Foreign Direct Investment Policy

India

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At HCO, the interests of our clients are paramount. Our focus on the mid-market means we have a real understanding of the environment in which our clients operate and are ideally placed to help them grow and prosper.

In our continued efforts to provide Tax, Audit & Compliance updated to our clients and international associates we have compiled this guide focusing on Investment opportunities in India with light on Foreign Investment guidelines in India. Indian Tax Law has not been discussed in this issue as the same has been separately published.

Who we are and what we stand for

- More than 50 years of professional experience (Established in the year 1962)
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- International Representation through "Antea- Alliance of Independent Firms"
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FOREWORD

It is the intent and objective of the Government of India to attract and promote **Foreign Direct Investment (FDI)** in order to supplement domestic capital, technology and skills, for accelerated economic growth. Foreign Direct Investment, as distinguished from portfolio investment, has the connotation of establishing a 'lasting interest' in an enterprise that is resident in an economy other than that of the investor.

These are exciting times in India from the standpoint of economic growth and rapid development standpoint. The last year has been marked by a number of remarkable initiatives from the government such as "Make in India", "Skill India", "Digital India", etc., which are committed to ensuring improvement in the business environment in India and making it the pre-eminent destination for global foreign direct investment

The Government has put in place a policy framework on Foreign Direct Investment, which is transparent, predictable and easily comprehensible. This framework is embodied in the Circular on Consolidated FDI Policy, which is updated every year, to capture and keep pace with the regulatory changes, effected in the interregnum.

The Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce & Industry, Government of India makes policy pronouncements on FDI through Press Notes/Press Releases which are notified by the Reserve Bank of India as amendments to the Foreign Exchange Management (Transfer or Issue of Security by Persons Resident Outside India) Regulations, 2000 (notification No.FEMA 20/2000-RB dated May 3, 2000).

These notifications take effect from the date of issue of Press Notes/ Press Releases, unless specified otherwise therein. In case of any conflict, the relevant FEMA Notification will prevail. The procedural instructions are issued by the Reserve Bank of India vide A.P. (DIR Series) Circulars. The regulatory framework, over a period of time, thus, consists of Acts, Regulations, Press Notes, Press Releases, Clarifications, etc. The consolidated FDI policy circular issued by DIPP on 12-5-2015 which overrides all previous circulars has been analysed and presented in a user friendly form by our research team. We have tried to give a brief overview of the conditions related to sector wise FDI in India. This presentation is based on D/o IPP F. No. 5(1)/2015-FC-1 Dated the 12th May, 2015, Consolidated FDI Policy Circular of 2015. (www.dipp.nic.in)

We shall be pleased to hear from you in case of any query at info@hcoca.com.

GENERAL CONDITIONS ON FDI

Who Can Invest in India?

- A non-resident entity can invest in India, subject to the FDI Policy except in those sectors / activities which are prohibited.

- OCBs have been derecognized as a class of investors in India with effect from September 16, 2003.

- An F I I / F P I may invest in the capital of an Indian company under the Portfolio Investment Scheme which limits the individual holding of an FII / FPI below 10% of the capital of the company and the aggregate limit for FII/FPI/QFI investment to 24% of the capital of the company.

- A SEBI registered Foreign Venture Capital Investor (FVCI) may contribute up to 100% of the capital of an Indian Venture Capital Undertaking (IVCU) and may also set up a domestic asset management company to manage the fund.

- Qualified Foreign Investors (QFIs) are permitted to invest through SEBI registered Depository Participants (DPs) only in equity shares of listed Indian companies through recognized brokers on recognized stock exchanges in India as well as in equity shares of Indian companies which are offered to public in India in terms of the relevant and applicable SEBI guidelines/regulations. QFIs are also permitted to acquire equity shares by way of right shares, bonus shares or equity shares on account of stock split/consolidation or equity shares on account of amalgamation, demerger or such corporate actions subject to the prescribed investment limits. QFIs are allowed to sell the equity shares so acquired subject to the relevant SEBI guidelines.

  Dividend payments on equity shares held by QFIs can either be directly remitted to the designated overseas bank accounts of the QFIs or credited to the single non-interest bearing Rupee account

ENTITIES INTO WHICH FDI CAN BE MADE

- **FDI in an Indian Company**

  Indian companies can issue share capital against FDI.

- **FDI in Partnership Firm/Proprietary Concern**

  A Non-Resident Indian (NRI) or a Person of Indian Origin (PIO) resident outside India can invest in the capital of a firm or a proprietary concern in India on non-repatriation basis subject to certain conditions.

- **FDI in Venture Capital Fund (VCF)**

  FVCIs are allowed to invest in Indian Venture Capital Undertakings (IVCUs)/Venture Capital Funds (VCFs)/other companies,

- **FDI in Trusts**

  FDI in Trusts other than VCF is not permitted.

- **FDI in Limited Liability Partnerships (LLPs)**

  FDI in LLPs is permitted, subject to the certain conditions.

- **FDI in other Entities**

  FDI in resident entities other than those mentioned above is not permitted.

TYPES OF INSTRUMENTS

Indian companies can issue equity shares, fully, compulsorily and mandatorily convertible debentures and fully, compulsorily and mandatorily convertible preference shares subject to pricing guidelines/valuation norms prescribed under FEMA Regulations.

Issue of Foreign Currency Convertible Bonds (FCCBs) and Depository Receipts(DRs)

FCCBs/DRs may be issued in accordance with the Scheme for issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 and DR Scheme 2014 respectively, as per the guidelines issued by the Government of India there under from time to time.

Two-way Fungibility Scheme

A limited two-way Fungibility scheme has been put in place by the Government of India for ADRs/GDRs.

Under this Scheme, a stock broker in India, registered with SEBI, can purchase shares of an Indian company from the market for conversion into ADRs/GDRs based on instructions received from overseas investors. Re-issuance of ADRs/GDRs would be permitted to the extent of ADRs/GDRs which have been redeemed into underlying shares and sold in the Indian market.

Sponsored ADR/GDR issue

An Indian company can also sponsor an issue of ADR/GDR. Under this mechanism, the company offers its resident shareholders a choice to submit their shares back to the company so that on the basis of such shares, ADRs/GDRs can be issued abroad. The proceeds of the ADR/GDR issue are remitted back to India and distributed among the resident investors who had offered their Rupee denominated shares for conversion. These proceeds can be kept in Resident Foreign Currency

(Domestic) accounts in India by the resident shareholders who have tendered such shares for conversion into ADRs/GDRs.

Foreign Currency Account

Indian companies which are eligible to issue shares to persons resident outside India under the FDI Policy may be allowed to retain the share subscription amount in a Foreign Currency Account, with the prior approval of RBI.

Transfer of shares and convertible debentures

Subject to FDI sectoral policy (relating to sectoral caps and entry routes), applicable laws and other conditionality's including security conditions, non- resident investors can also invest in Indian companies by purchasing / acquiring existing shares from Indian shareholders or from other non-resident shareholders. General permission has been granted to non- residents / NRIs for acquisition of shares by way of transfer subject to certain conditions.

Conversion of ECB/Lump sum Fee/Royalty etc. into Equity

Indian companies have been granted general permission for conversion of External Commercial Borrowings (ECB) (excluding those deemed as ECB) in convertible foreign currency into equity shares/fully compulsorily and mandatorily convertible preference shares, subject to certain conditions and compliances

Issue of Rights/Bonus Shares

FEMA provisions allow Indian companies to freely issue Rights/Bonus shares to existing non-resident shareholders, subject to adherence to sectoral cap, if any. However, such issue of bonus / rights shares has to be in accordance with other laws/statutes like the Companies Act, as applicable, SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 (in case of listed companies), etc.

Acquisition of shares under Scheme of Merger / Demerger / Amalgamation

Mergers / demergers/ amalgamations of companies in India are usually governed by an order issued by a competent Court on the basis of the Scheme submitted by the companies undergoing merger / demerger / amalgamation. Once the scheme of merger or demerger or amalgamation of two or more Indian companies has been approved by a Court in India, the transferee company or new company is allowed to issue shares to the shareholders of the transferor company resident outside India.

Issue of Non convertible/redeemable bonus preference shares or debentures

Indian companies are allowed to issue non-convertible / redeemable preference shares or debentures to non-resident shareholders, including the depositories that act as trustees for the ADR/GDR holders, by way of distribution as bonus from its general reserves under a Scheme of Arrangement approved by a Court in India under the provisions of the Companies Act, as applicable, subject to no-objection from the Income Tax Authorities.

Issue of shares under Employees Stock Option Scheme (ESOPs)

Listed Indian companies are allowed to issue shares under the Employees Stock Option Scheme (ESOPs), to its employees or employees of its joint venture or wholly owned subsidiary abroad, who are resident outside India, other than to the citizens of Pakistan. Unlisted companies have to follow the provisions of the Companies Act, as applicable.

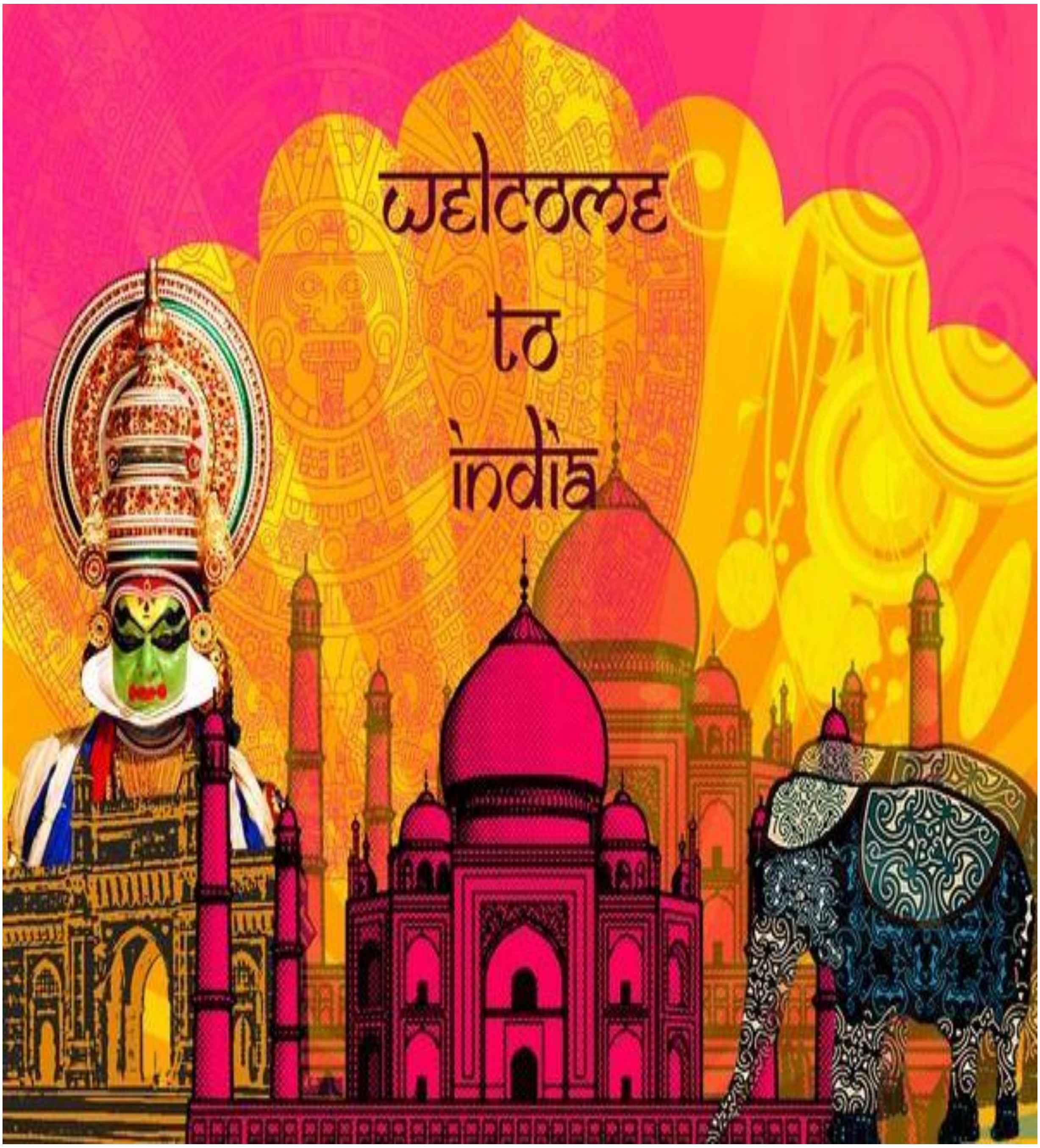
Share Swap

In cases of investment by way of swap of shares, irrespective of the amount, valuation of the shares will have to be made by a Merchant Banker registered with SEBI or an Investment Banker outside India registered with the appropriate regulatory authority in the host country. Approval of the Government conveyed through Foreign Investment Promotion Board (FIPB) will also be a prerequisite for investment by swap of shares.

ENTRY ROUTES FOR INVESTMENT

Investments can be made by non-residents in the equity shares/fully, compulsorily and mandatorily convertible debentures/fully, compulsorily and mandatorily convertible preference shares of an Indian company, through the Automatic Route or the Government Route.

Under the Automatic Route, the non-resident investor or the Indian company does not require any approval from Government of India for the investment. Under the Government Route, prior approval of the Government of India is required. Proposals for foreign investment under Government route are considered by FIPB.



GUIDELINES FOR ESTABLISHMENT OF INDIAN COMPANIES / TRANSFER OF OWNERSHIP OR CONTROL OF INDIAN COMPANIES, FROM RESIDENT INDIAN CITIZENS TO NON-RESIDENT ENTITIES, IN SECTORS WITH CAPS

In sectors/activities with caps, including *inter-alia* defence production, air transport services, ground handling services, asset reconstruction companies, private sector banking, broadcasting, commodity exchanges, credit information companies, insurance, print media, telecommunications and satellites, Government approval/FIPB approval would be required in all cases where:

a) An Indian company is being established with foreign investment and is not owned by a resident entity

b) An Indian company is being established with foreign investment and is not controlled by a resident entity

c) The control of an existing Indian company, currently owned or controlled by resident Indian citizens and Indian companies, which are owned or controlled by resident Indian citizens, will be/is being transferred/passed on to a non-resident entity as a consequence of transfer of shares and/or fresh issue of shares to non-resident entities through amalgamation, merger/demerger, acquisition etc.

d) The ownership of an existing Indian company, currently owned or controlled by resident Indian citizens and Indian companies, which are owned or controlled by resident Indian citizens, will be / is being transferred / passed on to a non-resident entity as a consequence of transfer of shares and / or fresh issue of shares to non-resident entities through amalgamation, merger / demerger, acquisition etc.

CAPS ON INVESTMENTS

Investments can be made by non-residents in the capital of a resident entity only to the extent of the percentage of the total capital as specified in the FDI policy. The caps in various sector(s) are detailed later in this presentation.

Entry Conditions on Investment

Investments by non-residents can be permitted in the capital of a resident entity in certain sectors / activity with entry conditions. Such conditions may include norms for minimum capitalization, lock-in period, etc.

Other Conditions on Investment besides Entry Conditions

Besides the entry conditions on foreign investment, the investment / investors are required to comply with all relevant sectoral laws, regulations, rules, security conditions, and state / local laws/regulations.

Foreign investment into an Indian company engaged only in the activity of investing in the capital of other Indian companies (regardless of its ownership or control):

Foreign investment into an Indian company, engaged only in the activity of investing in the capital of other Indian company/ies, will require prior Government/FIPB approval, regardless of the amount or extent of foreign investment. Foreign investment into Non-Banking Finance Companies (NBFCs), carrying on activities approved for FDI, will be subject to the conditions.

Those companies, which are Core Investment Companies (CICs), will have to additionally follow RBI's Regulatory Framework for CICs.

For infusion of foreign investment into an Indian company which does not have any operations and also does not have any downstream investments, Government/FIPB approval would be required, regardless of the amount or extent of foreign investment. Further, as and when such a company commences business(s) or makes downstream investment, it will have to comply with the relevant sectoral conditions on entry route, conditionality's and caps.

SECTOR SPECIFIC CONDITIONS ON FDI

PROHIBITED SECTORS

FDI is prohibited in:

a) Lottery Business including Government/private lottery, online lotteries, etc.
b) Gambling and Betting including casinos etc.
c) Chit funds
d) Nidhi company
e) Trading in Transferable Development Rights (TDRs)
f) Real Estate Business or Construction of Farm Houses
g) Manufacturing of cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes
h) Activities/sectors not open to private sector investment e.g. Atomic Energy, Railway operations (other than permitted activities)

Foreign technology collaboration in any form including licensing for franchise, trademark, brand name, management contract is also prohibited for Lottery Business and Gambling and Betting activities.

PERMITTED SECTORS

In the following sectors/activities, FDI up to the limit indicated against each sector/activity is allowed, subject to applicable laws/regulations; security and other conditionality's. In sectors/activities not listed below, FDI is permitted up to 100% on the automatic route, subject to applicable laws/regulations; security and other conditionalities. We have summarised the important sectors in which FDI is permitted subject along with conditions.

Wherever there is a requirement of minimum capitalization, it shall include share premium received along with the face value of the share, only when it is received by the company upon issue of the shares to the non-resident investor. Amount paid by the transferee during post-issue transfer of shares beyond the issue price of the share, cannot be taken into account while calculating minimum capitalization requirement.

AGRICULTURE & ANIMAL HUSBANDRY

Sector / Activity	% of Equity / FDI Cap	Entry Route
• Floriculture, Horticulture, Apiculture and Cultivation of Vegetables & Mushrooms under controlled conditions; • Development and Production of seeds and planting material; • Animal Husbandry (including breeding of dogs), Pisciculture, Aquaculture, under controlled conditions; and • Services related to agro and allied sectors *Besides the above, FDI is not allowed in any other agricultural sector/activity*	100%	Automatic

TEA PLANTATION

Sector /Activity	% of Equity/ FDI Cap	Entry Route
Tea sector including tea plantations *Besides the above, FDI is not allowed in any other plantation sector/activity.*	100%	Government

Other Condition

- Prior approval of the State Government concerned is required in case of any future land use change.

MINING AND PETROLEUM & NATURAL GAS

Sector / Activity	% of Equity/ FDI Cap	Entry Route
Mining and Exploration of metal and non-metal ores including diamond, gold, silver and precious ores but excluding titanium bearing minerals and its ores; **subject to** the Mines and Minerals (Development & Regulation) Act, 1957.	100%	Automatic
Coal & Lignite • Coal & Lignite mining for captive consumption by power projects, iron & steel and cement units and other eligible activities permitted under and **subject to** the provisions of Coal Mines (Nationalization) Act, 1973. • Setting up coal processing plants like washeries **subject to** the condition that the company shall not do coal mining and shall not sell washed coal or sized coal from its coal processing plants in the open market and shall supply the washed or sized coal to those parties who are supplying raw coal to coal processing plants for washing or sizing.	100%	Automatic
Mining and mineral separation of titanium bearing minerals and ores, its value addition and integrated activities Mining and mineral separation of titanium bearing minerals & ores, its value addition and integrated activities **subject to** sectoral regulations and the Mines and Minerals (Development and Regulation Act 1957).	100%	Government
Exploration activities of oil and natural gas fields, infrastructure related to marketing of petroleum products and natural gas, marketing of natural gas and petroleum products, petroleum product pipelines, natural gas/pipelines, LNG Regasification infrastructure, market study and formulation and Petroleum refining in the private sector, subject to the existing sectoral policy and regulatory framework in the oil marketing sector and the policy of the Government on private participation in exploration of oil and the discovered fields of national oil companies.	100%	Automatic
Petroleum refining by the Public Sector Undertakings (PSU), without any disinvestment or dilution of domestic equity in the existing PSUs.	49%	Automatic

MANUFACTURING

Manufacture of items reserved for production in Micro and Small Enterprises (MSEs)

FDI in MSEs (as defined under Micro, Small and Medium Enterprises Development Act, 2006 (MSMED, Act 2006)) will be subject to the sectoral caps, entry routes and other relevant sectoral regulations. Any industrial undertaking which is not a Micro or Small Scale Enterprise, but manufactures items reserved for the MSE sector would require Government route where foreign investment is more than 24% in the capital. Such an undertaking would also require an Industrial License under the Industries (Development & Regulation) Act, 1951, for such manufacture. The issue of Industrial License is subject to a few general conditions and the specific condition that the Industrial Undertaking shall undertake to export a minimum of 50% of the new or additional annual production of the MSE reserved items to be achieved within a maximum period of three years. The export obligation would be applicable from the date of commencement of commercial production and in accordance with the provisions of section 11 of the Industries (Development & Regulation) Act, 1951.

DEFENCE

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Defence Industry subject to Industrial license under the Industries (Development & Regulation) Act, 1951	49%	Government route up to 49% Above 49% to Cabinet Committee on Security (CCS) on case to case basis, wherever it is likely to result in access to modern and 'state-of- art' technology in the country.
• FDI limit of 49% is composite and includes all kinds of foreign investments • Portfolio investment by FPIs / FIIs / NRIs / QFIs and investments by FVCIs together will not exceed 24% of the total equity of the investee/joint venture company. Portfolio investments will be under automatic route.		

Other Conditions

- Licence applications will be considered and licences given by the Department of Industrial Policy & Promotion, Ministry of Commerce & Industry, in consultation with Ministry of Defence and Ministry of External Affairs.

- The applicant company seeking permission of the Government for FDI up to 49% should be an Indian company owned and controlled by resident Indian citizens.

- The Government reserves the right to verify the antecedents of the foreign collaborators and domestic promoters including their financial standing and credentials in the world market.

- All applications seeking permission of the Government for FDI in defence would be made to the Secretariat of Foreign Investment Promotion Board (FIPB) in the Department of Economic Affairs.

- Based on the recommendation of the Ministry of Defence and FIPB, approval of the Cabinet Committee on Security (CCS) will be sought by the Ministry of Defence in respect of cases seeking permission of the Government for FDI beyond 49% which are likely to result in access to modern and 'state-of-art' technology in the country.

SERVICES SECTOR

BROADCASTING CARRIAGE SERVICES

Sector/Activity	% of Equity/ FDI Cap	Entry Route
a) Teleports(setting up of up-linking b) HUBs/Teleports); c) Direct to Home (DTH); d) Cable Networks (Multi System operators (MSOs) operating at National or State or District level and undertaking up gradation of networks towards digitalization and addressability); e) Mobile TV f) Headend-in-the Sky Broadcasting Service(HITS)	74%	Automatic up to 49% Government route beyond 49% and up to 74%
Cable Networks (Other MSOs not undertaking up gradation of networks towards digitalization and addressability and Local Cable Operators (LCOs))	49%	Automatic

BROADCASTING CONTENT SERVICES

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Terrestrial Broadcasting FM (FM Radio), subject to such terms and conditions, as specified from time to time, by Ministry of Information & Broadcasting, for grant of permission for setting up of FM Radio stations	26%	Government
Up-linking of 'News & Current Affairs' TV Channels	26%	Government
Up-linking of Non-'News & Current Affairs' TV Channels/ Down-linking of TV Channels	100%	Government

Other Conditions:

- FDI for Up-linking/Down-linking TV Channels will be subject to compliance with the relevant Up-linking/Down-linking Policy notified by the Ministry of Information & Broadcasting from time to time.

- The foreign investment (FI) limit in companies engaged in the aforestated activities shall include, in addition to FDI, investment by Foreign Institutional Investors (FIIs), Foreign Portfolio Investors (FPIs), Qualified Foreign Investors(QFIs), Non- Resident Indians (NRIs), Foreign Currency Convertible Bonds (FCCBs), American Depository Receipts (ADRs), Global Depository Receipts (GDRs) and convertible preference shares held by foreign entities.

- Foreign investment in the aforestated broadcasting carriage services will be subject to the following security conditions/terms:

- **Mandatory Requirement for Key Executives of the Company**

    - The majority of Directors on the Board of the Company shall be Indian citizens.

    - The Chief Executive Officer (CEO), Chief Officer in-charge of technical network operations and Chief Security Officer should be resident Indian citizens.

- The Company shall be required to obtain security clearance of all foreign personnel likely to be deployed for more than 60 days in a year by way of appointment, contract, and consultancy or in any other capacity for installation, maintenance, operation or any other services prior to their deployment. The security clearance shall be required to be obtained every two years.

- It shall be open to the licensor to restrict the Licensee Company from operating in any sensitive area from the National Security angle. The Government of India, Ministry of Information and Broadcasting shall have the right to temporarily suspend the permission of the permission holder/Licensee in public interest or for national security for such period or periods as it may direct. The company shall immediately comply with any directives issued in this regard failing which the permission issued shall be revoked and the company disqualified to hold any such permission in future for a period of five years.

PRINT MEDIA

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Publishing of newspaper and periodicals dealing with news and current affairs	26% (FDI and investment by NRIs/PIOs/FII/FPI)	Government
Publication of Indian editions of foreign magazines dealing with news and current affairs	26% (FDI and investment by NRIs/PIOs/FII/FPI)	Government

Other Conditions

- 'Magazine', for the purpose of these guidelines, will be defined as a periodical publication, brought out on non-daily basis, containing public news or comments on public news.

- Foreign investment would also be subject to the Guidelines for Publication of Indian editions of foreign magazines dealing with news and current affairs issued by the Ministry of Information & Broadcasting on 4.12.2008.

CIVIL AVIATION

AIRPORTS

Sector/Activity	% of Equity/ FDI Cap	Entry Route
• Greenfield projects	100%	Automatic
• Existing projects	100%	Automatic up to 74% Government route beyond 74%

AIR TRANSPORT SERVICES

Sector/Activity	% of Equity/ FDI Cap	Entry Route
• Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline	49% (100% for NRIs)	Automatic
• Non-Scheduled Air Transport Service	74% (100% for NRIs)	Automatic up to 49% Government route beyond 49% and up to 74%
• Helicopter services/seaplane services requiring DGCA approval	100%	Automatic

OTHER SERVICES UNDER CIVIL AVIATION SECTOR

Sector/Activity	% of Equity / FDI Cap	Entry Route
• Ground Handling Services subject to sectoral regulations and security clearance	74% (100% for NRIs)	Automatic up to 49% Government route beyond 49% and up to 74%
• Maintenance and Repair organizations; flying training institutes; and technical training institutions.	100%	Automatic

COURIER SERVICES

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Courier services for carrying packages, parcels and other items which do not come within the ambit of the Indian Post Office Act, 1898 and excluding the activity relating to the distribution of letters.	100%	Automatic

CONSTRUCTION DEVELOPMENT: TOWNSHIPS, HOUSING, BUILT-UP INFRASTRUCTURE

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Construction-development projects (which would include development of townships, construction of residential/commercial premises, roads or bridges, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional level infrastructure, townships)	100%	Automatic

Other Conditions:

1. Minimum area to be developed under each project would be as under:
    - In case of development of serviced plots, no minimum land area requirement.
    - In case of construction-development projects, a minimum floor area of 20,000 sq. meter.

2. Investee company will be required to bring minimum FDI of US$ 5 million within six months of commencement of the project. The commencement of the project will be the date of approval of the building plan/lay out plan by the relevant statutory authority. Subsequent tranches of FDI can be brought till the period of ten years from the commencement of the project or before the completion of project, whichever expires earlier.

3. i) The investor will be permitted to exit on completion of the project or after development of trunk infrastructure i.e. roads, water supply, street lighting, drainage and sewerage.

   ii) The Government may, in view of facts and circumstances of a case, permit repatriation of FDI or transfer of stake by one non-resident investor to another non-resident investor, before the completion of project.

4. The project shall conform to the norms and standards, including land use requirements and provision of community amenities and common facilities, as laid down in the applicable building control regulations, bye-laws, rules, and other regulations of the State Government/Municipal/Local Body concerned.

5. The Indian investee company will be permitted to sell only developed plots.

6. The Indian investee company shall be responsible for obtaining all necessary approvals, including those of the building/layout plans, developing internal and peripheral areas and other infrastructure facilities, payment of development, external development and other charges and complying with all other requirements as prescribed under applicable rules/bye-laws/regulations of the State Government/Municipal/Local Body concerned.

7. It is clarified that FDI is not permitted in an entity which is engaged or proposes to engage in real estate business, construction of farm houses and trading in transferable development rights (TDRs).

INDUSTRIAL PARKS

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Industrial Parks - new and existing	100%	Automatic

Other Conditions:

(i) "Industrial Park" is a project in which quality infrastructure in the form of plots of developed land or built up space or a combination with common facilities, is developed and made available to all the allottee units for the purposes of industrial activity.

(ii) "Infrastructure" refers to facilities required for functioning of units located in the Industrial Park and includes roads (including approach roads), railway line/sidings including electrified railway lines and connectivities to the main railway line, water supply and sewerage, common effluent treatment facility, telecom network, generation and distribution of power, air conditioning.

SATELLITES- ESTABLISHMENT AND OPERATION

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Satellites- establishment and operation, subject to the sectoral guidelines of Department of Space/ISRO	74%	Government

PRIVATE SECURITY AGENCIES

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Private Security Agencies	49%	Government

TELECOM SERVICES

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Telecom Services **(including Telecom Infrastructure Providers Category-I)** All telecom services including Telecom Infrastructure Providers Category-I, viz. Basic, Cellular, United Access Services, Unified License (Access Services), Unified License, National/International Long Distance, Commercial V-Sat, Public Mobile Radio Trunked Services (PMRTS), Global Mobile Personal Communications Services (GMPCS), All types of ISP licenses, Voice Mail/Audiotex/UMS, Resale of IPLC, Mobile Number Portability Services, Infrastructure Provider Category-I (providing dark fibre, right of way, duct space, tower) except Other Service Providers	100%	Automatic up to 49% and Government route beyond 49%

Other Condition

- FDI up to 100% with 49% on the automatic route and beyond 49% on the government route subject to observance of licensing and security conditions by licensee as well as investors as notified by the Department of Telecommunications (DoT) from time to time, except "Other Service Providers", which are allowed 100% FDI on the automatic route.

WHOLE SALE TRADING

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Cash & Carry Wholesale Trading/Wholesale Trading (including sourcing from MSEs)	100%	Automatic

Other Conditions:

- Wholesale trading (WT) would include resale, processing and thereafter sale, bulk imports with ex-port/ex-bonded warehouse business sales and B2B e-Commerce.

- For undertaking WT, requisite licenses / registration / permits, as specified under the relevant Acts /Regulations/Rules/Orders of the State Government/Government Body/Government Authority/Local Self-Government Body under that State Government should be obtained.

- (b) Except in case of sales to Government, sales made by the wholesaler would be considered as 'cash & carry wholesale trading/wholesale trading' with valid business customers, only when WT are made to the following entities:

a) Entities holding sales tax/ VAT registration/service tax/excise duty registration; or

b) Entities holding trade licenses i.e. a license/registration certificate/membership certificate/registration under Shops and Establishment Act, issued by a Government Authority / Government Body / Local Self-Government Authority, reflecting that the entity/person holding the license / registration certificate / membership certificate, as the case may be, is itself / himself / herself engaged in a business involving commercial activity.

SINGLE BRAND PRODUCT RETAIL TRADING

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Single Brand product retail trading	100%	Automatic up to 49% Government route beyond 49%

Other conditions:

FDI in Single Brand product retail trading would be subject to the following conditions:

- Products to be sold should be of a 'Single Brand' only.
- Products should be sold under the same brand internationally i.e. products should be sold under the same brand in one or more countries other than India.
- Single Brand' product-retail trading would cover only products which are branded during manufacturing.
- A non-resident entity or entities, whether owner of the brand or otherwise, shall be permitted to undertake 'single brand' product retail trading in the country for the specific brand, directly or through a legally tenable agreement with the brand owner for undertaking single brand product retail trading.
- Retail trading, in any form, by means of e-commerce, would not be permissible, for companies with FDI, engaged in the activity of single-brand retail trading.

E-COMMERCE ACTIVITIES

Sector/Activity	% of Equity/ FDI Cap	Entry Route
E-commerce activities	100%	Automatic

E-commerce activities refer to the activity of buying and selling by a company through the e-commerce platform. Such companies would engage only in Business to Business (B2B) e-commerce and not in retail trading, inter-alia implying that existing restrictions on FDI in domestic trading would be applicable to e- commerce as well.

MULTI BRAND RETAIL TRADING

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Multi Brand Retail trading	51%	Government

Other Conditions

FDI in multi brand retail trading, in all products, will be permitted, subject to the following conditions:

1. Fresh agricultural produce, including fruits, vegetables, flowers, grains, pulses, fresh poultry, fishery and meat products, may be unbranded.
2. **Minimum amount to be brought in, as FDI, by the foreign investor, would be US $ 100 million**.
3. **At least 50% of total FDI brought in the first tranche of US $ 100 million, shall be invested in 'back-end infrastructure'** within three years, where 'back-end infrastructure' will include capital expenditure on all activities, excluding that on front-end units; for instance, back-end infrastructure will include investment made towards processing, manufacturing, distribution, design improvement, quality control, packaging, logistics, storage, ware- house, agriculture market produce infrastructure etc.
4. **At least 30% of the value of procurement of manufactured/processed products purchased shall be sourced from Indian micro, small and medium industries**, which have a total investment in plant & machinery not exceeding US $ 2.00 million. This valuation refers to the value at the time of installation, without providing for depreciation.
5. **Retail sales outlets may be set up only in cities with a population of more than 10 lakh as per 2011** Census or any other cities as per the decision of the respective State Governments, and may also cover an area of 10 kms around the municipal/urban agglomeration limits of such cities; retail locations will be restricted to conforming areas as per the Master/Zonal Plans of the concerned cities and provision will be made for requisite facilities such as transport connectivity and parking.
6. Government will have the first right to procurement of agricultural products.
7. The above policy is an enabling policy only and the State Governments/Union Territories would be free to take their own decisions in regard to implementation of the policy. **Therefore, retail sales outlets may be set up in those States/Union Territories which have agreed, or agree in future, to allow FDI in MBRT under this policy.** The list of States/Union Territories which have conveyed their agreement are Andhra Pradesh, Assam, Delhi, Haryana, Himachal Pradesh, Jammu & Kashmir, Karnataka. Maharashtra, Manipur, Rajasthan, Uttarakhand, Daman & Diu and Dadra and Nagar Haveli (Union Territories).

RAILWAY INFRASTRUCTURE

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Railway Infrastructure Construction, operation and maintenance of the following: a) Suburban corridor projects through PPP b) High speed train projects c) Dedicated freight lines d) Rolling stock including train sets, and locomotives/coaches manufacturing and maintenance facilities, e) Railway Electrification, f) Signaling systems g) Freight terminals h) Passenger terminals i) Infrastructure in industrial park pertaining to railway line/sidings including electrified railway lines and connectivities to main railway line and j) Mass Rapid Transport Systems	100%	Automatic

Other Conditions:

(i) Foreign Direct Investment in the abovementioned activities open to private sector participation including FDI is subject to sectoral guidelines of Ministry of Railways.

FINANCIAL SERVICES

Foreign investment in other financial services, other than those indicated below, would require prior approval of the Government.

ASSET RECONSTRUCTION COMPANIES

Sector/Activity	% of Equity/ FDI Cap	Entry Route
'Asset Reconstruction Company' (ARC) means a company registered with the Reserve Bank of India under Section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act).	100% of paid-up capital of ARC (FDI+FII/FPI)	Automatic up to 49% Government route beyond 49%

Other Conditions

a. Persons resident outside India can invest in the capital of Asset Reconstruction Companies (ARCs) registered with Reserve Bank, up to 49% on the automatic route, and beyond 49% on the Government route.

b. No sponsor may hold more than 50% of the shareholding in an ARC either by way of FDI or by routing it through an FII/FPI controlled by the single sponsor.

c. The total shareholding of an individual FII/FPI shall be below 10% of the total paid-up capital.

d. FIIs/FPIs can invest in the Security Receipts (SRs) issued by ARCs registered with Reserve Bank. FIIs/FPIs can invest up to 74 per cent of each tranche of scheme of SRs. Such investment should be within the FII/FPI limit on corporate bonds prescribed from time to time, and sectoral caps under extant FDI Regulations should also be complied with.

e. All investments would be subject to provisions of section 3(3) (f) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

BANKING- PRIVATE SECTOR

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Banking Private Sector	74% including investment by FIIs/FPIs	Automatic up to 49% Government route beyond 49% and up to 74%.

Other Conditions

1. This 74% limit will include investment under the Portfolio Investment Scheme (PIS) by FIIs/FPIs, NRIs and shares acquired prior to September 16, 2003 by erstwhile OCBs, and continue to include IPOs, Private placements, GDR/ADRs and acquisition of shares from existing shareholders.
2. The aggregate foreign investment in a private bank from all sources will be allowed up to a maximum of 74 per cent of the paid up capital of the Bank. At all times, at least 26 per cent of the paid up capital will have to be held by residents, except in regard to a wholly-owned subsidiary of a foreign bank.
3. The stipulations as above will be applicable to all investments in existing private sector banks also.

Setting up of a subsidiary by foreign banks

1. Foreign banks will be permitted to either have branches or subsidiaries but not both.
2. Foreign banks regulated by banking supervisory authority in the home country and meeting Reserve Bank's licensing criteria will be allowed to hold 100 per cent paid up capital to enable them to set up a wholly- owned subsidiary in India.
3. A foreign bank may operate in India through only one of the three channels viz., (i) branches (ii) a wholly-owned subsidiary and (iii) a subsidiary with aggregate foreign investment up to a maximum of 74 per cent in a private bank.
4. A foreign bank will be permitted to establish a wholly-owned subsidiary either through conversion of existing branches into a subsidiary or through a fresh banking license. A foreign bank will be permitted to establish a subsidiary through acquisition of shares of an existing private sector bank provided at least 26 per cent of the paid capital of the private sector bank is held by residents at all times consistent with para (i) (b) above.
5. A subsidiary of a foreign bank will be subject to the licensing requirements and conditions broadly consistent with those for new private sector banks.
6. At present there is a limit of ten per cent on voting rights in respect of banking companies, and this should be noted by potential investor. Any change in the ceiling can be brought about only after final policy decisions and appropriate Parliamentary approvals.

CREDIT INFORMATION COMPANIES (CIC)

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Credit Information Companies	74% (FDI+FII/ FPI)	Automatic

Other Conditions

Foreign investment in Credit Information Companies is subject to the Credit Information Companies (Regulation) Act, 2005.

INFRASTRUCTURE COMPANY IN THE SECURITIES MARKET

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Infrastructure companies in Securities Markets, namely, stock exchanges, depositories and clearing corporations, in compliance with SEBI Regulations	49% (FDI + FII/FPI) [FDI limit of 26 per cent and FII/FPI limit of 23 per cent of the paid-up capital]	Automatic

INSURANCE

Sector/Activity	% of Equity/ FDI Cap	Entry Route
(i) Insurance Company (ii) Insurance Brokers (iii) Third Party Administrators (iv) Surveyors and Loss Assessors (v)Other Insurance Intermediaries appointed under the provisions of Insurance Regulatory and Development Authority Act, 1999 (41 of 1999)	49% {FDI+FPI(FII,QFI)+NRI+FVCI+DR}	Automatic up to 26% Government route beyond 26% and up to 49%

Other Conditions

a. No Indian insurance company shall allow the aggregate holdings by way of total foreign investment in its equity shares by foreign investors, including portfolio investors, to exceed forty-nine percent of the paid up equity capital of such Indian insurance company.

b. Foreign direct investment proposals which take the total foreign investment in the Indian insurance company above 26 percent and up to the cap of 49 percent shall be under Government route.

c. Foreign portfolio investment in an Indian insurance company shall be governed by the provisions contained in sub-regulations (2), (2A), (3) and (8) of regulation 5 of FEMA Regulations, 2000 and provisions of the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations.

d. Any increase of foreign investment of an Indian insurance company shall be in accordance with the pricing guidelines specified by Reserve Bank of India under the FEMA.

e. The foreign equity investment cap of 49 percent shall apply on the same terms as above to Insurance Brokers, Third Party Administrators, Surveyors and Loss Assessors and Other Insurance Intermediaries appointed under the provisions of the Insurance Regulatory and Development Authority Act,1999 (41 of 1999):

f. Provided that where an entity like a bank, whose primary business is outside the insurance area, is allowed by the Insurance Regulatory and Development Authority of India to function as an insurance intermediary, the foreign equity investment caps applicable in that sector shall continue to apply, subject to the condition that the revenues of such entities from their primary (i.e. non-insurance related) business must remain above 50 percent of their total revenues in any financial year.

g. The provisions of paragraphs 6.2.18.2.2(4) (i) (c) & (e), relating to ‘Banking-Private Sector’, shall be applicable in respect of bank promoted insurance companies.

NON-BANKING FINANCE COMPANIES (NBFC)

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Foreign investment in NBFC is allowed under the automatic route in only the following activities: • Merchant Banking • Under Writing • Portfolio Management Services • Investment Advisory Services • Financial Consultancy • Stock Broking • Asset Management • Venture Capital • Custodian Services • Factoring • Credit Rating Agencies • Leasing & Finance • Housing Finance • Forex Broking • Credit Card Business • Money Changing Business • Micro Credit • Rural Credit	100%	Automatic

PHARMACEUTICALS

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Greenfield	100%	Automatic
Brownfield	100%	Government

Other Conditions

1. FDI up to 100%, under the automatic route is permitted for manufacturing of medical devices. The abovementioned conditions will, therefore, not be applicable to Greenfield as well as Brownfield projects of this industry.

2. Medical device means-

a) any instrument, apparatus, appliance, implant, material or other article, whether used alone or in combination, including the software, intended by its manufacturer to be used specially for human beings or animals for one or more of the specific purposes of-

   i) diagnosis, prevention, monitoring, treatment or alleviation of any disease or disorder;

   ii) diagnosis, monitoring, treatment, alleviation of, or assistance for, any injury or handicap;

   iii) investigation, replacement or modification or support of the anatomy or of a physiological process;

   iv) supporting or sustaining life;

   v) disinfection of medical devices;

   vi) control of conception, and which does not achieve its primary intended action in or on the human body or animals by any pharmacological or immunological or metabolic means, but which may be assisted in its intended function by such means;

b) an accessory to such an instrument, apparatus, appliance, material or other article;

c) a device which is reagent, reagent product, calibrator, control material, kit, instrument, apparatus, equipment or system whether used alone or in combination thereof intended to be used for examination and providing information for medical or diagnostic purposes by means of in vitro examination of specimens derived from the human body or animals.

POWER EXCHANGES

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Power Exchanges registered under the Central Electricity Regulatory Commission (Power Market) Regulations, 2010.	49% (FDI+FII/FPI)	Automatic

Other Conditions

i) Such foreign investment would be subject to an FDI limit of 26 per cent and an FII/FPI limit of 23 per cent of the paid-up capital;

ii) FII/FPI purchases shall be restricted to secondary market only

iii) No non-resident investor/entity, including persons acting in concert, will hold more than 5% of the equity in these companies; and

iv) The foreign investment would be in compliance with SEBI Regulations; other applicable laws/regulations; security and other conditionalities.

REMITTANCE, REPORTING AND VIOLATION

Remittance and Repatriation

Remittance of sale proceeds/Remittance on winding up/Liquidation of Companies:

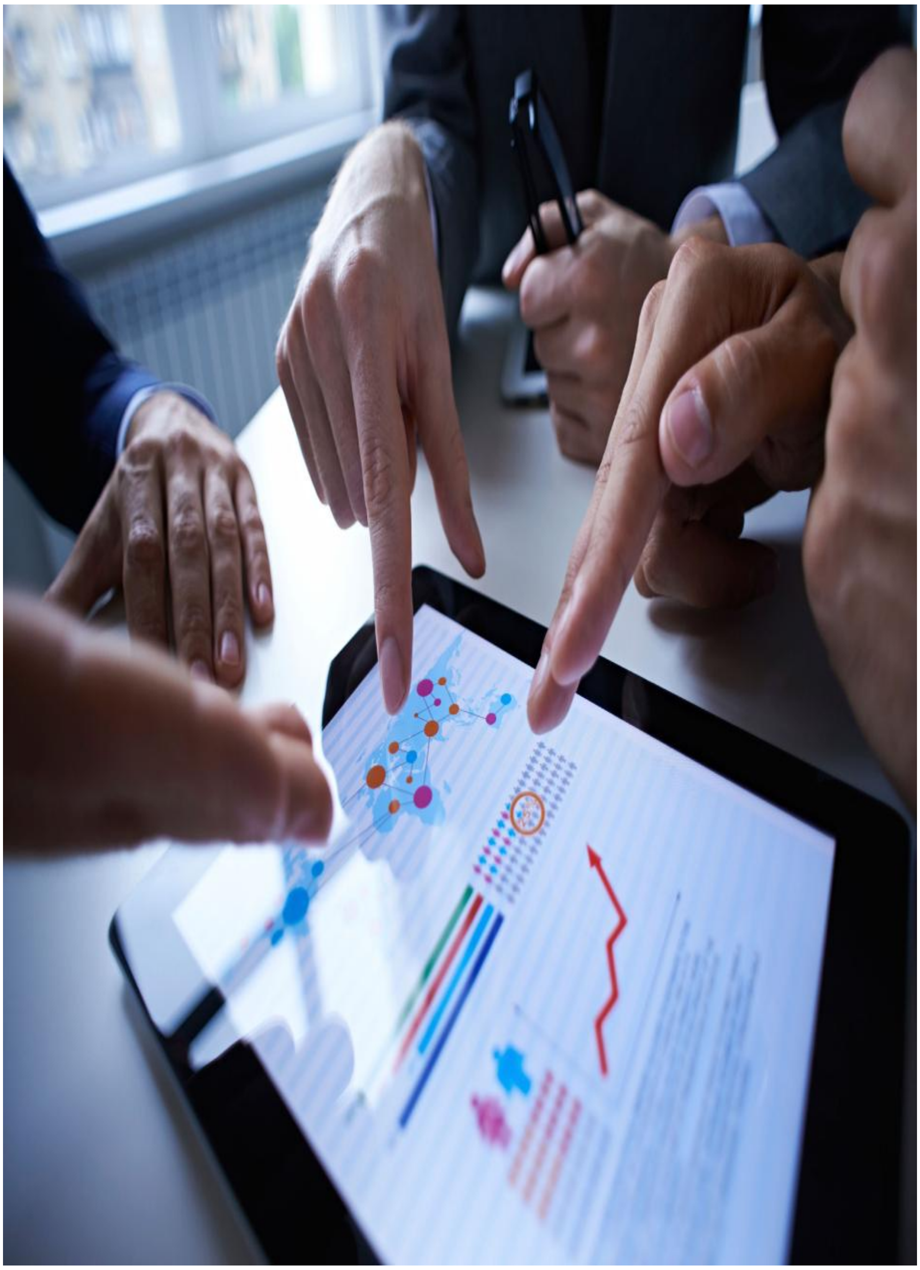
(i) Sale proceeds of shares and securities and their remittance is 'remittance of asset' governed by The Foreign Exchange Management (Remittance of Assets) Regulations, 2000 under FEMA.

(ii) AD Category-I bank can allow the remittance of sale proceeds of a security (net of applicable taxes) to the seller of shares resident outside India, provided the security has been held on repatriation basis, the sale of security has been made in accordance with the prescribed guidelines and NOC/tax clearance certificate from the Income Tax Department has been produced

(iii) AD Category-I banks have been allowed to remit winding up proceeds of companies in India, which are under liquidation, subject to payment of applicable taxes. Liquidation may be subject to any order issued by the court winding up the company or the official liquidator in case of voluntary winding up under the provisions of the Companies Act, , as applicable.

Repatriation of Dividend

Dividends are freely repatriable without any restrictions (net after Tax deduction at source or Dividend Distribution Tax, if any, as the case may be). The repatriation is governed by the provisions of the Foreign Exchange Management (Current Account Transactions) Rules, 2000, as amended from time to time.



Repatriation of Interest

Interest on fully, mandatorily & compulsorily convertible debentures is also freely repatriable without any restrictions (net of applicable taxes). The repatriation is governed by the provisions of the Foreign Exchange Management (Current Account Transactions) Rules, 2000, as amended from time to time.

Adherence to Guidelines / Orders and Consequences of Violation

FDI is a capital account transaction and thus any violation of FDI regulations are covered by the penal provisions of the FEMA. Reserve Bank of India administers the FEMA and Directorate of Enforcement under the Ministry of Finance is the authority for the enforcement of FEMA. The Directorate takes up investigation in any contravention of FEMA

GLOSSARY

- ***'AD Category-I Bank'*** means a bank (Scheduled Commercial, State or Urban Cooperative) which is authorized under Section 10(1) of FEMA to undertake all current and capital account transactions according to the directions issued by the RBI from time to time.

- ***'Authorized Bank'*** means a bank including a co-operative bank (other than an authorized dealer) authorized by the Reserve Bank to maintain an account of a person resident outside India.

- ***'Authorized Dealer'*** means a person authorized as an authorized dealer under sub-section (1) of section 10 of FEMA.

- ***'Authorized Person'*** means an authorized dealer, money changer, offshore banking unit or any other person for the time being authorized under sub-section (a) of section 10 of FEMA to deal in foreign exchange or foreign securities.

- ***'Capital'*** means equity shares; fully, compulsorily & mandatorily convertible preference shares; fully, compulsorily & mandatorily convertible debentures.

- ***'Capital account transaction'*** means a transaction which alters the assets or liabilities, including contingent liabilities, outside India of persons resident in India or assets or liabilities in India of persons resident outside India, and includes transactions referred to in sub- section (3) of section 6 of FEMA.

- ***'Control'*** shall include the right to appoint a majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements.

- ***'Foreign Currency Convertible Bond'*** (FCCB) means a bond issued by an Indian company expressed in foreign currency, the principal and interest of which is payable in foreign currency. FCCBs are issued in accordance with the Foreign Currency Convertible Bonds and ordinary shares (through depository receipt mechanism) Scheme, 1993 and subscribed by a non-resident entity in foreign currency and convertible into ordinary shares of the issuing company in any manner, either in whole, or in part.

- ***'FDI'*** means investment by non-resident entity/person resident outside India in the capital of an Indian company under Schedule 1 of Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000.

- ***'FEMA'*** means the Foreign Exchange Management Act, 1999 (42 of 1999)

- ***FIPB'*** means the Foreign Investment Promotion Board constituted by the Government of India.

- ***'Foreign Institutional Investor'***(FII) means an entity established or incorporated outside India which proposes to make investment in India and which is registered as a FII in accordance with the Securities and Exchange Board of India (SEBI) (Foreign Institutional Investor) Regulations 1995.

- ***'Foreign Portfolio Investor'*** (FPI) means a person registered in accordance with the provisions of Securities and Exchange Board of India (SEBI) (Foreign Portfolio Investors) Regulations, 2014, as amended from time to time.

- ***'Foreign Venture Capital Investor'*** (FVCI) means an investor incorporated and established outside India, which is registered under the Securities and Exchange Board of India (Foreign Venture Capital Investor) Regulations, 2000 {SEBI(FVCI) Regulations} and proposes to make investment in accordance with these Regulations.

- ***'Government route'*** means that investment in the capital of resident entities by non-resident entities can be made only with the prior approval of Government (FIPB, Department of Economic Affairs (DEA), Ministry of Finance or Department of Industrial Policy & Promotion, as the case may be).

- ***'Group Company'*** means two or more enterprises which, directly or indirectly, are in a position to:

a) exercise twenty-six percent or more of voting rights in other enterprise; or

b) appoint more than fifty percent of members of board of directors in the other enterprise.

- ***'Holding Company'*** would have the same meaning as defined in Companies Act, as applicable.

- ***'Indian Company'*** means a company incorporated in India under the Companies Act, as applicable.

- ***'Investing Company'*** means an Indian Company holding only investments in other Indian company/(ies), directly or indirectly, other than for trading of such holdings/securities.

- ***'Investment on repatriable basis'*** means investment, the sale proceeds of which, net of taxes, are eligible to be repatriated out of India and the expression 'investment on non-repatriable basis' shall be construed accordingly.

- ***'Joint Venture'*** (JV) means an Indian entity incorporated in accordance with the laws and regulations in India in whose capital a non-resident entity makes an investment.

- ***'Limited Liability Partnership'*** means a Limited Liability Partnership firm, formed and registered under the Limited Liability Partnership Act, 2008.

- ***'Non-resident entity'*** means a 'person resident outside India' as defined under FEMA.

- ***'Non-Resident Indian'*** (NRI) means an individual resident outside India who is a citizen of India or is a person of Indian origin.

- A company is considered as ***'Owned'*** by resident Indian citizens if more than 50% of the capital in it is beneficially owned by resident Indian citizens and / or Indian companies, which are ultimately owned and controlled by resident Indian citizens;

- ***'Person'*** includes-
  a) an individual,
  b) a Hindu undivided family,
  c) a company,
  d) a firm,
  e) an association of persons or a body of individuals whether incorporated or not,
  f) every artificial juridical person, not falling within any of the preceding sub-clauses, and
  g) any agency, office, or branch owned or controlled by such person.

- ***'Person of Indian Origin'*** (PIO) means a citizen of any country other than Bangladesh or Pakistan, if
  a) he at any time held Indian Passport; or
  b) he or either of his parents or any of his grandparents was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955 (57 of 1955); or
  c) the person is a spouse of an Indian citizen or a person referred to in sub-clause (i) or (ii).

- ***'Portfolio Investment Scheme'*** means the Portfolio Investment Scheme referred to in Schedules 2, 2A & 3 of FEMA (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000.

- ***'A Qualified Foreign Investor'*** (QFI) means a non-resident investor (other than SEBI registered FII and SEBI registered FVCI) who meets the KYC requirements of SEBI for the purpose of making investments in accordance with the regulations /orders /circulars of RBI/SEBI.

- ***'RBI'*** means the Reserve Bank of India established under the Reserve Bank of India Act, 1934.

- ***''SEBI'*** means the Securities and Exchange Board of India established under the Securities and Exchange Board of India Act, 1992.

- ***'SEZ'*** means a Special Economic Zone as defined in Special Economic Zone Act, 2005.

- ***'SIA'*** means Secretariat of Industrial Assistance in DIPP, Ministry of Commerce & Industry, Government of India.

- ***'Transferable Development Rights'*** (TDR) means certificates issued in respect of category of land acquired for public purposes either by the Central or State Government in consideration of surrender of land by the owner without monetary compensation, which are transferable in part orwhole.

- ***'Venture Capital Fund'*** (VCF) means a Fund established in the form of a trust, a company including a body corporate and registered under Securities and Exchange Board of India (Venture Capital Fund) Regulations, 1996, which
  a) has a dedicated pool of capital;
  b) raised in the manner specified under the Regulations; and
  c) invests in accordance with the Regulations.

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