



Atul Pandey

Partner

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Practices:

Corporate and Commercial
Mergers & Acquisitions
(Domestic and Cross-Border)
Regulatory
Domestic and Cross-border Joint
Ventures, Collaborations
Foreign Investment Law
Mergers & Acquisitions
Private Equity (including in listed
companies) & Venture Capital
Dispute Resolution

Education:

B.Com., D.D.U. Gorakhpur
University (2002)
LL.B., D.D.U. Gorakhpur University
(2005) (Gold Medalist)

Professional Affiliations:

Bar Council of Delhi

Atul is working as a Partner in the Corporate team. Prior to joining Khaitan & Co, he was senior member of the corporate team at Fox Mandal & Co, Delhi. He has been advising on Corporate and Commercial issues, regulatory matters including under the Foreign Exchange Management Act, 1999, FDI Policy and obtaining approvals, mergers & acquisitions (Domestic and Cross-Border), Domestic and Cross-border Joint Ventures, Collaborations, capital markets, private equity investment, Labour & Employment and Trade Laws, Direct & Indirect Tax, Dispute Resolution, Banking & Finance, and other areas of corporate law practice.

Atul has been engaged in drafting/vetting various business/commercial agreements viz. joint venture agreements, share purchase agreement, share subscription agreement, shareholders agreement, agreement for transfer of assets, technology licensing etc. He has been advising on Corporate and Securities laws, Foreign Exchange laws, rules and regulations, Foreign Direct Investment Policy, Overseas Investments, liberalized Remittance Scheme, Industrial, Commercial and Taxation laws, Capital and Debt Market transactions, Public - Private Participation Projects, disinvestment/spin off, Unit / Share / Asset and Slump Sale transactions, overseas investments, cross border investment strategies and transactions e.g. FDI, FII, NRI/PIO, FVCI, VCF, PE and QFI investments, joint ventures, collaborations, strategic alliances, mergers / demergers / restructuring / reorganisation and arrangements through courts, structuring and setting up of private equity funds, offshore investment vehicles and other offshore and onshore company and trust formations, setting up of representative/liaison/project and branch offices in India/abroad, Employment Contracts, ESOPs & Employee Welfare Trusts, commercial, industrial and business contracts, licensing, registrations and approvals, statutory and regulatory compliances, legal due diligence etc.

Representative Matters:

Mergers & Acquisitions:

- **GlaxoSmithKline Plc (GSK)** - Advised and obtained FIPB approval in relation to a major three-part global transaction between GSK and Novartis AG (Novartis), pursuant to which GSK is forming a consumer health joint venture with Novartis, while at the same time buying Novartis vaccines business and divesting its cancer drugs



portfolio to Novartis. The three inter-conditional deals are worth over USD 20 billion. FIPB approval was obtained in respect of five transactions. In respect of FDI in Pharma sector, for the first time, FIPB has given its approval to the non-compete clause in the three part global agreement, making this a path breaking approval;

- **MacRitchie Pte Ltd (Temasek entity):** Advised on the transaction and obtained FIPB approval in respect of foreign direct investment and proposed issue and allotment of compulsory convertible preference shares representing 49.99% of the fully diluted post issue share capital of MakeSense Technologies Limited, (an investment holding Indian company owned and controlled by persons resident in India), on a private placement basis to MacRitchie Investments Pte Ltd, a wholly owned indirect subsidiary of Temasek Holdings (Private) Limited, Singapore;
- **Nippon Life** - Advised on the transaction and obtained FIPB approval in respect of proposed foreign direct investment by Nippon Life Insurance Company, a foreign mutual company, by way of secondary acquisition of a 23 percent additional stake in Reliance Life Insurance Company Limited, thereby increasing its aggregate shareholding in Reliance Life Insurance Company from 26 percent to 49 percent, from the existing shareholders Reliance Capital Limited and Viscount Management Services Limited;
- **Cipla Limited-** Advised on the transaction and obtained FIPB approval in respect of proposed foreign direct investment by FIL Capital Investments (Mauritius) II Limited (Fidelity Mauritius), a foreign company, by way of subscription of equity shares and compulsory convertible preference shares, of Cipla Health Limited, a wholly owned subsidiary of Cipla Limited to a maximum extent of 26.11 percent of the paidup equity share capital of Cipla Health Limited on a fully diluted basis for a consideration of INR 1452331848;
- **International Trade and Exhibitions India Private Limited (ITEIPL)-** Advised on the transaction and obtained FIPB approval in terms of Paragraph 6.2.8.3 of the FDI Policy for proposed expansion of the scope of business activities by way of engaging in carrying on the business, India and/or abroad, of printing, publishing and circulating or otherwise dealing in all types of Books, scientific and technical magazines/specialty journals/periodicals and other publications but not in any manner dealing with news and current affairs;
- **Mitsui & Co. (Asia Pacific) Pte Ltd-** Advised on the transaction and obtained DIPP clarification/approval in respect of proposed investment in Keimed Private Limited, an Indian company engaged exclusively in the business of wholesale trading of pharmaceutical and medical goods, and with specific reference to whether wholesale trading



of pharmaceutical products would fall within the automatic route or would it require approval from the FIPB;

- **GAIL-** Advised on the Share Purchase Agreement with respect to GAIL's joint venture with ONGC and GSPL for proposed exit.
- Comprehensive due diligence for Sahara Group which involved acquisition of various oil and gas fields for international companies
- Comprehensive due diligence for ACWA Power, an international company for water and power projects, which involved acquisition of various companies located in Bangladesh

Singe Brand Retail Transactions and Regulatory Approval and Corporate Advisory:

- **Ryohin Keikaku Co., Ltd, Japan and Reliance Brands Ltd--** Muji Single Brand Retail Application- Advised on setting up a joint venture and obtained approval from the DIPP/FIPB/DEA on behalf of Ryohin Keikaku Co., Ltd, Japan, a foreign company incorporated under the laws of Japan and listed on the Tokyo Stock Exchange, for the proposed foreign direct investment in single brand retail sector in India by way of subscribing upto 51% equity shares of a joint venture along with joint venture partner Reliance Brands Limited.
- **Louis Vuitton Single brand retail matter-** Advised on the transaction and obtained approval from the DIPP/FIPB/DEA on behalf of Louis Vuitton for proposed increase in equity stake of Louis Vuitton Malletier in Louis Vuitton India Retail Private Limited from 51% to 100%.
- **Forever Living single brand retail matter-** Advised on the transaction and obtained approval from the DIPP/FIPB/DEA for allowing Forever Living Imports (India) Private Limited to carry out trading of products under the brand "Forever" in single brand retail sector with appropriate prefix or suffix.

Joint Ventures and Collaborations:

- Advised Arcelor Mittal on its Joint Venture with Dnick Holding PLC, and dealt with various issues relating to termination clause arising out of change in control and also executed new Joint venture on different terms and conditions.
- Independently negotiated a Joint Venture on behalf of Arcelor Mittal and drafted the Joint Venture agreement between Arcelor Mittal and Shivalik Bimetals.
- Advised Arcelor Mittal on its Joint Venture with Jindal SAW Ltd and dealt with various issues arising out under "put option" clause under the Joint Venture agreement.
- Significant cross-border experience particularly acting for UK clients. Deals with drafting various English joint



ventures and recently dealt with the setting up of the Hervietnam UK JV.

- Advised Birla Group independently on its transaction related to technology transfer agreement, equipment purchase agreement and components supply agreement with Slovenian Company
- Advised Jindal Power Limited by drafting, negotiating and finalizing a pooling agreement between Jindal Power Limited and DB Power Limited for various power projects in India. Also provided legal opinions on time to time in relation to the same.
- **Jaguar Security Services and MSA Security Inc-** Advised and drafted Technical services Agreement and also advised on FIPB approval process as also for doing business in private security services through canines.

Corporate and Commercial:

- Advised and assisted Alstom SA France to develop and market complete range of transport systems, equipment and services in the Indian market. These include, amongst others, the EMU Coaches, E - Loco, Rolling Stock (for metro railway and the Indian Railway), Third Rail, Power Supply, Telecommunication, Track works etc.
- Advised and assisted Alstom, drafted EPC contracts and negotiating various metro projects including Delhi Metro. Also assisted in interpretation of clauses and guiding the management on risk factor and its mitigation plan
- Advised Hoya Medical , a Japanese company and drafted Logistic Service agreement and distributorship agreement
- Advised and assisted in incorporation of RFS India Ltd, subsidiary of RFS France. Drafted relevant documents and day to day managing the affairs of the newly incorporated Company.
- Advised and assisted in incorporation of Axens India, subsidiary of Axens France.
- Conducted due diligence of Nord GmbH and assisted in incorporation of Poyry Consulting (India) etc. by drafting, finalising and vetting various documents required for incorporation
- Centrica India Pvt Ltd (British Gas Group Company)- Advised on the transaction and successfully concluded termination of three employees through a mutual settlement cum release agreement;
- Centrica India Pvt Ltd (British Gas Group Company)- Advised on the transaction and successfully concluded dispute in respect resignation of an employee through responses to legal notice and rejoinder to the same;
- PUNCOM (Punjab Govt Underatking)- Advised on disinvestment process and disputes in realtion to



termination of employment of employee of the undertakings;

- Scientific Games Corporation- Advised on direct and indirect tax issues including change in rules or regulations preventing Scientific Games from shipping our product (EGMs) to the Scientific Games' Pune office for development purposes;
- Dilip Bhalla, NRI- Advised on various direct tax issues and issues connected with NRI's and Black Money Act;
- MSA Security Inc- Advised on various tax issues including import of canines in India and also obtained PAN for MSA;
- Sajjan Jindal Group-Advised on various tax issues connected with NRI's and liberalised remittance scheme

Regulatory:

- **Natco Pharma Limited-** Investment through PIS- Advised on the transaction and obtained regulatory approval from the FIPB/DIPP/DEA for increase in aggregate limit of investment by SEBI registered FIIs and their sub-accounts in the equity share capital of Natco Pharma Limited under the Portfolio Investment Scheme, to up to 31.50% of the equity share capital of the Company.
- **Natco Pharma Limited -QIP Process-** Advised on the transaction and obtained regulatory approval from the FIPB/DIPP/DEA for allotment of securities compliant with the FDI Policy by Natco Pharma to Qualified Institutional Buyers, pursuant to Chapter VIII (Qualified Institutions Placement) of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009-(proposed investment was of approximately INR 450 crores);
- **Cadila Ltd- QIP Process-** Advised on the transaction and obtained regulatory approval from the FIPB/DIPP/DEA for allotment of securities compliant with the FDI Policy by Cadila to Qualified Institutional Buyers, pursuant to Chapter VIII (Qualified Institutions Placement) of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009-(proposed investment was of approximately INR 5000 crores);
- **Alkem Laboratories-** Initial Public Offering and offer for sale- Advised on the transaction and obtained regulatory approval from the FIPB/DIPP/DEA for transfer of equity shares of the Company to successful Eligible Non-Resident Investors, pursuant to an initial public offering of the Equity Shares of the Company through an offer for sale by certain existing shareholders of the Company in accordance with SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 and other applicable laws and regulations, for a value not exceeding INR 3000 crores;
- **Lupin Limited-ESOPs-**Advised on the transaction on various issued connected with FDI policy and FIPB approval and obtained regulatory approval from the



FIPB/DIPP/DEA in respect of ESOPs granted/ issue of shares under ESOPs to non-resident employees;

- **Aurobindo Pharma Limited-** ESOPs- Advised on the transaction on various issued connected with FDI policy and submitted applications for obtaining FIPB approval respect of ESOPs granted/ issue of shares under ESOPs to non-resident employees.
- **GSMA Services India Private Limited** - Advised on the transaction and obtained regulatory approval from the RBI TO allot and issue shares against the amount received as foreign inward remittance for investing into share capital of the Company from GSM Association, a Verein (Association) organized under the laws Switzerland ("GSMA") (which is presently holding 99.99% (ninety nine decimal nine nine percent) of the equity share capital of GSMA India), beyond the stipulated period of 180 days and for condonation of delay in allotment and issuance of shares to GSMA . We obtained approval without any compounding condition being imposed;
- **Natco Pharma Limited-** Investment through PIS- Advised on the transaction and obtained regulatory approval from the RBI and getting notified the increase in aggregate limit of investment by SEBI registered FIIs and their sub-accounts in the equity share capital of Natco Pharma Limited under the Portfolio Investment Scheme, to up to 31.50% of the equity share capital of the Company;
- **Lupin Limited-**ESOPs-Advised on the transaction on various issued connected with FDI policy and obtained regulatory guidance clarification from the RBI in respect of ESOPs granted/ issue of shares under ESOPs to non-resident employees;
- **Jindal Photo Investment Limited-** Merger of several NBFC companies- Advised on the transaction and obtained regulatory approval from the RBI in connection with merger/amalgamation of several NBFC Companies;
- **Meher Investments Private Limited-** Advised on the transaction and submitted applications to regional branches of RBI- in connection with merger/amalgamation of several NBFC Companies.
- Obtained DIPP clarification on a no names basis in respect of "general financing" activities of an NBFC in terms of the FDI Policy;
- **Dharampal Satyapal Group-** Winding up of overseas subsidiary and write off of loan etc-Advised on the transaction and obtained regulatory approval from the RBI for winding up of DS Guinea, wholly owned overseas subsidiary, in Africa and for write off of the capital and loan granted to it by the parent company;
- **Dharampal Satyapal Group-** Winding up of overseas subsidiary and write off of loan etc-Advised on the transaction and obtained regulatory approval from the



various authorities in Guinea, and finally ensured winding up of DS Guinea, wholly owned overseas subsidiary, in Africa and write off of the capital and loan granted to it by the parent company;

- **Jindal Steel & Power-ODI-** Advised on the transaction and obtained regulatory approval from RBI for undertaking financial commitment by Jindal Steel & Power Limited by way of issue of bank guarantee in form of 'Stand by Letter of Credit' on behalf of JSPL's overseas wholly owned subsidiary, Jindal Steel & Power (Mauritius) Limited and provision of cash collateral;
- **Jindal Steel & Power-ODI-** Advised on the transaction and obtained regulatory approval from RBI for undertaking financial commitment by Jindal Steel & Power Limited by way of issue of corporate guarantee, in respect of foreign currency term loan sanctioned, to JSPL's overseas wholly owned subsidiary, Jindal Steel & Power (Mauritius) Limited;
- **Jindal Steel & Power-ODI-** Advised on the transaction and obtained regulatory approval from RBI to undertake financial commitment by way of direct investment in form of Equity/loan/corporate guarantee by Jindal Steel & Power Limited to/ for and on behalf of its wholly owned overseas subsidiary Jindal Steel & Power (Mauritius) Limited, Mauritius;
- **International Trade and Exhibitions India Private Limited (ITEIPL)-** Advised on the transaction and obtained No-objection/ MIB approval and clarification from the MIB for proposed expansion of the scope of business activities by way of engaging in carrying on the business, India and/or abroad, of printing, publishing and circulating or otherwise dealing in all types of Books, scientific and technical magazines/specialty journals/ periodicals and other publications but not in any manner dealing with news and current affairs.
- **India Fly Safe Aviation Limited-** Advised, drafted the RBI application, coordinated with the Client, AD Bank and the RBI officials and successfully got approval from the RBI in obtaining Buyers' Credit loan facility for import of bombardier aircraft.
- Advised ALSTOM France on "Press Note 1 of 2005" and on incorporating a new wholly owned subsidiary for undertaking transport activities and various metro rail projects, FIPB approval for starting the business in transport sector.
- Conducted research for Areva France, a nuclear company, for their seminar on Indian legal scenario on various topics eg. Foreign Investment Policy, Policy on Transfer of Technology, Anti corruption, Damages under contract Act, Bank guarantee, Limitation law, Force Majeure, time as the essence, specific performance, dispute resolution, property law and environmental laws etc.



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- Advised Air France on its dispute with Kingfisher Airlines and dealt with various issues relating to recovery and winding up proceedings.
- Advised MBDA France on its contract with Ministry of Defense, Government of India, for construction of Infrastructures dedicated to the Storage and Maintenance of the Mica Missiles.
- Advised Welspun Group on various African laws and drafted an MOU between Government of Guinea and Welspun Group for carrying out mining activities in the Republic of Guinea
- Advised Midwest Group on various African laws and assisted them in setting up a company in Guinea, West Africa for the doing the business in mining sector.
- Advised Monnet Group on various African laws and drafted an MOU between Government of Guinea and Monnet Group for carrying out mining activities in the Republic of Guinea
- Advised Noveda Technologies, Inc., a US based company on various issues related to environmental laws in India for the purposes of drafting the share purchase agreement
- Advised and prepared a Memo for M/s Central Test, a French Company, on removal of managing director and also advised on various other issues under the Companies Act, 1956
- Regularly assisting leading GAIL on various contracts, agreements etc related to Oil & Gas projects and advising on related investment issues.
- Advised Jindal Steel and Power (JSPL) on various overseas direct investment related issues and related approvals from RBI etc in connection with its investment in various overseas subsidiaries.
- Advised, drafted and assisted Mahindra and Mahindra for getting the defence industrial license from Government of India for manufacturing of various defence aircrafts and components. Also advised on offset obligations related to the same.
- Advised Jindal Photo Limited on issue related to coal block allocation by the Government of India
- Advised Jindal Thermal Powertech Limited on various tax issues related to exemption from sales tax as capital subsidy.
- Advised WMS Gaming Inc, a US company on gaming laws in India and also other tax related issues.
- Advised, drafted and assisted various companies ie Lupin Ltd, Ipca Laboratories, Agilent Technologies, B&A Ltd, Hospira and other foreign and Indian companies in getting FIPB approval for the purpose of conducting their business in India.



- Assisting and Advising Government of Punjab in for disinvestment of two companies Punjab Agro Juices Ltd and Puncom Communications Ltd, by conducting due diligence, advising the client on various options of asset sale. Also advising the Global Advisors in related transactions.
- Advised Mantri Developers and Vaishnavi Finlease Pvt Ltd by review of transaction documents and advice on legal and regulatory issues in relation to investments proposed to be made from time to time in various real estate projects.
- Advised Welspun Group on various African laws and drafted an MOU between Government of Guinea and Welspun Group for carrying out mining activities in the Republic of Guinea
- Advised Midwest Group on various African laws and assisted them in setting up a company in Guinea, West Africa for the doing the business in mining sector.
- Advised WMS Gaming Inc, a US company on gaming laws in India and also other tax related issues.
- Advised Monnet Group on various African laws and drafted an MOU between Government of Guinea and Monnet Group for carrying out mining activities in the Republic of Guinea
- Advised Noveda Technologies, Inc., a US based company on various issues related to environmental laws in India for the purposes of drafting the share purchase agreement
- Advised and prepared a Memo for M/s Central Test, a French Company, on removal of managing director and also advised on various other issues under the Companies Act, 1956

Dispute Resolution:

- Advised Qiagen GmbH, Swiss Company on its dispute with Genetix Biotech under the distributorship agreement and assisted Qiagen through a settlement mechanism. Also advised on various issues related to international commercial arbitration under the distributorship agreement.
- Handling major arbitration for Indiabulls in which disputed is related to foreign arbitral award and its validity under the Indian law.
- Advised British Gas and Centrica India in its multimillion disputes with the top managerial level employee on various employment related issues and drafted related termination agreements and mutual cum settlement agreement for its senior managerial level personnel and thereafter negotiated on behalf of the Company successfully.

Publications and Presentations:



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- Prepared article on single brand retail trade which was published in Lexology and Mondaque.
- Prepared article on Products- recall, liability and insurance- India Chapter for Globe Business Publishing Ltd, international publishing house
- Prepared a Hand book on “Doing Business in Guinea” as a part of West Africa initiative and for developing the African practice of the firm.
- Updated Hand book on “Doing Business in India” as a part of developing the corporate practice of the firm and to provide sufficient information to foreign investors for making investment in India.

Recognitions and Accomplishments:

- University Gold Medal for getting highest mark in the history of University.
- L.M Singhvi Gold Medal in LL.B