RESERVE BANK OF INDIA
(FOREIGN EXCHANGE DEPARTMENT)
CENTRAL OFFICE
Mumbai 400 001

Notification No. FEMA 20(R)/ 2017-RB **November 07, 2017**

Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017

In exercise of the powers conferred by clause (b) of sub-section (3) of section 6 and section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999) and in supersession of Notification No. FEMA 20/2000-RB and Notification No. FEMA 24/2000-RB both dated May 3, 2000, as amended from time to time, the Reserve Bank makes the following regulations to regulate investment in India by a Person Resident Outside India, namely:-

1. Short title and commencement

(1) These Regulations may be called the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2017.

(2) They shall come into effect from the date of their publication in the Official Gazette except proviso (ii) to sub-regulation 1 of regulation 10 of these Regulations and proviso (ii) to sub-regulation 2 of regulation 10 of these Regulations which will come into effect from a date to be notified.

2. Definitions

In these Regulations, unless the context requires otherwise,-

(i) 'Act' means the Foreign Exchange Management Act, 1999 (42 of 1999);

(ii) 'Asset Reconstruction Company' (ARC) means a company registered with the Reserve Bank under section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act);

(iii) 'Authorised bank' will have the same meaning as assigned to it in Foreign Exchange Management (Deposit) Regulations, 2016;

(iv) 'Authorised dealer' includes a person authorised under sub-section (1) of section 10 of the Act;

(v) 'Capital Instruments' means equity shares, debentures, preference shares and share warrants issued by an Indian company;

Explanation:

(a) Equity shares issued in accordance with the provisions of the Companies Act, 2013 shall include equity shares that have been partly paid. The expression 'Debentures' means fully, compulsorily and mandatorily convertible debentures. 'Preference shares' means fully, compulsorily and mandatorily convertible preference shares. Share Warrants are those issued by an Indian Company in accordance with the Regulations issued by the Securities and Exchange Board of India. Capital instruments can contain an optionality clause subject to a minimum lock-in period of one year or as prescribed for the specific sector, whichever is higher, but without any option or right to exit at an assured price.

(b) Partly paid shares that have been issued to a person resident outside India shall be fully called-up within twelve months of such issue. Twenty five percent of the total consideration amount (including share premium, if any), shall be received upfront.

(c) In case of share warrants at least twenty five percent of the consideration shall be received upfront and the balance amount within eighteen months of issuance of share warrants.

(d) Capital instruments shall include non-convertible/ optionally convertible/ partially convertible preference shares issued as on and up to April 30, 2007 and optionally convertible/ partially convertible debentures issued up to June 7, 2007 till their original maturity. Non-convertible/ optionally convertible/ partially convertible preference shares issued after April 30, 2007 shall be treated as debt and shall conform to External Commercial Borrowings guidelines regulated under Foreign Exchange Management (Borrowing and Lending in Foreign Exchange) Regulations, 2000.

(vi) '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;

(vii) 'Domestic Custodian' means a custodian of securities, an Indian Depository, a Depository Participant, or a bank and having permission from Securities and Exchange Board of India to provide services as custodian;

(viii) 'Domestic Depository' means a custodian of securities registered with the Securities and Exchange Board of India and authorised by the issuing entity to issue Indian Depository Receipts;

(ix) 'Depository Receipt' means a foreign currency denominated instrument, whether listed on an international exchange or not, issued by a foreign depository in a permissible jurisdiction on the back of eligible securities issued or transferred to that foreign depository and deposited with a domestic custodian and includes 'global depository receipt' as defined in the Companies Act, 2013;

(x) 'Employees' stock option' (ESOP) means an ESOP as defined under the Companies Act, 2013 and issued under the regulations issued by the Securities and Exchange Board of India;

(xi) 'Escrow account' means an Escrow account maintained in accordance with Foreign Exchange Management (Deposit) Regulations, 2016;

(xii) 'FDI linked performance conditions' means the sector specific conditions stipulated in regulation 16 of these Regulations for companies receiving foreign investment;

(xiii) 'Foreign Venture Capital Investor' (FVCI) means an investor incorporated and established outside India and registered with Securities and Exchange Board of India under Securities and Exchange Board of India (Foreign Venture Capital Investors) Regulations, 2000;

(xiv) 'Foreign Central Bank' means an institution/ organisation/ body corporate established in a Country outside India and entrusted with the responsibility of carrying out central bank functions under the law for the time being in force in that country;

(xv) 'FCNR (B) account' means a Foreign Currency Non-Resident (Bank) account maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016;

(xvi) 'Foreign Currency Convertible Bond (FCCB)' means a bond issued under the Issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993;

(xvii) 'Foreign Direct Investment' (FDI) means investment through capital instruments by a person resident outside India in an unlisted Indian company**;** or in 10 percent or more of the post issue paid-up equity capital on a fully diluted basis of a listed Indian company;

Note: In case an existing investment by a person resident outside India in capital instruments of a listed Indian company falls to a level below 10 percent of the post issue paid-up equity capital on a fully diluted basis, the investment shall continue to be treated as FDI.

Explanation: Fully diluted basis means the total number of shares that would be outstanding if all possible sources of conversion are exercised

(xviii) 'Foreign Investment' means any investment made by a person resident outside India on a repatriable basis in capital instruments of an Indian company or to the capital of an LLP;

Explanation: If a declaration is made by persons as per the provisions of the Companies Act, 2013 about a beneficial interest being held by a person resident outside India, then even though the investment may be made by a resident Indian citizen, the same shall be counted as foreign investment.

Note: A person resident outside India may hold foreign investment either as Foreign Direct Investment or as Foreign Portfolio Investment in any particular Indian company.

(xix) 'Foreign Portfolio Investment' means any investment made by a person resident outside India through capital instruments where such investment is less than 10 percent of the post issue paid-up share capital on a fully diluted basis of a listed Indian company or less than 10 percent of the paid up value of each series of capital instruments of a listed Indian company;

Explanation: The 10 percent limit for foreign portfolio investors shall be applicable to each foreign portfolio investor or an investor group as referred in Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014

(xx) 'Foreign Portfolio Investor (FPI)' means a person registered in accordance with the provisions of Securities Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014.

Explanation: Any Foreign Institutional Investor (FII) or a sub account registered under the Securities Exchange Board of India (Foreign Institutional Investors) Regulations, 1995 and holding a valid certificate of registration from Securities and Exchange Board of India shall be deemed to be a FPI till the expiry of the block of three years from the enactment of the Securities Exchange Board of India (FPI) Regulations, 2014.

(xxi) 'Government approval' means approval from the erstwhile Secretariat for Industrial Assistance (SIA), Department of Industrial Policy and Promotion, Government of India and/ or the erstwhile Foreign Investment Promotion Board (FIPB) and/ or any of the ministry/ department of the Government of India as the case may be;

(xxii) 'Group company' means two or more enterprises which, directly or indirectly, are in a position to (a) exercise 26 percent, or more of voting rights in other enterprise; or (b) appoint more than 50 percent, of members of board of directors in the other enterprise;

(xxiii) 'Indian company' means a company incorporated in India and registered under the Companies Act, 2013;

(xxiv) 'Indian Depository Receipts (IDRs)' means any instrument in the form of a depository receipt created by a Domestic Depository in India and authorised by a company incorporated outside India making an issue of such depository receipts;

(xxv) 'Indian entity'shall mean an Indian company or an LLP;

(xxvi) '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;

(xxvii) 'Investment' means to subscribe, acquire, hold or transfer any security or unit issued by a person resident in India;

Explanation:

(a) This will include to acquire, hold or transfer depository receipts issued outside India, the underlying of which is a security issued by a person resident in India.

(b) For the purpose of LLP, investment shall mean capital contribution or acquisition/ transfer of profit shares.

(xxviii) 'Investment on repatriation basis' means an investment, the sale/ maturity proceeds of which are, net of taxes, eligible to be repatriated out of India, and the expression 'Investment on nonrepatriation basis', shall be construed accordingly;

(xxix) 'Investment Vehicle' means an entity registered and regulated under relevant regulations framed by Securities and Exchange Board of India or any other authority designated for the purpose and shall include Real Estate Investment Trusts (REITs) governed by the Securities and Exchange Board of India (REITs) Regulations, 2014, Infrastructure Investment Trusts (InvIts) governed by the Securities and Exchange Board of India (InvIts) Regulations, 2014 and Alternative Investment Funds (AIFs) governed by the Securities and Exchange Board of India (AIFs) Regulations, 2012;

(xxx) 'Limited Liability Partnership (LLP)' means a partnership formed and registered under the Limited Liability Partnership Act, 2008;

(xxxi) 'Listed Indian Company' means an Indian company which has any of its capital instruments listed on a recognized stock exchange in India and the expression 'Unlisted Indian Company' shall be construed accordingly;

(xxxii) '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.

(xxxiii) 'NRE account' means a Non-Resident External account maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016;

(xxxiv) 'NRO account' means a Non-Resident Ordinary account maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016;

(xxxv) 'Non-Resident Indian (NRI)' means an individual resident outside India who is citizen of India;

(xxxvi) 'Overseas Citizen of India (OCI)' means an individual resident outside India who is registered as an Overseas Citizen of India Cardholder under Section 7(A) of the Citizenship Act, 1955;

(xxxvii) 'Resident Indian citizen' means an individual who is a person resident in India and is citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955;

(xxxviii)'Secretariat for Industrial Assistance' means Secretariat for Industrial Assistance in the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India;

(xxxix) 'Sectoral cap' means the maximum investment including both foreign investment on a repatriation basis by persons resident outside India in capital instruments of a company or the capital of an LLP, as the case may be, and indirect foreign investment, unless provided otherwise. This shall be the composite limit for the Indian investee entity;

Explanation:

(a) FCCBs and DRs having underlying of instruments being in the nature of debt shall not be included in the sectoral cap.

(b) Any equity holding by a person resident outside India resulting from conversion of any debt instrument under any arrangement shall be reckoned under the sectoral cap.

(xl) 'SNRR account' means a Special Non-Resident Rupee account maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016;

(xli) 'Startup' means an entity which complies with the conditions laid down in Notification No. G.S.R 180(E) dated February 17, 2016 issued by Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India;

(xlii) 'Startup company' means a private company incorporated under the Companies Act, 2013 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, Government of India and complies with the conditions laid down by it;

(xliii) 'Sweat equity shares' means sweat equity shares as defined under the Companies Act, 2013;

(xliv) 'Transferable Development Rights (TDR)' shall have the same meaning as assigned to it in the Regulations made under sub-section (2) of section 6 of the Act;

(xlv) 'Unit' means beneficial interest of an investor in an investment vehicle.

(xlvi) 'Venture Capital Fund' means a fund established in the form of a trust, a company including a body corporate and registered under the Securities and Exchange Board of India (Venture Capital Fund) Regulations, 1996;

(xlvii) The words and expressions used but not defined in these Regulations shall have the same meanings respectively assigned to them in the Act.

3. Restriction on investment by a person resident outside India

Save as otherwise provided in the Act, or rules or regulations made thereunder, no person resident outside India shall make any investment in India.

Provided that an investment made in accordance with the Act or the rules or the regulations framed thereunder and held on the date of commencement of these Regulations, shall be deemed to have been made under these Regulations and shall accordingly be governed by these Regulations.

Provided further that the Reserve Bank may, on an application made to it and for sufficient reasons, permit a person resident outside India to make any investment in India subject to such conditions as may be considered necessary.

4. Restriction on receiving investment

Save as otherwise provided in the Act, or rules or regulations made thereunder, an Indian entity or an investment vehicle, or a venture capital fund or a Firm or an Association of Persons or a proprietary concern shall not receive any investment in India from a person resident outside India or record such investment in its books.

Provided that the Reserve Bank may, on an application made to it and for sufficient reasons, permit an Indian entity or an investment vehicle, or a venture capital fund or a Firm or an Association of Persons or a proprietary concern to receive any investment in India from a person resident outside India or to record such investment subject to such conditions as may be considered necessary.

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5. Permission for making investment by a person resident outside India

Unless otherwise specified in these Regulations or the relevant Schedules, any investment made by a person resident outside India shall be subject to the entry routes, sectoral caps or the investment limits, as the case may be, and the attendant conditionalities for such investment as laid down in these Regulations. A person resident outside India may make investment as under:

(1) A person resident outside India may subscribe, purchase or sell capital instruments of an Indian company in the manner and subject to the terms and conditions specified in Schedule 1.

Provided that a person who is a citizen of Bangladesh or Pakistan or is an entity incorporated in Bangladesh or Pakistan cannot purchase capital instruments without the prior Government approval.

Provided further, a person who is 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.

Note: Issue/ transfer of 'participating interest/ right' in oil fields by Indian companies to a person resident outside India would be treated as foreign investment and shall comply with the conditions laid down in Schedule 1.

(2) A Foreign Portfolio Investor (FPI) may purchase or sell capital instruments of a listed Indian company on a recognised stock exchange in India in the manner and subject to the terms and conditions specified in Schedule 2.

(3) A Non- Resident Indian or an Overseas Citizen of India may on repatriation basis purchase or sell capital instruments of a listed Indian company on a recognised stock exchange in India, in the manner and subject to the terms and conditions specified in Schedule 3.

(4) A Non- Resident Indian or an Overseas Citizen of India may, on non-repatriation basis, purchase or sell capital instruments of an Indian company or purchase or sell units or contribute to the capital of a LLP or a firm or proprietary concern, in the manner and subject to the terms and conditions specified in Schedule 4.

(5) A person resident outside India, permitted for the purpose by the Reserve Bank in consultation with Central Government, may purchase or sell securities other than capital instruments in the manner and subject to the terms and conditions specified in Schedule 5.

Note: A Foreign Portfolio Investor or a Non-Resident Indian (NRI) or an Overseas Citizen of India (OCI) may trade or invest in all exchange traded derivative contracts approved by Securities and Exchange Board of India

from time to time subject to the limits prescribed by Securities and Exchange Board of India and conditions specified in Schedule 5

(6) A person resident outside India, other than a citizen of Bangladesh or Pakistan or an entity incorporated in Bangladesh or Pakistan, may invest, either by way of capital contribution or by way of acquisition/ transfer of profit shares of an LLP, in the manner and subject to the terms and conditions as specified in Schedule 6.

(7) A Foreign Venture Capital Investor may make investment in the manner and subject to the terms and conditions specified in Schedule 7.

(8) A person resident outside India, other than a citizen of Bangladesh or Pakistan or an entity incorporated in Bangladesh or Pakistan, may invest in units of an Investment Vehicle, in the manner and subject to the terms and conditions specified in Schedule 8.

(9) A person resident outside India may invest in the Depository Receipts (DRs) issued by foreign depositories against eligible securities in the manner and subject to the terms and conditions as specified in Schedule 9.

(10) A Foreign Portfolio Investor or Non- Resident Indian or an Overseas Citizen of India may purchase, hold or sell Indian Depository Receipts (IDRs) of companies resident outside India and issued in the Indian capital market, in the manner and subject to the terms and conditions specified in Schedule 10.

6. Acquisition through a rights issue or a bonus issue

A person resident outside India and having investment in an Indian company may make investment in capital instruments (other than share warrants) issued by such company as a rights issue or a bonus issue provided that:

(1) The offer made by the Indian company is in compliance with the provisions of the Companies Act, 2013;

(2) Such issue shall not result in a breach of the sectoral cap applicable to the company;

(3) The shareholding on the basis of which the rights issue or the bonus issue has been made must have been acquired and held as per the provisions of these Regulations;

(4) In case of a listed Indian company, the rights issue to persons resident outside India shall be at a price determined by the company;

(5) In case of an unlisted Indian company, the rights issue to persons resident outside India shall not be at a price less than the price offered to persons resident in India.

(6) Such investment made through rights issue or bonus issue shall be subject to the conditions as are applicable at the time of such issue.

(7) The amount of consideration shall be paid as inward remittance from abroad through banking channels or out of funds held in NRE/ FCNR(B) account maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016.

Note: Where the original investment has been made on a non-repatriation basis, the amount of consideration may also be paid by debit to the NRO account maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016

Provided an individual who is a person resident outside India exercising a right which was issued when he/ she was a person resident in India shall hold the capital instruments (other than share warrants) so acquired on exercising the option on a non-repatriation basis.

Explanation: The above conditions shall also be applicable in case a person resident outside India makes investment in capital instruments (other than share warrants) issued by an Indian company as a rights issue that are renounced by the person to whom it was offered.

7. Issue of shares under Employees Stock Options Scheme to persons resident outside India

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:

(1) The scheme has been drawn either in terms of regulations issued under the Securities and 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;

(2) The "employee's stock option"/ "sweat equity shares" so issued under the applicable rules/ regulations are in compliance with the sectoral cap applicable to the said company;

(3) Issue of "employee's stock option"/ "sweat equity shares" in a company where investment by a person resident outside India is under the approval route shall require prior Government approval. Issue of "employee's stock option"/ "sweat equity shares" to a citizen of Bangladesh/ Pakistan shall require prior Government approval.

Provided an individual who is a person resident outside India exercising an option which was issued when he/ she was a person resident in India shall hold the shares so acquired on exercising the option on a non-repatriation basis.

8. Issue of Convertible Notes by an Indian startup company

(1) 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.

(2) A startup company, engaged in a sector where investment by a person resident outside India requires Government approval, may issue convertible notes to a person resident outside India only with such approval. Further, issue of equity shares against such convertible notes shall be in compliance with the entry route, sectoral caps, pricing guidelines and other attendant conditions for foreign investment.

(3) 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. Repayment or sale proceeds may be remitted outside India or credited to NRE/ FCNR (B) account maintained by the person concerned in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016.

(4) A NRI or an OCI may acquire convertible notes on non-repatriation basis in accordance with Schedule 4 of these Regulations.

(5) 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 entry routes and pricing guidelines as prescribed for capital instruments.

9. Merger or demerger or amalgamation of Indian companies

(1) Where a Scheme of merger or amalgamation of two or more Indian companies or a reconstruction by way of demerger or otherwise of an Indian company, has been approved by National Company Law Tribunal (NCLT)/ Competent Authority, the transferee company or the new company, as the case may be, may issue capital instruments to the existing holders of the transferor company resident outside India, subject to the following conditions, namely:

(a) The transfer or issue is in compliance with the entry routes, sectoral caps or investment limits, as the case may be, and the attendant conditionalities of investment by a person resident outside India;

Provided that where the percentage is likely to breach the Sectoral caps or the attendant conditionalities, the transferor company or the transferee or new company may obtain necessary approvals from the Central Government.

(b) The transferor company or the transferee company or the new company shall not engage in any sector prohibited for investment by a person resident outside India; and

(2) Where a Scheme of Arrangement for an Indian company has been approved by National Company Law Tribunal (NCLT)/ Competent Authority , the Indian company may issue non-convertible redeemable preference shares or non-convertible redeemable debentures out of its general reserves by way of distribution as bonus to the shareholders resident outside India, subject to the following conditions, namely:

(a) the original investment made in the Indian company by a person resident outside India is in accordance with these Regulations and the conditions specified in the relevant Schedule;

(b) the said issue is in accordance with the provisions of the Companies Act, 2013 and the terms and conditions, if any, stipulated in the scheme approved by National Company Law Tribunal (NCLT)/ Competent Authority have been complied with;

(c) the Indian company shall not engage in any activity/ sector in which investment by a person resident outside India is prohibited.

10. Transfer of capital instruments of an Indian company by or to a person resident outside India

A person resident outside India holding capital instruments of an Indian company or units in accordance with these Regulations or a person resident in India, may transfer such capital instruments or units so held by him in compliance with the conditions, if any, specified in the respective Schedules of these Regulations and subject to the terms and conditions specified hereunder;

(1) A person resident outside India, not being a non-resident Indian or an overseas citizen of India or an erstwhile overseas corporate body may transfer by way of sale or gift the capital instruments of an Indian company or units held by him to any person resident outside India;

Explanation: It shall also include transfer of capital instruments of an Indian company pursuant to liquidation, merger, de-merger and amalgamation of entities/ companies incorporated or registered outside India

Provided that

(i) prior Government approval shall be obtained for any transfer in case the company is engaged in a sector which requires Government approval.

(ii) where the person resident outside India is an FPI and the acquisition of capital instruments made under Schedule 2 of these regulations has resulted in a breach of the applicable aggregate FPI limits or sectoral limits, the FPI shall sell such capital instruments to a person resident in India eligible to hold such instruments within the time stipulated by Reserve Bank in consultation with the Central Government. The breach of the said aggregate or sectoral limit on account of such acquisition for the period between the acquisition and sale, provided the sale is within the prescribed time limit, shall not be reckoned as a contravention under these Regulations. The guidelines issued by Securities and Exchange Board of India in this regard shall be applicable.

(2) An NRI or an OCI holding capital instruments of an Indian company or units on repatriation basis may transfer the same by way of sale or gift to any person resident outside India;

Provided that

(i) prior Government approval shall be obtained for any transfer in case the company is engaged in a sector which requires Government approval.

(ii) where the acquisition of capital instruments by an NRI or an OCI under the provisions of Schedule 3 of these regulations has resulted in a breach of the applicable aggregate NRI/ OCI limit or sectoral limits, the NRI or the OCI shall sell such capital instruments to a person resident in India eligible to hold such instruments within the time stipulated by Reserve Bank in consultation with the Central Government. The breach of the said aggregate or sectoral limit on account of such acquisition for the period between the acquisition and sale, provided the sale is within the prescribed time, shall not be reckoned as a contravention under these Regulations.

(3) A person resident outside India, holding capital instruments of an Indian company or units in accordance with these Regulations may transfer the same to a person resident in India by way of sale/ gift or may sell the same on a recognised stock exchange in India in the manner prescribed by Securities and Exchange Board of India;

Provided that

(i) the transfer by way of sale shall be in compliance with and subject to the adherence to pricing guidelines, documentation and reporting requirements for such transfers as may be specified by Reserve Bank from time to time;

(ii) where the capital instruments are held by the person resident outside India on a non-repatriable basis, conditions at proviso (i) above shall not apply

(4) A person resident in India holding capital instruments of an Indian company or units, or an NRI or an OCI or an eligible investor under Schedule 4 of these Regulations, holding capital instruments of an Indian company or units on a non-repatriation basis, may transfer the same to a person resident outside India by way of sale, subject to the adherence to entry routes, sectoral caps/ investment limits, pricing guidelines and other attendant conditions as applicable for investment by a person resident outside India and documentation and reporting requirements for such transfers as may be specified by Reserve Bank from time to time;

Provided the entry routes, sectoral caps/ investment limits, pricing guidelines and other attendant conditions shall not apply in case the transfer is to an NRI or an OCI or an eligible investor under Schedule 4 of these Regulations acquiring such investment on non-repatriation basis.

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(5) A person resident in India holding capital instruments or units of an Indian company or an NRI or an OCI an eligible investor under Schedule 4 of these Regulations holding capital instruments or units of an Indian company on a non-repatriation basis may transfer the same to a person resident outside India by way of gift with the prior approval of the Reserve Bank, in the manner prescribed, and subject to the following conditions:

(a) The donee is eligible to hold such a security under relevant schedules of these Regulations;

(b) The gift does not exceed 5 percent of the paid up capital of the Indian company/ each series of debentures/ each mutual fund scheme;

Explanation: The 5 percent will be on cumulative basis by a single person to another single person

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

(d) The donor and the donee shall be 'relatives' within the meaning in section 2(77) of the Companies Act, 2013;

(e) The value of security to be transferred by the donor together with any security transferred to any person residing outside India as gift during the financial year does not exceed the rupee equivalent of USD50,000;

(f) Such other conditions as considered necessary in public interest by the Reserve Bank;

(6) An NRI or an OCI or an eligible investor under Schedule 4 of these Regulations holding capital instruments of an Indian company or units on a non-repatriation basis, may transfer the same by way of gift to an NRI or an OCI or an eligible investor under Schedule 4 of these Regulations who shall hold it on a non-repatriable basis;

(7) A person resident outside India holding capital instruments of an Indian company containing an optionality clause in accordance with these Regulations and exercising the option/ right, may exit without any assured return, subject to the pricing guidelines prescribed in these Regulations and a minimum lock-in period of one year or minimum lock-in period as prescribed in these Regulations, whichever is higher;

(8) An erstwhile OCB may transfer capital instruments subject to directions issued by the Reserve Bank from time to time in this regard.

Explanation: 'Overseas Corporate Body (OCB)' means an entity derecognized through Foreign Exchange Management [Withdrawal of General Permission to Overseas Corporate Bodies (OCBs)] Regulations, 2003;

(9) In case of transfer of capital instruments between a person resident in India and a person resident outside India, an amount not exceeding twenty five percent of the total consideration

(a) can be paid by the buyer on a deferred basis within a period not exceeding eighteen months from the date of the transfer agreement; or

(b) can be settled through an escrow arrangement between the buyer and the seller for a period not exceeding eighteen months from the date of the transfer agreement; or

(c) can be indemnified by the seller for a period not exceeding eighteen months from the date of the payment of the full consideration, if the total consideration has been paid by the buyer to the seller.

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

(10) In case of transfer of capital instruments between a person resident in India and a person resident outside India, a person resident outside India may open an Escrow account in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016. Such Escrow account may be funded by way of inward remittance through banking channels and/ or by way of guarantee issued by an authorized dealer bank, subject to terms and conditions as specified in the Foreign Exchange Management (Guarantees) Regulations, 2000.

(11) The pricing guidelines prescribed in these Regulations shall not be applicable for any transfer by way of sale done in accordance with Securities and Exchange Board of India regulations where the pricing is prescribed by Securities and Exchange Board of India.

(12) The transfer of capital instruments of an Indian company or units of an Investment Vehicle by way of pledge is subject to the following terms and conditions:

(a) Any person being a promoter of a company registered in India (borrowing company), which has raised external commercial borrowing (ECB) in compliance with the Foreign Exchange Management (Borrowing and Lending in Foreign Exchange) Regulations, 2000 may pledge the shares of the borrowing company or

that of its associate resident companies for the purpose of securing the external commercial borrowing (ECB) raised by the borrowing company subject to the following conditions:

(i) the period of such pledge shall be co-terminus with the maturity of the underlying external commercial borrowing;

(ii) in case of invocation of pledge, transfer shall be in accordance with these Regulations and directions issued by the Reserve Bank;

(iii) the Statutory Auditor has certified that the borrowing company will utilise/ has utilised the proceeds of the external commercial borrowing for the permitted enduse/s only;

(iv) no person shall pledge any such share unless a no-objection has been obtained from an Authorised Dealer bank that the above conditions have been complied with.

(b) Any person resident outside India holding capital instruments in an Indian company or units of an investment vehicle may pledge the capital instruments or units, as the case may be:

(i) in favour of a bank in India to secure the credit facilities being extended to such Indian company for bona fide purposes,

(ii) in favour of an overseas bank to secure the credit facilities being extended to such person or a person resident outside India who is the promoter of such Indian company or the overseas group company of such Indian company,

(iii) in favour of a Non-Banking Financial Company registered with the Reserve Bank to secure the credit facilities being extended to such Indian company for bona fide purposes,

(iv) subject to the Authorised Dealer bank satisfying itself of the compliance of the conditions stipulated by the Reserve Bank in this regard.

(c) In case of invocation of pledge, transfer of capital instruments of an Indian company or units shall be in accordance with entry routes, sectoral caps/ investment limits, pricing guidelines and other attendant conditions at the time of creation of pledge.

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11. Pricing Guidelines

Unless otherwise specified in these Regulations or the relevant Schedules, the price of capital instruments of an Indian company -

(1) issued by such company to a person resident outside India shall not be less than:

(a) the price worked out in accordance with the relevant Securities and Exchange Board of India guidelines in case of a listed Indian company or in case of a company going through a delisting process as per the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009;

(b) the valuation of capital instruments done as per any internationally accepted pricing methodology for valuation on an arm's length basis duly certified by a Chartered Accountant or a Securities and Exchange Board of India registered Merchant Banker or a practicing Cost Accountant, in case of an unlisted Indian Company.

Explanation: in case of convertible capital instruments, the price/ conversion formula of the instrument should be determined upfront at the time of issue of the instrument. 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 these Regulations.

(2) transferred from a person resident in India to a person resident outside India shall not be less than:

(a) the price worked out in accordance with the relevant Securities and Exchange Board of India guidelines in case of a listed Indian company;

(b) the price at which a preferential allotment of shares can be made under the Securities and Exchange Board of India Guidelines, as applicable, in case of a listed Indian company or in case of a company going through a delisting process as per the Securities and Exchange Board of India (Delisting of Equity Shares) regulations, 2009;

(c) the valuation of capital instruments done as per any internationally accepted pricing methodology for valuation on an arm's length basis duly certified by a Chartered Accountant or a Securities and Exchange

Board of India registered Merchant Banker or a practicing Cost Accountant, in case of an unlisted Indian Company.

(3) transferred by a person resident outside India to a person resident in India shall not exceed:

(a) the price worked out in accordance with the relevant Securities and Exchange Board of India guidelines in case of a listed Indian company;

(b) the price at which a preferential allotment of shares can be made under the Securities and Exchange Board of India Guidelines, as applicable, in case of a listed Indian company or in case of a company going through a delisting process as per the Securities and Exchange Board of India (Delisting of Equity Shares) regulations, 2009;

Provided that the price is determined for such duration as specified in the Securities and Exchange Board of India Guidelines, preceding the relevant date, which shall be the date of purchase or sale of shares;

(c) the valuation of capital instruments done as per any internationally accepted pricing methodology for valuation on an arm's length basis duly certified by a Chartered Accountant or a Securities and Exchange Board of India registered Merchant Banker or a practicing Cost Accountant, in case of an unlisted Indian Company.

Explanation: The guiding principle would be that the person resident outside India is not guaranteed any assured exit price at the time of making such investment/ agreement and shall exit at the price prevailing at the time of exit.

(4) in case of swap of capital instruments, subject to the condition that irrespective of the amount, valuation involved in the swap arrangement will have to be made by a Merchant Banker registered with Securities and Exchange Board of India or an Investment Banker outside India registered with the appropriate regulatory authority in the host country.

(5) where shares in an Indian company are issued to a person resident outside India in compliance with the provisions of the Companies Act, 2013, by way of subscription to Memorandum of Association, such investments shall be made at face value subject to entry route and sectoral caps.

(6) in case of share warrants, their pricing and the price/ conversion formula shall be determined upfront.

Provided these pricing guidelines shall not be applicable for investment in capital instruments by a person resident outside India on non-repatriation basis.

12. Taxes and Remittance of sale proceeds

12.1 Taxes

All transaction under these regulations shall be undertaken through banking channels in India and subject to payment of applicable taxes and other duties/ levies in India.

12.2 Remittance of sale proceeds

(1) No remittance of sale proceeds of an Indian security held by a person resident outside India shall be made otherwise than in accordance with these Regulations and the conditions specified in the relevant Schedule.

(2) An authorised dealer may allow the remittance of sale proceeds of a security (net of applicable taxes) to the seller of shares resident outside India -

Provided -

(i) the security was held by the seller on repatriation basis; and

(ii) either the security has been sold in compliance with the pricing guidelines or the Reserve Bank's approval has been obtained in other cases for sale of the security and remittance of the sale proceeds thereof;

13. Reporting requirements

13.1 The reporting requirement for any Investment in India by a person resident outside India shall be as follows:

(1) **Advance Remittance Form (ARF):** An Indian company which has received amount of consideration for issue of capital instruments and where such issue is reckoned as Foreign Direct Investment for the purpose of these regulations, shall report such receipt (including each upfront/ call payment) in ARF to the Regional Office concerned of the Reserve Bank, not later than 30 days from the date of receipt.

(2) **Form Foreign Currency-Gross Provisional Return (FC-GPR):** An Indian company issuing capital instruments to a person resident outside India and where such issue is reckoned as Foreign Direct Investment, for the purpose of these regulations, shall report such issue in Form FC-GPR to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than thirty days from the date of issue of capital instruments. Issue of 'participating interest/ rights' in oil fields shall be reported Form FC-GPR.

(3) **Annual Return on Foreign Liabilities and Assets (FLA):** An Indian company which has received FDI or an LLP which has received investment by way of capital contribution in the previous year(s) including the current year, should submit form FLA to the Reserve Bank on or before the 15th day of July of each year.

Explanation: Year for this purpose shall be reckoned as April to March.

(4) **Form Foreign Currency-Transfer of Shares (FC-TRS)**:

(a) Form FCTRS shall be filed for transfer of capital instruments in accordance with these Regulations between:

(1) a person resident outside India holding capital instruments in an Indian company on a repatriable basis and person resident outside India holding capital instruments on a non-repatriable basis; and

(2) a person resident outside India holding capital instruments in an Indian company on a repatriable basis and a person resident in India,

The onus of reporting shall be on the resident transferor/ transferee or the person resident outside India holding capital instruments on a non-repatriable basis, as the case may be.

Note: Transfer of capital instruments in accordance with these Regulations by way of sale between a person resident outside India holding capital instruments on a non-repatriable basis and person resident in India is not required to be reported in Form FC-TRS.

(b) Transfer of capital instruments on a recognised stock exchange by a person resident outside India shall be reported by such person in Form FC-TRS to the Authorised Dealer bank.

(c) Transfer of capital instruments prescribed in regulation 10(9), shall be reported in Form FC-TRS to the Authorised Dealer on receipt of every tranche of payment. The onus of reporting shall be on the resident transferor/ transferee.

(d) Transfer of 'participating interest/ rights' in oil fields shall be reported Form FC-TRS

The form FCTRS shall be filed with the Authorised Dealer bank within sixty days of transfer of capital instruments or receipt/ remittance of funds whichever is earlier.

(5) **Form Employees' Stock Option (ESOP)**: An Indian company issuing employees' stock option to persons resident outside India who are its employees/ directors or employees/ directors of its holding company/ joint venture/ wholly owned overseas subsidiary/ subsidiaries shall submit Form-ESOP to the Regional Office concerned of the Reserve Bank under whose jurisdiction the registered office of the company operates, within 30 days from the date of issue of employees' stock option.

(6) **Form Depository Receipt Return (DRR):** The Domestic Custodian shall report in Form DRR, to the Reserve Bank, the issue/ transfer of depository receipts issued in accordance with the Depository Receipt Scheme, 2014 within 30 days of close of the issue.

(7) **Form LLP (I):** A Limited Liability Partnerships (LLP) receiving amount of consideration for capital contribution and acquisition of profit shares shall submit Form LLP (I) to the Regional Office of the Reserve Bank under whose jurisdiction the Registered Office of the Limited Liability Partnership is situated, within 30 days from the date of receipt of the amount of consideration

(8) **Form LLP (II):** The disinvestment/ transfer of capital contribution or profit share between a resident and a non-resident (or vice versa) shall be reported in Form LLP(II) to the Authorised Dealer Bank within 60 days from the date of receipt of funds.

(9) **LEC(FII):** The Authorised Dealer Category I banks shall report to the Reserve Bank in Form LEC (FII) the purchase/ transfer of capital instruments by FPIs on the stock exchanges in India.

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(10) **LEC(NRI)**: The Authorised Dealer Category I banks shall report to the Reserve Bank in Form LEC (NRI) the purchase/ transfer of capital instruments by Non-Resident Indians or Overseas Citizens of India stock exchanges in India.

(11) **Downstream Investment**: An Indian company making downstream investment in another Indian company which is considered as indirect foreign investment for the investee company in terms of these Regulations, shall notify the Secretariat for Industrial Assistance, DIPP and file Form DI within 30 days of such investment and, even if capital instruments have not been allotted along with the modality of investment in new/existing ventures (with/without expansion programme);

(12) **Form Convertible Notes (CN)**:

(a) The Indian startup company issuing Convertible Notes to a person resident outside India shall report such inflows to the Authorised Dealer bank in Form CN within 30 days of such issue.

(b) A person resident in India, who may be a transferor or transferee of Convertible Notes issued by an Indian startup company shall report such transfers to or from a person resident outside India, as the case may be, in Form CN to the Authorised Dealer bank within 30 days of such transfer.

(c) The Authorised Dealer bank shall submit consolidated statements to the Reserve Bank.

Provided, the format, periodicity and manner of submission of such reporting shall be as prescribed by Reserve Bank in this regard.

Provided further that unless otherwise specifically stated in these regulations all reporting shall be made through or by an Authorised Dealer bank, as the case may be.

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13.2 Delays in reporting

The person/ entity responsible for filing the reports provided in regulation 13.1 above shall be liable for payment of late submission fee, as may be decided by the Reserve Bank, in consultation with the Central Government, for any delays in reporting.

14. Downstream Investment

(1) For the purpose of this regulation:

(a) 'Ownership of an Indian company' shall mean beneficial holding of more than 50 percent of the capital instruments of such company. 'Ownership of an LLP' shall mean contribution of more than 50 percent in its capital and having majority profit share.

(b) 'Company owned by resident Indian citizens' shall mean an Indian company where ownership is vested in resident Indian citizens and/ or Indian companies, which are ultimately owned and controlled by resident Indian citizens. An 'LLP owned by resident Indian citizens' shall mean an LLP where ownership is vested in resident Indian citizens and/ or Indian entities, which are ultimately owned and controlled by resident Indian citizens.

(c) 'Company owned by persons resident outside India' shall mean an Indian company that is owned by persons resident outside India. An 'LLP owned by persons resident outside India' shall mean an LLP that is owned by persons resident outside India.

(d) 'Control' shall mean the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreement or voting agreement. For the purpose of LLP, 'Control' shall mean the right to appoint majority of the designated partners, where such designated partners, with specific exclusion to others, have control over all the policies of an LLP.

(e) 'Company controlled by resident Indian citizens' means an Indian company, the control of which is vested in resident Indian citizens and/ or Indian companies which are ultimately owned and controlled by resident Indian citizens. An 'LLP controlled by resident Indian citizens' shall mean an LLP, the control of which is vested in resident Indian citizens and/ or Indian entities, which are ultimately owned and controlled by resident Indian citizens.

(f) 'Company controlled by persons resident outside India' shall mean an Indian company that is controlled by persons resident outside India. An 'LLP controlled by persons resident outside India' shall mean an LLP that is controlled by persons resident outside India.

(g) 'Downstream Investment' shall mean investment made by an Indian entity or an Investment Vehicle in the capital instruments or the capital, as the case may be, of another Indian entity:

(h) 'Holding Company' shall have the same meaning as assigned to it under Companies Act, 2013;

(i) 'Indirect Foreign Investment' means downstream investment received by an Indian entity from:

(i) another Indian entity (IE) which has received foreign investment and (i) the IE is not owned and not controlled by resident Indian citizens or (ii) is owned or controlled by persons resident outside India; or

(ii) an investment vehicle whose sponsor or manager or investment manager (i) is not owned and not controlled by resident Indian citizens or (ii) is owned or controlled by persons resident outside India

Provided no person resident in India other than an Indian entity can receive Indirect Foreign Investment.

(j) 'Total Foreign Investment' means the total of foreign investment and indirect foreign investment and the same will be reckoned on a fully diluted basis;

(k) 'Strategic downstream investment' means investment by banking companies incorporated in India in their subsidiaries, joint ventures and associates.

(2) Indian entity which has received indirect foreign investment shall comply with the entry route, sectoral caps, pricing guidelines and other attendant conditions as applicable for foreign investment.

Explanation: Downstream investment by an LLP not owned and not controlled by resident Indian citizens or owned or controlled by persons resident outside India is allowed in an Indian company operating in sectors where foreign investment up to 100 percent is permitted under automatic route and there are no FDI linked performance conditions.

(3) With effect from 31st day of July, 2012, downstream investment/s made under Corporate Debt Restructuring (CDR), or other loan restructuring mechanism, or in trading book, or for acquisition of shares due to defaults in loans, by a banking company, as defined in clause (c) of section 5 of the Banking Regulation Act, 1949, incorporated in India, which is not owned and not controlled by resident Indian citizens or owned or controlled by persons resident outside India, shall not count towards indirect foreign investment. However, their strategic downstream investment shall be counted towards indirect foreign investment for the company in which such investment is being made.

(4) Guidelines for calculating total foreign investment in Indian companies:

(a) Any equity holding by a person resident outside India resulting from conversion of any debt instrument under any arrangement shall be reckoned for total foreign investment;

(b) FCCBs and DRs having underlying of instruments in the nature of debt, shall not be reckoned for total foreign investment;

(c) The methodology for calculating total foreign investment would apply at every stage of investment in Indian companies and thus in each and every Indian company;

(d) For the purpose of downstream investment, the portfolio investment held as on March 31 of the previous financial year in the Indian company making the downstream investment shall be considered for computing its total foreign investment;

(e) The indirect foreign investment received by a wholly owned subsidiary of an Indian company will be limited to the total foreign investment received by the company making the downstream investment;

(5) Downstream investment made into Indian companies will be subject to the following conditions:

(a) The downstream investment should have the approval of the Board of Directors as also a Shareholders' Agreement, if any;

(b) For the purpose of downstream investment, the Indian entity making the downstream investment shall bring in requisite funds from abroad and not use funds borrowed in the domestic markets. Downstream investments can be made through internal accruals. For this purpose, internal accruals will mean profits transferred to reserve account after payment of taxes.

Further raising of debt and its utilisation shall be in compliance with the Act, rules or regulations made thereunder.

(c) Capital instrument of an Indian company held by another Indian company which has received foreign investment and is not owned and not controlled by resident Indian citizens or is owned or controlled by persons resident outside India may be transferred to:

(i) A person resident outside India, subject to reporting requirements in Form FCTRS;

(ii) A person resident in India subject to adherence to pricing guidelines.

(iii) An Indian company which has received foreign investment and is not owned and not controlled by resident Indian citizens or owned or controlled by persons resident outside India.

(d) The first level Indian company making downstream investment shall be responsible for ensuring compliance with the provisions of these regulations for the downstream investment made by it at second level and so on and so forth. Such first level company shall obtain a certificate to this effect from its statutory auditor on an annual basis. Such compliance of these regulations shall be mentioned in the Director's report in the Annual Report of the Indian company. In case statutory auditor has given a qualified report, the same shall be immediately brought to the notice of the Regional Office of the Reserve Bank in whose jurisdiction the Registered Office of the company is located and shall also obtain acknowledgement from the RO.

(e) The provisions at (c) and (d) above shall be construed accordingly for an LLP.

Note: Downstream investment made in accordance with the guidelines in existence prior to February 13, 2009 would not require any modification to conform to these regulations. All other investments, after the said date, would come under the ambit of these regulations. Downstream investments made between February 13, 2009 and June 21, 2013 which is not in conformity with these regulations should have been intimated to the Reserve Bank by October 3, 2013 for treating such cases as compliant with these regulations.

15. Prohibited activities for investment by a person resident outside India

Unless otherwise specifically stated in the Act or the rules or regulations framed thereunder, investment by a person resident outside India is prohibited in:

(1) Lottery Business including Government/ private lottery, online lotteries

(2) Gambling and betting including casinos

(3) Chit funds.

Explanation: The Registrar of Chits or an officer authorised by the state government in this behalf, may, in consultation with the State Government concerned, permit any chit fund to accept subscription from Non-resident Indians and Oveseas Citizens of India who shall be eligible to subscribe, through banking channel and on non- repatriation basis, to such chit funds, without limit subject to the conditions stipulated by the Reserve Bank of India from time to time

(4) Nidhi company

(5) Trading in Transferable Development Rights (TDRs)

(6) Real Estate Business or Construction of Farm Houses.

Explanation: For the purpose of this regulation, “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.

(7) Manufacturing of Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes

(8) Activities/ sectors not open to private sector investment e.g. (I) Atomic energy and (II) Railway operations

(9) 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

16. Permitted sectors, entry routes and sectoral caps for total foreign investment

Unless otherwise specified in these Regulations or the relevant Schedules the entry routes and sectoral caps for the total foreign investment in an Indian entity shall be as follows:

A. Entry Routes

(1) Automatic Route means the entry route through which investment by a person resident outside India does not require the prior Reserve Bank approval or Government approval.

(2) Government Route means the entry route through which investment by a person resident outside India requires prior Government approval. Foreign investment received under this route shall be in accordance with the conditions stipulated by the Government in its approval.

(3) Aggregate Foreign Portfolio Investment up to 49 percent of the paid-up capital on a fully diluted basis or the sectoral/ statutory cap, whichever is lower, will not require Government approval or compliance of sectoral conditions as the case may be, if such investment does not result in transfer of ownership and control of the resident Indian company from resident Indian citizens or transfer of ownership or control to persons resident outside India. Other investments by a person resident outside India will be subject to conditions of Government approval and compliance of sectoral conditions as laid down in these regulations.

B. Sectoral Caps

SECTOR-SPECIFIC POLICY FOR TOTAL FOREIGN INVESTMENT

(1) Sectoral cap for the following sectors/ activities is the limit indicated against each sector. The total foreign investment shall not exceed the sectoral/ statutory cap.

(2) Foreign investment in the following sectors/ activities is, subject to applicable laws/ regulations, security and other conditionalities

(3) In sectors/ activities not listed below or not prohibited under regulation 15 of these Regulations, foreign investment is permitted up to 100 percent on the automatic route, subject to applicable laws/ regulations, security and other conditionalities.

Provided foreign investment in financial services other than those indicated under serial number "F" below would require prior Government approval.

(4) Wherever there is a requirement of minimum capitalization, it shall include premium received along with the face value of the capital instrument, only when it is received by the company upon issue of such instruments to the person resident outside India. Amount paid by the transferee during post-issue transfer beyond the issue price of the capital instrument, cannot be taken into account while calculating minimum capitalization requirement.

(5) Foreign investment into an Indian company, engaged only in the activity of investing in the capital of other Indian company/ies, will require prior approval of the Government. A core investment company (CIC) will have to additionally follow the Reserve Bank's regulatory framework for CICs.

(6) For undertaking activities which are under automatic route and without FDI linked performance conditions, an Indian company which does not have any operations and also has not made any downstream investment, may receive investment in its capital instruments from persons resident outside India under automatic route. However, approval of the Government will be required for such companies for undertaking activities which are under Government route. As and when such a company commences business or makes downstream investment, it will have to comply with the relevant sectoral conditions on entry route, conditionalities and caps.

(7) The onus of compliance with the sectoral/ statutory caps on such foreign investment and attendant conditions, if any, shall be on the company receiving foreign investment.

SL. No	Sector/ Activity	Sectoral Cap	Entry Route
1.	**Agriculture & Animal Husbandry**		
1.1	(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 and Apiculture; and (d) Services related to agro and allied sectors. **Note: Other than the above, foreign investment is not allowed in any other agricultural sector/ activity.**	100%	Automatic

SL. No	Sector/ Activity	Sectoral Cap	Entry Route
1.2	Other Conditions		
	The term 'under controlled conditions' covers the following: '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.		
2.	**Plantation**		
2.1	(a) Tea sector including tea plantations (b) Coffee plantations (c) Rubber plantations (d) Cardamom plantations (e) Palm oil tree plantations (f) Olive oil tree plantation **Note: Foreign investment is not allowed in any plantation sector/ activity other than those listed above**.	100%	Automatic
2.2	Other Conditions		
	Prior approval of the State Government concerned is required in case of any future land use change.		
3.	**Mining**		
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
3.2	**Coal and Lignite**		
	(a) Coal & Lignite mining for captive consumption by power projects, iron & steel and cement units and other eligible activities permitted under and subject to the provisions of Coal Mines (Nationalization) Act, 1973. (b) Setting up coal processing plants like washeries, subject to the condition that the company shall not do coal mining and shall not sell washed coal or sized coal from its coal processing plants in the open market and shall supply the washed or sized coal to those parties who are supplying raw coal to coal processing plants for washing or sizing.	100%	Automatic
3.3	**Mining and mineral separation of titanium bearing minerals and ores, its value addition and integrated activities**		
	(a) 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
3.4	Other Conditions		
	(a) Foreign investment for separation of titanium bearing minerals & ores will be subject to the following conditions: (i) Value addition facilities are set up within India along with transfer of technology; (ii) 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. (b) Foreign investment 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:** (i) 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. (ii) 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		

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SL. No	Sector/ Activity	Sectoral Cap	Entry Route
	industries within the country. Thus, if with the technology transfer, the objective of this regulation can be achieved, the conditions prescribed at (a)(i) above shall be deemed to be fulfilled.		
4.	**Petroleum & Natural Gas**		
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
4.2	Petroleum refining by the Public Sector Undertakings (PSUs), without any disinvestment or dilution of domestic equity in the existing PSUs.	49%	Automatic
5.	**Manufacturing**	100%	Automatic
5.1	A manufacturer is permitted to sell its products manufactured in India through wholesale and/ or retail, including through e-commerce without Government approval. Notwithstanding the provisions of these regulations on trading sector, 100 percent foreign investment under Government approval route is allowed for trading, including through e-commerce, in respect of food products manufactured and/ or produced in India. Applications for foreign investment in food products retail trading would be processed in the Department of Industrial Policy & Promotion before being considered by the Government for approval.		
6.	**Defence**		
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 route 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.
6.2	Other Conditions		
	(a) Fresh foreign investment within the permitted automatic route, 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. (b) Licence applications will be considered and licences will be given by the Department of Industrial Policy & Promotion, Ministry of Commerce & Industry, in consultation with Ministry of Defence and Ministry of External Affairs. (c) Foreign investment in this sector is subject to security clearance and guidelines of the Ministry of Defence. (d) 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.		
7.	**Broadcasting**		
7.1	Broadcasting Carriage Services		
7.1.1	(a) Teleports (setting up of up-linking HUBs/ Teleports); (b) Direct to Home (DTH); (c) Cable Networks (Multi System Operators (MSOs) operating at National or State or District level and undertaking up-gradation of networks towards digitalization and addressability); (d) Mobile TV; (e) Head-end-in-the Sky Broadcasting Service (HITS)	100%	Automatic
7.1.2	Cable Networks (Other MSOs not undertaking up-gradation of networks towards digitalization and addressability and Local Cable Operators (LCOs)).	100%	Automatic
7.1.3	Note: Infusion of fresh foreign investment for sectors specified in 7.1.1 and 7.1.2 above, beyond 49 percent 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		

SL. No	Sector/ Activity	Sectoral Cap	Entry Route
7.2	Broadcasting Content Services		
7.2.1	Terrestrial Broadcasting FM (FM Radio), subject to such terms and conditions, as specified from time to time, by Ministry of Information and Broadcasting, for grant of permission for setting up of FM Radio stations.	49%	Government
7.2.2	Up-Linking of 'News & Current Affairs' TV Channels	49%	Government
7.2.3	Up-linking of Non-'News & Current Affairs' TV Channels/ Down-linking of TV Channels	100%	Automatic
7.3	Other Conditions		
	(a) Foreign investment in companies engaged in all the afore-stated 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. (b) Foreign investment in the afore-stated broadcasting carriage services will be subject to the terms and conditions as may be specified by the Ministry of Information and Broadcasting, from time to time, in this regard. (c) Licensee shall 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 regulations and public policy. (d) In the l& B sector where the sectoral cap is up to 49 percent, the company should be owned and controlled by resident Indian citizens or Indian companies which are owned and controlled by resident Indian citizens. (i) For this purpose, the equity held by the largest Indian shareholder shall be at least 51 percent 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: (1) 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. (2) In the case of an Indian company, (aa) The Indian company (bb) A group of Indian companies under the same management and ownership control. (3) For this purpose, "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 51percent of the shares. (4) Provided that, in case of a combination of all or any of the entities mentioned in Sub-Clauses (d)(i) 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.		
8.	**Print Media**		
8.1	Publishing of newspaper and periodicals dealing with news and current affairs	26%	Government
8.2	Publication of Indian editions of foreign magazines dealing with news and current affairs	26%	Government
8.2.1	Other conditions		
	(a) '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. (b) Foreign investment shall 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.		
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
8.4	Publication of facsimile edition of foreign newspapers	100%	Government
8.4.1	Other conditions:		
	(a) Foreign investment should be made by the owner of the original foreign newspapers whose facsimile edition is proposed to be brought out in India.		

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SL. No	Sector/ Activity	Sectoral Cap	Entry Route
	(b) 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, 2013. (c) 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.		
9.	**Civil Aviation**		
9.1	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:** (a) "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; (b) "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; (c) "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; (d) "Air Transport Undertaking" means an undertaking whose business includes the carriage by air of passengers or cargo for hire or reward; (e) "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; (f) "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; (g) "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; (h) "Non-Scheduled air transport service" means any service which is not a scheduled air transport service and will include Cargo airlines; (i) "Cargo airlines" would mean such airlines which meet the conditions as given in the Civil Aviation Requirements issued by the Ministry of Civil Aviation; (j) "Seaplane" means an aeroplane capable normally of taking off from and alighting solely on water; (k) "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.		
9.2	Airports		
	(a) Greenfield projects	100%	Automatic
	(b) Existing projects	100%	Automatic
9.3	Air Transport Services		
	(a) (i) Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline (ii) Regional Air Transport Service	49% (100% for NRIs and OCIs)	Automatic
	(b) Non-Scheduled Air Transport Service	100%	Automatic
	(c) Helicopter services/ seaplane services requiring DGCA approval	100%	Automatic
9.4	Other Services under Civil Aviation sector		
	(a) Ground Handling Services subject to sectoral regulations and security clearance	100%	Automatic
	(b) Maintenance and Repair organizations; flying training institutes and technical training institutions	100%	Automatic
9.5	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 make foreign investment in Cargo airlines, helicopter and seaplane services, as per the limits and entry routes mentioned above.		

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SL. No	Sector/ Activity	Sectoral Cap	Entry Route
	(c) Foreign airlines are allowed to invest in the capital of Indian companies, operating scheduled and non-scheduled air transport, services up to the limit 49 percent of the paid up capital of the Indian investee company. Such foreign investment would be subject to the following conditions: (i) It shall be under the Government approval route. (ii) The foreign investment shall comply with the relevant regulations of Securities and Exchange Board of India as well as other applicable rules and regulations. (iii) A Scheduled Operator's Permit can be granted only to a company: a. (1) that is registered and has its principal place of business within India; b. (2) the Chairman and at least two-thirds of the Directors of which are citizens of India; and c. (3) the substantial ownership and effective control of which is vested in Indian citizens. (iv) All foreign nationals likely to be associated with Indian scheduled and non-scheduled air transport services, as a result of such foreign 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 foreign investment shall require clearance from the relevant authority in the Ministry of Civil Aviation. **Note:** (1) The sectoral caps/ entry routes, mentioned at paragraph 9.3(a) and 9.3(b) above, are applicable in the situation where there is no investment by foreign airlines. (2) The dispensation for NRIs and OCIs regarding foreign investment up to 100% shall also be applicable in respect of the investment regime specified at 9.5(c) above. (3) The policy mentioned at 9.5(c) above is not applicable to M/s Air India Limited. (4) The investee company additionally shall have to follow guidelines issued by the concerned ministry of the Central Government.		
10	**Construction Development: Townships, Housing, Built-up infrastructure**		
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
10.2	Other Conditions		
10.2	(a) Each phase of the construction development project would be considered as a separate project. (b) 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. (c) Notwithstanding anything contained at (b) above, a person resident outside India 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 a person resident outside India to another person resident outside India, without repatriation of foreign investment will neither be subject to any lock-in period nor to any government approval. (d) 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. (e) 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. (f) 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. (g) The State Government/ Municipal/ Local Body concerned, which approves the building/ development plans, will monitor compliance of the above conditions by the developer. **Note:** (1) Foreign investment 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). (2) Condition of lock-in period will not apply to Hotels and Tourist Resorts, Hospitals, Special Economic Zones (SEZs), Educational Institutions, Old Age Homes and investment by NRIs/ OCIs. (3) Completion of the project will be determined as per the local bye-laws/ rules and other regulations of State		

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SL. No	Sector/ Activity	Sectoral Cap	Entry Route
	Governments. (4) Foreign investment up to 100 percent under automatic route is permitted in completed projects for operating and managing townships, malls/ shopping complexes and business centres. Consequent to such foreign investment, transfer of ownership and/ or control of the investee company from persons resident in India to persons resident outside India is also permitted. However, there would be a lock-in-period of three years, calculated with reference to each tranche of foreign investment and transfer of immovable property or part thereof is not permitted during this period. (5) "Transfer", in relation to this 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 capital instruments 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. (6) Real estate business' means dealing in land and immovable property with a view to earning profit therefrom 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; Explanation: a. Investment in units of Real Estate Investment Trusts (REITs) registered and regulated under the Securities and Exchange Board of India (REITs) regulations 2014 shall also be excluded from the definition of "real estate business". b. Earning of rent income on lease of the property, not amounting to transfer, will not amount to real estate business. c. Transfer in relation to real estate includes, (i) the sale, exchange or relinquishment of the asset; or (ii) the extinguishment of any rights therein; or (iii) the compulsory acquisition thereof under any law; or (iv) 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 (v) any transaction, by acquiring capital instruments 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.		
11.	**Industrial Parks**	100%	Automatic
11.1	For the purpose of this sector: (a) "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. (b) "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 connectivity to the main railway line, water supply and sewerage, common effluent treatment facility, telecom network, generation and distribution of power, air conditioning. (c) "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 connectivity 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 centre, ambulance and other safety services, training facilities and such other facilities meant for common use of the units located in the Industrial Park. (d) "Allocable area" in the Industrial Park means- (i) in the case of plots of developed land - the net site area available for allocation to the units, excluding the area for common facilities. (ii) in the case of built up space - the floor area and built-up space utilized for providing common facilities. (iii) in the case of a combination of developed land and built-up space - the net site and floor area available for		

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SL. No	Sector/ Activity	Sectoral Cap	Entry Route
	allocation to the units excluding the site area and built-up space utilized for providing common facilities. (e) "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 research and development on bio-technology, pharmaceutical sciences/ life sciences, natural sciences and engineering; business and management consultancy activities; and architectural, engineering and other technical activities.		
11.2	Foreign investment in Industrial Parks would not be subject to the conditionalities applicable for construction development projects etc. spelt out in para 10 above, provided the Industrial Parks meet with the under-mentioned conditions: (a) it would comprise of a minimum of 10 units and no single unit shall occupy more than 50 percent of the allocable area; (b) the minimum percentage of the area to be allocated for industrial activity shall not be less than 66 percent of the total allocable area.		
12.	**Satellites - Establishment and operation**		
	Satellites Establishment and operation, subject to the sectoral guidelines of Department of Space/ ISRO	100%	Government
13.	**Private Security Agencies**	49%	Government
14.	**Telecom services** **(including Telecom Infrastructure Providers Category-I)**		
14.1	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%
14.2	Other Conditions		
	The licensing and security conditions as notified by the Department of Telecommunications (DoT) from time to time, shall be observed by licensee as well as investors except for foreign investment in “Other Service Providers”, which is allowed up to 100 percent under the automatic route.		
15.	**Trading**		
15.1	**Cash and Carry Wholesale Trading/ Wholesale Trading (including sourcing from MSEs)**	100%	Automatic
15.1.1	Definition: (a) Cash and Carry Wholesale trading (WT)/ Wholesale trading, shall mean sale of goods/ merchandise to retailers, industrial, commercial, institutional or other professional business users or to other wholesalers and related subordinated service providers. (b) Wholesale trading shall, 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 shall be the type of customers to whom the sale is made and not the size and volume of sales. Wholesale trading shall include resale, processing and thereafter sale, bulk imports with export/ ex-bonded warehouse business sales and B2B e-Commerce.		
15.1.2	Other Conditions		
	(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 cases of sales to Government, sales made by the wholesaler shall be considered as 'cash and carry wholesale trading/ wholesale trading' with valid business customers, only when WT is made to the following entities: (i) Entities holding sales tax/ VAT registration/ service tax/ excise duty/Goods and Services Tax (GST) 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		

SL. No	Sector/ Activity	Sectoral Cap	Entry Route
	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 fulfil any one of the 4 conditions at (b)(i) to (iv) above.** (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 shall be permitted among companies of the same group. However, such WT to group companies taken together shall not exceed 25 percent 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 and carry trader can undertake single brand retail trading, subject to the conditions mentioned in para 15.3. 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 under these Regulations for wholesale/ cash and carry business and for retail business have to be separately complied with by the respective business arms.		
15.2	**E-Commerce**		
15.2.1	B2B E-commerce activities	100%	Automatic
	Such companies would engage only in Business to Business (B2B) e-commerce and not in retail trading, inter alia implying that existing restrictions on FDI in domestic trading would be applicable to e-commerce as well.		
15.2.2	Market place model of e-commerce	100%	Automatic
15.2.3	Other Conditions:		
	(a) E-commerce' means buying and selling of goods and services including digital products over digital & electronic network; (b) 'E-commerce entity' means a company incorporated under 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; (c) '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; (d) 'Market place 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. (e) 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. (f) Marketplace e-commerce entity will be permitted to enter into transactions with sellers registered on its platform on B2B basis. (g) E-commerce marketplace may provide support services to sellers in respect of warehousing, logistics, order fulfilment, call centre, payment collection and other services. (h) 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. (i) An e-commerce entity will not permit more than 25 percent of the sales value on financial year basis affected through its marketplace from one vendor or their group companies. (j) 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. (k) Payments for sale may be facilitated by the e-commerce entity in conformity with the guidelines issued by the Reserve Bank in this regard. (l) Any warranty/ guarantee of goods and services sold will be the responsibility of the seller. (m) E-commerce entities providing marketplace will not directly or indirectly influence the sale price of goods or services and shall maintain level playing field. (n) Guidelines on cash and carry wholesale trading as given in Sl No. 15.1.2 above shall apply to B2B e-commerce activities. Note: Foreign investment is not permitted in inventory based model of e-commerce.		
15.2.4	Sale of services through e-commerce shall be under automatic route subject to the sector specific conditions,		

SL. No	Sector/ Activity	Sectoral Cap	Entry Route
	applicable laws/ regulations, security and other conditionalities.		
15.3	Single Brand Product Retail Trading Foreign investment in Single Brand Product Retail Trading (SBRT) 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.	100%	Automatic up to 49%; Government route beyond 49%
15.3.1	Other 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 person resident outside India, 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 the Government for cases involving approval. (e) In respect of proposals involving foreign investment beyond 51 percent, sourcing of 30 percent 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. The procurement requirement is to be met in the first instance as an average of five years total value of goods purchased beginning 1st April of the year of the commencement of the business. Thereafter it shall 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) Applications seeking permission of the Government for foreign investment exceeding 49 percent in a company which proposes to undertake single brand retail trading in India shall be made to 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 Government approval. In case of foreign investment up to 49 percent, the list of products/ product categories proposed to be sold except food products shall be provided to the Reserve Bank. (h) Applications would be processed in the Department of Industrial Policy and Promotion, to determine whether the proposed investment satisfies the notified guidelines, before being considered for Government approval. Note: (1) Conditions mentioned at (b) and (d) above shall not be applicable for undertaking SBRT of Indian brands. (2) An Indian manufacturer is permitted to sell its own branded products in any manner i.e. wholesale, retail, including through e-commerce platforms. (3) Indian manufacturer would be the investee company, which is the owner of the Indian brand and which manufactures in India, in terms of value, at least 70 percent of its products in house, and sources, at most 30 percent from Indian manufacturers. (4) Indian brands should be owned and controlled by resident Indian citizens and/ or companies which are owned and controlled by resident Indian citizens. (5) 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, condition mentioned at (e) above will be applicable.		
15.4	**Multi Brand Retail Trading (MBRT)**	51%	Government
15.4.1	Other Conditions		

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SL. No	Sector/ Activity	Sectoral Cap	Entry Route
	(a) Fresh agricultural produce, including fruits, vegetables, flowers, grains, pulses, fresh poultry, fishery and meat products, can be unbranded. (b) Minimum amount to be brought in as foreign investment would be USD 100 million. (c) At least 50 percent of the total foreign investment brought in the first tranche of USD 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, warehouse, agriculture market produce infrastructure etc. Expenditure on land cost and rentals, if any, will not be counted for purposes of back-end infrastructure. Subsequent investment in the back-end infrastructure would be made by the MBRT retailer as needed, depending upon its business requirements. (d) At least 30 percent 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 USD2 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 USD2 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 foreign investment is received. Thereafter, it would have to be met on an annual basis. (e) Self-certification is required by the company, to ensure compliance of the conditions at serial nos. (b), (c) and (d) above, which could be cross-checked, as and when required. Accordingly, the investors shall maintain accounts, duly certified by statutory auditors. (f) Retail sales outlets may be set up only in cities with a population of more than 10 lakh as per the 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. (g) Government will have the first right to procure agricultural products. (h) 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 foreign investment in MBRT under this policy. The States/ Union Territories which have conveyed their agreement are mentioned at 15.4.2. 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 and Promotion and additions would be made to the said list. 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. (i) Retail trading, in any form, by means of e-commerce, would not be permissible, for companies with foreign investment engaged in multi-brand retail trading. (j) Applications would be processed in the Department of Industrial Policy and Promotion, to determine whether the proposed investment satisfies the notified guidelines, before being considered for Government approval.		
15.4.2	States/ Union Territories are Andhra Pradesh, Assam, Delhi, Haryana, Himachal Pradesh, Jammu & Kashmir, Karnataka, Maharashtra, Manipur, Rajasthan, Uttarakhand, Daman & Diu and Dadra and Nagar Haveli (Union Territories)		
15.5	**Duty Free Shops**	100%	Automatic
15.5.1	Other Conditions:		
	(a) 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. (b) Foreign investment in Duty Free Shops is subject to compliance of conditions stipulated under the Customs Act, 1962 and other laws, rules and regulations. (c) Duty Free Shop entity shall not engage into any retail trading activity in the Domestic Tariff Area of the country.		
16	**Pharmaceuticals**		
16.1	Greenfield	100%	Automatic
16.2	Brownfield	100%	Automatic up to 74%;

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SL. No	Sector/ Activity	Sectoral Cap	Entry Route
			Government route beyond 74%
16.3	Other Conditions		
	(a) 'Non-compete' clause would not be allowed except in special circumstances with the Government approval. (b) The prospective investor and the prospective investee are required to provide a certificate given at 16.4 along with the application submitted for Government approval. (c) Government approval may incorporate appropriate conditions for foreign investment in brownfield cases. (d) Foreign investment in brownfield pharmaceuticals, irrespective of entry route, is further subject to the following conditions (i) 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 foreign investment, 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 foreign investment. Of these, the highest level of production in any of these three years would be taken as the level. (ii) Research and Development (R&D) expenses being maintained in value terms for 5 years at an absolute quantitative level at the time of induction of foreign investment. 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 foreign investment. (iii) 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. (iv) 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 : (1) Foreign investment up to 100% under the automatic route is permitted for manufacturing of medical devices. The abovementioned conditions will, therefore, not be applicable to greenfield as well as brownfield projects of this industry. (2) Medical device means :- (a) Any instrument, apparatus, appliance, implant, material or other article, whether used alone or in combination, including the software, intended by its manufacturer to be used specially for human beings or animals for one or more of the specific purposes of:- (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. (3) The definition of medical device at Note (2) above would be subject to the Drugs and Cosmetics Act, 1940.		
16.4	Certificate to be Furnished by the Prospective Investor as well as the Prospective Recipient Entity 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		

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SL. No	Sector/ Activity	Sectoral Cap	Entry Route
	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 FIPB any inter-se agreements that may be entered into between them subsequent to the submission and consideration of this application.		
17	**Railway Infrastructure**		
17.1	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) Signalling systems, (vii) Freight terminals, (viii) Passenger terminals, (ix) Infrastructure in industrial park pertaining to railway line/ sidings including electrified railway lines and connectivity to main railway line and (x) Mass Rapid Transport Systems.	100%	Automatic
17.2	Other Conditions		
	(a) Foreign investment in this sector open to private-sector participation is subject to sectoral guidelines of Ministry of Railways. (b) Proposals involving foreign investment beyond 49 percent 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.		
F	**FINANCIAL SERVICES** Investment in financial services, other than those indicated below, would require prior Government approval.		
F.1	**Asset Reconstruction Companies**	100%	Automatic
F.1.1	Other Conditions		
	(a) 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. Similarly, investment by institutional/ non-institutional investors will also be governed by the said Act. (b) FPIs can invest in the Security Receipts (SRs) issued by ARCs. FPIs may be allowed to invest up to 100 percent of each tranche in SRs issued by ARCs, subject to directions/ guidelines of Reserve Bank. Such investment should be within the relevant regulatory cap as applicable. (c) All investments would be subject to provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.		
F.2	**Banking - Private sector**	74%	Automatic up to 49% Government route beyond 49% and up to 74%
F.2.1	Other conditions:		
	(a) At all times, at least 26 percent of the paid up capital will have to be held by residents, except in regard to a wholly-owned subsidiary of a foreign bank. (b) In case of NRIs individual holdings is restricted to 5 percent of the total paid up capital both on repatriation and non-repatriation basis and aggregate limit cannot exceed 10 percent of the total paid up capital both on repatriation and non-repatriation basis. However, NRI holdings can be allowed up to 24 percent of the total paid up capital both on repatriation and non-repatriation basis subject to a special resolution to this effect passed by the banking company's general body. (c) Applications for foreign investment in private banks having joint venture/ subsidiary in insurance sector may be addressed to the Reserve Bank for consideration in consultation with the Insurance Regulatory and Development Authority of India (IRDAI) in order to ensure that the 49 percent limit of investment applicable for the insurance sector is not breached. (d) Transfer of shares under FDI from residents to non-residents will require approval of the Reserve Bank and/ or the Government, wherever applicable (e) The policies and procedures prescribed by RBI and other institutions such as Securities and Exchange Board of India, Ministry of Corporate Affairs and IRDAI on these matters will apply. (f) RBI guidelines relating to acquisition by purchase or otherwise of capital instruments of a private bank, if such acquisition results in any person owning or controlling 5 percent or more of the paid up capital of the		

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SL. No	Sector/ Activity	Sectoral Cap	Entry Route
	private bank will apply to foreign investment as well. (g) Setting up of a subsidiary by foreign banks (i) Foreign banks will be permitted to either have branches or subsidiaries but not both. (ii) Foreign banks regulated by banking supervisory authority in the home country and meeting Reserve Bank's licensing criteria will be allowed to hold 100 percent paid-up capital to enable them to set up a wholly-owned subsidiary in India. (iii) A foreign bank may operate in India through only one of the three channels viz., (i) branches (ii) a wholly-owned subsidiary (iii) a subsidiary with aggregate foreign investment up to a maximum of 74 percent in a private bank. (iv) 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 percent of the paid-up capital of the private sector bank is held by residents at all times consistent with para (c) above. (v) A subsidiary of a foreign bank will be subject to the licensing requirements and conditions broadly consistent with those for new private sector banks. (vi) Guidelines for setting up a wholly-owned subsidiary of a foreign bank will be issued separately by RBI. (vii) 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. (h) The present limit of 10 percent on voting rights in respect banking companies may be noted by the potential investor. (i) All investments shall be subject to the guidelines prescribed for the banking sector under the Banking Regulation Act, 1949 and the Reserve Bank of India Act, 1934.		
F.3	**Banking - Public Sector**		
F.3.1	Banking - Public Sector subject to Banking Companies (Acquisition & Transfer of Undertakings) Acts, 1970/ 80. This ceiling is also applicable to the State Bank of India.	20%	Government
F.4	**Infrastructure Companies in the Securities Market**		
F.4.1	Infrastructure companies in Securities Markets, namely, stock exchanges, commodity derivative exchanges, depositories and clearing corporations, in compliance with Securities and Exchange Board of India Regulations	49%	Automatic
F.4.2	Other conditions:		
	(a) Foreign investment, including investment by FPIs, will be subject to the Guidelines/ Regulations issued by the Central Government, Securities and Exchange Board of India and the Reserve Bank from time to time. (b) 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 Securities and Exchange Board of India shall have the same meanings respectively assigned to them in those Acts/ Regulations.		
F.5	**Commodities Spot Exchange**	49%	Automatic
F.5.1	Investment shall be subject to guidelines prescribed by the Central/ State Government		
F.6	**Power Exchanges**		
	Power Exchanges under the Central Electricity Regulatory Commission (Power Market) Regulations, 2010	49%	Automatic
F.6.1	Other conditions		
	(a) Investment by FPIs shall be restricted to secondary market only. (b) A person resident outside India including persons acting in concert should not hold more than 5 percent. (c) The investment would be in compliance with Securities and Exchange Board of India Regulations, other applicable laws/ regulations, security and other conditionalities		
F.7	**Credit Information Companies**	100%	Automatic
F.7.1	Other conditions		
	(a) Foreign investment in Credit Information Companies is subject to the Credit Information Companies (Regulation) Act, 2005 and regulatory clearance from the Reserve Bank. (b) FPI investment would be permitted subject to the following conditions: (i) A single entity shall directly or indirectly hold below 10 percent equity; (ii) Any acquisition in excess of 1 percent will have to be reported to Reserve Bank as a mandatory		

SL. No	Sector/ Activity	Sectoral Cap	Entry Route
	requirement; and (iii) FPIs investing in Credit Information Companies shall not seek a representation on the Board of Directors based upon their shareholding.		
F.8	**Insurance**		
F.8.1	(a) Insurance Company (b) Insurance Brokers (c) Third Party Administrators (d) Surveyors and Loss Assessors (e) Other Insurance Intermediaries appointed under the provisions of Insurance Regulatory and Development Authority Act, 1999 (41 of 1999)	49%	Automatic
F.8.2	Other Conditions		
	(a) Foreign investment in this sector shall be subject to compliance with the provisions of the Insurance Act, 1938 and subject to necessary license/ approval from the Insurance Regulatory & Development Authority of India for undertaking insurance and related activities. (b) An Indian Insurance company shall ensure that its ownership and control remains at all times with resident Indian entities as determined by Central Government/ Insurance Regulatory and Development Authority of India as per the rules/ regulation issued. (c) 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. (d) The provisions of paragraphs F.2.1 relating to 'Banking-Private Sector', shall be applicable in respect of bank promoted insurance companies. (e) 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.		
F.9	**Pension Sector**	49%	Automatic
F.9.1	Other conditions		
	(a) Foreign investment in this sector shall be in accordance with the Pension Fund Regulatory and Development Authority (PFRDA) Act, 2013. (b) Foreign investment in Pension Funds will be subject to the condition that entities investing in capital instruments issued by an Indian Pension Fund as per Section 24 of the PFRDA Act, 2013 shall obtain necessary registration from the PFRDA 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. (c) An Indian pension fund shall ensure that its ownership and control remains at all times with resident Indian entities as determined by the Government of India/ PFRDA as per the rules/ regulation issued by them.		
F.10	**Other Financial Services**	100%	Automatic
F.10.1	**Other Conditions**		
	(a) Other Financial Services will mean financial services activities regulated by financial sector regulators, viz., Reserve Bank, Securities and Exchange Board of India, Insurance Regulatory and Development Authority, Pension Fund Regulatory and Development Authority, National Housing Bank or any other financial sector regulator as may be notified by the Government of India. (b) Foreign investment in 'Other Financial Services' activities shall be subject to conditionalities, including minimum capitalization norms, as specified by the concerned Regulator/Government Agency (c) '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 percent will be allowed under Government approval route subject to conditions including minimum capitalization requirement, as may be decided by the Government. (d) Any activity which is specifically regulated by an Act, the foreign investment limits will be restricted to those		

SL. No	Sector/ Activity	Sectoral Cap	Entry Route
	levels/ limit that may be specified in that Act, if so mentioned. (e) Downstream investments by any of these entities engaged in "Other Financial Services" will be subject to these Regulations.		

(Shekhar Bhatnagar)
Chief General Manager-in-Charge

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Schedule 1
[See Regulation 5(1)]

Purchase/ Sale of capital instruments of an Indian company by a person resident outside India

1. Purchase/sale of capital instruments of an Indian company by a person resident outside India

(1) An Indian company may issue capital instruments to a person resident outside India subject to entry routes, sectoral caps and attendant conditionalities specified in Regulation 16;

(2) A person resident outside India may purchase capital instruments of a listed Indian company on a stock exchange in India provided that:

(a) The person resident outside India making the investment has already acquired control of such company in accordance with SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011 and continues to hold such control;

(b) The amount of consideration may be paid as per the mode of payment prescribed in this Schedule or out of the dividend payable by Indian investee company in which the person resident outside India has acquired and continues to hold the control in accordance with SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011 provided the right to receive dividend is established and the dividend amount has been credited to a specially designated non-interest bearing rupee account for acquisition of shares on the recognised stock exchange.

(3) 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 performance conditions, may issue capital instruments to the said non-resident entity against pre-incorporation/ preoperative expenses incurred by the said non-resident entity up to a limit of five percent of its authorised capital or USD 500,000 whichever is less, subject to the following conditions:

(a) Within thirty days from the date of issue of capital instruments but not later than one year from the date of incorporation or such time as Reserve Bank or Central Government permits, the Indian company shall report the transaction in the Form FC-GPR to the Reserve Bank;

(b) A certificate issued by the statutory auditor of the Indian company that the amount of pre-incorporation/ pre-operative expenses against which capital instruments have been issued has been utilized for the purpose for which it was received should be submitted with the Form FC-GPR.

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.

(4) An Indian company may issue capital instruments to a person resident outside India against swap of capital instruments if the Indian investee company is engaged in an automatic route sector.

(5) An Indian company may issue equity shares against any funds payable by it to a person resident outside India, the remittance of which is permitted under the Act or the rules and regulations framed or directions issued thereunder or does not require prior permission of the Central Government or the Reserve Bank under the Act or the rules and 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.

Provided in case where permission has been granted by the Reserve Bank for making remittance, the Indian company may issue equity shares against such remittance provided all regulatory actions with respect to the delay or contravention under FEMA or the rules or the regulations framed thereunder have been completed

(6) An Indian company may issue capital instruments to a person resident outside India with prior Government approval against:

(a) Swap of capital instruments if the Indian investee company is engaged in a sector under Government route;

(b) Import of capital goods/ machinery/ equipment (excluding second-hand machinery) subject to compliance with the conditions specified by the Central Government and the Reserve Bank from time to time; or

(c) Pre-operative/ pre-incorporation expenses (including payments of rent etc.), subject to compliance with the conditions specified by the Central Government and the Reserve Bank from time to time.

2. Mode of payment

(1) The amount of consideration shall be paid as inward remittance from abroad through banking channels or out of funds held in NRE/ FCNR(B)/ Escrow account maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016.

Explanation: The amount of consideration shall include:

(i) Issue of equity shares by an Indian company against any funds payable by it to the investor

(ii) Swap of capital instruments.

(2) Capital instruments shall be issued to the person resident outside India making such investment within sixty days from the date of receipt of the consideration.

Explanation: In case of partly paid equity shares, the period of 60 days shall be reckoned from the date of receipt of each call payment

(3) Where such capital instruments are not issued within sixty days from the date of receipt of the consideration the same shall be refunded to the person concerned by outward remittance through banking channels or by credit to his NRE/ FCNR(B) accounts, as the case may be within fifteen days from the date of completion of sixty days.

Provided Prior approval of the Reserve Bank shall be required for payment of interest, if any, as laid down in the Companies Act, 2013, for delay in refund of the amount so received.

(4) An Indian company issuing capital instruments under this Schedule may open a foreign currency account with an Authorised Dealer in India in accordance with Foreign Exchange Management (Foreign currency accounts by a person resident in India) Regulations, 2016.

3. Remittance of sale proceeds

The sale proceeds (net of taxes) of the capital instruments may be remitted outside India or may be credited to the NRE/ FCNR(B) of the person concerned.

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Schedule 2

[See Regulation 5(2)]

Purchase/ Sale of capital instruments of a listed Indian company on a recognised stock exchange in India by Foreign Portfolio Investors

1. Purchase/sale of capital instruments

A Foreign Portfolio Investor (FPI) may purchase or sell capital instruments of an Indian company on a recognised stock exchange in India subject to the following conditions.

(1) The total holding by each FPI or an investor group as referred in SEBI (FPI) Regulations, 2014, shall be less than 10 percent of the total paid-up equity capital on a fully diluted basis or less than 10 percent of the paid-up value of each series of debentures or preference shares or share warrants issued by an Indian company and the total holdings of all FPIs put together shall not exceed 24 percent of paid-up equity capital on a fully diluted basis or paid up value of each series of debentures or preference shares or share warrants. The said limit of 10 percent and 24 percent will be called the individual and aggregate limit, respectively.

Provided the aggregate limit of 24 percent may be increased by the Indian company concerned up to the sectoral cap/ statutory ceiling, as applicable, with the approval of its Board of Directors and its General Body through a resolution and a special resolution, respectively.

(2) In case the total holding of an FPI increases to 10 percent or more of the total paid-up equity capital on a fully diluted basis or 10 percent or more of the paid-up value of each series of debentures or preference shares or share warrants issued by an Indian company, the total investment made by the FPI shall be re-classified as FDI subject to the conditions as specified by Securities and Exchange Board of India and the Reserve Bank in this regard and the investee company and the investor complying with the reporting requirements prescribed in regulation 13 of these Regulations.

(3) An FPI may purchase capital instruments of an Indian company through public offer/ private placement, subject to the individual and aggregate limits prescribed under this Schedule.

Provided:

(i) in case of Public Offer, the price of the shares to be issued is not less than the price at which shares are issued to residents, and

(ii) in case of issue by private placement, the price is not less than (a) the price arrived in terms of guidelines issued by the Securities and Exchange Board of India, or (b) the fair price worked out as per any internationally accepted pricing methodology for valuation of shares on arm's length basis, duly certified by a Securities and Exchange Board of India registered Merchant Banker or Chartered Accountant or a practicing Cost Accountant, as applicable

(4) An FPI may, undertake short selling as well as lending and borrowing of securities subject to such conditions as may be stipulated by the Reserve Bank and the Securities and Exchange Board of India from time to time.

(5) Investments made under this schedule shall be subject to the limits and margin requirements prescribed by the Reserve Bank/ Securities and Exchange Board of India as well as the stipulations regarding collateral securities as specified by the Reserve Bank from time to time.

2. Mode of payment

(1) The amount of consideration shall be paid as inward remittance from abroad through banking channels or out of funds held in a foreign currency account and/ or a Special Non-Resident Rupee (SNRR) account maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016.

(2) The foreign currency account and SNRR account shall be used only and exclusively for transactions under this Schedule

3. Remittance of sale proceeds

The sale proceeds (net of taxes) of the investments made under this schedule may be remitted outside India or may be credited to the foreign currency account or a SNRR account of the FPI.

4. Saving

All investments made by deemed FPIs in accordance with the regulations prior to their registration as FPI shall be continued to be valid and taken into account for computation of aggregate limits.

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Schedule 3
[See Regulation 5(3)]

Purchase/ Sale of Capital Instruments of a listed Indian company on a recognised stock exchange in India by Non-Resident Indian (NRI) or Overseas Citizen of India (OCI) on repatriation basis

1. Purchase/sale of capital instruments

A Non-resident Indian (NRI) or an Overseas Citizen of India (OCI) may purchase or sell Capital Instruments of a listed Indian company on repatriation basis, on a recognised stock exchange in India, subject to the following conditions:

(1) NRIs or OCIs may purchase and sell Capital Instruments through a branch designated by an Authorised Dealer for the purpose;

(2) The total holding by any individual NRI or OCI shall not exceed 5 percent of the total paid-up equity capital on a fully diluted basis or should not exceed 5 percent of the paid-up value of each series of debentures or preference shares or share warrants issued by an Indian company and the total holdings of all NRIs and OCIs put together shall not exceed ten percent of the total paid-up equity capital on a fully diluted basis or shall not exceed ten percent of the paid-up value of each series of debentures or preference shares or share warrants;

Provided that the aggregate ceiling of 10 percent may be raised to 24 percent if a special resolution to that effect is passed by the General Body of the Indian company.

2. Mode of payment

(1) The amount of consideration shall be paid as inward remittance from abroad through banking channels or out of funds held in a Non-Resident External (NRE) account maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016.

(2) The NRE account will be designated as an NRE (PIS) Account and the designated account shall be used exclusively for putting through transactions permitted under this Schedule.

3. Remittance of sale proceeds

The sale proceeds (net of taxes) of the capital instruments may be remitted outside India or may be credited to NRE (PIS) account of the person concerned.

4. Saving

Any account designated as NRO (PIS) shall be re-designated as NRO account.

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Schedule 4

[See Regulation 5(4)]
Investment on non-repatriation basis

A. Purchase or Sale of Capital Instruments or convertible notes of an Indian company or Units or contribution to the capital of an LLP by Non-Resident Indian (NRI) or Overseas Citizen of India (OCI) on Non-Repatriation basis

1. Purchase/ sale of capital instruments or convertible notes or units or contribution to the capital of an LLP

(1) A Non-resident Indian (NRI) or an Overseas Citizen of India (OCI), including a company, a trust and a partnership firm incorporated outside India and owned and controlled by NRIs or OCIs, may purchase/ contribute, as the case may be, on non-repatriation basis the following:

(a) Any capital instrument issued by a company without any limit either on the stock exchange or outside it.

(b) Units issued by an investment vehicle without any limit, either on the stock exchange or outside it.

(c) The capital of a Limited Liability Partnership without any limit.

(d) Convertible notes issued by a startup company in accordance with these Regulations.

(2) The investment detailed at sub-para 1 above will be deemed to be domestic investment at par with the investment made by residents

2. Prohibition on purchase of capital instruments of certain companies.

Notwithstanding anything contained in paragraph 1, an NRI or an OCI including a company, a trust and a partnership firm incorporated outside India and owned and controlled by NRIs or OCIs, shall not make any investment, under this Schedule, in capital instruments or units of a Nidhi company or a company engaged in agricultural/ plantation activities or real estate business or construction of farm houses or dealing in Transfer of Development Rights.

Explanation: Real estate business will have the same meaning as laid down in regulation 16.

3. Mode of Payment

The amount of consideration shall be paid as inward remittance from abroad through banking channels or out of funds held in NRE/ FCNR(B)/ NRO account maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016.

4. Sale/ maturity proceeds

(1) The sale/ maturity proceeds (net of applicable taxes) of capital instruments purchased or disinvestment proceeds of a LLP shall be credited only to the NRO account of the investor, irrespective of the type of account from which the consideration was paid;

(2) The amount invested in capital instruments of an Indian company or the consideration for contribution to the capital of a LLP and the capital appreciation thereon shall not be allowed to be repatriated abroad.

B. Investment in a firm or a proprietary concern

1. Contribution to capital of a firm or a proprietary concern

An NRI or an OCI may invest, on a non-repatriation basis, by way of contribution to the capital of a firm or a proprietary concern in India provided such firm or proprietary concern is not engaged in any agricultural/ plantation activity or print media or real estate business.

Explanation: Real estate business will have the same meaning as laid down in regulation 16.

2. Mode of payment

The amount of consideration shall be paid as inward remittance from abroad through banking channels or out of funds held in NRE/ FCNR(B)/ NRO account maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016.

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3. Sale/ maturity proceeds

(1) The disinvestment proceeds shall be credited only to the NRO account of the person concerned, irrespective of the type of account from which the consideration was paid;

(2) The amount invested for contribution to the capital of a firm or a proprietary concern and the capital appreciation thereon shall not be allowed to be repatriated abroad.

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Schedule 5
[See Regulation 5(5)]

Purchase and sale of securities other than capital instruments by a person resident outside India

1. Permission to persons resident outside India

A. Permission to Foreign Portfolio Investors (FPIs)

An FPI may purchase the following instruments on repatriation basis subject to the terms and conditions specified by the Securities and Exchange Board of India and the Reserve Bank:

(a) dated Government securities/ treasury bills;

(b) non-convertible debentures/ bonds issued by an Indian company;

(c) commercial papers issued by an Indian company;

(d) units of domestic mutual funds;

(e) Security Receipts (SRs) issued by Asset Reconstruction Companies up to 100 percent of each tranche, subject to directions/ guidelines of the Reserve Bank;

(f) Perpetual Debt instruments eligible for inclusion as Tier I capital and Debt capital instruments as upper Tier II capital issued by banks in India to augment their capital (Tier I capital and Tier II capital as defined by Reserve Bank) provided that the investment by all eligible investors in Perpetual Debt instruments (Tier I) shall not exceed an aggregate ceiling of 49 percent of each issue and investment by a single FPI shall not exceed the limit of 10 percent of each issue;

(g) non-convertible debentures/ bonds issued by Non-Banking Financial Companies categorized as 'Infrastructure Finance Companies'(IFCs) by the Reserve Bank;

Provided this will include such instruments issued on or after November 3, 2011 and held by deemed FPIs;

(h) Rupee denominated bonds/ units issued by Infrastructure Debt Funds;

Provided this will include such instruments issued on or after November 22, 2011 and held by deemed FPIs.

(i) Credit enhanced bonds;

(j) Listed non-convertible/ redeemable preference shares or debentures issued in terms of Regulation 9 of these Regulations;

(k) Security receipts issued by securitization companies subject to conditions as specified by the Reserve Bank and/ or Securities and Exchange Board of India;

(l) Securitised debt instruments, including (i) any certificate or instrument issued by a special purpose vehicle (SPV) set up for securitisation of asset/s with banks, Financial Institutions or NBFCs as originators; and/ or (ii) any certificate or instrument issued and listed in terms of the Securities and Exchange Board of India (Regulations on Public Offer and Listing of Securitised Debt Instruments), 2008.

Provided that FPIs may offer such instruments as permitted by the Reserve Bank from time to time as collateral to the recognized Stock Exchanges in India for their transactions in exchange traded derivative contracts as specified in sub-Regulation 5 of Regulation 5.

B. Permission to Non-resident Indians (NRIs) or Overseas Citizens of India (OCIs) – Repatriation basis

(1) A Non-resident Indian (NRI) or an Overseas Citizen of India (OCI) may, without limit, purchase the following instruments on repatriation basis,

(a) Government dated securities (other than bearer securities) or treasury bills or units of domestic mutual funds;

(b) Bonds issued by a Public Sector Undertaking (PSU) in India;

(c) Shares in Public Sector Enterprises being disinvested by the Central Government, provided the purchase is in accordance with the terms and conditions stipulated in the notice inviting bids;

(d) Bonds/ units issued by Infrastructure Debt Funds;

(e) Listed non-convertible/ redeemable preference shares or debentures issued in terms of Regulation 9 of these Regulations;

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(2) An NRI or an OCI may purchase on repatriation basis perpetual debt instruments eligible for inclusion as Tier I capital and Debt capital instruments as upper Tier II capital issued by banks in India to augment their capital, as stipulated by Reserve Bank. The investments by all NRIs or OCIs in Perpetual Debt Instruments (Tier I) should not exceed an aggregate ceiling of 24 percent of each issue and investments by a single NRI or OCI should not exceed 5 percent of each issue. Investment by NRIs or OCIs in Debt Capital Instruments (Tier II) shall be accordance with the extant policy for investment by NRIs or OCIs in other debt instruments.

(3) An NRI may subscribe to National Pension System governed and administered by Pension Fund Regulatory and Development Authority (PFRDA), provided such person is eligible to invest as per the provisions of the PFRDA Act. The annuity/ accumulated saving will be repatriable.

Provided that NRI/ OCIs may offer such instruments as permitted by the Reserve Bank from time to time as collateral to the recognized Stock Exchanges in India for their transactions in exchange traded derivative contracts as specified in sub-Regulation 5 of Regulation 5.

C. Permission to Non-resident Indians (NRIs) or Overseas Citizens of India (OCIs) – Non-Repatriation basis

(1) An NRI or an OCI may, without limit, purchase on non-repatriation basis, dated Government securities (other than bearer securities), treasury bills, units of domestic mutual funds, units of money Market Mutual Funds, or National Plan/ Savings Certificates.

(2) An NRI or an OCI may, without limit, purchase on non-repatriation basis, listed non-convertible/ redeemable preference shares or debentures issued in terms of Regulation 9 of these Regulations.

(3) An NRI or an OCI may, without limit, on non-repatriation basis subscribe to the chit funds authorised by the Registrar of Chits or an officer authorised by the State Government in this behalf.

D. Permission to Foreign Central Banks or a Multilateral Development Bank for purchase of Government Securities

(1) A Foreign Central Bank may purchase and sell dated Government securities/ treasury bills in the secondary market subject to the conditions as may be stipulated by the Reserve Bank.

(2) A Foreign Central Bank, may purchase and sell dated Government securities/ treasury bills subject to the conditions as may be stipulated by Reserve Bank.

(3) A Multilateral Development Bank which is specifically permitted by Government of India to float rupee bonds in India may purchase Government dated securities.

E. Permission to other non-resident investors for purchase of securities

(1) Long term investors like Sovereign Wealth Funds (SWFs), Multilateral Agencies, Endowment Funds, Insurance Funds, Pension Funds which are registered with Securities and Exchange Board of India as eligible investors in Infrastructure Debt Funds may purchase on repatriation basis Rupee Denominated bonds/ units issued by Infrastructure Debt Funds.

(2) Long term investors like Sovereign Wealth Funds (SWFs), Multilateral Agencies, Endowment Funds, Insurance Funds, Pension Funds and Foreign Central Banks registered with Securities and Exchange Board of India may purchase, on repatriation basis the following instruments and subject to such terms and conditions as may be specified by the Reserve Bank and the Securities and Exchange Board of India:

(a) dated Government securities/ treasury bills;

(b) commercial papers issued by an Indian company;

(c) units of domestic mutual funds;

(d) listed non-convertible debentures/ bonds issued by an Indian company;

(e) listed and unlisted non-convertible debentures/ bonds issued by an Indian company in the infrastructure sector. The term 'Infrastructure Sector' has the same meaning as given in the Harmonised Master List of Infrastructure sub-sectors approved by Government of India vide Notification F. No. 13/06/2009-INF dated March 27, 2012 as amended/ updated;

(f) non-convertible debentures/bonds issued by Non-Banking Finance Companies categorized as 'Infrastructure Finance Companies (IFCs)' by the Reserve Bank;

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(g) security Receipts (SRs) issued by Asset Reconstruction Companies up to 100 percent of each tranche, subject to directions/ guidelines of the Reserve Bank;

(h) perpetual Debt instruments eligible for inclusion as Tier I capital and Debt capital instruments as upper Tier II capital issued by banks in India to augment their capital (Tier I capital and Tier II capital as defined by Reserve Bank) provided that the investment by all eligible investors in Perpetual Debt instruments (Tier I) shall not exceed an aggregate ceiling of 49 percent of each issue, and investment by a single long term investor shall not exceed the limit of 10 pe cent of each issue;

(i) primary issues of non-convertible debentures/ bonds provided such non-convertible debentures/ bonds are committed to be listed within 15 days of such investment. In the event of the instruments not being listed within 15 days of issuance then the long term investor shall immediately dispose such instruments by way of sale to a third party or to the issuer and the terms of offer to the long term investors should contain a clause that the issuer of such instruments shall immediately redeem/ buyback those securities from the long term investors in such an eventuality;

(j) credit enhanced bonds;

(k) listed non-convertible/ redeemable preference shares or debentures issued in terms of Regulation 9 of these Regulations;

(l) security receipts (SRs) issued by securitization companies subject to conditions as specified by Reserve Bank and/ or Securities and Exchange Board of India

2. Mode of Payment

(1) The amount of consideration for purchase of instruments by FPIs shall be paid out of inward remittance from abroad through banking channels or out of funds held in a foreign currency account and/ or Special Non-Resident Rupee (SNRR) account maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016. The foreign currency account and SNRR account shall be used only and exclusively for transactions under this Schedule.

(2) The amount of consideration for purchase of instruments by NRIs or OCIs on repatriation basis shall be paid out of inward remittances from abroad through banking channels or out of funds held in NRE/ FCNR(B) account maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016.

(3) The amount of consideration for (a) purchase of instruments by NRIs or OCIs on non-repatriation basis and (b) subscriptions to the National Pension System by NRIs shall be paid out of inward remittances from abroad through banking channels or out of funds held in NRE/ FCNR(B)/ NRO account maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016.

(4) The amount of consideration for purchase of Government dated securities by a Foreign Central Bank or a Multilateral Development Bank shall be paid out of inward remittances from abroad through banking channels or out of funds held in an account opened with the specific approval of the RBI.

(5) The amount of consideration for purchase of instruments by other non-resident investors shall be paid out of inward remittances from abroad through banking channels.

3. Permission for Sale of instruments

A person resident outside India who has purchased instruments in accordance with this Schedule may sell/ redeem the instruments subject to such terms and conditions as may be specified by the Reserve Bank and the Securities Exchange Board of India.

4. Remittance/ credit of sale/ maturity proceeds

(1) The sale/ maturity proceeds (net of taxes) of instruments held by Foreign Portfolio Investors (FPIs) may be remitted outside India or may be credited to the foreign currency account or SNRR account of the FPI.

(2) The net sale/ maturity proceeds (net of taxes) of instruments held by NRIs or OCIs, may be:

(a) Credited to the NRO account person concerned where the instruments were held on non-repatriation basis

(b) Credited to the NRO account person concerned where the payment for the purchase of the instruments sold was made out of funds held in NRO account, or

(c) Remitted abroad or at the NRI/ OCI investor's option, credited to his NRE/ FCNR(B)/ NRO account, where the instruments were purchased on repatriation basis.

(3) In all other cases, the sale/ maturity proceeds (net of taxes) may be remitted abroad or credited to an account opened with the prior permission of the Reserve Bank.

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Schedule 6

[See Regulation 5(6)]
Investment in a Limited Liability Partnership (LLP)

1. Investment in an LLP

(1) A person resident outside India (other than a citizen of Pakistan or Bangladesh) or an entity incorporated outside India (other than an entity incorporated in Pakistan or Bangladesh), not being a Foreign Portfolio Investor (FPI) or a Foreign Venture Capital Investor (FVCI), may contribute to the capital of an LLP operating in sectors/ activities where foreign investment up to 100 percent is permitted under automatic route and there are no FDI linked performance conditions.

(2) Investment by way of 'profit share' will fall under the category of reinvestment of earnings

(3) Investment in an LLP is subject to the compliance of the conditions of Limited Liability Partnership Act, 2008.

(4) A company having foreign investment, engaged in a sector where foreign investment up to 100 percent is permitted under the automatic route and there are no FDI linked performance conditions, can be converted into an LLP under the automatic route.

(5) An LLP having foreign investment, engaged in a sector where foreign investment up to 100 percent is permitted under the automatic route and there are no FDI linked performance conditions, may be converted into a company under the automatic route.

(6) Investment in an LLP either by way of capital contribution or by way of acquisition/ transfer of profit shares, should not be less than the fair price worked out as per any valuation norm which is internationally accepted/ adopted as per market practice (hereinafter referred to as "fair price of capital contribution/ profit share of an LLP") and a valuation certificate to that effect shall be issued by the Chartered Accountant or by a practicing Cost Accountant or by an approved valuer from the panel maintained by the Central Government.

(7) In case of transfer of capital contribution/ profit share from a person resident in India to a person resident outside India, the transfer shall be for a consideration not less than the fair price of capital contribution/ profit share of an LLP. Further, in case of transfer of capital contribution/ profit share from a person resident outside India to a person resident in India, the transfer shall be for a consideration which is not more than the fair price of the capital contribution/ profit share of an LLP.

2. Mode of payment

Payment by an investor towards capital contribution of an LLP shall be made by way of an inward remittance through banking channels or out of funds held in NRE or FCNR(B) account maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016.

3. Remittance of disinvestment proceeds

The disinvestment proceeds may be remitted outside India or may be credited to NRE or FCNR(B) account of the person concerned.

Schedule 7
[See Regulation 5(7)]

Investment by a Foreign Venture Capital Investor (FVCI)

1. Investment by Foreign Venture Capital Investor

(1) Subject to the terms and conditions as may be laid down by the Reserve Bank, a Foreign Venture Capital Investor (FVCI) may purchase

(a) securities, issued by an Indian company engaged in any sector mentioned at para 4 of this Schedule and whose securites are not listed on a recognised stock exchange at the time of issue of the said securities;

(b) securities issued by a startup;

(c) units of a Venture Capital Fund (VCF) or of a Category I Alternative Investment Fund (Cat-I AIF) or units of a scheme or of a fund set up by a VCF or by a Cat-I AIF.

Provided if the investment is in capital instruments, then the sectoral caps, entry routes and attendant conditions shall apply;

(2) An FVCI may purchase the securities/ instruments mentioned above either from the issuer of these securities/ instruments or from any person holding these securities/ instruments. The FVCI may invest in securities on a recognized stock exchange subject to the provisions of the Securities and Exchange Board of India (FVCI) Regulations, 2000.

(3) The FVCI may acquire, by purchase or otherwise, from, or transfer, by sale or otherwise, to, any person resident in or outside India, any security/ instrument it is allowed to invest in, at a price that is mutually acceptable to the buyer and the seller/ issuer. The FVCI may also receive the proceeds of the liquidation of VCFs or of Cat-I AIFs or of schemes/ funds set up by the VCFs or Cat-I AIFs.

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2. Mode of payment

(1) The amount of consideration shall be paid as inward remittance from abroad through banking channels or out of funds held in a foreign currency account and/ or a Special Non-Resident Rupee (SNRR) account maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016.

(2) The foreign currency account and SNRR account shall be used only and exclusively for transactions under this Schedule.

3. Remittance of sale/ maturity proceeds

The sale/ maturity proceeds (net of taxes) of the securities may be remitted outside India or may be credited to the foreign currency account or a Special Non-resident Rupee Account of the FVCI.

4. List of sectors in which a Foreign Venture Capital Investor is allowed to invest

(1) Biotechnology

(2) IT related to hardware and software development

(3) Nanotechnology

(4) Seed research and development

(5) Research and development of new chemical entities in pharmaceutical sector

(6) Dairy industry

(7) Poultry industry

(8) Production of bio-fuels

(9) Hotel-cum-convention centres with seating capacity of more than three thousand.

(10) Infrastructure sector. The term 'Infrastructure Sector' has the same meaning as given in the Harmonised Master List of Infrastructure sub-sectors approved by Government of India vide Notification F. No. 13/06/2009-INF dated March 27, 2012 as amended/ updated.

Schedule 8

[See Regulation 5(8)]

Investment by a person resident outside India in an Investment Vehicle

1. Investment in units of an Investment Vehicle

(1) A person resident outside India (other than a citizen of Pakistan or Bangladesh) or an entity incorporated outside India (other than an entity incorporated in Pakistan or Bangladesh) may invest in units of Investment Vehicles.

(2) A person resident outside India who has acquired or purchased units in accordance with this Schedule may sell or transfer in any manner or redeem the units as per regulations framed by Securities and Exchange Board of India or directions issued by the Reserve Bank.

(3) An Investment vehicle may issue its units to a person resident outside India against swap of capital instruments of a Special Purpose Vehicle (SPV) proposed to be acquired by such Investment Vehicle.

(4) Investment made by an Investment Vehicle into an Indian entity shall be reckoned as indirect foreign investment for the investee Indian entity if the Sponsor or the Manager or the Investment Manager (i) is not owned and not controlled by resident Indian citizens or (ii) is owned or controlled by persons resident outside India.

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

Explanation: 'Control' of the AIF should be in the hands of 'sponsors' and 'managers/ investment managers', with the general exclusion to 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.

(5) An Alternative Investment Fund Category III which has received any foreign investment shall make portfolio investment in only those securities or instruments in which a FPI is allowed to invest under the Act, rules or regulations made thereunder.

2. Mode of payment

The amount of consideration shall be paid as inward remittance from abroad through banking channels or by way of swap of shares of a Special Purpose Vehicle or out of funds held in NRE or FCNR(B) account maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016.

3. Remittance of sale/ maturity proceeds

The sale/ maturity proceeds (net of taxes) of the units may be remitted outside India or may be credited to the NRE or FCNR(B) account of the person concerned.

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Schedule 9

[See Regulation 5(9)]

Investment in Depository receipts by a person resident outside India

1. Issue/ transfer of eligible instruments to a foreign depository for the purpose of issuance of depository receipts by eligible person(s)

(1) Any security or unit in which a person resident outside India is allowed to invest under these regulations shall be eligible instruments for issue of Depository Receipts in terms of Depository Receipts Scheme, 2014 (DR Scheme, 2014).

(2) A person will be eligible to issue or transfer eligible instruments to a foreign depository for the purpose of issuance of depository receipts in accordance with the DR Scheme, 2014 and guidelines issued by Central Government in this regard.

(3) A domestic custodian may purchase eligible instruments on behalf of a person resident outside India, for the purpose of converting the instruments so purchased into depository receipts in terms of DR Scheme 2014.

(4) The aggregate of eligible instruments which may be issued or transferred to foreign depositories, along with eligible instruments already held by persons resident outside India, shall not exceed the limit on foreign holding of such eligible instruments under the Act, rules or regulations framed thereunder.

(5) The eligible instruments shall not be issued or transferred to a foreign depository for the purpose of issuing depository receipts at a price less than the price applicable to a corresponding mode of issue or transfer of such instruments to domestic investors under the applicable laws.

2. Saving

Depository Receipts issued under the Issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 shall be deemed to have been issued under the corresponding provisions of DR Scheme 2014 and have to comply with the provisions laid out in this Schedule.

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Schedule 10

[See Regulation 5(10)]

Issue of Indian Depository Receipts (IDRs)

1. **Issue of IDRs**

Companies incorporated outside India may issue IDRs through a Domestic Depository, to persons resident in India and outside India, subject to the following conditions

(1) the issue of IDRs is in compliance with the Companies (Registration of Foreign Companies) Rules, 2014 and the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;

(2) any issue of IDRs by financial/ banking companies having presence in India, either through a branch or subsidiary, shall require prior approval of the sectoral regulator(s);

(3) IDRs shall be denominated in Indian Rupees only;

(4) the proceeds of the issue of IDRs shall be immediately repatriated outside India by the companies issuing such IDRs.

2. **Purchase/ sale of IDRs**:

An FPI or an NRI or an OCI may purchase, hold or sell IDRs, subject to the following terms and conditions:

(1) NRIs or OCIs may invest in the IDRs out of funds held in their NRE/ FCNR(B) account, maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016;

(2) Limited two way fungibility of IDRs shall be permissible subject to the terms and conditions stipulated by Reserve Bank in this regard;

(3) IDR shall not be redeemable into underlying equity shares before the expiry of one year from the date of issue;

Redemption/ conversion of IDRs into underlying equity shares of the issuing company shall be a compliance the Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004.

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