



# Gateway

Volume 4 Issue 2

March - April 2018

## President's Message



Dear Friends ,

It is a pleasure to reach out to all of you in the new Financial Year ! I wish you all the very best in this financial year, a new beginning all over again and new resolves and new impetus to do better.

We also have a new Consul General at the Japanese Consulate in Chennai. Mr. Kojiro Uchiyama and Madame Karen Janette Uchiyama have come to Chennai. We called on the Consul-General at his office and welcomed him on behalf of all of you. Mr. Uchiyama is a senior diplomat, just arrived from Portland and has already worked in Delhi earlier for three years. IJCCI looks up to him for leadership and for a great partnership with his team. I am confident that his experience and expertise will be of immense value in further strengthening our bilateral relations through a host of planned activities.

Friends , I have in my earlier message mentioned about IJCCI Industrial delegation visit to Japan. I am happy to mention that the dates have been finalised and a detailed agenda has also been drawn up. Meetings with Japanese business community and the dignitaries in the nodal government organisations of Japan and India, would be highly beneficial to the delegation members.

We have many success stories of Small and Medium companies forging great collaborations today because of their participation in the delegation and we therefore request members to consider signing on.

As I conclude, I once again wish all of you a highly successful financial year and also with a request to visit our new refurbished Chamber office.

Regards,

**N. Kumar**

## IJCCI Bonsai Chapter Inauguration



Ms. Hirako Taniguchi, Acting Consul General lighting the lamp



Mr. N. Murali, Chairman IJCCI introducing the Office Bearers



Mr. K. Sivaji, President of the Chapter making a presentation



Participants appreciating the Bonsai exhibits



## Consul-General of Japan in Chennai Mr. Kojiro Uchiyama

Indo-Japan Chamber of Commerce and Industry has great pleasure in introducing the Consul-General of Japan in Chennai Mr. Kojiro Uchiyama.

Mr. Uchiyama was born in Hokkaido in 1956, a graduate from Osaka University of Foreign Studies and a post graduate of Amherst College in USA, called as the 'Knowledge Corridor', and joined the Ministry of Foreign Affairs of the Government of Japan.

Since 1982, he has held several positions around the world. Mr. Kojiro Uchiyama assumed office as Consul-General of Japan in Chennai on 07th April 2018. He has served in the Consulate in Boston and Houston in 1982 and in 1990. Before his arrival in Chennai he served as Consul-General, Portland, USA for two years; prior to that he was the Counsellor at the Embassy of Japan in Dublin, Ireland for five years. He has also held the position of Counsellor at the Japanese Embassy in New Delhi, India for three years. He has served as the First Secretary in the Embassy of Japan in Australia for three years; in Ghana, West Africa for three years and also in Poland for three years. He has also served in the North American Affairs Bureau of MOFA for six years and in Economic Affairs Bureau of MOFA for four years in Tokyo.

Mr. Kojiro Uchiyama has joined us at a time when Japan-India relations is at its peak. IJCCI extends a hearty welcome and wishes him an excellent tenure of office in Chennai.



## IJCCI Bonsai Chapter



Mr. Sundhaar welcomes



Ms. Shabu Ali addressing the members

IJCCI Bonsai Chapter had the first orientation programme on 28th April 2018 at IJCCI premises.

Mr. V. Sundhaar, Secretary welcomed the members and introduced the Office Bearers. Ms. Shabu Ali, Vice-President explained to the members the mission of IJCCI Bonsai Chapter, its uniqueness and the benefit of mastering this sacred art. Mr. K. Sivaji, President of the Chapter taught the basics of bonsai, how to grow and maintain the plant. A presentation and a practical demonstration was made by Mr. Sivaji and the students learnt the art of pruning, wiring etc. The members were given a sapling and asked to maintain it and bring it to the next class. Every month, last Saturday the Chapter members will meet and get trained by the Bonsai experts at IJCCI.



Mr. K. Sivaji demonstrating the technique



Participants

# New era for Cross Border Mergers

## RBI's latest Notification

Section 234 of the Companies Act, 2013 (Companies Act) and Rule 25A of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (Companies Merger Rules) permit mergers and amalgamations between Indian companies and companies incorporated in certain jurisdictions. These provisions mandate prior approval of the Reserve Bank of India (RBI) for any such cross-border mergers.

After extensive public consultations, the RBI vide notification No. FEMA 389/2018-RB issued the Foreign Exchange Management (Cross Border Merger) Regulations, 2018 (FEMA Regulations) on 20 March 2018 to address various issues that may arise in relation to cross border mergers from an exchange control perspective.

As per the Regulations merger transactions in compliance with these regulations shall be deemed to have been approved by RBI, and hence, no separate approval is required. In other cases, merger transactions require the prior approval of the RBI.

## Mergers and Acquisitions a Bird's eye view

According to Investopedia, the terms “merger and acquisitions” are general terms used to indicate consolidation of two or more companies. In a merger the Boards of the companies merge and the 'acquired' company ceases to exist after being merged with the 'acquiring' company. In contrast, in an acquisition, the acquiring company obtains majority of shares / stake holding. There is no change in the name and the 'acquired' very much continues to function under law.

**DID YOU KNOW?**  
Maximum number of cross border M&A deals took place between 1990 and 2005 predominantly in the Asia Pacific Region as countries were just opening up their economies to other countries.

## **When mergers and acquisitions cross borders**

In a nutshell, cross border mergers / acquisitions are:

- When a company in one country is acquired by a company from another country(s)
- Assets and liabilities of companies operating in two countries are combined into an altogether new legal entity.
- The acquiring company is called the “Home” country and the acquired company is called the “host” company.
- The registered office or headquarters can be situated in either of the two countries.
- The main motive is to increase FDI, revenue share in markets, cross selling, economies of scale and establishing a presence in other countries.

## **The FEMA (Cross Border Merger) Regulations, 2018 Key features**

Phrase	Definitions
Indian company	A company incorporated under the Companies Act, 1956 / 2013
Foreign company	Any company or body corporate incorporated outside India whether having a place of business in India or not.
Resultant company	An Indian company or a foreign company which takes over the assets and liabilities of the other companies involved in the cross border merger.

The FEMA Regulations provide that any transaction undertaken in relation to a cross-border merger in accordance with the FEMA Regulations shall be deemed to be approved by the RBI (as required in terms of Rule 25A of the Companies Merger Rules). The FEMA Regulations also require the managing director/whole time director and company secretary of the company involved in such cross-border merger to furnish a certificate undertaking to ensure compliance with the FEMA Regulations along with the application made to the relevant National Company Law Tribunal (NCLT) in relation to such merger.

The terms “Inbound Mergers” and “Outbound mergers” have been expressly defined in the Regulations as: However, The Regulations have expressly omitted defining the term “Demergers”.



### **OUTBOUND MERGERS:**

**A domestic company merges with a foreign company**



### **INBOUND MERGERS:**

**A foreign company merges with a domestic company**

The Regulations provide for different compliances for Inbound and Outbound Mergers, the same is highlighted below:

Specification	Inbound merger	Outbound merger
Foreign Exchange Management (Transfer and issue of Security by a person Resident outside India) Regulations, 2017	When securities are issued or transferred to a person who is a non resident outside India	
Foreign Exchange Management (Transfer or issue of any foreign security) Regulations, 2004	Where the foreign company is a joint venture or a wholly owned subsidiary of the Indian company.  Regulation 6 & 7 to be complied with if the merger with the joint venture or the wholly owned subsidiary results into an acquisition	
Regulations relating to investment in Joint Venture or wholly owned subsidiary		When the securities of a foreign company are acquired by a resident of India
Office(s)	Any office of the foreign company situated outside India shall be deemed a Branch office of the resultant Indian company	Any office in India shall be deemed a Branch office of the resultant foreign company.
Borrowings	Any borrowings of the foreign company made before the inbound merger, will become the borrowings of the resultant Indian company. This will amount to External commercial borrowings (ECB). Therefore ECB rules must be complied with.	Any borrowings of the Indian company made before the outbound merger will become the borrowings of the resultant foreign company. They will have to be repaid in accordance with the scheme sanctioned by the NCLT.
Acquisition of Assets	Assets can be acquired outside India by the resultant Indian company consequent to inbound merger, subject to RBI rules & regulations	Assets can be acquired in India by the resultant foreign company consequent to outbound merger, subject to RBI rules & regulations
Transfer of assets and or sale of securities	Indian company transfer within 2 years from date of sanction of the scheme	Foreign company can transfer within 2 years from date of sanction of the scheme
Opening of Bank account	Resultant Indian company can open a bank account in the foreign country for a maximum period of 2 years from sanction of scheme	Resultant foreign company can open a bank account in India for a maximum period of 2 years from sanction of scheme. It has to be Special Non-resident rupee account
Valuation	Done at arm's length based on international pricing methodology and to be certified by a CA / merchant banker in either jurisdiction	Done at arm's length based on international pricing methodology and to be certified by a CA / merchant banker in either jurisdiction

### Welcome move

The new regime has been widely welcomed as a positive move to boost Foreign Direct Investment in India. The procedure to pursue restructuring exercises has been made clearer. Indian Companies seeking a global platform are most likely to benefit. And most importantly, among the various benefits these Regulations bring to the corporate table; it provides the opportunity to Indian companies that have been declared as insolvent to be bailed out by foreign companies with ease and clarity of procedure.

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Editor : Suguna Ramamoorthy Secretary-General, IJCCI.; Publisher : IJCCI; Designing & Printing : J.G.S. Johnson - 93845 93262  
For Private Circulation only.

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