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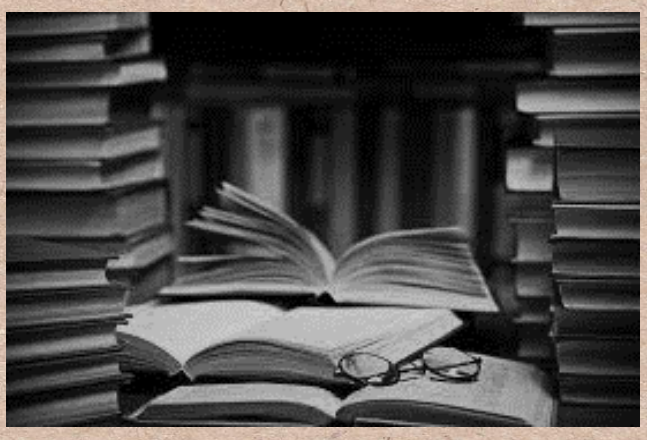
Volenti Non Fit Injuria: "No wrong is done to one who consents."



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SEBI UPDATES

BOOST TO ENHANCE PARTICIPATION IN THE CORPORATE BOND MARKET – SEBI REDUCES DENOMINATION OF DEBT SECURITIES AND NON-CONVERTIBLE PREFERENCE SHARES

Securities Exchange Board of India ("**SEBI**"), *vide* its circular dated July 3, 2024 ("**Effective Date**"), has, *inter alia*, made amendments in Chapter V (*Denomination of issuance and trading of non-convertible securities*) of the Master Circular for issue and listing of Non-convertible Securities, Securitised Debt Instruments, Security Receipts, Municipal Debt Securities and Commercial Paper dated May 22, 2024 ("**Master Circular on Securities**"). This amendment is brought in since the market participants expressed that lower ticket size of debt securities may encourage more non-institutional investors to participate in the corporate bond market which in turn may also enhance liquidity.

The following amendments have been made in Chapter V of the Master Circular on Securities:

(a) Reduction in denomination of securities - The issuer may issue debt security or non-convertible redeemable preference shares ("**Debt Securities**") on private placement basis at a face value of INR 10,000 (*instead of INR 1,00,000 earlier*), subject to the following conditions: (i) issuer shall appoint at least 1 merchant banker; and (ii) Debt Securities shall be interest/dividend bearing security paying coupon/dividend at regular intervals with a fixed maturity without any structured obligations; **(b) credit enhancement** - a list of 7 credit enhancements such as guaranteed bonds, partially guaranteed bonds, standby letter of credit backed securities, etc., are provided which will be permitted in Debt Securities. The documentation for the credit enhancements shall be verified by the credit rating agencies to ensure that (i) the support is unconditional, irrevocable, and legally enforceable till all the obligations of the security has been paid to the investors; and (ii) the support provider has a lower probability of default on a continuous basis, compared with the issuer, till the time such instruments are outstanding; **(c) raising funds through tranche placement memorandum** - With respect to a shelf placement memorandum or general information document which is valid as on the Effective Date of the circular, the issuer may raise funds through tranche placement memorandum or key information document at a face value at INR 10,000, provided at least 1 merchant banker is appointed to carry out due diligence in respect of such issuances. Necessary addendum shall be issued by such issuer to the shelf placement memorandum or general information document, as applicable.

The provisions of the circular shall be applicable to all issues of Debt Securities on private placement basis that are proposed to be listed from the Effective Date.

To read the circular click here

SEBI INTRODUCES UNIT-BASED EMPLOYEE BENEFIT SCHEMES FOR INVITs AND REITs

SEBI, *vide* its notification dated July 9, 2024, has notified the SEBI (Infrastructure Investment Trusts) (Second Amendment) Regulations, 2024 ("**InvITs Amendment Regulations**") and the SEBI (Real Estate Investment Trusts) (Second Amendment) Regulations, 2024 ("**REITs Amendment Regulations**") (*collectively referred to as "**UBEB Amendment Regulations**"*), thereby amending the SEBI (Infrastructure Investment Trusts) Regulations, 2014 ("**InvITs Regulations**") and the SEBI (Real Estate Investment Trusts) Regulations, 2014 ("**REITs Regulations**"), respectively.

Through the UBEB Amendment Regulations, SEBI has introduced a framework for unit-based employee benefit scheme ("**UBEB Scheme**"). A UBEB Scheme means a scheme under which the investment manager grants unit options to its employees through an employee benefit trust. The employees of the investment manager shall include all directors of the investment manager except independent director. The UBEB Scheme shall be in the nature of unit option scheme and shall be implemented through a separate employee benefit trust to be created by an investment manager. An offer of UBEB Scheme shall not result in any additional cost to the Infrastructure Investment Trusts ("**InvITs**") / Real Estate Investment Trusts ("**REITs**"), their holding company or special purpose vehicle. The UBEB Amendment Regulations lay down the manner of receiving units by the employee benefit trust, manner of allotment of the units to the employee benefit trust by InvITs/REITs, limits to the secondary acquisition, role of nomination and renumeration committee, procedure to amend the terms of the UBEB Scheme, etc.

The UBEB Amendment Regulations specify that in case a new issue of unit is made under any UBEB Scheme, units so issued shall be listed immediately on all recognised stock exchange where the existing units are listed subject to certain terms and conditions. A trustee should be appointed for the employee benefit trust, who shall be registered with SEBI and shall be different from the trustees of the InvITs/REITs. There shall be a minimum vesting period of 1 year for the UBEB Scheme.

The UBEB Amendment Regulations also lay down other terms and conditions relating to procedures at the time of change of investment manager, compliance for insider trading norms, minimum provision of the trust deed, undertakings to be given, disclosures to be made, etc.

These provisions of the UBEB Amendment Regulations shall be applicable for all UBEB Schemes introduced on or after the date of the UBEB Amendment Regulations. The provisions regarding disclosure requirements shall also apply to any UBEB Schemes introduced prior and subsisting as on the date of the UBEB Amendment Regulations.

To read the InvITs Amendment Regulations click here & to read the REITs Amendment Regulations click here

SEBI INTRODUCES CRITERIA AND GOVERNANCE OF MIGRATED VENTURE CAPITAL FUNDS

SEBI, *vide* its notification dated July 11, 2024, has notified the SEBI (Alternative Investment Funds) (Third Amendment) Regulations, 2024 ("**Migrated VC Fund Amendment Regulations**") and thereby amended the SEBI (Alternative Investment Funds) Regulations, 2012 ("**AIF Regulations**").

The Migrated VC Fund Amendment Regulations introduced Chapter III-D specifically to govern "migrated venture capital fund" and provide for process and eligibility criteria for registration of the fund, tenure, investment by the fund, etc. Chapter III-D applies only to migrated venture capital fund ("**VC Fund**") and schemes launched by such funds. Provisions, other than the provisions mentioned in Regulation 19W of Chapter III-D of the AIF Regulations, shall not be applicable to the migrated VC Fund.

The key amendments introduced by the Migrated VC Fund Amendment Regulations are as follows:

(a) The term "migrated VC Fund" has been defined under Chapter III-D as a fund that was previously registered as a VC Fund under the SEBI (VC Funds) Regulations, 1996 ("**VC Fund Regulations**") and subsequently registered as a sub-category of VC Fund under Category – I Alternative Investment Fund in accordance with the provisions of the AIF Regulations.

(b) The AIF Regulations deals with registration of Alternative Investment Funds ("**AIFs**") which now provides that VC Funds may seek registration as migrated VC Funds within 12 months from the date of notification of the Migrated VC Fund Amendment Regulations. Further, SEBI may specify enhanced regulatory reporting and other measures for VC Funds who do not opt to seek registration as a migrated VC Fund.

(c) Migrated VC Fund Amendment Regulations, *inter alia*, provides for the following:

(i) An application for registration as a migrated VC Fund shall be made to SEBI and a certificate of registration may be granted if the applicant fulfils the requirements as specified in Chapter III-D. Amongst others, certain eligibility conditions require that the applicant: (I) is registered as a VC Fund; (II) is a fit and proper person; (III) has furnished the required information as specified by SEBI from time to time; (IV) has no pending investor complaint regarding non-receipt of funds or securities for any of its schemes whose assets are not liquidated as per the VC Fund Regulations, etc.

(ii) The migrated VC Fund shall not invite offers from the public for the subscription or purchase of any of its units and the fund may receive investment only through private placement of its units.

(iii) Conditions for investment by the migrated VC Fund includes that the fund: (I) shall not invest more than 25% corpus of the fund in a single venture capital undertaking; (II) may invest in companies incorporated outside India subject to conditions or guidelines issued by Reserve Bank of India, ("**RBI**") or SEBI, (III) shall not invest in associated companies, etc. Other specific investment conditions are also provided and SEBI may

specify additional requirements or criteria for investments by the migrated VC Funds.

(iv) The migrated VC Fund is not allowed to launch any new scheme.

(v) The tenure of the migrated VC Fund shall be calculated in the manner as may be specified by SEBI. Extension of the tenure may be permitted subject to approval of 2/3rd of the unit holders by value of their investment in the fund. Upon expiry of the fund or in case of absence of consent of the unit holders to extend the tenure, the fund shall be wound up in accordance with the AIF Regulations.

(vi) A migrated VC Fund shall be entitled to get its units listed on any recognised stock exchange after 3 years from date of issuance of units by the fund.

(vii) A migrated VC Fund shall maintain its records under the AIF Regulations for a period of 8 years after winding up of the fund.

To read the notification click here

FILING REQUIREMENTS FOR SCHEMES OF AIFs AVAILING DISSOLUTION PERIOD/ADDITIONAL LIQUIDATION PERIOD & CONDITIONS FOR IN-SPECIE DISTRIBUTION OF ASSETS AIFs

SEBI, *vide* its circular dated July 9, 2024, has laid down framework for the filing requirements by scheme of AIFs opting for dissolution period or additional liquidation period as well as conditions for 'In-Specie Distribution of Assets of AIFs'.

(a) Filing requirements for schemes of AIFs entering into dissolution period: SEBI, *vide* its notification dated April 25, 2024, provided flexibility to schemes of AIFs to opt for dissolution period to deal with their unliquidated investments that were not sold due to lack of liquidity. Further, SEBI, *vide* its circular dated April 26, 2024, specified the modalities for schemes of AIFs entering into dissolution period. In terms of AIF Regulations, scheme of AIFs entering into dissolution shall file an Information Memorandum ("**IM**") with SEBI through a merchant banker. Through this circular dated July 9, 2024, SEBI has specified the manner in which the IM shall be filed. In this circular SEBI specified that the IM for the scheme of AIF entering into dissolution period shall be submitted to SEBI before expiry of the liquidation period or additional liquidation period, as applicable. SEBI also provided the format of IM that needs to be submitted by the scheme as well as the format of the due diligence certificate by the merchant banker to be submitted along with the IM.

(b) Additional liquidation period: Further, if the liquidation period for a scheme of an AIF has expired or will expire within 3 months from the notification of the SEBI (AIFs) (Second Amendment) Regulations, 2024 (*i.e., on or before July 24, 2024*), such scheme may be granted an additional liquidation period subject to conditions specified by SEBI. In this regard, schemes of AIFs shall submit information to SEBI as per the format given at Annexure III of the circular for grant of the additional liquidation period.

(c) *In specie* distribution of investments: For carrying out '*in specie* distributions' (*other than the mandatory 'in specie distributions' delineated under the AIF Regulations along with the SEBI circular dated April 26, 2024 and the SEBI Master Circular dated May 7, 2024*), approval is required from at least 75% of the investors based on their investment value in the scheme.

To read the circular click here

RBI UPDATES

PREVENTION OF MONEY-LAUNDERING (MAINTENANCE OF RECORDS) RULES, 2005 – AMENDED

Ministry of Finance, *vide* its notification dated July 19, 2024, has notified the Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2024 ("**Maintenance of Records Amendment Rules**"), thereby amending the Prevention of Money-laundering (Maintenance of Records) Rules, 2005 ("**Principal Maintenance of Records Rules**") and substituting Rule 9(1C) of the Principal Maintenance of Records Rules.

By way of the Maintenance of Records Amendment Rules, the reporting entities are now required to verify client identities by seeking Know Your Client Identifiers ("**KYC Identifiers**") either from the client itself or retrieve the KYC Identifier from the Central KYC Records Registry ("**KYC Registry**"). Pursuant to this, reporting entities are now required to proceed with obtaining Know Your Client ("**KYC**") records online by using such KYC Identifiers without asking clients to resubmit their KYC records, information, any other additional identification documents, or details unless: (a) there is a change in information of the client as existing in the records of KYC Registry; (b) the KYC record or information retrieved is incomplete or is not as per the current applicable KYC norms; (c) the validity period of such documents has expired; or (d) the reporting entity considers it necessary in order to verify the identity or address (*including current address*) of the client as per the guidelines issued by the regulator under Rule 9(14) of the Principal Maintenance of Records Rules, or to perform enhanced due diligence or to build an appropriate risk profile of the client. Further, the reporting entities must update their clients' KYC records within 7 days or within such period as may be notified by the Central Government.

Furthermore, Rule 9(1H) has been inserted in the Principal Maintenance of Records Rules which provides that if an update in the KYC record of an existing client is informed by the KYC Registry to a reporting entity under Rule 9(1D) of the Principal Maintenance of Records Rules, the reporting entity shall retrieve the updated KYC records from the KYC Registry and update the KYC record maintained by it as per the guidelines issued by the regulator under Rules 9(14) and 9A(2)(g) of the Principal Maintenance of Records Rules.

To read the notification click here

RBI EASES LRS NORMS FOR REMITTANCES TO IFSCs

RBI, *vide* its circular dated July 10, 2024, has eased remittances under the Liberalised Remittance Scheme ("**LRS**") for Indian resident individuals *via* International Financial Services Centres ("**IFSCs**"). Prior to the RBI circular, LRS norms allowed remittances by resident individuals to IFSCs only for (a) making investments in IFSCs in securities except those issued by entities/companies resident in India (*outside IFSC*); and (b) payment of fees for education to foreign universities or foreign institutions in IFSCs for pursuing courses mentioned in the gazette notification no. SO 2374(E) dated May 23, 2022, issued by the Central Government. For these permissible purposes, resident individuals were allowed to open Foreign Currency Account ("**FCA**") in IFSCs.

The circular has revised the LRS to provide that authorised persons may facilitate remittances for all permissible purposes under LRS to IFSCs for: (a) availing financial services or financial products as per the IFSC Authority Act, 2019 within IFSCs; and (b) all current or capital account transactions, in any other foreign jurisdiction (other than IFSCs) through an FCA held in IFSCs. For these permissible purposes also, resident individuals can open FCA in IFSCs.

To read the circular click here

RBI (CYBER RESILIENCE AND DIGITAL PAYMENT SECURITY CONTROLS FOR NON-BANK PSOs) MASTER DIRECTIONS, 2024 - NOTIFIED

RBI, *vide* its master direction dated July 30, 2024 ("**PSOs Master Directions**"), has set out a framework for non-bank Payment System Operators ("**PSOs**"), covering robust governance mechanisms for identification, assessment, monitoring and management of information systems and cyber security risks.

Applicability

The PSOs Master Directions is applicable to all authorised non-bank PSOs. PSOs enables payment to be effected between a payer and a beneficiary, involving clearing, payment or settlement services. Further, PSOs shall ensure adherence to the PSOs Master Directions by such unregulated entities who are part of PSOs' digital payments ecosystem (*like payment gateways, third party service providers, vendors, etc.*), subject to mutual agreement.

Salient features

This PSOs Master Directions require PSOs to formulate an information security policy approved by its Board of Directors to manage potential information security risks covering all applications and products concerning payment systems as well as management of risks that have materialised. The policy shall be reviewed annually. The PSOs Master Directions requires PSOs to: prepare Cyber Crisis Management Plan (CCMP), risk assessment and monitoring policy, maintain a record of key roles, information assets, processes and third-party service providers, make policies regarding access privileges and administration of access rights, including assignment of digital identity, etc., use measures to protect network and systems, obtain the source code of all critical applications procured from third-party vendors, obtain certified assurance from an independent auditor on the vendor's cyber resilience capabilities, carry out rigorous security testing of the application on at least an annual basis, formulate a business continuity plan which shall be reviewed at least once a year and include a comprehensive cyber incident response, resumption and recovery plan, to manage cyber security events or incidents, put in place a cloud operation policy highlighting activities that can be located in cloud servers.

Timelines

The PSOs Master Directions will take effect from: (a) April 1, 2025 for large non-bank PSOs such as Clearing Corporation of India Limited and National Payments Corporation of India; (b) April 1, 2026 for medium non-bank PSOs such as Cross-border (in-bound) Money Transfer Operators under Money Transfer Service Scheme and Medium Prepaid Payment Instruments ("**PPIs**") Issuers; and (c) April 1, 2028 for small non-bank PSOs such as Small PPI Issuers and Instant Money Transfer Operators.

It must also be noted that in the event a PPI Issuer moves to a higher category, the timeline of the category to which it moves into, would apply.

To read the PSOs Master Directions click here

MASTER DIRECTIONS ON TREATMENT OF WILFUL DEFAULTERS AND LARGE DEFAULTERS – NOTIFIED

RBI, *vide* its notification dated July 30, 2024, has notified the Master Direction on Treatment of Wilful Defaulters and Large Defaulters ("**Master Direction on Defaulters**") to serve as a comprehensive guideline for classification of borrowers as wilful defaulters, and to play a crucial role in maintaining the integrity of the financial system by outlining the measures and consequences for those borrowers who deliberately default on their financial obligations. The Master Direction on Defaulters shall come into force after 90 days from July 30, 2024.

The Master Direction on Defaulters categorise: (a) 'wilful defaulter' as a borrower having an outstanding amount of INR 25 lakhs and above and (b) 'large defaulter' as a borrower having an outstanding amount of INR 1 crore and above. The Master Direction on Defaulters provides: (a) for the specific mechanism and procedure for identification and classification of wilful defaulters; (b) for specific measures that can be taken against wilful defaulters which includes: (i) initiation of criminal proceedings; (ii) publishing the photographs of the wilful defaulters; and (iii) undertaking penal and other measures against wilful defaulters; (c) that lender's internal auditors have to ensure that they adhere to instructions for classifying a borrower as a wilful defaulter; (d) that lender's audit committee shall periodically review the cases of wilful default and recommend steps to be taken to prevent such occurrences; (e) for coextensive liability of the guarantor with that of the principal debtor as per Section 128 of the Indian Contract Act, 1872 by way of which the lender will be able to proceed against the guarantor even without exhausting the remedies against the principal debtor where there is a default in making payment/repayment by the principal debtor; (f) for provisions relating to reporting and dissemination of credit information of large defaulters and wilful defaulters; (g) that before transferring a defaulted loan with an outstanding amount of INR 25 lakhs and above, irrespective of its classification as a non-performing asset, to other transferees, the lender must internally conduct a comprehensive investigation from a wilful default perspective, and must ensure a thorough examination of wilful default aspects for each defaulted loan; and (h) for certain preventive measures, including the regulated entities to closely monitor the end-use of funds and obtain certificates from borrowers certifying that the funds have been utilised for the purpose for which they were obtained.

The account in List of Wilful Defaulter ("**LWD**") shall be removed in the following circumstances: (a) where the lender has entered into a compromise settlement with the borrower and the borrower has fully paid the compromise amount. However, this is without prejudice to continuation of criminal proceedings; and (b) where the account has undergone liquidation or where the resolution (*either under the Insolvency and Bankruptcy Code, 2016 ("**IBC**") or under the Prudential Framework for Resolution of Stressed Assets*) results in a change in the management and control of the entity/business enterprise. In this case, the name of such a borrower or guarantor, who were classified as wilful defaulter, shall be removed from the LWD after implementation of the resolution plan under IBC or aforesaid prudential framework.

To read the Master Direction on Defaulters click here

LABOUR UPDATES

AMENDMENTS TO THE TAMIL NADU SHOPS AND ESTABLISHMENTS ACT, 1947 – NOTIFIED

The Government of Telangana, Labour Welfare and Skill Development Department ("**TN Labour Department**"), *vide* its notification dated July 2, 2024, has appointed July 2, 2024 as the date on which the Tamil Nadu Shops and Establishments (Amendment) Act, 2018 ("**2018 TN S&E Amendment Act**") as well as the Tamil Nadu Shops and Establishments (Amendment) Act, 2023 ("**2023 TN S&E Amendment Act**") shall come into force.

Key amendments brought in by the 2018 TN S&E Amendment Act are as under:

(a) Registration for every establishment in Tamil Nadu employing 10 or more workers has been made mandatory.
(b) Intimation (*within a period of 6 months*) for every establishment employing 10 or more workers, on the date of commencement of: (i) the 2018 TN S&E Amendment Act; or (ii) his business, is now mandatory.
(c) Daily and weekly hours of work, including overtime work, in shops and establishment has been increased to 10.5 hours (*earlier 10 hours*) and 57 hours (*earlier 54 hours*), respectively.
(d) Every employer of an establishment is now required to furnish an annual return in such form and manner to such authority as may be prescribed.
(e) A new Section 50-A has been inserted which provides that no woman employee shall be discriminated in matters of recruitment, training, transfers, promotions or wages.

Further, the 2023 TN S&E Amendment Act has inserted 4 new sections in the Tamil Nadu Shops and Establishments Act, 1947 which provide for facilities like drinking water, latrine and urinals, rest room and lunch room, and first aid.

To read the notification click here, to read the 2018 TN S&E Amendment Act click here & to read the 2023 TN S&E Amendment Act click here

INCLUSION OF INSURANCE CERTIFICATES MADE MANDATORY FOR ESTABLISHMENTS IN MAHARASHTRA

The Industries, Energy, Labour and Mining Department, Government of Maharashtra, *vide* its notification no. MS&EA-08/2021/C.R.153/Labour-10, published in Central Section (Division), Extra Ordinary (Gazette Type) in Part 1-L (Section) on July 22, 2024, has mandated the inclusion of insurance certificates in the form for application for: (a) registration; (b) renewal of registration certificate; and (c) intimation, by the establishments. The insurance certificates shall have to be uploaded along with the aforesaid applications. Further, it is also mandated that the annual return filed by the employer must contain the insurance policy number and date of validity of insurance policy of establishment.

This amendment would ensure that all establishments in Maharashtra have adequate insurance to provide for safety to the employees and the business.

To read the notification visit here

AMENDMENTS TO THE TAMIL NADU SHOPS AND ESTABLISHMENTS RULES, 1948 – NOTIFIED

TN Labour Department, *vide* its notification dated July 2, 2024, has notified the amendments to the Tamil Nadu Shops and Establishments Rules, 1948 ("**TN S&E Rules**").

Following are the new rules and form introduced in TN S&E Rules:

Rule	Form	Purpose
Rule 2A	Form-Y	Application for registration of an establishment.
Rule 2B	Form-Z	Form of registration certificate to be issued by the inspector.
	Form-ZA	Register of establishments.
Rule 2C	Form ZB	Form for intimation of existing establishments.
Rule 2D	Form-Z	Application for amendment of a registration certificate.

Also, a new Rule 6A has been added to provide for first-aid related facilities. Further, Rule 18 of TN S&E Rules has been amended to enhance the penalty for violation of TN S&E Rules. The penalty may now be extended to INR 2,000 (*earlier the penalty was up to INR 50*).

To read the notification click here

OTHER UPDATES

KYC RULES FOR DIRECTORS TWEAKED

Ministry of Corporate Affairs, *vide* its notification dated July 16, 2024, effective from August 1, 2024, has made amendment under Rule 12A (*Directors KYC*) under the Companies (Appointment and Qualification of Directors) Rules, 2014 ("**DIR Rules**").

As per the extant Rule 12A of the DIR Rules, every individual who holds a Director Identification Number ("**DIN**") as on 31st March of a financial year has to submit e-form DIR-3 KYC to the Central Government on or before September 30 of immediate next financial year. In case the person holding DIN desires to update his personal mobile number or e-mail address, he shall update the same by submitting e-form DIR-3 KYC only.

Now pursuant to the amendment in the DIR Rules, (a) in case the person holding DIN desires to update his personal mobile number or e-mail address, he shall update the same by submitting e-form DIR-3 KYC on or before September 30th of the financial year or (b) if a director intends to update his personal mobile number or email address again at any time during the financial year in addition to the updation allowed under point (a) above, he can do the same by submitting e-form DIR-3 KYC on payment of a fee of INR 500.

To read the notification click here

PROVISIONING OF SATELLITE CAPACITY ON NON – INDIAN SATELLITES

Ministry of Information and Broadcasting ("**MIB**"), *vide* its advisory dated July 10, 2024, has issued an advisory on provisioning of satellite capacity on non-Indian satellites. As per the advisory, the existing arrangements/ mechanisms/ processes for provisioning of capacity in any of the frequency bands (C, Ku or Ka) from the non-Indian satellite operators can be extended till March 31, 2025. Effective from April 1, 2025 only Indian National Space Promotion and Authorisation Centre ("**IN-SPACe**") authorized non-Indian Geosynchronous Orbit (GSO) satellites and/or Non-Geostationary Orbit (NGSO) satellite constellation are permitted for provisioning their capacity to provide space based communication/broadcast services in India.

Any new capacity, additional capacity, change of satellite, etc., on non-Indian satellite/constellation needs IN-SPACe authorization, through an Indian entity, in order to enable provisioning of its capacity to users for communication/broadcast services in Indian territory. Applications for IN-SPACe authorization must be submitted through the IN-SPACe digital platform (www.inspace.gov.in) by an Indian entity. This entity could be an Indian subsidiary, joint venture/collaboration, or an authorized dealer/representative of the non-Indian satellite operator in India.

To read the advisory click here

SELF-DECLARATION CERTIFICATE LIMITED FOR ADS OF FOOD AND HEALTH SECTORS

MIB, *vide* its advisory dated July 3, 2024, has limited the mandatory self-declaration certificates for advertisements to food and health sectors only. This is pursuant to the directive issued by the Hon'ble Supreme Court, in Writ Petition Civil No. 645/2022 – IMA & Anr. Vs. UOI & Ors. which directs that all advertisers/ advertising agencies must submit a 'self-declaration certificate' before publishing or broadcasting any advertisement. As per the Hon'ble Supreme Court's directive, no advertisement will be permitted to run on television, print media, or the internet without a valid self-declaration certificate.

Accordingly, advertisers/ advertising agencies issuing advertisements for products and services related to food and health sectors are advised to upload an annual self-declaration certificate on either Broadcast Seva Portal for TV/radio advertisements or on the portal of the Press Council of India for advertisements on print media/internet, as applicable, and make available proof of uploading the self-declaration to the concerned media stakeholders, such as TV channels, newspapers, entities involved in publishing of advertisements on the internet, etc., for the record.

The advisory clarifies that it shall be the responsibility of the advertisers/ advertising agencies to ensure that every advertisement being issued by them is in adherence to the applicable Indian laws, rules and regulations in letter and spirit.

To read the advisory click here

THE MAHARASHTRA STAMP ACT – AMENDED

The Department of Law and Justice, Government of Maharashtra, *vide* its notification published in Central Section (Division), Extra Ordinary (Gazette Type) in Part 8 (English) (Section) on July 31, 2024, has notified the Maharashtra Tax Laws (Amendment) Act, 2024 to amend certain tax laws in operation in the State of Maharashtra whereby, amendments have been made to the Maharashtra Stamp Act, 1958.

Pursuant to the amendment:

(a) Penalty for impounded registered instruments not duly stamped has been introduced which will be equal to 1% of the deficient portion of the stamp duty, and in other cases, an amount equal to 2% of the deficient portion of the stamp duty, for every month or part thereof from the date of execution of the instrument subject to the payment of a minimum penalty of INR 100. [*Section 39*]

(b) The time period to file an application for relief under Section 47 has been extended from 6 months to 1 year from the relevant date. [*Section 48*]

(c) Further, in case of misused or inadvertently used stamps, the time period for making an application has been extended from 6 months to 1 year from the date of the instrument or

after execution thereof by the person by whom it was first or alone executed (if not dated) or being re-stamped with proper duty (if chargeable with duty). [*Section 50*]

To read the notification visit here

CERTAIN PROVISIONS OF INTELLECTUAL PROPERTY LEGISLATIONS DECRIMINALISED

Ministry of Law and Justice, *vide* its notification dated August 11, 2023, had published the Jan Vishwas (Amendment of Provisions) Act, 2023 ("**Jan Vishwas Act**") which aims to amend certain legislations for decriminalising and rationalising offences.

Pursuant to the above, Ministry of Commerce and Industry, *vide* its notification dated July 26, 2024 ("**Other IP Notification**"), has notified the provisions of serial number 18, 30, 31, and the entries therein in the Schedule of the Jan Vishwas Act, relating to the Patents Act, 1970 ("**Patents Act**"), the Trade Marks Act, 1999 ("**Trade Marks Act**") and the Geographical Indications of Goods (Registration and Protection) Act, 1999 ("**GI Act**"), respectively and *vide* its notification dated July, 29, 2024 ("**Copyright Notification**"), has notified the provisions of serial number 13, and the entries therein in the Schedule of the Jan Vishwas Act, relating to the Copyright Act, 1957 ("**Copyright Act**"), having an effective date of August 1, 2024.

Amendments pertaining to punishments:

Act	Relevant Section	Previous Punishment	Amended Punishment
Patents Act	Section 120 (*Unauthorised claim of patent rights*)	Fine: INR 1 lakh	Fine: (a) INR 10 lakhs; and (b) in case continuing claim: INR 1,000 for every day after the first during which such claim continues.
	Section 121 (*Wrongful use of words 'patent office'*)	(a) Imprisonment up to 6 months; or (b) fine; or (c) both.	Omitted
	Section 122 (1) (*Refusal or failure to supply information*)	Fine: INR 10 lakhs	Fine: (a) up to INR 1 lakh; and (b) for continuing refusal or failure: INR 1,000 for every day after the first during which such refusal or failure continues.

	Section 122 (2) (*Refusal or failure to supply information*)	(a) Imprisonment up to 6 months; or (b) fine; or (c) with both.	Fine: (a) sum equal to 0.5 % of the total sale or turnover, as the case may be, of business or of the gross receipts in profession as computed in the audited accounts of such person; or (b) INR 5 crores, whichever is less.
	Section 123 (*Practice by non-registered patent agents*)	Fine: (a) up to INR 1 lakh for first offence; and (b) INR 5 lakhs for a second or subsequent offence.	Fine: (a) up to INR 5 lakhs; and (b) for continuing default: a further penalty of INR 1,000 for every day after the first during which such default continues.
Trade Marks Act	Section 106 (*Penalty for removing piece goods, etc., contrary to section 81*)	Fine: up to INR 1,000	Omitted
	Section 107 (*Penalty for falsely representing a trade mark as registered*)	(a) Imprisonment up to 3 years; or (b) fine; or (c) both.	Fine: (a) sum equal to 0.5 % of the total sales or turnover, as the case may be, in business or of the gross receipts in profession, as computed in the audited accounts of such person; or (b) INR 5 lakhs, whichever is less.
	Section 108 (*Penalty for improperly describing a place of business as connected with the Trade Marks Office*)	(a) Imprisonment up to 2 years; or (b) fine; or (c) both.	Omitted
	Section 109 (*Penalty for falsification of entries in the register*)	(a) Imprisonment up to 2 years; or (b) fine; or (c) both.	Omitted
	Section 140 (*Power to require information of imported goods bearing false trade marks*)	Fine: INR 500	Fine: INR 10,000

GI Act	Section 42 (2)	(a) Imprisonment up to 3 years; or (b) fine; or (c) both.	Fine: (a) equal to 0.5 % of the total sales or turnover, as the case may be, in business or of the gross receipts in profession as computed in the audited accounts of such person; or (b) INR 5 lakhs, whichever is less.
	Section 43 (*Penalty for improperly describing a place of business as connected with the Geographical Indications Registry*)	(a) Imprisonment up to 2 years; or (b) fine; or (c) both.	Omitted
	Section 44 (*Penalty for falsification of entries in the register*)	(a) Imprisonment up to 2 years; or (b) fine; or (c) both.	Omitted
Copyright Act	Section 68 (*Penalty for making false statements for the purpose of deceiving or influencing any authority or officer*)	(a) Imprisonment up to 1 years; or (b) fine; or (c) both.	Omitted

Other amendments: A mechanism for adjudication of penalties and preferring an appeal has been inserted under the Patents Act, the Trade Marks Act and the GI Act, and the Central Government has been given the power to make rules on: (a) the manner of holding inquiry and imposing penalty and (b) form and manner of preferring the appeal.

To read the Other IP Notification click here & to read the Copyright Notification click here

SCHEME FOR FUNDING OF TESTING FACILITIES, INFRASTRUCTURE, AND INSTITUTIONAL SUPPORT UNDER NATIONAL GREEN HYDROGEN MISSION – ISSUED

Ministry of New and Renewable Energy ("**MNRE**"), *vide* its notification dated July 4, 2024, has issued the scheme guidelines for funding of testing facilities, infrastructure, and institutional support for development of standards and regulatory framework under the national green hydrogen mission.

The objective of the scheme is: (a) identification of the gaps in the existing testing facilities for components, technologies and processes being used in the value chain of green hydrogen and its derivatives; (b) creation of new testing facilities/infrastructure to test, validate and certify technologies, and processes in the value chain of green hydrogen and its derivatives; (c) upgradation

of the existing testing facilities available with different testing agencies; (d) ensuring safe and secure operations of equipment/instruments used in the green hydrogen value chain; and (e) encouraging participation from private as well as government entities for establishment of world class testing facilities in India.

The National Institute of Solar Energy would be the Scheme Implementation Agency and the scheme would be implemented with a total budgetary outlay of INR 200 crores till the financial year 2025-26.

The notification further provides the methodology for the implementation of the scheme as well as the quantum, break-up and frequency of release of funds. If the executing agency (*selected applicant*) fails to utilize the grant for the purpose for which it has been sanctioned, it shall refund the entire amount of the grant, with interest to MNRE, as per the applicable rules. Where the executing agency or the project(s) face unreasonable delays or fail to comply with the objectives/provisions of the scheme or the national green hydrogen mission, MNRE may retract sanction or cancel or short-close projects in consultation with the steering committee.

To read the notification click here

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