



# news flash

March 2015



## LOANS AND ADVANCES TO EMPLOYEES

The Ministry of Corporate Affairs (“MCA”) has recently issued a circular dated 10 March 2015 (“Circular”) regarding loans and advances made by a company to its employees.

### Background

- Section 186 of the Companies Act, 2013 (“Act”) provided that a company could issue loans and make advances *to any person or body corporate* not exceeding (the higher of) 60% of its paid-up share capital, free reserves and securities premium account or 100% of its free reserves and securities premium account. In case of the loan/ advance exceeding the aforesaid threshold the company would be required to pass a special resolution at a general meeting.

### Clarification

- The Circular now clarifies that Section 186 of the Act does not apply to loans and/or advances made by a company to its employees, other than the managing or whole time directors (which is governed by Section 185 of the Act) provided that such loans/advances to employees are in accordance with the conditions of service applicable to employees and are in accordance with the remuneration policy, in cases where such policy is required to be formulated.

### Takeaways

- Loans extended to employees will no longer require a special resolution at a general meeting of a company thereby making it less cumbersome and minimising procedural delay.

This clarification shows the constant effort of the MCA to simplify procedural aspects and avoid delays and ambiguity.

### DISCLAIMER

This news flash has been written for the general interest of our clients and professional colleagues and is subject to change. It is not intended to be exhaustive or a substitute for legal advice. We cannot assume legal liability for any errors or omissions. Specific advice must be sought before taking any action pursuant to this news flash.

For further clarification, you may write to Ms. Statira Ranina (Partner) at [sranina@almtlegal.com](mailto:sranina@almtlegal.com), Mr. Vaishakh Kapadia (Partner) at [vkapadia@almtlegal.com](mailto:vkapadia@almtlegal.com) or Ms. Rashna Jehani (Associate) at [rjehani@almtlegal.com](mailto:rjehani@almtlegal.com).

#### ALMT Offices

##### Mumbai:

4<sup>th</sup> Floor, Express Towers  
Nariman Point  
Mumbai 400-021  
India  
Tel: +91 22 4001 0000  
Email: [mumbai@almtlegal.com](mailto:mumbai@almtlegal.com)

##### Bangalore:

2 Lavelle Road  
1st Floor  
Bangalore 560 001  
India  
Tel: +91 80 4016 0000  
Email: [bangalore@almtlegal.com](mailto:bangalore@almtlegal.com)