www.pwc.in

Sharing insights

News Alert
6 September 2013

pwc

Overseas Direct Investments ('ODI') – Clarification with respect to revised guidelines

The Reserve Bank of India ('**RBI**') has issued a circular to provide clarifications with respect to recent amendment in relation to ODI in Joint Venture ('**JV**') / Wholly Owned Subsidiary ('**WOS**') under Automatic route. The RBI had, *vide* A.P. (DIR Series) Circular No. 23 dated August 14, 2013, reduced the ceiling for ODI from 400% to 100% of net worth of the Indian Party. The reduction was effective from August 15, 2013. In this regard, the RBI has clarified as follows:

1. Fresh financial commitment (not contracted until August 14, 2013)

   - Any fresh financial commitments in the existing JV/ WOS (including for the purpose of setting up of/ acquiring step-down subsidiaries outside India) by the Indian Party would be permitted under automatic route **only up to the revised limit of 100%**. Any financial commitment beyond the 100% cap shall require prior approval of the RBI. *(FAQ No.1)*

   - Investment in an existing overseas JV/ WOS of another Indian Party (either by way of transfer of existing stake or by way of fresh contribution) would constitute a fresh financial commitment by the new Indian Party and would have to be within the revised limit of 100%, under the automatic route. *(FAQ No.6)*

   - Existing investments made by the Indian Party would also be reckoned towards calculation of revised limit of 100%. *(FAQ No.5)*

2. Fresh financial commitment (contracted on or before August 14, 2013)

- In cases where the Indian Party has already contracted/committed financial commitment for acquiring/ setting up new JV/ WOS or for making fresh investment in an existing JV/ WOS, **the earlier limit of 400% under the automatic route would apply**. Such investments shall not be subject to any unwinding or approval from the RBI. Responsibility for checking veracity/ authenticity of the contract/ commitment before permitting remittances will lie with the designated Authorised Dealer ('**AD**') bank. The AD Bank would keep the RBI informed about such investments. *(FAQ Nos. 2 and 3)*

- Applications already forwarded to the RBI/ AD bank on or before August 14, 2013 would be examined and dealt with by the RBI/ AD bank under the guidelines existing prior to August 14, 2013. *(FAQ No. 4)*

3. ODI funded out of foreign exchange

The following clarifications have been provided in this regard:

- The limit of 400% of net worth of the Indian Party under automatic route would continue to apply in cases where the investment is to be funded out of proceeds of External Commercial Borrowings.

- In case of ODI funded out of Earners Foreign Currency account of the Indian party, or out of funds raised by way of American Depository Receipts/ Global Depository Receipts, no such limit would apply.

4. ODI by *Navratna* Public Sector Undertakings (PSUs), ONGC Videsh Limited (OVL) and Oil India Ltd (OIL)

For approving overseas investments by Navratna PSUs, OVL and OIL in the oil sector (i.e., for exploration and drilling for oil and natural gas, etc.), the term, 'Government of India' mentioned in the earlier circular[1] should be read as 'Competent Authority', which, depending on the amount involved would be (1) the Board of Directors of the PSU concerned, (2) Empowered Committee of the Secretaries (ECS); and (3) Cabinet Committee on Economic Affairs (CCEA). *(FAQ No. 7)*

These clarifications would provide clarity to investors as to the applicability of the revised guidelines.

Source: A.P. (DIR Series) Circular No. 30 dated September 4, 2013.

[1] A.P. (DIR Series) Circular No. 23 dated August 14, 2013

About PwC

PwC* helps organisations and individuals create the value they're looking for. We are a network of firms in 158 countries with more than 180,000 people who are committed to delivering quality in assurance, tax and advisory services.

PwC India refers to the network of PwC firms in India, having offices in: Ahmedabad, Bangalore, Chennai, Delhi NCR, Hyderabad, Kolkata, Mumbai and Pune. For more information about PwC India's service offerings, please visit www.pwc.in.

*PwC refers to PwC India and may sometimes refer to the PwC network. Each member firm is a separate legal entity. Please see www.pwc.com/structure for further details.
Tell us what matters to you and find out more by visiting us at www.pwc.in.

Our offices

Ahmedabad President Plaza, 1st Floor Plot No 36 Opp Muktidham Derasar Thaltej Cross Road, SG Highway Ahmedabad, Gujarat 380054 Phone +91-79 3091 7000	**Bangalore** 6th Floor, Millenia Tower 'D' 1 & 2, Murphy Road, Ulsoor, Bangalore 560 008 Phone +91-80 4079 7000	**Chennai** 8th Floor, Prestige Palladium Bayan 129-140 Greams Road, Chennai 600 006, India Phone +91 44 4228 5000	**Hyderabad** #8-2-293/82/A/113A Road no. 36, Jubilee Hills, Hyderabad 500 034, Andhra Pradesh Phone +91-40 6624 6600	**Kolkata** 56 & 57, Block DN. Ground Floor, A- Wing Sector - V, Salt Lake. Kolkata - 700 091, West Bengal, India Telephone: +91-033 - 2357 9101/4400 1111 Fax: (91) 033 - 2357 2754
Mumbai PwC House, Plot No. 18A, Guru Nanak Road - (Station Road), Bandra (West), Mumbai - 400 050 Phone +91-22 6689 1000	**Gurgaon** Building No. 10, Tower - C 17th & 18th Floor, DLF Cyber City, Gurgaon Haryana -122002 Phone : +91-124 330 6000	**Pune** GF-02, Tower C, Panchshil Tech Park, Don Bosco School Road, Yerwada, Pune - 411 006 Phone +91-20 4100 4444	For more information contact us at, pwctrs.knowledgemanagement@in.pwc.com	