# Restructuring – Case Studies

## Seminar on M&A – WIRC - ICAI

February 22, 2014

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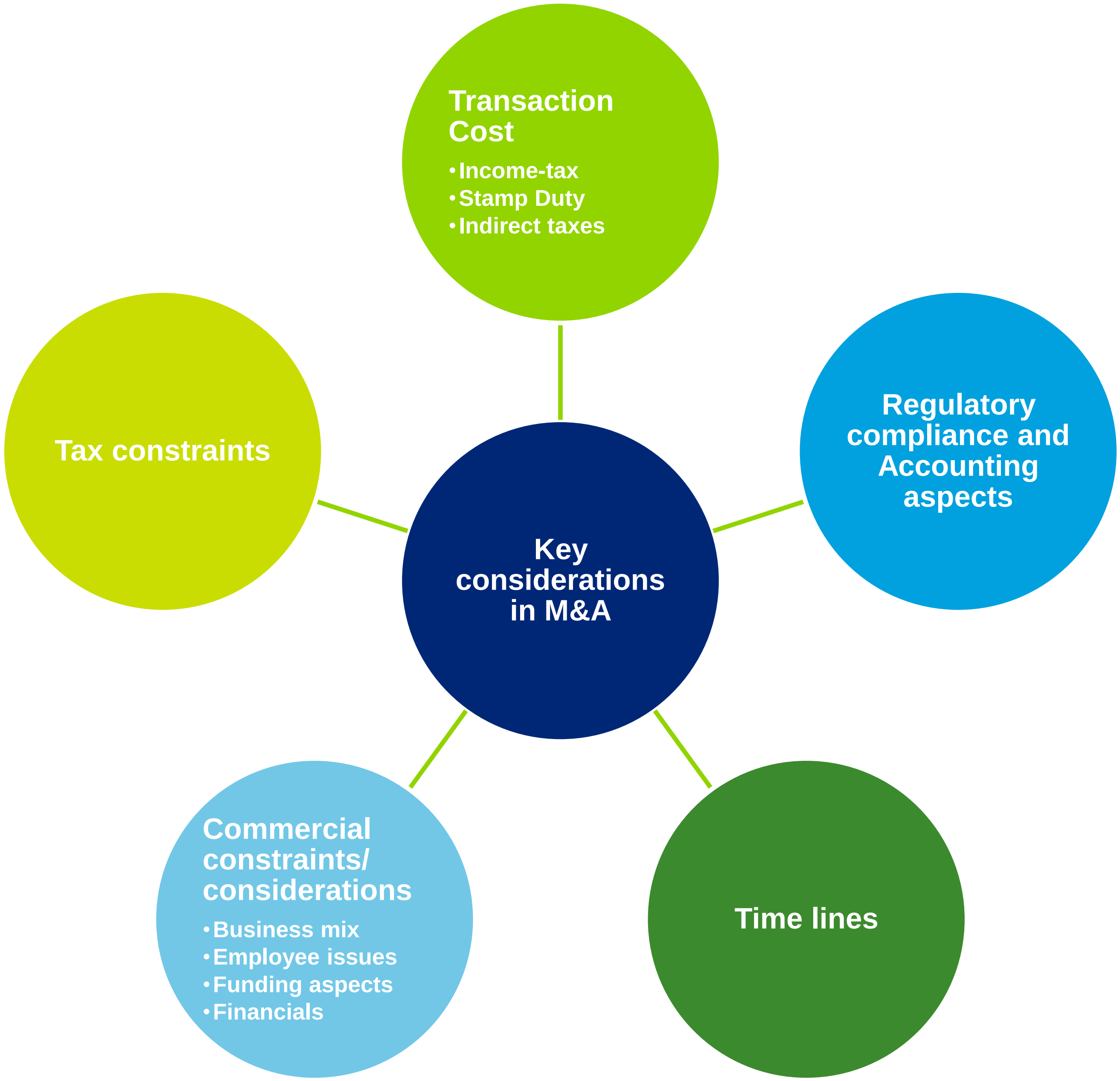
# M&A – Key Considerations



# Various mechanics of restructuring

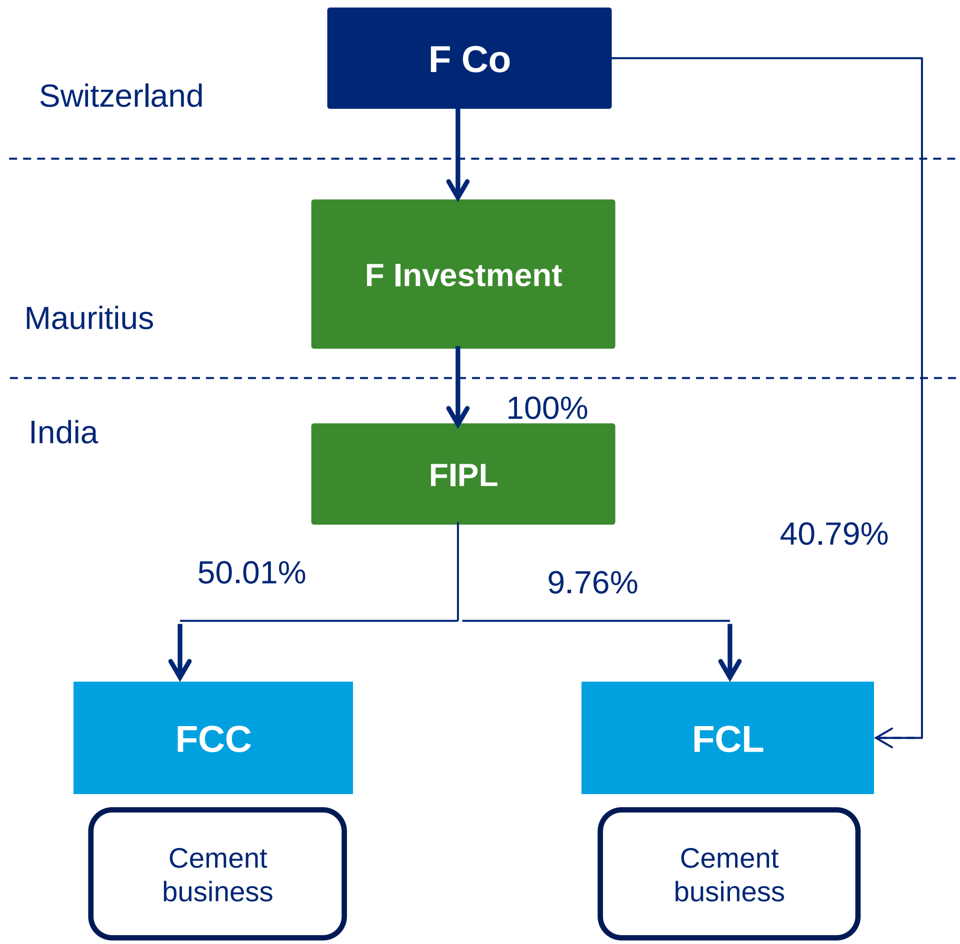
# Case Studies

- Case Study 1: Cash extraction and increase in control for Promoter Group
- Case Study 2: Consolidation of business by JV Partner
- Case Study 3: Acquisition of Identified business – cash less deal
- Case Study 4: JV structuring – Contribution of capital in cash / kind
- Case Study 5: PE investment in identified business
- Case Study 6: Carve out of non-core business into Promoter Company
- Case Study 7: Management buy-out
- Case Study 8: Structured acquisition – debt funding followed by acquisition of controlled stake
- Case Study 9: Cash repatriation through scheme

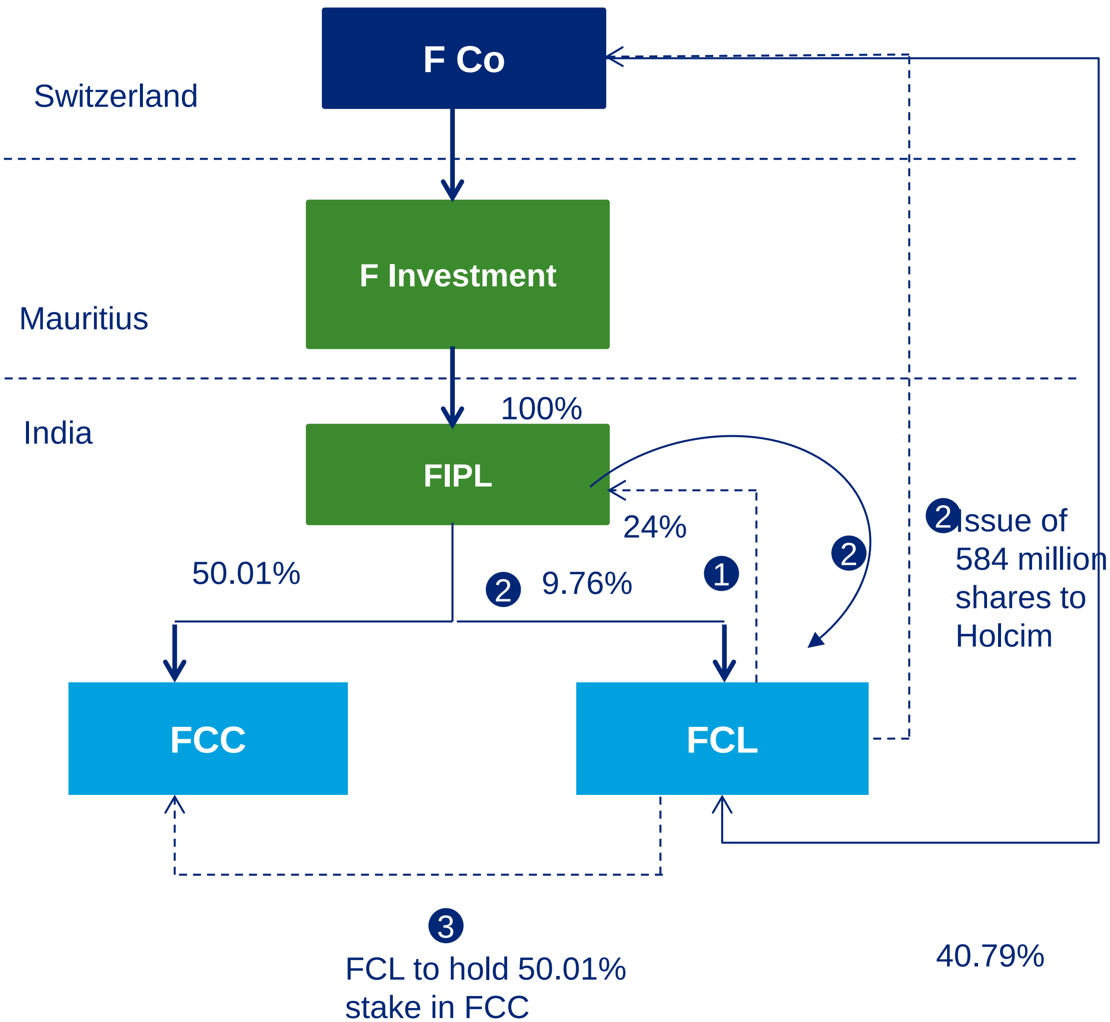
# Case Study 1: Group Restructuring

# Case Study 1-

- F Co leading cement manufacturing global company having controlling interest in two listed entities in India
- With the objective of integration of cement business, restructuring is sought so as to facilitate:
  - F Co retains control over FCC and simultaneously manages to increase stake in FCL
  - Utilise surplus cash from FCL in overseas operations



# Case Study 1




1. FCL will acquire a 24% stake in FIPL for a cash consideration of INR 3,500 crores
2. FIPL will then be merged into FCL through an all stock merger under a High Court Scheme of Amalgamation
   - FIPL's 9.76% shareholding in FCL will stand cancelled
   - FCL would issue new shares such that FCos stake in FCC to 61.39% from over 50%
3. FCL will start holding FIPL's 50.01% stake in FCC

# Case Study 1

- Release of free cash to Promoters - without acquisition the cash would have remained in the Listed entity
- While keeping two listed entities within the group, concentration of control achieved in FCL
- Tax neutrality for the merger with possible tax neutrality for shareholders on account of Mauritius treaty
  - Withholding tax risk – 201 / 161?

# Case Study 2: Consolidation of operations – Cross border merger

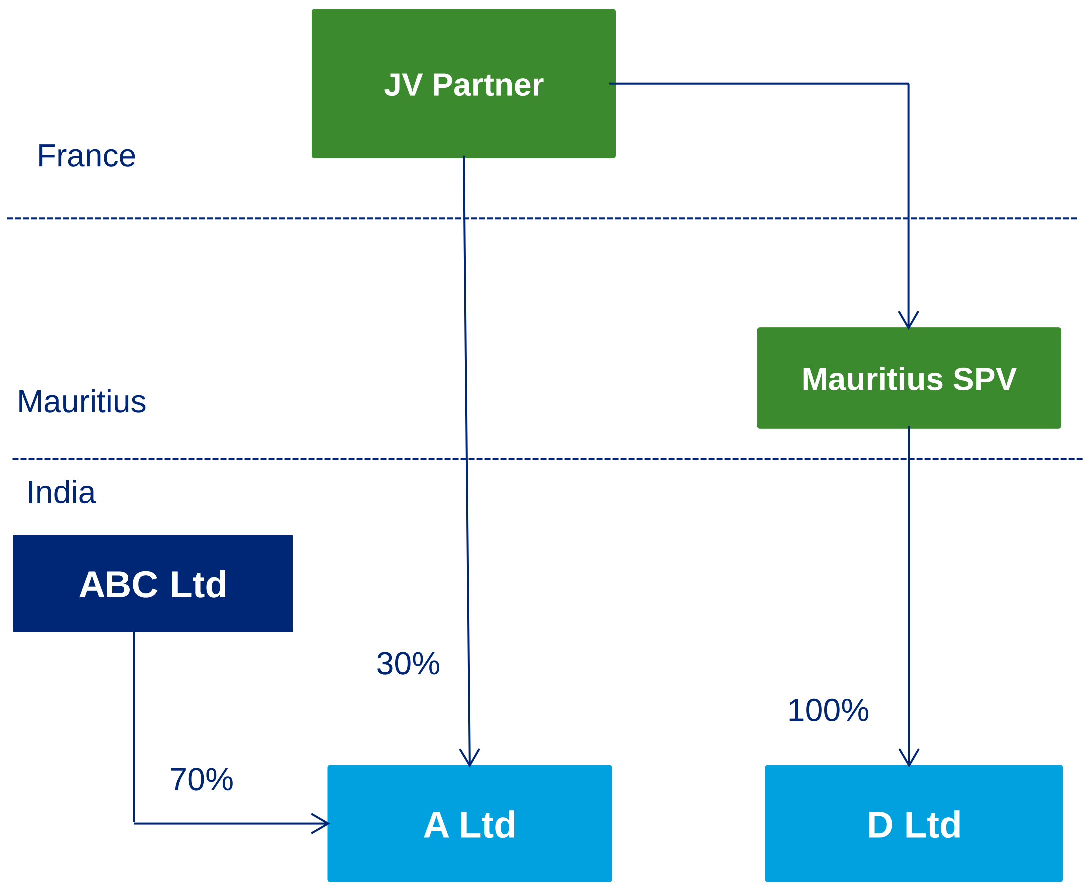
# Case Study 2

**Facts**

- A Ltd - a 70:30 joint JV between ABC Ltd and JV Partner, France ('JV Partner') to act as support to JV Partner business abroad
- D Ltd – 90% held by JV Partner via Mauritius entity while balance held by minority shareholders
- Minority is proposed to be acquired by JV Partner

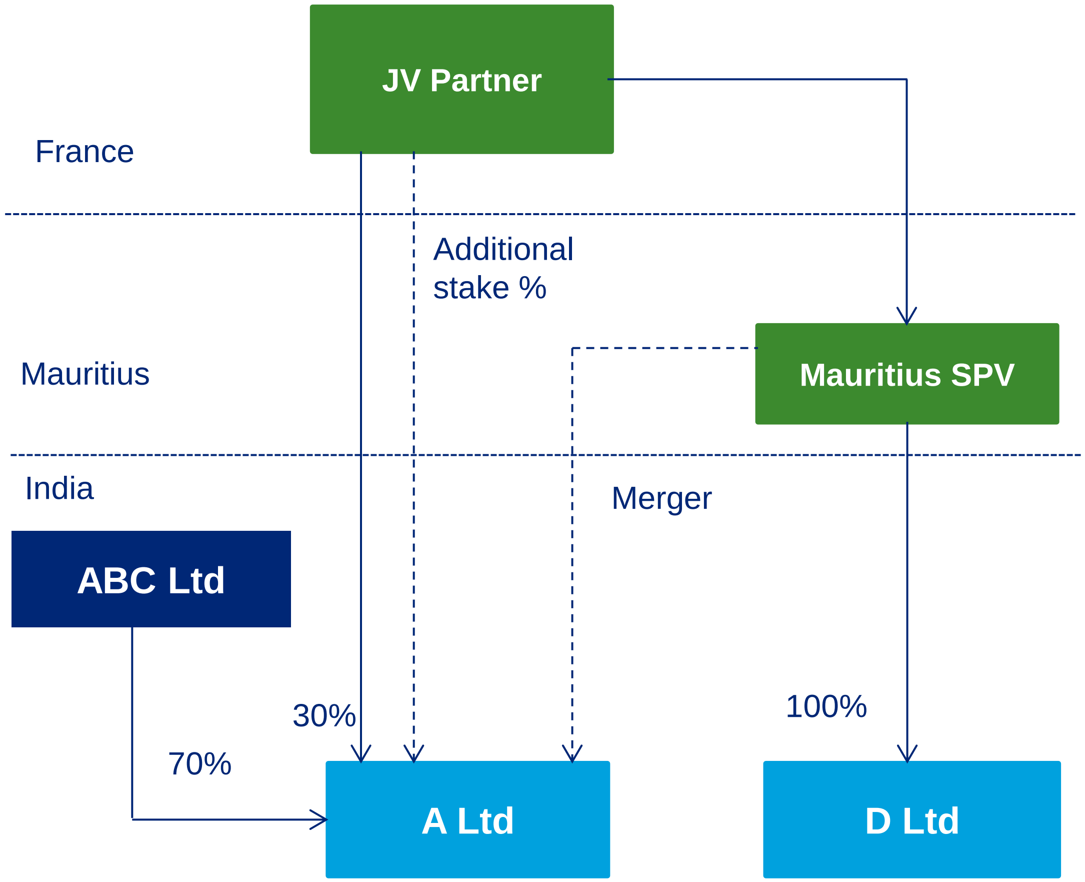
**Parameters**

- Minimal delivery disruption at D Ltd – operational as well HR perspective
- Consummate the transaction in short timeframe
- Ring fence tax attributes in relation to operations of D Ltd and A Ltd



# Options possible

- Merger of D Ltd with A Ltd
- Swap of shares by Mauritius SPV
- Merger of Mauritius SPV with A Ltd and buy-back at D Ltd

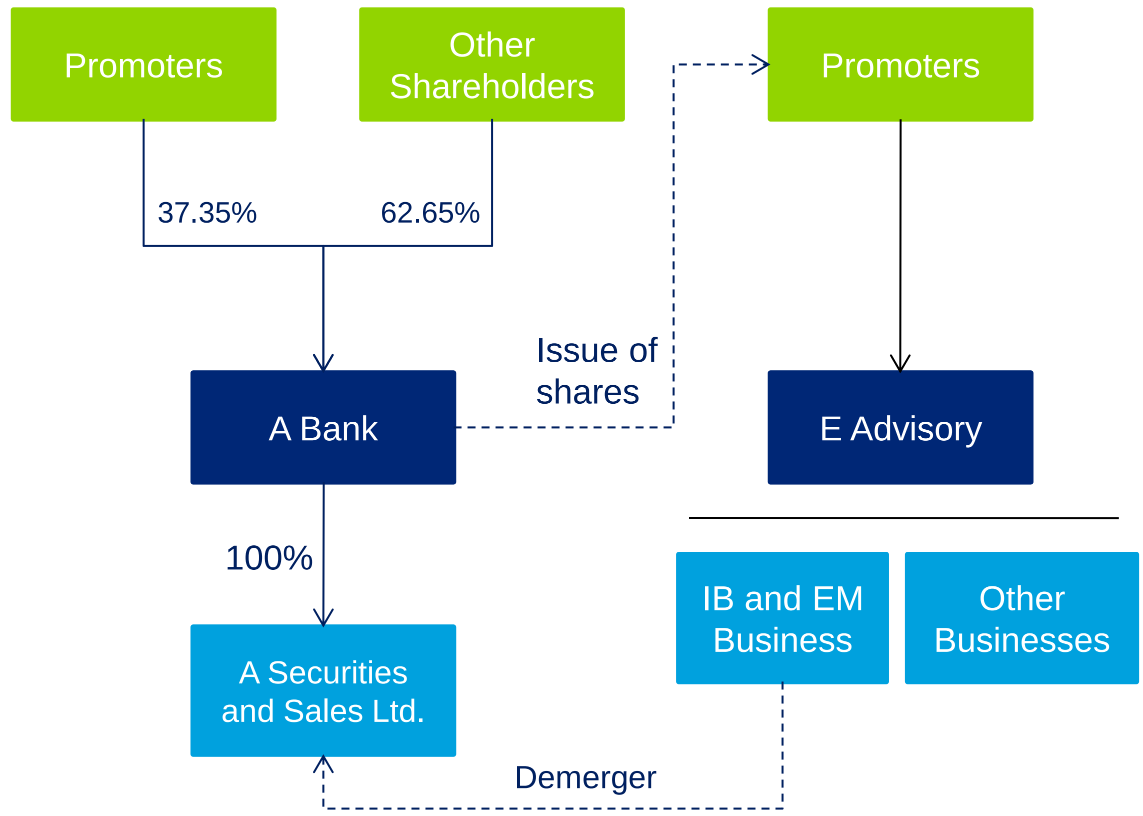


# Case Study 3: Business consolidation through Demerger

# Case study 3: Acquisition of business through Demerger

**Key Considerations**

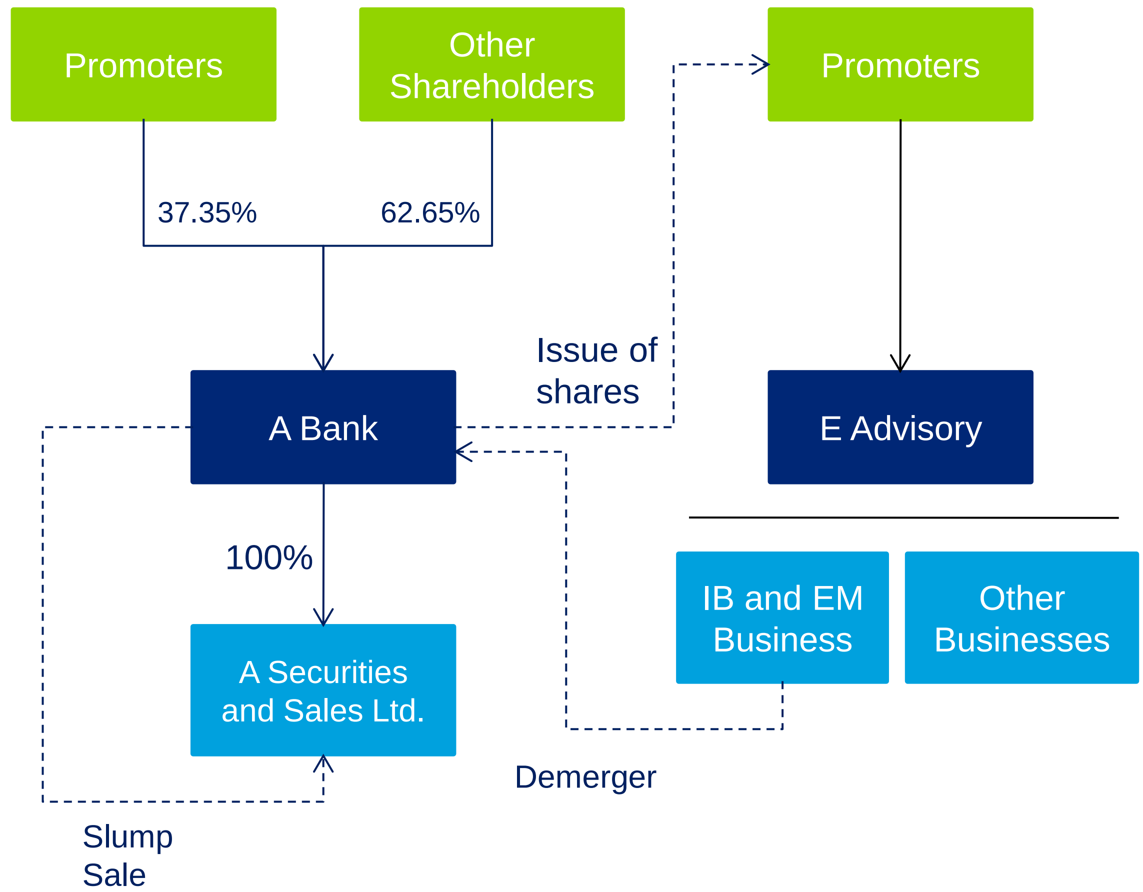
- Non cash deal envisaged
- Regulatory challenges associated with carrying on banking and Equities business in a single entity
- Tax efficiency for the E advisory Promoters



# Case study 3: Acquisition of business through Demerger

**Deal Highlights**

- Tax neutral demerger
- IB and EM business of E Advisory demerged in to A Bank and on demerger shares issued by A Bank to the promoters of E Advisory
  - Thereafter as Part II the subject business was transferred to subsidiary at book value
- E Advisory promoters to own approximately 3% equity stake in A Bank (larger portfolio/ asset ownership)
- Value encashment possible through stake sale



# Case Study 4: Joint Venture Structuring

# Case Study 4 – JV structuring – combination of assets

### Deal Objectives

- Consolidated CV business of E Ltd and V Global's India Truck distribution business - with 50:50 **economic ownership**

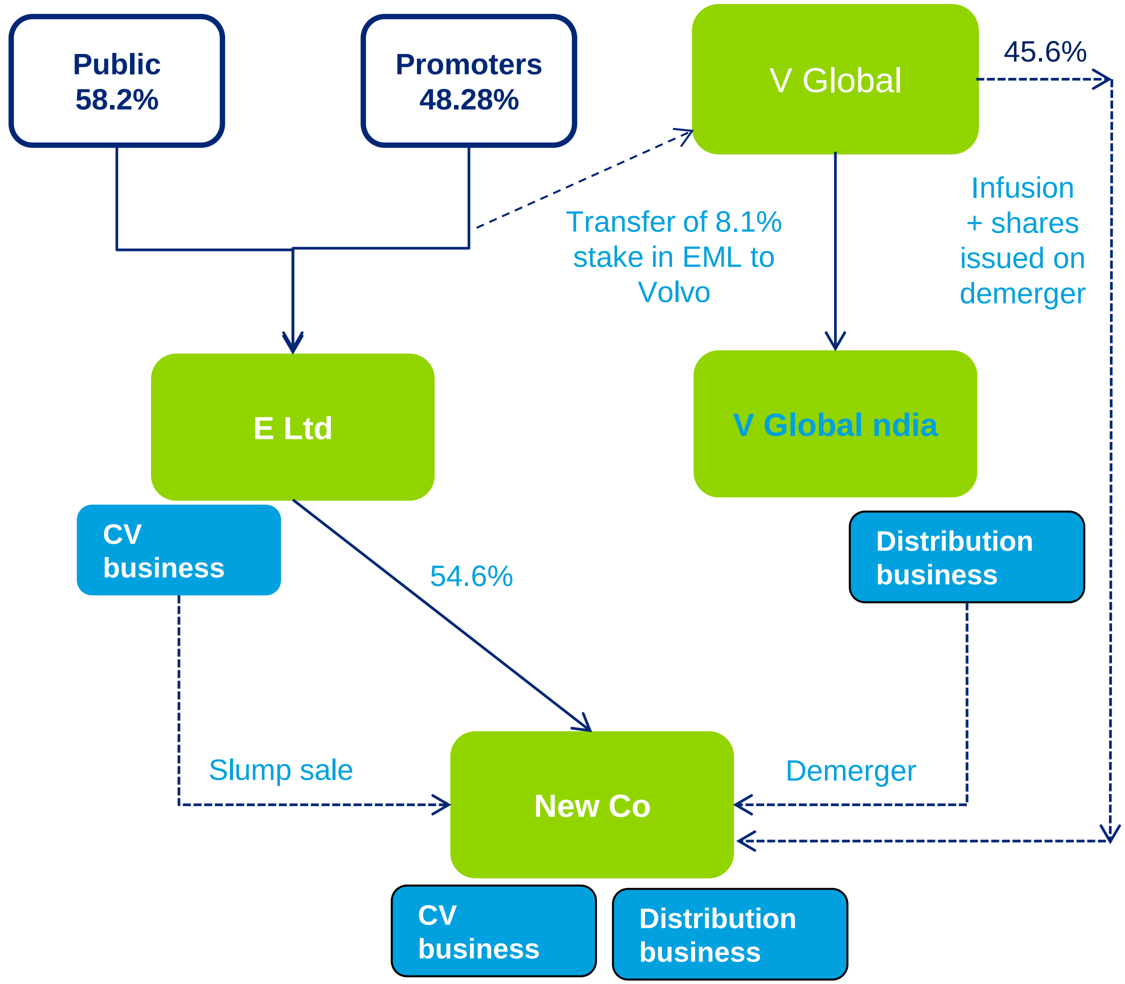
### Parameters

- E Ltd need to consolidate the business results in the books
- Partial consideration to be paid to promoters of E Ltd

### Deal Mechanics

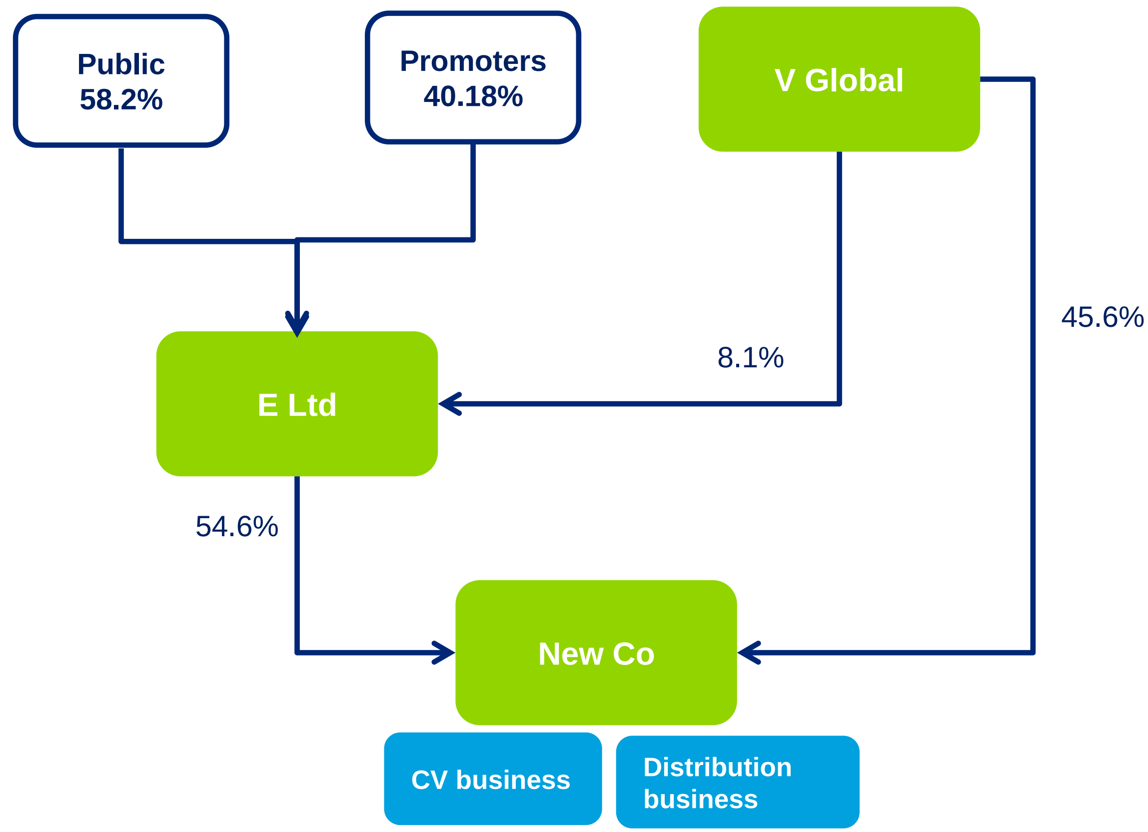
- CV Business of E Ltd transferred to New Co
- De-merger of V Global's India Truck distribution business to New Co plus infusion of $ 275 mn
- Promoters sold 8.1% equity in E Ltd to V Global

### Transaction structure



# Case Study 4 – JV Structuring – combination of assets

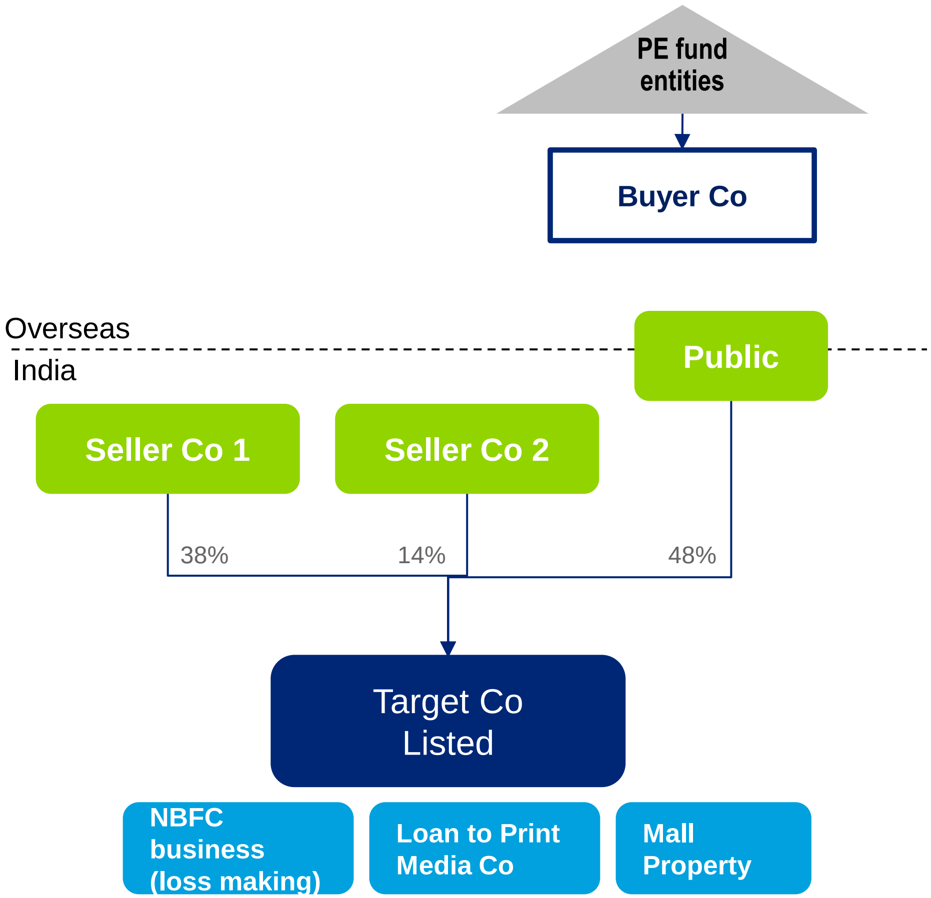
- New Co housed CV and truck distribution businesses
- E Ltd stake in New Co - 54.6%
- V Global's effective stake in New Co - 50%
  - Direct holding : 45.6.%
  - Indirect holding : 4.4%




- Core CV business was pushed down into unlisted company
- Divestment of stake in CV business at unlisted company level - without trigger of TOC
- V Global also paid non-compete fees to E Ltd as well as promoters of E Ltd as on purchase of 8.1% stake

# Case Study 5: PE investment in identified business

# Case study 5 – Acquisition structuring for PE



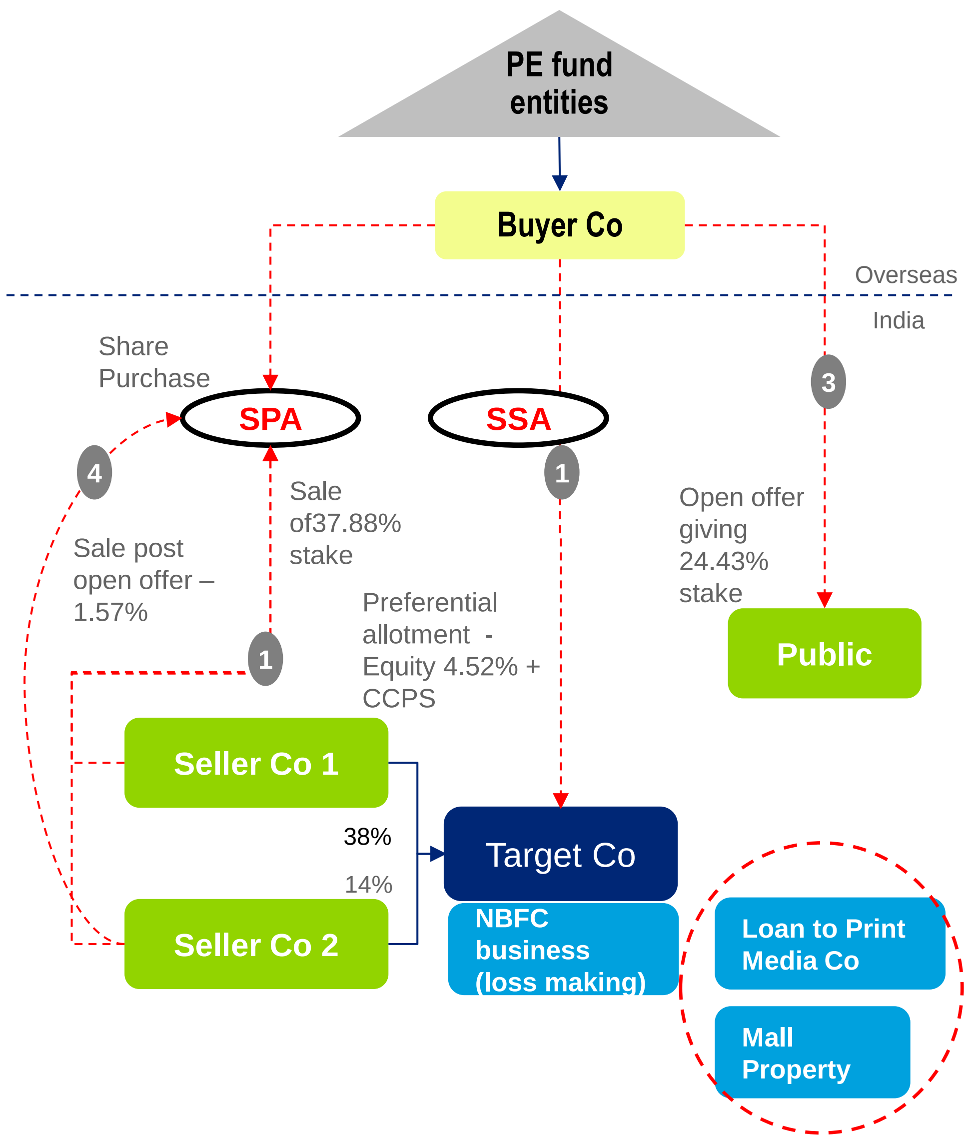

## Facts

- Target Co is an Indian listed company registered as a systematically important NBFC engaged in business of providing loans
- Buyer Co is an affiliate of a major PE fund incorporated in Mauritius
- Buyer Co intends to acquire controlling stake

## Deal challenges

- Meet minimum capitalization thresholds under FDI guidelines without bloating the size of the deal
- Address the FDI aspects in view of FDI restricted businesses/assets in Target
- Maximizing liquidity to seller promoters

# Case study 5 – Mechanics & Key considerations




*On diluted capital base

## Deal Contours

- Segregation of debt given to Print Media Co to existing promoters and 100% stake in Mall Property to a Holding trust disclosed as not being an affiliate of Target Group
- **SPA:** Acquisition of 37.88% stake of Target Co with an **conditional acquisition of balance shares** but not exceeding the **difference between offer size and actual shares acquired in open offer**
- **SSA:** Subscription of fresh shares
    - 4.52% stake by CCPS and
    - 4.52% stake by way of Equity

**Key discussion points**

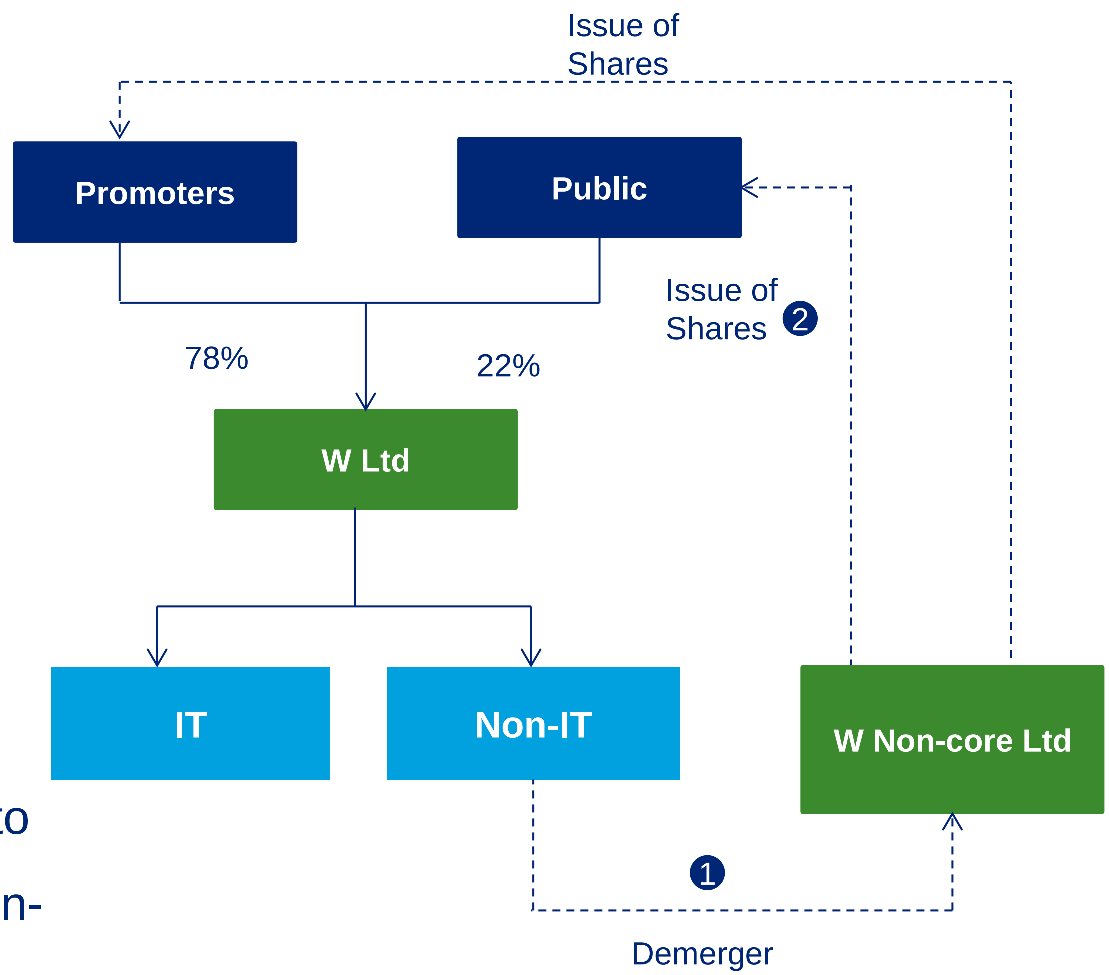
- Transfer of real estate property – pre deal step
- Transfer of debt given to Media Co – pre deal step
- Why preferential allotment
- 50% CCPS vis-à-vis 100% equity in preferential allotment

# Case Study 6: Delisting of non-core business and compliance with listing agreement

# Case Study 6

## Objectives

- Holding the non-core (non IT business) privately
- Compliance with the minimum public shareholding requirements
- Minimal cash outflow for the entire transaction




## Deal Mechanics

- WL will demerge its non-IT business into a new non-listed company called W Non-core Limited (WNL)
- WNL will issue shares to the promoters and public shareholders of WL

# Case Study 6- Consideration for demerger

| Options | Particulars |
|---|---|
| **Resident shareholders** (either of the following three) | |
| 1 – Allotment of RPS | • Receive one 7% RPS in WNL (face value – Rs 50), for every five equity shares of WL<br>• Maturity period – 12 months and redeemable at specified price |
| 2 – Allotment of equity | • Receive 1 equity shares (Face Value – Rs 10) of WNL for every 5 shares (face value – Rs 2) in WL |
| 3 – Equity swap (Default option) | • Exchange equity shares of WNL for WL shares, swap ratio being 1 share for every 1.65 equity shares in WNL |
| **Non resident shareholders** (except ADR holders) (either of the following two) | |
| 1 – Allotment of equity | • Receive 1 equity shares (Face Value – Rs 10) of WNL for every 5 shares (face value – Rs 2) in WL |
| 2 – Equity swap (Default option) | • Exchange equity shares of WNL for WL shares, swap ratio being 1 share for every 1.65 equity shares in WNL |
| **ADR holders** | |
| Allotment of equity and compulsory swap | • Receive 1 equity shares (Face Value – Rs 10) of WNL for every 5 shares (face value – Rs 2) in WL; and<br>• Exchange equity shares of WNL for WL shares, swap ratio being 1 share for every 1.65 equity shares in WNL |

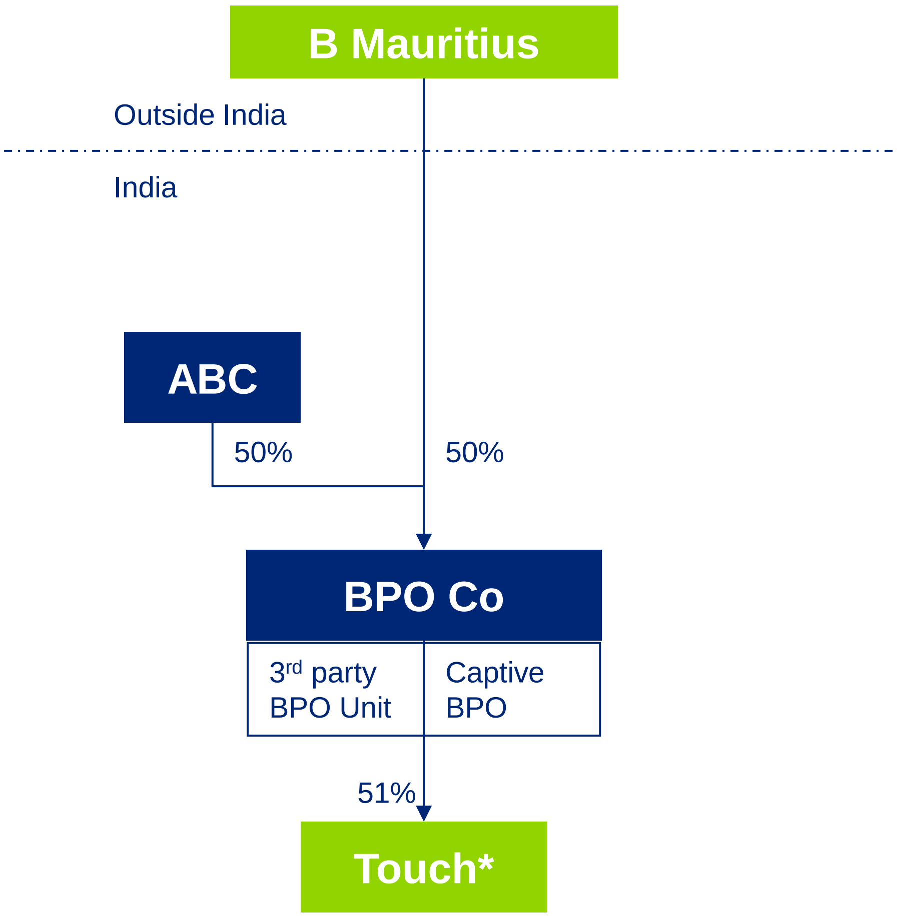
# Case Study 6- Business structuring
## Key points of consideration

- Whether condition of proportionality u/s 2(19AA) of the IT Act fulfilled
    - Clause (iv)&(v) of Section 2(19AA) whether satisfied?
- Compliance with minimum public shareholding requirement - swap option under a scheme
- Non listing of resulting company – continuous liquidity to minority made available
- Tax liability on exchange of shares

# Case Study 7: Management Buy-out

# Background

## Existing structure




***Listed on BSE**

### Background

- ABC and B Mauritius intending to exit BPO Co
- B Mauritius intended to take control of captive unit in BPO Co (“Captive BPO”)

### The Deal

- B Mauritius to get 100% ownership of Captive BPO
- PE and existing management to acquire 3rd Party BPO unit and stake in Touch
- Entire funding for the transaction to come from PE

# Key challenges

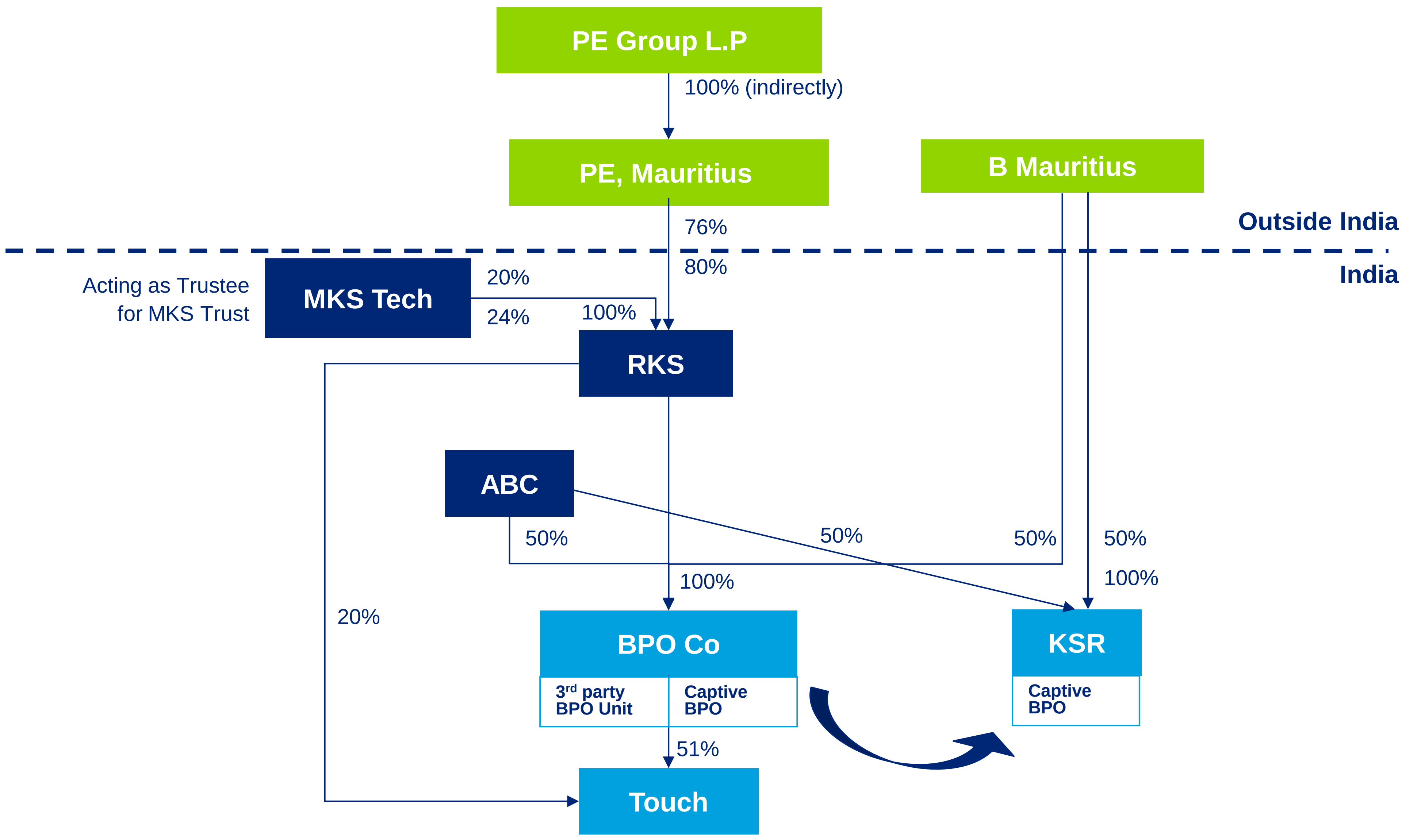
**Transfer of Captive BPO to B Mauritius**

- Slump sale
- Demerger

**Funding by PE for entire transaction**

- Ensuring appropriate stake for PE depending upon acceptance in open offer

# Indicative transaction structure



# How challenges were addressed

Demerger of Captive BPO

SPA entered prior to demerger, certain inbuilt protections

Initial equity issued to PE - 76%

- Scaled up to 80% post open offer for Touch

# Case Study 8: Structured Acquisitions through Scheme

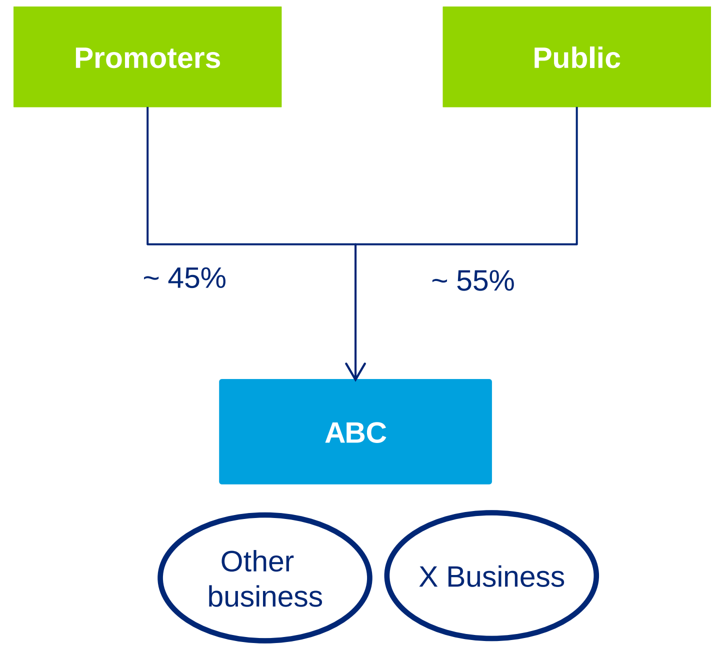
# Case Study 8 – Structured acquisition through scheme

**Background**

- ABC a listed entity  carries on amongst many businesses 'X" Business
- ABC has very high debt level that it is unable to service in relation to X business
- ABC keen to bring strategic partner

**Objectives**

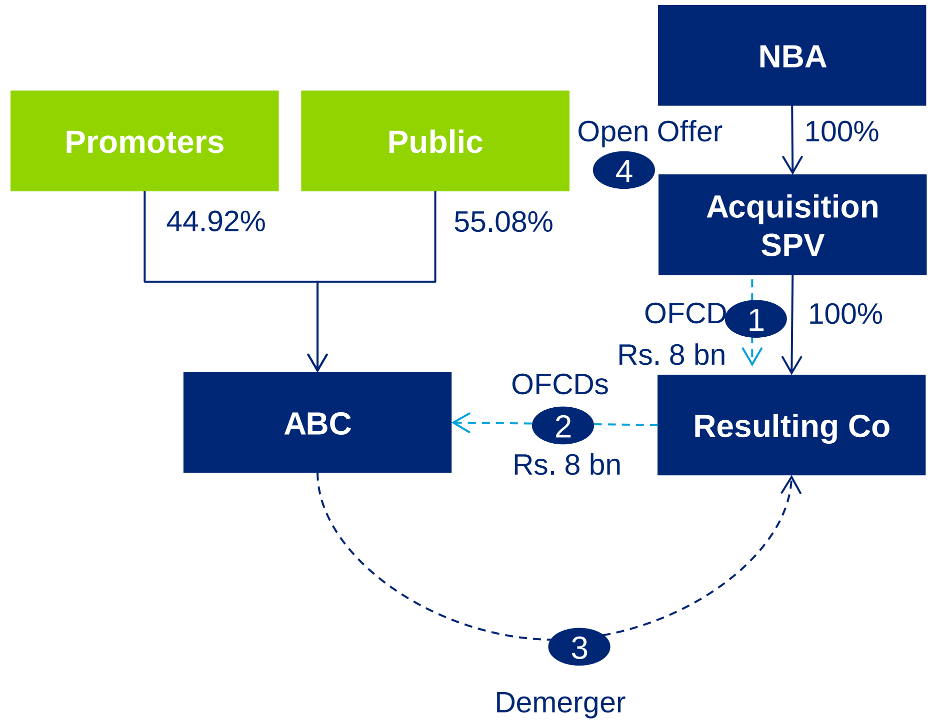
- Immediate replacement of debt
- Continue to own stake in X business
- Continue to have liquidity for the stake
- Comfort to investor about getting requisite equity only in X business for funds invested
- Tax neutrality



# Structured acquisition through scheme

## Transaction steps

1. Acquisition SPV has infused Rs 8 bn in Resulting Company in the form of OFCD's
2. Resulting Company has in turn infused Rs 8 bn in ABC in the form of OFCD's
3. ABC to demerge its "retail format business" into Resulting Co
   - Liabilities worth Rs 16 bn to be transferred to Resulting Co
   - Resulting Co to issue shares on demerger
   - Post demerger, ITSL to convert OFCD's into equity shares
4. Acquisition SPV and /or its affiliates to make a voluntary open offer to acquire 26% of the post issued capital at predetermined price



# Structured Acquisition through Scheme
## Key considerations

- Open offer for unlisted shares of PEFRL – ToC / Voluntary
- Conversion of OFCD – within the scheme
- Quick financing arrangement while actual acquisition happening over a period of time
- Tax neutrality for the transfer of undertaking
- Tax liability for shares sold in open offer?
- Change of ownership from one promoter to another in scheme of arrangement
  - Feasibility after May 21, 2013 circular by SEBI?

# Case Study 9: Rewarding shareholders

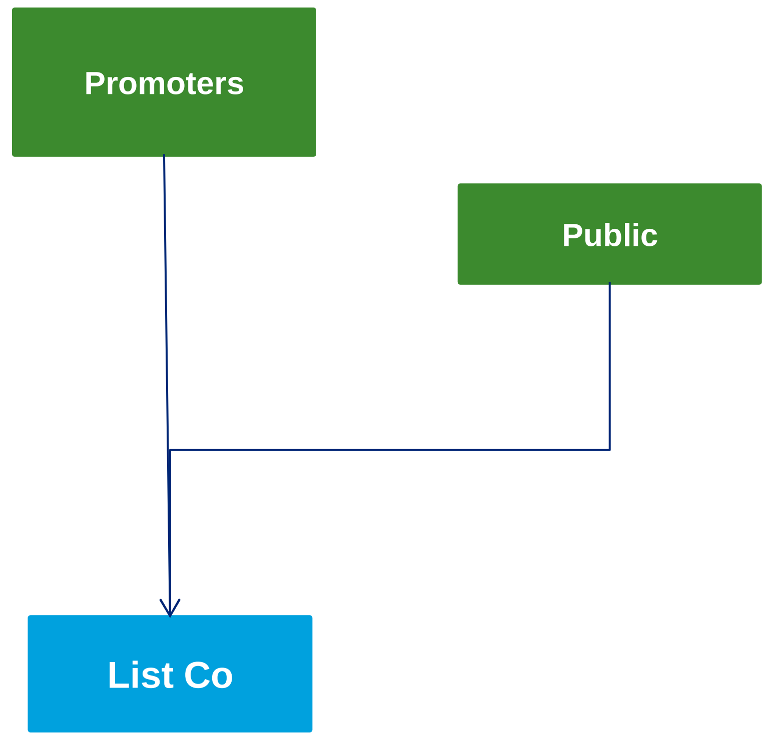
# Case Study 9 : Rewarding shareholders

**Facts**

- List Co have substantial reserves /accumulated profits
- The cash available is intended to be used for expansion/capex in near future

Issue:

- To meet the cash for capex without impacting servicing the equity



# Thank You

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