

Notice of provision of an undertaking to the Republic of India
in pursuit of securing tax relief for Earlyguard Limited

Earlyguard Limited (***Earlyguard***), a wholly owned subsidiary of Mitsui & Co., Ltd. (***Mitsui***) was served with a tax demand for its sales of shares of Finsider International Company Limited in 2007 pursuant to the Indian Finance Act amended in 2012 which intended to tax any gain on transfer of shares in a non-Indian company which derives value from underlying Indian assets. Thereafter, the Republic of India enacted the Taxation Laws (Amendment) Act 2021 (the ***Amendment***) and the Income-Tax (31st Amendment) Rules 2021 (the ***Rules***) (together, the ***Income-Tax Legislation 2021***), under which it became possible to secure tax relief by fulfilling the procedures of the Income-Tax Legislation 2021, and Mitsui is carrying out the procedure in order to secure tax relief for Earlyguard. As part of this procedure, Mitsui reports as follows.

On 2 November 2021, Earlyguard as part of the procedures under and in accordance with the Income-Tax Legislation 2021, issued an undertaking to the Republic of India, whereby it agreed, subject to the conditions stipulated in the Income-Tax Legislation 2021, that any claims arising out of, or relating to, the assessment order dated 25 May 2016 issued by the Indian Tax Authority (the ***Relevant Order***) or any related award, judgment or court order, would be withdrawn and deemed no longer to subsist (the ***Earlyguard Undertaking***).

In addition to the Earlyguard Undertaking, and as required by the Rules, Mitsui has also provided to the Republic of India its own undertaking (the ***Mitsui Undertaking***), which:

- confirms that Mitsui will forever irrevocably forgo any reliance on any right and provisions under any award, judgment, or court order pertaining to or under the Relevant Order;
- includes a complete release of the Republic of India and any Indian Affiliates (as defined in the Income-Tax Legislation 2021) with respect to any award, judgment, or court order pertaining to or under the Relevant Order, and with respect to any claim pertaining to the Relevant Order;
- includes an indemnity against any claims brought against the Republic of India or any Indian Affiliate, including by related parties or interested parties, contrary to the release (the ***Mitsui Indemnity***); and
- confirms that Mitsui will treat any such award, judgment, or court order as null and void and without legal effect to the same extent as if it had been set aside by a competent court and will not take any action or initiate any proceeding or bring any claim based on that.

Following the review and acceptance on 12 November 2021 by the Commissioner of Income-tax, International Taxation, Bangalore of the Earlyguard Undertaking and the Mitsui Undertaking, Earlyguard withdrew its arbitration claim made against the Republic of India and also withdrew its Rectification Application as follows:

- a) on 16 December 2021, Earlyguard duly withdrew its arbitration claim made in relation to the Relevant Order under the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of India for the Promotion and Protection of Investments dated 14 March 1994;

- b) on 15 December 2021, Earlyguard duly withdrew its Rectification Application in relation to the Relevant Order, which Earlyguard had filed under Section 154 of the Income Tax Act, 1961 on 29th June 2020.

In accordance with the Rules, and by way of consideration for Earlyguard's withdrawal of its above-referenced claims, the Commissioner of Income-tax, International Taxation, Bangalore shall pass within 30 days an order granting relief in the form of a declaration that the Relevant Order shall be deemed to have never been passed.

Notwithstanding the above, the Mitsui Undertaking and the Mitsui Indemnity shall be deemed to have never been issued if the Commissioner of Income-tax, International Taxation, Bangalore rejects the Earlyguard and Mitsui Undertakings or declines to grant relief to Earlyguard.