

Managing Capital Controls Efficiently: How Indian UHNWI Invest Globally

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Executive Summary

Indian Ultra High Net Worth Individuals (UHNWIs) are increasingly looking to diversify their portfolios through global investments. However, India's capital controls, governed primarily by the Foreign Exchange Management Act (FEMA) and operationalized through the Liberalised Remittance Scheme (LRS), present a unique regulatory landscape. This whitepaper explores how UHNWIs legally and efficiently manage these capital controls to participate in global investment opportunities while remaining compliant with Indian regulations.

Introduction

The Indian regulatory regime restricts the amount and manner in which capital can be remitted abroad. Despite these limitations, many Indian UHNWIs have successfully structured their financial strategies to invest in international assets such as real estate, startups, private equity, and hedge funds. This paper details:

1. The nature of Indian capital controls
2. Strategic frameworks adopted by UHNWIs
3. Compliance and tax considerations

Capital Controls in India: The LRS Framework

Key Features:

1. **Annual limit:** USD 250,000 per individual
2. **Permissible investments:** Foreign securities, real estate, deposits, gifts, and education
3. **Prohibited uses:** Margin trading, remittance to certain jurisdictions

Key Challenges:

1. **Remittance cap:** Restricts large-scale global investment
2. **TCS burden:** 20% on certain outward remittances
3. **Complex reporting:** Schedule FA and tax disclosures
4. **Approval requirement:** For ODI transactions involving control

Efficient Strategies for Managing Capital Controls

1. Pooling Family Quotas

UHNW families use the LRS quotas of multiple members to consolidate remittances.

- Allows for larger overseas allocations
- Enables participation in global opportunities such as private placements

2. Offshore Trusts and Entities

Many UHNWIs create offshore structures for asset protection, estate planning, and investment management.

- Trusts in jurisdictions like Singapore or DIFC
- Entities structured under RBI's ODI norms
- Requires legal and tax advisory for RBI approval and compliance

3. Strategic Remittance Timing

Remittances are staggered across fiscal years or quarters to match drawdowns or acquisition timelines.

- Pre-funding offshore accounts in Q4
- Aligning remittances with capital call schedules

4. Family Offices

Dedicated family offices provide institutional-level oversight and governance.

- Tracks LRS usage
- Oversees compliance and TCS recovery
- Implements FX risk management

5. Residency Planning

UHNWIs planning a shift to NRI status gain greater freedom over capital mobility.

- Enables direct foreign investments without LRS
- Requires detailed tax exit planning

6. Feeder Funds and Global Platforms

UHNWIs often invest in SEBI-regulated domestic feeder funds that deploy capital globally.

- No remittance required by the individual investor
- Regulatory comfort and simplified tax treatment

7. Corporate and LLP Vehicles

Entities can invest abroad under the ODI framework, especially for control-based investments.

- Greater ticket sizes possible
- Centralized risk and asset management

Tax and Compliance Considerations

1. **Schedule FA:** Mandatory foreign asset disclosure in IT returns
2. **Black Money Act:** Penalties for undisclosed offshore holdings
3. **FATCA/CRS:** Automatic exchange of account information with foreign jurisdictions
4. **TCS Tracking:** Ensuring refunds or tax credit on high-value remittances

Compliance is non-negotiable. Missteps can lead to scrutiny, penalties, or prosecution.

Case Examples

1. **Rockefeller-style family trusts:** Indian UHNW families adopting long-term multi-generational structures for wealth and philanthropic deployment
2. **Dubai family offices:** Taking advantage of DIFC's regulatory stability and tax advantages
3. **ODI via LLPs:** Investing in foreign real assets or operating businesses using Indian LLPs under RBI's revised 2022 framework

Conclusion

Navigating India's capital controls requires a combination of legal rigor, financial planning, and strategic foresight. For UHNWIs, the goal is not to evade regulation but to use the full extent of the law to achieve meaningful global exposure. With professional support, robust family governance, and regulatory alignment, Indian UHNWIs can build globally resilient portfolios.

References

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2. Master Direction on ODI (2022)
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