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Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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UNLOCKING GLOBAL OPPORTUNITIES: A COMPREHENSIVE ANALYSIS OF THE MCA'S AMENDMENT ALLOWING INDIAN COMPANIES TO DIRECTLY LIST ON FOREIGN STOCK EXCHANGES

AUTHORED BY - SAMRIDDHI BAMMIDI

Abstract

The overseas listing of Indian companies has garnered renewed attention as a result of recent developments in the corporate space. In a statement released in September last year, the Finance Minister proposed to initiate 'direct listing' starting from GIFT city's IFSC followed by listings elsewhere. This was followed by a notification issued by the Ministry of Corporate Affairs in October, 2023 which empowered the government to authorise specific public companies to list certain classes of securities on approved international stock markets. The amendment brought about by the Companies (Amendment) Act, 2020 which became effective from October 30, 2023 is what facilitated such direct listing. These changes indicate that things are heading in the right direction. While the essay provides a brief overview of the history and a seamless transition from the existing system to examine the amendment, an initial reading leads one to believe that the move will support startups and make it possible for cutting-edge businesses with innovative business models to survive the cutthroat competition by fending off unfavourable investor inclinations in the domestic market or by challenging their limited risk appetite.

Introduction

“Economic growth in a modern economy hinges on an efficient financial sector which pools domestic savings and mobilizes foreign capital for productive investments.”¹ An economy’s health and efficiency are significantly influenced by a robust and well-functioning capital market. In fact, the expansion of the capital market and the country’s economic growth potential are strongly and positively correlated.

Post globalisation, the search for capital financing shot up to levels that transcended geographical boundaries of nation states. The now-hyped overseas listing made its way to the trend of the town for reasons more than one: the capacity to raise equity, expanding the shareholder base, increasing brand exposure, and improving trade liquidity are some of the many. Direct listing or indirect listing through depository receipts are the two most popularised ways this can be accomplished. We shall dig deeper into this at a later point in the essay.

Businesses looking to raise cross-border funds generally utilise cross-listings or overseas listing of their equity to finance their domestic operations. For investors who chose to finance business opting for foreign listing, overseas listing, or cross-listing as they may be called, this meant novel investment prospects and a portfolio with a wide global distribution. Corporates in the past few years have seen global integration through cross-listings on foreign markets at a pace which was unimaginable, a decade ago. The meteoric market liberalisation and increased interconnectedness of the global securities markets have been the twin factors behind this.² Companies incorporated in India might obtain overseas financing at a reduced cost by listing their equity on foreign stock markets. In a similar vein, foreign stock listings on the Indian Stock Exchange³ would bring about effective allocation of capital and enhance investor diversity.

This essay makes a toddler attempt to comprehensively analyse the MCA’s recent amendment allowing Indian companies to directly list on foreign stock exchanges. While the essay briefly explains the background and makes a smooth transition from the existing regime to scrutinize the amendment, a preliminary understanding nudges us to believe that the move will boost

¹ Geert Bekaert & Campbell R. Harvey, *Capital Markets: An Engine for Economic Growth*, 5 *Brown Journal of World Affairs* 33, 33 (1998).

² Bhumesh Verma & Karan Shelke, *Direct Listing: The Beginning of Demise of GDR and IDR Routes*, (2019) PL (CL) August 81.

³ Companies Act, 2013, § 390, No. 18, Acts of Parliament, 1949 (India).

start-ups and enable new-age companies with disruptive business models to survive the competitive business race by battling unfavourable investor inclinations in the domestic market or by combating their limited risk appetite.⁴

Overseas listing framework: A broad outlook

In the global parlance, there generally exists four routes of overseas listing that firms can opt for. The *first* and the most publicized route is how certain nations allow their companies to issue a distinct class of shares exclusively for offshore listings. For instance, ‘H-shares’ which trade in Hong Kong dollars but are valued in Renminbi, are allowed to be issued by mainland Chinese corporations in order to list them in the Hong Kong Special Administrative Region.⁵ In the past, a somewhat comparable procedure has also been made possible by Indian regulations. This can be seen in how the Calcutta Electric Supply Corporation (India) Ltd. was listed on the LSE from 1979 to 2013 wherein a separate branch register was maintained by the company in London for resident shareholders.⁶

The *second* route calls for ‘Global Registered Share’ popularly abbreviated as GRS. It is an ordinary share of a company that may be easily traded and transferred across borders. It is pertinent to note here that a GRS is not a receipt signifying shares placed with a custodian as often confused; rather, it is an actual share of the business.⁷ DaimlerChrysler released the first generation of GRS in 1998. In New York, they were quoted, traded, and settled in USD; in Frankfurt, they were settled in Deutschmarks/Euros.⁸

The *third* mode of overseas listing i.e. DLC is more innovative than it purports to be. In essence, a dual-listed company structure is a merger between two companies in a way that integrates their operations and cash flows while retaining their independent legal identity.⁹ These many legal companies could be included in several legal directories. Rio Tinto, for instance, uses a DLC organisational structure. The Australian Stock Exchange lists Rio Tinto Ltd., whereas the

⁴ Gireesh Chandra Prasad, *MCA greenlights direct foreign listing for select unlisted companies*, Mint, Nov 01, 2023.

⁵ *Guide to Chinese Share Classes*, FTSE Russell, London Stock Exchange Group, (Oct 2023), https://www.lseg.com/content/dam/ftse-russell/en_us/documents/policy-documents/guide-to-chinese-share-classes.pdf.

⁶ PTI, *CESC decides to bid adieu to 100 years of listing on London SE*, The Hindu Business Line, July 26, 2013.

⁷ Pratik Datta, *For Indian companies, the way to money*, Indian Express, December 19, 2023.

⁸ DaimlerChrysler Annual Report 1998, Mercedes-Benz Group, <https://group.mercedes-benz.com/documents/investors/berichte/geschaeftsberichte/daimlerchrysler/daimler-ir-annualreport-1998.pdf>.

⁹ Jaideep Bedi and Paul Tennant, *Dual-listed Companies*, International Department, Reserve Bank of Australia Bulletin (Oct 7, 2002), <https://www.rba.gov.au/publications/bulletin/2002/oct/pdf/bu-1002-2.pdf>.

London Stock Exchange lists Rio Tinto PLC.¹⁰

The *last* and the most common mechanism seems to be that of depository receipts (DRs). Under this route, domestic securities are placed with an on-shore custodian, on whose instructions the foreign depository bank issues depository receipts against these securities off-shore.¹¹ Being foreign securities, depository receipts are traded and settled in the foreign jurisdiction like any other security in that jurisdiction.¹² JP Morgan issued the first DR for the British business Selfridges Provincial Stores Ltd. in 1927.¹³

Existing Regime: The India story

One of the most popular ways of raising foreign capital for companies in emerging economies is through American Depository Receipts (ADRs) or Global Depository Receipts (GDRs)¹⁴ and the only available route for Indian firms until now. Furthermore, Indian companies may also directly list their debt securities on foreign stock exchanges through Foreign Currency Convertible Bonds (FCCB) and Foreign Currency Exchangeable Bonds, which are issued in currencies other than the domestic currency of the issuing company.¹⁵

There seems to be a visible discord as to what meaning we attach to the term “direct listing” and how we statutorily interpret it. It is possible to use it in a context where we describe an unlisted Indian company that lists its depository receipts on a foreign market without first having to list its Indian equity shares on an Indian exchange. This was originally proposed and allowed under the 1993 scheme of the Ministry of Finance.¹⁶ However, later changes made DR issuance a prerequisite for either a prior or subsequent domestic listing that came to be relaxed only in 2013. A 2014 amendment to Foreign Direct Investment (FDI) policy allowed unlisted Indian companies to raise foreign capital without having to list in India initially for a

¹⁰Shareholder information, Dual listed companies structure, Rio Tinto, <https://www.riotinto.com/en/invest/shareholder-information/dual-listed-companies-structure>.

¹¹ Pratik Datta, *The Depository Receipts Scheme 2014: Lessons in Policy Implementation*, 2015 NLS Bus L Rev 93.

¹² See *SEBI v. Pan Asia Advisors Ltd.*, 2015 SCC OnLine SC 626.

¹³ Report of the Committee to Review the Framework of Access to Domestic and Overseas Capital Markets (Phase II, Part I: Indian Depository Receipts), Ministry of Finance, Government of India, June, 2014.

¹⁴ Nicholas C. Howson and V.S. Khanna, *Reverse Cross-Listings — The Coming Race to List in Emerging Markets and an Enhanced Understanding of Classical Bonding*, 3 Cornell Int'l L.J., 607-629 (2014).

¹⁵ Companies Act, 2013, § 2(30), No. 18, Acts of Parliament, 1949 (India).

¹⁶ Report of the Committee to Review the FCCBs and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993, Ministry of Finance, Government of India, Nov 2013.

period of two years.¹⁷ The circular issued by SEBI in 2019, however, limited DR issuances exclusively to domestically listed companies.¹⁸ Similar to this, Indian Depository Receipts (IDRs) allow international corporations to list their securities in India in compliance with the corporations (Indian Depository Receipts) regulations, 2004 by virtue of Section 390 of the Companies Act, 2013.¹⁹

Mounting Challenges – A downward spiral

The depository method was utilised by several well-known and publicly traded Indian companies, including Infosys, Reliance Industries, and Vedanta, to get access to international equity capital markets. Meanwhile, many Indian businesses were compelled to find an alternative mechanism to list their stocks on international exchanges at this time. In order to facilitate an international listing at NASDAQ without going public in India, MakeMyTrip, for instance, got incorporated in Mauritius.²⁰

The surge in indirect listing that occurred through ADR/GDR in the late 1990s and early 2000s is currently witnessing a sharp decline.²¹ Both the total volume of capital and the number of companies using the depository route have experienced a steep fall. A number of reasons, including the growth of the local QIP industry and fluctuations in the ‘rupee,’ according to market observers, have altered the fundraising landscape.²² The drawbacks contributing to the downward spiral are more threatening than problematic. The GDR process for instance makes it easier to convert black money and re-route it back to India as legal money, which Indian regulators view as a serious threat to the financial sector.²³ Through this technique, several corporations shift funds to India without any obvious trading activity, taking advantage of the existing infrastructure. International authorities have observed money laundering through GDR investments that are neither associated with any political instability or geopolitical conflicts,

¹⁷ Jayshree Upadhyay, *SEBI Proposes Direct Overseas Listing of Companies*, Mint, June 13, 2018.

¹⁸ Siddharth Rajeevan and Ravi Dubey, *DR Issuances: Analysis Of SEBI DR Circular*, MONDAQ (Nov 12, 2019, 9:29 PM), <https://www.mondaq.com/india/securities/863482/dr-issuances-analysis-of-sebi-dr-circular>.

¹⁹ Companies (Issue of Indian Depository Receipts) Rules, 2004, Notification no. General Statutory Rules 131(E), Feb 23, 2004.

²⁰ Shweta Ojha, *Direct Overseas Listing India: Regulatory Hurdles in Liberalised Regime*, RMNLU LAW REVIEW BLOG (10 May 2021), <https://rmlnlulawreview.com/direct-overseas-listing-india-regulatory-hurdles-in-liberalised-regime/>.

²¹ Rajesh Mascarenhas, *ADRs/GDRs Lose Charm for Indian Firms*, The Economic Times, 2016, <http://www.primedatabasegroup.com/newsroom/M124.pdf>.

²² Ashwin Ramarathinam & Harsha Jethmalani, *The demise of overseas equity offerings by Indian companies*, Mint, Apr 05, 2017.

²³ Ashish Kumar & Shaleen Suneja, *Unmasking the Misuse of Global Depository Receipts – Psychological Analysis of Select Cases*, Journal for Re Attach Therapy and Developmental Diversities 136, 141 (2023).

nor losses incurred by investors who risked on those enterprises.²⁴ Added to this is the two-way fungibility of DRs and the underlying shares which has previously been abused to influence the price of domestic shares, grossly compromising integrity of public markets.²⁵ The ultimate beneficial ownership is another regulatory concern. This stems from the fact that while compliance of KYC requirements by a depository receipt holder are mandated in a FATF country, identity of the ultimate natural beneficial owner of a DR may still remain untraceable.²⁶

Policymakers have long been prompted by these regulatory concerns to consider a different kind of ‘direct listing’, which involves directly listing the shares of an Indian company on prescribed international exchanges, bypassing the need for DRs (indirect listing) at all.

The game changing move: SEBI Committee Report 2018

With the goal of cutting down on transaction costs for the listed companies and increasing transparency and viability for the businesses, ‘direct public offerings’ essentially aim to eliminate intermediaries from the business transactions. Take the instance of the ‘Spotify Rule’; Recent revisions to the Securities and Exchange Commission’s (SEC) listing rules for the New York Stock Exchange (NYSE) which took effect on February 2, 2018 made it feasible for ‘Spotify’ to go public without the need for a traditional initial public offering (IPO).²⁷ A step ahead, listing on foreign markets gives just the needed competitive edge that these new-age companies look for. Increased liquidity, lower capital costs, and cost efficiency are just a few of the obvious benefits of listing on foreign markets. However, in the absence of a viable regulatory structure in this regard until now, Indian businesses failed to make use of these opportunities, directly hampering their market growth in comparison to their foreign competitors.

The recent amendments notified by the Ministry of Corporate Affairs (MCA) were essentially kickstarted on June 12, 2018 by SEBI’s game-changing move of establishing an expert committee - “Expert Committee for Listing of Equity Shares of Companies Incorporated in

²⁴ Surajit Ghosal, *Repatriation of Black Money — India’s Cherished Dream Amidst the Challenges of International Regulations*, 3 IJIMS 47, 47-58 (2016).

²⁵ Supra note 7.

²⁶ Anurag Gupta, Shruti Rajan, Vidhi Shah, *De-mystifying the reporting obligations of depository receipts in India*, International Financial Law Review (IFLR) London.

²⁷ Securities Exchange Act Release No. 82627 (2-2-2018), <https://www.scconline.com/blog/post/2019/08/12/direct-listing-the-beginning-of-demise-of-gdr-and-idr-routes/>.

India on Foreign Stock Exchanges and of Companies Incorporated Outside India on Indian Stock Exchanges,” to solicit recommendations regarding the listing of equity shares of companies incorporated in India on international stock exchanges and the other way round. The committee was tasked with researching the possible outcomes and formulating a viable strategy for the direct listing on foreign stock exchanges.

The expert committee in its report, considered three broad criteria for analysis:

- “Examine in detail the economic case for permitting direct listing of Indian companies overseas and foreign companies on Indian stock exchanges;
- Examine various legal, operational and regulatory constraints in facilitating Indian companies to directly list their equity shares on foreign stock exchanges and foreign companies to list their equity shares on Indian stock exchanges; and
- Make recommendations for a suitable framework in which to facilitate such direct listing.”²⁸

The Committee submitted a comprehensive 29-page report on December 4th, 2018, urging the securities market regulator to authorise direct overseas listing. The report emphasised the benefits of this approach and stressed the importance of implementing related regulatory reforms, such as amendments to the “Companies Act (2013), Foreign Exchange Management Act (1999), SEBI [Issue of Capital and Disclosure Requirements (ICDR)] Regulations, and SEBI [Listing Obligations and Disclosure Requirements (LODR)], SEBI [Prohibition of Insider Trading (PIT)] Regulations, SEBI [Substantial Acquisition of Shares and Takeovers (SAST)] Regulations, SEBI (Buy-back of Securities) Regulations and SEBI (Delisting of Equity Shares) Regulations.”²⁹ Further, it suggested listing on only prescribed stock exchanges in select countries with robust anti-money laundering regulations. However, fear of capital erosion and concerns regarding complete loss of regulatory authority, made the ruling government reluctant to implement the shift back then. Entering the realm of good tidings, the Companies (Amendment) Act, 2020 which came into effect from October 30, 2023 has now put an official end to the long wait of anticipation.

²⁸ Monica Behura, *The Govt allows direct overseas listing of Indian companies and notified relevant sections under companies law*, The Economic Times, Nov 2, 2023.

²⁹ Supra note 2.

The breakthrough amendment: A Corporate Win!

The Companies (Amendment) Bill, 2020 which received presidential assent on 28th September 2020, made it possible for certain classes of public companies to directly list prescribed classes of securities on foreign exchange.³⁰ The announcement which was made as a part of ‘Ease of doing business’ in COVID-19 Stimulus package, came into effect only from October 30, 2023.³¹ The amendment aims to facilitate access to global capital markets for domestic companies and provides the much-needed flexibility to Indian companies who want to raise their capital outside the traditional domestic market.³² The initiative which is set to first launch at the International Finance Service Centre (IFSC) in the Gift City, may witness full-blown expansion after its successful execution there. Since trading in Gift City is dollar-denominated, foreign investors could save on hedging and currency conversion costs.³³

Section 5 of the Amendment act amends section 23 of the Companies Act, 2013 which now reads as follows:

“Sec 23. Public offer and private placement

(1) A public company may issue securities —

- a) to public through prospectus (herein referred to as “public offer”) by complying with the provisions of this Part; or
- b) through private placement by complying with the provisions of Part II of this Chapter;
- c) through a rights issue or a bonus issue in accordance with the provisions of this Act and in case of a listed company or a company which intends to get its securities listed also with the provisions of the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the rules and regulations made thereunder.

(2) A private company may issue securities—

- a) by way of rights issue or bonus issue in accordance with the provisions of this Act; or
- b) through private placement by complying with the provisions of Part II of this Chapter.

(3) Such class of public companies may issue such class of securities for the purposes of listing on permitted stock exchanges in permissible foreign jurisdictions or such other jurisdictions, as may be prescribed.

³⁰ KR Srivats, *Direct listing abroad: Centre enforces key company law provision*, The Hindu, October 31, 2023.

³¹ Notification No. 4744(E), October 30, 2023, <https://www.a2ztaxcorp.com/wp-content/uploads/2023/11/MCA-Notification-30.10.2023.pdf>.

³² PTI, *Govt allows direct overseas listing of Indian companies; notifies relevant section under companies law*, Financial Express, November 1, 2023.

³³ KR Srivats, *Govt framing eligibility norms for direct listing of firms overseas*, The Hindu, October 13, 2023.

(4) The Central Government may, by notification, exempt any class or classes of public companies referred to in sub-section (3) from any of the provisions of this Chapter, Chapter IV, section 89, section 90 or section 127 and a copy of every such notification shall, as soon as may be after it is issued, be laid before both Houses of Parliament

*Explanation.—For the purposes of this Chapter, “public offer” includes initial public offer or further public offer of securities to the public by a company, or an offer for sale of securities to the public by an existing shareholder, through issue of a prospectus.*³⁴

In furtherance of the amendment brought, the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 have been revised by the Department of Economic Affairs, which has also announced the “Direct Listing of Equity Shares of Companies Incorporated in India on International Exchanges Scheme.” In parallel, the Ministry of Corporate Affairs released the Companies (Listing of Equity Shares in Permissible Jurisdictions) Rules, 2024. The SEBI is said to be currently working on releasing the operational guidelines for listed public companies.³⁵ The eligible exchanges as per the Union finance ministry are ‘India International Exchange’ and ‘NSE International Exchange.’

The amendment would elevate the “India” brand internationally. The move will also provide Indian businesses a competitive edge, which will increase efficiency and spur economic growth.³⁶ Citing the far-reaching implications of the amendment as revolutionary, Jay Parikh, partner of Luthra and Luthra Law Offices India opined, “It is expected that Indian corporates will now have access to diverse pools of capital, a wider base of investors and better valuation for tech-businesses. The growing trend of Indian founders incorporating their startups abroad or flipping the ownership to overseas structures for ease of capital raising, valuation and regulatory reasons may also see a reduction following the move to permit direct overseas listing.”³⁷

³⁴ The Companies (Amendment) Act, 2013, § 5, No. 19 of 2020, (India).

³⁵ Gyanendra Keshri, *Direct listing of Indian companies on GIFT City exchanges allowed*, Deccan Herald, January 2024.

³⁶ Anand Vardhan & Piyush Raj Jain, *Decoding MCA’s move allowing Direct Listing of Indian Securities on Foreign Exchange*, CENTRE FOR BUSINESS AND COMMERCIAL LAWS, NLIU Bhopal, (Jan 28, 2024, 8:10 PM), <https://cbcl.nliu.ac.in/company-law/decoding-mcas-move-allowing-direct-listing-of-indian-securities-on-foreign-exchange/>.

³⁷ Ruchika Chitravanshi, *MCA enforces provision for foreign listing of Indian public companies*, Business Standard, Oct 31, 2023.

Turning challenges into opportunities: Author's Version

With the sea of opportunities that the amendment brings, comes a number of practical and regulatory hurdles. While the latest notification³⁸ seeks to clear the cloud on aspects of permissible stock exchanges, permissible jurisdictions, FEMA related amendments and more, concerns revolving around SEBI's extra-territorial jurisdiction, applicability of Capital Gains Tax, accounting standards etc still persist.

- Eligibility of Company – Though the scheme provides for 'direct listing' for only public companies, listed or unlisted³⁹, there is no set criteria to determine such eligibility. The current eligibility requirements for GDR Regulations can thus be utilised as a yardstick which provides that the companies should have a consistent track record of good performance for a minimum period of three years, based on which Department of Economic Affairs may grant the approval.⁴⁰ Pre-defined performance-based eligibility requirements ought to be introduced by SEBI with MCA consultation, or a committee should be established to determine eligibility on an individual basis for newly established businesses and start-ups that have not yet turned a profit.⁴¹
- SEBI's extra-territorial jurisdiction - The impact of securities misconduct is not restricted by national borders, particularly in cases where a single company transacts on stock exchanges across different nations. Securities price manipulation may occur in any jurisdiction and can artificially affect a security's price on domestic stock markets. To safeguard the interests of Indian investors in such a situation, SEBI may need to use its extraterritorial jurisdiction to adequately monitor any wrongdoing taking place outside of India. However, this will lead to a conflict of jurisdiction, and in order to exercise this authority, regulators from the several nations where the listing is allowed, must cooperate. In order to prevent conflicts of this kind, SEBI may sign agreements with regulators from prescribed jurisdictions that spell out each regulator's authority and guarantee effective cooperation in the event of any misconduct or wrongdoing.⁴²

³⁸ PIB Delhi Press Release, *Government allows direct listing of securities by public Indian companies on International Exchanges of GIFT IFSC*, Ministry of Finance, Government of India, 24 Jan, 2024.

³⁹ FAQs on direct listing scheme, Ministry of Corporate Affairs, Government of India, <https://static.pib.gov.in/WriteReadData/specificdocs/documents/2024/jan/doc2024124300801.pdf>.

⁴⁰ American Depositary Receipts, <https://bathiya.com/american-depository-receipts/>, (last visited Jan 29, 2024).

⁴¹ Supra note 19.

⁴² Supra note 19.

- Applicability of Capital Gains Tax - Since shares of Indian companies are considered “capital assets situated in India,” capital gains on their transfer between non-residents may be subject to taxation, which if happens, will naturally discourage foreign investors to invest in Indian shares. In line with the norms applicable to depository receipts (ADRs and GDRs), securities of Indian companies listed on overseas stock markets should be exempted from taxation too, a move which is highly anticipated in the upcoming budget.⁴³
- Multiplicity of listing laws - Companies that are listed on the Indian stock exchange and are cross-listed abroad are subject to the listing requirements of the foreign jurisdiction as well as additional restrictions, including SEBI-LODR. In such a scenario, it is crucial to develop mechanisms to settle these disputes, which can call for quick regulatory action, such as amending the current securities rules in India. Speaking on this, Mr. Tejesh Chitlangi, partner, IC Legal, put forth that how “from a practical perspective, listing of equity by Indian companies directly on the overseas exchanges and vice versa will require changes not only in the applicable Indian regulatory regime but also the laws of the concerned overseas jurisdictions.”⁴⁴
- Differing accounting standards - In the author’s opinion, since Indian Accounting Standards (IndAS) are now universally recognised, direct listing would enable Indian firms to use them exclusively when preparing their financial statements, saving them both time and money.⁴⁵ This is in contrast of the prior regime wherein Indian companies had to make significant investments to ensure compliance with International Financial Reporting Standards (IFRS) and Generally Accepted Accounting Principles (GAAP). However, there is still a lack of clarity on this issue as experts believe that foreign jurisdictions might still necessitate on their accounting standards and reporting requirements.⁴⁶

Concluding Perspective

The conventional route of raising capital through GDR/ADR has become increasingly problematic with allegations of misuse, round-tripping and taxation concerns exacerbating the

⁴³ Sidhartha, *Companies listing directly overseas may get capital gains tax sop*, Times of India, Jan 11, 2022.

⁴⁴ Jaysshree Upadhyay, *SEBI Proposes Direct Overseas Listing of Companies*, Mint, Jun 13, 2018.

⁴⁵ Supra note 36.

⁴⁶ Suneha Kasal and Swini Khara, *Direct Overseas Listing: Assessing the Viability of Proposed Reforms*, INDIA CORPLAW (February 13, 2019), <https://indiacorplaw.in/2019/02/direct-overseas-listing-assessing-viability-proposed-reforms.html>.

scenario, making investors and businesses wary of both subscribing and issuing.⁴⁷ The case at hand reflects the compelling need for a more liberalised global market strategy that would eliminate the onerous ADR and GDR regulations and enable Indian companies to raise capital from overseas investors. ‘Direct listing’ in such a scenario assumes immense significance.⁴⁸

It is in this backdrop that the author holds the recent amendment as truly revolutionary and a breakthrough moment in India’s capital markets. The move is further laudatory keeping in view the exponential expansion of several Indian IT businesses through their global footprints and the now elevated bar for Indian businesses in the global marketplace. In fact, many Indian companies with clearly comprehensible business models and big-banner names in the industry can potentially benefit from cross-listing.

The Finance Ministry in a statement opined that this policy initiative will reshape the Indian capital market landscape and will offer the new-age Indian companies, an alternative route to access global marketspace beyond the domestic exchanges. This is expected to increase foreign investment flows, open development prospects, widen the investor base, and improve the valuation of Indian enterprises at par with global standards of scale and performance.⁴⁹ Experts however see a need for greater clarity on certain aspects including but not limited to taxation, market making, takeover code regulations and disclosures to facilitate new listings.⁵⁰ What now remains to be seen, is the manner in which these tasks are carried out and the mode of implementation of the same.

⁴⁷ Ramarathinam & Jethmalani, *The demise of overseas equity offerings by Indian companies*, Live Mint, Apr 05, 2017.

⁴⁸ PTI, *Sebi brings in liberalised norms for depository receipts*, The Economic Times, Oct 10, 2019.

⁴⁹ FP Staff, *Centre allows direct listing of securities by Indian companies on international exchanges of GIFT IFSC*, First Post, Jan 24, 2024.

⁵⁰ Mint Genie Team, *On direct overseas listing, industry seeks more follow-up action: Report*, Mint, 02 Nov 2023.