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असाधारण

EXTRAORDINARY

भाग II — सण्ड 1 PART II — Section 1 प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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पर्द दिल्ली, सुक्रवार, जून 18, 2010 / गरेन्ट 28, 19**32**(पार्क)

No. 26 | NEW DELHI, FRIDAY, JUNE 18, 2010 / JVAISTHA 28, 1932 (Saka)

इस पाग में पिन्न पृष्ठ संख्या दी जाती है बिससे कि वह जलत संकलन के रूप में रहा जा सके। Separate paging is given to this Part in order that it may be filed as a separate complication.

Ministry of LAW and Justice

(Legislative Department)

New Delh!, the 18th June, 2010/ Jyaishto 28, 1932 (5aka)

THE SECURITIES AND INSURANCE LAWS (AMENDMENT AND VALIDATION) ORDINANCE, 2010 No. 3 of 2010

Promulgated by the President in the Sixty-first Year of the Republic of India.

An Ordinance further to amend the Reserve Bank of India Act, 1934, the Insurance Act, 1938, the Securities Contracts (Regulation) Act, 1936 and the Securities and Exchange Board of India Act, 1992;

WHEREAS Parliament is not in session and the President is estisfied that circumstances exist which render it necessary for her to take inunediate action:

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I PRELIMINARY

1. (1) This Ordinance may be called the Securities and Insurance Laws (Amendment and Validation) Ordinance, 2016.

Short take and commendement

(2) It shall come into force at once.

CHAPTER II AMENDMENT TO THE RESERVE BANK OF INDIA ACT, 1934

Insertion of new Chapter IIIE in Act 2 of 1934. 2. After Chapter IIID of the Reserve Bank of India Act, 1934, the following Chapter shall be inserted, namely:—

"CHAPTER THE JOINT MECHANISM

Joint Mechanism 45Y. (1) Notwithstanding anything contained in this Act or the Securities and Exchange Board of India Act, 1992 or any other law for the time being in force, if any difference of opinion arises as to whether—

15 of 1992

PART II-

(i) any instrument, being derivative referred to in clause (a) or money market instrument referred to in clause (b) or repo referred to in clause (c) or reverse repo referred to in clause (d) or securities referred to in clause (e) of section 45U of this Act, or

(ii) any instrument, being policy of life insurance under the insurance Act, 1938, or the rules or regulations made thereunder, or, scrips or any other securities referred to in sub-clauses (i), (ia), (ib), (ic), (id), (ii), (iii), (iii) and (iii) of clause (h) section 2 of the Securities Contract (Regulation) Act, 1956,

4 of 1938

42 of 1956

is hybrid or composite instrument, having a component of money market investment or securities market instrument or a component of insurance or any other instrument referred to in clause (I) or clause (II) and fulls within the jurisdiction of the Reserve Bank of India or the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 or the Insurance Regulatory and Development Authority established under section 3 of the Insurance Regulatory and Development Authority Act, 1999 or the Pension Fund Regulatory and Development Authority constituted by the Resolution of the Government of India number F.No. 1(6)2007-PR, dated the 14th November, 2008 or the Central Government, such difference of opinion shall be referred to a Joint Committee consisting of the following, namely:—

15 of 1992.

41 of 1999.

- (a) the Union Finance Minister ex officio Chairperson;
- (b) the Governor, Reserve Bank of India ex officio Mambar;
- (c) the Finance Secretary in the Ministry of Finance, Government of India ex officio Member;
- (d) the Secretary (Financial Services) in the Ministry of Finance, Government of India ex officio Member;
- (e) the Chairperson, Insurance Regulatory and Development Authority ex officio Member;
- (1) the Chairman, Securities and Exchange Board of India ex offició Member:
- (g) the Chairperson, Pension Fund Regulatory and Development Authority ex officio Member.
- (2) The Secretary (Financial Services) in the Ministry of Finance, Government of India shall be the convener of the meetings of the Joint Committee referred to in sub-section (I).

- (3) In case of any difference of opinion referred to in sub-section (1), any Member of the Joint Committee may make a reference to the Joint Committee.
- (4) The Joint Committee shall follow such procedure as it may consider expedient and give, within a period of three months from the date of reference made under sub-section (3), its decisions thereon to the Central Government.
- (5) The decision of the Joint Committee shall be binding on the Reserve Bank of India, the Securities and Exchange Board of India, the Insurance Regulatory and Development Authority and the Pension Fund Regulatory and Development Authority.".

CHAPTER III AMENDMENT TO THE INSURANCE ACT, 1938

3. In the Insurance Act, 1938, in section 2, after clause (//), the following Explanation shall be inserted and shall be deemed to have been inserted with affect from the 9th day of April, 2010, namely:—

Amendment of section 2 of Act 4 of 1938

"Explanation.— For the removal of doubts, it is hereby declared that "life insurance business" shall include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment and a component of insurance issued by an insurer referred to in clause (9) of this section."

CHAPTER IV

AMENDMENT TO THE SECURITIES CONTRACTS (REGULATION) ACT, 1956

4. In the Securities Contracts (Regulation) Act, 1956, in section 2, in clause (h), after sub-clause (id), the following Explanation shall be inserted and shall be deemed to have been inserted with effect from the 9th day of April, 2010, namely:—

Amondment of section 2 of Acs 42 of 1955

'Explanation.— For the removal of doubts, it is hereby declared that "securities" shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever named called, which provides a combined benefit risk on the life of the persons and investment by such persons and issued by an insurer referred to in clause (9) of section 2 of the Insurance Act, 1938.1.

CHAPTER V

AMENDMENT TO THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

5. In the Securities and Exchange Board of India Act, 1992, in section 12, in sub-section (18), the following Explanation shall be inserted and shall be deemed to have been inserted with offect from the 9th day of April, 2010, namely:—

Amendment of section 12 of Act 15 of 1992.

"Explanation.— For the removal of doubts, it is hereby deciared that, for the purposes of this section, a collective investment scheme or mutual fund shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment besides the component of insurance issued by an insurer."

4 of 1938.

CHAPTER VI MISCELLANEOUS

Validation

6. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, the provisions of section 2 of the Insurance Act, 1938 or section 2 of the Securities Contracts (Regulation) Act, 1956 or section 12 of the Securities and Exchange Board of India Act, 1992, as amended by this Ordinance, shall have and shall be deemed to always have effect for all purposes as if the provisions of the said Acts, as amended by this Ordinance, had been in force at all material times and accordingly any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, issued or purported to have been issued at any time before the 9th day of April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person.

4 of 1938 42 of 1956 15 of 1992

PRATIBHA DEVISINGH PATIL

President.

V.K. BHASIN, Sery, to the Govt. of India.