

Corpsec Hotline

March 28, 2006

RBI'S FIRST STEP TOWARDS CAPITAL ACCOUNT CONVERTIBILITY

Earlier this month, the Prime Minister of India, Mr. Manmohan Singh, asked the Finance Minister and the Reserve Bank of India ("RBI") to prepare a road map towards full capital account convertibility, by July 31, 2006. In pursuance of which the RBI has set up a committee headed by Mr. S.S. Tarapore, former deputy governor of the RBI.

The RBI, commencing its journey down the road towards full capital account convertibility has issued circular RBI/2005-06/ 338 A.P. (DIR Series) Circular No. 29, dated March 27, 2006 ("**Circular**"), with a view to granting more operational flexibility to Indian corporates by liberalizing the rules governing corporate guarantees and disinvestments as well as easing the regulatory regime for overseas investment by proprietary concerns.

The significant changes proposed under the Circular are:

Guarantees

Previously, only promoter companies are allowed to offer guarantees on behalf of their wholly-owned subsidiaries (WOS) and joint ventures (JVs) without prior approval of the RBI, i.e. under the automatic route.

Under the new regime, Indian corporates may offer any form of guarantee - corporate or personal / primary or collateral / guarantee by the promoter company / guarantee by group company, sister concern or associate company in India subject to the following requirements: (i) the financial commitment is within the overall prescribed ceiling for overseas investment, (ii) the amount of the guarantee is specified upfront, and (iii) the same is reported to RBI, in Form ODR.

Overseas Investments by Proprietorship Concerns

Prior to the Circular, only a company incorporated in India, a body created under an Act of Parliament, a partnership firm registered under Indian Partnership Act, 1932, or any other entity notified by the RBI was eligible to invest in an overseas JV/WOS.

Now, proprietary / unregistered partnership firms may set up a JV/WOS outside India with the prior approval of the RBI if they satisfy certain eligibility criteria detailed in the annexure to the Circular, which includes inter alia that (i) the partnership / proprietorship firm must be a DGFT recognised Star Export House, i.e. having exports exceeding Rs.15 crore per annum, (ii) the partnership / proprietorship firm must have a proven track record, and (iii) the amount of investment must not exceed 10% of the average of the past three years exports or 200% of the net owned funds of the Indian firm, whichever is lower.

- **Kishore Joshi & Siddharth Shah**

You can direct your queries or comments to the authors

Source: RBI Circular - RBI/2005-06/ 338 A.P. (DIR Series) Circular No. 29, dated March 27, 2006

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

Research Papers

Third Party Funding in India

March 28, 2024

Compendium of Research Papers

March 21, 2024

Opportunities in GIFT City

March 18, 2024

Research Articles

Private Client Insights - Sustainable Success: How Family Constitutions can Shape Corporate Governance, Business Succession and Familial Legacy

January 25, 2024

Private Equity and M&A in India: What to Expect in 2024?

January 23, 2024

Emerging Legal Issues with use of Generative AI

October 27, 2023

Audio

The Midnight Clause

February 29, 2024

Enforceability of unstamped or inadequately stamped Arbitration Agreements

January 10, 2024

Lookout circulars: An Introduction

December 29, 2023

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

Cyber Incident Response Management

February 28, 2024

Webinar : Navigating Advertising Laws in India Part II Fireside Chat with Manisha Kapoor

February 27, 2024

**Webinar : Navigating Advertising
Laws in India**

February 20, 2024