news flash

August 2013

CURBS ON OVERSEAS INVESTMENTS

The RBI has on 14 August 2013 issued circulars imposing curbs on overseas direct investments (**ODI**) as well as under the liberalized remittance scheme (**LRS**) as follows:

A. REDUCTION OF LIMIT FOR ODI

Erstwhile Position:

An Indian Party, whose total ODI/financial commitment did not exceed 400% of its net worth, was allowed to make direct investment in all its joint ventures or wholly owned subsidiaries abroad engaged in bonafide business activities, outside India under the automatic route.

New Position

- The existing limit of 400% of the net worth of the Indian party has been reduced to **100%** of its net worth (as on the date of the last audited balance sheet) for the purpose of ODI under the automatic route.
- With respect to the energy and natural resource sector as well, the existing limit of 400% of the net worth of the Indian company investing in overseas unincorporated entities, has been reduced to 100% of its net worth under the automatic route.
- Any ODI in excess of 100% of the net worth shall be considered under the approval route by the RBI.
- In respect of Navratna Public Sector Undertakings, ONGC Videsh Limited and Oil India Ltd., the existing provision of investing in overseas unincorporated entities and incorporated entities, in the oil sector, which are duly approved by the Government of India, without any limits under the automatic route, would continue as before.

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Effective Date: The new position is effective from 14 August 2013 and will apply to fresh ODI proposals on a prospective basis but will not apply to the existing JV/WOS set up under the extant regulations.

B. REDUCTION OF LIMIT UNDER THE LRS

Erstwhile Position

The LRS Scheme allowed a resident individual to remit upto USD 200,000 per financial year for any permitted current or capital account transaction or a combination of both.

New Position

- The limit for remittances by resident individuals, under the LRS Scheme has been reduced from USD 200,000 to USD 75,000 per financial year.
- Acquisition of immovable property, directly or indirectly, outside India directly or indirectly will not be allowed under the LRS.
- The LRS cannot be used for making remittances for any prohibited or illegal activities such as margin trading, lottery, etc., as hitherto.
- Resident individuals have now been allowed to set up joint venture/wholly owned subsidiary outside India for bonafide business activities within the revised limit of USD 75,000 with effect from 5 August 2013 and subject to the terms and conditions stipulated in the notification dated 5 August 2013.
- The limit for gift/loan in rupees by resident individuals to non-resident Indian close relatives stands modified to USD 75,000 per financial year.

Effective Date: The new position is effective from 14 August 2013.

CONCLUSION

The limits for ODI have been drastically cut down by three fourths from 400% to 100% of the net worth of the Indian company. Further, not only has the LRS limit been reduced from USD 200,000 to USD 75,000 but an individual is no longer allowed to acquire any immovable property whether directly or indirectly, outside India.

Going forward, any proposals for foreign direct investments by Indian companies as well as remittances by resident individuals will need to be carefully examined in light of the revised limits.

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