

# Capital Markets

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STATEMENT OF CAPABILITY

2011

## **Nishith Desai Associates**

*Legal & Tax Counseling Worldwide*

Mumbai • Silicon Valley • Bangalore • Singapore • Basel • New Delhi

Nishith Desai Associates (NDA) is a research based international law firm with offices in Mumbai, Bangalore, Silicon Valley, Singapore, Basel and New Delhi. We specialize in strategic legal, regulatory and tax advice coupled with industry expertise in an integrated manner. We focus on niche areas in which we provide significant value and are invariably involved in select highly complex, innovative transactions. Our key clients include marquee repeat Fortune 500 clientele, of which over 60 per cent are US corporations.

Core practice areas include International Tax, International Tax Litigation, Litigation & Dispute Resolution, Fund Formation, Fund Investments, Capital Markets, Employment and HR, Intellectual Property, Corporate & Securities Law, Competition Law, Mergers & Acquisitions, JVs & Restructuring, General Commercial Law and Succession and Estate Planning. Our specialized industry niches include financial services, IT and telecom, education, pharma and life sciences, media and entertainment, real estate and infrastructure.

Our Tax, Investment Funds and Technology-Media-Telecom (TMT) practices have been consistently ranked in tier 1 by Legal 500, while Chambers & Partners have ranked us # 1 for Tax, TMT and Real Estate - FDI. We've received honorable mentions in Asian - Counsel Magazine for Alternative Investment Funds, International Arbitration, Real Estate and Taxation for the year 2010. We have been adjudged the winner of the Indian Law Firm of the Year 2010 for TMT by IFLR. We have won the prestigious "Asian-Counsel's Social Responsible Deals of the Year 2009" by Pacific Business Press, in addition to being Asian-Counsel Firm of the Year 2009 for the practice areas of Private Equity and Taxation in India. Indian Business Law Journal listed our Tax, PE & VC and Technology-Media-Telecom (TMT) practices in the India Law Firm Awards 2009 as also Legal 500 (Asia-Pacific) that has ranked us #1 in these practices for 2009-2010. We have been ranked the highest for 'Quality' in the Financial Times – RSG Consulting ranking of Indian law firms in 2009. The Tax Directors Handbook, 2009 lauded us for our constant and innovative out-of-the-box ideas. Other past recognitions include being named the Indian Law Firm of the Year 2000 and Asian Law Firm of the Year (Pro Bono) 2001 by the International Financial Law Review, a Euromoney publication. In an Asia survey by International Tax Review (September 2003), we were voted as a top-ranking law firm and recognized for our cross-border structuring work.

Our research oriented approach has also led to the team members being recognized and felicitated for thought leadership. Consecutively for the fifth year in 2010, NDAites have won the global competition for dissertations at the International Bar Association. Nishith Desai, Founder of Nishith Desai Associates, has been voted 'External Counsel of the Year 2009' by Asian-Counsel and Pacific Business Press and the 'Most in Demand Practitioners' by Chambers Asia 2009. He has also been ranked No. 28 in a global Top 50 "Gold List" by Tax Business, a UK-based journal for the international tax community. Nishith Desai is listed in the Lex Witness 'Hall of fame: Top 50' individuals who have helped shape the legal landscape of modern India.

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### **Our Capital Markets Expertise**

Capital markets around the world have seen turbulent times in the recent past. India's capital markets, on the other hand, have displayed a quick bounce back amidst signs of a gradual waning of the global economic crises.

The liberalization of the economy, the conscious move by regulators to welcome foreign investments and a gradually evolving regulatory framework conducive to the capital markets and its participants have augured well for the growth in depth of the markets.

Improved disclosure and governance standards, a focus on investor protection and better surveillance have definitely boosted the confidence of the investors, domestic and overseas, alike. Indian companies have also become more

global in terms of their operations and a substantial amount of capital being raised in India or overseas is being utilized towards overseas expansion and acquisitions.

Nishith Desai Associates (“NDA” or the “Firm”) Capital Markets practice is geared to advice clients on all facets of capital raising through equity or debt, public or private, domestic or international. We assist clients in domestic offerings including initial public offerings (“IPO”) coupled with or without an offer for sale by existing investors, qualified institutions placements (“QIP”) and international offerings including issuance of American depository receipts (“ADR”) and global depository receipts (“GDR”).

We have been involved in 5 out of the 8 American Depository Receipts (ADRs) issued by Indian companies including the first Indian ADR to be listed on NASDAQ - Infosys Technologies followed by Wipro on NYSE. We now represent a good mix of domestic and international offerings that has evolved from representing several Indian corporations in international offerings such as ADR offerings by Infosys Technologies, rediff.com, Silverline Technologies and Wipro and the GDR issue of Himachal Futuristic Communications Limited. We have also worked on the GDR offerings by Indiabulls Financial Services Limited and Indiabulls Real Estate Limited which are listed on the Luxembourg Stock Exchange. We have assisted the investors of Ankur Drugs and Pharma Limited with respect to the issuance of foreign currency convertible bonds by Ankur Drugs and Pharma Limited

In addition, we have worked on several domestic Initial Public Offerings (IPOs), Qualified Institutional Placements (QIPs) and PIPE transactions. NDA was also involved in AIM and London Main Market Listing where first time an India focused real estate fund was proposing to get listed.

In recognition of our expertise, the Practical Law Company in Which Lawyer? Yearbook 2009 has recommended the Capital Markets practice. Moreover, Siddharth Shah, Principal, Nishith Desai Associates has been named as the ‘most recommended expert’ in the capital markets space.

### **Overseas Offerings**

The Capital Markets Practice Group of the Firm, which represents a good mix of domestic and international offerings, has evolved from representing several Indian corporations in international offerings.

Representing clients in such international offerings requires a deep understanding of not only the domestic laws but also an astute understanding and appreciation of relevant international laws such as disclosure standards, prospectus liability issues, due diligence defence, etc. Our focus on cross-border legal and regulatory issues has given us an in-depth understanding of the various issues that arise when a company seeks to list on a foreign bourse, ranging from the conflicts between the corporate law requirements in the two jurisdictions, the double taxation issues that arise in connection with the returns that international investors get on their investments and other complex issues. We seek to add value to our clients and the projects at all stages from planning through to the initiation and through the execution.

### **Domestic Offerings**

Our services include acting in the capacity of not only the issuer company’s counsel or the underwriter’s counsel, but also representing the exiting private equity, venture capital and strategic investors in their offer for sale at the time of the IPO.

Given our rich and varied experience in relation to formation of, and structuring of downline investments by, private equity and venture capital funds, we are able to successfully deal with not just their entry into Indian investee companies, but also assist them in securing a successful exit by way of an offer for sale at the time of the investee company’s IPO.

**Equity:** With respect to IPOs, the Capital Markets practice group has been involved in the offerings by Firstsource Solutions Limited, Purvankara Projects Limited and Orbit Corporation Limited. We are currently involved in the proposed offerings by Mumbai-based and leading realty, media, sports and entertainment - focused, and financial services companies. On the QIP front, the Capital Markets Practice Group has also recently handled the QIP by Orbit Corporation Limited and Sunteck Realty Limited.

**Debt:** We have assisted several realty companies in the offering of non-convertible debentures on a private placement basis to select private equity and venture capital funds.

Some of our accolades include:

- Siddharth Shah is listed among the highly recommended professionals in India by PLC Which Lawyer? 2009 for capital markets.
- Among PLC's recommended firms for Capital Markets
- Listed in the Asian Legal Business Watch list of 'Top 10 Firms to Watch in 2009'
- Recognized by Chambers and Partners as the 'Most In-Demand Practitioners'

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### Scope of Services

We have been successful in handling mandates by acting in the capacity of issue counsel, issuer company's counsel, underwriter's counsel and selling shareholders' counsel. Our scope of services, depending on our role, may vary. However, broadly our scope encompasses the following:

- Assisting a company, especially portfolio companies of strategic investors, to achieve IPO-readiness
- Advising on the overall structure of the offering, including structuring exits of strategic investors, etc, as the matter at hand may demand
- Conducting legal due diligence on the issuer company, and suggesting remedial actions for any irregularities that have appeared as a result of the due diligence
- Drafting, reviewing and finalizing documents and necessary applications, consents and approvals relating to the offering
- Drafting the offer documents such as the draft red herring prospectus, placement document, offering circular or information memorandum based on the nature of the offering at hand
- Reviewing and commenting on relevant sections of the international "wrap", if required
- Certification that the offer documents comply with all applicable statutes and guidelines and that all disclosures required there under have been made
- Liaising with the international legal counsel and working in tandem with other intermediaries
- Advise on case specific issues of listing and related support in discussions with governmental authorities and the stock exchanges on the matter
- Drafting/reviewing and negotiating the underwriting agreement, depository agreement, escrow agreement, etc depending on the nature of the offering at hand
- Assisting with the closing of the offering

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### Representative Clients

Some of the offerings wherein we have represented the issuer company or the underwriters include:

- Indiabulls Financial Services Limited
- Indiabulls Real Estate Limited

- Pryamid Retail Limited
- Firstsource Solutions Limited (previously known as ICICI Onesource Limited)
- Orbit Corporation Limited
- Purvankara Projects Limited
- Neptune Developers Limited
- Sunteck Realty Limited
- Bank of America- Merrill Lynch
- Citigroup
- Goldman Sachs
- Deustche Equities
- UBS
- Edelweiss
- Kotak Mahindra

Some of the underwriters that we have represented include:

### Contacts

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