Avenues for ICSI’s Torch Bearers…

Practicing Members

NIRC-ICSI
October 11, 2011
FEMA, 1999......low hanging fruits...

- Foreign Investments in India
- External Commercial Borrowing
- Overseas Direct Investment
- Export of Goods & Services
- Consent and Compounding
Foreign Investment in India

- Entity Option...
- Entry/Exit Strategy ... Auto or Approval
- Eligible Investor
- Funding Option .... Equity or Debt
- Pricing- Entry/ Exit
- Reporting
- Operational compliances
- Contravention- Consent & Compounding
External Commercial Borrowing

- Eligible Lenders
- Eligible Borrowers
- End Use
- Prohibition on Use
- Cost of funding
- Repayment/Pre-payment
- Reporting
- Operational compliances
- Contravention - Consent & Compounding
Overseas Investment

- Eligible Investor… Indian Party/Individuals
- Eligible Sector… all except Bank/RE
- Eligible Destination
- Method of Funding… Capital, Loan, Guarantee
- Sources of Fund… EEFC/ECB/ADR/Swap/Exp
- Pricing… NewCo vs ExistCo
- Reporting … Entry/During/Disinvestment
- Contravention- Consent & Compounding
Export of Goods & Services

- Advisory
  - Period of Realisation
  - Extension
  - Writing Off
  - Netting off
  - Reporting
  - Operational compliances
  - Contravention- Consent & Compounding

- Compliance

- Approvals
I read all the sections and clarifications in detail but I can't make out if we are defaulting or compliant!
Consent & Compounding

Advisory

Compliance

Approvals

Contravention of:
- Act
- Rules
- Regulations
- Notifications
- Directions or Orders

Penalties:
- Quantifiable offence – Upto 3 times
- Non quantifiable offence – Upto Rs. 200K
- Continuing penalty – Rs. 5000 per day
General Policy

• FDI in LLP has been now incorporated in the Circular.
• Equity Shares, CCD, CCP issued / trfd. with Put/Call options would treated as ECB.
• Provisions in respect of ‘PLEDGING of shares’ and Escrow accounts under FEMA has now been incorporated in the Circular.
• It has been clarified that the application for seeking FIPB approval for issuing shares against:
  ✓ Conversion of imported capital goods/machinery shall be made within 180 days from the date of shipment of goods.
  ✓ Pre-operative / pre-incorporation expense incurred by foreign investor shall be made within 180 days from the date of incorporation of the Company.
Sector Specific

• **Agriculture & Animal Husbandry Sector**: 100% FDI under AR in Apiculture

• **Entertainment and Media Sector**: FDI in FM increased to 26% under approval route

• **Financial Service Sector**: FDI in other than stated 18 activities require FIPB approval

• **Retail & Consumer**: The FDI in retail trade of ‘Single Brand’ products would be allowed only if the foreign investor is also the brand owner.

• **Real Estate Sector**
  - Investment in construction and development of Education Sector and Old Age Home need not to meet Minimum Area, Capitalization and Lock in norms
  - The term Industrial activities is expanded to cover *basic and applied Research and development in bio-technology, pharmaceutical/ life sciences, natural sciences and engineering.*
Way forward
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