

Corpsec Hotline

October 14, 2005

CROSS-BORDER MERGERS TO BECOME PERMISSIBLE IN INDIA

With the increase in global M&A activity, the Ministry of Company Affairs (**the Ministry**) has now recognized the need to permit cross-border mergers under the domestic company law. Mergers and amalgamations in India are currently governed by Sections 390 to 394 of the Indian Companies Act, 1956 (**the Act**) that proscribes mergers by Indian companies into foreign companies. The Government is now set to allow mergers of Indian companies with foreign companies.

Accordingly in the revised concept paper for the new company law (**the Concept Paper**), the Ministry has suggested that mergers of Indian companies with foreign companies be permitted.

The Concept Paper also suggests that in such cross-border mergers, the Indian shareholders be allowed to receive Indian Depository Receipts (**IDR**) in lieu of Indian shares or foreign securities in lieu of Indian shares so that they become members of the foreign company or holders of security with a trading right in India (especially in listed companies).

The Concept Paper also provides for the mandatory valuation of the shares and assets of the merging and the transferee companies by an independent valuer such cross-border mergers mandatory. Pursuant to such valuation, the board of the transferor and transferee companies would ratify the "formal valuation" and the merger negotiations would be based on the value fixed by the valuers. Further, the Concept Paper also provides for set-off of the stamp duty on registration of the merged entity against the duty paid by the two companies when they had independent registrations. It is suggested that the stamp duty be paid as a percentage of the authorized capital of the company.

-Mini Raman & Reuben Chacko

You can direct your queries or comments to the authors

Source: Financial Express dated 14th October 2005

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

Research Papers

Handbook on New Labour Codes

April 29, 2024

Compendium of Research Papers

April 11, 2024

Third-Party Funding for Dispute Resolution in India

April 02, 2024

Research Articles

Private Client Insights - Sustainable Success: How Family Constitutions can Shape Corporate Governance, Business Succession and Familial Legacy

January 25, 2024

Private Equity and M&A in India: What to Expect in 2024?

January 23, 2024

Emerging Legal Issues with use of Generative AI

October 27, 2023

Audio

Third-Party Funding: India & the World

April 27, 2024

IBC allows automatic release of ED attachments: Bombay HC reaffirms

April 15, 2024

The Midnight Clause

February 29, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

Q&A 2024 Protocol to the Mauritius India Tax Treaty

April 22, 2024

Boost to India's Space Potential: India Liberalizes Foreign Direct

