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CAPITAL MARKETS

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» Investment Instruments

Routing foreign direct investment (FDI) into India can be done through typically three instruments preferred by most investors:

1. Convertible Debentures
2. Redeemable and convertible preference shares
3. Equity shares with certain preferred rights

The key is to identify the instrument most suited to the objectives of the investor.

- **Regulatory approvals**:

  Under the Foreign Direct Investment (FDI) guidelines, fully convertible debentures are treated as equity investments and can be made under the automatic route without the need for any regulatory approvals. Non-Convertible Debentures are treated as external commercial borrowings (ECBs) and need to be issued under the ECB guidelines, which also provides for automatic approval subject to compliance with the prescribed conditions, such as end-use restrictions, maximum interest rate, tenure, etc.

  FDI through equity or preference shares on the other hand are under the automatic route and have no stipulations as to end use restrictions.

  It may be noted that when we speak of FDI under the " automatic route" we have assumed that the FDI would fall within the sector specific FDI limits that have been stipulated by the government. Most sectors allow 100% FDI save certain key industries such as telecom, insurance, real estate which have sector specific caps and others such as chit funds etc. which are completely barred.

- **Liquidity Preference**:

  Key concerns of any investment would typically entail a return on the investment. For FDI particularly the issues that may be of concern are (a) which instrument entails the most "secure" form of investment, and (b) repatriation of proceeds.

  - *Security:*

    A debenture holder is a creditor to the company. To that extent in the event that the company goes into liquidation, or defaults on the debentures, as a creditor to the Company has stronger rights and is protected under the Companies Act. If the company fails to redeem the debentures, the debenture holder can sue the company as a creditor, including filing a petition for winding up of the Company.

    This is not the case for equity and preference shareholders. Though of course preference shareholders would get preference over equity shareholders for return of capital on winding up

  - *Yield/Returns on instruments:*

    Structuring the yield or returns on any of the convertible instruments would depend on the objectives and the exit strategy of the investor. Typically for investors funding unlisted companies conversion of the instruments to equity and listing the company (Initial Public Offering/IPO) would typically be a preferred exit option. Conversion into equity could also provide liquidity in companies which are already listed.

    The concern arises if the company fails to or does not list. The alternatives in this case are as follows:

    - Convertible Debentures:

    If redemption is sought both on principal as well as interest/yield, a debenture holder may face regulatory hurdles/obstacles. The present ECB guidelines provide for an all-cost ceiling (which includes interest) on ECBs depending on the maturity period which extends up to LIBOR + 350 basis points.

    Therefore for convertible debentures structuring returns on the instrument plays an important role. As with all instruments the exit strategy of the investor would determine the structuring options.

    - Preference Shares:

    Preference shareholders can be paid a fixed rate of dividend equal to the SBI (Indian) PLR + 3%, subject to availability of profits. Unpaid dividends can also be accumulated. The terms of the preference shares can stipulate that a premium (in addition to accumulated dividends) will be paid on redemption. The present exchange control regulations only permits for redemption at par under the automatic approval route. Therefore like debentures, redemption could be subject to regulatory approvals.

    The conditions for redemption of preference shares under the Companies Act would

also be applicable, viz. that the redemption (including the premium payable) can be only out of profits, reserves or proceeds of a fresh issue of preference shares.

- Equity:

Exit options for equity shareholders (or indeed for holders of convertible instruments) could be structured to ensure a minimum return on a strategic sale of the shares of the company to a third party, buy back of the shares by the Company (subject to restrictions under the Companies Act), or sale to the promoters or their nominees (subject to pricing guidelines stipulated by RBI)

- **Control**:

A debenture holder has no voting rights at shareholder level.

A preference shareholder cannot vote at shareholders meeting except on matters directly affecting rights of preference shareholders. However a preference shareholder is entitled to voting rights on par with equity shareholders, if dividends remain unpaid for two consecutive years.

Equity shareholders can vote at shareholders meeting and are ensured certain minority protection rights under the Companies Act, but for an equity shareholder to effectively block a shareholder resolution, such shareholder must hold at least 26% of the shares of the company.

Also not all decisions relating to the company require a shareholders resolution. Many decisions may be determined at the Board level; some may be delegated by the Board to a special committee.

There are of course contractual rights which can be built in to shareholder agreements to protect the interests of the investor and ensuring their enforceability. Such contractual rights would vary depending on whether the company is listed or unlisted, and if unlisted whether it is a closely held promoter driven company or not and of course on the leverage that the investor has to negotiate such protective rights.

The dynamics of the Indian market are rapidly changing and the exchange control laws have been keeping pace with the global trends to relax regulatory hurdles to FDI. Investment into India does not involve any one particular rule or enactment but a myriad of, regulations, circulars, guidelines and enactment of various authorities such as Reserve Bank of India, the Securities and Exchange Board, the FIPB and of tax issues and double taxation avoidance agreements as between India and other partner countries. Our extensive experience in structuring varied investment routes enables us to be able to consistently address the overall commercial interests and needs of our clients.

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» Special Rights To Private Equity Investors & SEBI

In typical private equity investments the investors whilst executing agreements with the promoters of the target company insist on certain standard clauses to protect their investments. Such clauses include

board seat, financial matrix, veto on certain items like changing the main line of business, divesting, capital raising, amending the charter documents, etc. In most instances theses clause are also incorporated in the Articles of Association of the target company, because of a Supreme Court judgment suggesting that rights/obligations between shareholders are not enforceable against the company unless incorporated in the Articles of Association.

Securities and Exchange Board of India (" SEBI") has hinted that private equity investors could be classified as persons acting in concert (" PAC") with promoters pursuant to any special powers such as a veto granted to them in the target company as it could mean a shift in management control.

The above interpretation has serious implications in the context of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (" SEBI Takeover Code") and has resulted as a hindrance to several private equity investments in listed stocks over past several months. The important issues that affect the investors if they were to be classified as PAC include:

- SEBI Takeover Code requires an investor to make an open offer if its shareholding is 15% or more of the total equity capital of the target company. The above interpretation could result in requiring the private equity investors with less than 15% stake to also make an open offer because of the veto rights enjoyed by them.
- Currently the promoter shareholding in a listed company (directly or indirectly including PAC) could be up to 55% through creeping acquisition and thereafter can reach up to 75% through an open offer. If the investments by private equity investors are clubbed with the promoter' s shareholding then the combined stake cannot exceed the 55% threshold.

We understand several sections of the industry including FICCI are making representations before SEBI indicating that entities/investors that are completely independent from promoters should not be considered as PAC as this could severely reduce investment flows from private equity investors in Indian listed companies. We also understand that there are representations requesting SEBI to look at the substance of the transaction rather than the form and it is argued that most of the provisions requested by the private equity investors in fact help to improve corporate governance of the listed companies.

There are two schools of thought process on the subject. Some Investors have taken a strict interpretation and are avoiding any references to veto and similar rights in the transaction documents. The second set of investors take a more aggressive view and (in order to avoid being classified as PAC/promoters) have resorted to provide the special rights in the transaction agreements but keep them in abeyance/suspended unless permitted by SEBI. A clear guideline and roadmap on the issue from SEBI will be welcomed.

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» FDI In Single Brand Retail

In the wake of a buoyant economy and after battling rigid opposition by the Left, the Government has introduced reformative changes in the foreign investment policy to further liberalise and rationalize the existing regulations.

The current regime for foreign direct investment (FDI) in the retail trade sector has opened up to 51% FDI in retailing of ' single brand' products after seeking prior Government approval.

The enabling notification which comes into force with immediate effect has been issued vide Press Note 3 (2006 Series) by the Department of Industrial Policy and Promotion (DIPP), Government of India.

Hence, foreign retailers who had previously adopted the franchise route can now invest directly by entering into joint ventures of multinational brands.

Under the *Guidelines for FDI in Retail Trade of ' Single Brand' Products'* (the " Guidelines"), FDI upto 51% in retail trade of ' single brand' products would cover only those that are sold under the same brand internationally and are branded during manufacturing. The Guidelines provide that the applications will have to specifically indicate the product/product categories that are proposed to be sold under the single brand, with additional products or product categories requiring fresh approval. Further, FDI would be permitted via the prior approval route, that is, an application seeking permission would have to be made to the Secretariat of Industrial Assistance under the DIPP, before being considered by the Foreign Investment Promotion Board (FIPB).

Concept of ' single brand' retail:

The Guidelines though seen as having a positive impact on retailing tie ups, warrant clarity on the concept of ' single brand' . The major concern across various sectors, be it grocery, garments, lifestyle stores or luxury goods, however, is the definition of single brand retailing. For example, a company like GAP sells it' s products as GAP, Old Navy and Banana Republic. Based on the Guidelines, there would be no limitation on the category of products, but it appears that FDI would be applicable in retailing of products only under the GAP brand. On the flip side, would an international brand like Walmart, engaged in retailing of multi brand products under the same roof, qualify as a single brand? Such a question, as to what encompasses ' single brand' remains to be ironed out and would perhaps be subsequently clarified by by way of any amendments or representations made by the RBI in time to come.

Impact on future retailing:

The Guidelines are specifically aimed at attracting investments in production and marketing, enabling ready access to international goods, encouraging increased sourcing of goods from India and further to augment Indian competitiveness by way of access to a global platform in retail trade. Apart from having a multiplier effect on generating employment and presence of premium multinational brands, the new Guidelines do not seem to offer any significant strategic infusion of foreign investment in retail. Besides, issues such as high import tariffs and adequate retail space still pose a challenge. Although, the Guidelines encourage MNCs in setting up manufacturing facilities in India, it would prevent third party sourcing, i.e outsourcing of manufacturing to other countries.

In conclusion, the Guidelines perhaps indicate gradual and calculated measures towards the growth of organised retailing in India and will propel international brands to seize and capitalise on the promising Indian retail opportunity.

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» Limited Liability Partnerships

The Ministry of Company Affairs following the recommendations of the Naresh Chandra Committee and Dr. J.J. Irani Committee has proposed the Limited Liability Partnerships (" LLP") as a new business structure which would bridge the gap between business firms such as sole proprietorship and

partnerships which are generally unregulated and limited liability companies which are governed by the Companies Act, 1956.

The Ministry on Company Affairs has introduced the concept paper on LLPs to stimulate public debate and invite suggestions from the general public. Some of the key concepts with respect to the LLPs have been summarized below:

Incorporation:

An LLP would be considered a body corporate with perpetual succession and a legal personality of its own. An LLP requires a minimum of two partners subscribing to an " incorporation document" . Most of the provisions with respect to incorporation of a company under the Companies Act have been replicated with respect to the LLPs. Further the rights and duties of the partners of an LLP towards each other and towards the LLP are governed by an agreement between the partners. However the issues required to be incorporated in this agreement need to be clearly addressed.

Liability of Partners:

Unlike in a partnership firm, each partner of an LLP is an agent of the LLP but not of the other partners and is only responsible for his own wrongful act or omission. He would further not be liable for the obligations of the LLP unless he commits any fraudulent or unlawful act. However, an LLP is liable for the acts of any partner where he has an authority to act. This liability would not exist when the partner acting on behalf of the LLP has no authority to act and the person dealing with the LLP is aware of this or does not know or does not believe that the partner was in fact a partner of the LLP.

Taxation:

The primary disadvantage with respect to an LLP is that although it is treated as a body corporate and the partners have the benefit of limited liability, the partners would still be taxed for the purposes of income tax and capital gains tax as if they were partners carrying on a business in partnership. The property of the LLP would be treated for tax purposes as the property of the partners. However the tax issues may need to be dealt with in further detail for better understanding.

Assignment and Transfer of Partnership Rights:

A partner's economic rights, which include the right to share profits and losses of the partnership and to receive distributions in accordance with LLP agreement, are freely transferable but the non-economic rights can only be transferred if permitted in the LLP agreement.

It has been felt that LLPs will contribute to the global competitiveness of India and increase the professionalism in small and medium enterprises. A marked improvement has been witnessed in the Indian economy in the past with the advent of limited liability companies. The introduction of LLPs may be a step further in that direction.

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» Legal Snapshots

Government Allows Foreign Investment In Tier I And Tier II Instruments Issued By Banks

In India:

The Government has vide A.P. (DIR Series) Circular No.24, permitted foreign institutional investors (FIIs) registered with SEBI and non-resident Indians (NRIs) to subscribe to Perpetual Debt instruments eligible for inclusion as Tier I capital and debt capital instruments as upper Tier II capital.

The foreign investments in these instruments will be subject to the following conditions:

1. The investment by all FIIs in Perpetual Debt instruments (Tier I) should not exceed an aggregate ceiling of 49% of each issue and investment by individual FII should not exceed the limit of 10% of each issue.
2. The investment by all NRIs in Perpetual Debt instruments (Tier I) should not exceed an aggregate ceiling of 24% of each issue and investment by single NRI should not exceed the limit of 5% of each issue.
3. The investment by all FIIs in Debt Capital instruments (Tier II) should be within the limits stipulated by SEBI for FII investment in corporate debt.
4. The investment by NRIs in Debt Capital instruments (Tier II) should be in accordance with the extant policy for investment by NRIs in other debt instruments.

Foreign Direct Investment (FDI) In Up-Linking Of TV Channels:

Until now, foreign investment was permitted up to 49% for setting up hardware, Up-linking hub/teleport, etc. subject to compliance with the Broadcasting Code and detailed guidelines issued by Ministry of Information and Broadcasting (MIB). Now, as per the consolidated Guidelines for Uplinking from India, notified by the MIB on 2/12/2005, the Department of Industrial Policy and Promotion has issued Press Note 1 of 2006, which hereby notifies that:

- FDI up to 49% would be permitted with prior approval of the Government for setting up Up-linking HUB/Teleports,
- FDI up to 100% would be allowed with prior approval of the Government for Up-linking Non-news and Current Affairs TV Channel, and
- FDI (including investment by FIIs) up to 26% would be permitted with prior approval of the Government for up-linking a News & Current Affairs TV channel subject to the condition that portfolio investment in the form of FII/NRI deposits shall not be " persons acting in concert" with FDI investors, as defined under SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997. The Company permitted to uplink the channel shall certify the continued compliance of this requirement through the Company Secretary at the end of each financial year.

Provident Funds Can Invest Part Of Corpus In Equities, ELSS:

The Central Board of Direct Taxes (CBDT) has amended the Income Tax Rules to allow recognized provident funds, approved superannuating funds and approved gratuity funds to invest a part of their corpus in equity shares of companies and equity-linked schemes of mutual funds.

India, Mauritius Sign Preferential Trade Pact:

India and Mauritius have signed a Preferential Trade Agreement (PTA) on 24 October 2005 to increase Mauritius' exports to India and provide India with the opportunity to tap into African markets.

FII Sub-accounts May Come Under 10% Cap:

The Central Government has proposed that all sub-accounts of FIIs would be included within the limit of 10 per cent exposure, which a single foreign portfolio investor can take up in a company. At present there is a separate cap for each sub-account under the aggregate cap for FII investment of 24 per cent in the total issued capital of a company. These are recommendations made by an internal study of the Government. FIIs may however, get more freedom to invest in debt, including a flexibility to switch between equity and debt instruments. To facilitate this, the current cap on FII investments in Government debt could be relaxed, as per the internal recommendation.

International Insurance Companies Need IRDA Approval For Entry:

Foreign insurance companies prospecting for business opportunities in India would now need the approval of Insurance Regulatory and Development Authority (IRDA) before setting up a liaison office. Until now the Reserve Bank of India granted this permission. The entrant will have to provide IRDA with details such as its shareholding, organizational chart showing its subsidiaries and associated companies, countries in which it operates along with its subsidiaries. It will also need to provide information of its regulator, its paid up capital and its financials for the last three years.

Government Notifies Special Economics Zones Rules, 2006:

The Special Economic Zones (SEZ) Act, 2005 (SEZ Act) was enacted on 23 June 2005 to provide for the establishment, development and management of SEZs for the promotion of exports and for matters connected and incidental thereto.

The Government has also notified the Special Economic Zones Rules, 2006 (SEZ Rules) on 10 February 2006 providing for a single window clearance for SEZ units / developers in terms of the SEZ Act.

Government Allows 49% FDI in Asset Reconstruction Companies:

The government has vide A.P. (DIR Series) Circular No.16, permitted 49% FDI in the equity capital of asset reconstruction companies [ARCs], registered with the RBI. However, FIIs (foreign institutional investors) will be restricted from making such investments. Accordingly, FDI will be open via the prior approval route, i.e after seeking permission from the Foreign Investment Promotion Board (FIPB) subject to the condition that:

1. maximum foreign equity shall not exceed 49% of the paid up equity capital of the ARC.
2. where investment by any individual entity exceeds 10% of the paid up equity capital, the ARC should comply with Section 3(3) (f) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) which lays down the condition that the sponsor should not be a holding company of the ARC or hold any controlling interest in the ARC.

It has also been notified that FIIs can invest upto 49 per cent of each tranche of scheme of Security Receipts (SR) subject to the condition that investment of a single FII in each tranche of scheme of SRs shall not exceed 10 per cent of the issue.

The policy on FDI in ARCs would be subject to review after two years and that of FII investment in SRs would be reviewed after one year.

Companies with Dual Listing Plans Needn't Follow ADR, FCCB Pricing Rules:

The Central Government has vide Notification No. GSR 671(E) dated 17-11-2005 has introduced the Issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Amendment Scheme, 2005. In terms of this amendment, companies planning simultaneous domestic and foreign listings have been exempted from the recent American Depository Receipts (ADR) and Foreign Currency Convertible Bonds (FCCB) guidelines, which had brought all such issues in compulsory alignment with SEBI norms for domestic public offers.

Companies going in for such simultaneous or immediate follow on offering (within 30 days) in the ADR/GDR market will have to take SEBI's approval for such issue, which will specify the percentage to be offered in the domestic and ADR/GDR markets.

Government notifies 20% FDI in FM Radio:

Until now, foreign investment was permitted in terrestrial broadcasting upto 20% under the portfolio investment schemes under the Foreign Exchange Management (Transfer or Isue of Security by a Person Resident Outside India) Rules, 2000 and FDI was not permitted by foreign entities.

The Department of Industrial Policy and Promotion has issued Press Note 6 of 2005 which notifies 20% FDI in FM radio broadcasting services. The notification comes in the wake of Phase II of the program for expansion of FM radio broadcasting services for private agencies. The 20% equity includes FDI, NRI and PIO investments and would be subject to conditions issued by the MIB for grant of permission for setting up FM radio stations.

Overseas Citizenship Of India (OCI) Scheme operational from 2.12.2005:

Based on the recommendation of the High Level committee on Indian Diaspora, the Government of India launched the Overseas Citizenship of India (OCI) Scheme, commonly known as 'dual citizenship'.

This facility is available to all Persons of Indian Origin (PIO) of certain category, who migrated from India and acquired citizenship of a foreign country (excluding those who went to Pakistan or Bangladesh) and where their home countries allow dual citizenship under local laws.

Holding dual citizenship will however, not make an individual eligible to take part in elections or hold a constitutional post. The benefits include:-

- a lifetime multiple entry visa,
- permission to buy non-agricultural land,
- exemption from regularly reporting to the police while staying in India.
- economic and educational rights as those of non-resident Indians.

Director Identification Number (DIN):

As part of an e-governance system, the Ministry of Company Affairs will issue mandatory identification numbers to all directors on the boards of companies after a thorough verification of their credentials and antecedents. This is a result of the JJ Irani Committee recommendations, which suggests detailed

disclosures about the identity of promoters and directors, at the time of incorporating a company.

This Director Identification Number [DIN] seeks to keep a constant check on number of directorships and incidents of vanishing companies. Besides, the DIN will prove useful in identifying and notifying companies.

SEBI makes it mandatory for investors to quote PAN for trading:

SEBI has made it mandatory for investors with trade value of less than INR 5 Lakh to quote their PAN or UIN obtained under MAPIN and for investors with trade orders above INR 5 Lakh to obtain a UIN in order to facilitate the collection of taxes. The CBDT has directed NSE and BSE to permit investors' derivatives trading and tax breaks only on quoting the PAN. Prior to this announcement quoting of PAN was necessary only for investments of more than INR 50,000 in IPOs and MFs, opening FD or post savings account, purchasing or selling a house above INR 5 Lakh or a car, cash payments exceeding INR 25,000, availing of credit card facilities, etc.

SEBI Directive on transaction charge on inter-DP transfers by investors:

SEBI has removed the transaction charges on transfer of shares by investors from one DP account to another in order to facilitate the investors in moving securities from one DP to another if such investor is dissatisfied with the service of the DP. The directive is effective from 9 January 2006. NSDL has moved the SAT in response to this directive of SEBI.

Group of Ministers to be constituted to resolve spectrum disputes:

The constitution of a Group of Ministers to resolve disputes relating to the allocation of spectrum between GSM and CDMA operators was approved by the PM. The planning commission and the DoT will collectively frame the terms of reference to this group, which will include resolution of issues regarding vacation of spectrum, upgrading technology and equipment to existing users and funding therefor and spectrum allocation between service providers.

Private sector allowed entry in Railway Container Service:

The railways have done away with their monopoly and permitted the private sector to enter into and run the container train services for import, export and domestic traffic.

Forward Markets Commission directs regional exchanges to float subsidiaries for dealing with National Commodity bourses:

In order to avoid a conflict of interest in regional exchanges with own trading mechanism taking position on national exchanges, the FMC has disallowed the regional exchanges from directly obtaining membership of the national commodity bourses and has directed them to float a WOS for the purpose of acquiring membership rights of the national commodity bourses as is required of any other broker. It was further clarified that the name of the WOS should not contain words like 'Commodity Exchange'. The present members of such regional exchanges will have to get themselves registered as sub-brokers of such WOS once it is constituted. Such WOS will not be permitted to indulge in proprietary trading. The CEO of such WOS is required to be vetted by FMC. Such WOS shall be responsible for collecting margins from the sub-brokers for depositing margins in the national commodities exchange.

New SEBI norms for reintroducing stock of restructured company in F&O segment:

SEBI has established new eligibility norms for reintroduction of stocks of restructured companies in the F&O segment. As per the new norms the company must have a minimum market capitalization of INR 1,000 crore prior to the restructuring. The new companies will be treated as new stock and must be at least 1/3 of the pre-structuring size in terms of revenues, assets or analyst valuations. Further, the companies are required to have free float eligible for derivatives trading. The exchanges will introduce near month, middle month and far month derivative contracts on the stock of the restructured companies whose stock is reintroduced in the F&O segment in the contract month wherein such companies begin to trade. The SEBI revised position limits for stock based derivatives for trading members, FIIs and MFs for stocks having market-wise position limit (MWPL) of INR 500 crore or more is the lower of 20% of the MWPL or INR 300 crore (combined F&O position limit) and the lower of 10% of MWPL or INR 150 crore (fututrs position limit). And for stocks having MWPL less than INR 500 crore the combined F&O position limit is 20% of the MWPL.

Amendment to the revised Clause 49 of the Listing Agreement:

Vide the Amendment the maximum time gap between two Board meetings has been increased from three months to four months. The sitting fees paid to non-executive directors as authorized by the Companies Act, 1956 would not require the previous approval of shareholders. Further, certification of internal controls and internal control systems by CEO/ CFO would be for the purpose of financial reporting.

Amendments to the SEBI (Disclosure and Investor Protection) {DIP} Guidelines, 2000:

The amendment provides for various modes of making refunds to the applicants viz ECS (Electronic Clearing Service)/ Direct Credit / RTGS (Real Time Gross Settlement)/ NEFT (National Electronic Funds Transfer). The applicants residing in 15 centres where clearing houses are managed by the Reserve Bank of India (RBI), will get refunds through ECS only except where applicant is otherwise disclosed as eligible to get refunds through direct credit & RTGS. The amendment also provides for details of bank accounts of applicants to be taken directly from the depositories' database for issues required to be made wholly in the dematerialised form. It requires the suitable instructions for refunds through various modes to be incorporated in the application form, abridged prospectus and the prospectus/letter of offer in an appropriate manner.

Amendment to SEBI (Mutual Funds) Regulations, 1996:

The amended Regulations permit introduction of Gold Exchange Traded Fund schemes by a Mutual Fund. Gold Exchange Traded Fund schemes are permitted to invest primarily in Gold and Gold related instruments. Regulation 2(mc) stipulates that gold related instruments are such instruments having gold as underlying, as are specified by SEBI from time to time. It is clarified in accordance with the provisions of Regulation 77 of SEBI (Mutual Funds) Regulations, 1996 that, as of now, Gold ETF schemes can invest primarily in Gold. They can invest in gold related instruments only after such instruments are specified by SEBI.

Amendment to SEBI (Delisting Of Securities) Guidelines, 2003:

The Amendment seeks to ensure adequate and wide public notice of delisting and disclosure of the fair value through newspapers and notice boards/trading systems of the stock exchange upon delisting of a security, as also to determine the fair value of securities by persons appointed by the stock exchange

out of a panel of experts, to be selected by the stock exchange.

Treatment of Income from derivatives trading via stock exchanges:

The government has clarified that derivatives trades routed through recognized stock exchanges will not be treated as speculative transactions under Section 43 (5) of the Income Tax Act, 1961. the CBDT has recognized BSE and NSE for the purposes of this clause vide a notification dated January 25, 2006 and has also stated that such recognition is liable to be cancelled if the stock exchanges act in violation of the income tax rules. Following the clarification the brokers can now treat losses incurred in derivative transactions to reduce net taxable income from other transactions, including cash market transactions.

Government proposes to amend the Factory Act 1948:

The Government proposes to amend the Factories Act, 1948 to increase the working week from 48 hours to 60 hours and daily work-hours from 9 to 12, so that the overtime limit can be extended. This amendment has been proposed in consonance with the National Common Minimum Programme (NCMP). The Government has also proposed to amend the Industrial Disputes Act, 1947 to facilitate the employment of seasonal workforce. Further, the Government is also open to the idea of amending the Contract Labour Act in specified non-core activities to bring it in step with the recent outsourcing activities.

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