



Regulatory Alert Stay Ahead...

FDI in Limited Liability Partnership - Liberalization

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Background

Reserve Bank of India (RBI) has, on 3 March 2017, notified Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Second Amendment) Regulations, 2017 (FEMA Amendment Regulations).

FEMA Amendment Regulations have substituted Schedule 9 to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations 2000 (FEMA Regulations) titled "Foreign Direct Investment (FDI) in Limited Liability Partnerships (LLPs) formed and registered under the Limited Liability Partnership Act, 2008".

The amendments takes into account the changes earlier introduced by the Government of India in FDI Policy for investment in LLP by person resident outside India.

Key amendments

Key changes in revised Schedule 9 are as under:

- Company having FDI can be converted into an LLP under automatic route (as against government approval route earlier), if it is engaged in a sector where foreign investment upto 100% is permitted under automatic route and there are no FDI linked performance conditions.
- Restrictions on LLPs to avail ECB removed.
- Restrictions on only Indian Company to be eligible to act as designated partner of LLP has now been removed. In other words, any body corporate including foreign company would be eligible to act as designated partner of LLP (through an individual nominee).

Conclusion

The amendments would facilitate ease of doing business in India. It gives much clarity on conversion of a company with FDI into a LLP under automatic route. LLP can now access ECBs subject to further amendments being made in ECB framework.

Source: Notification No. FEMA. 385 / 2017 – RB dated 3 March 2017 issued by Reserve Bank of India.

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