CORPORATE UPDATES

MARCH 2012

For Private Circulation only

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company secretaries

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Corporate Affairs

Clarification regarding filing of conflicting returns by contesting parties

In the light of some specific cases wherein it was observed by the Ministry of Corporate Affairs (MCA) that with respect to appointment or change of directors either there was lack of consent of the removed/changed director or due process of Law were not followed. To avoid such eventualities the MCA vide **General Circular No. 1/2012 dated 10th February 2012** directed the companies having management dispute, to mandatorily file the attachment relating to cause of cessation along with Form 32 with the Registrar of Companies (ROC) concerned irrespective of the ground of cessation.

Impact / Highlights:

- Director aggrieved with his 'cessation' in the company may file complaint in the Investor Complaint form;
- On receipt of compliant ROC concerned will examine it and mark the company as having 'management dispute';
- Till such dispute is settled, the conflicting returns / documents filed will not be approved/registered/recorded.

Role-check for the Digital Signatures (DSCs) belonging to authorized signatories of Banks/FIs

The Ministry of Corporate Affairs, pursuant to a **Circular dated 17th February 2012** proposed to introduce role-check in the MCA21 system to establish the veracity of Digital Signature Certificates (DSC) of authorized signatories of Banks and Financial Institutions, which is important for filing of forms in respect of charge related services. This move is to ensure that the DSC applied is actually the Digital Signature of the authorized person. Presently, the system of role check is in vogue for Company Directors and Professionals (Company Secretary/Chartered Accountant/Cost Accountant).

Taxation

Clarification with respect to Service tax on "Construction Services"

Clarification has been given by the department in regard to levy and collection of service tax under various business models and practices which are prevailing in construction services. The clarification provided vide **Circular No. 151/2/2012-ST dated February 10, 2012** is being synchronized as follows:

Model	Parties Involved	Clarifications
Tripartite Business Model	(i) Land-owner; (ii) Builder/developer; (iii) Contractor	**Nature of transaction:** **Here two important transactions are identifiable:** a. sale of land by the landowner b. construction service provided by the builder/developer-

		The builder/developer receives consideration for the construction service provided by him, from two categories of service receivers: ▪ *from landowner: in the form of land/development rights; and* ▪ *from other buyers: normally in cash.* **Issue involved:** The liability to pay service tax on flats/houses agreed to be given by builder/developer to the land owner towards the land /development rights and to other buyers **Department clarification:** ***Case 1- Sale of land by the landowner:*** It does not amount to taxable service ***Case 2- Service provided by Builder/Developer:*** a. For the period prior to 01/07/2010 **Not Taxable** b. Period after 01/07/2010 ***Taxable,*** in case any part of the payment/development rights of the land was received by the builder/ developer before the issuance of completion certificate.
Slum rehabilitation projects	(i) Society/members of the society as land owner; (ii) Builder or developer	**Nature of transaction:** Generally in this model, land is owned by a society, comprising members of the society with each member entitled to his share by way of an apartment. When it becomes necessary after the lapse of a certain period, society or its flat owners may engage a builder/developer for undertaking re-construction. **Issue involved:** 1. Whether re-construction undertaken by a building society by directly engaging a builder/developer will be chargeable to service tax? 2. Whether construction of some additional flats for sale to others would be liable to service tax?

		Department clarification: **Issue#1:** Not taxable, as it is meant for the personal use of the society/its members **Issue#2:** a. For the period prior to 01/07/2010 Construction of additional flats undertaken as part of the reconstruction, for sale to other buyers will not be taxable b. For the period after to 01/07/2010 Taxable in case any payment is made to the builder/ developer before the issuance of completion certificate.
Investment model	(i) Builder/ developer; (ii) Investor	**Nature of transaction:** In this model, before the commencement of the project, the same is on offer to investors. After a certain specified period an investor has the option either to exit from the project on receipt of the amount invested along with interest or he can re-sell the said allotment to another buyer or retain the flat for his own use. **Issue involved:** Whether consideration paid by the investor is chargeable to service tax? **Department clarification:** • The said amount would be subject to service tax and shall be treated as consideration paid in advance for the construction service to be provided by the builder/developer to the investor; • However, CENVAT under rule 6(3) of the Service Tax Rules, 1994 would be available to builder/developer to the extent he has refunded the original amount to the investor at the time when investor exits from the project; • If the builder/developer resells the flat before the issuance of completion certificate, again tax liability would arise.
Conversion model	--	**Nature of transaction:** Conversion of any hitherto untaxed construction / complex or part thereof into a building or civil structure to be used for commerce or industry, after lapse of a period of time.

		Issue involved: Whether such conversion attracts service tax? **Department clarification:** A mere change in use of the building does not involve any taxable service, unless conversion falls within the meaning of commercial or industrial construction service.
Build-Operate-Transfer (BOT)	(i) Government; (ii) Concessionaire; (iii) Users	**Nature of transaction:** Risk taking and sharing ability of the parties concerned is the essence of a BOT project. Government or its agency by an agreement transfers the 'right to use' and/or 'right to develop' for a period specified, usually thirty years or near about, to the concessionaire. **Issue involved:** Service tax liability in case of arrangement between- 1. Government and the Concessionaire 2. Concessionaire and independent contractor hire by it 3. Concessionaire and User **Department clarification:** **Issue#1** Government is liable to pay service tax because it is providing 'renting of immovable property service' to the concessionaire. The concessionaire is not service provider since such construction has been undertaken by him on his own account and he remains the owner of the building during the concession period. **Issue#2** Service tax is payable on the construction service provided by the contractor to the concessionaire. **Issue#3** At this third level, concessionaire is the service provider and user is the service receiver. Service tax is leviable on the taxable services provided by the concessionaire to the users.
Joint Development Agreement Model	(i) Builder/developer; (ii) Land-owner	**Nature of transaction:** Under this model, land owner and builder/developer join hands and may either create a new entity or otherwise operate as an

		unincorporated association, on partnership / joint / collaboration basis, with mutuality of interest and to share common risk/profit together. The new entity undertakes construction on behalf of landowner and builder/developer. **Issue involved:** Liability of service tax in the case of above mentioned arrangement **Department clarification:** • As the new entity acquires the character of a "person", the transactions between it and the other independent entities namely land owner and builder/developer will be a taxable service. • Whereas, in cases the character of a "person" is not acquired in the business transaction and the transaction is as on principal-to-principal basis, the tax is leviable on either of the constituent members based on the nature of the transaction and as per rules of classification of service as embodied under Sec 65A of Finance Act, 1994.

Imposition of anti-dumping duty on import of Coumarin

The Central Board of Excise and Customs (CBEC), through its **Notification no. 12/2012 – Customs (ADD), dated February 08, 2012**, had on the basis of final findings of the Designated Authority, imposed definitive anti-dumping duty on the imports of Coumarin (the subject goods) originating in, or exported from, the People's Republic of China (the subject country) which are imported into India. The anti-dumping duty imposed shall be levied for a period of five years (unless revoked, superseded or amended earlier) from the date of imposition of the provisional anti-dumping duty, that is, 23rd March, 2010 and shall be payable in Indian currency.

Clarification regarding adoption of uniform Customs Procedure for calculating the contents of Iron Ore

Several references have been received in the CBEC highlighting divergent practices for calculation of iron contents from Iron Ore being followed at different Ports for charging Export duty.

Hon'ble Supreme Court in the matter of Civil Appeal No. 7539 of 1995 in case of Union of India Vs Gangadhar Narsingdas Aggarwal [1997(89) ELT 19(SC)] held that export duty is chargeable according to Fe contents, and to maintain uniformity all over the custom houses, it is clarified by the CBEC vide **Circular no. 04/2012–F. No. 450/93/2011-Cus.IV, dated February 17, 2012** that for the purpose of charging of export duty the assessment of Iron ore for determination of Fe contents shall be made on Wet Metric Ton (WMT) basis which in other words mean deducting the weight of impurities (inclusive of moisture) out of the total weight/Gross Weight to arrive at Net Fe contents.

Imposition of entertainment tax on "Amusement" and "recreation" facilities

The Government of Andhra Pradesh through its G.O. No. 110 brought into its ambit the "**amusement**" and "**recreation**" facilities by inserting the following new clauses under the Andhra Pradesh Entertainments Tax Rules, 1939:

As per Rule 3, Clause (aa)

"**Amusement**" means any form of amusement for which persons are required to make payment for admission to amusement arcade or amusement park or any such place by whatever name called".

As per Rule 3, Clause (mm)

"**Recreation**" means any form of recreation including the recreation provided by theme parks, resorts, amusement parks, sports and games associations, cultural associations or any other association or any person or organization, by whatever name called including magic shows, circuses, go-karting, video and computer games and musical concerts for which the persons are required to make payment for admission, but excluding such recreations which are organized to promote and propagate traditional and ancient arts like classical music, classical dances, folk arts.

The rules with regard to registration, payments, security deposits, periodical returns etc, have been included into the rules vide this amendment to the Andhra Pradesh Entertainments Tax Rules, 1939.

RBI/FEMA

External Commercial Borrowings – Simplification of procedure

As per the existing ECB norms, the requests for reduction in the amount of ECB, changes in the drawdown schedule and reduction in the all-in-cost of the ECB after obtaining the loan registration number (LRN) is required to be referred by the bank concerned to the Reserve Bank of India (RBI) for necessary approval. As a measure to simplifying the procedure and resolve things swiftly, the RBI has, vide A.P. (DIR Series) **Circular No. 75 dated 7th February, 2012**, delegated its powers to approve the above changes to ADs. As a result, Borrowers can now approach the AD Bank for various approvals as per the following table:

Changes	Route	Conditions
Reduction in amount of ECB	Automatic Route	1. Lender's consent has been obtained 2. Average maturity period is maintained 3. Monthly ECB-2 returns have been submitted 4. No other changes in terms of loan
Changes/modifications in the drawdown schedule when original average maturity period is not maintained	Automatic and Approval route	1. No changes in the repayment schedule of the ECB; 2. The average maturity period of the ECB is reduced as against the original average maturity period stated in the Form 83 at the time of obtaining the LRN; 3. Such reduced average maturity period complies with the stipulated minimum average maturity period as per the extant ECB guidelines; 4. The change in all-in-cost is only due to the change in the average maturity period and the ECB complies with the extant guidelines; and 5. Monthly ECB-2 returns have been submitted.
Reduction in all-in-cost	Automatic and Approval route	1. The consent of the lender has been obtained 2. Monthly ECB-2 returns have been submitted.

RBI raises Bank Rate as a Technical Adjustment

After a gap of nearly nine years, the Reserve Bank **vide circular dated February 13, 2012** has increased the bank rate by 3.50 percentage points to 9.5 per cent with immediate effect. According to RBI, it should technically be higher than the repo rate, which is the policy rate. The repo rate currently stands at 8.5 per cent, while the reverse repo rate is 7.5 per cent.

Impact / Highlights:

- This Increase is a one-time technical adjustment to align the bank rate with the marginal standing facility (MSF) rate rather than a change in the monetary policy stance.
- The bank rate, which is the standard rate at which the RBI buys or re-discount bills of exchange or other commercial paper, is presently used as a penal rate which the banks have to pay for their failure to meet the mandatory cash reserve ratio (CRR) and statutory liquidity ratio (SLR). The bank rate is also used by several other organizations as a reference rate for indexation purposes.
- RBI consulted various stakeholders to decide in favour of relying on the bank rate as a reference rate before arriving at the decision to revise it.

RBI relaxes advance payment norms for exporters

With a view to liberalizing the procedure with respect to receipt of advance payment for export of goods involving shipment (manufacture and ship) beyond one year, it has since been decided by the Reserve Bank of India vide **Circular No.81 dated February 21, 2012** to permit AD Category- I banks to allow exporters to receive advance payment for export of goods which would take more than one year to manufacture and ship and where the 'export agreement' provides for the same.

Impact / Highlights:

- This move may reduce transaction time;
- AD Category-I bank is to ensure that export advance received by the exporter should be utilized to execute export and not for any other purpose i.e., the transaction is a bona-fide transaction;
- Besides proper diligence by the concerned bank, the relaxation is pursuant to certain conditions like compliance with Know Your Customer (KYC) norms and Anti Money Laundering standards and other guidelines.

Release of Foreign Exchange for Imports – Further Liberalization

Presently, applications by persons, firms and companies for making payments, exceeding USD 500 or its equivalent towards imports into India are required to be made in Form A-1. As a measure of liberalization, it has been decided by the RBI through **Circular No. 82 dated February 21, 2012** to raise the above limit for foreign exchange remittance towards imports without any documentation formalities, from USD 500 or its equivalent to USD 5000 or its equivalent, with immediate effect.

Impact / Highlights:

- ADs need not obtain any document, including Form A-1, except a simple letter from the applicant containing his basic information, amount to be remitted and the purpose of remittance;

- The exchange being purchased shall be for a current account transaction;

NRIs, PIOs not required to report property deals in India

When a person resident outside India, who has established in India in accordance with the Foreign Exchange Management (Establishment in India of Branch or Office or other Place of Business) Regulations, 2000, a branch, office or other place of business, excluding a liaison office, acquires any immovable property in India, the said person has to report the details of transactions to the Reserve Bank in the form IPI, not later than 90 days from the date of such acquisition.

However, there was confusion over whether Non- Resident Indians (NRIs) and Persons of Indian Origin (PIOs) too have to file the above form. The RBI in its **Circular No. 79 dated February 15, 2012** clarified that the extant regulations do not prescribe any reporting requirements for transactions where a person resident outside India who is a citizen of India or a PIO acquire/s immovable property in India. The form IPI is also suitably amended to reflect this position.

Loans to bank directors' kin must be on commercial terms

The Reserve Bank of India have come across an instance where loans and advances have been sanctioned to the relative of a Director of a bank, at a concessional rate of interest, thereby circumventing the spirit of the restrictions pertaining to advances to bank directors contained under Section 20 of the Banking Regulation Act, 1949. To plug this, it has been decided by the Central Bank vide **Circular dated February 03, 2012** to extend the scope of Section 20 of the Act, and the said restrictions would apply to grant of loans and advances to spouse and minor/dependent children of the Directors of banks as well.

Impact / Highlights:

- Irrespective of above, banks may grant loan or advance to or on behalf of spouses of their Directors in cases where the spouse has his/her own independent source of income arising out of his/her employment or profession;

- Facility so granted is based on standard procedures and norms for assessing the creditworthiness of the borrower and should be extended on commercial terms.

Simplified and Revised Procedure for Reporting of Software Exports

The Reserve Bank of India (RBI), vide A.P. (DIR Series) **Circular No. 80 dated 15th February, 2012**, has revised the procedure for reporting the software exports to Software Technology Parks of India (STPI). This revised procedure is applicable to those software exporters whose annual turnover is excess of Rs. 1,000 Crores or who submits at least 600 Softex Forms annually. This new procedure is applicable w.e.f. April 01, 2012 in Bangalore, Hyderabad, Chennai, Pune and Mumbai and w.e.f. June 2012 in rest of India.

Impact / Highlights:

- A statement in prescribed excel format along with quadruplicate set of Softex Form has to be submitted with STPI within 30 days from the close of month in which the invoice is raised.

- Details of all invoices have to be provided in excel format.
- STPI will verify and certify the form.
- First copy will be forwarded to Regional Office of RBI, second copy to Authorised Dealer, third copy to exporter and last copy will be retained by STPI for its own records.

SEBI

Amendment in SEBI (Buy-Back of Securities) Regulations, 1998

The Securities and Exchange Board of India (SEBI) vide **Notification dated February 7, 2012** has notified the amendments in SEBI (Buy-Back of Securities) Regulations, 1998.

Impact / Highlights:

- In case of Buy-back through tender offer, 15% of the number of securities which the company proposes to buy back or number of securities entitled as per their shareholding, whichever is higher shall be reserved for small shareholders.
- "Small shareholders", for the purpose of buy back of shares by companies, have been defined as one who hold shares whose market value, on the basis of closing price of shares as on record date, is not more than Rs.2 lakh;
- The date of opening of the offer would be not later than five working days from the date of dispatch of letter of offer to shareholders;
- The offer for buy-back would remain open for ten working days;
- The shares proposed to be bought back would be divided into two categories: reserved category for small shareholders; and the general category;
- Public announcement within two working days from the date of resolution adopted by the board of directors.

Offer for Sale by promoters through Stock Exchange Mechanism (OFS)

SEBI by its **circular dated February 01, 2012**, has permitted the BSE and NSE (Stock exchanges) to provide a separate window, i.e. apart from the existing trading system for the normal market segment, to facilitate promoters of listed companies to dilute/offload their holding in listed companies in a transparent manner with wider participation.
The minimum size of OFS should be as follows:

Minimum size of OFS / Dilution	Paid-up share capital
1% of paid-up share capital, subject to a minimum of Rs. 25 crore	More than Rs. 25 crore at closing price on the specified date*

10% of paid-up share capital or such lesser percentage so as to achieve minimum public shareholding in a single tranche.	Less than Rs. 25 crore at closing price on the specified date*

*Specified date means the last trading day of the last completed quarter.

Impact / Highlights:

- Promoter / promoter group entities (Sellers) (that are eligible for trading) of listed companies which are required to comply with minimum public shareholding requirements in terms of Securities Contracts (Regulation) Rules, 1957 can avail the OFS window;
- The Sellers which belong to top 100 companies based on average market capitalization of the last completed quarter can also avail the OFS window to dilute their shareholding;
- The Sellers should not have purchased and/or sold the shares of the target company in 12 weeks prior to the OFS (Eligibility to sell). The Sellers will have to undertake not to purchase and/or sell shares of the target company for a period of 12 weeks after the OFS;
- All investors registered with the brokers of the Stock Exchanges, other than the Sellers, will be eligible to buy the shares to be sold by the Sellers.
- Sellers are obliged to make an announcement of their intention to sell the shares, at least one clear trading day prior to the opening of the OFS.
- All expenses relating to the OFS will have to be borne by the Sellers;
- Sellers are required to appoint broker(s) for the purpose of OFS. Same broker is permitted to carry out the buy transaction on behalf of the buyer(s).
- Duration of the OFS cannot exceed one trading day and the orders will have to be placed by the trading members (selling brokers) during trading hours;
- Exchanges will be required to disclose the indicative price only during the last half an hour of the duration of the Offer for sale & this Indicative Price shall reflect the volume weighted average price of all the bids that have exhausted the quantity offered. (vide amendment dated February 12, 2012)
- A minimum of 25% of the shares offered is required to be reserved for mutual funds and insurance companies subject to allocation methodology. No single bidder other than mutual funds and insurance companies can be allocated more than 25% of the shares being offered through OFS.
- The OFS, once announced, can be withdrawn prior to its proposed opening. There shall however be a gap of 10 trading days from the date of withdrawal before a subsequent OFS can be launched.
- Cancellation of OFS during the bidding period is not permitted.

SEBI makes lot size standard for IPOs from SMEs

In a move to kick start the stock exchange for small and medium enterprises (SMEs), the capital market regulator Securities and Exchange Board of India vide **Circular dated February 21, 2012**

decided to standardize the lot size lot size for initial public offer (IPO) proposing to list on SME exchange as given under:

Price Band (in Rs)	Lot Size (No of shares)	Price Band (in Rs)	Lot Size (No of shares)
Upto 14	10000	more than 150 upto 180	800
more than 14 upto 18	8000	more than 180 upto 250	600
more than 18 upto 25	6000	more than 250 upto 350	400
more than 25 upto 35	4000	more than 350 upto 500	300
more than 35 upto 50	3000	more than 500 upto 600	240
more than 50 upto 70	2000	more than 600 upto 750	200
more than 70 upto 90	1600	More than 750 upto 1000	160
more than 90 upto 120	1200	above 1000	100
more than 120 upto 150	1000		

Impact / Highlights:

- At the IPO stage the Registrar to Issue in consultation with merchant bankers, issuer and the stock exchanges shall ensure to finalize the basis of allotment in minimum lots and in multiples of minimum lot size;
- At the IPO offering stage if the price band decided, falls within two different price bands than the minimum application lot size shall be decided based on the price band in which the higher price falls into;
- The lot size will not be reduced by the exchange to below the initial lot size if the trading price is below the IPO issue price;
- In case of oversubscription, if the option to retain ten percent of the net offer to public for the purpose of making allotment in minimum lots is exercised, then it shall be ensured by the Issuer/Stock Exchanges/ Merchant Bankers that the post issue paid up capital of the issuer does not go beyond Rs. 25 crore.

Mechanism for compliance with minimum Public Shareholding norms, by way of Institutional Placements (IPP)

In line with the decisions taken by SEBI, in their Board Meeting held on 3rd January 2012, SEBI, vide has inserted a new Chapter, Chapter VIIIA in the ICDR Regulations to provide for the mechanism for compliance with minimum Public Shareholding norms, by way of Institutional Placements (IPP). "Institutional Placement Programme" means a further public offer of eligible securities by an eligible seller, in which the offer, allocation and allotment of such securities is made only to qualified institutional buyers in terms of this Chapter. Consequential changes were also effected in Clause 40A of the Listing Agreement.

Impact / Highlights:

- An IPP must be approved by the Company's shareholders u/s 81(1A) of the Companies Act, 1956 by way of a Special Resolution
- No partly paid-up securities shall be offered

- Promoter group, who are offering their securities, should not have purchased and/or sold the shares of the company in the 12 weeks period prior to the offer and they will have to undertake not to purchase and/or sell shares of the company in the 12 weeks period after the offer.
- Minimum 25% of the eligible securities shall be allotted to mutual funds and insurance companies. Any unsubscribed portion thereof shall be available to other QIBs.
- No allocation/allotment shall be made, either directly or indirectly, to any QIB who is a promoter or any person related to promoters of the issuer.
- There shall be at least 10 allottees for each offer of eligible securities made under IPP; and no single allottee shall be allotted more than 25% of the offer size.
- The aggregate of all the tranches of IPPs made by the eligible seller shall not result in increase in public shareholding by more than 10 % or such lesser per cent as is required to reach minimum public shareholding.

Amendment to Clause 43 & 43A

SEBI vide **Circular CIR/CFD/DIL/1/2012 dated February 08, 2012** mandated to disclose utilization of funds raised upon conversion/ exercise of warrants issued along with public or rights issue of specified securities.

Investor Grievance Redressal Mechanism at Stock Exchanges

With a view to increase investor confidence in the securities market SEBI vide **circular CIR/MIRSD/2/2012 dated 15th February, 2012** made it more convenient to the investors to file their grievances and arbitration cases near to their places. Initially,

Impact / Highlights:

- NSE and BSE shall set up Investor grievance redressal mechanism at Ahmedabad and Hyderabad by March 31, 2012 and at Kanpur and Indore by September 30, 2012;
- NSE and BSE shall provide arbitration facility (arbitration as well as appellate arbitration) at all the above mentioned four new centers by September 30, 2012;
- This mechanism may enable in redressal of investor complaints more efficiently.

OTHERS

Competition Commission amends Combination Regulations to simplify process of filings

The Competition Commission of India has amended the provisions of the Competition Act, 2002 relating to regulation of combinations and the Competition Commission of India (Procedure in regard to the transaction of business relating to combination) Regulation, 2011, which have been in force with effect from June 1, 2011 vide **Notification No. 40 dated 23rd February 2012**.

Impact / Highlights:

The Commission has made the following amendments on the basis of its experience of implementing them for almost nine months:

- With intent to bring in more clarity and considering the fact that filing of Form II is much more time consuming and costlier, under Regulation 5(3), two inclusive instances have been introduced in which Form II may preferably be filed. The instances so introduced are as following:

  i. The parties to the combination are engaged in production, supply, distribution, storage, sale or trade of similar or identical or substitutable goods or provision of similar or identical or substitutable services and the combined market share of the parties to the combination after such combination is more than fifteen percent (15%) in the relevant market;

  ii. The parties to the combination are engaged at different stages or levels of the production chain in different markets, in respect of production, supply, distribution, storage, sale or trade in goods or provision of services, and their individual or combined market share is more than twenty five percent (25%) in the relevant market.

- In cases of acquisitions as well as mergers and amalgamations, now Company Secretaries have been authorized to sign Form I or Form II as the case may be.

- The filing fees for Form I & Form II have been increased substantially as under:

  - Form I – Rs. 50,000 to Rs. 10,00,000
  - Form II - Rs.10,00,000 to Rs.40,00,000

- Companies would be further required to file a summary note giving brief note on the proposed combination to the Commission. The summary note shall be filed in 9 copies along with electronic form and would be of atleast 2000 words and not containing any confidential information

- No notice is required to be given to the commission for the Acquisitions of shares or voting right upto 24.99%;

- Mergers and amalgamation of companies of the group have been fully exempted subject to the conditions that the entire shareholding is held within the group.

CGPDTM notifies International Non-Proprietary Names (INNs)

The Controller General of Patents, Designs and Trade Marks (CGPDTM) vide **notification dated February 14, 2012** mandated that no International Non-Proprietary Names (INN) or any word which is similar or deceptively similar to such name, as published in the list of INNs published by the CGPDTM shall be registrable as a trademark under the Section 13 of the Trade Marks Act 1999. INNs are pharmaceutical trademarks that identify pharmaceutical substances or active pharmaceutical ingredients. A non-proprietary name is also known as a generic name.

Impact / Highlights:

- This is a welcome and much awaited move considering the amount of litigations pending in the field of pharmaceutical trademarks.

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The information in this document is as of February 29, 2012.