

Corpsec Hotline

October 11, 2005

LIMITED LIABILITY PARTNERSHIPS: A POSSIBLE BOON FOR PROFESSIONALS IN INDIA?

The Ministry of Company Affairs ("MCA") in India will, within a few days, come out with an approach paper to invite comments from all stakeholders on how to shape a new law allowing limited liability partnerships ("LLPs").

A LLP is a form of business entity, widely used in other countries of the world, which permits individual partners to be shielded from joint liability created by another partner's decision or misconduct. The Government had set up the Naresh Chandra Committee ("NCC") which advised the Government on occasions on which a partner's deeds would constitute a liability for the partnership and where a partner's immunity from liability should end. The Committee had further recommended that no restriction should be placed on the number of partners in a LLP. The J.J. Irani Committee, which advised the MCA earlier this year on the proposed new company law, favoured the form of a business entity where there would not be any restrictions regarding the maximum number of partners. At present, The Indian Partnership Act, 1932 prescribes a minimum of two and a maximum of twenty partners for all partnerships, except in the case of banking where the maximum limit is ten.

It is still not clear as to which sectors will be included within the scope of this proposed LLP legislation. It is believed that the services that are likely to receive a significant boost in India are insurance consultancy services and equity investment services like venture capital funds. In this context, it may be recalled that the Reserve Bank of India ("RBI") had earlier disallowed New Bridge Capital, a US based private equity fund from acquiring Global Trust Bank since the concept of LLPs is yet to gain legitimacy in India.

As per the NCC's recommendations, the scope of LLP should at first be made available to firms providing professional services as opposed to trading or manufacturing firms. If this be the case, then the professionals will soon be able to do riskier business without the fear of losing their personal assets in order to cover the possible liabilities of their partnership.

-Khushboo Baxi & Kishore Joshi

You can direct your queries or comments to the authors

Source: The Economic Times, dated October 11, 2005.

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