

M&A NEWSFLASH DATED 13 JANUARY 2003
SUPPLEMENT TO

LEGAL EYE

Your peek into the Indian legal scene

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March towards Rupee Convertibility

On the auspicious occasion of NRI's day (the Pravasi Bhartiya Divas) on 9th January 2003, the Finance Minister has made major announcements towards relaxation in controls on capital account transactions.

Some of the major announcements are:

Investment in overseas listed equity

Indian residents i.e. individuals, corporates and mutual funds can invest in the equity of companies listed on recognized overseas stock exchanges, provided these companies have at least 10% shareholding in a company listed on an Indian stock exchange. Whilst there is no ceiling for individual investments, the ceiling on corporate investments has been set at 25% of the investing company's net worth and the collective ceiling for mutual funds is US\$1bn.

Acquisition of immovable properties abroad

Indian corporates with branches and offices abroad can acquire immovable properties overseas for their business, staff residential purposes.

Retaining ADR/GDR proceeds abroad

Indian companies can retain the proceeds from the issue of ADR/GDR abroad, without any limitation, for future forex requirements. In the case of funds already raised through ADR/GDR issues, permission from the government may be necessary.

Issue of ESOP's by foreign companies

The current ceiling (i.e. US\$20,000 per annum) for remittance by employees to acquire shares of foreign companies through an ESOP scheme has been removed.

Repatriation by NRI's

NRIs would be able to repatriate up to US\$ 1 mn arising from the proceeds on transfer of assets held in India.

The Finance Minister announcement gives an indication of the broad policy decisions. But, the conditions/requirements attached thereto would be clear only after the release of the fine print. For instance, on the initiative for investment in an overseas listed company the consequences in case the overseas listed company's shareholding in the relevant Indian listed company falls below 10% is not clear. Similarly, which, if any, would be the data center for access of information by the public at large as regards the investment by an overseas listed company in the Indian listed company is not clear.

We shall further update you in our coming Newsletter based on the actual amendments made in the notification. We understand from various press releases that, in light of the coming Lok Sabha elections next year, the forthcoming Budget would be a populist budget giving many more initiatives in order to boost the sentiments of the industry.

M&A TEAM

Editor in Chief :

Rajesh N. Begur

email : rajesh@aralaw.com

A.R.A LAW

Advocates & Solicitors

Editorial Team : Mumbai	Bangalore
Agra Building, 1st Floor 121 M. G. Road Fort, Mumbai 400 023 India. Tel: (+91 22) 263 1700 Fax: (+91 22) 263 1800 Email: aralaw@vsnl.com	237 'Sumitra', 2'C Cross 1st Main, Domlur II Stage Bangalore India. Tel: (+91 80) 535 1619 Fax: (+91 80) 535 2708 Email: aralawbg1@vsnl.net

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