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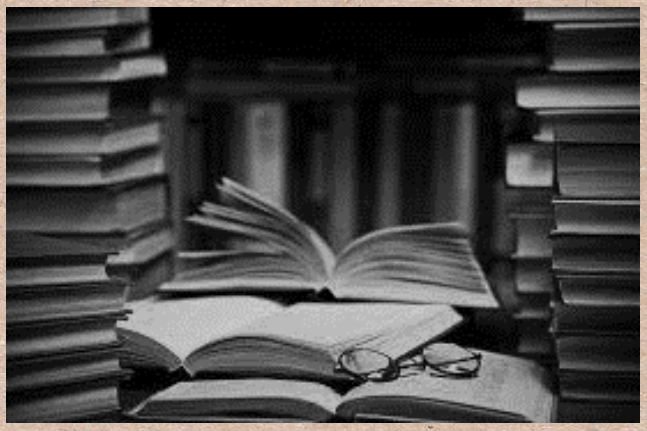

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SEBI UPDATES

SEBI (FOREIGN VENTURE CAPITAL INVESTOR) REGULATIONS, 2000 – AMENDED

Securities and Exchange Board of India ("**SEBI**"), *vide* its notification dated September 4, 2024, has notified the SEBI (Foreign Venture Capital Investors) (Amendment) Regulations, 2024 ("**FVCI Amendment Regulations**"), thereby amending the SEBI (Foreign Venture Capital Investors) Regulations, 2000 ("**FVCI Regulations**").

The key amendments introduced are:

(a) Application for grant of certificate as a foreign venture capital investor ("**FVCI**") - No person shall buy, sell or otherwise deal in securities as a FVCI unless it has obtained a certificate granted by a designated depository participant ("**DDP**") on behalf of SEBI, to whom such application shall be made in the form and manner as specified by government or SEBI. FVCI shall pay registration fees of $2500 for registration to the DDP. FVCIs who have already been granted a registration certificate prior to notification of the FVCI Amendment Regulations shall engage a DDP, as specified by SEBI.

(b) Eligibility criteria - Application for grant of registration certificate shall be considered upon satisfaction of all the conditions enumerated in the FVCI Amendment Regulations such as applicant being an entity incorporated or established outside India or in International Financial Services Centre, applicant is a resident of the country whose securities market regulator is a signatory to the International Organization of Securities Commission's Multilateral Memorandum of Understanding or a signatory to a bilateral Memorandum of Understanding with SEBI, the applicant being a bank is a resident of a country whose central bank is a member of Bank for International Settlements, applicant or its beneficial owners shall not be a person mentioned in the Sanctions List notified from time to time by the United Nations Security Council, applicant is a fit and proper person based on the criteria specified in the SEBI (Intermediaries) Regulations, 2008, etc.

(c) Furnishing of information and personal representation - The applicant may be required to furnish further information or clarification or appear for personal representation before SEBI or the DDP, as may be considered necessary for the grant of the registration certificate.

(d) Application to conform to the requirements - An application for grant of registration certificate, which is not complete in all respects or is false or misleading in any material particular or does not satisfy the requirements specified in the FVCI Amendment Regulations shall be deemed to be deficient and liable to be rejected by the DDP. A reasonable opportunity of being heard and to remove deficiency shall be granted and any rejection shall be provided in writing to the applicant. An applicant can apply to SEBI for reconsideration of decision within 30 days from receipt of communication regarding rejection.

(e) Registration certificate - Upon fulfilment of requirements under the FVCI Regulations, registration certificate shall be granted to the applicant, bearing a registration number.

Application for grant of registration certificate shall be disposed-off within 30 days from the receipt of application by the DDP or after additional information called for has been furnished; whichever is later.

(f) Conditions of certificate - The conditions for grant of registration certificate are the same as provided in the FVCI Regulations, i.e., (i) applicant shall abide by the provisions of the SEBI Act, 1992 and the FVCI Regulations; (ii) it shall appoint a domestic custodian for purpose of custody of securities; (iii) it shall enter into arrangement with a designated bank for the purpose of operating a special non-resident rupee or foreign currency account. However, additional obligation has been imposed on the FVCI to inform SEBI and DDP in writing within 7 working days, if it no longer satisfies the eligibility criteria.

(g) Renewal of registration and surrender of certificate - The registration granted by the DDP hereunder shall be permanent unless suspended or cancelled by SEBI or surrendered by the FVCI. FVCI shall pay renewal fee of $100, for every block of 5 years from the beginning of the 6th year from the date of grant of registration certificate and the fee shall be paid before expiry of the block for which fee has been paid. If the FVCI fails to pay the renewal fee along with the late fee as specified in the Second Schedule to the FVCI Amendment Regulations to keep the registration in force, such FVCI shall be deemed to have applied for surrender of its registration. The suspension and cancellation of registration certificate shall be dealt with in the manner as provided in Chapter V of the SEBI (Intermediaries) Regulations, 2008. FVCI can also raise a request for surrender of the registration certificate.

(h) Appointment of custodian - FVCI or a global custodian acting on behalf of the FVCI shall enter into an agreement with a DDP and a custodian, before making any investment hereunder. The custodian shall be responsible for: (a) monitoring of investment of FVCI in India; (b) furnishing of periodic reports and such information as called by SEBI; (c) ensuring that the FVCI does not make any new investment or sell its existing investment until renewal fee is paid; and (d) any other condition as may be specified by SEBI.

(i) Obligations and responsibilities of FVCI - FVCI shall comply with all the obligations and responsibilities as detailed in Regulation 15A of the FVCI Amendment Regulations which, *inter alia*, includes compliance with law, inform SEBI or DDP in case any information furnished by it previously are found to be false or misleading in any material respect or if there is any change in the information, inform of any material change in the information including any direct or indirect change in its structure or ownership or control, obtain a Permanent Account Number, etc.

(j) Obligations and responsibilities of DDP - The DDP shall open a dematerialised account for the applicant as specified in the FVCI Amendment Regulations, carry out necessary due diligence to ensure that no other depository account per depository is held by any of the concerned applicant as a FVCI, collect and remit fees to SEBI and in case of change in structure or constitution or direct or indirect change in common ownership or control reported by the FVCI, re-assess the eligibility of such FVCI. It shall ensure that only registered FVCI are allowed to invest in securities market. It shall maintain the relevant true and fair records, books of

accounts, and documents including the physical or electronic records relating to registration of FVCIs and intimate about its location to SEBI.

The notification shall come into effect from January 1, 2025.

To read the FVCI Amendment Regulations click here

SEBI MODIFIES VALUATION FRAMEWORK OF INVESTMENT PORTFOLIO OF AIFs

SEBI, *vide* its circular dated September 19, 2024 ("**AIF Amendment Circular**") has introduced amendments to the Master Circular for Alternative Investment Funds ("**AIF(s)**") dated May 7, 2024 ("**AIF Master Circular**") regarding the valuation framework of investment portfolio of AIFs.

The key amendments include:

(a) Valuation norms for securities - Subsequent to the AIF Amendment Circular, the revised valuation framework for AIFs is as under:

(i) Valuation of securities for which valuation norms have been prescribed under the SEBI (Mutual Funds) Regulations, 1996 ("**MF Regulations**") - In case of such securities, *which are mostly listed securities*, the valuation shall be carried out as per the norms prescribed under the MF Regulations.

(ii) Valuation of unlisted securities, thinly traded and non-traded securities - Valuation of securities which are not covered in the MF Regulations, *which are mostly unlisted securities, thinly traded and non-traded securities*, shall be carried out as per the International Private Equity and Venture Capital Valuation Guidelines (IPEV Guidelines). It is envisaged that the valuation norms for such securities shall be harmonized across entities within SEBI's regulatory purview by March 31, 2025.

(b) Change in valuation methodology and approach - no longer a 'material change' - Pursuant to the AIF Amendment Circular, change in valuation methodology/approach **shall not** be construed as 'material change'. Prior to the amendment, any change in the valuation methodology was construed as material change significantly influencing the decision of the investor to continue to be invested in the scheme of the AIF. Accordingly, such AIFs were required to provide an exit option to existing investors who did not wish to continue post the valuation methodology change.

The AIF Amendment Circular further mandates that subsequent to any valuation methodology change, the valuation of the investment carried out based on valuation methodologies/ approaches, both old and new, shall be disclosed to the investors to ensure transparency.

(c) Eligibility criteria for independent valuer - Investment manager of an AIF is required to ensure that the AIF appoints an independent valuer, which satisfies the criteria specified by SEBI in

the AIF Master Circular, for valuing investment portfolio of AIFs. The AIF industry had sought a clarification whether valuers who are set up as an entity are required to be Insolvency and Bankruptcy Board of India ("**IBBI**") registered valuer entity and at the same time, whether all of its members are required to have a membership. SEBI has provided a clarification by introducing the following eligibility criteria for independent valuer for a partnership entity or company:

(i) Such entity or company shall be a 'Registered Valuer Entity' registered with IBBI; and
(ii) The deputed/authorized person(s) of such 'Registered Valuer Entity', who undertake(s) the valuation of investment portfolio of AIFs, shall have a membership of the Institute of Chartered Accountants of India or the Institute of Company Secretaries of India or the Institute of Cost Accountants of India or a Chartered Financial Analyst (CFA) Charter from the CFA Institute.

(d) Timelines for reporting of valuation of investments of AIF to performance benchmarking agencies - AIFs have now been provided 7 months (*erstwhile 6 months*) to report valuations based on audited data from investee companies to the performance benchmarking agencies, by October 31st of each year.

To read the AIF Amendment Circular click here

SEBI (DELISTING OF EQUITY SHARES) (AMENDMENT) REGULATIONS, 2024 – NOTIFIED

SEBI, *vide* its notification dated September 25, 2024, has notified the SEBI (Delisting of Equity Shares) (Amendment) Regulations, 2024 ("**Delisting Amendment**"), pursuant to which SEBI has aimed to facilitate the delisting process through the introduction of fixed price mechanism for delisting in addition to the existing reverse book building process and by introducing special provisions for delisting of listed Investment Holding Companies ("**IHCs**") that meet specified criteria.

Key aspects of the Delisting Amendment are as follows:

(a) Fixed-Price Mechanism – In addition to the reverse book building process, listed companies can undertake delisting through the fixed price process which would result in the acquirers getting more certainty on the pricing of the delisting offer. However, this process can only be adopted if the shares of the listed company are being frequently traded. Further, the acquirer is required to provide a fixed price which shall be at least 15% more than the floor price. The acquirer will be bound to accept the equity shares if the post-offer shareholding of the acquirer along with the shares tendered by the public shareholders reaches 90% of the issued share capital of that class.

(b) Counter-Offer Conditions – Under the reverse book building process, a counter-price can be provided by the acquirer, however, the same being, *inter alia*, subject to: (i) the post-offer shareholding of the acquirer, along with the shares tendered by public shareholders, being not less than 75% of the issued share capital; and (ii) not less than 50% of the public

shareholding having tendered their shares. The counter-price cannot be less than the higher of: (i) the volume weighted average price of the shares tendered/offered in the reverse book building process; and (ii) indicative price, if any.

(c) Computation of the floor price – The Delisting Amendment provides a revised formula for the computation of floor price which considers factors such as volume weighted average market price, adjusted book value, volume weighted average price paid for acquisitions, etc. Floor price means the minimum price offered by the acquirer, while making the proposal for voluntarily delisting of the equity shares of the company.

(d) Delisting of IHCs – A separate framework for delisting of IHCs has been introduced wherein IHCs can apply for delisting pursuant to a scheme of arrangement under an order of the National Company Law Tribunal ("**NCLT**") by way of a selective reduction of share-capital under the Companies Act, 2013 ("**Companies Act**"). In such delisting, consideration has to be discharged in cash and shares in the following manner: (i) IHC shall transfer the equity shares held by it in other listed companies to its public shareholders (*in proportion to their shareholding*); and (ii) make payment in cash (*value as calculated on a net of pro-rata liabilities*) in exchange for the underlying shares or investments made by such investment holding company in unlisted companies or any other assets. The said public shareholding of the IHC would be extinguished upon transfer of the shares mentioned in point (i) and on payment as mentioned in point (ii), by the way of a scheme of selective reduction of capital under Section 66 of the Companies Act.

Such delisting is, *inter alia*, also subject to the condition that: (i) the IHC shall have not less than 75% of its fair value comprising of direct investments in equity shares of other listed companies; (ii) the IHC shall comply with the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015; (iii) there shall be e-voting by shareholders of such IHC wherein votes cast by public shareholders of the listed investment holding company in favour of the proposal are not less than 2 times the number of votes cast against it; (iv) the material disclosures in relation to calculation of the entitlement ratio and per share consideration shall be included in the explanatory statement of the notice for the shareholders meeting; and (v) the shares of the IHC shall have been listed for not less than 3 years and shall not be suspended at the time of taking this route, etc.

(e) Effectiveness of Delisting Amendment – The Delisting Amendment has come into force with effect from September 25, 2024 ("**Effective Date**"), however, these provisions shall be applicable to such delisting offers whose initial public announcement is made on or after the Effective Date. It is also further provided that that an acquirer may make the delisting offer in terms of the erstwhile delisting provisions, as they existed prior to the Delisting Amendment, till the 60th day from the Effective Date.

To read the Delisting Amendment click here

SEBI (INFRASTRUCTURE INVESTMENT TRUSTS) (THIRD AMENDMENT) REGULATIONS, 2024 – NOTIFIED

SEBI, *vide* its notification dated September 26, 2024, has notified the SEBI (Infrastructure Investment Trusts) (Third Amendment) Regulations, 2024 ("**InvIT Amendment Regulations**"), thereby amending the SEBI (Infrastructure Investment Trusts) Regulations, 2024 ("**InvIT Regulations**").

The key amendments include:

(a) With respect to listing of privately placed units of an Infrastructure Investment Trust ("**InvIT**"), the trading lot for the purpose of trading of units on the designated stock exchange has been reduced to INR 25 lakhs (*erstwhile INR 1 crore*).

(b) The distributions of cash flows made by the InvIT and the holding company and/or Special Purpose Vehicle ("**SPV**") shall be: (i) declared not less than once every 6 months in every financial year in case of publicly offered InvITs; (ii) declared not less than once every financial year in case of privately placed InvITs; and (iii) made within 5 working days from the record date. Further, record date as specified under the InvIT Amendment Regulations shall be 2 working days from the date of the declaration of distribution, excluding the date of declaration and the record date. Prior to the amendment, the distributions were required to be made within 15 days from the date of declaration.

(c) With respect to any matter requiring approval of the unit holders, the voting threshold specified under the InvIT Regulations shall be calculated on the basis of unit holders present and voting. Further, the unit holders voting through the electronic voting facility and postal ballot shall also be counted for the determination of unit holders present and voting.

(d) With respect to any matter requiring approval of the unit holders, the InvIT Regulations specified that a notice of not less than 21 days shall be provided to the unit holders. The InvIT Amendment Regulations have carved out a provision for inviting meetings at a shorter notice if consent, in writing or by electronic mode, is accorded thereto - (i) in case of an annual meeting, by not less than 95% of the unit holders entitled to vote thereat; and (ii) in case of any other meeting, by majority of the unitholders in number entitled to vote thereat and who represent not less than 95% of such part of the units by value as gives a right to vote at the meeting. The InvIT Amendment Regulations have also provided the unitholders an option to attend the meeting through video conferencing or other audio-visual means and the option of remote electronic voting in the manner as may be specified by SEBI.

(e) In case of seeking approval for any matter as specified in Regulation 22(5) of the InvIT Regulations, *inter alia,* any change in investment manager including removal of the investment manager or change in control of the investment manager, any material change in investment strategy or any change in the management fees of the InvIT, etc., approval from unitholders shall be required where votes cast in favour of the resolution shall be at least 60% of total votes cast for the resolution (*erstwhile votes cast in favour of the resolution were required to be not be less than one and a half times the votes cast against the resolution*).

(f) The investment manager and trustee of the InvIT are required to maintain records pertaining to the activity of the InvIT, as specified under the InvIT Regulations. The InvIT Amendment Regulations further requires the investment manager and trustees to ensure that adequate backup systems, data storage capacity, system capacity for secure handling, data transfer and arrangements for alternative means of communication in case of internet link failure, are maintained for the records maintained electronically. The investment manager and trustee shall further ensure that a business continuity plan and disaster recovery site is in place for the records maintained electronically, to maintain data and transaction integrity.

To read the InvIT Amendment Regulations click here

SEBI (REAL ESTATE INVESTMENT TRUSTS) (THIRD AMENDMENT) REGULATIONS, 2024 - NOTIFIED

SEBI, *vide* its notification dated September 26, 2024, has notified the SEBI (Real Estate Investment Trusts) (Third Amendment) Regulations, 2024 ("**REIT Amendment Regulations**"), thereby amending the SEBI (Real Estate Investment Trusts) Regulations, 2024 ("**REIT Regulations**").

The key amendments include:

(a) The distributions of cash flows made by the Real Estate Investment Trust ("**REIT**") and the holding company and/or SPV shall be made within 5 working days from the record date. Further, record date as specified under the REIT Amendment Regulations shall be 2 working days from the date of the declaration of distribution, excluding the date of declaration and the record date. Prior to the amendment, the distributions were required to be made within 15 days from the date of declaration.

(b) With respect to any matter requiring approval of the unit holders, the voting threshold specified under the REIT Regulations shall be calculated on the basis of unit holders present and voting. Further, the unit holders voting through the electronic voting facility and postal ballot shall also be counted for the determination of unit holders present and voting.

(c) With respect to any matter requiring approval of the unit holders, the REIT Regulations specified that a notice of not less than 21 days shall be provided to the unit holders. The REIT Amendment Regulations have carved out a provision for inviting meetings at a shorter notice if consent, in writing or by electronic mode, is accorded thereto – (i) in case of an annual meeting, by not less than 95% of the unit holders entitled to vote thereat; and (ii) in case of any other meeting, by majority of the unitholders in number entitled to vote thereat and who represent not less than 95% of such part of the units by value as gives a right to vote at the meeting. The REIT Amendment Regulations have also provided the unitholders an option to attend the meeting through video conferencing or other audio-visual means and the option of remote electronic voting in the manner as may be specified by SEBI.

(d) In case of seeking approval for any matter as specified in Regulations 22(6) and 26ZM(10) of the REIT Regulations, *inter alia,* any change in manager including removal of the manager or

change in control of the manager, any material change in investment strategy or any change in the management fees of the REIT, etc., approval from unitholders shall be required where votes cast in favour of the resolution shall be at least 60% of total votes cast for the resolution (*erstwhile votes cast in favour of the resolution were required to be not be less than one and a half times the votes cast against the resolution*).

(e) The manager and trustee of the REIT are required to maintain records pertaining to the activity of the REIT, as specified under the REIT Regulations. The REIT Amendment Regulations further requires the investment manager and trustees to ensure that adequate backup systems, data storage capacity, system capacity for secure handling, data transfer and arrangements for alternative means of communication in case of internet link failure, are maintained for the records maintained electronically. The investment manager and trustee shall further ensure that a business continuity plan and disaster recovery site is in place for the records maintained electronically, to maintain data and transaction integrity.

Further, amendments as specified in points (a)-(d) hereinabove have also been introduced for small and medium REITs under the REIT Regulations.

To read the REIT Amendment Regulations click here

RBI UPDATES

MINISTRY OF FINANCE NOTIFIES NEW COMPOUNDING RULES

Ministry of Finance, *vide* its notification dated September 12, 2024, has notified the Foreign Exchange (Compounding Proceedings) Rules, 2024 ("**Compounding Rules**") in supersession of the Foreign Exchange (Compounding Proceedings) Rules, 2000.

Certain key amendments include:

(a) Revision of monetary limits - Rule 4 of the Compounding Rules states that the compounding authorities of the Reserve Bank of India ("**RBI**") which shall be responsible to compound various contraventions under the Foreign Exchange Management Act, 1999, other than a contravention of Section 3(a), based on the monetary limits. The monetary limits for each compounding authorities have been revised as follows:

(i) where the sum involved does not exceed INR 60 lakhs (< INR 60 lakhs) – an officer not below the rank of the Assistant General Manager;
(ii) where the sum involved does not exceed INR 2.5 crores (INR 60 lakhs – INR 2.5 crores) – an officer not below the rank of the Deputy General Manager;
(iii) where the sum involved does not exceed INR 5 crores (INR 2.5 crores – INR 5 crores) – an officer not below the rank of the General Manager; and
(iv) where the sum involved is above INR 5 crores (> INR 5 crores) – an officer not below the rank of the Chief General Manager.

(b) Increase of application fee - The application fee for compounding any contravention has been increased to INR 10,000 plus GST (*erstwhile INR 5,000*).

(c) Digital payment options for application fees and compounding amounts - The application fee for compounding any contravention and sum for which the contravention is compounded shall be paid by demand draft, or National Electronic Fund Transfer (NEFT), or Real Time Gross Settlement (RTGS), or other permissible electronic or online modes of payment.

Any compounding application pending before the compounding authority, on the date of commencement of the Compounding Rules, shall be governed by the provisions of the Foreign Exchange (Compounding Proceedings) Rules, 2000.

To read the Compounding Rules click here

CORPORATE UPDATES

MCA TWEAKS INBOUND REVERSE MERGER RULES UNDER THE COMPANIES ACT

Ministry of Corporate Affairs ("**MCA**"), *vide* its notification dated September 9, 2024, has notified the Companies (Compromises, Arrangements, and Amalgamations) Amendment Rules, 2024 thereby amending the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 ("**CAA Rules**").

MCA has tweaked Rule 25A of the CAA Rules, by inserting sub-rule (5) which states that where a transferor is a foreign company incorporated outside India being a holding company and the transferee is an Indian company being a wholly owned subsidiary company incorporated in India, enter into merger or amalgamation -

(a) both the companies shall obtain the prior approval of RBI;
(b) the transferee Indian company shall comply with the provisions of Section 233 (*Fast track merger*) of the Companies Act;
(c) the application shall be made by the transferee Indian company to the Central Government (*Regional Director*) under Section 233 of the Companies Act and provisions of Rule 25 (*fast track merger*) of the CAA Rules shall apply to such application; and
(d) the declaration referred to in Rule 25A(4) of the CAA Rules in prescribed Form CAA 16 shall be made at the stage of making application under Section 233 of the Companies Act.

This is a welcome amendment from MCA which will clear the air on compliance framework for reverse flipping and encourage the start-up companies set-up outside the Indian territory to merge into its wholly owned Indian arm under the fast track route, thereby doing away with the time-consuming clearance from the NCLT.

To read the notification click here

NaBFID IS NOW A PUBLIC FINANCIAL INSTITUTION UNDER THE COMPANIES ACT

MCA, *vide* its notification dated September 10, 2024, has notified the National Bank for Financing Infrastructure and Development ("**NaBFID**") as a public financial institution under Section 2(72)(v) of the Companies Act.

NaBFID was set up in the year 2021 by the National Bank for Financing Infrastructure and Development Act, 2021, with the essential objective of addressing the gaps in the long-term non-course finance for infrastructure development, strengthening the development of bonds and derivatives markets in India, and sustainably boosting the country's economy.

To read the notification click here

LABOUR UPDATES

PLATFORM AGGREGATORS INVITED TO 'ON-BOARD' THEMSELVES AND THEIR PLATFORM WORKERS ON E-SHRAM PORTAL

Ministry of Labour and Employment ("**MoL&E**"), *vide* its notification dated September 16, 2024, has issued an advisory to encourage the aggregators to voluntarily register themselves and their platform workers on the e-Shram portal ("**Aggregator Advisory**"), which would lead to comprehensive coverage of such workers and consequent access to an integrated database of welfare schemes available for them. The Aggregator Advisory is applicable to: (a) platform based workers engaged in or undertaking platform work; and (b) the aggregators (*as listed in Annexure I, table 1 of the Aggregator Advisory*) who provide services to a business or an end customer through a digital app or platform.

The Aggregator Advisory provides that once the aggregator is registered on the e-Shram portal, they can on-board their platform workers. The aggregator may intimate the Universal Account Number ("**UAN**") of the platform worker to the e-Shram portal. Where the worker is not already registered on e-Shram portal, the aggregator may register such worker on the e-Shram portal and upon registration, the worker will be issued an UAN. The UAN of the workers engaged by an aggregator may be linked by such aggregator electronically in his database in order to facilitate the portability of the platform worker. The aggregator platforms may then upload platform worker data and details of their monthly engagement.

Other elements such as grievance redressal, standard operating procedure for online on-boarding of platform aggregators on e-Shram portal, and details to be submitted by aggregator for on-boarding on e-Shram portal have also been set out in the Aggregator Advisory.

To read the Aggregator Advisory click here

CINE AND CULTURAL ACTIVISTS TO NOW HAVE SOCIAL SECURITY IN KARNATAKA

Karnataka Government, *vide* its notification dated September 24, 2024, has published the Karnataka Cine and Cultural Activists (Welfare) Act, 2024 ("**Cine Welfare Act**") to provide social security to cine and cultural activists ("**Cine Activists**") and thereby promoting their welfare in the State of Karnataka. It shall come into effect on such date as the State Government may notify.

As per the Cine Welfare Act, a Cine Activist is any person who is employed in relation to the field of cinema to work as an artist (including actor, musician or dancer) or to do any work, skilled, unskilled, manual, supervisory, technical, artistic or otherwise or any person who is being engaged in such other activities as declared by the State Government. The Cine Welfare Act provides for the constitution of the Karnataka Cine and Cultural Activists' Welfare Board ("**Welfare Board**"). The Welfare Board has been entrusted with various functions such as ensuring registration of the Cine

Activists, setting up a monitoring mechanism to review compliance of the Cine Welfare Act, formulating and notifying schemes for social security and welfare, ensuring that workers have access to the benefits as per the schemes, etc.

Certain salient features of the Cine Welfare Act are as under:

(a) registration of the Cine Activists with the Welfare Board which shall be valid for a period of 3 years;
(b) establishing a fund to be called "The Karnataka Cine and Cultural Activists Social Security and Welfare Fund" for the benefit of registered Cine Activists;
(c) levying of Cine and Cultural Activists Welfare Cess – a cess on the cinema tickets, subscription fees and all revenue generated from the related establishments in the State of Karnataka. The cess shall be notified by the State Government which shall be between 1% to 2% on cinema tickets, subscription fees and all revenue generated from the related establishments;
(d) provides certain rights to the Cine Activists and the corresponding rights of their employer;
(e) grievance redressal mechanism for the Cine Activists; and
(f) recovery of welfare cess in the same manner as an arrears of land revenue.

To read the Cine Welfare Act click here

CENTRAL GOVERNMENT INCREASES THE MINIMUM WAGE RATES FOR WORKERS BY REVISING THE VARIABLE DEARNESS ALLOWANCE

MoL&E, *vide* its orders dated September 25, 2024, has revised the rates of variable dearness allowance ("**VDA**"), thereby increasing the minimum wage rates, basis the average consumer price index ("**CPI**") for industrial workers reaching 402.09 from 399.70 as on June 30, 2024. The Central Government revises the VDA twice a year based on the 6-month average increase in the CPI for industrial workers.

The orders cover various sectors such as agriculture, mines, construction, loading and unloading, sweeping and cleaning, watch and ward, and stone mines. The minimum wage rates are categorized based on skill levels – unskilled, semi-skilled, skilled, and highly skilled, as well as by geographical area – A, B, and C. The new wage rates have taken effect from October 1, 2024.

To read the orders click here

ENVIRONMENTAL UPDATES

ECOMARK RULES, 2024 – NOTIFIED

Ministry of Environment, Forest and Climate Change ("**MoEFCC**"), *vide* its notification dated September 26, 2024, has notified the Ecomark Rules, 2024 ("**Ecomark Rules**"). The Ecomark Rules mandate for eco-labelling of products ("**Ecomark**") which enables consumers to make informed purchase decisions as well as encourages manufacturers to transition to production of environment-friendly products leading to promotion of green industries. An Ecomark may be granted to products that meet specified environmental criteria with respect to resource consumption and environmental impacts, in particular the impact on climate change, impact on nature and biodiversity energy consumption, generation of waste, emissions to all environmental media, pollution through physical effects and use and release of hazardous substances.

The key provisions of the Ecomark Rules are as follows:

(a) it lays down the criteria for granting an Ecomark, which includes: (i) reduces pollution by minimising or eliminating the generation of waste and environmental emissions; (ii) reduces the use of non-renewable resources, including non-renewable energy sources and natural resources; (iii) reduces the use of any material, which has adverse impacts on the environment; and (iv) is recyclable or is made from recycled material or both; (b) it lays down the procedure to be followed for grant of an Ecomark by the Central Pollution Control Board ("**CPCB**"); (c) it lays down provisions in relation to the grant of an Ecomark, its cancellation, and for making an appeal against an order of cancellation; (d) it provides for the usage of an Ecomark, according to which no person shall use the Ecomark on any product unless he has been granted an Ecomark in respect of such product and such person shall affix on such product an Ecomark label; (e) it requires for the constitution of a steering committee which shall be responsible for the effective implementation of the Ecomark Rules; (f) it specifies the functions of the CPCB, including: (i) identification and recommendation to the steering committee of the products to be included under the Ecomark Rules; (ii) reviewing and developing the criteria for grant of an Ecomark and making recommendations thereof to the steering committee; (iii) assessment of domestic or international voluntary ecolabelling programme, for recognition under the Ecomark Rules; (iv) assessment of international ecolabelling programme, for mutual recognition; etc.; (g) it requires for the constitution of a technical committee by CPCB which shall assist the CPCB in the implementation of the Ecomark Rules; (h) it requires the CPCB to develop a web portal for, *inter alia*, making applications and for grant of an Ecomark and the submission of annual reports by the holder of the Ecomark; and (i) it lays down various categories of products, along with the general and specific requirements for granting an Ecomark under each category in the Schedule to the Ecomark Rules.

To read the Ecomark Rules click here

CPCB ISSUES GUIDELINES FOR IMPOSITION OF ENVIRONMENT COMPENSATION

CPCB, *vide* its notification dated September 3, 2024, has issued the guidelines ("**Waste Tyre EC Guidelines**") for imposition of environment compensation ("**EC**"), under the Hazardous and Other Waste (Management and Transboundary Movement) Amendment Rules, 2022 ("**Hazardous Waste Rules**"). Additionally, CPCB, *vide* its notification dated September 10, 2024, has issued the guidelines for imposition of EC ("**Battery Waste EC Guidelines**"), under the Battery Waste Management Rules, 2022 ("**BWM Rules**"). The Waste Tyre EC Guidelines is applicable to the registered producers, recyclers or retreaders, as recognised under the Hazardous Waste Rules. The Battery Waste EC Guidelines shall apply to the registered producers, recyclers or refurbishers, as recognised under the BWM Rules. Battery Waste EC Guidelines and Waste Tyre EC Guidelines are collectively referred to as "**EC Guidelines**".

The key points under the EC Guidelines are as follows:

(a) Both the Battery Waste EC Guidelines and the Waste Tyre EC Guidelines set out a list of provisions under the BWM Rules and the Hazardous Waste Rules, respectively, for which EC is to be levied in case of violation.

(b) It lays out the regime for calculation of EC, which is divided into 2 regimes.

Guidelines / Regime	Battery Waste EC Guidelines	Waste Tyre EC Guidelines
EC Regime 1	EC will be levied to the producers for non-fulfilment of metal wise extended producer responsibility ("**EPR**") targets.	EC will be levied to the producers for non-fulfilment of EPR obligations.
EC Regime 2	EC will be levied to any entity for non-compliances of the BWM Rules.	EC will be levied to any entity for non-compliances of the Hazardous Waste Rules.

(c) It details the specific EC to be levied, and the penal actions that will be taken for non-compliance of the BWM Rules/Hazardous Waste Rules, along with the nature of violation and the concerned violator.

(d) It requires for the EC charges and financial penalty to be deposited by the concerned entities which violate the provisions of the BWM Rules/Hazardous Waste Rules, and provides for the mechanism of computation of the additional penalty in the event such entity does not submit such EC charges and financial penalty within the stipulated time-frame.

(e) Specifies that the payment of EC shall not absolve the producers from the EPR provided under the BWM Rules/Hazardous Waste Rules and that the unfulfilled EPR for a particular year shall be carried forward to the next year and so on up to three years.

(f) The Waste Tyre EC Guidelines specifies that the funds collected under EC shall be kept in a separate escrow account by the CPCB and shall be utilized in collection and recycling of waste tyres on which the environmental compensation is levied.

To read the Waste Tyre EC Guidelines click here & to read the Battery Waste EC Guidelines click here

ENVIRONMENT (PROTECTION) SECOND AMENDMENT RULES, 2024 – NOTIFIED

MoEFCC, *vide* its notification dated September 9, 2024, has notified the Environment (Protection) Second Amendment Rules, 2024 ("**EP Amendment Rules**") to further amend the Environment (Protection) Rules, 1986. Pursuant to the same, serial number 55 in Schedule-I, pertaining to the Common Effluent Treatment Plants ("**CETP**") Industry, has been amended.

The key points in the EP Amendment Rules are as follows:

(a) Mandates the state pollution control board ("**SPCB**") or the pollution control committee ("**Committee**") to specify the inlet quality standards for general parameters, ammonical nitrogen and heavy metals as per design, local needs, and conditions of the CETP, and lays out stricter outlet quality standards;

(b) Lays out the roles and responsibilities of CETP operating agencies, including but not limited to: (i) setting up an SPV or society (*registered under the Societies Registration Act, 1860*) or trust to manage the CETP; (ii) entering into a legal agreement with its member units stating the mutual obligations, terms and conditions of membership, membership fee, etc.; (iii) complying with the prescribed inlet and outlet effluent standards; and (iv) installing an Online Continuous Effluent Monitoring System (OCEMS) at the CETP, with data connectivity being provided to the CPCB and the concerned SPCB or Committee to strengthen the monitoring and compliance through self-regulatory mechanism, etc.;

(c) Lays out the roles and responsibilities of the State Governments, SPCB and the Committee, including but not limited to: (i) carrying out real-time online monitoring with random physical inspection of all CETPs; (ii) requiring the SPCB and the Committee to not permit the establishment of new industrial units that propose to join a CETP or the expansion of existing member industries, if they are not complying with the specified standards; and (iii) requiring the SPCB and the Committee to increasingly focus on hazardous waste management, etc.; and

(d) Lays out the roles and responsibilities of the member industries of a CETP, including but not limited to: (i) discharging the trade effluent meeting the outlet norms of their individual primary effluent treatment plants, as mentioned in the consents issued by the SPCB or the Committee; (ii) monitoring specified quality parameters and flow rate of the effluent and submit the monitoring data to the CETP operator through real-time online basis; and (iii) having a single discharge point to the conveyance system leading to CETP, etc.

To read the EP Amendment Rules click here

VAN (SANRAKSHAN EVAM SAMVARDHAN) RULES, 2023 – AMENDED

MoEFCC, *vide* its notification dated September 20, 2024, has notified the Van (Sanrakshan Evam Samvardhan) Amendment Rules, 2024 ("**Van Amendment Rules**"), thereby amending the Van (Sanrakshan Evam Samvardhan) Rules, 2023 ("**Van Rules**").

Prior to the amendment, in exceptional circumstances where the suitable land required for compensatory afforestation was not available, and the certificate to that effect is given by the State Government or Union Territory Administration, the compensatory afforestation was considered on a degraded forest land which was twice in extent to the area proposed to be diverted in case of Central Government agencies, Central Public Sector Undertakings, or State Public Sector Undertakings for captive coal blocks on case to case basis. Pursuant to the Van Amendment Rules, the aforesaid certification requirement has been waived off.

Furthermore, serial number 2 of Schedule II of the Van Rules (*which contains the provisions for requirement of land related to compensatory afforestation*) has been amended to remove the restriction that the dispensation referred to in the said serial number is allowed to certain proposals of Central Government and State Government or Union Territory Administration only. Accordingly, a land recorded as 'forest' in government record but not notified as forest under any other law for the time being in force or managed as forest by the forest department, can now be utilised for compensatory afforestation by other proposals as well.

Similarly, serial number 3 of Schedule II of Van Rules, which provides for dispensation of a degraded notified or unclassed forest land, has been amended to remove the restriction that such dispensation is allowed only in case of State Public Sector Undertakings for captive coal blocks on case-to-case basis and Central Government Agencies/Central Public Sector Undertakings on case-to-case basis involving no acquisition of non-forest land. Now this dispensation is allowed for other proposals also.

To read the Van Amendment Rules click here

OTHER UPDATES

REFORMS INTRODUCED FOR THE CLINICAL RESEARCH ORGANISATIONS FOR CONDUCTING CLINICAL TRIAL

Ministry of Health and Family Welfare, *vide* its notification dated September 19, 2024, has notified the New Drugs and Clinical Trials (Amendment) Rules, 2024 ("**NDCT Amendment Rules**"), which defines the Clinical Research Organisations ("**CROs**") and mandates registration for the CROs under the New Drugs and Clinical Trials Rules, 2019 ("**NDCT Rules**") for conducting clinical trial or bioavailability or bioequivalence study ("**Trial or Study**").

The NDCT Rules deals with conducting the Trial or Study of new drug or investigational new drug in human subjects by the sponsor (*a person, a company or an institution or an organisation which is responsible for initiation and management of Trial or Study*) or its representative. By the virtue of the NDCT Amendment Rules, the sponsor may now delegate or transfer its tasks, duties or obligations pertaining to the Trial or Study to the CROs which should be specified in writing and appropriately quantified.

The CRO can be: (a) the sponsor or (b) a body, which is commercial or academic or of another category and is owned by (i) an individual or (ii) organization having status of legal entity. As per the NDCT Amendment Rules, a person in charge of the organization's overall operations (*such organization being staffed by qualified individuals who are well-versed with the conduct of Trial or Study*) would oversee the CRO.

The NDCT Amendment Rules provide for functions to be performed by the CROs. The CROs shall, *inter alia*:

(a) be equipped with facilities, resources, and qualified personnel to oversee the Trial or Study;

(b) ensure that the Trial or Study are properly monitored, and that duties assigned to it by the sponsor are carried out effectively and efficiently;

(c) carry out quality assurance and control in accordance with specially created standard operating procedures, which will be thoroughly documented;

(d) offer educational programs to assist its investigators in conducting research studies in compliance with applicable guidelines and regulations;

(e) maintain all data, documentation, and other records related to conduct of the Trial or Study,

(f) ensure that the investigators receive all trial-related supplies and documents necessary to conduct the Trial or Study; and

(g) maintain strict confidentiality during access and retrieval procedures, etc.

The NDCT Amendment Rules also provides for: (a) procedure for compulsory registration of the CROs for conducting the Trial or Study which includes an application in Form CT-07B to the Central Licensing Authority ("**CLA**") accompanied by a fee of INR 5 lakhs, supporting documents and information; (b) grant of registration to the CROs by the CLA after scrutinising the information and requirements furnished with the application for registration; (c) 5 years of validity period of registration of the CROs from the date of grant of the registration; (d) inspection of the registered CROs by any officer authorised by the CLA; and (e) sanctions imposed on the CROs by the CLA due to non-compliance of the provisions of the Drugs and Cosmetics Act, 1940 and the NDCT Rules, etc.

The NDCT Amendment Rules will come into force from April 1, 2025.

To read the NDCT Amendment Rules click here

RULES FOR OBTAINING RIGHT OF WAY PERMISSIONS FOR TELECOMMUNICATION NETWORK

Ministry of Communications, *vide* its notification dated September 17, 2024, has notified the Telecommunications (Right of Way) Rules, 2024 ("**Right of Way Rules**") to regulate the establishment, operation and maintenance of underground telecommunications on public and private property. The Right of Way Rules apply to permissions for right of way for telecommunication network ("**RoW**").

Salient features of the Right of Way Rules are as follows:

(a) An application can be made by any facility provider seeking RoW and powers in this relation are vested with any public entity under the Right of Way Rules. All applications, notifications, clarifications, permissions, objections or rejections under the Right of Way Rules, shall be made through a designated portal (*the portal is yet to be notified by the Central Government*).

(b) Public entities are required to specify its nodal officer on its portal within 30 days from the date of notification of the Right of Way Rules and in the case of replacement of nodal officer, within 7 days of such replacement. The Right of Way Rules provides for the list of documentswhich the facility provider is required to provide through its portal.

(c) The facility provider seeking RoW pertaining to any public property is required to submit an application on the portal of the public entity which should also contain the requisite supporting documents and fees.

(d) On the other hand, the facility provider seeking RoW permission, in a property other than a public property, is required to enter into an agreement with the person having ownership/ control/ management over the said private property. Where the facility provider fails to reach an agreement with the said person, it may submit an application through the portal, along with the supporting documents to the District Collector or other designated officer as may be notified by the Central Government in this behalf, within whose jurisdiction the property is situated, to determine if such RoW is necessary in the public interest.

(e) In case any damage occurs to the property, the liability for restoration of the property back to its prior state or payment of compensation would be on the facility provider.

(f) The permission for RoW granted to facility provider in respect of underlying telecommunication network would be remain valid (*unless terminated*) for:

(i) the same amount of time as the term of authorization or license, or exemption from such authorization or license, granted by the Central Government, or
(ii) the term of any renewed authorization or license,

in accordance with the provisions of Telecommunications Act, 2023 or the Telegraph Act, 1885 or the rules made under the said legislations.

The Right of Way Rules will come into force from January 1, 2025.

To read the Right of Way Rules click here

MINISTRY OF LAW AND JUSTICE BRINGS INTO FORCE THE ADVOCATES AMENDMENT ACT, 2023

Ministry of Law and Justice ("**MoLJ**"), *vide* its notification dated December 8, 2023, had published the Advocates Amendment Act, 2023 which amended the Advocates Act, 1961 by inserting Section 45A (*power to frame and publish list of touts*) under the Advocates Act, 1961 and repealing Sections 1 (*short title*), 3 (*interpretation*) and 36 (*power to frame and publish lists of touts*) of the Legal Practitioners Act, 1879. Pursuant to the same, MoLJ, *vide* its notification dated September 27, 2024, has notified the provisions of the Advocates Amendment Act, 2023 which have come into force with effect from September 30, 2024.

The amendment is aimed at weeding out the concept of "touts" from the legal system by repealing relevant provisions of the Legal Practitioners Act, 1879 and amending the Advocates Act, 1961. The newly inserted Section 45A vests upon the High Court, District Judge, Sessions Judge, District Magistrate and Revenue Officer, above the rank of Collector of a district, the power to frame and publish the list of touts, and iterates upon its procedural aspects thereof. Tout simply means (a) who procures, in consideration of any remuneration moving from any legal practitioner, the employment of the legal practitioner in any legal business; or who proposes to any legal practitioner or to any person interested in any legal business to procure, in consideration of any remuneration moving from either of them, the employment of the legal practitioner in such business; or (b) who, for the purposes of such procurement, frequents the precincts of Civil or Criminal Courts or of revenue – offices or railway stations, landing stages, lodging places or other places of public resort.

To read the notification click here

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