International Financial Services Centres Authority

Seventh Authority Meeting on 30th June, 2021

Gist of Agenda item: Report of the Expert Committee on examining the feasibility of a Variable Capital Company in the International Financial Services Centres in India.

1. The International Financial Services Centres Authority, by its Office Order dated 22nd September 2020, constituted an Expert Committee to examine the relevance and adaptability of the Variable Capital Company (VCC) in the International Financial Services Centre (IFSC) in India. The Committee submitted its report on 26/05/2021.

2. The major recommendations of the Committee are as follows;

- The Committee recommended that VCCs, being a new corporate form in India, warranted a separate law to be introduced, containing the substantive provisions governing the VCC structure.

- The share capital of the VCC should be variable in nature to allow for easy entry, redemption and buy-back of its shares by investors.

- A VCC can have multiple sub-funds, which are like schemes of a mutual fund. Sub-funds should not be separately incorporated. The shares issued by the VCC will be linked to the assets and liabilities of a sub-fund. The VCC should issue a separate class of shares for each sub-fund. Akin to a mutual fund scheme, each sub-fund will issue a scheme document and the affairs of the sub-fund will be governed by this document.

- The assets and liabilities should be segregated at the sub-fund level. The assets of any one sub-fund should not be used to discharge the liabilities of the VCC or any of its other sub-funds.

- VCCs should be allowed to issue, redeem or buy back the securities issued by them, or undertake capital reduction exercises, without restrictions. VCCs should be allowed to pay dividends out of their capital as well as profits.

- The Right to Information Act, 2005 provides for certain exemption from disclosure of information, which includes information available to a person in his fiduciary relationship unless the competent authority is satisfied that the larger public interest warrants disclosure of such information. Similar to the above appropriate carve out may be provided to IFSCA/ Registrar of VCC who would be in possession of the financial statements of privately traded sub-funds.

- The merger / amalgamation of two or more sub-funds of a VCC may be undertaken with the approval of a majority of the investors of such sub-funds as may be specified in the scheme document and should not be a NCLT-led or a NCLT-supervised process, but a simpler process.

- A VCC may be resolved and liquidated in accordance with the provisions of the IBC, subject to certain exceptions. In case of sub-fund of a VCC, the same may be wound up in accordance with the provisions of its scheme document.

- To encourage foreign funds to migrate to the IFSC, the concept of re-domiciliation should be introduced in the IFSC.

- From a tax perspective, each sub-fund should be deemed to be a separate ‘person’ and should obtain a separate PAN in its own name and all the provisions of Indian tax laws should apply to the sub-funds treating it as a separate person. Each sub-fund should file a separate tax return in India, disclosing its gains/ losses and taxes.

3. The report of the Committee is submitted for information of the Authority.