Government of India
Ministry of Commerce & Industry
Department for Promotion of Industry and Internal Trade
FDI Policy Section

Press Note No. 3(2020 Series)

Subject: Review of Foreign Direct Investment (FDI) policy for curbing opportunistic takeovers/acquisitions of Indian companies due to the current COVID-19 pandemic

The Government of India has reviewed the extant FDI policy for curbing opportunistic takeovers/acquisitions of Indian companies due to the current COVID-19 pandemic and amended para 3.1.1 of extant FDI policy as under:

1. Present Position

Para 3.1.1: A non-resident entity can invest in India, subject to the FDI Policy except in those sectors/activities which are prohibited. However, a citizen of Bangladesh or an entity incorporated in Bangladesh can invest only under the Government route. Further, a citizen of Pakistan or an entity incorporated in Pakistan can invest, only under the Government route, in sectors/activities other than defence, space, atomic energy and sectors/activities prohibited for foreign investment.

2. Revised Position

Para 3.1.1:

3.1.1(a) A non-resident entity can invest in India, subject to the FDI Policy except in those sectors/activities which are prohibited. However, an entity of a country, which shares land border with India or where the beneficial owner of an investment into India is situated in or is a citizen of any such country, can invest only under the Government route. Further, a citizen of Pakistan or an entity incorporated in Pakistan can invest, only under the Government route, in sectors/activities other than defence, space, atomic energy and sectors/activities prohibited for foreign investment.

3.1.1(b) In the event of the transfer of ownership of any existing or future FDI in an entity in India, directly or indirectly, resulting in the beneficial ownership falling within the restriction/purview of the para 3.1.1(a), such subsequent change in beneficial ownership will also require Government approval.

3. The above decision will take effect from the date of FEMA notification.

(Manmeet Kaur Nanda)
Joint Secretary to the Government of India

DPIIT File No.: No. 5(5)/2020-FDI Policy, dated 17/04/2020

Copy forwarded to:

1. **Press Information Officer, Press Information Bureau**- for giving wide publicity to the above Press Note.
2. **Joint Secretary, Department of Economic Affairs, North Block, New Delhi**
3. **Reserve Bank of India, Foreign Exchange Department, Mumbai**

   For suitably incorporating the policy changes in Foreign Exchange Management (Non-Debt Instruments) Rules, 2019, the relevant schedules thereof and FIRMS portal.
4. **NIC Section in the Department for Promotion of Industry and Internal Trade** - for uploading the Press Note on DPIIT's website.
5. **Hindi Section, DPIIT**- for providing Hindi version.

Government of India
Ministry of Commerce & Industry
Department for Promotion of Industry and Internal Trade
FDI Policy Section

Press Note No. 2 (2020 Series)

Subject: Review of Foreign Direct Investment (FDI) policy on Civil Aviation.

1. Present Position

5.2.9 Civil Aviation

5.2.9.1 Airports

Sector/Activity	% of Equity/ FDI Cap	Entry Route
(a) Greenfield projects	100%	Automatic
(b) Existing projects	100%	Automatic

5.2.9.2 Air Transport Services

Sector/Activity	% of Equity/ FDI Cap	Entry Route
(1) (a) Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline (b) Regional Air Transport Service	100%	Automatic up to 49% (Automatic up to 100% for NRIs) Government route beyond 49%

(2)Non-Scheduled Air Transport Services	100%	Automatic
(3)Helicopter services/seaplane services requiring DGCA approval	100%	Automatic

5.2.9.3 Other services under Civil Aviation sector

Sector/Activity	% of Equity/ FDI Cap	Entry Route
(1)Ground Handling Services subject to sectoral regulations and security clearance	100%	Automatic
(2)Maintenance and Repair organizations; flying training institutes; and technical training institutions.	100%	Automatic

Definitions: The Civil Aviation sector includes Airports, Scheduled and Non-Scheduled domestic passenger airlines, Helicopter services/Seaplane services, Ground Handling Services, Maintenance and Repair organizations; Flying training institutes; and Technical training institutions.

For the purposes of the Civil Aviation sector:

(i) "Airport" means a landing and taking off area for aircrafts, usually with runways and aircraft maintenance and passenger facilities and includes aerodrome as defined in clause (2) of section 2 of the Aircraft Act, 1934;

(ii) "Aerodrome" means any definite or limited ground or water area intended to be used, either wholly or in part, for the landing or departure of aircraft, and includes all buildings, sheds, vessels, piers and other structures thereon or pertaining thereto;

(iii) "Air transport service" means a service for the transport by air of persons, mails or any other thing, animate or inanimate, for any kind of remuneration whatsoever, whether such service consists of a single flight or series of flights;

(iv) "Air Transport Undertaking" means an undertaking whose business includes the carriage by air of passengers or cargo for hire or reward;

(v) "Aircraft component" means any part, the soundness and correct functioning of which, when fitted to an aircraft, is essential to the continued airworthiness or safety of the aircraft and includes any item of equipment;

(vi) "Helicopter" means a heavier-than-air aircraft supported in flight by the reactions of the air on one or more power driven rotors on substantially vertical axis;

(vii) "Scheduled air transport service" means an air transport service undertaken between the same two or more places and operated according to a published time table or with flights so regular or frequent that they constitute a recognizably systematic series, each flight being open to use by members of the public;

(viii) "Non-Scheduled air transport service" means any service which is not a scheduled air transport service;

(ix) "Seaplane" means an aeroplane capable normally of taking off from and alighting solely on water;

(x) "Ground Handling" means (i) ramp handling, (ii) traffic handling both of which shall include the activities as specified by the Ministry of Civil Aviation through the Aeronautical Information Circulars from time to time, and (iii) any other activity specified by the Central Government to be a part of either ramp handling or traffic handling.

Other Conditions

(a) Air Transport Services would include Domestic Scheduled Passenger Airlines; Non-Scheduled Air Transport Services, helicopter and seaplane services.

(b) Foreign airlines are allowed to participate in the equity of companies operating Cargo airlines, helicopter and seaplane services, as per the limits and entry routes mentioned above.

(c) Foreign airlines are also allowed to invest in the capital of Indian companies, operating scheduled and non-scheduled air transport services, up to the limit of 49% of their paid-up capital. Such investment would be subject to the following conditions:

(i) It would be made under the Government approval route.

(ii) The 49% limit will subsume FDI and FPI investment.

(iii) The investments so made would need to comply with the relevant regulations of SEBI, such as the Issue of Capital and Disclosure Requirements (ICDR) Regulations/Substantial Acquisition of Shares and Takeovers (SAST) Regulations, as well as other applicable rules and regulations.

(iv) A Scheduled Operator's Permit can be granted only to a company:

a) that is registered and has its principal place of business within India;

b) the Chairman and at least two-thirds of the Directors of which are citizens of India; and

c) the substantial ownership and effective control of which is vested in Indian nationals.

(v) All foreign nationals likely to be associated with Indian scheduled and non-scheduled air transport services, as a result of such investment shall be cleared from security view point before deployment; and

(vi) All technical equipment that might be imported into India as a result of such investment shall require clearance from the relevant authority in the Ministry of Civil Aviation.

(d) In addition to the above conditions, foreign investment in M/s Air India Ltd. shall be subject to the following conditions:

(i) Foreign investment(s) in M/s Air India Ltd., including that of foreign airline(s), shall not exceed 49% either directly or indirectly.

(ii) Substantial ownership and effective control of M/s Air India Ltd. shall continue to be vested in Indian Nationals.

Note: (i) The FDI limits/entry routes, mentioned at paragraph 5.2.9.2 (1) and 5.2.9.2 (2) above, are applicable in the situation where there is no investment by foreign airlines.

(ii) The dispensation for NRIs regarding FDI up to 100% will also continue in respect of the investment regime specified at para (c)(ii) above.

2. Revised Position

The Government of India has reviewed the extant FDI policy on Civil Aviation and the policy will now be read as under:

5.2.9 Civil Aviation

5.2.9.1 Airports

Sector/Activity	% of Equity/ FDI Cap	Entry Route
(a) Greenfield projects	100%	Automatic
(b) Existing projects	100%	Automatic

5.2.9.2 Air Transport Services

Sector/Activity	% of Equity/ FDI Cap	Entry Route
(1) (a) Scheduled Air Transport Service*/ Domestic Scheduled Passenger Airline (b) Regional Air Transport Service	100%	Automatic up to 49% (Automatic up to 100% for NRIs) Government route beyond 49%
(2)Non-Scheduled Air Transport Services	100%	Automatic
(3)Helicopter services/seaplane services requiring DGCA approval	100%	Automatic

**As per Schedule XI of Aircraft Rules, 1937, Air Operator Certificate to operate Scheduled air transport services (including Domestic Scheduled Passenger Airline or*

Regional Air Transport Service) may be granted to a company or a body corporate provided that: -

(a) it is registered and has its principal place of business within India;

(b) the Chairman and at least two-thirds of its Directors are citizens of India; and

(c) its substantial ownership and effective control is vested in Indian nationals

5.2.9.3 Other services under Civil Aviation sector

Sector/Activity	% of Equity/ FDI Cap	Entry Route
(1)Ground Handling Services subject to sectoral regulations and security clearance	100%	Automatic
(2)Maintenance and Repair organizations; flying training institutes; and technical training institutions.	100%	Automatic

Definitions: The Civil Aviation sector includes Airports, Scheduled and Non-Scheduled domestic passenger airlines, Helicopter services/Seaplane services, Ground Handling Services, Maintenance and Repair organizations; Flying training institutes; and Technical training institutions.

For the purposes of the Civil Aviation sector:

(i) "Airport" means a landing and taking off area for aircrafts, usually with runways and aircraft maintenance and passenger facilities and includes aerodrome as defined in clause (2) of section 2 of the Aircraft Act, 1934;

(ii) "Aerodrome" means any definite or limited ground or water area intended to be used, either wholly or in part, for the landing or departure of aircraft, and includes all buildings, sheds, vessels, piers and other structures thereon or pertaining thereto;

(iii) "Air transport service" means a service for the transport by air of persons, mails or any other thing, animate or inanimate, for any kind of remuneration whatsoever, whether such service consists of a single flight or series of flights;

(iv) "Air Transport Undertaking" means an undertaking whose business includes the carriage by air of passengers or cargo for hire or reward;

(v) "Aircraft component" means any part, the soundness and correct functioning of which, when fitted to an aircraft, is essential to the continued airworthiness or safety of the aircraft and includes any item of equipment;

(vi) "Helicopter" means a heavier-than-air aircraft supported in flight by the reactions of the air on one or more power driven rotors on substantially vertical axis;

(vii) "Scheduled air transport service" means an air transport service undertaken between the same two or more places and operated according to a published time table or with flights so regular or frequent that they constitute a recognizably systematic series, each flight being open to use by members of the public;

(viii) "Non-Scheduled air transport service" means any service which is not a scheduled air transport service;

(ix) "Seaplane" means an aeroplane capable normally of taking off from and alighting solely on water;

(x) "Ground Handling" means (i) ramp handling, (ii) traffic handling both of which shall include the activities as specified by the Ministry of Civil Aviation through the Aeronautical Information Circulars from time to time, and (iii) any other activity specified by the Central Government to be a part of either ramp handling or traffic handling.

Other Conditions

(a) Air Transport Services would include Domestic Scheduled Passenger Airlines; Non-Scheduled Air Transport Services, helicopter and seaplane services.

(b) Foreign airlines are allowed to participate in the equity of companies operating Cargo airlines, helicopter and seaplane services, as per the limits and entry routes mentioned above.

(c) Foreign airlines are also allowed to invest in the capital of Indian companies, operating scheduled and non-scheduled air transport services, up to the limit of 49% of their paid-up capital. Such investment would be subject to the following conditions:

(i) It would be made under the Government approval route,

(ii) The 49% limit will subsume FDI and FII/FPI investment,

(iii) The investments so made would need to comply with the relevant regulations of SEBI, such as the Issue of Capital and Disclosure Requirements (ICDR) Regulations/Substantial Acquisition of Shares and Takeovers (SAST) Regulations, as well as other applicable rules and regulations,

(iv) All foreign nationals likely to be associated with Indian scheduled and non-scheduled air transport services, as a result of such investment shall be cleared from security view point before deployment and

(v) All technical equipment that might be imported into India as a result of such investment shall require clearance from the relevant authority in the Ministry of Civil Aviation.

(d) In addition to the above conditions, foreign investment in M/s Air India Ltd. shall be subject to the following conditions:

(i) Foreign investment(s) in M/s Air India Ltd., including that of foreign airline(s) shall not exceed 49% either directly or indirectly except in case of those NRIs, who are Indian Nationals, where foreign investment(s) is permitted up to100% under automatic route.

(ii) Substantial ownership and effective control of M/s Air India Ltd. shall continue to be vested in Indian Nationals as stipulated in Aircraft Rules, 1937.

(e) FDI in Civil Aviation is subject to provisions of Aircraft Rules, 1937, as amended from time to time.

Note:

(i) The FDI limits/entry routes mentioned at paragraph 5.2.9.2(1) and 5.2.9.2 (2) above, are applicable in the situation where there is no investment by foreign airline. Any investment by foreign airline(s) in companies operating in Air Transport Services, including in M/s Air India Limited, shall be subject to para (b) and (c) above.

(ii) The dispensation for those NRIs, who are Indian Nationals, regarding FDI up to 100% will also continue in respect of the investment regime specified at para (c) (ii) and (d) above.

3. The above decision will take effect from the date of FEMA notification.

CNanda 19.3.2020

(Manmeet Kaur Nanda)
Joint Secretary to the Government of India

DPIIT File No.: 5(2)/2019-FDI Policy (pt.), dated 19/03/2020

Copy forwarded to:

1. **Press Information Officer, Press Information Bureau**- for giving wide publicity to the above Press Note.
2. **Joint Secretary, Department of Economic Affairs, North Block, New Delhi**
3. **Reserve Bank of India, Foreign Exchange Department, Mumbai**

   For suitably incorporating the policy changes in Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 and the relevant schedules thereof.
4. **NIC Section in the Department for Promotion of Industry and Internal Trade** - for uploading the Press Note on DPIIT's website.
5. **Hindi Section, DPIIT**- for providing Hindi version.

Government of India
Ministry of Commerce & Industry
Department for Promotion of Industry and Internal Trade
FDI Policy Section

Press Note No. 1 (2020 Series)

Subject: Review of Foreign Direct Investment (FDI) policy in Insurance Sector.

The Government of India has reviewed the extant FDI policy on Insurance sector and has made following amendment in the Consolidated FDI Policy of 2017 (FDI Policy), as amended from time to time.

1. Para 5.2.22 of FDI Policy is amended to be read as under:

1.1. 5.2.22 Insurance

Sector/ Activity	% of Equity/ FDI cap	Entry Route
5.2.22.1 Insurance Company	49%	Automatic
5.2.22.2 Intermediaries or Insurance Intermediaries including insurance brokers, re-insurance brokers, insurance consultants, corporate agents, third party administrator, Surveyors and Loss Assessors and such other entities, as may be notified by the Insurance Regulatory and Development Authority of India from time to time.	100%	Automatic

1.2. Existing Para 5.2.22.2 shall be renumbered as 5.2.22.3.

1.3 5.2.22.3 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) The foreign investment up to forty-nine percent of the total paid-up equity of the Indian Insurance Company shall be allowed on the automatic route subject to approval/verification by the Insurance Regulatory and Development Authority of India.

(c) Foreign investment in this sector shall be subject to compliance with the provisions of the Insurance Act, 1938 and the condition that Companies receiving FDI shall obtain necessary license /approval from the Insurance Regulatory & Development Authority of India for undertaking insurance and related activities.

(d) An Indian Insurance company shall ensure that its ownership and control remains at all times in the hands of resident Indian entities as determined by Department of Financial Services/ Insurance Regulatory and Development Authority of India as per the rules/regulation issued by them from time to time.

(e) 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, 2014.

(f) Any increase in foreign investment in an Indian Insurance company shall be in accordance with the pricing guidelines specified by Reserve Bank of India under the FEMA Regulations.

(g) The foreign equity investment cap of 100 percent shall apply on the same terms as above to insurance brokers, re-insurance brokers, insurance consultants, corporate agents, third party administrator, Surveyors and Loss Assessors and such other entities, as may be notified by the Insurance Regulatory and Development Authority of India from time to time. However, the condition of Indian owned and controlled, as specified in Clause (d) above, shall not be applicable to Intermediaries and Insurance Intermediaries and composition of the Board of Directors and key management persons shall be as specified by the concerned regulators from time to time.

(h) The foreign direct investment proposals shall be allowed under the automatic route subject to verification by the Authority and the foreign investment in intermediaries or insurance intermediaries shall be governed by the same terms as provided under rules 7 and 8 of the Indian Insurance Companies (Foreign Investment) Rules, 2015, as amended from time to time:

Provided that where an entity like a Bank, whose primary business is outside the insurance area, is allowed by the Authority 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 the primary (non-insurance related) business must remain above 50 per cent of their total revenues in any financial year.

(i) The insurance intermediary that has majority shareholding of foreign investors shall undertake the following:

i. be incorporated as a limited company under the provisions of the Companies Act, 2013;
ii. at least one from among the Chairman of the Board of Directors or the Chief Executive Officer or Principal Officer or Managing Director of the insurance intermediary shall be a resident Indian citizen;
iii. shall take prior permission of the Authority for repatriating dividend;
iv. shall bring in the latest technological, managerial and other skills;
v. shall not make payments to the foreign group or promoter or subsidiary or interconnected or associate entities beyond what is necessary or permitted by the Authority;
vi. shall make disclosures in the formats to be specified by the Authority of all payments made to its group or promoter or subsidiary or interconnected or associate entities;
vii. composition of the Board of Directors and key management persons shall be as specified by the concerned regulators;

(j) The provisions of paragraphs (i) (b) and (d) of Annexure 9 relating to 'Banking-Private Sector', shall be applicable in respect of bank promoted insurance companies.

(k) Terms 'Control', 'Equity Share Capital', 'Foreign Direct Investment' (FDI), 'Foreign Investors', 'Foreign Portfolio Investment', 'Indian Insurance Company', 'Indian Company', 'Indian Control of an Indian Insurance Company', 'Indian Ownership', 'Non-resident Entity', 'Public Financial Institution', 'Resident Indian Citizen', 'Total Foreign Investment' will have the same meaning as provided in Notification No. G.S.R 115 (E), dated 19th February, 2015 issued by Department of Financial Services and regulations issued by Insurance Regulatory and Development Authority of India from time to time.

2. The above decision will take effect from the date of FEMA notification.

(Shailendra Singh)

Additional Secretary to the Government of India

DPIIT File No.: 5(1)/2020- FDI Policy, dated 21/02/2020

Copy forwarded to:

1. **Press Information Officer, Press Information Bureau**- for giving wide publicity to the above Press Note.
2. **Joint Secretary, Department of Economic Affairs, North Block, New Delhi**
3. **Reserve Bank of India, Foreign Exchange Department, Mumbai**

For suitably incorporating the policy changes in Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 and the relevant schedules thereof.

4. **NIC Section in the Department for Promotion of Industry and Internal Trade** - for uploading the Press Note on DPIIT's website.
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Government of India

Ministry of Commerce & Industry

Department for Promotion of Industry and Internal Trade

FDI Policy Section

Press Note No. 4 (2019 Series)

Subject: Review of Foreign Direct Investment (FDI) policy on various sectors

The Government of India has reviewed the extant FDI policy on various sectors and has made following amendments in the Consolidated FDI Policy Circular of 2017 **(FDI Policy)**, effective from August 28, 2017, and as amended from time to time.

2. **Coal Mining:**

Para 5.2.3.2 of FDI Policy is amended to be read as under:

Sector/Activity	% of Equity/ FDI Cap	Entry Route
5.2.3.2 **Coal & Lignite** (1) 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 (Special Provisions) Act, 2015 and the Mines and Minerals (Development and Regulation) Act, 1957. (2) 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	100%	Automatic

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.		
(3) For sale of coal, coal mining activities including associated processing infrastructure subject to the provisions of Coal Mines (Special Provisions) Act, 2015 and the Mines and Minerals (Development and Regulation) Act, 1957 as amended from time to time and other relevant Acts on the subject.	100%	Automatic

Following new Clause 5.2.3.3.2 (iii) is added under other conditions of Para 5.2.3.3.2 of FDI Policy:

"Associated Processing Infrastructure" as contained at Para 5.2.3.2 above includes coal washery, crushing, coal handling, and separation (magnetic and non-magnetic)."

3. **Contract Manufacturing:**

Para 5.2.5.1 of FDI Policy is amended to be read as under:

"Subject to the provisions of the FDI policy, foreign investment in 'manufacturing' sector is under automatic route. Manufacturing activities may be either self manufacturing by the investee entity or contract manufacturing in India through a legally tenable contract, whether on Principal to Principal or Principal to Agent basis. Further, a manufacturer is permitted to sell its products manufactured in India through wholesale and/ or retail, including through e-commerce, without Government approval."

4. **Single Brand Retail Trading**

Para 5.2.15.3 of FDI Policy is amended to read as under:

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Single Brand Product retail trading	100%	Automatic
(1) Foreign Investment in Single Brand Product retail trading is aimed at attracting investments in production and marketing, improving the availability of such goods for the consumer, encouraging increased sourcing of goods from India, and enhancing competitiveness of Indian enterprises through access to global designs, technologies and management practices. (2) FDI in Single Brand Product retail trading would be subject to the following conditions: (a) Products to be sold should be of a 'Single Brand' only. (b) 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. (c) 'Single Brand' product-retail trading would cover only products which are branded during manufacturing. (d) 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, either directly by the brand owner or through a legally tenable agreement executed between the Indian entity undertaking single brand retail trading and the brand owner. (e) In respect of proposals involving foreign investment beyond 51%, sourcing of 30% of the value of goods procured, will be done from India, preferably from MSMEs, village and cottage industries, artisans and craftsmen, in all sectors. The quantum of domestic sourcing will be		

self-certified by the company, to be subsequently checked, by statutory auditors, from the duly certified accounts which the company will be required to maintain. This procurement requirement would have to be met, in the first instance, as an average of five years' total value of the goods procured, beginning 1st April of the year of commencement of SBRT business (i.e. opening of first store or start of online retail, whichever is earlier). Thereafter, SBRT entity shall be required to meet the 30% local sourcing norms on an annual basis. For the purpose of ascertaining the sourcing requirement, the relevant entity would be the company, incorporated in India, which is the recipient of foreign investment for the purpose of carrying out single-brand product retail trading.

(f) For the purpose of meeting local sourcing requirement laid down at para (e) above, all procurements made from India by the SBRT entity for that single brand shall be counted towards local sourcing, irrespective of whether the goods procured are sold in India or exported. SBRT entity is also permitted to set off sourcing of goods from India for global operations against the mandatory sourcing requirement of 30%. For this purpose, 'sourcing of goods from India for global operations' shall mean value of goods sourced from India for global operations for that single brand (in INR terms) in a particular financial year directly by the entity undertaking SBRT or its group companies (resident or non-resident), or indirectly by them through a third party under a legally tenable agreement.

(g) An SBRT entity operating through brick and mortar stores can also undertake retail trading through e-commerce. However, retail trading through e-commerce can also be undertaken prior to opening of brick and mortar stores, subject to the condition that the entity opens brick and mortar stores within 2 years from date of start of online retail.

Note:

(i) Conditions mentioned at Para 5.2.15.3 (2) (b) & 5.2.15.3 (2) (d) will not be applicable for undertaking SBRT of Indian brands.

(ii) Indian brands should be owned and controlled by resident Indian citizens and/or companies which are owned and controlled by resident Indian citizens. (iii) Sourcing norms will not be applicable up to three years from commencement of the business i.e. opening of first store or start of online retail, whichever is earlier for entities undertaking single brand retail trading of products having 'state-of-art' and 'cutting-edge' technology and where local sourcing is not possible. Thereafter, provisions of Para 5.2.15.3 (2) (e) will be applicable. A Committee under the Chairmanship of Secretary, DPIIT, with representatives from NITI Aayog, concerned Administrative Ministry and independent technical expert(s) on the subject will examine the claim of applicants on the issue of the products being in the nature of 'state-of-art' and 'cutting-edge' technology where local sourcing is not possible and give recommendations for such relaxation.

5. **Digital Media**

Following new clause 5.2.7.2.3 is added under para 5.2.7.2 of the FDI policy:

5.2.7.2.3 Uploading/ Streaming of News & Current Affairs through Digital Media	26%	Government

Existing Para 5.2.7.2.3 shall be renumbered as 5.2.7.2.4

6. The above decision will take effect from the date of FEMA notification.

Sumita Dawra

(Sumita Dawra)

Joint Secretary to the Government of India

DPIIT File No.: 5/3/2019-FDI Policy, dated 18.09.2019

Copy forwarded to:

1. **Press Information Officer, Press Information Bureau**- for giving wide publicity to the above Press Note.
2. **Joint Secretary(I&C), Department of Economic Affairs, North Block, New Delhi**
3. **Reserve Bank of India, Foreign Exchange Department, Mumbai**

For suitably incorporating the policy changes in Foreign Exchange Management (Transfer or issue of security by a person resident outside India) Regulations, 2000 and the relevant schedules thereof.

4. **NIC Section in the Department for Promotion of Industry and Internal Trade** - for uploading the Press Note on DPIIT's website.
5. **Hindi Section, DPIIT**- for providing Hindi version.

Government of India
Ministry of Commerce & Industry
Department for Promotion of Industry and Internal Trade
Industrial Licensing Section
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Press Note No. 3 (2019 Series)

Subject: Withdrawal of Press Note No. 17 (1984 Series)

The Press Note No. 17 (1984) series regarding Environmental clearance of Industrial Licence- conditions of Letter of Intent/Industrial Licence, relates to pre-1991 period. After the Industrial Policy Resolution 1991, and considering various amendments made to Notification No. 477(E) dated 25th July, 1991 only the following four Industries are covered under compulsory licensing:

i. Cigars and Cigarettes of tobacco and manufactured tobacco substitutes
ii. Electronic aerospace and defence equipment
iii. Industrial Explosives
iv. Hazardous chemicals

2. As DPIIT is not issuing licence in any other case, this Press Note 17 (1984 Series) has become irrelevant. Accordingly, this Press Note is withdrawn.

(Ravinder)
Joint Secretary to the Government of India

No. 2(41)/2018-IL, Dated: 11 September, 2019

11/9/2019

Copy to:

1. Press Information Officer, Press Information Bureau of Ministry of Commerce and Industry - for giving necessary publicity.
2. NIC Section, DPIIT - with the request to upload the Press Note on the Department's website.
3. Hindi Section, DPIIT for providing the Hindi version.

Government of India
Ministry of Commerce & Industry
Department for Promotion of Industry and Internal Trade
Industrial Licensing Section
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Press Note No. 2 (2019 Series)

Subject: Licensing requirement for Parts and Accessories in Defence Sector

In reference to Press Note 1 (2019 Series) dated January 1, 2019 it is hereby clarified that No Industrial Licence/Arms Licence is required for the manufacture of any parts or accessories in Defence Sector, unless they are specifically listed in any of the Annexures of the said Press Note.

2. This shall not apply to issue of Arms Licence for small arms by MHA.

(Ravinder)
Joint Secretary to the Government of India

No. 2(24)/2019-IL, Dated: 11 September, 2019

11/9/2019

Copy to:

1. Press Information Officer, Press Information Bureau of Ministry of Commerce and Industry - for giving necessary publicity.
2. NIC Section, DPIIT - with the request to upload the Press Note on the Department's website.
3. Joint Secretary (DIP), Department of Defence Production, South Block, New Delhi.
4. Joint Secretary (Arms), Ministry of Home Affairs, North Block, New Delhi
5. Hindi Section, DPIIT for providing the Hindi version.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
FDI Policy Section

Press Note No. 1 (2018 Series)

Subject: Review of Foreign Direct Investment (FDI) policy on various sectors

The Government of India has reviewed the extant FDI policy on various sectors and made following amendments in the Consolidated FDI Policy Circular of 2017 **(FDI Policy)**, effective from August 28, 2017, and as amended from time to time.

2. **Prohibition of restrictive conditions regarding audit firms**

Para 5.2 (h) of FDI Policy is replaced with the following:

Wherever the foreign investor wishes to specify a particular auditor/audit firm having international network for the Indian investee company, then audit of such investee companies should be carried out as joint audit wherein one of the auditors should not be part of the same network.

Existing Para 5.2 (h) shall be renumbered as 5.2 (i)

3. **Foreign investment into an Indian company engaged only in the activity of investing in the capital of other Indian company/ies**

(A) Para 3.8.3.1 of FDI Policy is amended to read as under:

Foreign Investment in Investing Companies registered as Non-Banking Financial Companies (NBFC) with the Reserve Bank of India, being overall regulated, would be under 100% automatic route.

(B) Para 3.8.3.2 of FDI Policy is amended to read as under:

Foreign Investment in Core Investment Companies (CICs) and other investing companies, engaged in the activity of investing in the capital of other Indian company/ies/LLP, is permitted under Government approval route. CICs will have to additionally follow RBI's regulatory framework for CICs.

4. **Competent Authority for FDI proposals examining countries of concern**

Para 4.1.1 (ix) of FDI Policy is amended to read as under:

S.No.	Activity/sector	Administrative Ministry/Department
(ix) (a)	Applications involving investments from Countries of Concern falling under automatic route sectors/activities, requiring security clearance as per the extant FEMA 20, FDI Policy and security guidelines, as amended from time to time	Department of Industrial Policy and Promotion
(ix) (b)	Cases pertaining to Government approval route sectors/activities requiring security clearance as per the extant FEMA 20, FDI Policy and security guidelines, as amended from time to time	Nodal Administrative Ministries/Departments

5. **Civil Aviation**

A. Note (iii) at Para 5.2.9 of FDI Policy which presently reads that "the policy mentioned at para (c) above is not applicable to M/s Air India Ltd.", stands deleted.

B. Following new clause (d) is added to Other Conditions laid down at Para 5.2.9 of FDI Policy:

(d) In addition to the above conditions, foreign investment in M/s Air India Ltd. shall be subject to the following conditions:

(i) Foreign investment(s) in M/s Air India Ltd., including that of foreign airline(s), shall not exceed 49% either directly or indirectly.

(ii) Substantial ownership and effective control of M/s Air India Ltd. shall continue to be vested in Indian Nationals.

6. **Construction Development: Townships, Housing, Built-up Infrastructure and Real Estate Broking:**

Following new clause (vi) is added after Note (v) at Para 5.2.10.2 of FDI Policy:

Para 5.2.10.2 Note (vi):

Notwithstanding anything contained in Para 5.2.10 above, it is clarified that real-estate broking service does not amount to real estate business and 100% foreign investment is allowed in the activity under automatic route.

7. **Single Brand Product Retail Trading**

Para 5.2.15.3 of FDI Policy is amended to read as under:

Sector/Activity	**% of Equity/ FDI Cap**	**Entry Route**
Single Brand product retail trading	100%	Automatic
(1) Foreign Investment in Single Brand product retail trading is aimed at attracting investments in production and marketing, improving the availability of such goods for the consumer, encouraging increased sourcing of goods from India, and enhancing competitiveness of Indian enterprises through access to global designs, technologies and management practices. (2) FDI in Single Brand product retail trading would be subject to the following conditions: (a) Products to be sold should be of a 'Single Brand' only. (b) 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.

(c) 'Single Brand' product-retail trading would cover only products which are branded during manufacturing.

(d) 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, either directly by the brand owner or through a legally tenable agreement executed between the Indian entity undertaking single brand retail trading and the brand owner.

(e) In respect of proposals involving foreign investment beyond 51%, sourcing of 30% of the value of goods purchased, will be done from India, preferably from MSMEs, village and cottage industries, artisans and craftsmen, in all sectors. The quantum of domestic sourcing will be self-certified by the company, to be subsequently checked, by statutory auditors, from the duly certified accounts which the company will be required to maintain. This procurement requirement would have to be met, in the first instance, as an average of five years' total value of the goods purchased, beginning 1st April of the year of the commencement of the business i.e. opening of the first store. Thereafter, it would have to be met on an annual basis. For the purpose of ascertaining the sourcing requirement, the relevant entity would be the company, incorporated in India, which is the recipient of foreign investment for the purpose of carrying out single-brand product retail trading.

(f) Subject to the conditions mentioned in this Para, a single brand retail trading entity operating through brick and mortar stores, is permitted to undertake retail trading through e-commerce.

(g) Single brand retail trading entity would be permitted to set off its incremental sourcing of goods from India for global operations during initial 5 years, beginning 1st April of the year of the opening of first store, against the mandatory sourcing requirement of 30% of purchases from India. For this purpose, incremental sourcing will mean

the increase in terms of value of such global sourcing from India for that single brand (in INR terms) in a particular financial year from India over the preceding financial year, by the non-resident entities undertaking single brand retail trading, either directly or through their group companies. After completion of this 5 years period, the SBRT entity shall be required to meet the 30% sourcing norms directly towards its India's operation, on an annual basis.

Note:

(i) Conditions mentioned at Para 5.2.15.3 (2) (b) & 5.2.15.3 (2) (d) will not be applicable for undertaking SBRT of Indian brands.

(ii) Indian brands should be owned and controlled by resident Indian citizens and/or companies which are owned and controlled by resident Indian citizens.

(iii)Sourcing norms will not be applicable up to three years from commencement of the business i.e. opening of the first store for entities undertaking single brand retail trading of products having 'state-of-art' and 'cutting-edge' technology and where local sourcing is not possible. Thereafter, provisions of Para 5.2.15.3 (2) (e) will be applicable. A Committee under the Chairmanship of Secretary, DIPP, with representatives from NITI Aayog, concerned Administrative Ministry and independent technical expert(s) on the subject will examine the claim of applicants on the issue of the products being in the nature of 'state-of-art' and 'cutting-edge' technology where local sourcing is not possible and give recommendations for such relaxation.

8. **Power Exchanges**

Para 5.2.24.2 regarding "Other Conditions" for foreign investment Power Exchange sector/activity the present clause (i) "FII/FPI purchases shall be restricted to secondary market only;" stands **deleted.**

9. **Pharmaceuticals**

(A) Definition of "Medical Device" as contained at Para 5.2.27.3 Note (ii) of FDI Policy is amended to read as under:

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 or assistance for, any injury or disability;

(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 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) in-vitro diagnostic device which is a 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 examination of specimens derived from the human bodies or animals.

(B) Para 5.2.27.3 Note (iii) of FDI Policy which presently reads that "the definition of medical device at Note (ii) above would be subject to the amendment in Drugs and Cosmetics Act", is deleted.

10. Para 6(iv) of Annexure-3 of FDI Policy is amended to read as under:

Issue of equity shares for sectors requiring Government approval under the FDI policy is allowed under the Government route for the following:

(I) import of capital goods/ machinery/ equipment (excluding second-hand machinery), subject to compliance with the following conditions:

(a) Any import of capital goods/machinery etc., made by a resident in India, has to be in accordance with the Export/Import Policy issued by Government of India/as defined by DGFT/FEMA provisions relating to imports.

(b) The application clearly indicating the beneficial ownership and identity of the Importer Company as well as overseas entity.

(c) Applications complete in all respects, for conversions of import payables for capital goods into FDI being made within 180 days from the date of shipment of goods.

(II) pre-operative/pre-incorporation expenses (including payments of rent etc.), subject to compliance with the following conditions:

(a) Submission of FIRC for remittance of funds by the overseas promoters for the expenditure incurred.

(b) Verification and certification of the pre-incorporation/pre-operative expenses by the statutory auditor.

(c) Payments should be made by the foreign investor to the company directly or through the bank account opened by the foreign investor as provided under FEMA Regulations.

(d) The applications, complete in all respects, for capitalization being made within the period of 180 days from the date of incorporation of the company.

General conditions:

(i) All requests for conversion should be accompanied by a special resolution of the company.

(ii) Government's approval would be subject to pricing guidelines of RBI and appropriate tax clearance.

(iii) For sectors under automatic route, issue of equity shares against import of capital goods/ machinery/ equipment (excluding second-hand machinery) and pre-operative/pre-incorporation expenses (including payments of rent etc.) is permitted under automatic route subject to compliance with respective conditions mentioned above, and reporting to RBI in form FC-GPR as per procedure prescribed under the FDI policy.

11. The above decision will take effect from the date of FEMA notification.

(Rajiv Aggarwal)

Joint Secretary to the Government of India

D/o IPP File No.: 5/2/2018-FDI Policy, dated 23rd January, 2018

Copy forwarded to:

1. **Press Information Officer, Press Information Bureau**- for giving wide publicity to the above Press Note.
2. **Joint Secretary(I&C), Department of Economic Affairs, North Block, New Delhi**
3. **Reserve Bank of India, Foreign Exchange Department, Mumbai**

For suitably incorporating the policy changes in Foreign Exchange Management (Transfer or issue of security by a person resident outside India) Regulations, 2000 and the relevant schedules thereof.

4. **NIC Section in the Department of Industrial Policy and Promotion**- for uploading the Press Note on DIPP's website.
5. **Hindi Section, DIPP**- for providing Hindi version.

Department of Industrial Policy and Promotion
Ministry of Commerce and Industry
Government of India

Consolidated FDI Policy
(Effective from August 28, 2017)

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion

Consolidated FDI Policy Circular of 2017

Subject: Consolidated FDI Policy

The "Consolidated FDI Policy" is attached.

2. This Circular will take effect from August 28, 2017

(Atul Chaturvedi)
Additional Secretary to the Government of India

D/o IPP F. No. 5(1)/2017-FC-1 Dated the August 28, 2017

Copy forwarded to:

1. Press Information Officer, Press Information Bureau- for giving wide publicity to the above circular.
2. NIC, DIPP for uploading the Circular on DIPP's website.
3. Department of Economic Affairs, Ministry of Finance, New Delhi.
4. Reserve Bank of India, Mumbai.
5. Hindi Section for Hindi Translation.

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Chapter 1: Intent and Objective

1.1 Intent and Objective

1.1.1 It is the intent and objective of the Government of India to attract and promote foreign direct investment 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.

1.1.2 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 may be 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.

1.1.3 The present consolidation subsumes and supersedes all Press Notes/Press Releases/Clarifications/Circulars issued by DIPP, which were in force as on August 27, 2017 and reflects the FDI Policy as on August 28, 2017.This Circular accordingly will take effect from August 28, 2017 and will remain in force until superseded in totality or in part thereof. Reference to any statute or legislation made in this Circular shall include modifications, amendments or re-enactments thereof.

1.1.4 Notwithstanding the rescission of earlier Press Notes/Press Releases/Clarifications/Circulars, anything done or any action taken or purported to have been done or taken under the rescinded Press Notes/Press Releases/Clarifications/Circulars prior to August 28, 2017, shall, in so far as it is not inconsistent with those Press Notes/Press Releases/Clarifications/Circulars, be deemed to have been done or taken under the corresponding provisions of this circular and shall be valid and effective.

Chapter 2: Definitions

2.1 Definitions

2.1.1 ***'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.

2.1.2 ***'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.

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

2.1.4 ***'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.

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

Note: The equity shares issued in accordance with the provisions of the Companies Act, as applicable, shall include equity shares that have been partly paid. Preference shares and convertible debentures shall be required to be fully paid, and should be mandatorily and fully convertible. Further, 'warrant' includes Share Warrant issued by an Indian Company in accordance to provisions of the Companies Act, as applicable.

2.1.6 ***'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.

2.1.7 ***'Competent Authority'*** means the concerned Administrative Ministry/Department empowered to grant government approval for foreign investment under the extant FDI Policy and FEMA Regulations.

2.1.8 ***'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. For the purposes of Limited Liability Partnership, 'control' will mean right to appoint majority of the designated partners, where such designated partners, with specific exclusion to others, have control over all the policies of the LLP.

2.1.9 ***'Convertible Note'*** means an instrument issued by a startup company evidencing receipt of money initially as debt, which is repayable at the option of the holder, or which is convertible into such number of equity shares of such startup company,

within a period not exceeding five years from the date of issue of the convertible note, upon occurrence of specified events as per the other terms and conditions agreed to and indicated in the instrument.

2.1.10 ***'Depository Receipt'*** (DR) means a negotiable security issued outside India by a Depository bank, on behalf of an Indian company, which represent the local Rupee denominated equity shares of the company held as deposit by a Custodian bank in India. DRs are traded on Stock Exchanges in the US, Singapore, Luxembourg, etc. DRs listed and traded in the US markets are known as American Depository Receipts (ADRs) and those listed and traded anywhere/elsewhere are known as Global Depository Receipts (GDRs). DRs are governed by Notification No. FEMA 330/ 2014-RB, issued by Reserve bank of India.

2.1.11 ***"Employees' Stock Option"*** means the option given to the directors, officers or employees of a company or of its holding company or joint venture or wholly owned overseas subsidiary/subsidiaries, if any, which gives such directors, officers or employees, the benefit or right to purchase, or to subscribe for, the shares of the company at a future date at a pre-determined price.

2.1.12 ***'Erstwhile Overseas Corporate Body'***(OCB) means a company, partnership firm, society and other corporate body owned directly or indirectly to the extent of at least sixty percent by non-resident Indians and includes overseas trust in which not less than sixty percent beneficial interest is held by non-resident Indians directly or indirectly but irrevocably and which was in existence on the date of commencement of the Foreign Exchange Management (Withdrawal of General Permission to Overseas Corporate Bodies (OCBs)) Regulations, 2003 (the Regulations) and immediately prior to such commencement was eligible to undertake transactions pursuant to the general permission granted under the Regulations.

2.1.13 ***'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.

2.1.14 ***'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 (Original notification is available at https://rbi.org.in/Scripts/BS_FemaNotifications.aspx?Id=174. Subsequent amendment notifications are available at https://rbi.org.in/Scripts/BS_FemaNotifications.aspx).

2.1.15 ***'FDI linked performance conditions'*** means the sector specific conditions for companies receiving foreign investment.

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

2.1.17 ***'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.

2.1.18 ***'Foreign Portfolio Investor'***(FPI)[1] 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.

2.1.19 ***'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.

2.1.20 ***'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 (Competent Ministry/Department for grant of approval).

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

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

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

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

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

2.1.24 ***'Indian Venture Capital Undertaking'***(IVCU) means an Indian company:

(i) whose shares are not listed in a recognised stock exchange in India;

(ii) which is engaged in the business of providing services, production or manufacture of articles or things, but does not include such activities or sectors which are specified in the negative list by the SEBI, with approval of Central Government, by notification in the Official Gazette in this behalf.

2.1.25 **'Investment Vehicle'** shall mean an entity registered and regulated under relevant regulations framed by SEBI or any other authority designated for the purpose and shall include Real Estate Investment Trusts (REITs) governed by the SEBI (REITs) Regulations, 2014, Infrastructure Investment Trusts (InvIts) governed by the SEBI

[1]For details please refer to SEBI (FPI) Regulations, 2014 and the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Second Amendment) Regulations, 2014 notified vide Notification No. FEMA.297/2014-RB dated March 13, 2014 and A.P. (DIR Series) Circular No.112 dated March 25, 2014.Wherever the words or acronyms FPI or FII occur in this document, the meaning and implications must be according to the above Regulations/Notifications, particularly during the transition period as prescribed in these Regulations.

(InvIts) Regulations, 2014 and Alternative Investment Funds (AIFs) governed by the SEBI (AIFs) Regulations, 2012.

2.1.26 ***'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.

2.1.27 ***'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.

2.1.28 ***'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.

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

2.1.30 ***'Manufacture'***, with its grammatical variations, means a change in a non-living physical object or article or thing- (a) resulting in transformation of the object or article or thing into a new and distinct object or article or thing having a different name, character and use; or (b) bringing into existence of a new and distinct object or article or thing with a different chemical composition or integral structure.

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

2.1.32 ***'Non-Resident Indian'*** (NRI) means an individual resident outside India who is a citizen of India or is an 'Overseas Citizen of India' cardholder within the meaning of section 7 (A) of the Citizenship Act, 1955. 'Persons of Indian Origin' cardholders registered as such under Notification No. 26011/4/98 F.I. dated 19.8.2002 issued by the Central Government are deemed to be 'Overseas Citizen of India' cardholders'

2.1.33 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. A Limited Liability Partnership will be considered as owned by resident Indian citizens if more than 50% of the investment in such an LLP is contributed by resident Indian citizens and/or entities which are ultimately 'owned and controlled by resident Indian citizens' and such resident Indian citizens and entities have majority of the profit share.

2.1.34 ***'Person'*** includes-

(i) an individual,
(ii) a Hindu undivided family,
(iii) a company,
(iv) a firm,
(v) an association of persons or a body of individuals whether incorporated or not,
(vi) every artificial juridical person, not falling within any of the preceding sub-clauses, and

(vii) any agency, office, or branch owned or controlled by such person.

2.1.35 ***'Person of Indian Origin'***(PIO) means a citizen of any country other than Bangladesh or Pakistan, if

(i) he at any time held Indian Passport; or

(ii) 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

(iii) the person is a spouse of an Indian citizen or a person referred to in sub-clause (i) or (ii).

2.1.36 ***'Person resident in India'*** means-

(i) a person residing in India for more than one hundred and eighty-two days during the course of the preceding financial year but does not include-

(A) A person who has gone out of India or who stays outside India, in either case-

(a) for or on taking up employment outside India, or

(b) for carrying on outside India a business or vocation outside India, or

(c) for any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period;

(B) A person who has come to or stays in India, in either case, otherwise than-

(a) for or on taking up employment in India; or

(b) for carrying on in India a business or vocation in India, or

(c) for any other purpose, in such circumstances as would indicate his intention to stay in India for an uncertain period;

(ii) any person or body corporate registered or incorporated in India,

(iii) an office, branch or agency in India owned or controlled by a person resident outside India,

(iv) an office, branch or agency outside India owned or controlled by a person resident in India.

2.1.37 ***'Person resident outside India'*** means a person who is not a Person resident in India.

2.1.38 ***'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.

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

2.1.40 ***'Resident Entity'*** means 'Person resident in India' excluding an individual.

2.1.41 ***'Resident Indian Citizen'*** shall be interpreted in line with the definition of 'person resident in India' as per FEMA, 1999, read in conjunction with the Indian Citizenship

Act, 1955.

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

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

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

2.1.45 ***'Sweat Equity Shares'*** means such equity shares as issued by a company to its directors or employees at a discount or for consideration other than cash, for providing their know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called.

2.1.46 ***'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 or whole.

2.1.47 ***'Unit'*** shall mean beneficial interest of an investor in the Investment Vehicle and shall include shares or partnership interests.

2.1.48 ***'Venture Capital Fund'*** (VCF) means a Fund registered as a 'venture capital fund' under SEBI (Venture Capital Funds) Regulations, 1996.

Chapter 3: General Conditions on FDI

3.1 Eligible investors

3.1.1 A non-resident entity can invest in India, subject to the FDI Policy except in those sectors/activities which are prohibited. However, a citizen of Bangladesh or an entity incorporated in Bangladesh can invest only under the Government route. Further, a citizen of Pakistan or an entity incorporated in Pakistan can invest, only under the Government route, in sectors/activities other than defence, space, atomic energy and sectors/activities prohibited for foreign investment.

3.1.2 NRIs resident in Nepal and Bhutan as well as citizens of Nepal and Bhutan are permitted to invest in the capital of Indian companies on repatriation basis, subject to the condition that the amount of consideration for such investment shall be paid only by way of inward remittance in free foreign exchange through normal banking channels.

3.1.3 OCBs have been derecognized as a class of investors in India with effect from September 16, 2003. Erstwhile OCBs which are incorporated outside India and are not under the adverse notice of RBI can make fresh investments under FDI Policy as incorporated non-resident entities, with the prior approval of Government of India if the investment is through Government route; and with the prior approval of RBI if the investment is through Automatic route.

3.1.4 A company, trust and partnership firm incorporated outside India and owned and controlled by NRIs can invest in India with the special dispensation as available to NRIs under the FDI Policy.

3.1.5 (i) Foreign Institutional Investor (FII) and Foreign Portfolio Investors (FPI) may in terms of Schedule 2 and 2A of FEMA (Transfer or Issue of Security by Persons Resident Outside India) Regulations, as the case may be, respectively, 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 investment to 24% of the capital of the company. This aggregate limit of 24% can be increased to the sectoral cap/statutory ceiling, as applicable, by the Indian company concerned through a resolution by its Board of Directors followed by a special resolution to that effect by its General Body and subject to prior intimation to RBI. The aggregate FII/FPI investment, individually or in conjunction with other kinds of foreign investment, will not exceed sectoral/statutory cap.

(ii) An Indian company which has issued shares to FIIs/FPIs under the FDI Policy for which the payment has been received directly into company's account should report these figures separately under item no. 5 of Form FC-GPR **(Annexure-1)**.

(iii) A daily statement in respect of all transactions (except derivative trade) has to be submitted by the custodian bank in soft copy in the prescribed format directly to RBI and also uploaded directly on the OFRS web site (https://secweb.rbi.org.in/ORFSMainWeb/Login.jsp).

3.1.6 Only registered FIIs/FPIs and NRIs as per Schedules 2,2A and 3 respectively of Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000, can invest/trade through a registered broker in the capital of Indian Companies on recognised Indian Stock Exchanges.

3.1.7 A SEBI registered Foreign Venture Capital Investor (FVCI) may contribute up to 100% of the capital of an Indian company engaged in any activity mentioned in Schedule 6 of Notification No. FEMA 20/2000, including startups irrespective of the sector in which it is engaged, under the automatic route. A SEBI registered FVCI can invest in a domestic venture capital fund registered under the SEBI (Venture Capital Fund) Regulations, 1996 or a Category- I Alternative Investment Fund registered under the SEBI (Alternative Investment Fund) Regulations, 2012.Such investments shall also be subject to the extant FEMA regulations and extant FDI policy including sectoral caps, etc. The investment can be made in equities or equity linked instruments or debt instruments issued by the company (including start-ups and if a startup is organised as a partnership firm or an LLP, the investment can be made in the capital or through any profit-sharing arrangement) or units issued by a VCF or by a Category-I AIF either through purchase by private arrangement either from the issuer of the security or from any other person holding the security or on a recognised stock exchange.It may also set up a domestic asset management company to manage its investments. SEBI registered FVCIs are also allowed to invest under the FDI Scheme, as non-resident entities, in other companies, subject to FDI Policy and FEMA regulations.

3.1.8 A Non- Resident Indian may subscribe to National Pension System governed and administered by Pension Fund Regulatory and Development Authority (PFRDA), provided such subscriptions are made through normal banking channels and the person is eligible to invest as per the provisions of the PFRDA Act. The annuity/ accumulated saving will be repatriable.

3.2 Eligible investee entities

3.2.1 Indian Company

Indian companies can issue capital against FDI.

3.2.2 Partnership Firm/Proprietary Concern

(i) 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 provided;

(a) Amount is invested by inward remittance or out of NRE/FCNR(B)/NRO account maintained with Authorized Dealers/Authorized banks.

(b) The firm or proprietary concern is not engaged in any agricultural/plantation or real estate business or print media sector.

(c) Amount invested shall not be eligible for repatriation outside India.

(ii) Investments with repatriation option: NRIs/PIO may seek prior permission of Reserve Bank for investment in sole proprietorship concerns/partnership firms with repatriation option. The application will be decided in consultation with the Government of India.

(iii) Investment by non-residents other than NRIs/PIO:A person resident outside India other than NRIs/PIO may make an application and seek prior approval of Reserve Bank for making investment in the capital of a firm or a proprietorship concern or any association of persons in India. The application will be decided in consultation with the Government of India. (iv) Restrictions: An NRI or PIO is not allowed to invest in a firm or proprietorship concern engaged in any agricultural/plantation activity or real estate business or print media.

3.2.3 Trusts

FDI is not permitted in Trusts other than in 'VCF' registered and regulated by SEBI and 'Investment vehicle'.

3.2.4 Limited Liability Partnerships (LLPs)

FDI in LLPs is permitted subject to the following conditions:

(i) FDI is permitted under the automatic route in Limited Liability Partnership (LLPs) operating in sectors/activities where 100% FDI is allowed through the automatic route and there are no FDI-linked performance conditions.

(ii) An Indian company or an LLP, having foreign investment, is also permitted to make downstream investment in another company or LLP in sectors in which 100% FDI is allowed under the automatic route and there are no FDI-linked performance conditions.

(iii) Conversion of an LLP having foreign investment and operating in sectors/activities where 100% FDI is allowed through the automatic route and there are no FDI-linked performance conditions, into a company is permitted under automatic route. Similarly, conversion of a company having foreign investment and operating in sectors/activities where 100% FDI is allowed through the automatic route and there are no FDI-linked performance conditions, into an LLP is permitted under automatic route.

(iv) FDI in LLP is subject to the compliance of the conditions of LLP Act, 2008.

3.2.5 Investment Vehicle

An entity being 'investment vehicle' registered and regulated under relevant regulations framed by SEBI or any other authority designated for the purpose including Real Estate Investment Trusts (REITs) governed by the SEBI (REITs) Regulations, 2014, Infrastructure Investment Trusts (InvIts) governed by the SEBI (InvIts) Regulations, 2014, Alternative Investment Funds (AIFs) governed by the SEBI (AIFs) Regulations,

2012 and notified under Schedule 11 of Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 is permitted to receive foreign investment from a person resident outside India (other than an individual who is citizen of or any other entity which is registered / incorporated in Pakistan or Bangladesh), including an Registered Foreign Portfolio Investor (RFPI) or a non-resident Indian (NRI).

3.2.6 Startup Companies

Start-ups can issue equity or equity linked instruments or debt instruments to FVCI against receipt of foreign remittance, as per the FEMA Regulation. In addition, start-ups can issue convertible notes to person resident outside India subject to the following conditions:

(i) A person resident outside India (other than an individual who is citizen of Pakistan or Bangladesh or an entity which is registered / incorporated in Pakistan or Bangladesh), may purchase convertible notes issued by an Indian startup company for an amount of twenty five lakh rupees or more in a single tranche.

Explanation: For the purpose of this Regulation, a 'startup company' means a private company incorporated under the Companies Act, 2013 or Companies Act, 1956 and recognised as such in accordance with notification number G.S.R. 180(E) dated February 17, 2016 issued by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, and as amended from time to time.

(ii) A startup company engaged in a sector where foreign investment requires Government approval may issue convertible notes to a non-resident only with approval of the Government.

Explanation: For the purpose of this regulation, the issue of shares against such convertible notes shall have to be in accordance with the Schedule 1 of the Notification No.FEMA.20/2000-RB dated 3rd May 2000.

(iii) A startup company issuing convertible notes to a person resident outside India shall receive the amount of consideration by inward remittance through banking channels or by debit to the NRE / FCNR (B) / Escrow account maintained by the person concerned in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016, as amended from time to time.

Provided that an escrow account for the above purpose shall be closed immediately after the requirements are completed or within a period of six months, whichever is earlier. However, in no case continuance of such escrow account shall be permitted beyond a period of six months.

(iv) NRIs may acquire convertible notes on non-repatriation basis in accordance with Schedule 4 of the Notification No.FEMA.20/2000-RB dated 3rd May 2000.

(v) A person resident outside India may acquire or transfer, by way of sale, convertible notes, from or to, a person resident in or outside India, provided the transfer takes place in accordance with the pricing guidelines as prescribed by RBI. Prior approval

from the Government shall be obtained for such transfers in case the startup company is engaged in a sector which requires Government approval.

(vi) The startup company issuing convertible notes shall be required to furnish reports as prescribed by Reserve Bank of India.

3.2.7 **Other Entities**

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

3.3 Instruments of investments, issue/transfer of shares etc.

Types of instruments for investment and provisions relating to issue/ transfer of shares are given at **Annexure 2** & **Annexure 3** respectively. Further, specific conditions of compliance for certain cases are given in **Annexure-4**.

3.4 Entry Routes for Investment

3.4.1 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 respective Administrative Ministry/Department.

3.4.2 Foreign investment in sectors/activities under government approval route will be subject to government approval where:

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

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

(iii) 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. or

(iv) 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.

(v) It is clarified that Foreign investment shall include all types of foreign investments, direct and indirect, regardless of whether the said investments have been made under Schedule 1 (FDI), 2 (FII), 2A (FPI), 3 (NRI), 6 (FVCI), 9 (LLPs), 10 (DRs) and 11(Investment Vehicles) of FEMA (Transfer or Issue of Security by Persons Resident Outside India) Regulations. FCCBs and DRs having underlying of instruments which can be issued under Schedule 5, being in the nature of debt, shall not be treated as foreign investment. However, any equity holding by a person resident outside India resulting from conversion of any debt instrument under any arrangement shall be reckoned as foreign investment.

(vi) Investment by NRIs under Schedule 4 of FEMA (Transfer or Issue of Security by Persons Resident Outside India) Regulations will be deemed to be domestic investment at par with the investment made by residents.

(vii) A company, trust and partnership firm incorporated outside India and owned and controlled by non-resident Indians will be eligible for investments under Schedule 4 of FEMA (Transfer or issue of Security by Persons Resident Outside India) Regulations and such investment will also be deemed domestic investment at par with the investment made by residents.

3.5 Caps on Investments

3.5.1 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 in Chapter 5 of this Circular.

3.6 Entry Conditions on Investment

3.6.1 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. The entry conditions in various sectors/activities are detailed in Chapter 5 of this Circular.

3.7 Other Conditions on Investment besides Entry Conditions

3.7.1 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.

3.7.2 For establishment of branch office, liaison office or project office or any other place of business in India if the principal business of the applicant is Defence, Telecom, Private Security or Information and Broadcasting, approval of Reserve Bank of India is not required in cases where Government approval or license/permission by the concerned Ministry/Regulator has already been granted.

3.8 Foreign Investment into/downstream Investment by eligible Indian entities

3.8.1 The Guidelines for calculation of total foreign investment, both direct and indirect in an Indian company/LLP, at every stage of investment, including downstream investment, have been detailed in **Annexure-5**.

3.8.2 For the purpose of this chapter,

(i) 'Downstream investment' means indirect foreign investment, by an eligible Indian entity, into another Indian company/LLP, by way of subscription or acquisition. Annexure-5 provides the guidelines for calculation of indirect foreign investment, with conditions specified in paragraph 1.2 (v).

(ii) 'Foreign Investment' would have the same meaning as in Annexure-5.

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

3.8.3.1 Foreign investment into an Indian company, engaged only in the activity of investing in the capital of other Indian company/ies/ LLP, will require prior Government approval, regardless of the amount or extent of foreign investment.

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

3.8.3.3 For undertaking activities which are under automatic route and without foreign investment linked performance conditions, Indian company which does not have any operations and also does not have any downstream investments, will be permitted to have infusion of foreign investment under automatic route. However approval of the Government will be required for such companies for infusion of foreign investment for undertaking activities which are under Government route, 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, conditionalities and caps.

Note: Foreign investment into other Indian companies/LLPs would be in accordance/ compliance with the relevant sectoral conditions on entry route, conditionalities and caps.

3.8.4 **Downstream investment by an eligible Indian entity which is not owned and/or controlled by resident entity/ies**

3.8.4.1 Downstream investment by an eligible Indian entity, which is not owned and/or controlled by resident entity/ies, into another Indian company, would be in accordance/compliance with the relevant sectoral conditions on entry route, conditionalities and caps, with regard to the sectors in which the latter Indian company is operating.

Note: Downstream investment/s made by a banking company, as defined in clause(c) of Section 5 of the Banking Regulation Act, 1949, incorporated in India, which is owned and/or controlled by non-residents/a non-resident entity/non-resident entities, under Corporate Debt Restructuring (CDR), or other loan restructuring mechanism, or in trading books, or for acquisition of shares due to defaults in loans, shall not count towards indirect foreign investment. However, their 'strategic downstream investment' shall count towards indirect foreign investment. For this purpose, 'strategic downstream investments' would mean investment by these banking companies in their subsidiaries, joint ventures and associates.

3.8.4.2 Downstream investments by eligible Indian entities/LLPs will be subject to the following conditions:

(i) Such an entity is to notify RBI and Foreign Investment Facilitation Portal of its downstream investment in the form available at www.fifp.gov.in within 30 days of such investment, even if capital instruments have not been allotted along with the modality of investment in new/existing ventures (with/without expansion programme);

(ii) Downstream investment by way of induction of foreign investment in an existing Indian Company to be duly supported by a resolution of the Board of Directors as also a share-holders agreement, if any;

(iii) Issue/transfer/pricing/valuation of capital shall be in accordance with applicable SEBI/RBI guidelines;

(iv) For the purpose of downstream investment, the eligible Indian entities making the downstream investments would have to bring in requisite funds from abroad and not leverage funds from the domestic market. This would, however, not preclude downstream companies/LLPs, with operations, from raising debt in the domestic market. Downstream investments through internal accruals are permissible, subject to the provisions of paragraphs 3.8.3 and 3.8.4.1. For the purposes of foreign investment policy, internal accruals will mean as profits transferred to reserve account after payment of taxes.

3.9 Remittance, Reporting and Violation

3.9.1 The Government has provided elaborated scheme for remittance, reporting and violation of FDI policy. These are available at **Annexure-6**.

Chapter 4: Procedure for Government Approval

4.1 Competent Authority

4.1.1 Following are the Competent Authorities for grant of approval for foreign investment for sectors/activities requiring Government approval:

S. No.	Activity/ sector	Administrative Ministry/ Department
(i)	Mining	Ministry of Mines
(ii)	Defence	
	a) Items requiring Industrial Licence under the Industries (Development & Regulation) Act, 1951, and/or Arms Act, 1959 for which the powers have been delegated by Ministry of Home Affairs to DIPP	Department of Defence Production, Ministry of Defence
	b) Manufacturing of Small Arms and Ammunitions covered under Arms Act 1959	Ministry of Home Affairs
(iii)	Broadcasting	Ministry of Information & Broadcasting
(iv)	Print Media	
(v)	Civil Aviation	Ministry of Civil Aviation
(vi)	Satellites	Department of Space
(vii)	Telecommunication	Department of Telecommunications
(viii)	Private Security Agencies	Ministry of Home Affairs
(ix)	Applications involving investments from *Countries of Concern* which presently include Pakistan and Bangladesh, requiring security clearance as per the extant FEMA 20, FDI Policy and security guidelines, amended from time to time	
(x)	Trading (Single brand, Multi brand and Food Product retail trading)	Department of Industrial Policy & Promotion
(xi)	FDI proposals by Non-Resident Indians (NRIs)/ Export Oriented Units requiring approval of the Government	
(xii)	Applications relating to issue of equity shares under the FDI policy under the Government route for import of capital goods/machinery/equipment (excluding second-hand machinery)	
(xiii)	Applications relating to issue of equity shares for pre-operative/pre-incorporation expenses (including payments of rent etc.)	

(xiv)	Financial services activity which are not regulated by any Financial Sector Regulator or where only part of the financial services activity is regulated or where there is doubt regarding the regulatory oversight	Department of Economic Affairs
(xv)	Applications for foreign investment into a Core Investment Company or an Indian company engaged only in the activity of investing in the capital of other India Company/ies	
(xvi)	Banking (Public and Private)	Department of Financial Services
(xvii)	Pharmaceuticals	Department of Pharmaceuticals

4.1.2 In respect of sectors/activities which are presently under automatic route but required Government approval earlier as per the extant policy during the relevant period, concerned administrative Ministry/Department would be the Competent Authorities for the grant of post-facto approval for foreign investment.

4.1.3 In respect of applications in which there is a doubt about the Administrative Ministry/Department concerned, DIPP shall identify the Administrative Ministry/Department where the application will be processed.

4.1.4 Proposals for foreign investment would be examined by Competent Authorities as per the Standard Operating Procedure laid down by DIPP (available at http://www.fifp.gov.in/Forms/SOP.pdf).

4.1.5 In case of proposals involving total foreign equity inflow of more than Rs 5000 crore, Competent Authority shall place the same for consideration of Cabinet Committee on Economic Affairs (CCEA).

4.1.6 The CCEA would also consider the proposals which may be referred to it by the Minister-in-charge of the concerned Competent Authority.

4.1.7 In respect of proposals where the Competent Authority proposes to reject the proposals or in cases where conditions for approval are stipulated in addition to the conditions laid down in the FDI policy or sectoral laws/regulations, concurrence of DIPP shall compulsorily be sought by the Competent Authority.

4.1.8 The monitoring of the compliance of conditions under the FDI approvals, including the past cases approved by the Government, shall be done by the concerned Administrative Ministries/Departments.

4.2 Cases which do not require Fresh Approval

4.2.1 Companies may not require fresh prior approval of the Government for bringing in additional foreign investment into the same entity, in the following cases:

(i) Entities the activities of which had earlier required prior approval of Government and which had, accordingly, earlier obtained prior approval of Government for their initial foreign investment but subsequently such activities/sectors have been placed under automatic route;

(ii) Entities, the activities of which had sectoral caps earlier and which had, accordingly, earlier obtained prior approval of Government for their initial foreign investment but subsequently such caps were removed/increased and the activities placed under the automatic route; provided that such additional investment along with the initial/original investment does not exceed the sectoral caps;

(iii) Additional foreign investment into the same entity where prior approval of Government had been obtained earlier for the initial/original foreign investment due to requirements of Press Note 18/1998 or Press Note 1 of 2005 and prior approval of the Government under the FDI policy is not required for any other reason/purpose; and

(iv) Additional foreign investment up to cumulative amount of Rs 5000 crore into the same entity within an approved foreign equity percentage/or into a wholly owned subsidiary.

4.3 Online Filing of Applications for Government Approval

4.3.1 Guidelines for e-filing of applications, filing of amendment applications and instructions to applicants are available at the Foreign Investment Facilitation Portal (www.fifp.gov.in).

Chapter 5: Sector Specific Conditions on FDI

5.1 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
'Real estate business' shall not include development of townships, construction of residential /commercial premises, roads or bridges and Real Estate Investment Trusts (REITs) registered and regulated under the SEBI (REITs) Regulations 2014.

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.(I) Atomic Energy and (II) Railway operations(other than permitted activities mentioned in para 5.2).

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.

5.2 Permitted Sectors

a) 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 conditionalities. In sectors/activities not listed below, FDI is permitted up to100% on the automatic route, subject to applicable laws/regulations; security and other conditionalities. 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.

b) Sectoral cap i.e. the maximum amount which can be invested by foreign investors in an entity, unless provided otherwise, is composite and includes all types of foreign investments, direct and indirect, regardless of whether the said investments have been made under Schedule 1 (FDI), 2 (FII), 2A (FPI), 3 (NRI), 6 (FVCI), 9 (LLPs), 10 (DRs) and 11(Investment Vehicle) of FEMA (Transfer or Issue of Security by Persons Resident Outside India) Regulations. FCCBs and DRs having underlying of instruments which can be issued under Schedule 5, being in the nature of debt, shall not be treated as foreign

investment. However, any equity holding by a person resident outside India resulting from conversion of any debt instrument under any arrangement shall be reckoned as foreign investment under the composite cap.

c) Foreign investment in sectors under Government approval route resulting in transfer of ownership and/or control of Indian entities from resident Indian citizens to non-resident entities will be subject to Government approval. Foreign investment in sectors under automatic route but with conditionalities, resulting in transfer of ownership and/or control of Indian entities from resident Indian citizens to non-resident entities, will be subject to compliance of such conditionalities.

d) The sectors which are already under 100% automatic route and are without conditionalities would not be affected.

e) Notwithstanding anything contained in paragraphs a) and c) above, portfolio investment, up to aggregate foreign investment level of 49% or sectoral/statutory cap, whichever is lower, will not be subject to either Government approval or compliance of sectoral conditions, as the case may be, if such investment does not result in transfer of ownership and/or control of Indian entities from resident Indian citizens to non-resident entities. Other foreign investments will be subject to conditions of Government approval and compliance of sectoral conditions as laid down in the FDI policy.

f) Total foreign investment, direct and indirect, in an entity will not exceed the sectoral/statutory cap.

g) Any existing foreign investment already made in accordance with the policy in existence would not require any modification to conform to amendments introduced through Press Note 8 (2015 Series).

h) The onus of compliance of above provisions will be on the investee company.

Agriculture

5.2.1 Agriculture & Animal Husbandry

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

5.2.1.1 Other Conditions

I. The term “under controlled conditions” covers the following:

(i) ‘Cultivation under controlled conditions’ for the categories of floriculture, horticulture, cultivation of vegetables and mushrooms is the practice of cultivation wherein rainfall, temperature, solar radiation, air humidity and culture medium are controlled artificially. Control in these parameters may be effected through protected cultivation under green houses, net houses, poly houses or any other improved infrastructure facilities where micro-climatic conditions are regulated anthropogenically.

5.2.2 Plantation Sector

Sector/Activity	% of Equity/ FDI Cap	Entry Route
5.2.2.1 (i) Tea sector including tea plantations (ii) Coffee plantations (iii) Rubber plantations (iv) Cardamom plantations (v) Palm oil tree plantations (vi) Olive oil tree plantations **Note:** Besides the above, FDI is not allowed in any other plantation sector/activity.	100%	Automatic

5.2.2.2 Other Condition

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

Mining and Petroleum & Natural Gas

5.2.3 Mining

Sector/Activity	% of Equity/ FDI Cap	Entry Route
5.2.3.1 **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
5.2.3.2 **Coal & Lignite** (1) 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	100%	Automatic

Coal Mines (Nationalization) Act, 1973. (2) 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.		
5.2.3.3 **Mining and mineral separation of titanium bearing minerals and ores, its value addition and integrated activities** **5.2.3.3.1** 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

5.2.3.3.2 Other Conditions

(i) FDI for separation of titanium bearing minerals & ores will be subject to the following additional conditions viz.:

(A) value addition facilities are set up within India along with transfer of technology;

(B) disposal of tailings during the mineral separation shall be carried out in accordance with regulations framed by the Atomic Energy Regulatory Board such as Atomic Energy (Radiation Protection) Rules, 2004 and the Atomic Energy (Safe Disposal of Radioactive Wastes) Rules, 1987.

(ii) FDI will not be allowed in mining of “prescribed substances” listed in the Notification No. S.O. 61(E), dated 18.1.2006, issued by the Department of Atomic Energy.

Clarification:

(1) For titanium bearing ores such as Ilmenite, Leucoxene and Rutile, manufacture of titanium dioxide pigment and titanium sponge constitutes value addition. Ilmenite can be processed to ‘produce 'Synthetic Rutile or Titanium Slag as an intermediate value added product.

(2) The objective is to ensure that the raw material available in the country is utilized for setting up downstream industries and the technology available internationally is also made available for setting up such industries within the country. Thus, if with the technology transfer, the objective of the FDI Policy can be achieved, the conditions prescribed at (i) (A) above shall be deemed to be fulfilled.

5.2.4 Petroleum & Natural Gas

Sector/Activity	% of Equity/ FDI Cap	Entry Route
5.2.4.1 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
5.2.4.2 Petroleum refining by the Public Sector Undertakings (PSU), without any disinvestment or dilution of domestic equity in the existing PSUs.	49%	Automatic

Manufacturing

5.2.5 Manufacturing:

5.2.5.1 Subject to the provisions of the FDI policy, foreign investment in 'manufacturing' sector is under automatic route. Further, a manufacturer is permitted to sell its products manufactured in India through wholesale and/or retail, including through e-commerce, without Government approval.

5.2.5.2 Notwithstanding the FDI policy provisions on trading sector, 100% FDI under Government approval route is allowed for retail trading, including through e-commerce, in respect of food products manufactured and/or produced in India.

5.2.6 Defence

Sector/Activity	% of Equity/ FDI Cap	Entry Route
5.2.6.1 Defence Industry subject to Industrial license under the Industries (Development & Regulation) Act, 1951; and Manufacturing of small arms and ammunition under the Arms Act, 1959	100%	Automatic up to 49% Government route beyond 49% wherever it is likely to result in access to modern technology or for other reasons to be recorded

5.2.6.2 Other Conditions

(i) Infusion of fresh foreign investment within the permitted automatic route level, in a company not seeking industrial license, resulting in change in the ownership pattern or transfer of stake by existing investor to new foreign investor, will require Government approval.

(ii) 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.

(iii) Foreign investment in the sector is subject to security clearance and guidelines of the M/o Defence.

(iv) Investee company should be structured to be self-sufficient in areas of product design and development. The investee/joint venture company along with manufacturing facility, should also have maintenance and life cycle support facility of the product being manufactured in India.

Services Sector

5.2.7 Broadcasting

5.2.7.1 Broadcasting Carriage Services

Sector/Activity	% of Equity/ FDI Cap	Entry Route
5.2.7.1.1 (1)**Teleports**(setting up of up-linking HUBs/Teleports); (2)**Direct to Home** (DTH); (3)**Cable Networks** (Multi System operators (MSOs) operating at National or State or District level and undertaking upgradation of networks towards digitalization and addressability); (4)**Mobile TV**; (5)**Headend-in-the Sky Broadcasting Service**(HITS)	100%	Automatic
5.2.7.1.2 **Cable Networks**(Other MSOs not undertaking upgradation of networks towards digitalization and addressability and Local Cable Operators (LCOs))	100%	Automatic

Note:
Infusion of fresh foreign investment, beyond 49% in a company not seeking license/permission from sectoral Ministry, resulting in change in the ownership pattern or transfer of stake by existing investor to new foreign investor, will require Government approval.

5.2.7.2 Broadcasting Content Services

Sector/Activity	% of Equity/ FDI Cap	Entry Route
5.2.7.2.1 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	49%	Government
5.2.7.2.2 **Up-linking of 'News & Current Affairs' TV Channels**	49%	Government
5.2.7.2.3 **Up-linking of Non-'News & Current Affairs' TV Channels/ Down-linking of TV Channels**	100%	Automatic

5.2.7.3 Detailed guidelines on the Broadcasting Sector are given in **Annexure-7.**

5.2.8 Print Media

Sector/Activity	% of Equity/ FDI Cap	Entry Route
5.2.8.1 Publishing of newspaper and periodicals dealing with news and current affairs	26%	Government
5.2.8.2 Publication of Indian editions of foreign magazines dealing with news and current affairs	26%	Government

5.2.8.2.1 Other Conditions

(i) '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.

(ii) 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.

Sector/Activity	% of Equity/ FDI Cap	Entry Route
5.2.8.3 Publishing/printing of scientific and technical magazines/specialty journals/ periodicals, **subject to** compliance with the legal framework as applicable and guidelines issued in this regard from time to time by Ministry of Information and Broadcasting.	100%	Government
5.2.8.4 Publication of facsimile edition of foreign newspapers	100%	Government
5.2.8.4.1 Other Conditions (i) FDI should be made by the owner of the original foreign newspapers whose facsimile edition is proposed to be brought out in India. (ii) Publication of facsimile edition of foreign newspapers can be undertaken only by an entity incorporated or registered in India under the provisions of the Companies Act, as applicable. (iii) Publication of facsimile edition of foreign newspaper would also be subject to the Guidelines for publication of newspapers and periodicals dealing with news and current affairs and publication of facsimile edition of foreign newspapers issued by Ministry of Information & Broadcasting on 31.3.2006, as amended from time to time.		

5.2.9 Civil Aviation

5.2.9.1 Airports

Sector/Activity	% of Equity/ FDI Cap	Entry Route
(a) Greenfield projects	100%	Automatic
(b) Existing projects	100%	Automatic

5.2.9.2 Air Transport Services

Sector/Activity	% of Equity/ FDI Cap	Entry Route
(1) (a) Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline (b) Regional Air Transport Service	100%	Automatic up to 49% (Automatic up to 100% for NRIs) Government route beyond 49%
(2)Non-Scheduled Air Transport Services	100%	Automatic
(3)Helicopter services/seaplane services requiring DGCA approval	100%	Automatic

5.2.9.3 Other services under Civil Aviation sector

Sector/Activity	% of Equity/ FDI Cap	Entry Route
(1)Ground Handling Services **subject to** sectoral regulations and security clearance	100%	Automatic
(2)Maintenance and Repair organizations; flying training institutes; and technical training institutions.	100%	Automatic

Definitions: The Civil Aviation sector includes Airports, Scheduled and Non-Scheduled domestic passenger airlines, Helicopter services/Seaplane services, Ground Handling Services, Maintenance and Repair organizations; Flying training institutes; and Technical training institutions.

For the purposes of the Civil Aviation sector:

(i) "Airport" means a landing and taking off area for aircrafts, usually with runways and aircraft maintenance and passenger facilities and includes aerodrome as defined in clause (2) of section 2 of the Aircraft Act, 1934;

(ii) "Aerodrome" means any definite or limited ground or water area intended to be used, either wholly or in part, for the landing or departure of aircraft, and includes all buildings, sheds, vessels, piers and other structures thereon or pertaining thereto;

(iii) "Air transport service" means a service for the transport by air of persons, mails or any other thing, animate or inanimate, for any kind of remuneration whatsoever, whether such service consists of a single flight or series of flights;

(iv) "Air Transport Undertaking" means an undertaking whose business includes the carriage by air of passengers or cargo for hire or reward;

(v) "Aircraft component" means any part, the soundness and correct functioning of which, when fitted to an aircraft, is essential to the continued airworthiness or safety of the aircraft and includes any item of equipment;

(vi) "Helicopter" means a heavier-than-air aircraft supported in flight by the reactions of the air on one or more power driven rotors on substantially vertical axis;

(vii) "Scheduled air transport service" means an air transport service undertaken between the same two or more places and operated according to a published time table or with flights so regular or frequent that they constitute a recognizably systematic series, each flight being open to use by members of the public;

(viii) "Non-Scheduled air transport service" means any service which is not a scheduled air transport service;

(ix) "Seaplane" means an aeroplane capable normally of taking off from and alighting solely on water;

(x) "Ground Handling" means (i) ramp handling, (ii) traffic handling both of which shall include the activities as specified by the Ministry of Civil Aviation through the Aeronautical Information Circulars from time to time, and (iii) any other activity specified by the Central Government to be a part of either ramp handling or traffic handling.

Other Conditions

(a) Air Transport Services would include Domestic Scheduled Passenger Airlines; Non-Scheduled Air Transport Services, helicopter and seaplane services.

(b) Foreign airlines are allowed to participate in the equity of companies operating Cargo airlines, helicopter and seaplane services, as per the limits and entry routes mentioned above.

(c) Foreign airlines are also allowed to invest in the capital of Indian companies, operating scheduled and non-scheduled air transport services, up to the limit of 49% of their paid-up capital. Such investment would be subject to the following conditions:

(i) It would be made under the Government approval route.

(ii) The 49% limit will subsume FDI and FII/FPI investment.

(iii) The investments so made would need to comply with the relevant regulations of SEBI, such as the Issue of Capital and Disclosure Requirements (ICDR) Regulations/Substantial Acquisition of Shares and Takeovers (SAST) Regulations, as well as other applicable rules and regulations.

(iv) A Scheduled Operator's Permit can be granted only to a company:

a) that is registered and has its principal place of business within India;

b) the Chairman and at least two-thirds of the Directors of which

are citizens of India; and

c) the substantial ownership and effective control of which is vested in Indian nationals.

(v) All foreign nationals likely to be associated with Indian scheduled and non-scheduled air transport services, as a result of such investment shall be cleared from security view point before deployment; and

(vi) All technical equipment that might be imported into India as a result of such investment shall require clearance from the relevant authority in the Ministry of Civil Aviation.

Note:(i) The FDI limits/entry routes, mentioned at paragraph 5.2.9.2 (1) and 5.2.9.2 (2) above, are applicable in the situation where there is no investment by foreign airlines.

(ii) The dispensation for NRIs regarding FDI up to 100% will also continue in respect of the investment regime specified at para (c)(ii) above.

(iii) The policy mentioned at para (c) above is not applicable to M/s Air India Limited.

5.2.10 Construction Development: Townships, Housing, Built-up Infrastructure

Sector/Activity	%% of Equity/ FDI Cap	Entry Route
5.2.10.1 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

5.2.10.2

Each phase of the construction development project would be considered as a separate project for the purposes of FDI policy. Investment will be subject to the following conditions:

(A) (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) Notwithstanding anything contained at (A) (i) above, a foreign investor will be permitted to exit and repatriate foreign investment before the completion of project under automatic route, provided that a lock-in-period of three years, calculated with reference to each tranche of foreign investment has been completed. Further, transfer of stake from one non-resident to another non-resident, without repatriation of investment will neither be subject to any lock-in period nor to any government approval.

(B) 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.

(C) The Indian investee company will be permitted to sell only developed plots. For the purposes of this policy "developed plots" will mean plots where trunk infrastructure i.e. roads, water supply, street lighting, drainage and sewerage, have been made available**.**

(D) 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.

(E) The State Government/Municipal/Local Body concerned, which approves the building/development plans, will monitor compliance of the above conditions by the developer.

Note:

(i) 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).

"Real estate business" means dealing in land and immovable property with a view to earning profit there from and does not include development of townships, construction of residential/ commercial premises, roads or bridges, educational institutions, recreational facilities, city and regional level infrastructure, townships. Further, earning of rent/ income on lease of the property, not amounting to transfer, will not amount to real estate business.

(ii) Condition of lock-in period at (A) above will not apply to Hotels &Tourist Resorts, Hospitals, Special Economic Zones (SEZs), Educational Institutions, Old Age Homes and investment by NRIs.

(iii) Completion of the project will be determined as per the local bye-laws/rules and other regulations of State Governments.

(iv) It is clarified that 100% FDI under automatic route is permitted in completed projects for operation and management of townships, malls/ shopping complexes and business centres. Consequent to foreign investment, transfer of ownership and/or control of the investee company from residents to non-residents is also permitted. However, there would be a lock-in-period of three years, calculated with reference to each tranche of FDI, and transfer of immovable property or part thereof is not permitted during this period.

(v) "Transfer", in relation to FDI policy on the sector, includes,—

(a) the sale, exchange or relinquishment of the asset ; or

(b) the extinguishment of any rights therein; or

(c) the compulsory acquisition thereof under any law ; or

(d) any transaction involving the allowing of the possession of any immovable property to be taken or retained in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882) ; or

(e) any transaction, by acquiring shares in a company or by way of any agreement or any arrangement or in any other manner whatsoever, which has the effect of transferring, or enabling the enjoyment of, any immovable property.

5.2.11 Industrial Parks

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

5.2.11.1 Other conditions for investment in Industrial Parks are at **Annexure-8.**

5.2.12 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	100%	Government

5.2.13 Private Security Agencies

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Private Security Agencies	74%	Automatic up to 49% Government route beyond 49% and up to 74%

5.2.13.1 Other Conditions

(1) FDI in Private Security Agencies is subject to compliance with Private Security Agencies (Regulation) (PSAR) Act, 2005, as amended from time to time.

(2) For the purposes of FDI policy on the sector, terms “Private Security Agencies”, “Private Security” and “Armoured Car Service” will have the same meaning as provided under PSAR Act, 2005, which is reproduced as under:

"Private Security Agency" means a person or body of persons other than a government agency, department or organisation engaged in the business of providing private security services including training to private security guards or their supervisor or providing private security guards to any industrial or business undertaking or a company or any other person or property;

"Private Security" means security provided by a person, other than a public servant, to protect or guard any person or property or both and includes provision of armoured car service;

"Armoured Car Service" means the service provided by deployment of armed guards along with armoured car and such other related services which may be notified by the Central Government or as the case may be, the State Government from time to time.

5.2.14 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% Government route beyond 49%

5.2.14.1 Other Condition

FDI in Telecom sector is 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.

5.2.15 Trading

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

5.2.15.1.1Definition: Cash & Carry Wholesale trading/Wholesale trading, would mean sale of goods/merchandise to retailers, industrial, commercial, institutional or other professional business users or to other wholesalers and related subordinated service providers. Wholesale trading would, accordingly, imply sales for the purpose of trade, business and profession, as opposed to sales for the purpose of personal consumption. The yardstick to determine whether the sale is wholesale or not would be the type of customers to whom the sale is made and not the size and volume of sales. Wholesale trading would include resale, processing and thereafter sale, bulk imports with ex-port/ex-bonded warehouse business sales and B2B e-Commerce.

5.2.15.1.2 Guidelines for Cash & Carry Wholesale Trading/Wholesale Trading (WT):

(a) 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:

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

(II) 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; or

(III) Entities holding permits/license etc. for undertaking retail trade (like tehbazari and similar license for hawkers) from Government Authorities/Local Self Government Bodies; or

(IV) Institutions having certificate of incorporation or registration as a society or registration as public trust for their self consumption**.**

Note: An entity, to whom WT is made, may fulfill any one of the 4 conditions.

(c) Full records indicating all the details of such sales like name of entity, kind of entity, registration/license/permit etc. number, amount of sale etc. should be maintained on a day to day basis.

(d) WT of goods would be permitted among companies of the same group. However, such WT to group companies taken together should not exceed 25% of the total turnover of the wholesale venture.

(e) WT can be undertaken as per normal business practice, including extending credit facilities subject to applicable regulations.

(f) A wholesale/cash & carry trader can undertake retail trading, subject to the conditions as applicable. An entity undertaking wholesale/cash and carry as well as retail business will be mandated to maintain separate books of accounts for these two arms of the business and duly audited by the statutory auditors. Conditions of the FDI policy for wholesale/cash and carry business and for retail business have to be separately complied with by the respective business arms.

5.2.15.2 E-commerce activities

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

5.2.15.2.1 Subject to provisions of FDI Policy, e-commerce entities would engage only in Business to Business (B2B) e-commerce and not in Business to Consumer (B2C) e-commerce.

5.2.15.2.2 Definitions:

i) **E-commerce-** E-commerce means buying and selling of goods and services including digital products over digital & electronic network.

ii)**E-commerce entity-** E-commerce entity means a company incorporated under the Companies Act 1956 or the Companies Act 2013 or a foreign company covered under section 2 (42) of the Companies Act, 2013 or an office, branch or agency in India as provided in section 2 (v) (iii) of FEMA 1999, owned or controlled by a person resident outside India and conducting the e-commerce business.

iii) **Inventory based model of e-commerce-** Inventory based model of e-commerce means an e-commerce activity where inventory of goods and services is owned by e-commerce entity and is sold to the consumers directly.

iv) **Marketplace based model of e-commerce-** Marketplace based model of e-commerce means providing of an information technology platform by an e-commerce entity on a digital & electronic network to act as a facilitator between buyer and seller.

5.2.15.2.3 Guidelines for Foreign Direct Investment on e-commerce sector

i) 100% FDI under automatic route is permitted in marketplace model of e-commerce.
ii) FDI is not permitted in inventory based model of e-commerce.

5.2.15.2.4 Other Conditions

i) Digital & electronic network will include network of computers, television channels and any other internet application used in automated manner such as web pages, extranets, mobiles etc.

ii) Marketplace e-commerce entity will be permitted to enter into transactions with sellers registered on its platform on B2B basis.

iii) E-commerce marketplace may provide support services to sellers in respect of warehousing, logistics, order fulfillment, call centre, payment collection and other services.

iv) E-commerce entity providing a marketplace will not exercise ownership over the inventory i.e. goods purported to be sold. Such an ownership over the inventory will render the business into inventory based model.

v) An e-commerce entity will not permit more than 25% of the sales value on financial year basis affected through its marketplace from one vendor or their group companies.

vi) In marketplace model goods/services made available for sale electronically on website should clearly provide name, address and other contact details of the seller. Post sales, delivery of goods to the customers and customer satisfaction will be responsibility of the seller.

vii) In marketplace model, payments for sale may be facilitated by the e-commerce entity in conformity with the guidelines of the Reserve Bank of India.

viii) In marketplace model, any warrantee/ guarantee of goods and services sold will be responsibility of the seller.

ix) E-commerce entities providing marketplace will not directly or indirectly influence the sale price of goods or services and shall maintain level playing field.

x) Guidelines on cash and carry wholesale trading as given in para 5.2.15.1.2 above will apply on B2B e-commerce.

Subject to the conditions of FDI policy on services sector and applicable laws/regulations, security and other conditionalities, sale of services through e-commerce will be under automatic route.

5.2.15.3 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%

(1) Foreign Investment in Single Brand product retail trading is aimed at attracting investments in production and marketing, improving the availability of such goods for the consumer, encouraging increased sourcing of goods from India, and enhancing competitiveness of Indian enterprises through access to global designs, technologies and management practices.

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

(a) Products to be sold should be of a 'Single Brand' only.

(b) 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.

(c) 'Single Brand' product-retail trading would cover only products which are branded during manufacturing.

(d) 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. The onus for ensuring compliance with this condition will rest with the Indian entity carrying out single-brand product retail trading in India. The investing entity shall provide evidence to this effect at the time of seeking approval, including a copy of the licensing/franchise/sub-licence agreement, specifically indicating compliance with the above condition. The requisite evidence should be filed with the RBI for the automatic route and to competent authority for cases involving approval.

(e) In respect of proposals involving foreign investment beyond 51%, sourcing of 30% of the value of goods purchased, will be done from India, preferably from MSMEs, village and cottage industries, artisans and craftsmen, in all sectors. The quantum of domestic sourcing will be self-certified by the company, to be subsequently checked, by statutory auditors, from the duly certified accounts which the company will be required to maintain. This procurement requirement would have to be met, in the first instance, as an average of five years' total value of the goods purchased, beginning 1st April of the year of the commencement of the business i.e. opening of the first store. Thereafter, it would have to be met on an annual basis. For the purpose of ascertaining the sourcing requirement, the relevant entity would be the company, incorporated in India, which is the recipient of foreign investment for the

purpose of carrying out single-brand product retail trading.

(f) Subject to the conditions mentioned in this Para, a single brand retail trading entity operating through brick and mortar stores, is permitted to undertake retail trading through e-commerce.

(3) Application seeking permission of the Government for FDI exceeding 49% in a company which proposes to undertake single brand retail trading in India would be made to the Secretariat for Industrial Assistance (SIA) in the Department of Industrial Policy & Promotion. The applications would specifically indicate the product/product categories which are proposed to be sold under a 'Single Brand'. Any addition to the product/product categories to be sold under 'Single Brand' would require a fresh approval of the Government. In case of FDI up to 49%, the list of products/product categories proposed to be sold except food products would be provided to the RBI.

Note:

(i) Conditions mentioned at Para 5.2.15.3 (2) (b) & 5.2.15.3 (2) (d) will not be applicable for undertaking SBRT of Indian brands.

(ii) Indian brands should be owned and controlled by resident Indian citizens and/or companies which are owned and controlled by resident Indian citizens.

(iii)Sourcing norms will not be applicable up to three years from commencement of the business i.e. opening of the first store for entities undertaking single brand retail trading of products having 'state-of-art' and 'cutting-edge' technology and where local sourcing is not possible. Thereafter, provisions of Para 5.2.15.3 (2) (e) will be applicable. A Committee under the Chairmanship of Secretary, DIPP, with representatives from NITI Aayog, concerned Administrative Ministry and independent technical expert(s) on the subject will examine the claim of applicants on the issue of the products being in the nature of 'state-of-art' and 'cutting-edge' technology where local sourcing is not possible and give recommendations for such relaxation.

5.2.15.4 Multi Brand Retail Trading

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Multi Brand Retail Trading	51%	Government
(1) FDI in multi brand retail trading, in all products, will be permitted, subject to the following conditions: (i) Fresh agricultural produce, including fruits, vegetables, flowers, grains, pulses, fresh poultry, fishery and meat products, may be unbranded.		

(ii) Minimum amount to be brought in, as FDI, by the foreign investor, would be US $ 100 million.

(iii) 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. Expenditure on land cost and rentals, if any, will not be counted for purposes of backend infrastructure. Subsequent investment in backend infrastructure would be made by the MBRT retailer as needed, depending upon its business requirements.

(iv) 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. The 'small industry' status would be reckoned only at the time of first engagement with the retailer, and such industry shall continue to qualify as a 'small industry' for this purpose, even if it outgrows the said investment of US $ 2.00 million during the course of its relationship with the said retailer. Sourcing from agricultural co-operatives and farmers co-operatives would also be considered in this category. The procurement requirement would have to be met, in the first instance, as an average of five years' total value of the manufactured/processed products purchased, beginning 1st April of the year during which the first tranche of FDI is received. Thereafter, it would have to be met on an annual basis.

(v) Self-certification by the company, to ensure compliance of the conditions at serial nos. (ii), (iii) and (iv) above, which could be cross-checked, as and when required. Accordingly, the investors shall maintain accounts, duly certified by statutory auditors.

(vi) 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.

(vii) Government will have the first right to procurement of agricultural products.

(viii) 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 is at (2) below. Such agreement, in future, to permit establishment of retail outlets under this policy, would be conveyed to the Government of India through the Department of Industrial Policy & Promotion and additions would be made to the list at (2) below

accordingly. The establishment of the retail sales outlets will be in compliance of applicable State/Union Territory laws/ regulations, such as the Shops and Establishments Act etc.

(ix) Retail trading, in any form, by means of e-commerce, would not be permissible, for companies with FDI, engaged in the activity of multi-brand retail trading.

(2) List of States/Union Territories as mentioned in Paragraph 5.2.15.4(1)(viii)

1. Andhra Pradesh
2. Assam
3. Delhi
4. Haryana
5. Himachal Pradesh
6. Jammu & Kashmir
7. Karnataka
8. Maharashtra
9. Manipur
10. Rajasthan
11. Uttarakhand
12. Daman & Diu and Dadra and Nagar Haveli (Union Territories)

5.2.15.5 Duty Free Shops

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Duty Free Shops	100%	Automatic

(i) Duty Free Shops would mean shops set up in custom bonded area at International Airports/International Seaports and Land Custom Stations where there is transit of international passengers.

(ii) Foreign investment in Duty Free Shops is subject to compliance of conditions stipulated under the Customs Act, 1962 and other laws, rules and regulations.

(iii) Duty Free Shop entity shall not engage into any retail trading activity in the Domestic Tariff Area of the country.

5.2.16 Railway Infrastructure

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Railway Infrastructure Construction, operation and maintenance of the following: (i) Suburban corridor projects through PPP, (ii) High speed train projects, (iii) Dedicated freight lines, (iv) Rolling stock including train sets, and locomotives/coaches manufacturing and maintenance facilities, (v) Railway Electrification, (vi) Signaling systems, (vii) Freight terminals, (viii) Passenger terminals, (ix) Infrastructure in industrial park pertaining to railway line/sidings including electrified railway lines and connectivities to main railway line and (x) Mass Rapid Transport Systems.	100%	Automatic
Note: (i) Foreign Direct Investment in the abovementioned activities open to private sector participation including FDI is subject to sectoral guidelines of Ministry of Railways. (ii)Proposals involving FDI beyond 49% in sensitive areas from security point of view, will be brought by the Ministry of Railways before the Cabinet Committee on Security (CCS) for consideration on a case to case basis.		

Financial Services

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

5.2.17 Asset Reconstruction Companies

Sector/Activity	% of Equity/ FDI Cap	Entry Route
5.2.17.1'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%	Automatic

5.2.17.2 Other Conditions

(i) Persons resident outside India can invest in the capital of Asset Reconstruction Companies (ARCs) registered with Reserve Bank of India, up to 100% on the automatic route.

(ii) Investment limit of a sponsor in the shareholding of an ARC will be governed by the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, as amended from time to time. Similarly, investment by institutional / non-institutional investors will also be governed by the said Act, as amended from time to time.

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

(iv) FIIs/FPIs can invest in the Security Receipts (SRs) issued by ARCs. FIIs/FPIs may be allowed to invest up to 100 per cent of each tranche in SRs issued by ARCs, subject to directions/guidelines of Reserve Bank of India. Such investment should be within the relevant regulatory cap as applicable.

(v) All investments would be subject to provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, as amended from time to time.

5.2.18 Banking- Private Sector

Sector/Activity	% of Equity/ FDI Cap	Entry Route
5.2.18.1 Banking- Private Sector	74%	Automatic up to 49% Government route beyond 49% and up to 74%.

5.2.18.2 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.

(4) Other conditions in respect of permissible limits under portfolio investment schemes through stock exchanges for FIIs/FPIs and NRIs, setting-up of a subsidiary by foreign banks and limits in respect of voting rights are at **Annexure-9**.

5.2.19 Banking- Public Sector

Sector/Activity	% of Equity/ FDI Cap	Entry Route
5.2.19.1 Banking- Public Sector **subject to** Banking Companies (Acquisition & Transfer of Undertakings) Acts 1970/80. This ceiling (20%) is also applicable to the State Bank of India and its associate Banks.	20%	Government

5.2.20 Credit Information Companies (CIC)

Sector/Activity	% of Equity/ FDI Cap	Entry Route
5.2.20.1 Credit Information Companies	100%	Automatic

5.2.20.2 Other Conditions

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

(2) Foreign investment is permitted subject to regulatory clearance from RBI.

(3) Such FII/FPI investment would be permitted subject to the conditions that:

(a) A single entity should directly or indirectly hold below 10% equity.

(b) Any acquisition in excess of 1% will have to be reported to RBI as a mandatory requirement; and

(c) FIIs/FPIs investing in CICs shall not seek a representation on the Board of Directors based upon their shareholding.

5.2.21 Infrastructure Company in the Securities Market

Sector/Activity	% of Equity/ FDI Cap	Entry Route
5.2.21.1 Infrastructure companies in Securities Markets, namely, stock exchanges, commodity exchanges, depositories and clearing corporations, in compliance with SEBI Regulations	49%	Automatic

5.2.21.2 Other Conditions

(i) Foreign investment, including investment by FPIs, will be subject to the Securities Contracts (Regulations) (Stock Exchanges and Clearing Corporations) Regulations 2012, and Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996 as amended from time to time, and other Guidelines/Regulations issued by the Central Government, SEBI and the Reserve Bank of India from time to time.

(ii) Words and expressions used herein and not defined in these regulations but defined in the Companies Act, 2013 (18 of 2013) or the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992) or the Depositories Act, 1996 (22 of 1996) or in the concerned Regulations issued by SEBI shall have the same meanings respectively assigned to them in those Acts/ Regulations.

Definitions:

(1) Futures trading in commodities are regulated under the Forward Contracts (Regulation) Act, 1952. Commodity Exchanges, like Stock Exchanges, are infrastructure companies in the commodity futures market. With a view to infuse globally acceptable best practices, modern management skills and latest technology, it was decided to allow foreign investment in Commodity Exchanges.

(2) For the purposes of this chapter,

(i)“Commodity Exchange” is a recognized association under the provisions of the Forward Contracts (Regulation) Act, 1952, as amended from time to time, to provide exchange platform for trading in forward contracts in commodities.

(ii) “recognized association” means an association to which recognition for the time being has been granted by the Central Government under Section 6 of the Forward Contracts (Regulation) Act, 1952

(iii)“Association” means any-body of individuals, whether incorporated or not, constituted for the purposes of regulating and controlling the business of the sale or purchase of any goods and commodity derivative.

(iv)“Forward contract” means a contract for the delivery of goods and which is not a ready delivery contract.

(v) “Commodity derivative” means-

- a contract for delivery of goods, which is not a ready delivery contract; or
- a contract for differences which derives its value from prices or indices of prices of such underlying goods or activities, services, rights, interests and events, as may be notified in consultation with SEBI by the Central Government, but does not include securities.

5.2.22 Insurance

Sector/Activity	% of Equity/ FDI Cap	Entry Route
5.2.22.1 (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%	Automatic

5.2.22.2 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) The foreign investment up to forty-nine percent of the total paid-up equity of the Indian Insurance Company shall be allowed on the automatic route subject to approval/verification by the Insurance Regulatory and Development Authority of India.

(c) Foreign investment in this sector shall be subject to compliance with the provisions of the Insurance Act, 1938 and the condition that Companies receiving FDI shall obtain necessary license /approval from the Insurance Regulatory & Development Authority of India for undertaking insurance and related activities.

(d) An Indian Insurance company shall ensure that its ownership and control remains at all times in the hands of resident Indian entities as determined by Department of Financial Services/ Insurance Regulatory and Development Authority of India as per the rules/regulation issued by them from time to time.

(e) 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, 2014.

(f) Any increase in foreign investment in an Indian Insurance company shall be in accordance with the pricing guidelines specified by Reserve Bank of India under the FEMA Regulations.

(g) 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).

(h) 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.

(i) The provisions of paragraphs (i) (b) and (d) of Annexure 9 relating to 'Banking-Private Sector', shall be applicable in respect of bank promoted insurance companies.

(j) Terms 'Control', 'Equity Share Capital', 'Foreign Direct Investment' (FDI), 'Foreign Investors', 'Foreign Portfolio Investment', 'Indian Insurance Company', 'Indian Company', 'Indian Control of an Indian Insurance Company', 'Indian Ownership', 'Non-resident Entity', 'Public Financial Institution', 'Resident Indian Citizen', 'Total Foreign Investment' will have the same meaning as provided in Notification No. G.S.R 115 (E), dated 19th February, 2015 issued by Department of Financial Services and regulations issued by Insurance Regulatory and Development Authority of India from time to time.

5.2.23 Pension Sector

Sector/Activity	% of Equity/ FDI Cap	Entry Route
Pension Sector	49%	Automatic

Other Conditions

(i) Foreign investment in the Pension Funds is allowed as per the Pension Fund Regulatory and Development Authority (PFRDA) Act, 2013.

(ii) Foreign Investment in Pension Funds will be subject to the condition that entities bringing in foreign equity investment as per Section 24 of the PFRDA Act shall obtain necessary registration from the Pension Fund Regulatory and Development Authority and comply with other requirements as per the PFRDA Act, 2013 and Rules and Regulations framed under it for so participating in Pension Fund Management activities in India.

(iii) An Indian pension fund shall ensure that its ownership and control remains at all times in the hands of resident Indian entities as determined by the Government of India/PFRDA as per the rules/regulation issued by them from time to time.

5.2.24 Power Exchanges

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

5.2.24.2 Other Conditions

(i) FII/FPI purchases shall be restricted to secondary market only;

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

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

5.2.25 White Label ATM Operations

Sector/Activity	% of Equity/ FDI Cap	Entry Route
White Label ATM Operations	100%	Automatic

Other Conditions

(i) Any non-bank entity intending to set up WLAs should have a minimum net worth of Rs. 100 crore as per the latest financial year's audited balance sheet, which is to be maintained at all times.

(ii) In case the entity is also engaged in any 'Other Financial Services' as laid down at Para 5.2.26 below, then the foreign investment in the company setting up WLA, shall also have to comply with the minimum capitalization norms, if any, for foreign investments in such 'Other Financial Services'.

(iii) FDI in the WLAO will be subject to the specific criteria and guidelines issued by RBI vide Circular No. DPSS.CO.PD.No. 2298/02.10.002/2011-2012, as amended from time to time.

5.2.26 Other Financial Services

Sector/Activity	% of Equity/ FDI Cap	Entry Route
5.2.26.1 Financial Services activities regulated by financial sector regulators, viz., RBI, SEBI, IRDA, PFRDA, NHB or any other financial sector regulator as may be notified by the Government of India.	100%	Automatic

5.2.26.2 Other Conditions

i. Foreign investment in 'Other Financial Services' activities shall be subject to conditionalities, including minimum capitalization norms, as specified by the concerned Regulator/Government Agency.

ii. 'Other Financial Services' activities need to be regulated by one of the Financial Sector Regulators. In all such financial services activity which are not regulated by any Financial Sector Regulator or where only part of the financial services activity is regulated or where there is doubt regarding the regulatory oversight, foreign investment up to 100% will be allowed under Government approval route subject to conditions including minimum capitalization requirement, as may be decided by the Government.

iiii. Any activity which is specifically regulated by an Act, the foreign investment limits will be restricted to those levels/limit that may be specified in that Act, if so mentioned.

iv. Downstream investments by any of these entities engaged in "Other Financial Services" will be subject to the extant sectoral regulations and provisions of Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000, as amended from time to time.

Others

5.2.27 Pharmaceuticals

Sector/Activity	% of Equity/ FDI Cap	Entry Route
5.2.27.1 Greenfield	100%	Automatic
5.2.27.2 Brownfield	100%	Automatic up to 74% Government route beyond 74%

5.2.27.3 Other Conditions

(i) 'Non-compete' clause would not be allowed in automatic or government approval route except in special circumstances with the approval of the Government.

(ii) The prospective investor and the prospective investee are required to provide a certificate along with the application for foreign investment as per **Annexure-10**.

(iii) Government may incorporate appropriate conditions for FDI in brownfield cases, at the time of granting approval.

(iv) FDI in brownfield pharmaceuticals, under both automatic and government approval routes, is further subject to compliance of following conditions:

(a) The production level of National List of Essential Medicines (NLEM) drugs and/or consumables and their supply to the domestic market at the time of induction of FDI, being maintained over the next five years at an absolute quantitative level. The benchmark for this level would be decided with reference to the level of production of NLEM drugs and/or consumables in the three financial years, immediately preceding the year of induction of FDI. Of these, the highest level of production in any of these three years would be taken as the level.

(b) R&D expenses being maintained in value terms for 5 years at an absolute quantitative level at the time of induction of FDI. The benchmark for this level would be decided with reference to the highest level of R&D expenses which has been incurred in any of the three financial years immediately preceding the year of induction of FDI.

(c) The administrative Ministry will be provided complete information pertaining to the transfer of technology, if any, along with induction of foreign investment into the investee company.

(d) The administrative Ministry (s) i.e. Ministry of Health and Family Welfare, Department of Pharmaceuticals or any other regulatory Agency/Development as notified by Central Government from time to time, will monitor the compliance of conditionalities.

Note:

i. FDI up to 100%, under the automatic route is permitted for manufacturing of medical devices. The above mentioned conditions will, therefore, not be applicable to greenfield as well as brownfield projects of this industry.

ii. 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-

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

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

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

(ad) supporting or sustaining life;

(ae) disinfection of medical devices;

(af) 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.

iii. The definition of medical device at Note (ii) above would be subject to the amendment in Drugs and Cosmetics Act.

Annexures

Annexure-1

Form FC-GPR

(To be filed by the company through its Authorised Dealer Category – I bank with the Regional Office of the RBI under whose jurisdiction the Registered Office of the company making the declaration is situated as and when shares/convertible debentures / others are issued to the foreign investor, along with the documents mentioned in item No. 5 of the undertaking enclosed to this form. <u>All fields are mandatory) .</u>

Permanent Account Number (PAN) of the investee company given by the Income Tax Department	
Date of issue of shares / convertible debentures/others	

No.	Particulars	(In Block Letters)
1.	Name of the Investee Company	
	Address of the Registered Office of the Investee Company with City, District and State clearly mentioned Telephone Fax e-mail	
	State	
	Registration No. given by Registrar of Companies and Date of Incorporation.	

	Whether existing company or new company (strike off whichever is not applicable)	Existing company / New company (Brownfield) (Greenfield)

	If existing company, give registration number allotted by RBI for FDI, if any	

2.	Description of the main business activity NIC Code	
	Location of the project and NIC code for the district where the project is located a)Detailed address including Name, City, District and State b) Code for District c) Code for State	
	Percentage of FDI allowed as per FDI policy (Sectoral cap under FDI Policy)	
	State whether FDI is allowed under Automatic Route or Approval Route (strike out whichever is not applicable) (If under approval route, give relevant approval No. with date)	Automatic Route / Approval Route

3	**Details of the foreign investor / collaborator[2*] (Details of foreign residence to be given. Indian address if any should not be given)**	
	Name Address Country Constitution / Nature of the investing Entity [Specify whether 1. Individual 2. Company (Please specify if erstwhile OCB) 3. FII	

[*] If there is more than one foreign investor/collaborator, separate Annexure may be included for items 3 and 4 of the Form.

2 SWF means a Government investment vehicle which is funded by foreign exchange assets, and which manages those assets separately from the official reserves of the monetary authorities.

	4. FVCI[#] 5. Foreign Trust 6. Private Equity Fund 7. Pension / Provident Fund 8. Sovereign Wealth Fund (SWF)[3] 9. Partnership / Proprietorship Firm 10. Financial Institution 11. NRIs / PIO 12. Others (please specify)] Date of incorporation:	

4	**Particulars of Shares / Convertible Debentures /others Issued**			
(a)	**Nature and date of issue**			
		Nature of issue	*Date of issue*	*Number of shares/ convertible debentures/others*
	01	IPO / FPO		
	02	Preferential allotment / private placement		
	03	Rights		
	04	Bonus		
	05	Conversion of ECB		
	06	Conversion of royalty (including lump sum payments)		
	07	Conversion against import of capital goods by units in SEZ		
	08	ESOPs		
	09	Share Swap		
	10	Others (please specify)		
		Total		

[#] The investment/s is/are made by FVCI under FDI Scheme in terms of Schedule I to Notification No. FEMA 20/2000-RB dated May 3, 2000.

(b)	**Type of security issued**							
	No.	**Nature of security**	*Number*	*Maturity*	*Face value*	Premium	*Issue Price per security*	*Amount of inflow**
	01	Equity						
	02	Compulsorily Convertible Debentures						
	03	Compulsorily Convertible Preference shares						
	04	Others (please specify)						
		Total						

i) In case the issue price is greater than the face value please give break up of the premium received.
ii) * In case the issue is against conversion of ECB or royalty or against import of capital goo's by units in SEZ, a Chartered Accountant's Certificate certifying the amount outstanding on the date of conversion

(c)	**Break up of premium**	**Amount**
	Control Premium	
	Non competition fee	
	Others[@]	
	Total	

[@] *Please specify the nature*

(d)	**Total inflow** (in Rupees) on account of issue of shares / convertible debentures/others to non-residents (including premium, if any) vide (i) Remittance through AD: (ii) Debit to NRE/FCNR/Escrow A/c with Bank_____ (iii) Others (please specify)	

	Date of reporting of (i) and (ii) above to RBI under Para 9 (1) A of Schedule I to Notification No. FEMA 20 /2000-RB dated May 3, 2000, as amended from time to time.	

(e)	**Disclosure of fair value of shares issued****	
	We are a listed company and the market value of a share as on date of the issue is*	
	We are an un-listed company and the fair value of a share is*	

*** before issue of shares* **(Please indicate as applicable)*

5. **Post issue pattern of shareholding**

Investor category			*Equity*			*Compulsorily convertible Preference Shares/ Debentures/others*		
			No. of	Amount (Face	%	No. of	Amount (Face	%
a)	Non-Resident							
	01	Individuals						
	02	Companies						
	03	FIIs						
	04	FVCIs[#]						
	05	Foreign Trusts						
	06	Private Equity Funds						
	07	Pension/ Provident Funds						
	08	Sovereign Wealth Funds						
	09	Partnership/ Proprietorship Firms						
	10	Financial Institutions						
	11	NRIs/PIO						
	12	Others (please specify)						
		Sub Total						

[#] The investment/s is/are made by FVCI under FDI Scheme in terms of Schedule I to Notification No. FEMA 20/2000-RB dated May 3, 2000.

b)	Resident						
Total							

DECLARATION TO BE FILED BY THE AUTHORISED REPRESENTATIVE OF THE INDIAN COMPANY:*(Delete whichever is not applicable and authenticate)*

We hereby declare that:

1. We comply with the procedure for issue of shares / convertible debentures as laid down under the FDI scheme as indicated in Notification No. FEMA 20/2000-RB dated 3rd May 2000, as amended from time to time.

2. The investment is within the sectoral cap / statutory ceiling permissible under the Automatic Route of RBI and we fulfil all the conditions laid down for investments under the Automatic Route namely (strike off whichever is not applicable).

a) Shares issued on rights basis to non-residents are in conformity with Regulation 6 of the RBI Notification No FEMA 20/2000-RB dated 3rd May 2000, as amended from time to time.

OR

b) Shares issued are bonus.

OR

c)Shares have been issued under a scheme of merger and amalgamation of two or more Indian companies or reconstruction by way of de-merger or otherwise of an Indian company, duly approved by a court in India.

OR

d)Shares are issued under ESOP and the conditions regarding this issue have been satisfied

3. Shares have been issued in terms of Government approval No._____ dated _____

4 The foreign investment received and reported now will be utilized in compliance with the provision of a Prevention of Money Laundering Act 2002 (PMLA) and Unlawful Activities(Prevention) Act, 1967 (UAPA). We confirm that the investment complies with the provisions of all applicable Rules and Regulations

5. We enclose the following documents in compliance with Paragraph 9 (1) (B) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000:

(i) A certificate from our Company Secretary certifying that

(a) all the requirements of the Companies Act, 1956 have been complied with;

(b) terms and conditions of the Government approval, if any, have been complied with;

(c) the company is eligible to issue shares under these Regulations; and

(d) the company has all original certificates issued by authorised dealers in India evidencing receipt of amount of consideration in accordance with paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.

(ii) A certificate from SEBI registered Merchant Banker / Chartered Accountant indicating the manner of arriving at the price of the shares issued to the persons resident outside India.

6. Unique Identification Numbers given for all the remittances received as consideration for issue of shares/ convertible debentures/others (details as above), by Reserve Bank.

R													

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R													

(Signature of the Applicant)* :_____

(Name in Block Letters) :_____

(Designation of the signatory) :_____

Place:

Date:

(* To be signed by Managing Director/Director/Secretary of the Company)

CERTIFICATE TO BE FILED BY THE COMPANY SECRETARY [4] OF THE INDIAN COMPANY ACCEPTING THE INVESTMENT:

(As per Para 9 (1) (B) (i) of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000)

In respect of the abovementioned details, we certify the following :

1. All the requirements of the Companies Act, 1956 have been complied with.
2. Terms and conditions of the Government approval, if any, have been complied with.
3. The company is eligible to issue shares / convertible debentures/others under these Regulations.
4. The company has all original certificates issued by AD Category – I banks in India, evidencing receipt of amount of consideration in accordance with paragraph 8 of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000.

(Name & Signature of the Company Secretary) (Seal)

[4] If the company doesn't have full time Company Secretary, a certificate from practicing Company Secretary may be submitted

FOR USE OF THE RESERVE BANK ONLY:

Registration Number for the FC-GPR:

Unique Identification Number allotted to the Company at the time of reporting receipt of remittance

Annexure-2

Types of Instruments

1. 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. The price/conversion formula of convertible capital instruments should be determined upfront at the time of issue of the instruments. The price at the time of conversion should not in any case be lower than the fair value worked out, at the time of issuance of such instruments, in accordance with the extant FEMA regulations [as per any internationally accepted pricing methodology on arm's length basis for the unlisted companies and valuation in terms of SEBI (ICDR) Regulations, for the listed companies].

1.1 Optionality clauses are allowed in equity shares, fully, compulsorily and mandatorily convertible debentures and fully, compulsorily and mandatorily convertible preference shares under FDI scheme, subject to the following conditions:

(a) There is a minimum lock-in period of one year which shall be effective from the date of allotment of such capital instruments.
(b) After the lock-in period and subject to FDI Policy provisions, if any, the non-resident investor exercising option/right shall be eligible to exit without any assured return, as per pricing/valuation guidelines issued by RBI from time to time.

2. Other types of Preference shares/Debentures i.e. non-convertible, optionally convertible or partially convertible for issue of which funds have been received on or after May 1, 2007 are considered as debt. Accordingly all norms applicable for ECBs relating to eligible borrowers, recognized lenders, amount and maturity, end-use stipulations, etc. shall apply. Since these instruments would be denominated in rupees, the rupee interest rate will be based on the swap equivalent of London Interbank Offered Rate (LIBOR) plus the spread as permissible for ECBs of corresponding maturity.

3. The inward remittance received by the Indian company vide issuance of DRs and FCCBs are treated as FDI and counted towards FDI.

4. **Acquisition of Warrants and Partly Paid Shares -** An Indian company may issue warrants and partly paid shares to a person resident outside India subject to terms and conditions as stipulated by the Reserve Bank of India in this behalf, from time to time.

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

a) 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.

b) DRs are foreign currency denominated instruments issued by a foreign Depository in a permissible jurisdiction against a pool of permissible securities issued or transferred to that foreign depository and deposited with a domestic custodian.

c) In terms of Notification No. FEMA.20/2000-RB dated May 3, 2000 as amended from time to time, a person will be eligible to issue or transfer eligible securities to a foreign depository, for the purpose of converting the securities so purchased into depository receipts in terms of Depository Receipts Scheme, 2014 and guidelines issued by the Government of India thereunder from time to time.

d) A person can issue DRs, if it is eligible to issue eligible instruments to person resident outside India under Schedules 1, 2, 2A, 3, 5 and 8 of Notification No. FEMA 20/2000-RB dated May 3, 2000, as amended from time to time.

e) The aggregate of eligible securities which may be issued or transferred to foreign depositories, along with eligible securities already held by persons resident outside India, shall not exceed the limit on foreign holding of such eligible securities under the relevant regulations framed under FEMA, 1999.

f) The pricing of eligible securities to be issued or transferred to a foreign depository for the purpose of issuing depository receipts should not be at a price less than the price applicable to a corresponding mode of issue or transfer of such securities to domestic investors under the relevant regulations framed under FEMA, 1999.

g) The issue of depository receipts as per DR Scheme 2014 shall be reported to the Reserve Bank by the domestic custodian as per the reporting guidelines for DR Scheme 2014.

6. **(i) 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.

(ii) 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.

Provisions Relating to Issue/ Transfer of Shares

1. The capital instruments should be issued within 180 days from the date of receipt of the inward remittance received through normal banking channels including escrow account opened and maintained for the purpose or by debit to the NRE/FCNR (B) account of the non-resident investor. In case, the capital instruments are not issued within 180 days from the date of receipt of the inward remittance or date of debit to the NRE/FCNR (B) account, the amount of consideration so received should be refunded immediately to the non-resident investor by outward remittance through normal banking channels or by credit to the NRE/FCNR (B) account, as the case may be. Non-compliance with the above provision would be reckoned as a contravention under FEMA and would attract penal provisions. In exceptional cases, refund of the amount of consideration outstanding beyond a period of 180 days from the date of receipt may be considered by the RBI, on the merits of the case.

2. **Issue price of shares**

Price of shares issued to persons resident outside India under the FDI Policy, shall not be less than –

a. the price worked out in accordance with the SEBI guidelines, as applicable, where the shares of the company are listed on any recognised stock exchange in India;

b. the fair valuation of shares done by a SEBI registered Merchant Banker or a Chartered Accountant as per any internationally accepted pricing methodology on arm's length basis, where the shares of the company are not listed on any recognised stock exchange in India; and

c. the price as applicable to transfer of shares from resident to non-resident as per the pricing guidelines laid down by the Reserve Bank from time to time, where the issue of shares is on preferential allotment.

However, where non-residents (including NRIs) are making investments in an Indian company in compliance with the provisions of the Companies Act, as applicable, by way of subscription to its Memorandum of Association, such investments may be made at face value subject to their eligibility to invest under the FDI scheme.

3. **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.

4. **Transfer of shares and convertible debentures**

(i) Subject to FDI sectoral policy (relating to sectoral caps and entry routes), applicable laws and other conditionalities 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 the following:

(a) A person resident outside India (other than NRI and erstwhile OCB) may transfer by way of sale or gift, the shares or convertible debentures to any person resident outside India (including NRIs). Government approval is not required for transfer of shares in the investee company from one non-resident to another non-resident in sectors which are under automatic route. In addition, approval of Government will be required for transfer of stake from one non-resident to another non-resident in sectors which are under Government approval route.

(b) NRIs may transfer by way of sale or gift the shares or convertible debentures held by them to another NRI.

(c) A person resident outside India can transfer any security to a person resident in India by way of gift.

(d) A person resident outside India can sell the shares and convertible debentures of an Indian company on a recognized Stock Exchange in India through a stock broker registered with stock exchange or a merchant banker registered with SEBI.

(e) A person resident in India can transfer by way of sale, shares/ convertible debentures (including transfer of subscriber's shares), of an Indian company under private arrangement to a person resident outside India, subject to the guidelines given in para 5.2 and **Section 1 of this Annexure**.

(f) General permission is also available for transfer of shares/convertible debentures, by way of sale under private arrangement by a person resident outside India to a person resident in India, subject to the guidelines given in para 5.2 and **Section 1 of this Annexure**.

(g) The above General Permission also covers transfer by a resident to a non-resident of shares/convertible debentures of an Indian company, engaged in an activity earlier covered under the Government Route but now falling under Automatic Route, as well as transfer of shares by a non-resident to an Indian company under buyback and/or capital reduction scheme of the company.

(h) The Form FC-TRS should be submitted to the AD Category-I Bank, within 60 days from the date of receipt of the amount of consideration. The onus of submission of the Form FC-TRS within the given timeframe would be on the transferor/transferee, resident in India. However, in cases where the NR investor, including an NRI, acquires shares on the stock exchanges under the FDI scheme, the investee company would have to file form FC-TRS with the AD Category-I bank.

(ii) The sale consideration in respect of equity instruments purchased by a person resident outside India, remitted into India through normal banking channels, shall be subjected to a Know Your Customer (KYC) check by the remittance receiving AD Category-I bank at the time of receipt of funds. In case, the remittance receiving AD Category-I bank is different from the AD Category-I bank handling the transfer transaction, the KYC check should be carried out by the remittance receiving bank and the KYC report be submitted by the customer to the AD Category-I bank carrying out the transaction along with the Form FC-TRS.

(iii) A person resident outside India including a Non-Resident Indian investor who has already acquired and continues to hold the control in accordance with the SEBI (Substantial

Acquisition of Shares and Takeover) Regulations can acquire shares of a listed Indian company on the stock exchange through a registered broker under FDI scheme provided that the original and resultant investments are in line with the extant FDI policy and FEMA regulations in respect of sectoral cap, entry route,mode of payment, reporting requirement, documentation, etc.

(iv) **Escrow**: AD Category-I banks have been given general permission to open Escrow account and Special account of non-resident corporate for open offers/exit offers and delisting of shares. The relevant SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (SAST) Regulations or any other applicable SEBI Regulations/provisions of the Companies Act, as applicable will be applicable. AD Category-I banks have also been permitted to open and maintain, without prior approval of RBI, **non-interest bearing** Escrow accounts in Indian Rupees in India on behalf of residents and/or non-residents, towards payment of share purchase consideration and/or provide Escrow facilities for keeping securities to facilitate FDI transactions subject to the65terms and conditions specified by RBI. SEBI authorised Depository Participants have also been permitted to open and maintain, without prior approval of RBI, Escrow accounts for securities subject to the terms and conditions as specified by RBI. In both cases, the Escrow agent shall 65necessarily be an AD Category-I bank or SEBI authorised Depository Participant (in case of securities' accounts). These facilities will be applicable for both issue of fresh shares to the non-residents as well as transfer of shares from/to the non- residents.

(v) In case of transfer of shares between a resident buyer and a non-resident seller or vice-versa, not more than twenty five per cent of the total consideration can be paid by the buyer on a deferred basis within a period not exceeding eighteen months from the date of the transfer agreement. For this purpose, if so agreed between the buyer and the seller, an escrow arrangement may be made between the buyer and the seller for an amount not more than twenty five per cent of the total consideration for a period not exceeding eighteen months from the date of the transfer agreement or if the total consideration is paid by the buyer to the seller, the seller may furnish an indemnity for an amount not more than twenty five per cent of the total consideration for a period not exceeding eighteen months from the date of the payment of the full consideration.

Provided the total consideration finally paid for the shares must be compliant with the applicable pricing guidelines.

5. Prior permission of RBI in certain cases for transfer of capital instruments

5.1 Except cases mentioned in paragraph 5.2 below, the following cases require prior approval of RBI:

(i) Transfer of capital instruments from resident to non-residents by way of sale where:

(a) Transfer is at a price which falls outside the pricing guidelines specified by the Reserve Bank from time to time and the transaction does not fall under the exception given in para 5.2.

(b) Transfer of capital instruments by the non-resident acquirer involving deferment of payment of the amount of consideration. Further, in case approval is granted for a transaction, the same should be reported in Form FC-TRS, to an AD Category-I bank for necessary due diligence, within 60 days from the date of receipt of the full and final amount of consideration.

(ii) Transfer of any capital instrument, by way of gift by a person resident in India to a person resident outside India. While forwarding applications to Reserve Bank for approval for transfer of capital instruments by way of gift, the documents mentioned in **Section 2 of this Annexure** should be enclosed. Reserve Bank considers the following factors while processing such applications:

(a) The proposed transferee (donee) is eligible to hold such capital instruments under Schedules 1, 4 and 5 of Notification No. FEMA 20/2000-RB dated May 3, 2000, as amended from time to time.

(b) The gift does not exceed 5 per cent of the paid-up capital of the Indian company/each series of debentures/each mutual fund scheme.

(c) The applicable sectoral cap limit in the Indian company is not breached.

(d) The transferor (donor) and the proposed transferee (donee) are close relatives as defined in **Section 2 (77) of Companies Act, 2013**, as amended from time to time. The current list is reproduced in **Section 3 of this Annexure**.

(e) The value of capital instruments to be transferred together with any capital instruments already transferred by the transferor, as gift, to any person residing outside India does not exceed the rupee equivalent of USD 50,000 during the financial year.

(f) Such other conditions as stipulated by Reserve Bank in public interest from time to time.

(iii) Transfer of shares from NRI to non-resident.

5.2 **In the following cases, approval of RBI is not required**:

A. Transfer of shares from a Non-Resident to Resident under the FDI scheme where the pricing guidelines under FEMA, 1999 are not met provided that:

i. The original and resultant investment are in line with the extant FDI policy and FEMA regulations in terms of sectoral caps, conditionalities (such as minimum capitalization, etc.), reporting requirements, documentation, etc.;
ii. The pricing for the transaction is compliant with the specific/explicit, extant and relevant SEBI regulations/guidelines (such as IPO, Book building, block deals, delisting, exit, open offer/substantial acquisition/SEBI SAST, buy back); and
iii. Chartered Accountants Certificate to the effect that compliance with the relevant SEBI regulations/guidelines as indicated above is attached to the form FC-TRS to be filed with the AD bank.

B. Transfer of shares from Resident to Non-Resident:

i) where the transfer of shares requires the prior approval of the Government as per the extant FDI policy provided that:

a) the requisite approval of the Government has been obtained; and

b) the transfer of shares adheres with the pricing guidelines and documentation requirements as specified by the Reserve Bank of India from time to time.

ii) where the transfer of shares attract SEBI (SAST) Regulations subject to the adherence with the pricing guidelines and documentation requirements as specified by Reserve Bank of India from time to time.

iii) where the transfer of shares does not meet the pricing guidelines under the FEMA, 1999 provided that:

a) The resultant FDI is in compliance with the extant FDI policy and FEMA regulations in terms of sectoral caps, conditionalities (such as minimum capitalization, etc.), reporting requirements, documentation etc.;

b) The pricing for the transaction is compliant with the specific/explicit, extant and relevant SEBI regulations/guidelines (such as IPO, Book building, block deals, delisting, exit, open offer/substantial acquisition/SEBI SAST); and

c) Chartered Accountants Certificate to the effect that compliance with the relevant SEBI regulations/guidelines as indicated above is attached to the form FC-TRS to be filed with the AD bank.

iv) where the investee company is in the financial sector provided that:

a) Any 'fit and proper/due diligence' requirements as regards the non-resident investor as stipulated by the respective financial sector regulator, from time to time, have been complied with; and

b) The FDI policy and FEMA regulations in terms of sectoral caps, conditionalities (such as minimum capitalization, pricing, etc.), reporting requirements, documentation etc., are complied with.

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

(i) 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 the following conditions and reporting requirements:

(a) The activity of the company is covered under the Automatic Route for FDI or the company has obtained Government approval for foreign equity in the company;
(b) The foreign equity after conversion of ECB into equity is within the sectoral cap, if any;
(c) Pricing of shares is as per the provision of para 2 above;
(d) Compliance with the requirements prescribed under any other statute and regulation in force; and

(e) The conversion facility is available for ECBs availed under the Automatic or Government Route and is applicable to ECBs, due for payment or not, as well as secured/unsecured loans availed from non-resident collaborators.

(ii) General permission is also available for issue of shares/preference shares against lump sum technical know-how fee, royalty due for payment, subject to entry route, sectoral cap and pricing guidelines (as per the provision of para 2 above)and compliance with applicable tax laws. Further, issue of equity shares against any other funds payable by the investee company, remittance of which does not require prior permission of the Government of India or Reserve Bank of India under FEMA, 1999 or any rules/ regulations framed or directions issued thereunder, or has been permitted by the Reserve Bank under the Act or the rules and regulations framed or directions issued thereunder is permitted, provided that:

(I) The equity shares shall be issued in accordance with the extant FDI guidelines on sectoral caps, pricing guidelines etc. as amended by Reserve bank of India, from time to time;

Explanation: Issue of shares/convertible debentures that require Government approval in terms of paragraph 3 of Schedule 1 of FEMA 20 or import dues deemed as ECB or trade credit or payable against import of second hand machinery shall continue to be dealt in accordance with extant guidelines;

(II)The issue of equity shares under this provision shall be subject to tax laws as applicable to the funds payable and the conversion to equity should be net of applicable taxes.

(iii) A wholly owned subsidiary set up in India by a non-resident entity, operating in a sector where 100 percent foreign investment is allowed in the automatic route and there are no FDI linked conditionalities, may issue equity shares or preference shares or convertible debentures or warrants to the said non-resident entity against pre-incorporation/ pre-operative expenses incurred by the said non-resident entity up to a limit of five percent of its capital or USD 500,000 whichever is less, subject to the conditions laid down below.

a. Within thirty days from the date of issue of equity shares or preference shares or convertible debentures or warrants but not later than one year from the date of incorporation or such time as Reserve Bank of India or Government of India permits, the Indian company shall report the transaction in the Form FC-GPR to the Reserve Bank.

b. The valuation of the equity shares or preference shares or convertible debentures or warrants shall be subject to the provisions of Paragraph 5 of Schedule 1 of these Regulations.

c. A certificate issued by the statutory auditor of the Indian company that the amount of pre-incorporation/pre-operative expenses against which equity shares or preference shares or convertible debentures or warrants have been issued has been utilized for the purpose for which it was received should be submitted with the FC-GPR form.

Explanation: Pre-incorporation/pre-operative expenses shall include amounts remitted to Investee Company's account, to the investor's account in India if it exists,

to any consultant, attorney or to any other material/service provider for expenditure relating to incorporation or necessary for commencement of operations.

(iv) Issue of equity shares under the FDI policy is allowed under the Government route for the following:

(I) import of capital goods/ machinery/ equipment (excluding second-hand machinery), subject to compliance with the following conditions:

(a) Any import of capital goods/machinery etc., made by a resident in India, has to be in accordance with the Export/Import Policy issued by Government of India/as defined by DGFT/FEMA provisions relating to imports.

(b) The application clearly indicating the beneficial ownership and identity of the Importer Company as well as overseas entity.

(c) Applications complete in all respects, for conversions of import payables for capital goods into FDI being made within 180 days from the date of shipment of goods.

(II) pre-operative/pre-incorporation expenses (including payments of rent etc.), subject to compliance with the following conditions:

(a) Submission of FIRC for remittance of funds by the overseas promoters for the expenditure incurred.

(b) Verification and certification of the pre-incorporation/pre-operative expenses by the statutory auditor.

(c) Payments should be made by the foreign investor to the company directly or through the bank account opened by the foreign investor as provided under FEMA Regulations.

(d) The applications, complete in all respects, for capitalization being made within the period of 180 days from the date of incorporation of the company.

General conditions:

(i) All requests for conversion should be accompanied by a special resolution of the company.

(ii) Government's approval would be subject to pricing guidelines of RBI and appropriate tax clearance.

SECTION 1

Terms and conditions for Transfer of Shares/Convertible Debentures, by way of Sale, from a Person Resident in India to a Person Resident Outside India and from a Person Resident Outside India to a Person Resident in India

1.1 In order to address the concerns relating to pricing, documentation, payment/ receipt and remittance in respect of the shares/convertible debentures of an Indian company, in all sectors, transferred by way of sale, the parties involved in the transaction shall comply with the guidelines set out below.

1.2 Parties involved in the transaction are (a) seller (resident/non-resident), (b) buyer (resident/non-resident), (c) duly authorized agent/s of the seller and/or buyer, (d) Authorised Dealer bank (AD) branch and (e) Indian company, for recording the transfer of ownership in its books.

2. Pricing Guidelines

2.1 The under noted pricing guidelines are applicable to the following types of transactions:

i. Transfer of shares by way of sale under private arrangement by a person resident in India to a person resident outside India.
ii. Transfer of shares by way of sale under private arrangement by a person resident outside India to a person resident in India.
iii. Exit by non-resident investor on exercising option/right in shares or compulsorily & mandatorily convertible preference shares or fully, compulsorily & mandatorily convertible debentures.

2.2 Transfer by Resident to Non-resident (i.e. to foreign national, NRI, FII, FPI and incorporated non-resident entity other than erstwhile OCB) Price of shares transferred by way of sale by resident to a non-resident where the shares of an Indian company are:

(a) listed on a recognized stock exchange in India ,shall not be less than the price at which the preferential allotment of shares can be made under the SEBI guidelines , as applicable, provided the same is determined for such duration as specified therein, preceding the relevant date, which shall be the date of purchase or sale of shares,

(b) not listed on a recognized stock exchange in India, shall not be less than the fair value to be determined by a SEBI registered Merchant Banker or a Chartered Accountant as per any internationally accepted pricing methodology on arm's length basis. The price per share arrived at should be certified by a SEBI registered Merchant Banker or a Chartered Accountant.

2.3 Transfer by Non-resident(i.e. by incorporated non-resident entity, erstwhile OCB, foreign national, NRI, FII, FPI)**to Resident**

Sale of shares by a non-resident to resident shall be in accordance with Regulation 10 B (2) of Notification No. FEMA 20/2000-RB dated May 3, 2000 which shall not be more than the minimum price at which the transfer of shares can be made from a resident to a non-resident as given at para 2.2 above.

2.4 After the lock-in period, as applicable above, and subject to FDI Policy provisions, if any, in this regard, the non-resident investor exercising option/right in shares or convertible debentures issued under FDI Scheme shall be eligible to exit without any assured return, as per pricing/valuation guidelines issued by RBI from time to time.

3. Responsibilities / Obligations of the parties

All the parties involved in the transaction would have the responsibility to ensure that the relevant regulations under FEMA are complied with and consequent on transfer of shares, the relevant individual limit/sectoral caps/foreign equity participation ceilings as fixed by Government are not breached. Settlement of transactions will be subject to payment of applicable taxes, if any.

4. Method of payment and remittance/credit of sale proceeds

4.1The sale consideration in respect of the shares purchased by a person resident outside India shall be remitted to India through normal banking channels. In case the buyer is a FII,FPI, payment should be made by debit to its Special Non-Resident Rupee Account. In case the buyer is a NRI, the payment may be made by way of debit to his NRE/FCNR (B) accounts. However, if the shares are acquired on non-repatriation basis by NRI, the consideration shall be remitted to India through normal banking channel or paid out of funds held in NRE/FCNR (B)/NRO accounts.

4.2. The sale proceeds of shares (net of taxes) sold by a person resident outside India may be remitted outside India. In case of FII/FPI, the sale proceeds may be credited to its special Non-Resident Rupee Account. In case of NRI, if the shares sold were held on repatriation basis, the sale

proceeds (net of taxes) may be credited to his NRE /FCNR(B) accounts and if the shares sold were held on non repatriation basis, the sale proceeds may be credited to his NRO account subject to payment of taxes.

4.3 The sale proceeds of shares (net of taxes) sold by an OCB may be remitted outside India directly if the shares were held on repatriation basis and if the shares sold were held on non-repatriation basis, the sale proceeds may be credited to its NRO (Current) Account subject to payment of taxes, except in the case of OCBs whose accounts have been blocked by Reserve Bank.

5. Documentation

Besides obtaining a declaration in the enclosed Form FC-TRS (in quadruplicate), the AD branch should arrange to obtain and keep on record the following documents:

5.1 For sale of shares by a person resident in India

i. Consent Letter duly signed by the seller and buyer or their duly appointed agent indicating the details of transfer i.e. number of shares to be transferred, the name of the investee company whose shares are being transferred and the price at which shares are being transferred. In case there is no formal Sale Agreement, letters exchanged to this effect may be kept on record.
ii. Where Consent Letter has been signed by their duly appointed agent, the Power of Attorney Document executed by the seller/buyer authorizing the agent to purchase/sell shares.
iii. The shareholding pattern of the investee company after the acquisition of shares by a person resident outside India showing equity participation of residents and non-residents category-wise (i.e. NRIs/OCBs/foreign nationals/incorporated non-resident entities/FIIs, FPIs) and its percentage of paid up capital obtained by the seller/buyer or their duly appointed agent from the company, where the sectoral cap/limits have been prescribed.
iv. Certificate indicating fair value of shares from a Chartered Accountant.
v. Copy of Broker's note if sale is made on Stock Exchange
vi. Undertaking from the buyer to the effect that he is eligible to acquire shares/convertible debentures under FDI policy and the existing sectoral limits and Pricing Guidelines have been complied with.
vii. Undertaking from the FII/sub account to the effect that the individual FII/ Sub account ceiling as prescribed by SEBI has not been breached, till it gets registered as FPI.

5.2. For sale of shares by a person resident outside India

i. Consent Letter duly signed by the seller and buyer or their duly appointed agent indicating the details of transfer i.e. number of shares to be transferred, the name of the investee company whose shares are being transferred and the price at which shares are being transferred.
ii. Where the Consent Letter has been signed by their duly appointed agent the Power of Attorney Document authorizing the agent to purchase/sell shares by the seller/buyer. In case there is no formal Sale Agreement, letters exchanged to this effect may be kept on record.
iii. If the sellers are NRIs/OCBs, the copies of RBI approvals evidencing the shares held by them on repatriation/non-repatriation basis. The sale proceeds shall be credited NRE/NRO account, as applicable.

iv. Certificate indicating fair value of shares from a Chartered Accountant.
v. No Objection / Tax Clearance Certificate from Income Tax authority/Chartered Account.
vi. Undertaking from the buyer to the effect that the Pricing Guidelines have been adhered to.

6. Reporting requirements

6.1 Reporting of transfer of shares between residents and non-residents and vice versa is to be done in Form FC-TRS. The Form FC-TRS should be submitted to the AD Category-I bank, within 60 days from the date of receipt of the amount of consideration. The onus of submission of the Form FC-TRS within the given timeframe would be on the transferor / transferee, resident in India. The AD Category-I bank, would forward the same to its link office. The link office would consolidate the Forms and submit a monthly report to the Reserve Bank[5].

For the purpose the Authorized Dealers may designate branches to specifically handle such transactions. These branches could be staffed with adequately trained staff for this purpose to ensure that the transactions are put through smoothly. The ADs may also designate a nodal office to coordinate the work at these branches and also ensure the reporting of these transactions to the Reserve Bank.

6.2 When the transfer is on private arrangement basis, on settlement of the transactions, the transferee/his duly appointed agent should approach the investee company to record the transfer in their books along with the certificate in the Form FC-TRS from the AD branch that the remittances have been received by the transferor/payment has been made by the transferee. On receipt of the certificate from the AD, the company may record the transfer in its books.

6.3 The actual inflows and outflows on account of such transfer of shares shall be reported by the AD branch in the R-returns in the normal course.

6.4 In addition the AD branch should submit two copies of the Form FC-TRS received from their constituents/customers together with the statement of inflows/outflows on account of remittances received/made in connection with transfer of shares, by way of sale, to IBD/FED/or the nodal office designated for the purpose by the bank in the enclosed proforma (which is to be prepared in MS-Excel format). The IBD/FED or the nodal office of the bank will in turn submit a consolidated monthly statement in respect of all the transactions reported by their branches together with copies of the FC-TRS Forms received from their branches to Foreign Exchange Department, Reserve Bank, Foreign Investment Division, Central Office, Mumbai in soft copy (in MS- Excel) by e-mail to fdidata@rbi.org.in

6.5 Shares purchased / sold by FIIs/FPIs under private arrangement will be by debit /credit to their Special Non-Resident Rupee Account. Therefore, the transaction should **also** be reported in Form LEC by the designated bank of the FII/FPI concerned.

6.6 Shares/convertible debentures of Indian companies purchased under Portfolio Investment Scheme by NRIs, OCBs cannot be transferred, by way of sale under private arrangement.

[5] To the Chief General Manager-in-Charge, Reserve Bank of India, Foreign Exchange Department, Foreign Investment Division, Central Office, Mumbai

6.7 On receipt of statements from the AD, the Reserve Bank may call for such additional details or give such directions as required from the transferor/transferee or their agents, if need be.

SECTION 2

Documents to be submitted by a person resident in India for transfer of shares to a person resident outside India by way of gift

i. Name and address of the transferor (donor) and the transferee (donee).
ii. Relationship between the transferor and the transferee.
iii. Reasons for making the gift.
iv. In case of Government dated securities and treasury bills and bonds, a certificate issued by a Chartered Accountant on the market value of such security.
v. In case of units of domestic mutual funds and units of Money Market Mutual Funds, a certificate from the issuer on the Net Asset Value of such security.
vi. In case of shares and convertible debentures, a certificate from a Chartered Accountant on the value of such securities according to the guidelines issued by Securities & Exchange Board of India or as per any internationally accepted pricing methodology on arm's length basis for listed companies and unlisted companies, respectively.
vii. Certificate from the concerned Indian company certifying that the proposed transfer of shares/convertible debentures by way of gift from resident to the non-resident shall not breach the applicable sectoral cap/ FDI limit in the company and that the proposed number of shares/convertible debentures to be held by the non-resident transferee shall not exceed 5 per cent of the paid up capital of the company.
viii. An undertaking from the resident transferor that the value of security to be transferred together with any security already transferred by the transferor, as gift, to any person residing outside India does not exceed the rupee equivalent of USD 50,000**during a financial year***.

*RBI's A.P. (DIR Series) Circular No. 14 Dated 15.09.2011

ix. A declaration from the donee accepting partly paid shares or warrants that donee is aware of the liability as regards calls in arrear and consequences thereof.

SECTION 3

Definition of "relative" as given in Section 2 (77) of Companies Act, 2013

"Relative", with reference to any person, means any one who is related to another, if-

(a) they are members of a Hindu undivided family ;
(b) they are husband and wife ; or
(c) one person is related to the other in such manner as may be prescribed.

Annexure-4

Specific Conditions in Certain Cases

1. **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. The offer on right basis to the persons resident outside India shall be:

(a) in the case of shares of a company listed on a recognized stock exchange in India, at a price as determined by the company;

(b) in the case of shares of a company not listed on a recognized stock exchange in India, at a price which is not less than the price at which the offer on right basis is made to resident shareholders.

2. **Prior permission of RBI for Rights issue to erstwhile OCBs**

OCBs have been de-recognised as a class of investors from September 16, 2003. Therefore companies desiring to issue rights share to such erstwhile OCBs will have to take specific prior permission from RBI. As such, entitlement of rights share is not automatically available to erstwhile OCBs. However bonus shares can be issued to erstwhile OCBs without the approval of RBI.

3. **Additional allocation of rights share by residents to non-residents**

Existing non-resident shareholders are allowed to apply for issue of additional shares/fully, compulsorily and mandatorily convertible debentures/fully, compulsorily and mandatorily convertible preference shares over and above their rights share entitlements. The investee company can allot the additional rights share out of unsubscribed portion, subject to the condition that the overall issue of shares to non-residents in the total paid-up capital of the company does not exceed the sectoral cap.

4. **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, subject to the conditions that:

(i) the percentage of shareholding of persons resident outside India in the transferee or new company does not exceed the sectoral cap, and

(ii) the transferor company or the transferee or the new company is not engaged in activities which are prohibited under the FDI policy.

Note: Government approval would not be required in case of mergers and acquisitions taking place in sectors under automatic route.

4.1 **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.

5. **Issue of Employees Stock Option Scheme (ESOPs) / Sweat Equity**

An Indian company may issue "employees' stock option" and/or "sweat equity shares" to its employees/directors or employees/directors of its holding company or joint venture or wholly owned overseas subsidiary/subsidiaries who are resident outside India, provided that :

a. The scheme has been drawn either in terms of regulations issued under the Securities Exchange Board of India Act, 1992 or the Companies (Share Capital and Debentures) Rules, 2014 notified by the Central Government under the Companies Act 2013, as the case may be.
b. The "employee's stock option"/ "sweat equity shares" issued to non-resident employees/directors under the applicable rules/regulations are in compliance with the sectoral cap applicable to the said company.
c. Issue of "employee's stock option"/ "sweat equity shares" by a company where foreign investment is under the approval route shall require prior approval of Government of India.
d. Issue of "employee's stock option"/ "sweat equity shares" under the applicable rules/regulations to an employee/director who is a citizen of Bangladesh/Pakistan shall require prior approval of the Government of India.
e. The issuing company shall furnish to the Regional Office concerned of the Reserve Bank of India under whose jurisdiction the registered office of the company operates, within 30 days from the date of issue of employees' stock option or sweat equity shares, a return as per the Form-ESOP.

6. **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 will also be a prerequisite for investment by swap of shares for sector under Government approval route. No approval of the Government is required for investment in automatic route sectors by way of swap of shares.

7. **Pledge of Shares**

(A) A person being a promoter of a company registered in India (borrowing company), which has raised external commercial borrowings, may pledge the shares of the borrowing company or that of its associate resident companies for the purpose of securing the ECB raised by the borrowing company, provided that a no objection for the same is obtained from a bank which is an authorised dealer. The authorized dealer,

shall issue the no objection for such a pledge after having satisfied itself that the external commercial borrowing is in line with the extant FEMA regulations for ECBs and that:

i) the loan agreement has been signed by both the lender and the borrower,
ii) there exists a security clause in the Loan Agreement requiring the borrower to create charge on financial securities, and
iii) the borrower has obtained Loan Registration Number (LRN) from the Reserve Bank:

and the said pledge would be subject to the following conditions:

a) the period of such pledge shall be co-terminus with the maturity of the underlying ECB;
b) in case of invocation of pledge, transfer shall be in accordance with the extant FDI Policy and directions issued by the Reserve Bank;
c) the Statutory Auditor has certified that the borrowing company will utilized/has utilized the proceeds of the ECB for the permitted end use/s only.

(B) Non-residents holding shares of an Indian company, can pledge these shares in favour of the AD bank in India to secure credit facilities being extended to the resident investee company for bonafide business purpose, subject to the following conditions:

(i) in case of invocation of pledge, transfer of shares should be in accordance with the FDI policy in vogue at the time of creation of pledge;
(ii) submission of a declaration/ annual certificate from the statutory auditor of the investee company that the loan proceeds will be / have been utilized for the declared purpose;
(iii) the Indian company has to follow the relevant SEBI disclosure norms; and
(iv) pledge of shares in favour of the lender (bank) would be subject to Section 19 of the Banking Regulation Act, 1949.

(C) Non-residents holding shares of an Indian company, can pledge these shares in favour of an overseas bank to secure the credit facilities being extended to the non-resident investor/non-resident promoter of the Indian company or its overseas group company, subject to the following:

(i) loan is availed of only from an overseas bank;
(ii) loan is utilized for genuine business purposes overseas and not for any investments either directly or indirectly in India;
(iii) overseas investment should not result in any capital inflow into India;
(iv) in case of invocation of pledge, transfer should be in accordance with the FDI policy in vogue at the time of creation of pledge; and
(v) submission of a declaration/annual certificate from a Chartered Accountant/ Certified Public Accountant of the non-resident borrower that the loan proceeds will be / have been utilized for the declared purpose.

Annexure-5

Total Foreign Investment i.e. Direct and Indirect Foreign Investment in eligible Indian entities

1. Investment in an eligible Indian entity can be made both by non-resident as well as resident Indian entities. Any non-resident investment in an Indian company is direct foreign investment. Investment by resident Indian entities could again comprise of both resident and non-resident investment. Thus, such an Indian company would have indirect foreign investment if the Indian investing company has foreign investment in it. The indirect investment can also be a cascading investment i.e. through multi-layered structure.

1.1 For the purpose of computation of indirect foreign investment in an Indian company, foreign investment in an Indian company shall include all types of foreign investments i.e. FDI; investment by FIIs (holding as on March 31), FPIs (holding as on March 31); NRIs; ADRs; GDRs; Foreign Currency Convertible Debentures (FCCBs); Investment Vehicles fully, compulsorily and mandatorily convertible preference shares and fully, compulsorily and mandatorily convertible Debentures or units of an Investment Vehicle, regardless of whether the said investments have been made under Schedule 1, 2, 2A, 3, 6, 9, 10 and 11 of FEMA (Transfer or Issue of Security by Persons Resident Outside India) Regulations, 2000.

1.2 **Guidelines for calculation of total foreign investment i.e. direct and indirect foreign investment**

(i) **Counting of direct foreign investment**

All investment directly by a non-resident entity into the Indian company/ LLP would be counted towards foreign investment.

(ii) **Counting of indirect foreign investment**

(a) The foreign investment through the investing Indian company/LLP would not be considered for calculation of the indirect foreign investment in case of Indian companies/LLPs which are 'owned **and** controlled' by resident Indian citizens and/or Indian Companies/LLPs which are owned and controlled by resident Indian citizens .

(aa) Downstream investment by an Investment Vehicle shall be regarded as foreign investment if either the Sponsor or the Manager or the Investment Manager is not Indian 'owned and controlled' as defined in Regulation 14 of the principal Regulations as defined in RBI Notification No.362/2015-RB dated February 15, 2016.

Provided that for sponsors or managers or investment managers organized in a form other than companies or LLPs, SEBI shall determine whether the sponsor or manager or investment manager is foreign owned and controlled.

(b) For cases where condition (a) above is not satisfied or if the investing company is owned **or** controlled by 'non-resident entities', the entire investment by the investing company/LLP into the subject Indian Company would be considered as indirect foreign investment, provided that, as an

exception, the indirect foreign investment in only the 100% owned subsidiaries of operating-cum-investing/investing companies, will be limited to the foreign investment in the operating-cum-investing/ investing company. This exception is made since the downstream investment of a 100% owned subsidiary of the holding company is akin to investment made by the holding company and the downstream investment should be a mirror image of the holding company. This exception, however, is strictly for those cases where the entire capital of the downstream subsidiary is owned by the holding company.

Illustration

To illustrate, if the indirect foreign investment is being calculated for Company X which has investment through an investing Company Y having foreign investment, the following would be the method of calculation:

(A) where Company Y has foreign investment less than 50%- Company X would not be taken as having any indirect foreign investment through Company Y.

(B) where Company Y has foreign investment of say 75% and:

(I) invests 26% in Company X, the entire 26% investment by Company Y would be treated as indirect foreign investment in Company X;

(II) invests 80% in Company X, the indirect foreign investment in Company X would be taken as 80%;

(III) where Company X is a wholly owned subsidiary of Company Y (i.e. Company Y owns 100% shares of Company X), then only 75% would be treated as indirect foreign equity and the balance 25% would be treated as resident held equity. The indirect foreign equity in Company X would be computed in the ratio of 75:25 in the total investment of Company Y in Company X.

(iii) The total foreign investment would be the sum total of direct and indirect foreign investment.

(iv) The above methodology of calculation would apply at every stage of investment in Indian companies and thus to each and every Indian company.

(v) **Additional conditions**

(a) The full details about the foreign investment including ownership details etc. in Indian company(s) and information about the control of the company(s) would be furnished by the Company(s) to the Government of India at the time of seeking approval.

(b) In any sector/activity, where Government approval is required for foreign investment and in cases where there are any *inter-se* agreements between/amongst shareholders which have an effect on the appointment of the Board of Directors or on the exercise of voting rights or of creating voting rights disproportionate to shareholding or any incidental matter thereof, such agreements will have to be informed to the approving authority. The approving authority will consider such *inter-se* agreements for determining ownership and control when considering the case for approval of foreign investment.

(c) In all sectors attracting sectoral caps, the balance equity i.e. beyond the sectoral foreign investment cap, would specifically be beneficially owned by/held with/in the hands of resident Indian citizens and Indian companies, owned and controlled by resident Indian citizens.

(d) In the I& B sector where the sectoral cap is up to 49%, the company would need to be 'owned **and** controlled' by resident Indian citizens and Indian companies, which are owned and controlled by resident Indian citizens.

(A)For this purpose, the equity held by the largest Indian shareholder would have to be at least 51% of the total equity, excluding the equity held by Public Sector Banks and Public Financial Institutions, as defined in Section 4A of the Companies Act, 1956 or Section 2 (72) of the Companies Act, 2013, as the case may be. The term 'largest Indian shareholder', used in this clause, will include any or a combination of the following:

(I) In the case of an individual shareholder,

(aa)The individual shareholder,

(bb) A relative of the shareholder within the meaning of Section 2 (77) of Companies Act, 2013.

(cc) A company/group of companies in which the individual shareholder/HUF to which he belongs has management and controlling interest.

(II)In the case of an Indian company,

(aa)The Indian company

(bb)A group of Indian companies under the same management and ownership control.

(B)For the purpose of this Clause, "Indian company" shall be a company which must have a resident Indian or a relative as defined under Section 2 (77) of Companies Act, 2013/ HUF, either singly or in combination holding at least 51% of the shares.

(C)Provided that, in case of a combination of all or any of the entities mentioned in Sub-Clauses (I) and (II) of clause 1.2(v)(d)(A) above, each of the parties shall have entered into a legally binding agreement to act as a single unit in managing the matters of the applicant company.

(e) If a declaration is made by persons as per section 187C of the Companies Act,1956 or section 89 of the Companies Act, 2013, as the case may be about a beneficial interest being held by a non-resident entity, then even though the investment may be made by a resident Indian citizen, the same shall be counted as foreign investment.

1.3 The above mentioned policy and methodology would be applicable for determining the total foreign investment in all sectors, except in sectors where it is specified in a statute or rule there under. The above methodology of determining direct and indirect foreign investment therefore does not apply to the Insurance Sector which will continue to be governed by the relevant Regulation. Similarly, above methodology will also not apply to downstream investments by an Investment Vehicle. Relevant conditions of downstream investment by Investment Vehicles are as under:

(i) Downstream investment by an Investment Vehicle shall be regarded as foreign investment if either the Sponsor or the Manager or the Investment Manager is not Indian 'owned and controlled' as defined in Regulation 14 of the principal Regulations as defined in RBI Notification No. 362/2015-RB dated February 15, 2016.

Provided that for sponsors or managers or investment managers organized in a form other than companies or LLPs, SEBI shall determine whether the sponsor or manager or investment manager is foreign owned and controlled.

Explanation 1: Ownership and control is clearly determined as per the extant FDI policy. AIF is a pooled investment vehicle. 'Control' of the AIF should be in the hands of 'sponsors' and 'mangers/investment managers', with the general exclusion of others. In case the 'sponsors' and 'managers/investment managers' of the AIF are individuals, for the treatment of downstream investment by such AIF as domestic, 'sponsors' and 'managers/investment managers' should be resident Indian citizens.

Explanation 2: The extent of foreign investment in the corpus of the Investment Vehicle will not be a factor to determine as to whether downstream investment of the Investment Vehicle concerned is foreign investment or not.

(ii) Downstream investment by an Investment Vehicle that is reckoned as foreign investment shall have to conform to the sectoral caps and conditions / restrictions, if any, as applicable to the company in which the downstream investment is made as per the FDI Policy.

(iii) Downstream investment in an LLP by an Investment Vehicle that is reckoned as foreign investment has to conform to the provisions of Schedule 9 of the principal FEMA Regulations as well as the extant FDI policy for foreign investment in LLPs.

(iv) An Alternative Investment Fund Category III with foreign investment shall make portfolio investment in only those securities or instruments in which a Registered Foreign Portfolio Investor is allowed to invest under the principal Regulations.

(v) The Investment Vehicle receiving foreign investment shall be required to make such report and in such format to Reserve Bank of India or to SEBI as may be prescribed by them from time to time.

1.4 Any foreign investment already made in accordance with the guidelines in existence prior to February 13, 2009 (date of issue of Press Note 2 of 2009) would not require any modification to conform to these guidelines. All other investments, past and future, would come under the ambit of these new guidelines.

Annexure-6

Remittance, Reporting and Violation

1. Remittance and Repatriation

1.1 **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) **Remittance on winding up/liquidation of Companies**

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. AD Category-I banks shall allow the remittance provided the applicant submits:

a. No objection or Tax clearance certificate from Income Tax Department for the remittance.
b. Auditor's certificate confirming that all liabilities in India have been either fully paid or adequately provided for.
c. Auditor'scertificatetotheeffectthatthewindingupisinaccordancewiththe provisions of the Companies Act, as applicable.
d. In case of winding up otherwise than by a court, an auditor's certificate to the effect that there are no legal proceeding spending in any court in India against the applicant or the company under liquidation and there is no legal impediment in permitting the remittance.

1.2 **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.

1.3 **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.

2. Reporting of FDI

2.1 Reporting of Inflow

(i) An Indian company receiving investment from outside India for issuing shares/convertible debentures/preference shares under the FDI Scheme, should report the details of the amount of consideration to the Regional Office concerned of the Reserve Bank not later than 30 days from the date of receipt in the Advance Reporting Form as in **Section 1** of this Annexure.

(ii) Indian companies are required to report the details of the receipt of the amount of consideration for issue of shares/convertible debentures, through an AD Category-I bank, together with a copy/ies of the FIRC/s evidencing the receipt of the remittance along with the KYC report **(Section-2)** on the non-resident investor from the overseas bank remitting the amount. The report would be acknowledged by the Regional Office concerned, which will allot a Unique Identification Number (UIN) for the amount reported.

Explanation: An Indian company issuing partly paid equity shares, shall furnish a report not later than 30 days from the date of receipt of each call payment.

2.2 Reporting of issue of shares

(i) After issue of shares (including bonus and shares issued on rights basis and shares issued under ESOP and against Convertible Notes)/fully, mandatorily & compulsorily convertible debentures/fully, mandatorily & compulsorily convertible preference shares, the Indian company has to file Form FC-GPR, not later than 30 days from the date of issue of shares.

(ii) Form FC-GPR has to be duly filled up and signed by Managing Director/Director/Secretary of the Company and submitted to the Authorized Dealer of the company, who will forward it to the Reserve Bank. The following documents have to be submitted along with the form:

(a) A certificate from the Company Secretary of the company certifying that:

(A) all the requirements of the Companies Act, as applicable, have been complied with;

(B) terms and conditions of the Government of India approval, if any, have been complied with;

(C) the company is eligible to issue shares under these Regulations; and

(D) the company has all original certificates issued by authorized dealers in India evidencing receipt of amount of consideration.

Note: For companies with paid up capital with less than Rs.5 crore, the above mentioned certificate can be given by a practicing company secretary.

(b) A certificate from SEBI registered Merchant Banker or Chartered Accountant indicating the manner of arriving at the price of the shares issued to the persons resident outside India.

(c) The report of receipt of consideration as well as Form FC-GPR have to be submitted by the AD Category-I bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the registered office of the company is situated.

Note: An Indian company issuing partly paid equity shares shall file a report in form FC-GPR to the extent they become paid up.

(d) Annual return on Foreign Liabilities and Assets **(Section-3)** should be filed on an annual basis by the Indian company, directly with the Reserve Bank. This is an annual return to be submitted by 15th of July every year, pertaining to all investments by way of direct/portfolio investments/reinvested earnings/other capital in the Indian company made during the previous years (i.e. the information submitted by 15th July will pertain to all the investments made in the previous years up to March 31). The details of the investments to be reported would include all foreign investments made into the company which is outstanding as on the balance sheet date. The details of overseas investments in the company both under direct/portfIndiao investment may be separately indicated.

(e) Issue of bonus/rights shares or stock options to persons resident outside India directly or on amalgamation/merger/demerger with an existing Indian company, as well as issue of shares on conversion of ECB/royalty/lumpsum technical know-how fee/import of capital goods by units in SEZs**,** has to be reported in Form FC-GPR.

2.3 **Reporting of transfer of shares**

Reporting of transfer of shares between residents and non-residents and vice- versa is to be done in Form FC-TRS **(Section-4)**. The Form FC-TRS should be submitted to the AD Category-I bank, within 60 days from the date of receipt of the amount of consideration. The onus of submission of the Form FC-TRS within the given timeframe would be on the transferor/transferee, resident in India. However, in cases where the NR investor, including an NRI, acquires shares on the stock exchanges under the FDI scheme, the investee company would have to file form FC-TRS with the AD Category-I bank. The AD Category-I bank, would forward the same to its link office. The link office would consolidate the Form FC-TRS and submit a monthly report to the Reserve Bank.

2.4 **Reporting of Non-Cash**

Details of issue of shares against conversion of ECB have to be reported to the Regional Office concerned of the RBI, as indicated below:

(i) In case of **full conversion** of ECB into equity, the company shall report the conversion in Form FC-GPR to the Regional Office concerned of the Reserve Bank as well as in Form ECB-2 to the Department of Statistics and Information Management (DSIM), Reserve Bank of India, Bandra-Kurla Complex, Mumbai- 400 051, within seven working days from the close of month to which it relates. The words "ECB wholly converted to equity" shall be clearly indicated on top of the Form ECB-2. Once reported, filing of Form ECB-2 in the subsequent months is not necessary.

(ii) In case of **partial conversion** of ECB, the company shall report the converted portion in Form FC-GPR to the Regional Office concerned as well as in Form ECB-2 clearly differentiating the converted portion from the non-converted portion."The words "ECB partially converted to equity" shall be indicated on top of the Form ECB-2. In the subsequent months, the outstanding balance of ECB shall be reported in Form ECB-2 to DSIM.

2.5 Reporting of FCCB/DR Issues

The domestic custodian shall report the issue/transfer of sponsored/unsponsored depository receipts as per DR Scheme 2014 in 'Form DRR' as given in **Section-5** within 30 days of close of the issue/ program.

3. 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.

3.1 Penalties

(i) If a person violates/contravenes any FDI Regulations, by way of breach/non-adherence/non-compliance/contravention of any rule, regulation, notification, press note, press release, circular, direction or order issued in exercise of the powers under FEMA or contravenes any conditions subject to which an authorization is issued by the Government of India/ Reserve Bank of India, he shall, upon adjudication, be liable to a penalty up to thrice the sum involved in such contraventions where such amount is quantifiable, or up to two lakh Rupees where the amount is not quantifiable, and where such contraventions is a continuing one, further penalty which may extend to five thousand Rupees for every day after the first day during which the contraventions continues.

(ii) Where a person committing a contravention of any provisions of this Act or of any rule, direction or order made there under is a company (company means any body corporate and includes a firm or other association of individuals as defined in the Companies Act), every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

(iii) Any Adjudicating Authority adjudging any contraventions under 3.1(i) above, may, if he thinks fit in addition to any penalty which he may impose for such contravention direct that any currency, security or any other money or property in respect of which the contravention has taken place shall be confiscated to the Central Government.

3.2 Adjudication and Appeals

(i) For the purpose of adjudication of any contravention of FEMA, the Ministry of Finance as per the provisions contained in the Foreign Exchange Management (Adjudication Proceedings and Appeal) Rules, 2000 appoints officers of the Central Government as the Adjudicating Authorities for holding an enquiry in the manner prescribed. A reasonable opportunity has to be given to the person alleged to have committed contraventions against whom a complaint has been made for being heard before imposing any penalty.

(ii) The Central Government may appoint as per the provisions contained in the Foreign Exchange Management (Adjudication Proceedings and Appeal) Rules, 2000, an Appellate Authority/ Appellate Tribunal to hear appeals against the orders of the adjudicating authority.

3.3 Compounding Proceedings

Under the Foreign Exchange (Compounding Proceedings) Rules 2000, the Central Government may appoint 'Compounding Authority' an officer either from Enforcement Directorate or Reserve Bank of India for any person contravening any provisions of the FEMA. The Compounding Authorities are authorized to compound the amount involved in the contravention to the Act made by the person. No contravention shall be compounded unless the amount involved in such contravention is quantifiable. Any second or subsequent contravention committed after the expiry of a period of three years from the date on which the contravention was previously compounded shall be deemed to be a first contravention. The Compounding Authority may call for any information, record or any other documents relevant to the compounding proceedings. The Compounding Authority shall pass an order of compounding after affording an opportunity of being heard to all the concerns as expeditiously and not later than 180 days from the date of application made to the Compounding Authority. Compounding Authority shall issue order specifying the provisions of the Act or of the rules, directions, requisitions or orders made there under in respect of which contravention has taken place along with details of the alleged contraventions.

SECTION-1

Report by the Indian company receiving amount of consideration for issue of shares /Convertible debentures under the FDI Scheme

(To be filed by the company through its Authorised Dealer Category-I bank, with the Regional Office of the Reserve Bank under whose jurisdiction the Registered Office of the company making the declaration is situated, not later than 30 days from the date of receipt of the amount of consideration, as specified in para 9 (I) (A) of Schedule I to Notification No. FEMA 20/2000-RB dated May 3, 2000)

Permanent Account Number (PAN) of the investee company given by the IT Department	

No.	Particulars	(In Block Letters)
1.	Name of the Indian company Address of the Registered Office	
	Fax	
	Telephone	
	e-mail	
2	Details of the foreign investor/ collaborator	
	Name Address Country	
3.	Date of receipt of funds	

4.	Amount	In foreign currency: In Indian Rupees:
5.	Whether investment is under Automatic Route or Approval Route If Approval Route, give details (ref. no. of approval and date)	Automatic Route / Approval Route
6.	Name of the AD through whom the remittance is received	
7.	Address of the AD	

A Copy of the FIRC evidencing the receipt of consideration for issue of shares/ convertible debentures as above is enclosed.

(Authorised signatory of the investee company) (Stamp)	(Authorised signatory of the AD) (Stamp)

FOR USE OF THE RESERVE BANK ONLY:

Unique Identification Number for the remittance received: | | | | | | | | | | | | | | |

SECTION-2

Know Your Customer (KYC) Form in respect of the non-resident investor

Registered Name of the Remitter / Investor (Name, if the investor is an Individual)	
Registration Number (Unique Identification Number***** in case remitter is an Individual)	
Registered Address (Permanent Address if remitter Individual)	
Name of the Remitter's Bank	
Remitter's Bank Account No.	
Period of banking relationship with the remitter	

***** Passport No., Social Security No, or any Unique No. certifying the bonafides of the remitter as prevalent in the remitter's country

We confirm that all the information furnished above is true and accurate as provided by the overseas remitting bank of the non-resident investor.

(Signature of the Authorised Official
of the AD bank receiving the remittance)

Date : Place:
Stamp :

SECTION-3

RESERVEBANK OF INDIA

Confidential

Annual Return on Foreign Liabilities andAssets*ason*31March,20__(Return to be filled under A.P. (DIR Series) Circular No. 145dated June 18, 2014and submitted to the Department of Statistics and Information Management,RBI, Mumbai)

Please read the guidelines/definitions carefully before filling-in the Return

(Respondents are encouraged to submit the e-form of this return,which can be downloaded from the FEMA Forms section under the 'Forms' category on the RBI website, www.rbi.org.in)The e-form is easy-to-fill with user guidance and consistency checks. The duly filled-in e-form should be emailed to fla@rbi.org.in.

Section I
(Identification Particulars)

1.Name and Address of the Indian Company:
Name of the Company: _____
Address: _____

City: State:
Pin:

2.PAN Number of Company given by Income Tax Department**(10digit)**

3. CIN Number allotted by Ministry of Corp.Affairs,Govt.ofIndia**(21digit)**

4.ContactDetails
ContactPerson
Name:

Design
ation: TelephoneNo: Fax:
e-mail: &RP51Q'sWeb-Site(ifany):

5.Account closing date**(DD/MM/YYYY)**

6.NatureofBusiness:_____
_____
(AsperNationalIndustrial Classification(NIC)2008Code)

7.Whether your Company Name has changed during the last financial year(April-March)**(Y/N)**?

If yes,please specify the Company's old Name

Company's old Name:____

Effective Date**(DD/MM/YYYY)**

8.WhethertheCompanyis listed**(Y/N)**?

If yes,please furnish the share price on closing date of reference period

	FaceValue(PerShare)	MarketValue(PerShare)	
	LatestMarch	PreviousMarch	LatestMarch
Ordinary/EquityShare			

9. Identification of the reporting Company**(intermsofinwardFDI)**

(a)Subsidiary of Foreign entity (b)Associate of foreign entity

(c) Public Private Partnership (d) Special Purpose Vehicle (e)Other

10.Whether the Company is Asset Management Company**(Y/N)**?

11.Whether the Company has Technical Foreign collaboration**(Y/N)**?

12.Whether the company has any business activity during the latest financial year(April-March)(Y/N)?

SectionII
(FinancialDetails)

Block1:Financial DetailofReportingCompany

CARE:Information should be reported for all the reference period,i.e. Previous March and Latest March.If reporting period is different from Account Closing Period,then information should be given on internal assessment basis for the reference period

Block1A: Total Paid-up Capital of Indian Company:

Item	End-ofPreviousMarch		End-ofLatestMarch	
	Numberof Sharesin actual	Amount in Rs lakh	Number of Shares in actual	Amount in Rslakh
1.0TotalPaid-upCapital (=1.1+ 1.2)				
1.1TotalEquity&Participating Preference Share capital (=1.1(a)+ 1.1(b))				
(a)Ordinary/EquityShare*				

(b)ParticipatingPreferenceShare				
1.2Non-participatingPreference Share#				

2.0Non-residentHoldings(atfacevaluein Rslakh)				
21 Equity & Participating Preference share capital(Sumofitem-1toitem-12)				
1Individuals				
2Companies				
3 Foreign Institutional Investors (FIIs)				
4ForeignVenture Capital Investors (FVCIs)				
5Foreign Trusts				
6Private Equity Funds				
7 Pension/Provident Funds				
8SovereignWealth Fund(SWF)				
9 Partnership/Proprietorship firms				
10Financial Institutions				
11NRIs/PIO				
12Others non-resident holdings				
2.2Non-Participating Preference share				
3.0 NonResident Equity&Participating Preference share capital%				

Note*In case of different class of Equity Share(classA,classBetc.),consolidatedfigure should be reported.

#Non-participating Preference Share do not have following rights.

(a)to receive dividend,out of surplus profit after paying the dividend to equity shareholders.

(b)to have share in surplus assets remaining after the entire capital is paid incase of winding up of the company.

Block1B: Profit and Loss Account**(fromP/LAccount)**

Item	**AmountinRslakh**	
	PreviousYear (April-March)	**LatestYear (April-March)**
3.1Profit(+)/Loss(-)beforetax **(DuringtheYear)**		
3.2Profit(+)/Loss(-)aftertax**(DuringtheYear)**		
3.3Dividend(Interim&FinalDividend)		
3.4TaxonDividend(ifany)		
3.5RetainedProfit(=3.2-3.3-3.4)		

Block1C: Reserves&Surplus**(fromBalanceSheet)**

Item	Amount in Rs lakh as at the	
	PreviousMarch	LatestMarch
4.1Reserves**(Excluding Profit and Loss account balance)**		
4.2Profit(+)andLoss(-)accountbalance		
4.3ReserveandSurplus(=4.1+ 4.2)		
4.4NetworthofCompany(= 1.1+ 4.3)		

Block1D: SalesandPurchasemadeduringthe reference year

Note:To be filled in by company where single foreign direct investor holding is more than 50% in total equity(i.e.If reporting Indian company is subsidiary of Foreign company).

Item	Amountin Rs lakh (Duringtheyear)	
	Previous Year	Latest Year
5.1DomesticSales		
5.2Exports		
5.3TotalSales(= 5.1+5.2)		
5.4Domesticpurchase		
5.5Imports		
5.6TotalPurchase(= 5.4 +5.5)		

SectionIII
(FOREIGN LIABILITIES)

CARE:Information should be reported for all the reference period,i.e. Previous March and Latest March. If Account Closing Period of the company is different from reference period,then information should be reported on internal assessment basis for the reference period.

2.Investments made in India:

(i)Incase of **listed companies,** equity should be valued **using share price on closing date of reference period**.

(ii) Incase of **unlisted companies,Own Fund of Book Value(OFBV) Method** should be used for equity valuation.

Block-2A:

Investment in India under Foreign Direct Investment(FDI) scheme(10%or more Equity Participation).

[Please furnish here the outstanding investments made under the FDI Scheme in India by Non-resident Direct investors, who were **individually holding 10 percent or more** ordinary/equity & preference shares of your company on the reference date]

Name of thenon-resident Company/ Individual	Type of Capital	Country of non-resident investor	Equity & Participating Preference sharecapital holding percent as at the end of latest year(%)	Amount in Rslakh as at the end of	
				Previous March	Latest March
	1.0EquityCapital (=1.1-1.2)				
	11 Liabilities to Direct				
	1.2ClaimsonDirectInvestor				
	2.0Other Capital#				
	2.1 Liabilities to Direct Investor				
	2.2Claims on Direct Investor				

Note:

(i)If the information is to be furnished for more than one invest or,then add separate Block with same format

(ii):Other capital,item 2.1&2.2 of Block-2A includes all other liabilities and claims at Nominal value,except equity and participating preference shares,(i.e.trade credit,loan,debentures, Non-participating share capital,other accounts receivable and payables etc.)of Indian reporting company with its **director investor indicated inBlock-2A.**

Block2B:

Investment in India under Foreign Direct Investment(FDI)scheme(Less than 10% Equity Holding)

[Please furnish here the outstanding investments made under the FDI Scheme in India by Non-resident Direct investors, who were individually holding less 10 than percent ordinary/equity and participating preference shares of your company on the referencedate].

Country-wise consolidated information should be provided below:

Typeof Capital	Country of non-resident	Equity&Participating Preference	Amount in Rs lakh as at the end of

	investor	share capital holding percent as at the end of	Previous March	Latest March
1.0EquityCapital(= 1.1-1.2)				
1.1Liabilities to Direct Investor				
12 Claims on Direct Investor (Reverse investment)				
2.0OtherCapital(= 2.1-2.2)**#**				
2.1Liabilities to Direct				
2.2Claims on Direct Investor				

Note:

(i)If the information is to be furnished for more than one country, then add separate Block-2Bwith same format.

(ii) #:Other capital,item2.1&2.2 of Block-2Bincludes all other liabilities and claims at Nominal value, except equity and participating preference shares,(i.e.trade credit,loan,debentures,Non-participating share capital,other accounts receivable and payablesetc.)of Indian reporting company with **non-resident investors holding lessthan10percent equity and related parties.**

Block2C.Portfolio Investment in India

Please furnish here the outstanding investments by non-resident investors,other than those made under Foreign Direct Investment Scheme in India (i.e.other than those reported in Block-2A&Block-2B).

Portfolio Investment	Equity& Participating Preference share capital holding percent as at the end of latest year(%)	Amount in Rs lakh as at the end of	
		Previous March	Latest March
1.0EquitySecurities(atMarketValue)			
2.0DebtSecurities (=2.1+2.2)			
2.1MoneyMarketInstruments (originalmaturityupto1year)			

2.2 Bonds and Other instruments (originalmaturitymorethan1year)			

Please ensure that Non-resident Equity & Participating Preference share capital mentioned at item 2.1 of block1(A) should be reported in either Block-2A or Block-2B or Block-2C at Market Value i.e. sum of equity% in Block-2A,Block-2B & Block-2C must be equal to the item 3.0 of Block-1A for the latest march.

SectionIV
(FOREIGN ASSETS)

1. Please use the **exchange rate as at end-March Previous FY and end-March Latest FY**(asapplicable)of reporting year while reporting the **foreign Assets in Rs lakh**.
2. If over seas company is listed;equity should be valued using share price on closing date of **reference period (Item 1.1 of Block 4A & 4B and Item 1.1 of Block 5).**
3. If overseas company is **unlisted, Own Fund of Book Value(OFBV)** Method should be used for valuation of equity investment **(Item 1.1 of Block 4A & 4B and Item 1.1 of Block 5)..**

Block-3:Equity Capital (PUC), Reserves & Surplus of Direct Investment Enterprise(DIE) Abroad(10%or more equity holding by Indian Reporting company)

[Please report here the total equity ofDIE,**equity held by your company**,reserves (excluding P&L Account) and P&L Account of those DIEsin each of which your company hold 10% or more equity shares on the reference date.]

Nameofthe DIE	**Item**	**Currency**	**Amount in Foreign Currency as at the end of (inactual)**	
			Previous March	**Latest March**
	3.1TotalEquityofDIE (Paid up capital of DIE)			
	3.2EquityofDIEheldby you (at face value)			
	3.3Reserves(ExcludingP&LAccount)			
	3.4ProfitandLossAccountbalance			
	3.5ReserveandSurplus(3.5=3.3+3.4)			
	3.6 NetWorthofDIE(3.6 =3.1+3.5)			
	3.7ExchangerateinRs perunitforeign currency*			

*:Exchange rate of reporting foreign currency against Indian Rs should be given as on closing date of reference period.

Block-4:Direct Investment Abroad under Overseas Direct Investment(ODI)Scheme

Block-4A:Direct Investment Abroad (10%or more equity holding)

Please furnish here the market value of outstanding investments in DIE, made by your company under the ODI Scheme,in each of which your company hold10%or more equity shares on the reference date.

Name of the non-resident DIE	Type of Capital Country of non-resident DIE	Equity holding per Cent as at the end of latest year(%)	Amount in Rs lakh as at the endof	
			Previous March	Latest March
	1.0EquityCapital (=1.1-1.2)			
	1.1ClaimsonDirectInvestmentEnterprise			
	1.2 Liabilities toDirect Investment Enterprise (Reverseinvestment)			
	2.0OtherCapital (=2.1-2.2)#			
	2.1 Claims on Direct InvestmentEnterprise			
	2.2 Liabilities to Direct InvestmentEnterprise			

Note:

(i) If the information is to be furnished for more than one overseas company,then ADD separate Block3 and Block4A with the same format.

(ii)#:Other capital,item2.1& 2.2of Block-4A includes all other liabilities and claims at Nominal value, except equity shares, (i.e. trade credit, loan, debentures, Non-participating share capital, other accounts receivable and payables etc.)of Indian reporting company with its DIEreported**inBlock-4A.**

Block-4B:Direct Investment Abroad(Less than 10% equity holding)

Please furnish here the market value of outstanding investments in DIE,made by your company under the ODI Scheme,in each of which your company hold less than10%equity shares on the reference date.

TypeofCapital	Countryof non-resident DIE	Equity Holding per cent as at the end of latest year(%)	Amount in Rs lakh as at the end of	
			Previous March	Latest March
1.0Equity Capital(=1.1-1.2)				
1.1Claims on Direct Investment Enterprise				
1.2Liabilities to Direct Investmen Enterprise (Reverse investment)				
2.0Other Capital(=2.1-2.2)#				
2.1Claims on Direct Investment Enterprise				
2.2Liabilities to Direct Investment Enterprise				

Note:

(i) If the information is to be furnish form other than one country, then use the ADD Block 4B with the same format.

(ii)#:Other capital, item2.1&2.2ofBlock-4B includes all other liabilities and claims at Nominal value, except equity, (i.e. trade credit, loan, debentures, Non-participating share capital, other accounts receivable and payables etc.) ofIndian reporting company with**non-resident companies where Indian company holds lessthan10percentequityandalso with related parties**.

Block-5:Portfolio Investment Abroad

Pleasefurnishherethemarketvalueofoutstandinginvestmentsinnon-residententerprises,**other than those made under ODI scheme reported in Block-4.**

Portfolio Investment	Country of non-resident enterprise	Amount in Rslakh as at the end of	
		Previous March	Latest March
1.0EquitySecurities (atMarketValue)			
2.0DebtSecurities(=2.1+2.2)			
2.1MoneyMarketInstruments (originalmaturityupto1year)			

2.2BondsandOtherinstruments (originalmaturitymorethan1year)			

Note:

(i)Countrywise consolidated information pertaining to each type of investment should be reported separately.

(ii) If the information is to be furnish for more than one country, thenusetheADDBlock5withthesameformat..

Section IV-A

Outward Foreign Affiliates Trade Statistics (Outward FATS)

Please provide the amount in foreign currency (in actual) in all blocks of Section IV-A

Block-3B: Imports, Exports, Total Sales and Total Purchase of Direct Investment Enterprise (DIE) Abroad (more than 50% equity holding by Indian reporting company)

Name of the DIE	Item	Currency	Amount in Foreign Currency actual (During the year)	
			Previous Year (April-March)	Latest Year (April-March)
	3.8 Total Sales			
	3.8.1 of which Exports			
	3.9 Total Purchases			
	3.9.1 of which Imports			

Section V

(Other Assets and Liabilities with foreign unrelated parties)

Block6:OtherInvestment (i.e. position with foreign unrelated parties)

This is a residual category that includes all financial outstanding liability and claims not considered as direct investment or portfolio investment.

Other Investment	Outstanding Liabilities with foreign unrelated party		Outstanding claims on foreign unrelated party	
	Amounting Rs lakh as at the end of			
	Previous	Latest March	Previous	Latest
6.1TradeCredit				
6.2Loans				
6.3Currency&Deposits				

6.4Otherreceivableandpayableaccounts				

[e-Form version of this Return is available on the FEMA Forms section under the 'Forms'categoryontheRBIwebsite(www.rbi.org.in).SystemRequirement:MS-Excel2003andabove,withmacroenabled]

Place: Signature and Name of the Authorized person

Date: Seal/Stamp of the Company

SECTION-4

Form FC-TRS		
Declaration regarding transfer of shares / compulsorily and mandatorily convertible preference shares (CMCPS) / debentures /others by way of sale from resident to nonresident / non-resident to resident		
	(to be submitted to the designated AD branch in quadruplicate within 60 days from the date of receipt of funds)	
	The following documents are enclosed *For sale of shares / compulsorily and mandatorily convertible preference shares / debentures / others by a person resident in India* i. Consent Letter duly signed by the seller and buyer or their duly appointed agent and in the latter case the Power of Attorney Document. ii. The shareholding pattern of the investee company after the acquisition of shares by a person resident outside India. iii. Certificate indicating fair value of shares from a Chartered Accountant. iv. Copy of Broker's note if sale is made on Stock Exchange. v. Declaration from the buyer to the effect that he is eligible to acquire shares / compulsorily and mandatorily convertible preference shares / debentures/others under FDI policy and the existing sectoral limits and Pricing Guidelines have been complied with. vi. Declaration from the FII/sub account to the effect that the individual FII / Sub account ceiling as prescribed has not been breached. *Additional documents in respect of sale of shares / compulsorily and mandatorily convertible preference shares / debentures / others by a person resident outside India* vii. If the sellers are NRIs/OCBs, the copies of RBI approvals, if applicable, evidencing the shares held by them on repatriation/non-repatriation basis. viii. No Objection/Tax Clearance Certificate from Income Tax Authority/ Chartered Account.	
1	**Name of the company**	
	Address (including e-mail , telephone Number, Fax no)	
	Activity	
	NIC Code No.	

2	**Whether FDI is allowed under Automatic route**	
	Sectoral Cap under FDI Policy	
3	**Nature of transaction** *(Strike out whichever is not applicable)*	Transfer from resident to non resident / Transfer from non resident to resident
4	**Name of the buyer**	
	Constitution / Nature of the investing Entity Specify whether 1. Individual 2. Company 3. FII 4. FVCI[#] 5. Foreign Trust 6. Private Equity Fund 7. Pension/ Provident Fund 8. Sovereign Wealth Fund (SWF[∂]) 9. Partnership / Proprietorship firm 10. Financial Institution 11. NRIs / PIOs 12. others	
	Date and Place of Incorporation	
	Address of the buyer *(including e-mail, telephone number. Fax no.)*	
5	**Name of the seller**	
	Constitution / Nature of the disinvesting entity Specify whether 1. Individual 2. Company 3. FII 4. FVCI[##]	

[#] The initial investment/s was/were made by FVCI under FDI Scheme in terms of Schedule 1 to Notification No. FEMA.20/2000-RB dated May 3, 2000

[∂] SWF mean a Government investment vehicle which is funded by foreign exchange assets, and which manages those assets separately from the official reserves of monetary authorities.

[##] The initial investment/s was/were made by FVCI under FDI Scheme in terms of Schedule 1 to Notification No. FEMA.20/2000-RB dated May 3, 2000.

	5. Foreign Trust 6. Private Equity Fund 7. Pension/ Provident Fund 8. Sovereign Wealth Fund (SWF[∂]) 9. Partnership/ Proprietorship firm 10. Financial Institution 11. NRIs/PIOs 12. Others[i]				
	Date and Place of Incorporation				
	Address of the seller *(including e-mail, telephone Number Fax no)*				
6	**Particulars of earlier Reserve Bank / Government approvals**				
7	**Details regarding shares / compulsorily and mandatorily convertible preference shares (CMCPS) / debentures/ others (such as FDI compliant instruments like participating interest rights in oil fields, etc.) to be transferred**				
	Date of the transaction	***Number of shares CMCPS / debentures /others***	***Face value in Rs.***	***Negotiated Price for the transfer**in Rs.***	***Amount of consideration in Rs.***
8	**Foreign Investments in the company**		No. of shares	Percentage	
		Before the transfer			
		After the transfer			
9.	**Where the shares / CMCPS / debentures / others are listed on Stock Exchange**				

[∂] SWF mean a Government investment vehicle which is funded by foreign exchange assets, and which manages those assets separately from the official reserves of monetary authorities.

	Name of the Stock Exchange	
	Price Quoted on the Stock exchange	
	Where the shares / CMCPS / debentures / others are Unlisted	
	Price as per Valuation guidelines*	
	Price as per Chartered Accountants * / ** Valuation report (CA Certificate to be attached)	

Declaration by the transferor / transferee I /
We hereby declare that

i. The particulars given above are true and correct to the best of my/our knowledge and belief.
ii. I/ We, was/were holding the shares compulsorily and mandatorily convertible preference shares / debentures/ other as per FDI Policy under FERA/ FEMA Regulations on repatriation/non repatriation basis.
iii. I/ We, am/are eligible to acquire the shares compulsorily and mandatorily convertible preference shares / debentures /other of the company in terms of the FDI Policy. It is not a transfer relating to shares compulsorily and mandatorily convertible preference shares / debentures /others of a company engaged in financial services sector or a sector where general permission is not available.
iv. The Sectoral limit under the FDI Policy and the pricing guidelines have been adhered to.

Signature of the Declarant or his duly authorised agent

Date:

Note:

In respect of the transfer of shares / compulsorily and mandatorily convertible preference shares / compulsorily and mandatorily convertible debentures/ others from resident to non resident the declaration has to be signed by the non resident buyer, and in respect of the transfer of shares / compulsorily and mandatorily convertible preference shares / compulsorily and mandatorily convertible debentures/ other from non-resident to resident the declaration has to be signed by the non-resident seller.

Certificate by the AD Branch

It is certified that the application is complete in all respects.

The receipt / payment for the transaction are in accordance with FEMA Regulations / Reserve Bank guidelines.

Signature

Name and Designation of the Officer

Date : Name of the AD Branch
AD Branch Code

Know Your Customer (KYC) Form in respect of the non-resident investor

Registered Name of the Remitter / Investor (Name, if the investor is an Individual)	
Registration Number (Unique Identification Number* in case remitter is an Individual)	
Registered Address (Permanent Address if remitter Individual)	
Name of the Remitter's Bank	
Remitter's Bank Account No.	
Period of banking relationship with the Remitter	

*Passport No., Social Security No, or any Unique No. certifying the bonafides of the remitter as prevalent in the remitter's country.

We confirm that all the information furnished above is true and accurate as provided by the overseas remitting bank of the non-resident investor.

(Signature of the Authorised Official
of the AD bank receiving the remittance)
Date: Place:
Stamp :

Proforma

Statement of inflows/outflows on account of remittance received/made in connection with transfer of shares / compulsorily and mandatorily convertible preference shares / debentures/others/other, by way of sale

Category-wise

Part A - NRI/erstwhile OCB

Part B - Foreign National/non-resident incorporated entity

Part C - Foreign Institutional Investors

Inflow -Transfer from resident to non-resident

[**Amount in Rs.**]

Date of Transaction	Name of the Company	Activity	NIC Code	Name of the Buyer	Constitution/ Nature of Business of the Buyer	Name of the Seller	Constitution/ Nature of Business of the Seller	No. of Shares transferred	Face Value	Sale price per share	Total Inflow
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

Outflow - Transfer from non-resident to resident

[**Amount in Rs.**]

Date of Transaction	Name of the Company	Activity	NIC Code	Name of the Seller	Constitution/ Nature of Business of the Seller	Name of the Buyer	Constitution/ Nature of Business of the Buyer	No. of Shares transferred	Face Value	Sale price per share	Total Inflow
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

SECTION-5

Form DRR					
Return to be filed by the Domestic Custodian who has arranged issue/transfer of Depository Receipts					
Instructions: The Form should be completed and submitted by the Domestic Custodian to the Reserve Bank of India, Foreign Exchange Department, Foreign Investment Division, Central Office, Mumbai.					
	1. Name of the Domestic Custodian :				
	2. Address of the Domestic Custodian:				
	3. Details of the Security:				
	4. Details of the issuer of the security 5. Activity of the issuer of security (please give the NIC Code of the activity in which the company is predominantly engaged)[6] 6. Whether sponsored or unsponsored 7. If sponsored, name and address of the sponsorer. 8. Name and address of the Lead Manager/ Investment/Merchant Banker 9. Name and address of the Sub-Managers to the issue 10. Details of Government approval (If foreign investment in the company is subject to Governmentapproval) 11. Whether any overall sectoral cap for foreign investment is applicable. If yes, please give details.					
12.	If the issue of DR increases the equity capital of the company or is sponsored by the company: Details of the Equity Capital			<u>Before Issue</u>	<u>After Issue</u>
	a	Authorised Capital			
	b	Issued and Paid-up Capital			
		(i)	Held by persons Resident in India		
		(ii)	Held by foreign investors other than FIIs/NRIs/PIOs/ OCBs (a list of foreign investors holding more than 10 percent of the paid-up capital and number of shares held by each of them should be furnished)		
		(iii)Held by NRIs/PIOs			
		(iv)Held by FIIs/QFIs/registered FPIs			
		Total Equity held by non-residents			
	c	Percentage of equity held by non-residents to total paid-up capital			
	d	Details of repatriation/utilisation of the proceeds			

[6]In terms of AP (DIR Series) Circular No 5 dated July 17, 2014, NIC 2008 codes may be reported

13.	Number of DRs issued	
14.	Ratio of DRs to underlying securities	
15.	Whether funds are kept abroad. If yes, name and address of the bank	
16.	Whether the DR is listed/traded on an International Exchange or trading platform. If so, details of the exchange/trading platform.	
	Name of Stock Exchange Date of commencement of trading	
17.	The date on which DRs issue was launched	
Certified that all the conditions laid down by Government of India and Reserve Bank of India have been complied with.		
Sd/- Chartered Accountant		Sd/- Authorised Signatory of the Company.

Annexure-7

Conditions for Broadcasting Sector

1.0 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.

1.1 Foreign investment (FI) in companies engaged in all the aforestated services will be subject to relevant regulations and such terms and conditions, as may be specified from time to time, by the Ministry of Information and Broadcasting.

1.2 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.

1.3 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

(i) The majority of Directors on the Board of the Company shall be Indian citizens.

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

Security Clearance of Personnel

(iii) The Company, all Directors on the Board of Directors and such key executives like Managing Director/Chief Executive Officer, Chief Financial Officer (CFO), Chief Security Officer (CSO), Chief Technical Officer (CTO), Chief Operating Officer (COO), shareholders who individually hold 10% or more paid-up capital in the company and any other category, as may be specified by the Ministry of Information and Broadcasting from time to time, shall require to be security cleared.

In case of the appointment of Directors on the Board of the Company and such key executives like Managing Director/Chief Executive Officer, Chief Financial Officer (CFO), Chief Security Officer (CSO), Chief Technical Officer (CTO), Chief Operating Officer (COO), etc., as may be specified by the Ministry of Information and Broadcasting from time to time, prior permission of the Ministry of Information and Broadcasting shall have to be obtained. It shall be obligatory on the part of the company to also take prior permission from the Ministry of Information and Broadcasting before effecting any change in the Board of Directors.

(iv) 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.

Permission *vis-à-vis* Security Clearance

(v) The permission shall be subject to permission holder/licensee remaining security cleared throughout the currency of permission. In case the security clearance is withdrawn, the permission granted is liable to be terminated forthwith.

(vi) In the event of security clearance of any of the persons associated with the permission holder/licensee or foreign personnel being denied or withdrawn for any reasons whatsoever, the permission holder/licensee will ensure that the concerned person resigns or his services terminated forthwith after receiving such directives from the Government, failing which the permission/license granted shall be revoked and the company shall be disqualified to hold any such Permission/license in future for a period of five years.

Infrastructure/Network/Software related requirement

(vii) The officers/officials of the licensee companies dealing with the lawful interception of services will be resident India citizens.

(viii) Details of infrastructure/network diagram (technical details of the network) could be provided, on a need basis only, to equipment suppliers/manufactures and the affiliate of the licensee company. Clearance from the licensor would be required if such information is to be provided to anybody else.

(ix) The Company shall not transfer the subscribers' databases to any person/place outside India unless permitted by relevant law.

(x) The Company must provide traceable identity of their subscribers.

Monitoring, Inspection and Submission of Information

(xi) The Company should ensure that necessary provision (hardware/software) is available in their equipment for doing the lawful interception and monitoring from a centralized location as and when required by Government.

(xii) The company, at its own costs, shall, on demand by the government or its authorized representative, provide the necessary equipment, services and facilities at designated place(s) for continuous monitoring or the broadcasting service by or under supervision of the Government or its authorized representative.

(xiii) The Government of India, Ministry of Information & Broadcasting or its authorized representative shall have the right to inspect the broadcasting facilities. No prior permission/intimation shall be required to exercise the right of Government or its authorized representative to carry out the inspection. The company will, if required by the Government or its authorized representative, provide necessary facilities for continuous monitoring for any particular aspect of the company's activities and operations. Continuous monitoring, however, will be confined only to security related aspects, including screening of objectionable content.

(xiv) The inspection will ordinarily be carried out by the Government of India, Ministry of Information & Broadcasting or its authorized representative after reasonable notice, except in circumstances where giving such a notice will defeat the very purpose of the inspection.

(xv) The company shall submit such information with respect to its services as may be required by the Government or its authorized representative, in the format as may be required, from time to time.

(xvi) The permission holder/licensee shall be liable to furnish the Government of India or its authorized representative or TRAI or its authorized representative, such reports, accounts, estimates, returns or such other relevant information and at such periodic intervals or such times as may be required.

(xvii) The service providers should familiarize/train designated officials or the Government or officials of TRAI or its authorized representative(s) in respect of relevant operations/features of their systems.

National Security Conditions

(xviii) 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.

(xix) The company shall not import or utilize any equipment, which are identified as unlawful and/or render network security vulnerable.

Other Conditions

(xx) Licensor reserves the right to modify these conditions or incorporate new conditions considered necessary in the interest of national security and public interest or for proper provision of broadcasting services.

(xxi) Licensee will ensure that broadcasting service installation carried out by it should not become a safety hazard and is not in contravention of any statute, rule or regulation and public policy.

Annexure-8

Conditions for Industrial Parks

1.1(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.

(iii) "Common Facilities" refer to the facilities available for all the units located in the industrial park, and include facilities of power, 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, common testing, telecom services, air conditioning, common facility buildings, industrial canteens, convention/conference halls, parking, travel desks, security service, first aid center, ambulance and other safety services, training facilities and such other facilities meant for common use of the units located in the Industrial Park.

(iv) "Allocable area" in the Industrial Park means-

(a) in the case of plots of developed land- the net site area available for allocation to the units, excluding the area for common facilities.

(b) in the case of built up space- the floor area and built up space utilized for providing common facilities.

(c) in the case of a combination of developed land and built-up space- the net site and floor area available for allocation to the units excluding the site area and built up space utilized for providing common facilities.

(v)"Industrial Activity" means manufacturing; electricity; gas and water supply; post and telecommunications; software publishing, consultancy and supply; data processing, database activities and distribution of electronic content; other computer related activities; basic and applied R&D on bio-technology, pharmaceutical sciences/life sciences, natural sciences and engineering; business and management consultancy activities; and architectural, engineering and other technical activities.

1.2 FDI in Industrial Parks would not be subject to the conditionalities applicable for construction development projects etc. spelt out in para 5.2.10 of Chapter 5 of this Circular, provided the Industrial Parks meet with the under-mentioned conditions:

(i) it would comprise of a minimum of 10 units and no single unit shall occupy more than 50% of the allocable area;

(ii) the minimum percentage of the area to be allocated for industrial activity shall not be less than 66% of the total allocable area.

Annexure-9

Permissible limits under portfolio investment schemes through stock exchanges for FIIs/FPIs and NRIs

The permissible limits under portfolio investment schemes through stock exchanges for FIIs/FPIs and NRIs will be as follows:

(i) In the case of FIIs/FPIs, as hitherto, individual FII/FPI holding is restricted to below 10 per cent of the total paid-up capital, aggregate limit for all FIIs/FPIs cannot exceed 24 per cent of the total paid-up capital, which can be raised up to sectoral limit of 74 percent of the total paid-up capital by the bank concerned through a resolution by its Board of Directors followed by a special resolution to that effect by its General Body.

(a) In the case of NRIs, as hitherto, individual holding is restricted to 5 per cent of the total paid-up capital both on repatriation and non-repatriation basis and aggregate limit cannot exceed 10 per cent of the total paid-up capital both on repatriation and non-repatriation basis. However, NRI holding can be allowed up to 24 per cent of the total paid-up capital both on repatriation and non-repatriation basis provided the banking company passes a special resolution to that effect in the General Body.

(b) Applications for foreign direct investment in private banks having joint venture/subsidiary in insurance sector may be addressed to the Reserve Bank of India (RBI) for consideration in consultation with the Insurance Regulatory and Development Authority of India (IRDAI) in order to ensure that the 49 per cent limit of foreign shareholding applicable for the insurance sector is not being breached.

(c) Transfer of shares under FDI from residents to non-residents will continue to require approval of RBI and Government as per para 3.4.2 above as applicable.

(d) The policies and procedures prescribed from time to time by RBI and other institutions such as SEBI, Minsitry of Corporate Affairs and IRDAI on these matters will continue to apply.

(e) RBI guidelines relating to acquisition by purchase or otherwise of shares of a private bank, if such acquisition results in any person owning or controlling 5 per cent or more of the paid up capital of the private bank will apply to non-resident investors as well.

(ii) Setting up of a subsidiary by foreign banks

(a) Foreign banks will be permitted to either have branches or subsidiaries but not both.

(b) 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.

(c) 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.

(d) 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.

(e) A subsidiary of a foreign bank will be subject to the licensing requirements and conditions broadly consistent with those for new private sector banks.

(f) Guidelines for setting up a wholly-owned subsidiary of a foreign bank will be issued separately by RBI.

(g) All applications by a foreign bank for setting up a subsidiary or for conversion of their existing branches to subsidiary in India will have to be made to the RBI.

(iii) 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.

Annexure - 10

Certificate to be Furnished by the Prospective Investor as well as the Prospective Recipient Entity
(Para 5.2.27.3 (ii))

It is certified that the following is the complete list of all inter-se agreements, including the shareholders agreement, entered into between foreign investor(s) and investee brownfield pharmaceutical entity

1. ……
2. ……..
3. …….

(copies of all agreements to be enclosed)

It is also certified that none of the inter-se agreements, including the shareholders agreement, entered into between foreign investor(s) and investee brownfield pharmaceutical entity contain any non-compete clause in any form whatsoever.

It is further certified that there are no other contracts/agreements between the foreign investor(s) and investee brownfield pharma entity other than those listed above.

The foreign investor(s) and investee brownfield pharma entity undertake to submit to the Government any inter-se agreements that may be entered into between them subsequent to the submission and consideration of this application.