

## Proposal on investment in foreign companies, VCs irks HNIs

### Synopsis

According to the draft regulations, any investment in an unlisted company, even for a stake as little as 1-2%, is allowed (as ODI) only if the Indian investor has control over the foreign outfit — a right that very few, if any, investors will have.



While the compliance and paperwork for investments in unlisted entities were tightened a few years ago, requiring individual investors to fulfil formalities under 'overseas direct investment'— the doors were never really shut.

securities — listed as well as unlisted — and units of global funds by transferring funds under the central bank's **liberalised remittance scheme** (LRS) which allows a person to **invest** a maximum of \$250,000 a year.

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Wealthy Indians will find it virtually impossible to bet on foreign startups, **fintech** firms, overseas venture capital funds and similar offshore unlisted entities once a new rule proposed by the Reserve Bank of India (**RBI**) comes into force.

Since more than a decade, local high net worth individuals (**HNIs**) and ultra-HNIs have been buying properties,

### **'Regressive Changes'**

However, the proposed regulations on purchase of foreign unlisted securities lay down certain conditions that effectively rule out such investments. Some of the overseas funds and multiple advisors on cross-border investments on behalf of their HNI clients have requested the central bank to hold back the proposed changes, three persons told ET.

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Besides, the investee company cannot in turn put money in a subsidiary or float a step-down subsidiary, something a minority investor can never assure. The investee company which issues the unlisted securities cannot be in financial services — thereby, restricting investments with a foreign private equity or VC fund.

“Under the current LRS rules, resident investors are permitted to invest in global funds set up abroad within the permissible limits. These changes if implemented would not only result in inability of individuals to participate in global deals on a portfolio basis, but could also result in resident Indians being regarded as defaulting investors in terms of the fund documents since they may no longer be able to fulfil their existing commitments,” said Parul Jain of the law firm Nishith Desai Associates.

### **Annual remittance limit**

“There has been a long ask to increase annual remittance limit from \$250,000 to \$1 million. Rather than proposing an increase in remittance limits, with draft rules, resident angel investment into startups and other unlisted

companies set up abroad would no longer be permitted. Such a proposed change seems regressive in nature compared to the current RBI policy, and will have an adverse impact on the ability of Indian investors to become global investors,” she said.

An RBI spokesperson did not respond to ET’s query on the regulatory rationale behind the proposal — whether there were concerns related to money laundering or round-tripping.

“Restricting a resident to invest in unlisted companies without control will deprive the opportunity to invest in many offshore growth-oriented companies. Even though in certain cases, investments may have been made with mala fide intention, closing the door for all is not justified,” said senior chartered accountant Dilip Lakhani.

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