Baker & McKenzie.Wong & Leow

Newsletter

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In This Issue:

SPRING-ing Start for Venture Debt Programme

SPRING Singapore has launched a pilot Venture Debt Programme ("**VDP**") with local banks, DBS Bank, OCBC Bank and United Overseas Bank. About 100 venture debt loans amounting to US$500 million will be granted over two years, with SPRING providing 50% risk-sharing for such loans.

The VDP stands to benefit start-ups with high growth potential which do not yet have substantial assets or revenue streams, and is particularly useful for IP-rich companies with high financing needs, such as those in the biomedical industry. Venture debt structures provide the flexibility of deferred payment terms and alternative equity structures.

The eligibility criteria for this financing scheme differs between each bank and more information can be found in SPRING Singapore's press release here.

Freeze on Durian Puff Bakery's Kitchen After Singapore Regulators' Joint Investigations

The Singapore National Environment Agency ("**NEA**"), Ministry of Health ("**MOH**") and the Agri-Food and Veterinary Authority of Singapore ("**AVA**") have conducted joint investigations into more than 70 cases of food poisoning originating from a duri an puff bakery's kitchen between March to April 2016.

On 22 April 2016, the NEA suspended the bakery's licence until further notice. Consumption of the durian pastries from Goodwood Park Hotel's bakery was the only epidemiological link, according to the MOH.

The AVA conducted checks on the suppliers of the ingredients used in the durian pastries, including durian pulp. No food safety lapses were found at the suppliers' establishments and there were also no complaints of food poisoning from other food establishments which used the same supplier of durian pulp.

The NEA will be responsible for taking action against the establishment if hygiene lapses are found. Under Singapore's Sale of Food (Food Establishments) Regulations issued pursuant to the Sale of Food Act (Cap. 283), the failure to maintain the cleanliness of the licensed food establishment is an offence punishable by a fine of up to S$5,000 (about US$4,000).

The relevant authorities are monitoring the situation closely. More information can be found in the joint media release here.

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Foreign Direct Investment in Food Retail in India

(This article was contributed by Mohan Rajasekharan and Harleen Singh of Dua Associates, India.)

In a move welcomed by global as well as Indian retailers, the Union Budget 2016 proposed 100% foreign direct investment ("**FDI**") in the multi-brand processed food retail sector.

Historically, the retail space in India has been a sensitive issue as small retailers such as neighbourhood mom-and-pop stores and street vendors feared their business would be jeopardised with the entry of multinational corporations which would set up supermarkets offering discounts to customers. Some political parties had also voiced their opposition to opening the retail segment to foreign players. Thus, FDI in retail was opened in a phased manner with the Government initially permitting only 51% FDI in multi-brand retailing with conditions attached such as 30% mandatory local sourcing, US$100-million upfront investment with half of it in back-end infrastructure, etc. Though some global companies had entered the retail sphere in India complying with the said conditions, most of them avoided the food sector.

Under the new proposal, 100% FDI under the 'approval route' would be permitted in the marketing of food products provided the same are produced and manufactured in India. However, as indicated, the investment is under the 'approval route' and prior approval of the Foreign Investment Promotion Board would have to be taken for the investment.

The Government has clarified that the move is aimed at enabling big multi-national retail chains to create back-end infrastructure and bring in the latest technology to the farm sector, increasing the level of food processing in the country, providing an assured market to farmers and small enterprises to sell their food and food products, creating employment opportunities, and increasing income for farmers, amongst others.

Registration of Food E-tailers

Recent news reports suggest that the Food Safety and Standards Authority of India ("**FSSAI**") has directed operators of online platforms for retailing food products ("**Food E-tailers**") to get themselves registered under the Food Standards and Safety Act, 2006 ("**FSS Act**") with the FSSAI. The purpose of such registration is to ensure the high quality of food products and services of such Food E-tailers. It has also been reported that the draft regulations in this regard will soon be published by the FSSAI.

Nutraceuticals & Health Supplements

Currently, there are no notified standards for Nutraceuticals, Food Supplements and Health Supplements. Though the FSSAI had on 9 September 2015, published the draft standards for such products ("**Draft Standards**"), the Draft Standards are yet to be finalised and notified. This uncertainty posed severe hardships for companies manufacturing and selling such products as they faced enforcement actions from the FSSAI and the state level food authorities.

The FSSAI order dated 30 March 2016 directed that any enforcement action against such companies should be restricted to testing their products to ensure conformity to the requirements under the Draft Standards. The additional conditions to be satisfied in respect of such products are:

1. The products should have been available in the market prior to August 5, 2011 (i.e. the date of notification of the FSS Act and the regulations made thereunder);

2. The products are covered under the Draft Standards; and

3. Applications for product approval in respect of the products should have been filed prior to 19 August 2015 (i.e. the date on which the Supreme Court of India struck down the product approval advisories).

As the order addresses some of the operational issues, it should bring some relief to companies which have been in the Indian market for several years.