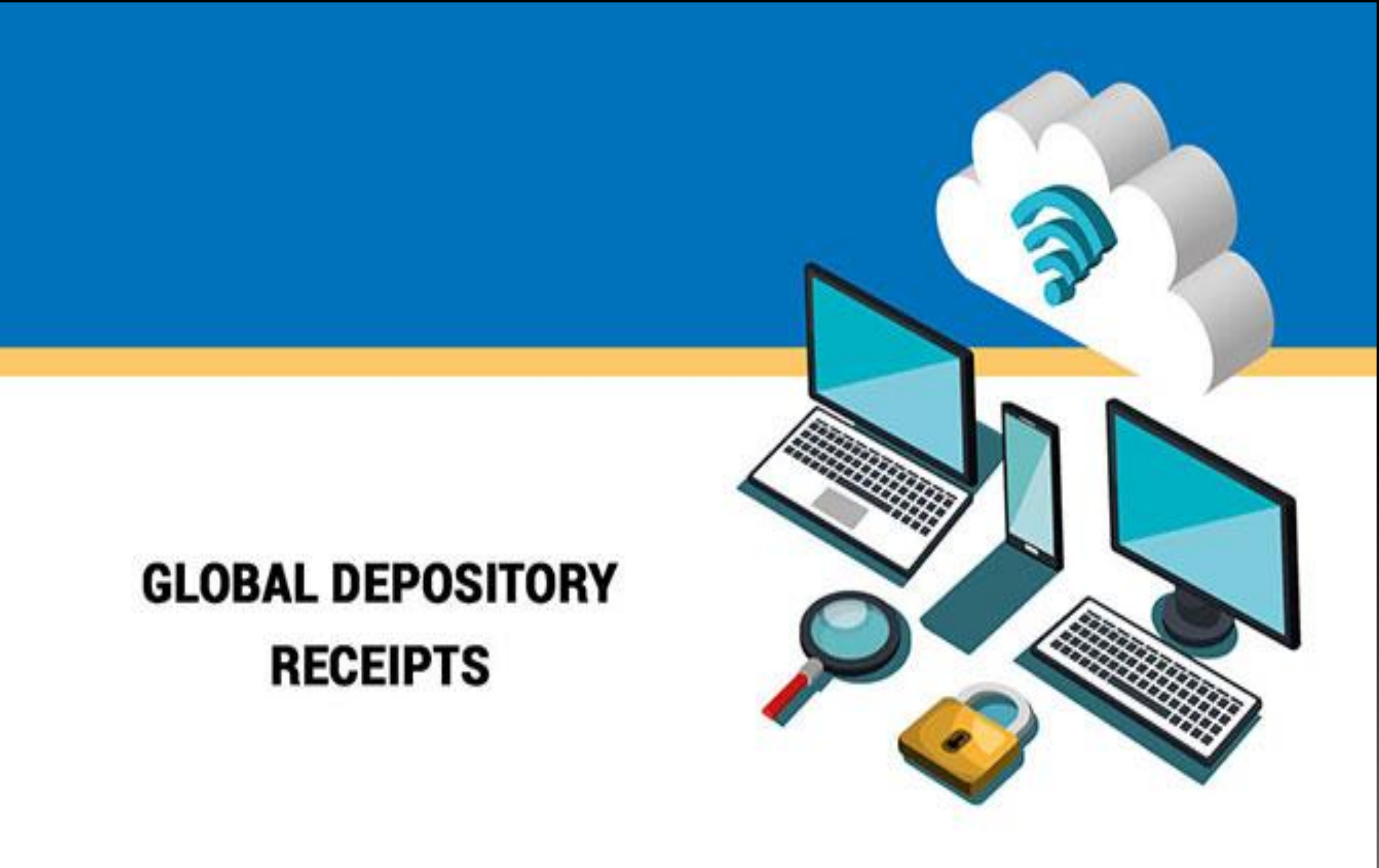
WHY SHOULD COMPANIES ISSUE GDRS?



GDRS/ADRS/IDRS

GDRs/ADRs/IDRs

- Mechanism
- Meaning
- Advantages/disadvantages
- Provisions and rules under the companies act,2013
- Depository receipt scheme, 2014 of cg
- RBI circular on depository receipts scheme

WHAT IS A GDR/ADR

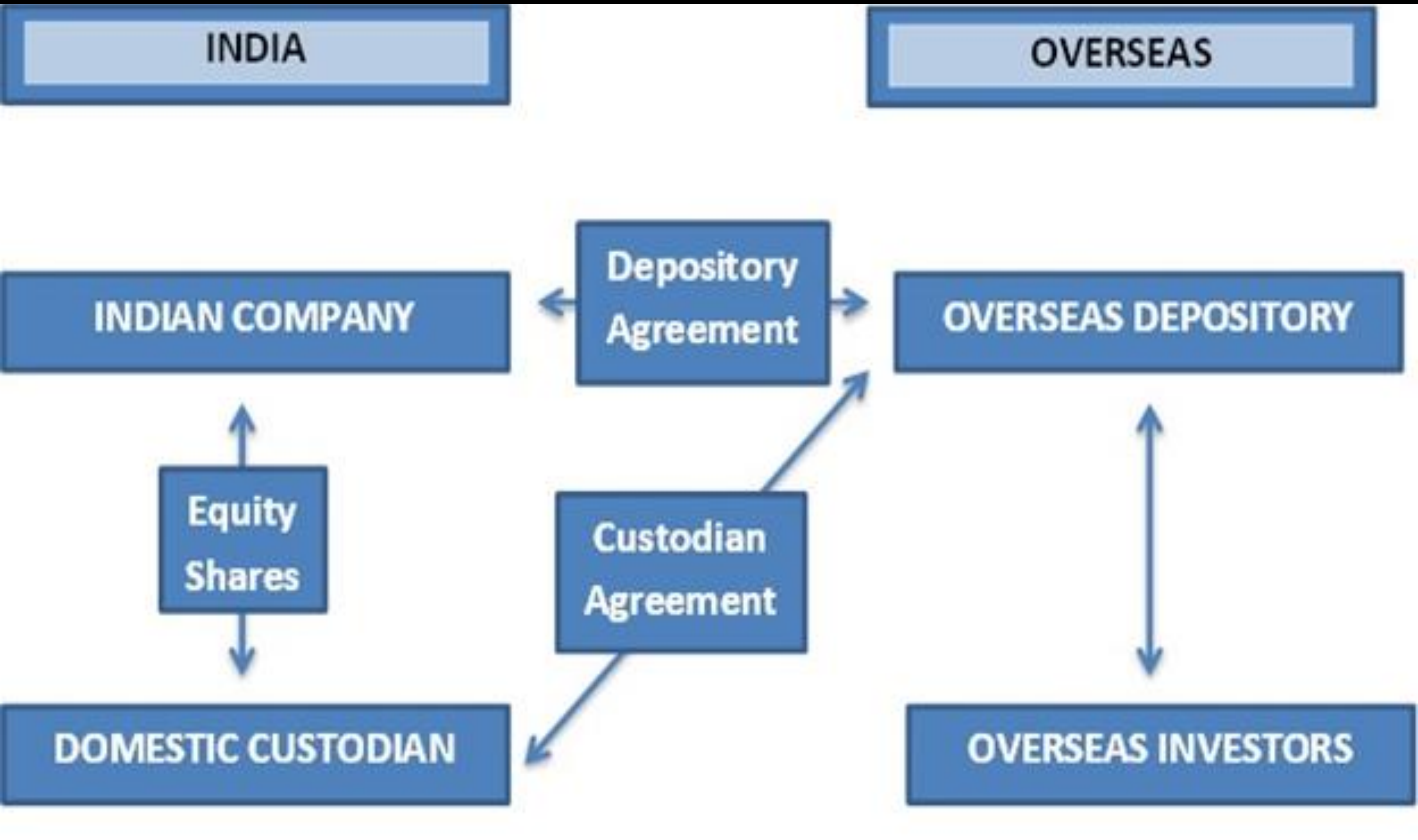
ADR stands for American Depository Receipts while GDR is Global Depository Receipts. Depository Receipt is a type of negotiable (transferable) financial security that is traded on a local stock exchange but represents a security (usually equity) that is issued by a foreign publicly listed company.

Global Depository Receipt – means an instrument in the form of depository receipt by whatever name called , created by a foreign depository outside India and authorized by a company making an issue of such depository receipts.

An American depositary receipt (ADR) is essentially a GDR that is issued by a foreign company but only is listed on American exchanges. A GDR would entail listings on more than one foreign market.

GDRs are often listed in the Frankfurt Stock Exchange, Luxemburg Stock Exchange and the London Stock Exchange.

GDR MECHANISM



GDR MECHANISM CONT.

The domestic company enters into an agreement with the overseas depository bank for the purpose of issue of GDR.

The overseas depository bank then enters into a custodian agreement with the domestic custodian of such company.

The domestic custodian holds the equity shares of the company.

On the instruction of domestic custodian, the overseas depository bank issues shares in the form of Depository Receipts to foreign investors.

The whole process is carried out under strict guidelines.

GDRs are usually denominated in U.S. dollars.

ADVANTAGES OF GDRS

- Access to foreign capital markets.
- Shares can be traded in more than one currency.
- Company gets international attention and coverage.
- Liquid in nature as they are based on demand and supply which can be regulated.
- The valuation of shares in the domestic market increase, on listing in the international market.
- With GDR, the non-residents can invest in shares of the foreign company.
- GDR can be freely transferred.
- Foreign Institutional investors can buy the shares of company issuing GDR in their country even if they are restricted to buy shares of foreign company.
- Increases the share-holders base of the company.
- Tax saving-as tax payable on purchases shares in the foreign company.

DISADVANATAGES OF GDRS

Violating any regulation can lead to serious consequences against the company.

Dividends are paid in domestic country's currency which is subject to volatility in the forex market.

Mostly beneficial to High Net-Worth Individual (HNI) investors due to their capacity to invest high amount in GDR.

Expensive sources of finance.

Indian Depository Receipt

Indian Depository Receipt (IDR) is a financial instrument denominated in Indian Rupees in the form of a depository receipt . The IDR is a specific Indian version of the similar global depository receipts.

It is created by a Domestic Depository (custodian of securities registered with the Securities and Exchange Board of India against the underlying equity of issuing company to enable foreign companies to raise funds from the Indian securities Markets.

The foreign company IDRs will deposit shares to an Indian depository.

The depository would issue receipts to indian investors against these shares.

The benefit of the underlying shares (like bonus, dividends etc.) would accrue to the deposit receipt holders in India.

PROVISIONS AND RULES UNDER THE COMPANIES ACT,2013

SECTION 41: A company may, after passing a special resolution in its general meeting, issue depository receipts in any foreign country in such manner, and subject to such conditions as prescribed in the Companies (Issue of Global Depository Receipts) Rules, 2014.

Companies (Issue of Global Depository Receipts) Rules

Conditions for Issue of Depository Receipts.

(1) Board Resolution

(2) Approval of shareholders by a special resolution.

(3) The depository receipts shall be issued by an overseas depository bank appointed by the company and the underlying shares shall be kept in the custody of a domestic custodian bank.

(4) Ensure Compliance of all applicable provisions of the Scheme and RBI Guidelines.

(5) The company shall appoint a merchant banker or a practising chartered accountant or a practising cost accountant or a practising company secretary to oversee all the compliances relating to issue of depository receipts and the compliance report to be taken.

Companies (Issue of Global Depository Receipts) Rules cont.

Manner and form of depository receipts

(1) The depository receipts can be issued by way of public offering or private placement or in any other manner prevalent abroad and may be listed or traded in an overseas listing or trading platform.

(2) The depository receipts may be issued against issue of new shares or may be sponsored against shares held by shareholders of the company in accordance with such conditions as the Central Government or Reserve Bank of India may prescribe or specify from time to time.

(3) The underlying shares shall be allotted in the name of the overseas depository bank and against such shares, the depository receipts shall be issued by the overseas depository bank abroad.

Companies (Issue of Global Depository Receipts) Rules cont.

Voting Rights

(1) A holder of depository receipts may become a member of the company and shall be entitled to vote as such only on conversion of the depository receipts into underlying shares after following the procedure provided in the Scheme and the provisions of this Act.

(2) Until the conversion of depository receipts, the overseas depository shall be entitled to vote on behalf of the holders of depository receipts in accordance with the provisions of the agreement entered into between the depository, holders of depository receipts and the company in this regard.

Companies (Issue of Global Depository Receipts) Rules cont.

Proceeds of issue

The proceeds of issues of depository receipts shall either be remitted a bank account in India or deposited in an Indian bank operating abroad or any foreign bank (which is a Scheduled Bank under the Reserve Bank of India Act, 1934) having operations in India with an agreement that the foreign bank having operations in India shall take responsibility for furnishing all the information which may be required and in the event of a sponsored issue of Depository Receipts, the proceeds of the sale shall be credited to the respective bank account of the shareholders.

DEPOSITORY RECIEPT SCHEME, 2014 OF CG

Ministry of Finance has vide its Notification F No. 9/1/2013-ECB dated 21st October 2014 has notified the Depository Receipt Scheme for issue of Depository Receipts outside India.

To be implemented by RBI, SEBI, MCA and MOF.

Schedule 1 define the permissible jurisdictions/ countries where depository receipts can be issued.

DEPOSITORY RECIEPT SCHEME, 2014 OF CG

Eligibility

- Any Indian Company Listed or Unlisted, Private or Public.

Any other issuer of permissible Security.

Any person holding permissible Security

Note: Permissible security means Securities defined under 2(h) of SCRA and includes any similar instrument issued by a private company which may be acquired by person outside India under FEMA and is in dematerialized form.

DEPOSITORY RECIEPT SCHEME, 2014 OF CG

Issue and Limits

Foreign Depository may issue DR by public issue or Private Placement or any other permissible mode.

Issuer may issue permissible security to foreign Depository by any permissible mode.

Holders of permissible security can transfer to Foreign Depository with or without approval of Issuer, through stock exchange or bilateral transactions or any other public platform.

Aggregate of permissible Security issued to Foreign Depository along with permissible security already held by person resident outside India not to exceed foreign holding under FEMA.

DEPOSITORY RECIEPT SCHEME, 2014 OF CG

Pricing and Approval

The permissible securities shall not be issued to Foreign Depository at a price less than price of applicable to corresponding mode of issue of such securities to domestic investors. Pricing norms of ICDR to be complied with.

Approval necessary for issue and transfer of permissible security to person resident outside India shall apply for issue of Depository Receipts.

RBI A.P. (DIR Series) Circular No. 61 dated January 22, 2015 on Depository Receipts scheme

Consequently RBI also issued a circular on Depository Receipts Scheme.

Under the said circular the domestic custodian is required to report the issue/transfer of sponsored/unsponsored depository receipts as per DR Scheme 2014 in 'Form DRR' within 30 days of close of the issue/ program.

Earlier guidelines for Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) Scheme, 1993 except to the extent relating to foreign currency convertible bonds was repealed.

THANK YOU!

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