the legal systems and practices of the member countries.

Patents

In accordance with the terms of TRIPS, India was imparted a total period of ten years (1995-2004) to apply the provisions of TRIPS and for extending product patent protection to areas of technology not hitherto protected.

India had taken a three-phase obligation under the terms of TRIPS. In the first phase, India's Patent Act, 1970 was amended by the Patents (Amendment) Act, 1999[31], to introduce a transitional (mailbox) facility to receive and hold patent applications in the fields of pharmaceuticals and agriculture chemicals until the end of 2004.

In the second phase, the GoI was obligated to increase the term of a patent to twenty years from the date of filing of the patent application. It was further obligated to amend the laws on infringement in order to shift the burden of proof away from the defendant and to alter the section on compulsory licenses. Pursuant to the above, the Patents (Amendment) Act, 2002 was enacted.

In the third phase, the GoI was obligated to pass a law to introduce product patent protection in all fields of technology. The Patent (Third Amendment) Act, 2005 ("**2005 Act**") was enacted.

The 2005 Act seeks to protect the interests of consumers with in-built safeguards, checks and balances. It contains comprehensive provisions to deal with issues concerning pricing of products. Safeguards include inter alia, provisions for compulsory licensing to ensure availability of products at reasonable prices, parallel import of products, acquisition of patent rights by the GoI, revocation of patents in the public interest and provisions to deal with emergency situations.

The 2005 Act also seeks to protect the interests of the domestic industries including inter alia, the pharmaceutical and chemical industries. The Patents Act, 1970 incorporates special measures to protect national security. It empowers the GoI to withhold any information relating to any patentable invention or application that it considers prejudicial to national security.

Trademarks

Trademarks in India are governed by the Trademarks Act, 1999 ("**TM Act**"). The TM Act broadens the definition of a "trademark" and simplifies procedures. Trademarks consist of inter alia, a device, brand, heading, label, ticket, name, signature, word, letter, numeral, shape of goods and packaging or combination of colors that are capable of being represented graphically and capable of distinguishing the goods or services of one person from those of others. The TM Act provides for exclusive registration of service marks, based on international classification of services, in addition to goods. It also includes provisions for registering collective marks. It prohibits registration of certain marks that are mere reproductions or imitations of a "well known mark" and provides for a single registration application in more than one class of goods and services. The definition of "mark" is extended to include the shape of goods, packaging, and combination of colors.

The TM Act provides for registration of trademarks and allows the assignment of trademarks to another entity. Non-use of a mark over a specified period is one of the grounds for canceling registration.

The TM Act makes trademark infringement a non-bailable offence and punishment has been extended to a maximum of three years' imprisonment. It also harmonizes penal provisions with those of the

[31] Articles 70.8 of TRIPS

Copyright Law.

Copyright

Copyright in India for published and unpublished literary, dramatic, musical, artistic and film works is protected under the Copyright Act, 1957 (hereinafter "**CR Act**"). The CR Act extends copyright protection to inter alia, computer software, commercial art, posters, drawings, designs and monograms, and the sale and hire of computer programs, films and sound recordings. Recent amendments to the CR Act brought under the Copyright (Amendment) Act, 2012 have also provided for improved protection of authors of literary and artistic work and established more efficient enforcement. Audio or audio-visual recordings of a live performance and their public broadcasts now require the consent of the performer(s).

Geographical Indications

Geographical Indications relating to goods in India are dealt with by the Geographical Indications of Goods (Registration and Protection) Act, 1999 ("**GI Act**"). TRIPS contains a general obligation that parties shall provide the legal means for interested parties to prevent the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good.

The GI Act was enacted to register and protect geographical indication of goods that originate from or are manufactured in a particular territory, region or even locality. These goods include agricultural, natural or manufactured goods that are distinct from similar products due to quality, reputation or any other characteristic that is essentially attributable to their geographical origin. Under the GI Act, such distinctive geographical indication can be protected by registration thus facilitating the promotion of Indian goods when exported overseas and in turn protecting consumers from deception. Registered geographical indication shall not be the subject matter of assignment, transmission, licensing, pledge, mortgage or any such other agreement.

Designs

TRIPS provides for the objective of protection of new or original independently created industrial designs. Pursuant to the same, the object of the Designs Act, 2000 ("**Designs Act**") is to protect new or original designs that are independently created in order to be applied to or that are applicable to a particular article to be manufactured by industrial process or means.

The registration of a design confers copyright upon the registered proprietor, which grants the exclusive right to the holder to apply a design to an article in the relevant registered class for the period of registration. Registration of a design is valid for ten years.

India is a signatory to the Washington Treaty of 1989, which is administered by the World Intellectual Property Organization ("**WIPO**"). The main obligations of the same are in respect of the original layout designs of integrated circuits.

Information Technology

In accordance with the changing scenario of transactions which are the subject of intellectual property rights, India's Information Technology Act, 2000 ("**IT Act**") was enacted to provide legal recognition for transactions carried out by means of e-commerce and facilitates electronic filing of documents with state agencies. The IT Act also addresses computer crime, hacking, damage to computer source code, breach of confidentiality and viewing of pornography. The legislation gives broad discretion to law enforcement authorities through a number of provisions. The key provisions of the IT Act are:

- Authentication of electronic records by use of asymmetric crypto systems and hash functions;
- Legal recognition to the electronic form of information required to be submitted and (or) retained under any law;
- Legal recognition to authentication by means of digital signature certificates issued by Certifying Authorities;
- Provisions for the appointment of a controller for the purpose of licensing, certifying and monitoring the activities of certifying authorities;
- Consequential amendments to certain laws

including inter alia, the Indian Penal Code, the Indian Evidence Act and the Reserve Bank of India Act recognizing transactions and evidence in electronic form.

The IT Act specifies that an Internet Service Provider ("**ISP**") is not liable for any third-party information transmitted over its network or data made available by it, purely in its capacity as an intermediary, if it is able to prove that the offence or contravention was committed without its knowledge or it had exercised due diligence to prevent such violation.

CHAPTER 6: TAX FRAMEWORK

6.1 TAXATION STRUCTURE AND INCENTIVES

India has a federal structure and a well-developed three-tier tax framework, comprising of taxes levied by the Central Government, the State Governments and the Local Authorities. Power to levy taxes and duties is distributed among the three tiers, in accordance with the provisions of the Constitution of India. Fiscal revenue is shared between the Central Government and the State Governments.

The principle taxes and duties that the Central Government is empowered to levy are, Income Tax (a direct tax levied on earning of income), Customs duty, Central Excise, Central Sales Tax ("**CST**") and Service Tax (indirect taxes levied on consumption of goods and services). The principal taxes levied by the State Governments are, Value Added Tax ("**VAT**"), Stamp Duty, State Excise duty (levied on the manufacture of alcohol, alcoholic preparations, and narcotic substance), Land Revenue, Entertainment Tax and Tax on professionals. Local Authorities are empowered to levy tax on immovable properties, octroi, tax on markets and tax or user charges for utilities such as water supply and drainage. Actual policy in relation to such taxes varies from State to State.

In order to encourage savings, investments and to provide incentives for industrial growth and development, both Central and State Governments offer a number of concessions to an investor in India from time to time. The focus of fiscal incentives is setting up of new industries particularly in the infrastructure, mining, energy sectors and export augmentation.

6.2 CORPORATE TAXATION

In case of resident companies, tax is levied on all of their gross income less deductible expenditures. These deductions include expenditures for materials, wages, salaries, bonuses, commissions, rent, repairs, insurance, royalty payments, interest, lease payments, depreciation, expenditures for scientific research and contributions to scientific research associations, among others. A company is deemed to be a resident company in a tax year if it is incorporated in India or its place of effective management in that year is in India. A resident company is not only taxed at a lower rate but is also entitled to additional incentives and rebates. corporate tax rate for a resident company is 30% (plus applicable surcharge and education cess).

A foreign company means a company which is not a domestic company. Foreign companies are subject to Indian income tax in respect of income derived from Indian sources or deemed to be so derived and also income attributable to a business connection or more specifically permanent establishment as defined in tax treaties. Tax rate applicable to net business income earned by a foreign company in India is 40% (plus applicable surcharge and education cess).

A branch of a foreign company is liable to corporate tax on the profits attributable to such branch at 40% (plus applicable surcharge and education cess). Further, the rules on deductibility of expenses are as provided under the tax treaty between India and the country where the parent company is resident.

The taxable income of companies is computed as profits or gains in business, capital gains and income from other sources.

Capital Gains

Long-term capital gains ("**LTCG**") on disposal of a security (other than a unit) listed in a recognized stock exchange in India or a unit of an equity oriented mutual fund or a zero coupon bond held for more than one year and all other assets held for more than three years are computed by deducting cost and adjusted for cost inflation index where applicable from net sale proceeds.

LTCG arising from transfer of listed securities, on which Security Transaction Tax ("**STT**") is paid, are exempt from tax. LTCG from sale of a long-term capital asset are exempt from capital gains tax where amount of such capital gains is reinvested in certain specified financial products and assets within a specified period.

In case of non-residents, capital gain on transfer of shares or debentures of an Indian company is calculated by converting asset cost and transfer expenses into the foreign currency in which they were purchased and the computed capital gain is then converted back into Indian currency. The computation is carried out in the above manner in order to shield such transfers from exchange fluctuations. Recently, tax on long-term capital gains arising from sale of shares in an unlisted company by a non-resident has been reduced to a rate of 10% (plus applicable surcharge and education cess) without allowing any adjustment for foreign exchange fluctuation and cost-inflation.

Buy-back of shares by a company is subject to capital gains tax in the hands of the shareholder.

Short term capital gains ("**STCG**") i.e. gains arising from transfer of capital assets held for not more than three years or specified securities held for not more than one year are charged at normal rates applicable for personal or corporate taxation. India follows a progressive slab rate of tax on individual income. Peak rate of taxation applicable on income of an individual and corporate tax rate is 30% (plus applicable surcharge and education cess). However, STCG arising from transfer of listed securities are charged at a lower rate of 15% (plus applicable surcharge and education cess) subject to payment of STT. STCG on sale of listed shares sold by a non-resident otherwise than on stock exchange without payment of STT or on sale of shares of an unlisted company by a non-resident is subject to tax at 40% (plus applicable surcharge and education cess).

With respect to capital assets held as business assets and as a block of assets, any excess amount realized over the written down value of such a block of assets is treated as short term capital gains and is taxed at normal rates applicable to business profits.

Dividend Distribution Tax

A company is liable to pay Dividend Distribution Tax (hereinafter "**DDT**") on the amounts declared or distributed as dividend at an effective rate of 20.4% (inclusive of surcharge and education cess). Since DDT is paid by the company at the time of declaration or distribution of dividends, such dividends are not taxed in the hands of recipient irrespective of whether dividends are paid to a resident or non-resident shareholder. No further tax is payable on dividends distributed by an Indian company.

Withholding Tax

Indian tax law provides for deduction of tax at source on various types of income, commonly known as "Withholding Tax". It may be noted that generally, all amounts payable to non-residents such as royalties, technical services fees and interest on loans are subject to withholding tax. Further the tax withheld is required to be deposited by person withholding such tax with the Central Government.

Minimum Alternate Tax

In case tax liability of a company is less than 18.5% of its adjusted book profits, then, such book profits are deemed to be 'taxable income', and such company is liable to pay a Minimum Alternate Tax at 18.5% (plus applicable surcharge and education cess).

Loss relief

Losses arising from business operations in an assessment year may be carried forward and set off against future business profits over the next eight assessment years. However unabsorbed depreciation may be carried forward indefinitely. Business losses may be carried forward only where tax return is filed by the due date. In case of a closely held company such as a private limited company, carrying forward and setting off of losses will not be permitted unless shares of such company carrying not less than fifty-one per cent of the voting power were beneficially held by same persons both in the year in which losses were incurred and the year in which the losses are sought to be set-off.

Re-organizations

Indian Income-tax laws contain special provisions for facilitating amalgamations and mergers. It specifically exempts transfer of a capital asset in a scheme of amalgamation by the amalgamating company to the amalgamated company subject to certain conditions. In a cross border transaction, when a foreign holding company transfers its shareholding in an Indian company to another foreign company as a result of a scheme of amalgamation, such transfer of capital asset, i.e. shares in the Indian company, is also exempt from capital gains tax in India, subject to certain conditions.

In case of a merger, relinquishment of shares of the amalgamating company held by shareholders is not regarded as a transfer of shares and is exempt from capital gains tax subject to certain prescribed conditions.

In the case of a de-merger, transfer of assets by the de-merged company to the resulting (Indian) company is exempt from capital gains tax subject to the fulfillment of certain prescribed conditions.

Double Taxation Avoidance Agreements

India has comprehensive double-taxation avoidance agreements in force with several countries. Most of such agreements allow relief from double tax by the credit method or by a combination of the credit and exemption methods. Accordingly domestic companies are allowed credit against Indian income tax of the aggregate income tax paid overseas. Further credit is limited to lesser of actual tax paid on foreign income and Indian tax applicable to such income. Tax rates applicable on various transactions involving payment of royalties, fee for technical services, interest are also governed by such agreements.

Transfer Pricing

Income-tax laws provide for transfer pricing regulations ("**TPR**") which are applicable on 'international transactions' between 'associated enterprises'.

Recently, TPR have been applied to few specified transactions entered into between domestic parties as well. Indian tax authorities are empowered under the provisions of TPR to make adjustments to income generated from an international transaction if, among other things, in their opinion the price charged is not on arm's length basis ("**ALP**") determined in accordance with the most appropriate method.

Appropriate documentation is required to be maintained to establish adequacy of ALP. Recently, a scheme in relation to advance pricing arrangements has been notified.

6.3 INDIRECT TAXES

Apart from the above mentioned taxes, companies in India are also subject to indirect taxes which are levied both by the Central Government, the State Government and the Local Authorities. In the past few years, indirect taxes have been steadily lowered and their structure and complexity has been rationalized.

Excise duty

Excise duty is a duty on manufacture of excisable goods and is levied by the Central Government at the rates and on the basis of classification under the Central Excise Tariff Act, 1985 (the "**Excise Tariff**") which is aligned with the harmonized system of nomenclature.

Further the Central Government provides for concessional rates or exemption from excise duty, by way issue of notifications which may be conditional or un-conditional.

Presently most goods are chargeable at a peak rate of excise duty of 12% ad valorem. The basis for determining the excise duty payable is the transaction value or the Maximum Retail Price ("**MRP**"), after allowing permissible notified deductions for each product liable to excise duty with reference to the MRP. Certain goods are liable to specific rates of excise duty irrespective of sale price. Excise duty is payable by the manufacturer and is collected from the customer as part of the sales consideration.

Customs Duty

The Central Government levies customs duty on import and export of goods at the rates and on the basis of classification under the Customs Tariff Act, 1975. Presently most goods are liable to customs duty at the rate of 10% *ad valorem*. Customs duty on import of goods comprises of the following:

- Basic Customs Duty ("**BCD**");
- An "Additional Customs Duty", also known as Countervailing Duty ("**CVD**") which is equivalent to Excise Duty levied on like goods produced or manufactured in India, calculated either on the total of transaction value of the products plus BCD or on the basis of MRP.
- Additional duty of customs, also known as Special Additional Duty to counter-balance sales tax/ VAT, local tax or other charges leviable on the trade of such articles in India.

Service Tax

In 1994, the Central Government introduced the levy of a Service Tax on notified services in terms of Chapter V of the Finance Act. Service tax is payable at the rate of 14% on the value of services by service provider and may be collected as part of consideration from the recipient of services.

In principle, service tax is a destination based consumption tax. Place of provisions of service rules determines the place where the service is rendered. In case where the services are imported from outside India, the recipient of services is liable to pay service tax. Export of services is exempt from service tax in the hands of the service provider subject to meeting certain specified conditions.

A Negative List concept for taxation of services is in operation. Services specified in the 'Negative List' are outside the tax net. All other services are chargeable to service tax except those specifically exempted under a consolidated exemption notification.

Cenvat Credit

To avoid the cascading effect of taxes, the Central Government has introduced a scheme allowing credit of excise duty, CVD and service tax to be paid on inputs, specified capital goods and input services used in or in relation to the manufacture of excisable goods or for providing taxable services to be set off against excise duty or service tax liability. The scheme of Cenvat credit is codified under the Cenvat Credit Rules, 2004.

VAT or CST

VAT is a tax on sale of goods within a particular state and is collected under the authority of the respective states VAT Act.

Central sale tax ("**CST**") is levied on inter-state sale of goods. CST is levied under the Central Sales Tax Act, 1956 but is administered by the respective State VAT authorities.

Further, input tax credit of VAT paid on purchase of the goods is available to be set off against the VAT or CST liability of the dealer. However input tax credit is not allowed on CST paid on purchases for the purposes of payment of VAT on output goods.

Entry Tax

In addition to VAT, some states also levy entry tax on entry of goods in the State, which is allowed to be set off against VAT or CST liability of the dealer under specified conditions.

6.4 TAX ADMINISTRATION

Other Taxes

States in India levy moderate taxes on motor vehicles and freight traffic; municipalities charge taxes on services and levy tax on professions. Financial instruments and transactions in India attract stamp duties that are levied at the federal and state levels.

All taxpayers, including foreign companies are required to follow a uniform financial year from April 1 to March 31 for the purposes of filing tax returns. The law requires that the taxpayer companies must file their prescribed periodical tax returns on or before a due date specified in the respective legislations.

If tax authorities can prove concealment of income, penalties between 100 to 300 percent may be levied on the tax evaded.

The Central Board of Direct Taxes and the Central Board of Excise and Customs in the Ministry of Finance of the Government of India are the nodal administrative bodies for administration of direct taxes and federal indirect taxes, respectively. VAT and CST are administered by the respective State's tax administration departments.

6.5 KEY DEVELOPMENTS

Until recently, GoI advocated a complete revamp of the extant income tax laws provided by Income-tax Act 1961 by replacing it with Direct Tax Code ("**DTC**"). Presently, DTC Bill is pending completion of the legislative process in the Indian Parliament. In view of various amendments brought in the extant Income-tax Act itself including in relation to non-resident taxation, the future outlook on DTC is not clear at this stage.

The GoI is also looking at revamping indirect tax regime by introduction of Goods and Service Tax ("**GST**") at Centre and States level. GST will subsume many indirect taxes at Centre and State level. GST involves amendment of Indian Constitution for re-distributing powers of taxation among Centre and State Governments. A bill for amendment of the constitution is pending clearance from the upper house of the Indian Parliament. Once introduced, GST will be an important milestone in the economic and fiscal reforms process undertaken in India in the last two decades.

CHAPTER 7: ENVIRONMENTAL AND CONSUMER LEGISLATION

7.1 ENVIRONMENT

There are various enactments that govern environmental and pollution control matters including, the Environment (Protection) Act, 1986 ("**Environment Act**"); the Water (Prevention and Control of Pollution) Act, 1974 ("**Water Act**"), the Air (Prevention and Control of Pollution) Act, 1981 ("**Air Act**"), Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008 and the Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989. These are administered by either the GoI or the various State governments.

Consequences of non-compliance with relevant provisions of these statutes and rules framed there under are provided in the respective statutes. Violation of provisions attract a monetary fine and (or) imprisonment of the persons responsible. In some extreme cases, licenses and consents are liable to be cancelled.

In addition to the above, there are various other laws that may be relevant in respect of the proposed commercial venture under consideration. Some of these include, the Indian Forest Act, 1927; the Forest (Conservation) Act, 1980; the National Environment Tribunal Act, 1995; the Public Liability Insurance Act, 1991 ("**PLIA**").

PLIA and the rules framed thereunder require the owners or controller of hazardous substances to take public liability insurance for the purpose of providing immediate relief to persons affected by accidents occurring while handling any hazardous substances and for matters connected therewith.

The right to claim relief as outlined above is in addition to any other rights available to a person to claim compensation under any other law, and in the event a person claims such right, the amount of such compensation shall be reduced by the amount of relief paid under the PLIA. The Environment Relief Fund Scheme, 2008 provides that the GoI shall establish Environment Relief Fund. This fund shall administer and manage the payments required to be made under the public liability insurance.

Further, the GoI is proposing an omnibus law to regulate the environment laws by way of incorporating all the environment protection related acts into one piece of legislation, however, it is very early to comment on the final working of this scheme until something substantial comes up through the Ministry of Environment, Forest and Climate Change which has clear intent of simplifying the legislations governing the environment.

The GoI introduced The National Rehabilitation and Resettlement Bill, 2007 to minimize displacement and promote non displacement or least displacement alternatives for the affected families and/or to ensure an adequate rehabilitation package. It also seeks to provide for special case in protecting the rights of the weaker sections of society and provide a better standard of living. Where the displacement is on account of land acquisition, it seeks to facilitate a harmonious relationship between the acquiring body and the affected families through mutual cooperation.

7.2 CONSUMER LAWS

In India, consumer justice is part of social and economic justice. There are several laws that, in one way or the other, bring out the spirit of consumer protection in the country. There are diverse pieces of legislation relating to, standardization, grading, packaging and branding, prevention of food adulteration, weights and measures and hoarding and profiteering. While these do not specifically mention the concept of consumer interest they nevertheless contain provisions to defend consumers.

The central consumer legislation is the Consumer Protection Act, 1986 ("**CPA**"). The CPA is a comprehensive piece of consumer legislation enacted for the better protection of the interests of consumers by providing for the establishment of consumer councils and other forums for the settlement of consumer disputes.

Under the provisions of the CPA, "Consumer" means, any person who buys goods or hires or avails of any services for a consideration. Upon the detection of any defect in the goods or of any deficiency in the services availed by a consumer, there is a right available to such consumer to file a complaint with the appropriate dispute redressal forum. There is a three-tiered structure of forums established under the CPA: the District Consumer Disputes Redressal Forums ("**District Forums**"), the State Consumer Disputes Redressal Commissions ("**State Commissions**") and the National Consumer Disputes Redressal Commission ("**National Commission**"). The jurisdiction of these forums to entertain a complaint depends on the value of the goods and services and the compensation claimed.

In cases where the value does not exceed ` 2 million, the jurisdiction is that of the District Forums. Further, where the value exceeds ` 2 million but does not exceed ` 10 million, the complaint lies with the State Commission and in cases where the value exceeds ` 10 million the complaint is filed with the National Commission. If the consumer is not satisfied by order passed by a consumer rederessal forum, the consumer may file an appeal against the said order with the higher forum. Appeals against orders of the National Commission are filed with the Supreme Court.

In addition to the consumer dispute redressal agencies, there are consumer protection councils, namely, the Central Consumer Protection Council and State Consumer Protection Councils. The objectives of these councils are the promotion and protection of consumer rights.

Further, with a view to reform Indian market into a strong potential market in the global arena, the Ministry of Consumer Affairs, Food and Public Distribution, GoI has proposed to amend the CPA in order to redress consumer cases at a much faster pace, by including mediation process in consumer disputes and introducing a new authority by the name of 'Central Consumer Protection Authority' ("**Authority**") which will replace the existing 'Central Consumer Protection Council' by delegating it with punitive powers which include *inter-alia* the authority to conduct investigations, either suo-motu or on a complaint, into violations of consumer rights and conduct search and seizure of documents/records/articles and other forms of evidence, summon delinquent manufacturers, advertisers and service providers to record oral evidence and direct production of documents and records, the Authority can order recall of goods or withdrawal of services found to be unsafe or hazardous and order reimbursement of the price of the goods (or services) so recalled, to purchasers of such goods or services. The proposed amendments to the CPA also attempt to include e-commerce transactions into its purview along with the concept of product liability whereby actions can be brought for on account of personal injury, death or property damage caused from the manufacture, construction, design, formula, preparation, assembly, testing, service, warning, instruction, marketing, packaging, or labeling of any product. The idea behind these proposed amendments is to make India a pragmatic, consumer-friendly economy.

CHAPTER 8: REAL ESTATE SECTOR

8.1 LEGISLATIVE FRAMEWORK

Laws governing the real estate sector in India are substantially codified. However, recently there have been talks of a real-estate regulator being introduced. Real estate laws are contained in different enactments pertaining to transfer of property rights, rent control and land ceiling among others. These enactments deal with areas such as:

a) aspects related to real estate contracts;
b) declaratory relief and injunctions in respect of property rights;
c) transfer and conveyance of property in terms of sale, lease and mortgage;
d) requisite covenants and terms and conditions to be incorporated in the documentation pertaining to such transfers and conveyance;
e) testate and intestate succession;
f) grant of letters of representation such as probate, letters of administration and succession certificates pertaining to property;
g) total or partial partition of properties;
h) stamp duties payable in respect of property transactions;
i) modalities for computation and quantification of such duties;
j) compulsory and optional registration of documents in respect of property transactions;
k) consequences arising from non- registration of the transactions with the registering authorities and procedural laws in respect of enforcement of legal rights pertaining to properties.

The principal enactment in India pertaining to the sale of immovable property is the Transfer of Property Act, 1882 ("**TPA**"). Under the TPA "Sale" (with respect to immovable property), is a transfer of ownership, by one living person to another living person in exchange for price paid or promised or part paid or part promised.

The TPA contains detailed provisions with respect to the implied terms and conditions of such transfer by sale. Typically, transactions of sale of immovable properties are spread out over a period of time commencing from the negotiations between the parties, perusal and scrutiny of the title deeds (for examination of title of the vendor), finalizing the terms and conditions of the prospective sale such as, quantum of price and the payment installments and completion of the transaction by the execution and registration of the formal deed or indenture of transfer.

Importantly, under Indian law, a contract of sale does not, of itself, create any interest or charge on the property as equitable estates are not accorded recognition under Indian law.

8.2 GROWTH AND DEVELOPMENT

Recent developments in the real estate sector in India have highlighted its tremendous potential and contributed to its phenomenal growth. This has caused the sector to appear on the agenda of all major international funds and developers. Today, the sector is witnessing a wide spectrum of advancements that are transforming India into a preferred and sought after destination for real estate activity.

Two major steps taken by the GoI have been the core catalysts in fuelling growth in the real estate sector in India:

8.2.1 FDI in Real Estate in India

The first step comprises of the initiatives that have been taken to allow FDI in real estate in India in townships, housing, built-up infrastructure and construction development projects. Further, Construction-development projects include development of townships, construction of residential/commercial premises, roads or bridges, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional level infrastructure, townships. .

In terms of the Consolidated FDI Policy, the investor can exit on completion of the project or after development of trunk infrastructure i.e. roads, water supply, street lighting, drainage and sewerage. Each phase of the construction development project would be considered as a separate project for the purposes of FDI policy. A foreign investor will be permitted to exit and repatriate foreign investment before the completion of project under automatic route, provided that a lock-in-period of three years, calculated with reference to each tranche of foreign investment has been completed. Further, transfer of stake from one non-resident to another nonresident, without repatriation of investment will neither be subject to any lock-in period nor to any government approval. Nonetheless, exit is permitted at any time if project or trunk infrastructure is completed before the lock-in period. Condition of lock-in period will not apply to Hotels &Tourist Resorts, Hospitals, Special Economic Zones (SEZs), Educational Institutions, Old Age Homes and investment by NRIs. Further, the Indian investee company will be permitted to sell only ‘developed plots’, which for the purpose of FDI in real estate mean plots where trunk infrastructure i.e. roads, water supply, street lighting, drainage and sewerage have been made available. However, the abovementioned conditions viz. minimum floor area, minimum FDI flow and exit criteria will not apply to hotels and tourists resorts, hospitals, SEZs, educational institutions, old age homes and on investments by Non-resident Indians. Further, it is also clarified that 100% FDI under automatic route is permitted in completed projects for operation and management of townships, malls/shopping complexes and business centres. Consequent to foreign investment, transfer of ownership and/or control of the investee company is permitted from resident to non-resident is also permitted.

8.2.2 Introduction of Real Estate Investment Trusts (“REIT”)

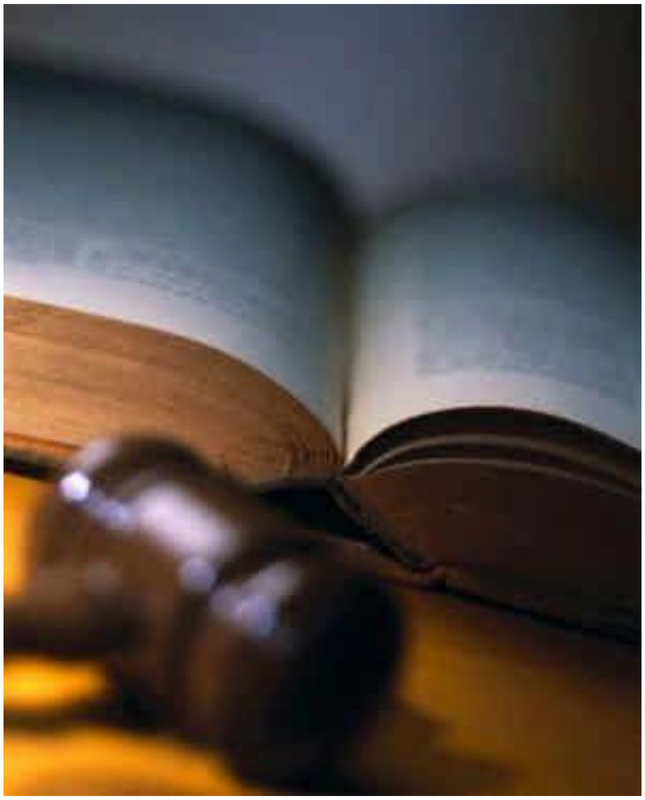
In September 2014, the SEBI approved and notified the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 (“**REIT Regulations**”) pursuant to the GoI clearing the tax incentives for REITs which became effective from October 1, 2014. As per the Regulations, REIT or Real Estate Investment Trust means a trust registered with the SEBI. REIT Regulations further provide that REITs can invest in real estate assets which have been defined in the REIT Regulations as properties owned by REITs whether directly or through a special purpose vehicle. REIT Regulations, as notified, are considered as a welcome step to attract foreign investment in the real estate sector.

In the Union Budget 2016-2017, the GoI has proposed removal of dividend distribution tax (DDT) in respect of REITs, which until now, is chargeable at 15% for REITs.

8.2.3 Real Estate Bill

Recently, the Rajya Sabha has passed the Real Estate (Regulation and Development) Bill, 2016, which was pending since 2013. The Bill once enacted will apply to both commercial and residential real estate and provide for a uniform regulatory environment, to protect consumer interests, help speedy adjudication of disputes and ensure orderly growth of the real estate sector. Further, the Bill also proposes for the establishment of a Real Estate Regulatory Authority and registration of all the real estate projects and real estate agents. The key highlights of the bill include, amongst other things, registration of projects, requiring the developer to deposit a specified percentage of collections from buyers in a separate account towards construction related purposes, liability of the developer towards any structural defects etc.

CHAPTER 9: DISPUTE RESOLUTION



9.1 COURTS AND LITIGATION

India has a highly developed and codified legal system, initially inherited from the British but thereafter extensively re-worked and substantively re-structured. There are detailed codified statutes governing commercial relations between parties including the Contract Act, 1872, the Sale of Goods Act, 1930 and the Specific Relief Act, 1963.

The Indian judicial system is administered by a three-tiered judicial structure. The Supreme Court of India ("**Supreme Court**") is the apex federal court under which the respective High Courts that head state-level judicial administration, function. Each state is further divided into judicial districts presided over by a District and Sessions Judge, who is the highest judicial authority in a district. The judicial districts comprise of trial courts of both civil and criminal jurisdiction.

Supreme Court

The Supreme Court exercises original, appellate and advisory jurisdiction. Its exclusive original jurisdiction extends to all disputes between the GoI and one or more States or between two or more States. The Constitution grants an extensive original jurisdiction to the Supreme Court to enforce fundamental rights.

The appellate jurisdiction of the Supreme Court can be invoked by a certificate of the High Court concerned or by special leave granted by the Supreme Court in respect of any judgment, decree or final order of a High Court in civil and criminal cases, involving substantial questions of law or as to the interpretation of the constitution. Under its advisory jurisdiction, the President of India is entitled to consult the Supreme Court on any question of fact or law of public importance.

The Supreme Court has been responsible for the introduction of several concepts of critical importance including the concept of Public Interest Litigation ("**PIL**") which stands for litigation in the interest of the public in general. Through the PIL, the Supreme Court has imparted easier access to the law and introduced a broader public interest perspective to litigation addressing important issues including human rights, consumer welfare and protection of the environment.

High Courts

There are Twenty Four (24) High Courts in India at present. High Courts have powers of superintendence over all courts within their jurisdiction. High Courts have original jurisdiction with regard to certain matters, in addition to appellate jurisdiction.

9.2 ALTERNATIVE DISPUTE RESOLUTION

The concept of "Alternative Dispute Resolution" on the lines of internationally accepted standards was comprehensively re-modeled in India with the advent of the economic liberalization. The objective was to facilitate structured economic development, which required quick and cost effective resolution of domestic and trans-national business, and commercial disputes.

The law pertaining to arbitration in India is contained in the Arbitration and Conciliation Act, 1996 ("**Arbitration Act**")[32]. The Arbitration Act is based on the UNCITRAL Model Law of International Commercial Arbitration. It encompasses both domestic and international commercial arbitrations and gives freedom to the arbitrating parties in case of trans-border contracts to choose the venue as well as the rules governing their arbitration. It further accords due recognition to mediation and conciliation.

The Arbitration Act contains elaborate provisions on the composition and jurisdiction of arbitral tribunals and the conduct of arbitral proceedings. Further, the Arbitration Act incorporates the principle of finality of arbitral awards as in UNCITRAL and ICC and accords arbitral awards final and binding status between the parties[33].

Under the Arbitration Act, interference of the courts in matters connected with matters such as the conduct of arbitration, decision of the arbitrator and challenges to awards have been minimized. However, courts are empowered, to order interim measures of protection including securing the amount in dispute, detention, preservation or

[32] The GoI has recently come out with a consultation paper proposing major changes to the Arbitration Act.

[33] Section 35 of the Arbitration Act

inspection of property, injunction and the appointment of receivers.

With a view to send out a signal to foreign investors that settling commercial disputes in India will no longer be a time-consuming affair, the Union Cabinet has cleared the amendments in the Arbitration and Conciliation Act, 1996. The aforesaid amendments are aimed at making it mandatory for commercial disputes to be settled within nine months from the case being referred for arbitration, unless the High Court grants an extension and the same shall also be subject to fee caps in order to check the cost of arbitration.

The Arbitration Act contains elaborate provisions in respect of "Conciliation" based on the UNCITRAL Conciliation Rules. Conciliation can be resorted to in relation to disputes arising out of a legal relationship, whether contractual or not. There are elaborate provisions regarding the role of the conciliator, disclosure of information, settlement agreements, confidentiality and admissibility of evidence in such proceedings.

Settlement agreements are final and binding on the parties and hold the same status and effect as an arbitral award. Settlement agreements can be enforced as a decree of court.

Enforcement of a foreign award made by countries to which the New York Convention or the Geneva Convention applies and having a reciprocal arrangement with India is enforceable in India. Such enforceability is subject to compliance with certain conditions prescribed under Part II of the Arbitration Act.

GLOSSARY OF TERMS

ADR	American Depository Receipt
Air Act	Air (Prevention and Control of Pollution) Act, 1981
ALP	Arm's Length Price
Arbitration Act	Arbitration and Conciliation Act, 1996
BCD	Basic Customs Duty
BIFR	Board for Industrial and Financial Reconstruction
BR Act	Banking Regulation Act, 1949
CBDT	Central Board of Direct Taxes
CCI	Competition Commission of India
Companies Act	Companies Act, 2013
Companies Act (Old)	Companies Act, 1956
Competition Act	Competition Act, 2002
CPA	Consumer Protection Act, 1986
CR Act	Copyright Act, 1957
CST	Central Sales Tax
CVD	Countervailing Duty
Customs Tariff	Customs Tariff Act, 1975
DDT	Dividend Distribution Tax
Designs Act	Designs Act, 2000
DIPP	Department of Industrial Policy and Promotion
District Forums	District Consumer Disputes Redressal Forums
DR	Depository Receipts
ECB	External Commercial Borrowing
EHTP	Electronic Hardware Technology Park
Environment Act	Environment (Protection) Act, 1986
EOU	Export Oriented Unit
ESI Act	Employees' State Insurance Act, 1948
FCCB	Foreign Currency Convertible Bond
FDI	Foreign Direct Investment
FEMA	Foreign Exchange Management Act, 1999
FEMA Regulations	Foreign Exchange Management Act (Transfer or issue of Security by a person

	resident outside India) Regulations, 2000
FIPB	Foreign Investment Promotion Board
FII	Foreign Institutional Investor
FPI	Foreign Portfolio Investor
FVCI Regulations	SEBI (Foreign Venture Capital Investors) Regulations, 2000
FY	Financial Year
GDR	Global Depository Receipt
GI Act	Geographical Indications of Goods (Registration and Protection) Act, 1999
GoI	Government of India
ICC	International Chamber of Commerce
ICDR Regulations	SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009
ID Act	Industrial Disputes Act, 1948
`	Indian Rupee
IRDA Act	Insurance Regulatory and Development Authority Act, 1999
ISP	Internet Service Provider
IT Act	Information Technology Act, 2000
LIC	Life Insurance Corporation of India
LTCG	Long Term Capital Gain
MCA	Ministry of Corporate Affairs
MFI	Micro Finance Institutions
MRP	Maximum Retail Price
NCLT	National Company Law Tribunal
NSE	National Stock Exchange
OECD	Organisation for Economic Co-operation and Development
PAB	Project Approval Board
PE	Permanent Establishment
PF Act	Employees' Provident Funds & Miscellaneous Provisions Act, 1952
PIL	Public Interest Litigation
PLIA	Public Liability Insurance Act, 1991
QDP	Qualified Depository Participant
QFI	Qualified Foreign Investors
QIB	Qualified Institutional Buyer
RBI	Reserve Bank of India

REMFs	Real Estate Mutual Funds
SEBI	Securities and Exchange Board of India
SEBI Takeover Regulations	SEBI (Substantial Acquisition of Shares and Takeovers) Regulation, 1997
SEZ	Special Economic Zone
SFB	Small Finance Banks
SICA	Sick Industrial Companies (Special Provisions) Act, 1985
State Commissions	State Consumer Disputes Redressal Commissions
SS	Secretarial Standards
STP	Software Technology Park
Supreme Court	Supreme Court of India
TM Act	Trade Marks Act, 1999
TPA	Transfer of Property Act, 1882
TPL	Transfer Pricing Legislation
TRIPS	Agreement on Trade Related Aspects of Intellectual Property Rights
UNCITRAL	United Nations Commission On International Trade Law
VAT	Value Added Tax
Water Act	Water (Prevention and Control of Pollution) Act, 1974
WIPO	World Intellectual Property Organization
WTO	World Trade Organisation

NOTES

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