

“LEANING-OUT” OF GROUP

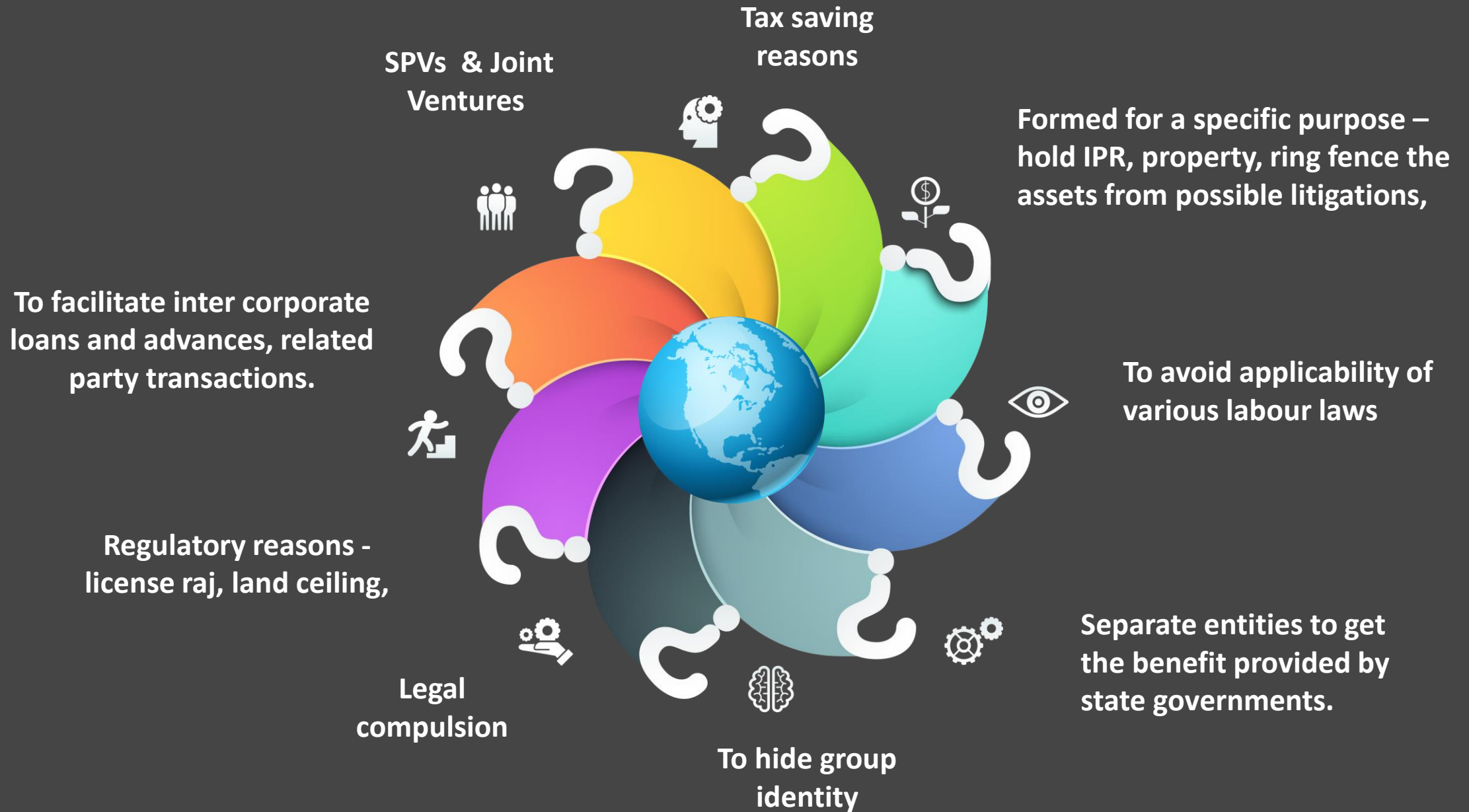
**CONSOLIDATION AND
SIMPLIFICATION OF GROUP
STRUCTURE:**

**A PERTINENT
CONSIDERATION IN POST
COVID 19 ERA**





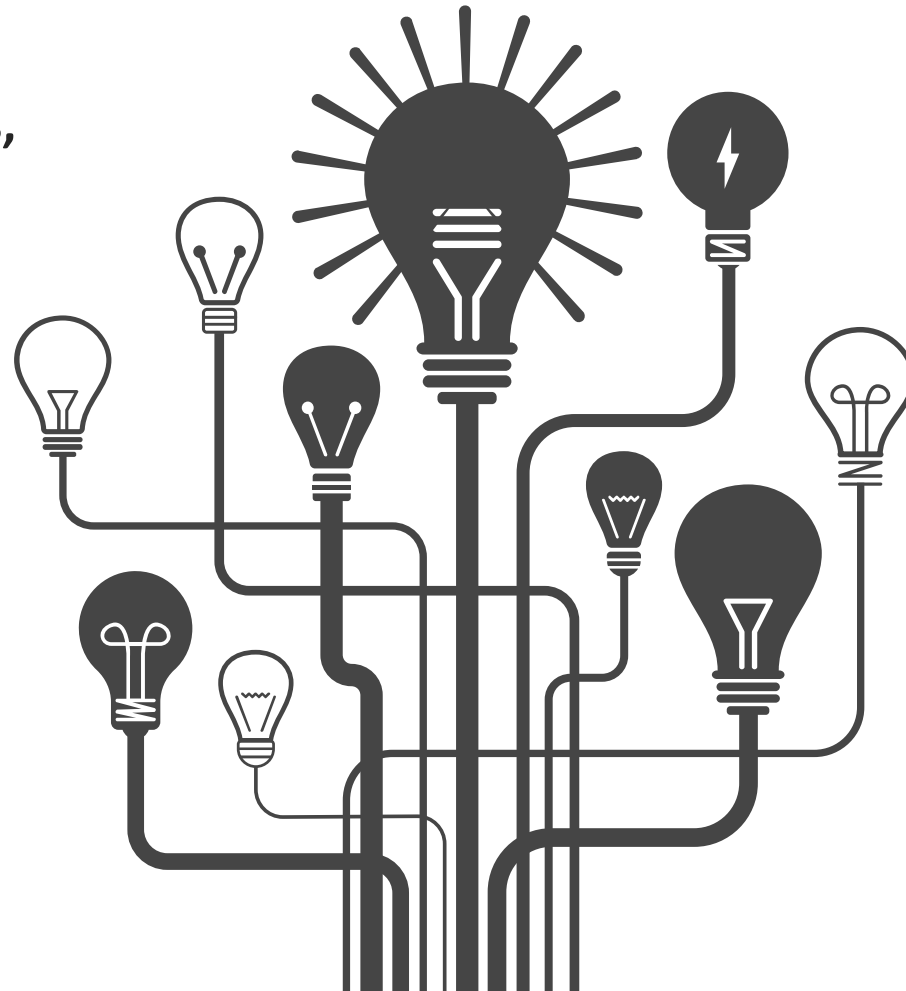
WHY MULTIPLE COMPANIES UNDER ONE UMBRELLA



WHY “LEANING-OUT”?

To reduce multiplicity of administrative responsibilities, legal and regulatory compliances

To reduce cross holdings amongst the companies, simplify the control structure for ease of regulatory discloser



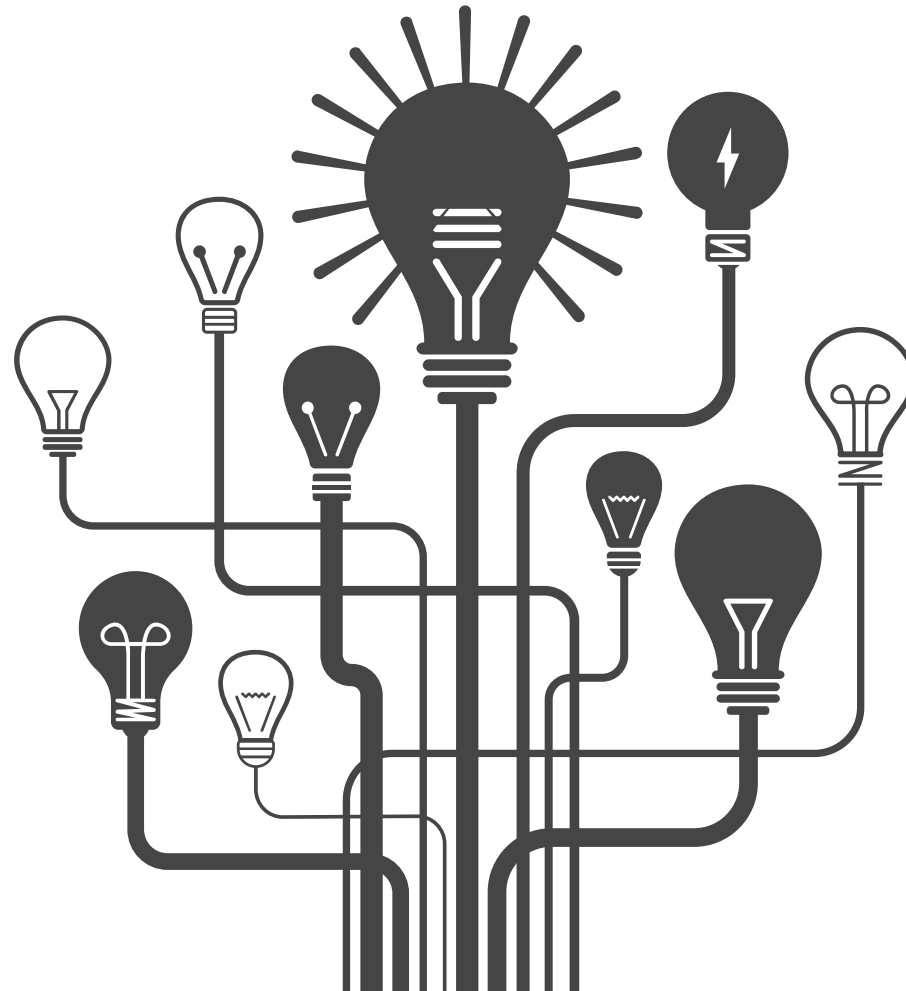
To Simplify and Rationalize the Group Structure

To eliminate extra entities with no operational business and harness the assets and moneys blocked in them

WHY “LEANING-OUT”?

To take advantage of assets and net worth of all the entities and unlock the value

To minimize administrative & managerial costs



The cost of non-compliance is very heavy under the Companies Act, 2013

Pursuant to the notification of the Ministry of Corporate Affairs, a Company can no longer have more than 2 (Two) layers of subsidiaries, thus it is pertinent to reduce the extra entities

HOW TO DO

“LEANING-OUT” OF GROUP



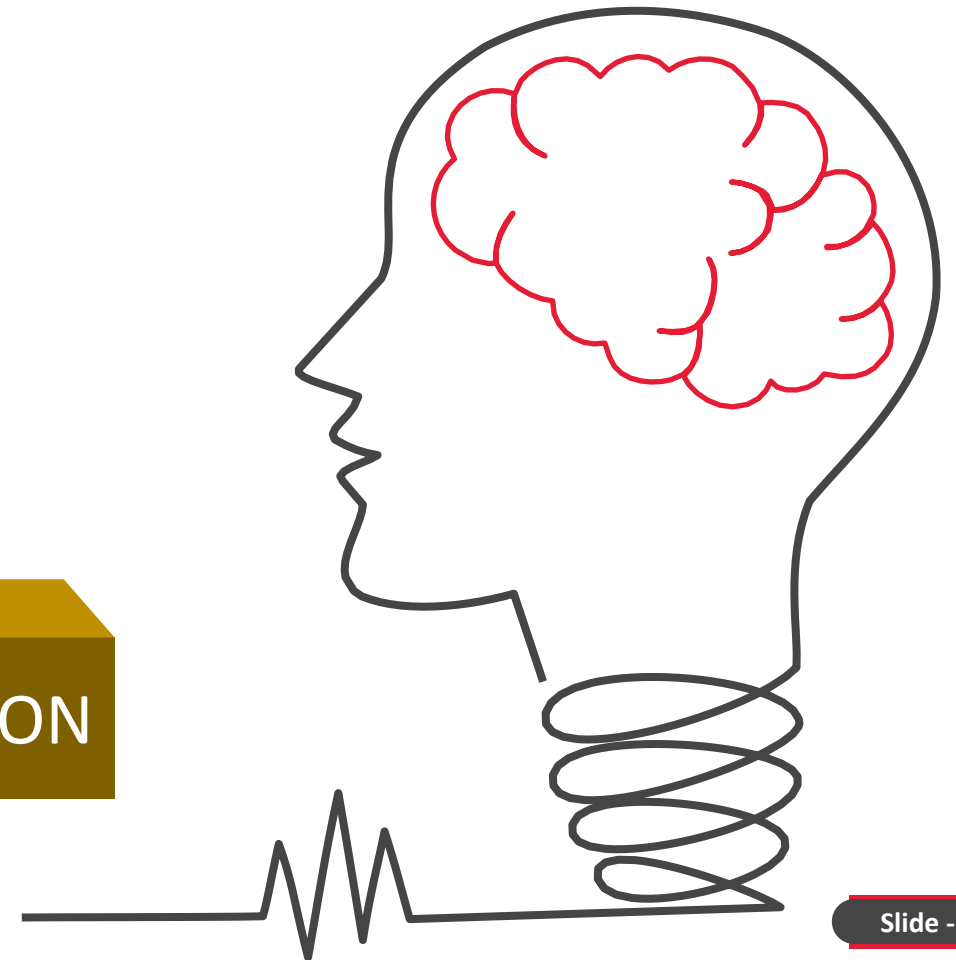


Leaning Out of Group

- ⦿ Determine redundant/extra companies in the Group
- ⦿ Strike off, Liquidate or Merger/consolidate
- ⦿ Simplify the Group holding structure, remove cross holdings and multiple layers
- ⦿ Unlock the assets lying in companies not in major use

Isn't it safer to have fewer, better maintained entities?

But, How can we achieve this?



STRIKING-OFF OF THE COMPANIES

Striking-Off by ROC

Striking-Off by a Company on its own accord

Grounds on which provision of Strike-off could be enacted (Section 248)



Where the company hasn't commenced its business within one year of its Incorporation;



Where the company hasn't been pursuing any business or activity for the preceding two financial years, for which it hasn't sought the status of Dormant Company under section 455 of the Act.



There are various restrictions on making the application for Strike-Off.



Also, various companies are not qualified to file an application for Strike-Off, For Example: Listed Companies, Section 25 Companies etc.



The liabilities continues on every director, officer and members of the company and may be enforced in the same manner as if the company had not been dissolved.

VOLUNTARY LIQUIDATION

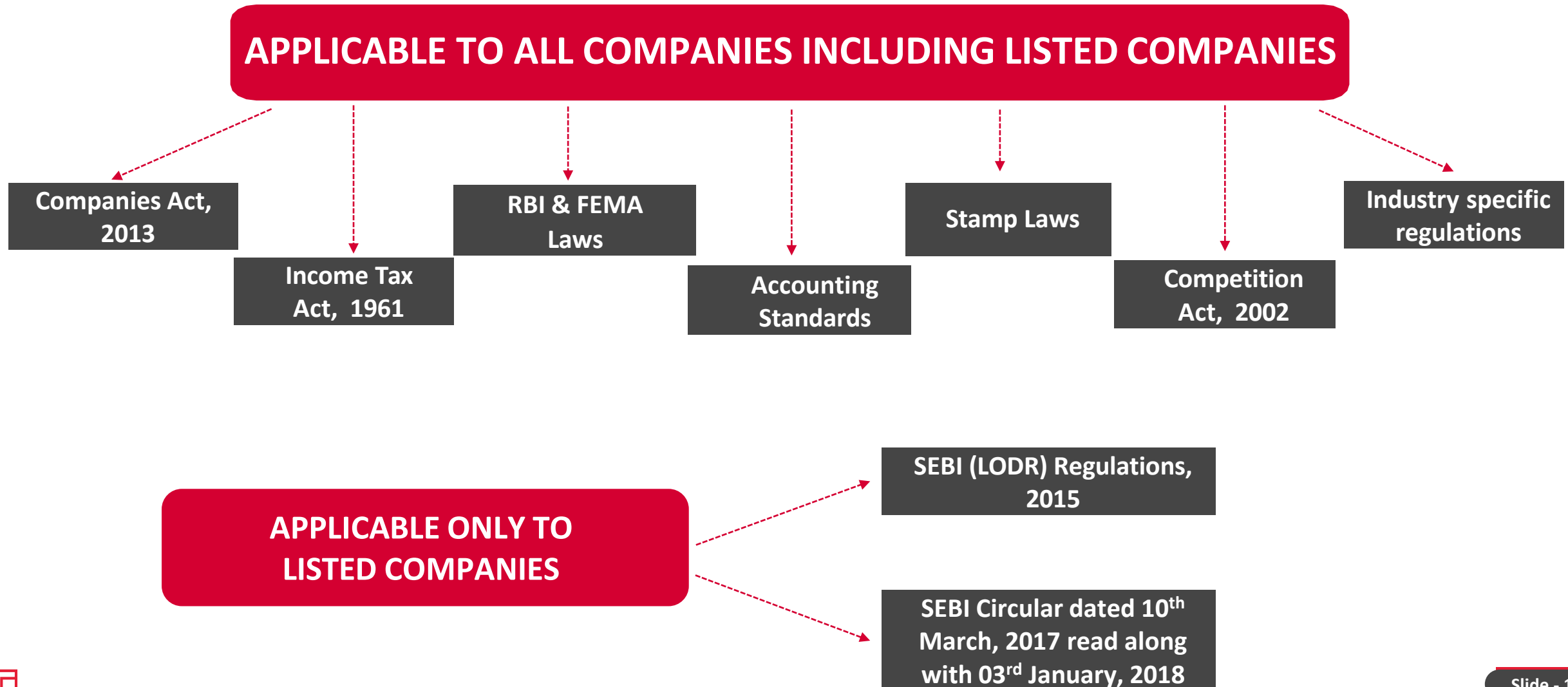
OPTED FOR WHEN:

- 👉 the entity has been formed for a particular purpose and the purpose has been fulfilled;
- 👉 the articles provide that the entity shall be liquidated on the happening of an event and the event has happened;
- 👉 where it is unable to carry on the business.

Pre-Conditions

- 👉 The company is not being liquidated to defraud any person;
- 👉 Either the company has no debt or that it will be able to pay its debts in full from the proceeds of assets to be sold in the voluntary liquidation;
- 👉 The company should be Solvent.

REGULATORY FRAMEWORK OF M&A



KEY IMPLICATIONS OF RESTRUCTURING





COMPANIES ACT, 2013 ("THE ACT")

- Compliance with Section 230-232 of the Companies Act, 2013 read along with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
- Approval of Hon'ble National Company Law Tribunal if required.
- Service of notice to Regulatory authorities for their approval.

INCOME TAX ACT, 1961 ("ITA")

- Amalgamation as defined under Section 2 (1B) of ITA.
- **Section 47** of the ITA specifically exempts from capital gain tax.
- **Section 72A** of the ITA provides for the accumulated losses and the unabsorbed depreciation of the Amalgamating Company





ACCOUNTING STANDARD

- IND AS 103 defines Business Combination.
- In Purchase Method, the Assets and Liabilities are transferred on fair value basis.
- Business Combination of entities under common control is accounted by pooling of interest method

SEBI LAW

- Obtain No-Objection from the Stock Exchange (s) and SEBI before filing the Scheme with NCLT.
- SEBI Circular dated 10th March, 2017 and 03rd January, 2018 needs to be complied.



Some of the states in India have enacted their own Stamp Acts, for example: Maharashtra, Karnataka, Kerala, Gujarat and Rajasthan, whereas others have adopted the Indian Stamp Act, 1899 with their respective state amendments. Thus, there are no Uniform Stamp Laws across the nation – may vary from state to state;

BENEFITS OF AMALGAMATION



01

Economies of Scale

02

Synergy benefits

03

Utilisation of
Tax shields

04

Growth &
Expansion

05

Value
enhancement

RECENT LEAN-OUTS





**Minda
Industries
Limited**



**HCL
technologies
Limited**



**Cadila
Healthcare
Limited**



**Aurobindo
Pharma Limited**

THANK YOU

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