Workshop on FEMA: Day 1 &2 – FEMA Regulations and FDI Policy of India

Karnataka State Chartered Accountants Association – September 4, 2018

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FDI Policy of India

- Entry routes and eligible entities
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Evolution of FEMA

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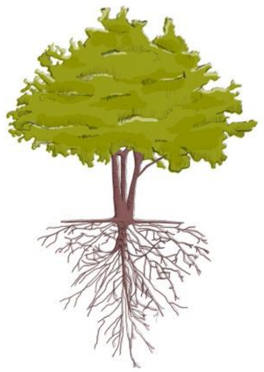
Evolution of FEMA

1970's

- Foreign Exchange Regulation Act, 1973 (FERA) for **regulating** forex transactions [framed under Defence of India Act, 1939]
- FERA with its **draconian provisions** was a criminal law with rigid provisions
- Slow economic growth
- **Stringent laws** to preserve the depleting forex reserves

1990's

- Liberalisation of Indian economy post Industrial Policy 1991
- Promotion of foreign direct investments
- Improved forex reserves
- Need for simpler, transparent exchange control regulations
- FEMA enacted to **manage** and **not to regulate** the forex laws in India
- FEMA - consistent with emerging framework of the World Trade Organisation (WTO)



Current scenario

- Foreign Direct Investment (FDI) during Q1 of FY 2018-19: ~ USD 12,752 million
- FDI during FY 2017-18: ~ USD 10,408 million [+23 percent over last year]
- FDI in India averaged USD 1317.75 million from 1995 until 2018, reaching an all time high of ~ USD 8,004 million in August 2017
- Increased delegation of powers to Authorised Dealer (AD) Banks

Source: http://dipp.nic.in/publications/fdi-statistics

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Evolution of FEMA

FERA

Object - Conservation of foreign Exchange resources

Criminal law type provisions

Severe penal clauses

All acts controlled and regulated

Applied to Indian Citizens in/ outside India and Foreign citizens in India

Blanket powers of search, seizure, imprisonment etc

Presumption of *Mens-rea*

FEMA

Civil law

Object - Facilitating external trade and payments and promoting orderly development and maintenance of foreign exchange market in India

Only specified transactions fully regulated [capital account transactions]

Citizenship not relevant - Residence criteria emphasized

Restricted power of search, seizure, etc

No presumption of *Mens-rea*

Contravention attracts penalty/ fine and not imprisonment (except in some cases)

Provision for compounding

An overview of FEMA

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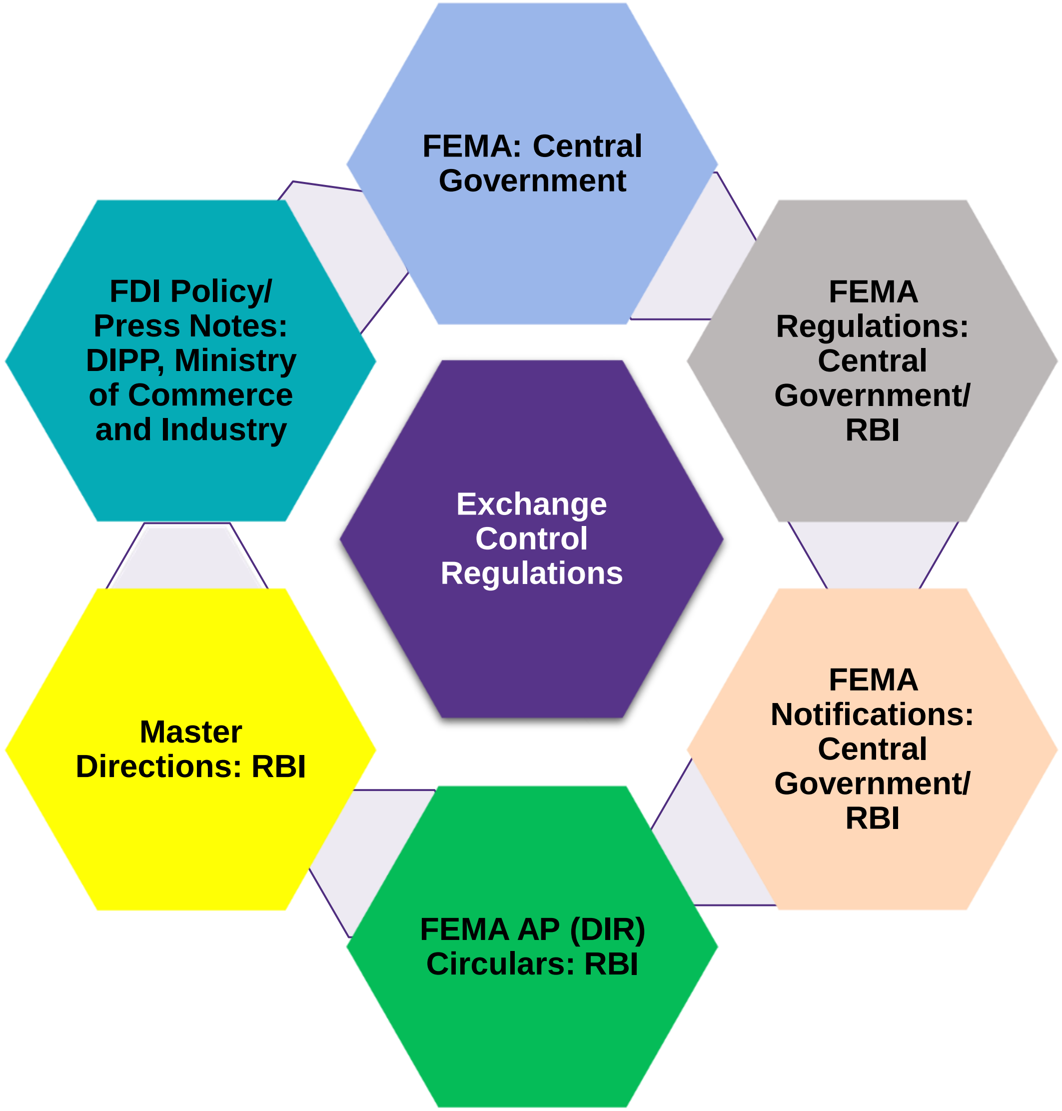
FEMA – Overview

- **Appointed Date**: June 1, 2000
- FEMA has in all **49 sections** of which 9 (section 1 to 9) are substantive and the rest are procedural/ administrative in nature
- Section 46 of FEMA grants **power to the Central Government to makes rules** and Section 47 grants **power to the RBI to make regulations** to implement its provisions
- **RBI is entrusted with the administration and implementation** of FEMA
- Act extends to the **whole of India** (State of Jammu & Kashmir? – ED notices to separatists!)
- Has **extra-territorial jurisdiction** as well - applies to all branches, offices and agencies outside India which are owned and controlled by person resident in India
- Many other **statutes impact/ enshrined in FEMA**: FDI Policy, Foreign Trade Policy, Income Tax, Companies Act
- **FEMA Rules / Regulations**: Rules notified by Central Government (say, Current Account Rules) and Regulations notified the RBI (Capital Account Regulations)

FEMA – Reference Points

Exchange Control transaction jointly controlled/ regulated by the RBI, Central Government/ Ministry of Commerce and AD Banks



RBI also issues FAQs for answering frequent questions

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FEMA – Coverage

Transactions

Current Account

- Defined in **Section 2(j) of FEMA** as a transaction other than capital account transaction
- Covers transactions such as foreign trade / interest on loan / remittance of living expenses / expenses for foreign travel, education, medical care etc.
- These transactions are usually permitted unless specifically prohibited or restricted

Capital Account

- Defined in **Section 2(e) of FEMA** as a transaction which alters assets or liabilities, including contingent liabilities, outside India/ within India of a person resident in India/ outside India
- **Section 6(3) of FEMA** provides a list of various capital account transactions which the RBI prohibits/ restricts or regulates
- Includes transactions such as borrowings/ lending, transfer of securities or immovable properties

Approach

Categorise the transaction into Capital or Current Account transaction based on the facts of each case

On such categorisation, relevant regulations need to be referred to, to check if the same is freely permissible/ permitted with approval/ prohibited

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FEMA – Analysis of few transactions

Transaction	Categorisation
Dividend payments	Current Account Transaction
Buy back of shares	Capital Account Transaction
Capital reduction by a company	Capital Account Transaction
Payment of sponsorship fees	Current Account Transaction
Issue of partially convertible preference shares	Capital Account Transaction
Write off of ECB	Capital Account Transaction
Spending of foreign exchange during holiday visit to Singapore	Current Account Transaction
Buying immovable property abroad	Capital Account Transaction
Payment of consultancy charges to a real estate agent abroad	Current Account Transaction

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Distinction between current and capital account

- **Every Transaction is either Capital or Current Account Transaction**
- **Rule of Thumb/ Cardinal Rule**
  - Capital Account Transaction generally prohibited unless permitted (generally or specifically)
  - Current Account Transaction generally permitted unless prohibited
- **Taxation and Accounting Terms not relevant**
- In case of doubts, please refer FEMA Rules/ Notifications/ Circulars
- Example:
  - Import of machinery in cash – Current Account transaction
  - Loan for investment in machinery – Capital Account transaction
  - Import of machinery for extended credit – Capital Account transaction

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FEMA – Current Account Transactions

Prohibited Transactions	Transactions permissible with prior Government approval	Transactions Permissible with prior RBI approval
Includes transactions listed in Rule 3 and Schedule I of the Current Account Transaction Rules Includes transactions such as - • Lottery winnings • Income from racing / riding etc • Travel to Nepal or Bhutan • Transaction with a person resident in Nepal or Bhutan • Remittance for purchase of lottery tickets etc	All transactions listed in Rule 4 read with Schedule II of the Current Account Transaction Rules require prior Central Government or specified Ministries approval, such as • Cultural tours • Freight of vessel chartered by PSU • Remittance to agents by multi modal transport operators • Membership of P&I Club	All transactions listed in Rule 5 read with Schedule III of the Current Account Transaction Rules require prior approval of the RBI only in case if the amount exceeds the threshold mentioned therein. Transactions covered: • Donations • Maintenance of close relatives • Studies abroad • Pre-incorporation expenses • Business travel

Foreign Exchange Management (Current Account Transactions) Rules, 2000

FEMA – Capital Account Transactions

Prohibited Transactions	Transactions permissible for person resident in India	Transactions permissible for person resident outside India
• Investment by non-resident in Indian entities engaged in specific activity: a) Chit fund b) Nidhi company c) Agriculture/ Plantation d) Real estate/ Farm house e) Trading in TDRs	• Investment in Foreign Securities • Foreign Currency Loan • Transfer of immovable properties outside India • Export / import and holding of currency notes • Guarantee in favour of a person resident outside India • Borrowing and lending to / from a person resident outside India • Foreign Currency accounts in and outside India • Taking insurance from an insurance company abroad • Remittance outside India of capital assets • Foreign Exchange / Commodity derivatives	• Investment in Securities / Capital of Indian entities • Acquisition/ Transfer of immovable property in India • Guarantee in favour of a person resident in India • Export / import of currency notes • Deposits • Foreign Currency Accounts in India • Remittance outside India of capital asset in India

Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2000

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FEMA – Few definitions

Section 2(u) – Person includes

- an individual
- a Hindu Undivided Family
- a Company
- a firm
- an association of persons or a body of individuals, whether incorporated or not
- every artificial juridical person, not falling within any of the preceding sub-clauses, and
- any agency, office or branch owned or controlled by such persons

Section 2(v) – Person resident in India (PRI) means

(i) Person residing in India > 182 days during preceding financial year, but does not include *[there is no and condition]*

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

a) For or on taking up employment outside India, or
b) For carrying on outside India a business or vocation outside India, or
c) For any purpose, indicating intention to stay outside India for an uncertain period

(B) Person who has come to or stays in India, otherwise than

a) For or on taking up employment in India, or
b) For carrying on in India a business or vocation in India, or
c) For any other purpose, indicating intention to stay in India for an uncertain period

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FEMA – Few definitions

Section 2(v) – Person resident in India (PRI) means

(ii) Any Person or body corporate registered or incorporated in India

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

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

CASE STUDY

An individual comes to India for taking up employment. He stays in India for less than 182 days in the preceding financial year.

Will he be considered a resident/ non-resident in India as per FEMA in the current financial year?

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FEMA – Regulatory setup

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FEMA – Current Regulatory set-up

Government of India

Ministry of Finance

Department of Economic Affairs

Enforcement Directorate

Responsible for enforcement of FEMA

HQ at Delhi, 5 regional offices and various zonal offices across India

Ministry of Commerce

Department of Industrial Policy and Promotion (DIPP)

Policy Maker
Also issues Press Notes / Press Release/ FDI Policy

Foreign Investment Facilitation Portal (FIFP)

Single window clearance of applications which are through approval route

Reserve Bank of India (RBI)

Acts as "Nodal Agency" for effective administration of FEMA
Issues Master Directions

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Abolition of FIPB

- Abolition in June 2017 of the two and half decades old Foreign Investment Promotion Board (FIPB) – An inter-ministerial body that granted 'prior government approval' in mandated sectors
- With nearly 95 percent of the FDI inflows in the country already coming in through the automatic route, the utility and need for such a body was clearly on the wane
- Simultaneously, the FIPB portal was literally morphed into the Foreign Investment Facilitation Portal (FIFP), bringing with it bare essential changes to name and ownership
- **Standard Operating Procedure (SOP)** was put in place whereby the sectors/ activities/ transactions that required Government approval were mandated to approach the respective administrative ministries for the same
- Even while the SOP for FDI approvals is in place, there is little information in the public domain about the successful approvals processed through such SOP, except for sporadic press releases by the Department for Industrial Policy and Promotion and the Department for Economic Affairs
- Post the creation of FIFP, Press Note 1 dated January 23, 2018 (notified under the Foreign Exchange Management Act on March 26, 2018), had been issued, further modifying/ easing the SOP and the policy and clarifying issues, as also introducing more incremental liberalisation measures

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Adjudication under FEMA

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Penalties & Effects

- Offences under FEMA considered as civil offenses [**under FERA – criminal offenses**]
- Penalties for contraventions under FEMA are ***per se* monetary in nature** [If a person does not pay up the penalty within 90 days, he is liable for civil imprisonment]
- The Adjudicating officer/ Competent authorities may also confiscate any currency, security or property in addition to imposing penalty
- General penalty for **all sorts of violation** under FEMA
- Maximum Amount of Penalty
  - Quantifiable: Thrice the sum involved in such contraventions
  - Non-quantifiable: upto INR 2 lakhs
- For contraventions which are continuing ones - **further penalty** upto INR 5000 per day during which the contraventions continues
- In case of Companies/ Firms - Person responsible for conduct of business **deemed to be guilty** of contravention committed by the Company/ Firm
- Burden on such person to prove that offence was committed without his/ her knowledge
- **Foreign Exchange Management (Adjudication Proceedings and Appeal) Rules, 2000** deals with the process of adjudication and appeals under FEMA

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Penalties & Effects

- There is a **right to appeal** given at every stage and an appeal against an order of the Adjudicating Authority can be made to the Special Director (Appeal). An appeal against the order of the Special Director (Appeals) can be made to the Appellate Tribunal. An appeal, on questions of Law, against the order of the Appellate Tribunal can be made to the **High Court**
- Penalties under the Act can be levied only upon adjudication
- There is **no specified time limit** for completing adjudication proceedings. Though Section 16(6) of FEMA provides for a period of 1 year to the Adjudicating Authority, it seems to be recommendatory in nature and not mandatory.
- **No period of limitation** prescribed under FEMA

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Compounding of offences

- Compounding is a voluntary process initiated by an applicant for an admitted contravention, adjudicated by the Compounding Authority within the RBI, or the Enforcement Directorate (as the case may be), in a time-bound manner
- India has an intricate exchange control regulatory mechanism which typically gets triggered upon any inflow/ outflow of foreign exchange
- Foreign investors and residents alike often face difficulty in complying with such elaborate regulatory framework and in some cases end up inadvertently/ mistakenly breaching some provision(s) of the exchange control laws
- Section 15 of FEMA permits compounding of contraventions and empowers the Compounding Authority to compound any contravention in terms of Section 13 of FEMA.
- Section 46 of FEMA read with Section 15(1) of FEMA empowers the Government of India to make rules, inter alia, in respect of certain contraventions of FEMA. Exercising this authority, Government of India has promulgated **Foreign Exchange (Compounding Proceedings) Rules, 2000**
- The **Cell for the Effective Implementation of FEMA (CEFA)**, established by RBI, administered compounding of certain contraventions under FEMA – Increased delegation to the regional offices of the RBI, subject to monetary ceiling
- Contravention could be **procedural** or **technical**
- **Non-compoundable offences** – Money Laundering, Terror financing or affecting sovereignty and integrity of the nation, matters already subject to Show cause notice before ED, identical matters compounded within 3 years, matters pending at appeal etc

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Compounding of offences

- Any **second or subsequent contravention** committed after the expiry of a period of 3 years from the date on which the contravention was previously compounded shall be deemed to be a first contravention
- Contraventions relating to any **transaction where proper approvals or permission from the Government** or any statutory authority concerned, as the case may be, have not been obtained, would not be compounded unless the required approvals are obtained from the authorities concerned
- Regional offices of RBI delegated powers to compound contraventions of FEMA involving:

FEMA Regulation	Brief Description of Contravention
Regulation 13.1(1)	Delay in reporting inward remittance received for issue of shares.
Regulation 13.1(2)	Delay in filing form FC(GPR) after issue of shares.
Regulation 13.1(3)	Delay in filing the Annual Return on Foreign Liabilities and Assets (FLA).
Paragraph 2 of Schedule I	Delay in issue of shares/refund of share application money beyond 60 days, mode of receipt of funds, etc.
Regulation 11	Violation of pricing guidelines for issue/transfer of shares.
Regulation 2(v) read with Regulation 5	Issue of ineligible instruments
Regulation 16.B	Issue of shares without approval of RBI or Government, wherever required.
Regulation 13.1(4)	Delay in submission of form FC-TRS on transfer of shares from Resident to Non-Resident or from Non-resident to Resident.
Regulation 4	Receiving investment in India from non-resident or taking on record transfer of shares by investee company.

Compounding of offences

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- Matters related to Liaison/ Branch/ Project office, Non Resident Foreign Account and Immovable Property are dealt with Foreign Exchange Department, Central Office, New Delhi

FEMA Notification	Brief Description of Contravention
FEMA 7/2000-RB, dated 3-5-2000	Contraventions relating to acquisition and transfer of immovable property outside India
FEMA 21/2000-RB, dated 3-5-2000	Contraventions relating to acquisition and transfer of immovable property in India
FEMA 22/2000-RB, dated 3-5-2000	Contraventions relating to establishment in India of Branch office, Liaison Office or Project office
FEMA 5/2000-RB, dated 3-5-2000	Contraventions falling under Foreign Exchange Management (Deposit) Regulations, 2000

- Applications for compounding to be submitted with prescribed fee of INR 5000 by way of a demand draft drawn in favour of “Reserve Bank of India” and payable at the concerned Regional Office and by way of a demand draft drawn in favour of “Reserve Bank of India” and payable at Mumbai for cases submitted to CEFA

- To ensure more transparency and greater disclosure, compounding orders passed on or after June 1, 2016 are available on RBI's website (https://m.rbi.org.in/Scripts/compoundingorders.aspx)

- **Currently, there is no provision for appeal against the order of the Compounding Authority. As a result, the applicant has to either pay the sum compounded or refuse to pay it, in which case, the matter could be referred to the ED by the RBI**

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Guidance on Compounding fee

I. Guidance Note on Computation Matrix

Type of contravention	Existing Formula
1] Reporting Contraventions A) FEMA 20 Para 9(1)(A), 9(1)(B), part B of FC(GPR), FCTRS (Reg. 10) and taking on record FCTRS (Reg. 4) B) FEMA 3 Non submission of ECB statements C) FEMA 120 Non reporting/delay in reporting of acquisition/setup of subsidiaries/step down subsidiaries /changes in the shareholding pattern D) Any other reporting contraventions (except those in Row 2 below)	Fixed amount : Rs10000/- (applied once for each contravention in a compounding application) + Variable amount as under: Up to 10 lakhs: 1000 per year Above Rs.10 lakhs & below Rs. 40 lakhs: 2500 per year Rs.40 lakhs or more and below Rs. 100 lakhs: 7000 per year Rs.1-10 crore 50000 per year Rs.10 -100 Crore : 100000 per year Above Rs.100 Crore : 200000 per year
E) Reporting contraventions by LO/BO/PO	As above, subject to ceiling of Rs.2 lakhs. In case of Project Office, the amount imposed shall be calculated on 10% of total project cost.
2] AAC/ APR/ Share certificate delays In case of non-submission/ delayed submission of APR/ share certificates (FEMA 120) or AAC (FEMA 22) or FCGPR (B) [3]or FLA Returns (FEMA 20) or FLA Returns (FEMA 20 (R))	Rs.10000/- per AAC/APR/FCGPR (B)[4]/FLA Return delayed. Delayed receipt of share certificate – Rs.10000/- per year, the total amount being subject to ceiling of 300% of the amount invested.
3] A] Allotment/Refunds Para 8 of FEMA 20/2000-RB (non-allotment of shares or allotment/ refund after the stipulated 180 days) B] LO/BO/PO (Other than reporting contraventions)	Rs.30000/- + given percentage: 1st year : 0.30% 1-2 years : 0.35% 2-3 years : 0.40% 3-4 years : 0.45% 4-5 years : 0.50% >5 years : 0.75% (For project offices the amount of contravention shall be deemed to be 10% of the cost of project).
4] All other contraventions except Corporate Guarantees but including all contraventions of FEMA 20(R)/2017-RB dated November 07, 2017 other than FLA Returns	Rs.50000/- + given percentage: 1st year : 0.50% 1-2 years : 0.55% 2-3 years : 0.60% 3-4 years : 0.65% 4-5 years : 0.70% >5 years : 0.75%
5] Issue of Corporate Guarantees without UIN/ without permission wherever required /open ended guarantees or any other contravention related to issue of Corporate Guarantees.	Rs.500000/- + given percentage: 1st year : 0.050% 1-2 years : 0.055% 2-3 years : 0.060% 3-4 years : 0.065% 4-5 years : 0.070% >5 years : 0.075% In case the contravention includes issue of guarantees for raising loans which are invested back into India, the amount imposed may be trebled.
*The contraventions of FEMA 20 existing and continuing as on November 07, 2017 (i.e. the starting date of contraventions prior to November 07, 2017) will be compounded as per 1(A) above.	

II. The above amounts are presently subject to the following provisos, viz.

i. the amount imposed should not exceed 300% of the amount of contravention

ii. In case the amount of contravention is less than Rs. One lakh, the total amount imposed should not be more than amount of simple interest @5% p.a. calculated on the amount of contravention and for the period of the contravention in case of reporting contraventions and @10% p.a. in respect of all other contraventions.

iii. In case of paragraph 8 of Schedule I to FEMA 20/2000 RB contraventions, the amount imposed will be further graded as under:

a. If the shares are allotted after 180 days without the prior approval of Reserve Bank, 1.25 times the amount calculated as per table above (subject to provisos at (i) & (ii) above).

b. If the shares are not allotted and the amount is refunded after 180 days with the Bank's permission: 1.50 times the amount calculated as per table above (subject to provisos at (i) & (ii) above).

c. If the shares are not allotted and the amount is refunded after 180 days without the Bank's permission: 1.75 times the amount calculated as per table above (subject to provisos at (i) & (ii) above).

iv. In cases where it is established that the contravenor has made undue gains, the amount thereof may be neutralized to a reasonable extent by adding the same to the compounding amount calculated as per chart.

v. If a party who has been compounded earlier applies for compounding again for similar contravention, the amount calculated as above may be enhanced by 50%.

III. For calculating amount in respect of reporting contraventions under para I.1 above, the period of contravention may be considered proportionately {(approx. rounded off to next higher month ÷ 12) X amount for 1 year}. The total no. of days does not exclude Sundays/holidays.

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Power to adjudicate compounding matters

Sum involved in the contravention

INR 10 lakhs or less	• Assistant General Manager of RBI
INR 10 lakhs to INR 40 lakhs	• Deputy General Manager of RBI
INR 40 lakhs to INR 100 lakhs	• General Manager of RBI
More than INR 100 lakhs	• Chief General Manager of RBI

* *No contravention shall be compounded unless the amount involved in such contravention is quantifiable*

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Indicative cases for compounding of offences

- Head office remitting fund to Indian vendors directly without routing through LO/ BO/ PO
- Delay in receipt of inward remittance out of export proceeds
- Outbound investment under automatic route when Indian party is under investigation
- Breaching the sectoral cap while making investment
- Round tripping of investment
- Set-off of import services payables against export services receivables
- Non-reporting of issuance of Corporate guarantees
- Keeping of amounts in escrow account abroad without carrying out the acquisition of the overseas entity as intended
- Delay in allotment of shares
- Delay in reporting of inflow of funds received from a person resident outside India for allotment of shares
- Non-compliance with conditions applicable to downstream investments by Indian companies
- Non-repatriation of accrued foreign exchange to India

https://m.rbi.org.in/Scripts/compoundingorders.aspx

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Round-Tripping

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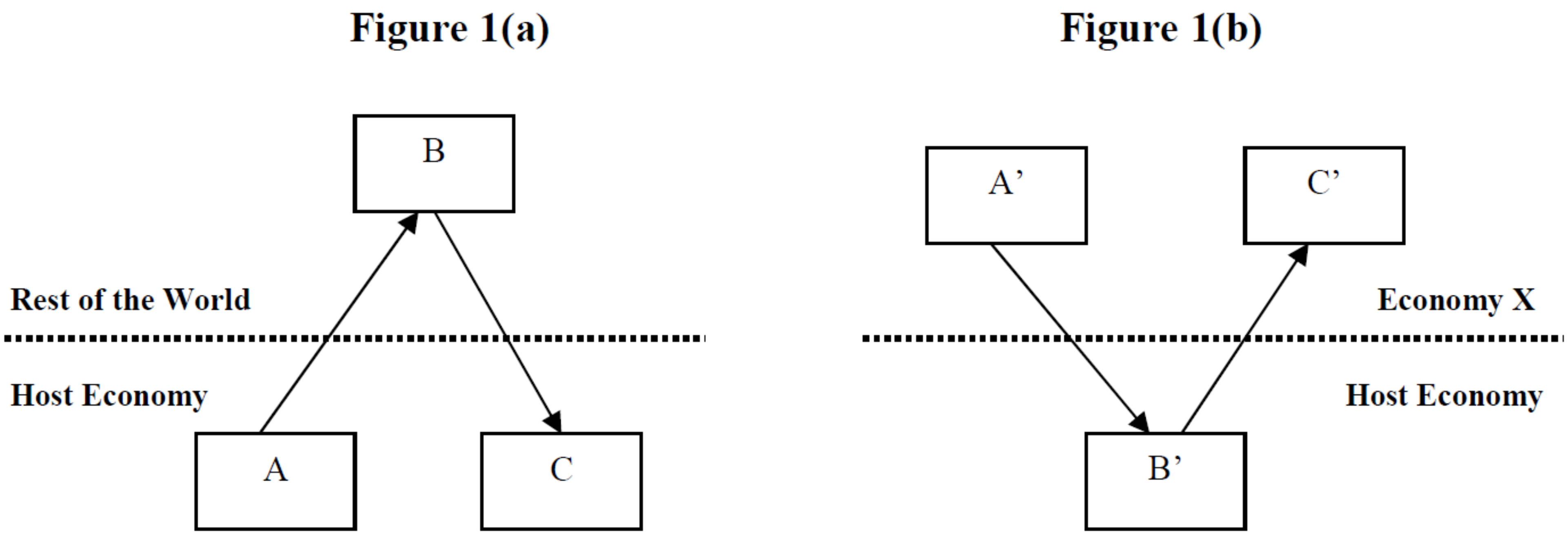
Round-Tripping

- Term "Round-tripping" is self-explanatory [not defined under FEMA though]
- It denotes a trip where a person/ thing returns to the place from where the journey began. In the context of black money, it leaves the country through various channels such as inflated invoices, payments to shell companies overseas, money laundering and so on
- After cooling its heels overseas for a while, this money returns in a freshly laundered form - thus completing a round-trip
- Few reasons why a domestic investor may engage in round-tripping:
  - Some economies **may not have well-developed capital markets**. Domestic investors first invest overseas to access better financial services and then return the funds to the home economy
  - If an economy has **investment treaties that give greater protections** to foreign investors, domestic investors may round-trip to ensure their investments receive these greater protections
  - Economies sometimes **offer tax or other incentives to foreign investors** to locate in their economy. If local investors do not receive this same preferential treatment, then they may engage in round-tripping to receive these benefits
  - Some economies have **controls on capital movements or exchange rates** that may lead domestic investors to round-trip to have more flexibility in managing their capital
  - Some investors may want to **conceal their identity**

Round-Tripping



- From the perspective of the host economy, the following two types of FDI flows are considered as round tripping:
  - Domestic investment disguised as foreign investment through non-resident SPV, in Figure 1(a), Company A in the host economy provides FDI funds to a non-resident SPV (Company B) for investing back in Company C in the host economy
  - Channeling of FDI funds through local SPV, in Figure 1(b), Company A in Economy X channels FDI funds to Company C in the same economy through a SPV in the host economy (Company B)

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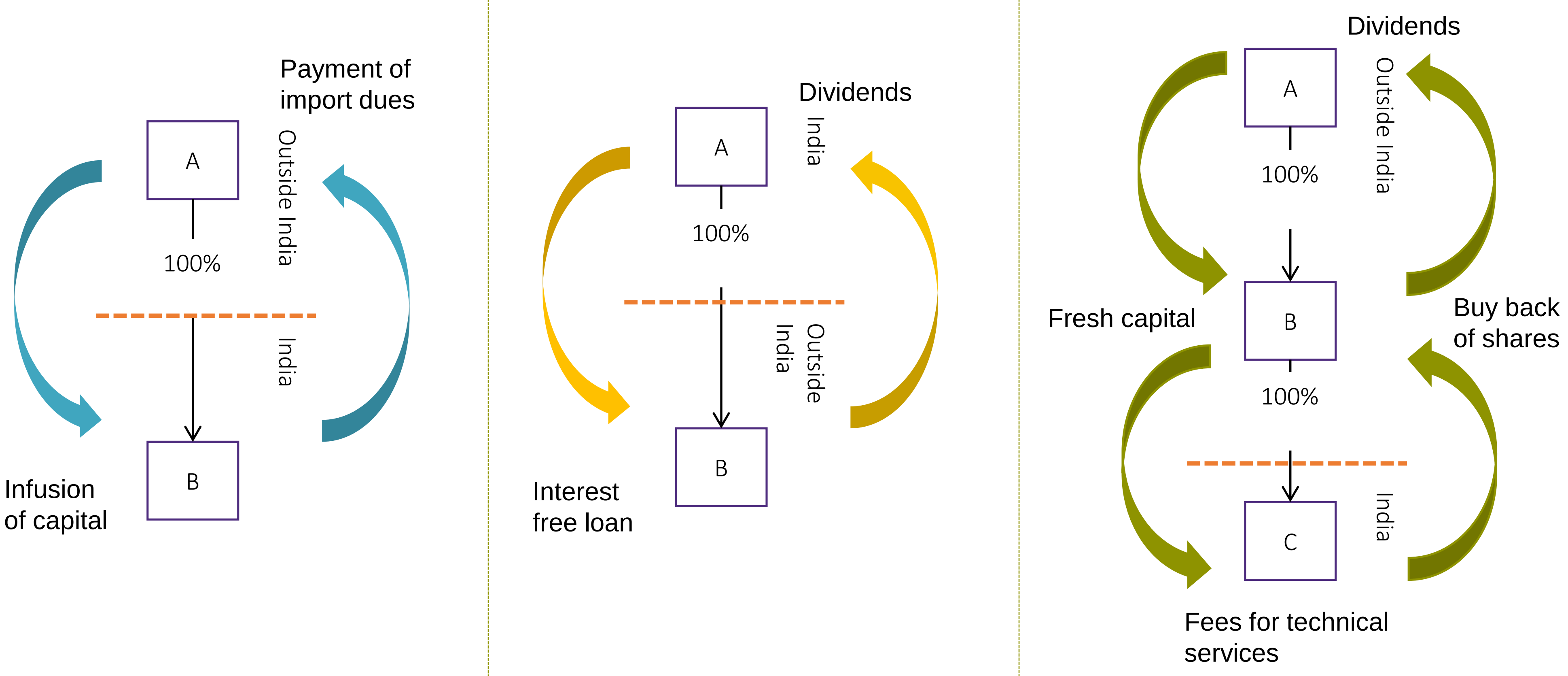
Round-Tripping

Few illustrations of Round Tripping



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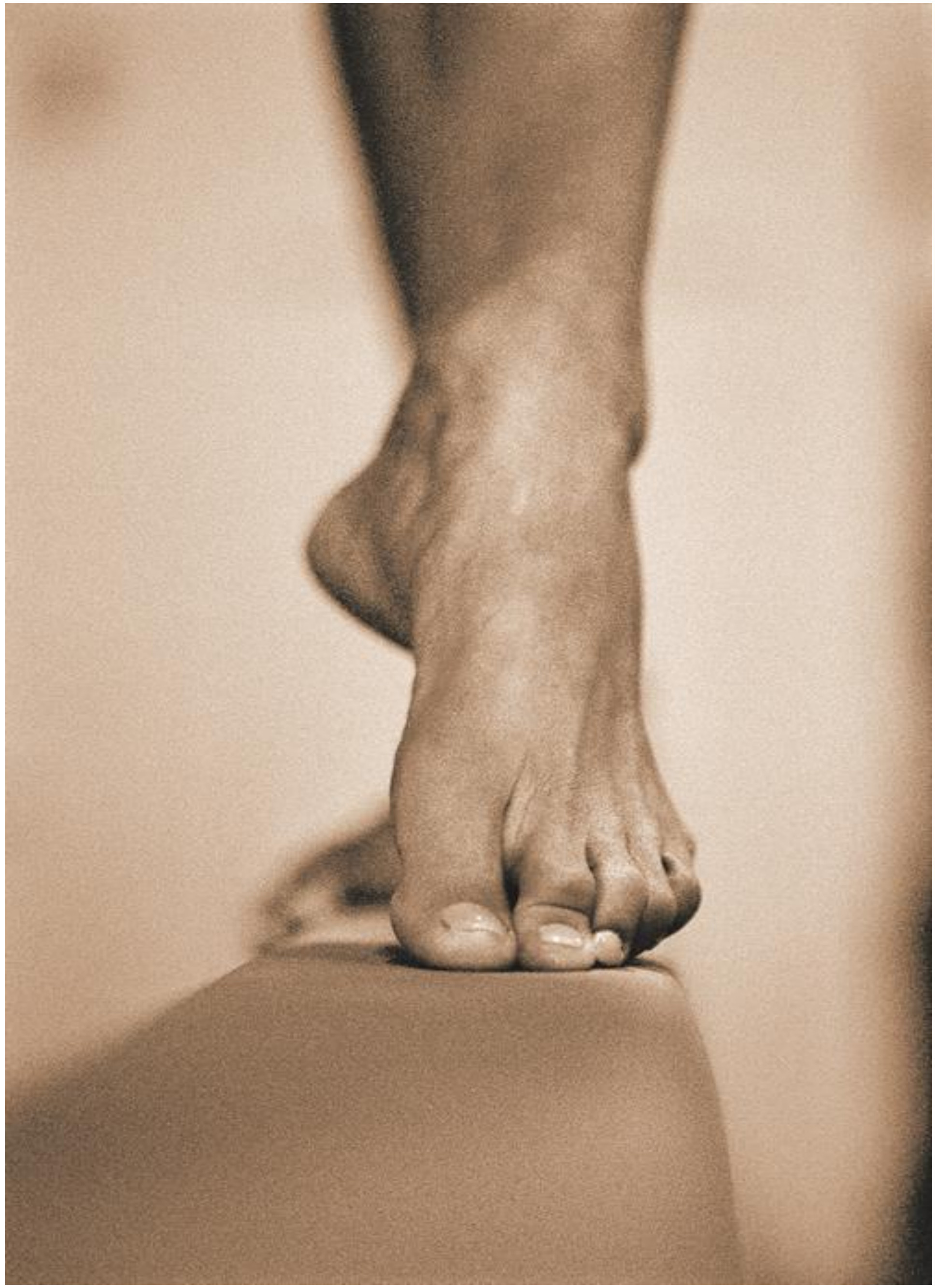
FDI - Investment by non-residents



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Statistics Matter!

D. SHARE OF TOP INVESTING COUNTRIES FDI EQUITY INFLOWS *(Financial years):*

Amount Rupees in Crores (US$ in Million)

Ranks	Country	2016-17 (April – March)	2017-18 (April – March)	2018-19 (April,18– June,18)	Cumulative Inflows (April, 00 - June,18)	%age to total Inflows (in terms of US $)
1.	MAURITIUS	105,587 (15,728)	102,492 (15,941)	10,056 (1,494)	698,498 (129,073)	33%
2.	SINGAPORE	58,376 (8,711)	78,542 (12,180)	43,329 (6,519)	436,914 (73,289)	19%
3.	JAPAN	31,588 (4,709)	10,371 (1,610)	5,890 (874)	158,521 (28,160)	7%
4.	U.K.	9,953 (1,483)	5,473 (847)	4,355 (648)	135,373 (26,086)	7%
5.	NETHERLANDS	22,633 (3,367)	18,048 (2,800)	5,631 (836)	140,846 (24,318)	6%
6.	U.S.A.	15,957 (2,379)	13,505 (2,095)	2,325 (348)	126,362 (22,765)	6%
7.	GERMANY	7,175 (1,069)	7,391 (1,146)	975 (146)	60,410 (10,990)	3%
8.	CYPRUS	4,050 (604)	2,680 (417)	262 (39)	49,672 (9,612)	2%
9	FRANCE	4,112 (614)	3,297 (511)	411 (61)	34,346 (6,298)	2%
10.	UAE	4,539 (675)	6,767 (1,050)	576 (86)	33,529 (5,841)	2%
TOTAL FDI INFLOWS FROM ALL COUNTRIES *		291,696 (43,478)	288,889 (44,857)	85,180 (12,752)	2,161,624 (389,721)	-

Includes inflows under NRI Schemes of RBI.

Note: (i) Cumulative country-wise FDI equity inflows (from April, 2000 to June, 2018) are at – Annex-'A'.

(ii) %age worked out in US$ terms & FDI inflows received through FIPB/SIA+ RBI's Automatic Route + acquisition of existing shares only.

Source: http://dipp.nic.in/publications/fdi-statistics

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Statistics Matter!

E. SECTORS ATTRACTING HIGHEST FDI EQUITY INFLOWS:

Amount in Rs. Crores (US$ in Million)

Ranks	Sector	2016-17 (April – March)	2017-18 (April,17– March ,18)	2018-19 (April,18– June,18)	Cumulative Inflows (April, 00 - June, 18)	% age to total Inflows (In terms of US$)
1.	SERVICES SECTOR **	58,214 (8,684)	43,249 (6,709)	16,119 (2,432)	375,937 (68,617)	18 %
2.	COMPUTER SOFTWARE & HARDWARE	24,605 (3,652)	39,670 (6,153)	9,354 (1,407)	185,813 (32,230)	8 %
3	TELECOMMUNICATIONS	37,435 (5,564)	39,748 (6,212)	10,681 (1,593)	180,593 (31,751)	8 %
4.	CONSTRUCTION DEVELOPMENT: Townships, housing, built-up infrastructure and construction-development projects	703 (105)	3,472 (540)	221 (33)	118,331 (24,865)	6%
5.	TRADING	15,721 (2,338)	28,078 (4,348)	10,938 (1,625)	123,574 (20,184)	5 %
6.	AUTOMOBILE INDUSTRY	10,824 (1,609)	13,461 (2,090)	3,553 (527)	109,232 (19,291)	5 %
7.	DRUGS & PHARMACEUTICALS	5,723 (857)	6,502 (1,010)	749 (112)	83,071 (15,829)	4 %
8.	CHEMICALS (OTHER THAN FERTILIZERS)	9,397 (1,393)	8,425 (1,308)	5,311 (786)	82,688 (15,387)	4 %
9.	POWER	7,473 (1,113)	10,473 (1,621)	6,367 (969)	76,926 (14,179)	4 %
10	CONSTRUCTION (INFRASTRUCTURE) ACTIVITIES	12,478 (1,861)	17,571 (2,730)	3,769 (562)	81,715 (13,109)	3%

Note: *(i)** Services sector includes Financial, Banking, Insurance, Non-Financial / Business, Outsourcing, R&D, Courier, Tech. Testing and Analysis*
(ii) Cumulative Sector- wise FDI equity inflows (from April, 2000 to June, 2018) are at - Annex-'B'.
(iii) FDI Sectoral data has been revalidated / reconciled in line with the RBI, which reflects minor changes in the FDI figures (increase/decrease) as compared to the earlier published sectoral data.

Source: http://dipp.nic.in/publications/fdi-statistics

Statistics Matter!

F. STATEMENT ON RBI'S REGIONAL OFFICES (WITH STATE COVERED) RECEIVED FDI EQUITY INFLOWS[1]
(from April, 2000 to June, 2018):

Amount Rupees in Crores (US$ in Million)

S. No.	RBI's - Regional Office[2]	State covered	2016-17 (April – March)	2017-18 (April – March)	2018-19 (April,18– June,18)	Cumulative Inflows (April, 00 - June, 18)	%age to total Inflows (in terms of US$)
1	MUMBAI	MAHARASHTRA, DADRA & NAGAR HAVELI, DAMAN & DIU	131,980 (19,654)	86,244 (13,423)	16,152 (2,428)	650,129 (118,134)	30%
2	NEW DELHI	DELHI, PART OF UP AND HARYANA	39,482 (5,884)	49,366 (7,656)	27,241 (4,067)	448,400 (79,760)	20%
3	BANGALORE	KARNATAKA	14,300 (2,132)	55,334 (8,575)	11,807 (1,773)	190,354 (32,721)	8%
4	CHENNAI	TAMIL NADU, PONDICHERRY	14,830 (2,218)	22,354 (3,475)	4,765 (718)	160,497 (27,953)	7%
5	AHMEDABAD	GUJARAT	22,610 (3,367)	13,457 (2,091)	2,786 (413)	107,316 (19,155)	5%
6	HYDERABAD	ANDHRA PRADESH	14,767 (2,195)	8,037 (1,246)	9,772 (1,475)	92,131 (16,487)	4%
7	KOLKATA	WEST BENGAL, SIKKIM, ANDAMAN & NICOBAR ISLANDS	332 (50)	1,409 (218)	3,911 (579)	26,499 (4,782)	1%
8.	KOCHI	KERALA, LAKSHADWEEP	3,050 (454)	1,339 (208)	64 (10)	11,192 (1,973)	0.5%
9	JAIPUR	RAJASTHAN	1,111 (165)	752 (117)	513 (76)	9,502 (1,673)	0.4%
10.	CHANDIGARH	CHANDIGARH, PUNJAB, HARYANA, HIMACHAL PRADESH	39 (6)	697 (108)	0 (0)	7,273 (1,472)	0.4%
11	BHOPAL	MADHYA PRADESH, CHATTISGARH	515 (76)	181 (28)	46 (7)	7,355 (1,407)	0.4%
12	PANAJI	GOA	555 (83)	279 (43)	16 (2)	4,835 (970)	0.3%
13	KANPUR	UTTAR PRADESH, UTTRANCHAL	50 (8)	578 (90)	136 (20)	3,732 (680)	0.2%
14	BHUBANESHWAR	ORISSA	83 (12)	415 (65)	63 (10)	2,558 (490)	0.1%
15	PATNA	BIHAR, JHARKHAND	69 (10)	64 (10)	0 (0)	671 (113)	0.03%
16	GUWAHATI	ASSAM, ARUNACHAL PRADESH, MANIPUR, MEGHALAYA, MIZORAM, NAGALAND, TRIPURA	15 (2)	82 (13)	12 (2)	556 (110)	0.03%
17	JAMMU	JAMMU & KASHMIR	2 (0.2)	0 (0)	0 (0)	39 (6)	0.00
18	REGION NOT INDICATED		47,909 (7,162)	48,300 (7,491)	7,897 (1,174)	438,052 (81,713)	21%
SUB. TOTAL			291,696 (43,478)	288,889 (44,857)	85,180 (12,752)	2,161,090 (389,599)	
19	RBI'S-NRI SCHEMES *(from 2000 to 2002)*		0	0	0	533 (121)	-
GRAND TOTAL			291,696 (43,478)	288,889 (44,857)	85,180 (12,752)	2,161,624 (389,721)	-

STATEMENT ON COUNTRY-WISE FDI EQUITY INFLOWS
FROM APRIL 2000 TO JUNE 2018

S.No	Name of the Country	Amount of Foreign Direct Investment Inflows		%age with Inflows
		(In Rs crore)	(In US$ million)	
1	Mauritius	698,498.31	129,072.55	33.13
2	Singapore	436,913.58	73,289.32	18.81
3	Japan	158,520.56	28,159.95	7.23
4	United Kingdom	135,373.37	26,086.15	6.70
5	Netherlands	140,845.83	24,318.15	6.24
6	U.S.A	126,362.38	22,765.19	5.84
7	Germany	60,410.30	10,990.47	2.82
8	Cyprus	49,672.20	9,612.04	2.47
9	France	34,345.53	6,297.90	1.62
10	UAE	33,529.00	5,840.75	1.50
11	Switzerland	24,066.18	4,392.84	1.13
12	HongKong	18,976.00	3,239.91	0.83
13	South Korea	18,078.35	3,106.81	0.80
14	Cayman Islands	16,414.28	2,842.24	0.73
15	Spain	15,230.70	2,766.56	0.71
16	Luxembourg	16,088.91	2,636.97	0.68
17	Italy	14,699.30	2,633.98	0.68
18	China	12,846.95	2,058.48	0.53
19	Canada	9,781.34	1,624.80	0.42
20	Sweden	7,840.46	1,483.13	0.38
21	British Virginia	7,724.74	1,418.38	0.36
22	Belgium	7,540.39	1,315.70	0.34
23	Russia	6,977.45	1,236.58	0.32
24	Australia	4,921.51	915.62	0.24
25	Malaysia	4,969.63	906.49	0.23
26	Poland	3,639.09	670.24	0.17
27	Indonesia	2,941.51	629.10	0.16
28	Denmark	2,805.36	525.97	0.14
29	The Bermudas	2,252.20	502.07	0.13
30	Ireland	2,854.08	501.04	0.13
31	Oman	2,433.34	476.64	0.12
32	South Africa	2,572.33	444.49	0.11
33	Finland	2,276.21	426.79	0.11
34	Thailand	2,286.07	386.67	0.10
35	Austria	2,097.14	374.57	0.10
36	Bermuda	2,375.40	356.41	0.09
37	Taiwan	1,761.50	292.44	0.08
38	Philippines	1,492.12	238.24	0.06
39	Norway	1,184.79	217.95	0.06
40	Saudi Arabia	1,281.10	208.38	0.05

Source: http://dipp.nic.in/publications/fdi-statistics

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FDI – Investments by non-residents

Particulars	FDI is a Permissible transaction for a person resident outside India
Eligible Investor	A person resident outside India or an entity incorporated outside India (Citizen/ Entity incorporated in Pakistan or Bangladesh permitted under approval route in non-prohibited sectors)
Onus of compliance	Onus of compliance with sectoral caps and attendant conditions, if any, is on the company receiving foreign investment
Eligible investee	Companies / LLPs and unincorporated entities like Partnership Firms / Trust (subject to conditions)
Ceiling of Investment	To be within sectoral caps prescribed in **Consolidated FDI policy (latest is FDI policy circular of 2017 dated August 28, 2017)**. Investment in sectors mentioned in Section 3 of **Master Direction – Foreign Investment in India** prohibited
Method of payment of consideration	Inward remittance through normal banking channels/ Funds held in NRE/ FCNR account/ Escrow account
Auditors	**Wherever the person resident outside India who has made foreign investment specifies a particular auditor/ audit firm having international network for the audit of the Indian investee company, then audit of such investee company should be carried out as joint audit wherein one of the auditors is not part of the same network**

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Sectors requiring Government Approval

Sector	FDI Cap	Entry Route
Mining and mineral separation of titanium bearing minerals and ores, its value addition and integrated activities	100	Government Approval
Defence Industry subject to Industrial license under the Industries (Development & Regulation) Act	100	Automatic up to 49% Government route beyond 49%
Publishing of newspaper and periodicals dealing with news and current affairs	26	Government Approval
Publication of Indian editions of foreign magazines dealing with news and current affairs	26	Government Approval
Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline (b) Regional Air Transport Service	100	Automatic up to 49% (Automatic up to 100% for NRIs) Government route beyond 49%
Telecom Services (including Telecom Infrastructure Providers	100	Automatic up to 49% Government route beyond 49%
Banking- Private Sector (in public sector FDI cap is 20 percent)	74	Automatic up to 49% Government route beyond 49% and up to 74%

Capital Instruments

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- An Indian Company is permitted to receive foreign investment by issuing **capital instruments** to investor
- **Equity Shares** - In accordance with the provisions of the Companies Act, 2013
- **Partly paid shares**
  - Issued to a person resident outside India should be **fully called-up within 12 months of such issue**
  - **25 percent of the total consideration** (including share premium, if any), has to be received upfront and the balance consideration towards fully-paid equity shares should be **received** within a period of **twelve months from the date of issue of partly-paid shares**
  - Time period of 12 months for receipt of the balance consideration need not be insisted upon where the issue size > INR 500 Crores and the issuer complies with Regulation 17 of SEBI (Issue of Capital and Disclosure Requirements (ICDR) Regulations, 2009 regarding monitoring agency
  - In case of an unlisted Indian company, the balance consideration amount can be received after 12 months where issue size > INR 500 Crores on appointment of a **monitoring agency on the same lines as required in case of a listed Indian company** under SEBI (ICDR) Regulations.
  - Such monitoring agency (**AD Category -1 bank**) should report to the investee company as prescribed by the SEBI regulations, ibid, for the listed companies
- **Share warrants** - At least **25 percent of the consideration** has to be received upfront and the balance amount **within 18 months of issuance of share warrants**
- **Debentures - Fully, compulsorily and mandatorily convertible debentures** (amendment of the tenure possible if in compliance with the Companies Act 2013)

Capital Instruments

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- **Preference shares -** Fully, compulsorily and mandatorily convertible preference shares (amendment of the tenure possible if in compliance with the Companies Act 2013)

- Non-convertible/ optionally convertible/ partially convertible preference shares, funds for which have received on or after May 1, 2007 shall be treated as debt and shall conform to External Commercial Borrowing (ECB) guidelines framed under Foreign Exchange Management (Borrowing and Lending in Foreign Exchange) Regulations, 2000. Accordingly, all the norms applicable for ECBs, such as eligible borrowers, recognised lenders, amount and maturity, end use stipulations, etc would apply

- Capital instruments issued on or after December 30, 2013 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**

FDI - Issue of shares for non cash consideration

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Types	Particulars
Right / Bonus shares	• General permission available with few underlying conditions - ***Para 6.11 of Master Direction on Foreign Investment in India***
Employees' Stock Options Scheme (ESOP) and Sweat Equity shares	• Shares can be issued to employees/ employees or directors of its holding company/ joint venture or wholly owned subsidiary, who are residents outside India (other than citizens of Pakistan and Bangladesh with Government approval) - ***Para 6.12 of Master Direction on Foreign Investment in India***
Conversion of ECB	• Facility available to ECB availed under Automatic or Approval scheme. Applicable equally to ECB whether due for payment or not or regardless of whether it is secured or not.
Conversion of technical know-how/ Royalty etc and Mergers/ Amalgamations	• General permission under automatic or approval route subject to pricing guidelines and compliance with applicable tax laws
Issue against import of capital goods	• Import is in accordance with **Foreign Trade Policy notified by DGFT** • **Independent valuation** of capital goods by a third party entity, preferably an **independent valuer from the country of import** • Application to be submitted within 180 days of shipment of goods
Against pre-incorporation expenses	• Verification and certification of the expenses by the statutory auditor • Submission of FIRC for remittance of funds by the overseas promoters for the expenditure incurred • Payments should be made by the foreign investor to the company directly or through the bank account opened by the foreign investor as provided under the Act or the rules or the regulations framed thereunder

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Issue of convertible note by Start-ups

- Convertible notes as an investment option was permitted for startup companies with effect from January 10, 2017
- Convertible Note is 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
- 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), is permitted to invest in convertible notes issued by an Indian startup company **up to twenty five lakh rupees or more in a single tranche**
- Payment consideration can be received by inward remittance through banking channels or by debit to the NRE/ FCNR (B)/ **Escrow account maintained in accordance with Foreign Exchange Management (Deposit) Regulations, 2016**
- Escrow account maintained for this purpose should be closed immediately after the requirements are completed or **within a period of six months, whichever is earlier**. Such an escrow account shall not be permitted to continue beyond a period of six months
- Issue of equity shares against such convertible notes should be in compliance with the entry route, sectoral caps, pricing guidelines and other attendant conditions for foreign investment

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Deferred payment consideration on transfer

- In case of **transfer of capital instruments** between a **person resident in India** and a **person resident outside India**, an amount **not exceeding 25 percent of the total consideration**
  - can be paid by the buyer on a **deferred basis within a period** not exceeding **18 months** from the date of the **transfer agreement**; or
  - 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
  - can be **indemnified by the seller for a period not exceeding 18 months from the date of the payment of the full consideration**, if the total consideration has been paid by the buyer to the seller
- Total consideration finally paid for the shares must be compliant with applicable pricing guidelines
- *Para 7.9 and 7.10 of the Master Direction on Foreign investment in India*

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Pledge of shares

Promoter of borrowing Indian company which has raised ECB may pledge the shares of the borrowing company or of its associate resident companies for the purpose of securing ECB raised by the Borrowing Company, subject to:

- Period of pledge is co-terminus with the maturity of underlying ECB
- Certification from Statutory Auditor on end use compliance of ECB
- No objection from Authorised Dealer stating extant FEMA regulations for ECB has been followed

PROI Holder of capital instruments - in favour of AD Bank in India

- Non-resident holding shares of Indian Company may pledge shares in favour of AD bank in India to secure credit facilities being extended to resident investee company for bona fide purpose,
- Annual certificate from Statutory Auditor on end use compliance of loan proceeds

PROI Promoter of Indian company or overseas group company - in favour of Overseas Bank

- Loan to be availed from an overseas Bank
- Annual certificate from Statutory Auditor on end use compliance of loan proceeds

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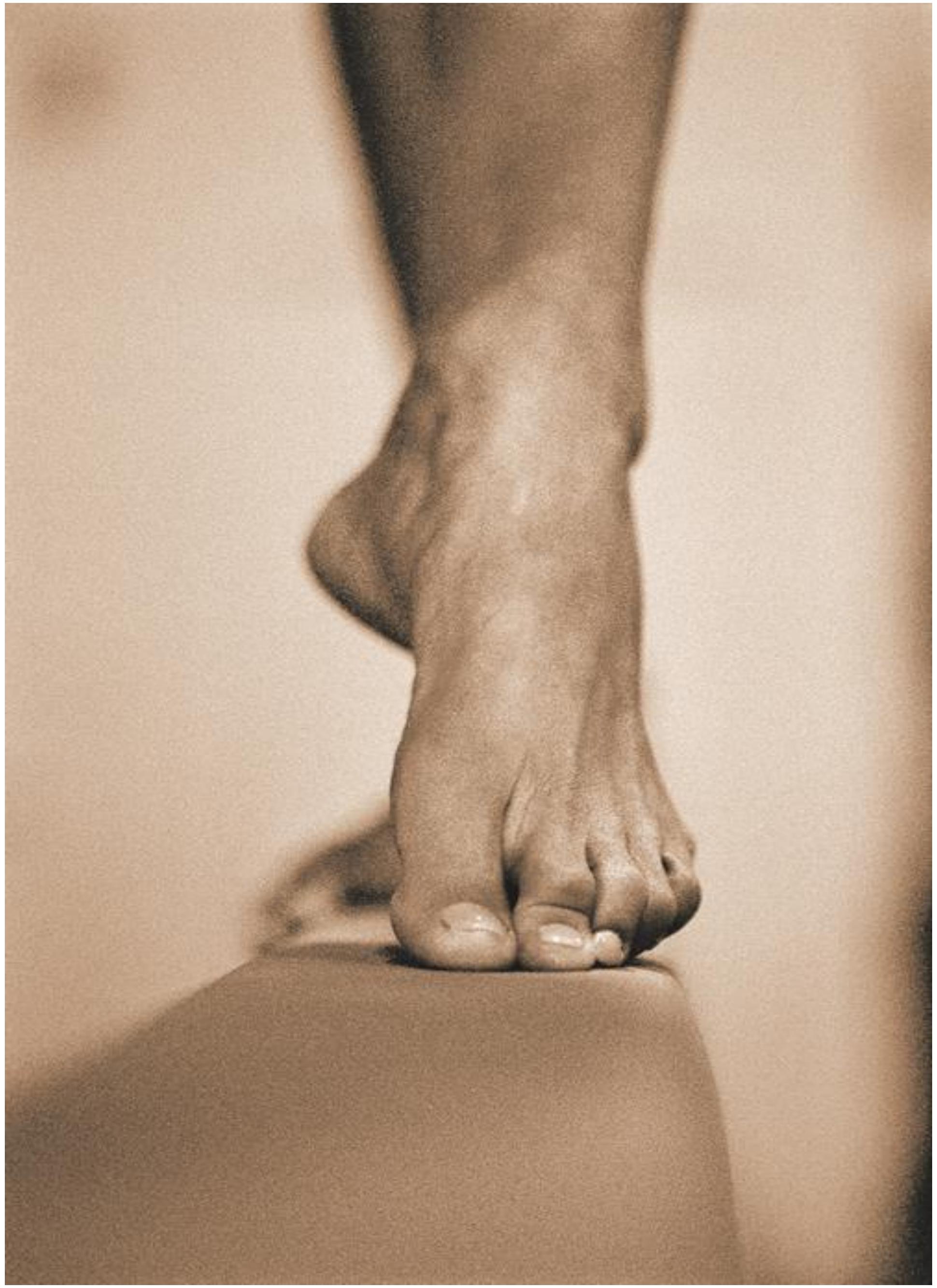
Pricing Guidelines



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Pricing Guidelines

Capital instruments **issued** by an **unlisted Indian Company to PROI**: Price should not be less than valuation arrived at by **internationally accepted pricing methodology**

In case of **convertible capital instruments**, price/ conversion formula of the instrument is to be **determined upfront** at the time of issue of the instrument.

Price **at the time of conversion** should not in any case be lower than the **fair value worked out at the time of issuance** of such instruments, in accordance with the extant FEMA regulations

Capital instruments **transferred** by **R to PROI**: Price should not be less than valuation arrived at by **internationally accepted pricing methodology**

Capital Instruments **transferred** by **PROI to R**: Price should not exceed valuation arrived at by **internationally accepted pricing methodology**

In case of swap, valuation mandatorily to be done by **Merchant Banker** registered with SEBI or **Investment Banker** outside India registered with appropriate regulatory authority

In case shares of an Indian Company are to be issued to PROI by way of **subscription to the Memorandum of Association**, such investment to be made at **face value**

Partly paid shares and Share warrants - Price/ Conversion formulae to be **determined upfront**

Investment in an LLP - Capital contribution/ Acquisition/ transfer of profit shares should not be less than fair price worked out as per **any internationally accepted valuation norm or any adopted market practice**

In case of listed companies, price to be calculated as per SEBI guidelines

Pricing Guidelines – Case Study

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Company ABC (Unlisted Indian Company):

- DCF and NAV valuation: Rs 100/ share. ABC is issued/ transferred shares to a non-resident (related party) and wants to understand exposure under FEMA / Income tax and Transfer Pricing on various allotment prices
- Transfer pricing provisions would apply to ABC

Issue/ Transfer at Rs 90/ share

FEMA:
Non compliance with pricing guidelines - Approval route

Income tax:
Rs 10 could be taxable under Section 56(2)(x) in the hands of the investor and under Section 50CA for ABC

Transfer Pricing:
Issue price below the arms' length price

Issue/ Transfer at Rs 150/ share

FEMA:
Compliant with the pricing guidelines

Income tax:
No impact under Section 56(2)(viib) if allottee is not a resident

Transfer Pricing:
Compliant with the transfer pricing provisions

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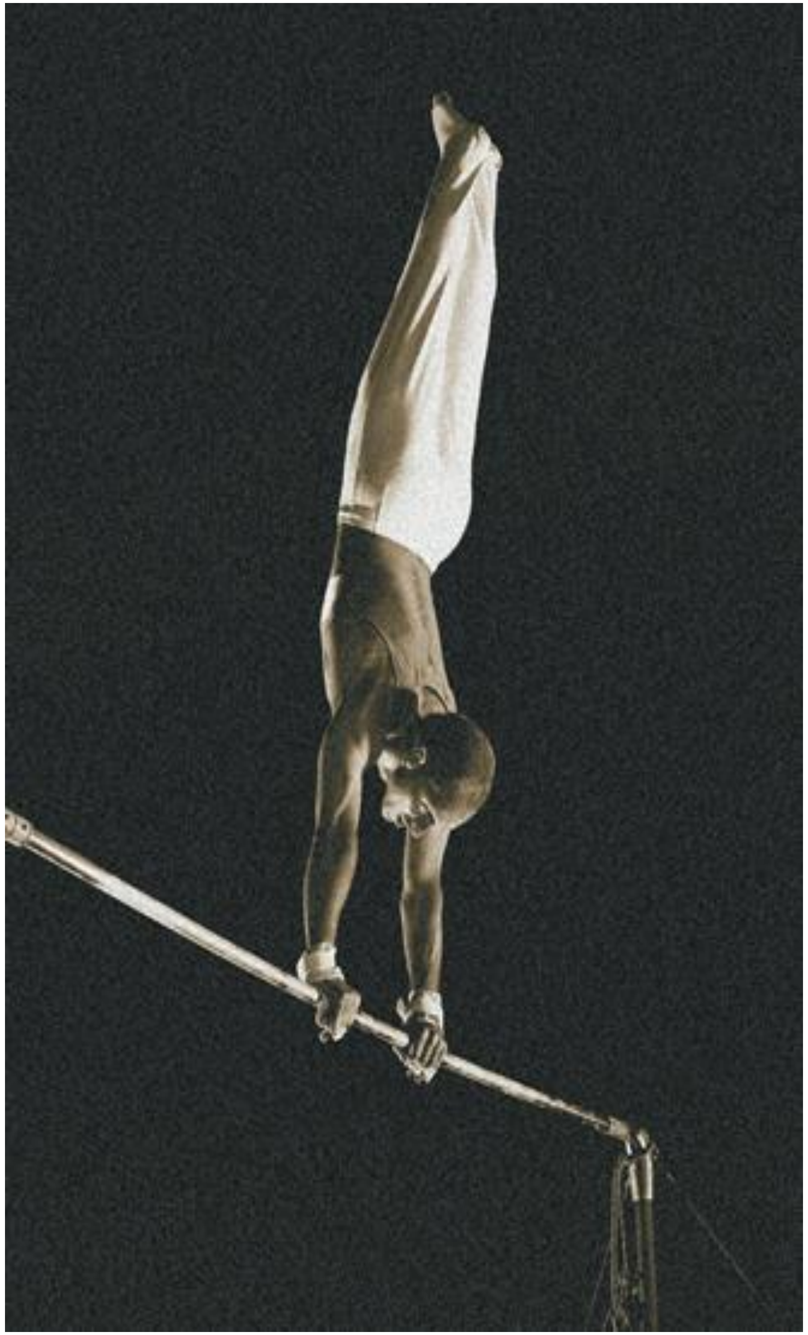
Downstream investments



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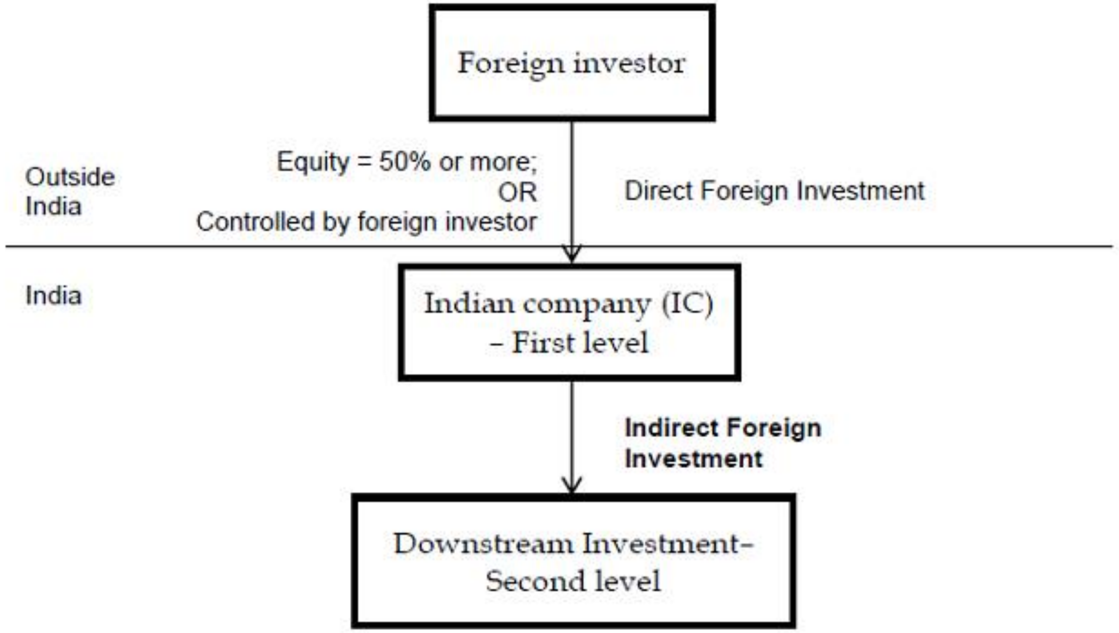
Downstream investments



Downstream investment means - Indirect foreign investment by one Indian company into another Indian company by way of subscription or acquisition

Regulations around sectoral caps / pricing guidelines / reporting requirements to be met with

Basic policy behind downstream investments is - What can be done directly can be done indirectly; What cannot be done directly cannot be done indirectly

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Downstream investments

- Indian entity which has received indirect foreign investment – treated as foreign investment - required to comply with entry route, sectoral caps, pricing guidelines, other FDI linked performance
- Downstream investment by LLP (not owned and controlled by resident Indian citizens/ or owned/ controlled by person resident outside India) – allowed in Indian company operating in sectors where 100 percent FDI permitted under automatic route
- Indirect foreign investment permitted in LLP in sectors where 100 percent FDI permitted under automatic route
- Once treated as indirect foreign investment – investee Indian entity to obtain approval from BoD and Shareholders of investing Indian entity
- Indian entity making downstream investment shall bring requisite funds from abroad and not use funds borrowed in domestic markets
- Downstream investment can be made through internal accruals (profits transferred to P&L account after payment of taxes)
- If downstream investment made by non-operating entity, investing entity shall comply with conditions on entry route, conditionalities and caps

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Downstream investments

Compliance requirement by investing company making downstream investment

- Obtain certificate on compliance with the provisions of regulations from statutory auditor on annual basis
- Compliance would be mentioned in Director's Report in Annual Report of investing Indian company
- If statutory auditor gives a qualified report, would be brought to notice of Regional Office of RBI where registered office is located

Conditions for exit

Investment may be transferred to:

- Person resident outside India, subject to reporting requirements. Pricing guidelines would not apply
- Person resident in India subject to adherence of pricing guidelines
- Indian company with foreign investment, and not owned/ controlled by resident Indian citizens or owned/ controlled by person resident outside India, pricing guidelines would not apply

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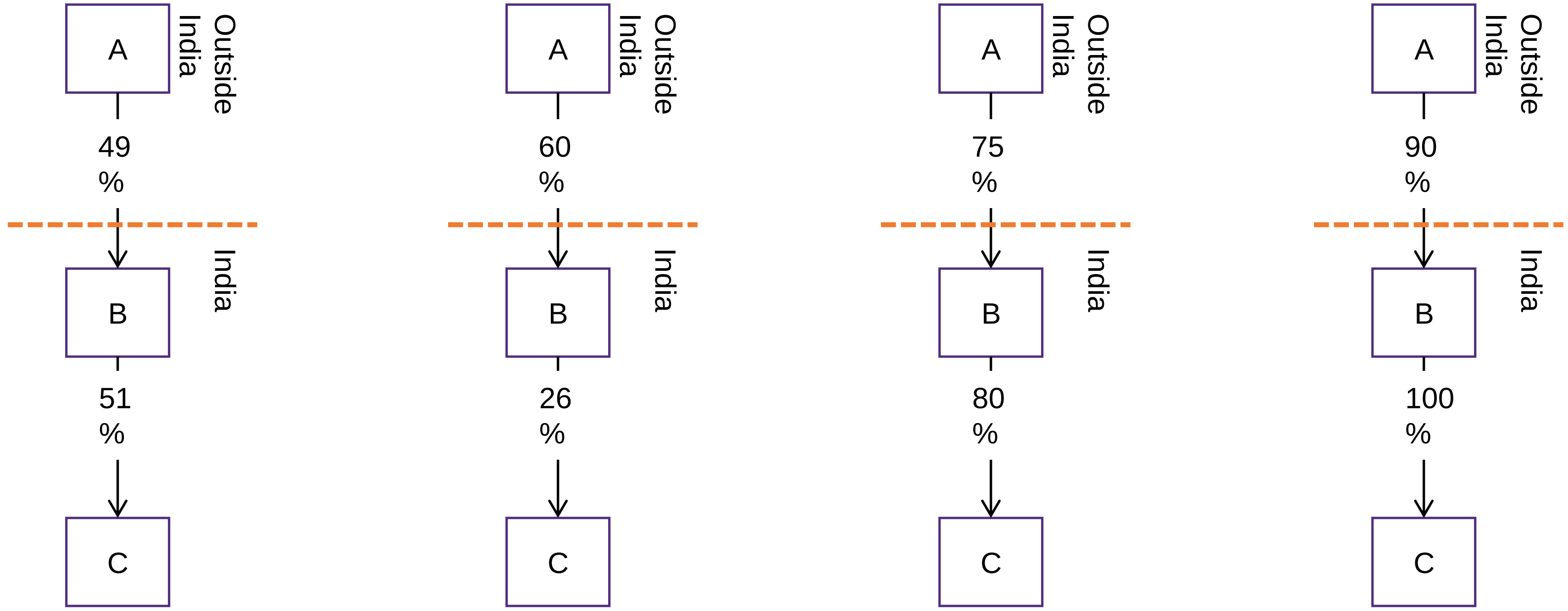
Downstream investments

Total foreign investment in a company = Direct foreign investment + Indirect foreign investment

How to compute indirect foreign investments??

Illustrations for computing indirect foreign investments:

Say Company A (foreign company) has invested into company B (India). Company B in turn invests into company C (India). Let us compute indirect foreign holding in Company C in various scenarios-



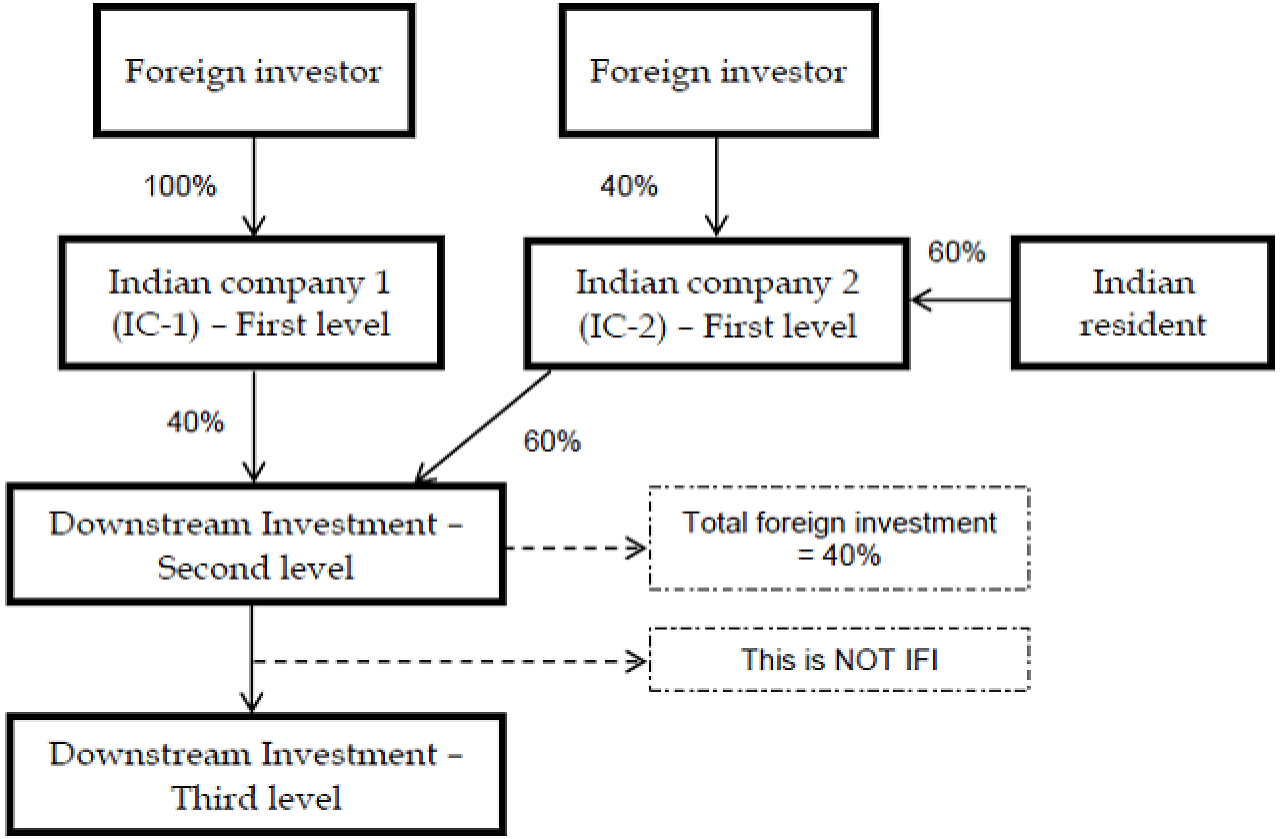
Indirect foreign investment= Nil

Indirect foreign investment= 26%

Indirect foreign investment= 80%

Indirect foreign investment= 90%

Downstream investments - Illustration



Foreigners own 64 percent in second level company [40 percent through IC-1 and 24 percent through IC-2 (40x60%)]. However IC-2 is considered as domestic investor as it is owned (and controlled) by Indian resident. Therefore foreign investment in second level company is considered as only 40 percent. As a result, second level company is also domestic investor. Consequentially investment in third level will not be foreign investment.

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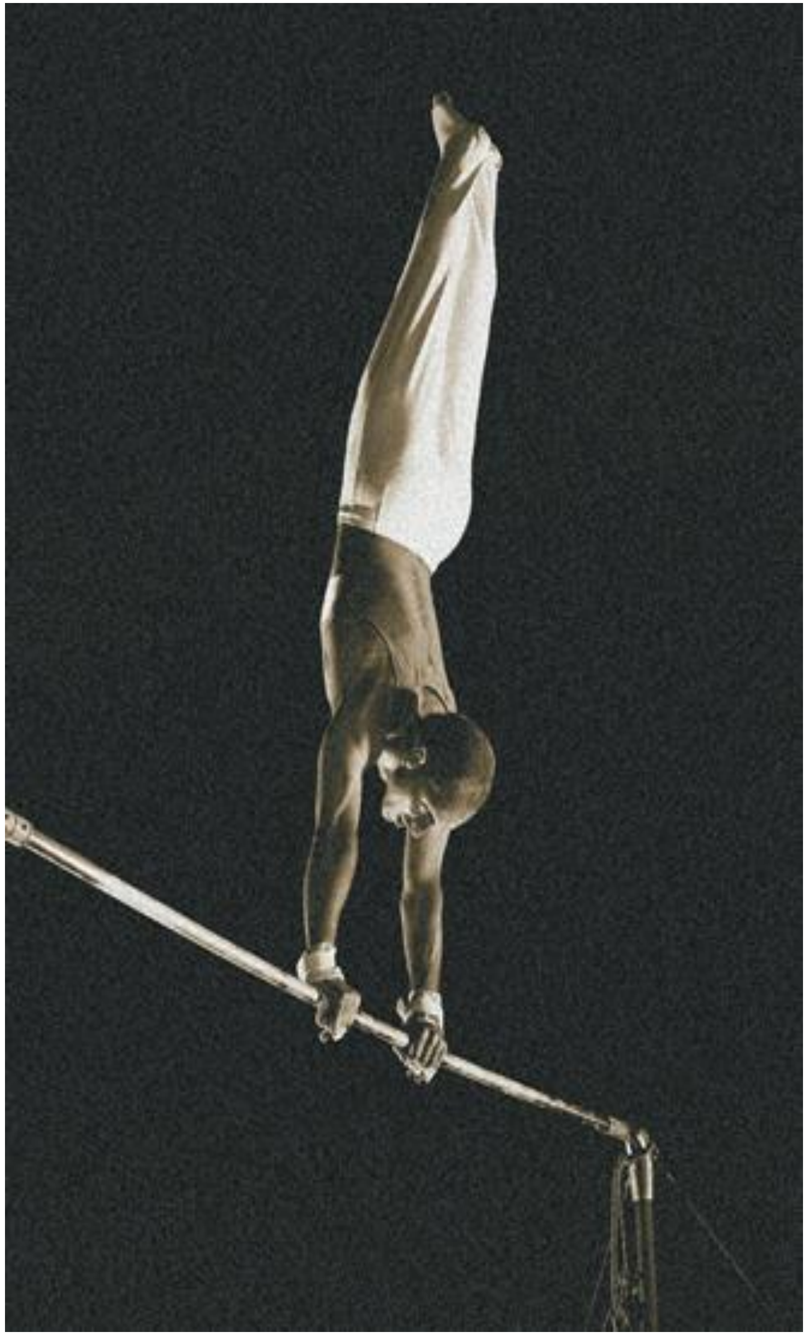
Case Studies



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Case Study - I

An employee of a software company in India uses his credit card to make payments to a company based out of Ireland for buying advertisement space in the latter's website (adspace). The employee then claims reimbursement of such expenses from the Company as it was incurred for business purposes. Is this okay from FEMA standpoint?

How is this different from using credit card at an e-commerce portal (foreign)
Who has contravened – Company/ Employee/ Both?

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Case Study - II

ABC India, a telecom entity has 5% investments from a Mauritian entity. The Mauritian entity plans to transfer the shares of ABC India to a Singapore entity. Is RBI approval required or an intimation by ABC India on change of shareholding suffice?

NR to NR transfer of shares of an Indian entity where FDI is received under the approval route requires prior Government approval. Otherwise, intimation to the RBI should be given by the Indian transferee company through the Authorised Dealer Bank.

Para 7.1.3 of Master Direction on Foreign Investment in India

If the investee company is in financial sector, “fit and proper due diligence” to be done by the AD Banker additionally

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Case Study - III

Consider a case of where an Indian company plans to apply for liquidation/ voluntary winding up. The Company has receivables from and payables to its Singapore parent entity. Net is a payable scenario to the overseas entity. Can it net-off the transaction on its own or need to approach the RBI for approvals? Any alternate approach possible?

One day bank transaction (inflow and outflow) – Round Tripping?
Can RBI come back after liquidation is over

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Case Study - IV

XYZ Inc plans to buy the shares of ABC India from DEF India for a total consideration of INR 100 crores. XYZ India has proposed to pay INR 50 percent upfront on the conclusion of the share purchase transaction and the balance after 24 months. Is this permitted under FEMA regulations?

If not, what are the alternate options?

Deferment for not more than 25 percent and not beyond 18 months
Escrow and Indemnity

Business Presence in India

LO/ BO/ PO

Master Direction - Establishment of BO/ LO/ PO or any other place in India by foreign entities

Master Direction - Establishment of Branch Office (BO)/ Liaison Office (LO)/ Project Office (PO) or any other place of business in India by foreign entities

- **Liaison Office (Short term) -**
  - Acts as channel of communication between HO and Indian entities
  - Does not undertake any **commercial/ trading/ industrial** activity, **directly or indirectly**
  - Maintains itself out of inward remittances received from abroad through normal banking channel

- **Project office (Specific purpose) –**
  - Represents the interests of the foreign company executing a project in India

- **Branch office (Medium term) –**
  - Established for undertaking permitted commercial activities

Permitted Activities

For LO	For PO	For BO
○ Representing the parent company / group companies in India ○ Promoting export/ import from/ to India ○ Promoting technical/ financial collaborations between parent/ group companies and companies in India ○ Acting as a communication channel between the parent company and Indian companies	○ Limited to execution of a particular project in India	○ Export/ import of goods ○ Rendering professional/ consultancy services ○ Carrying out research work, in which the parent company is engaged ○ Promoting technical or financial collaboration between Indian companies and parent or overseas group company ○ Representing the parent company in India and acting as buying/ selling agent in India ○ Rendering services in IT and development of software in India ○ Rendering technical support to the products supplied by parent/ group companies ○ Representing a foreign airline/ shipping company

Set-up/Compliances of a LO/BO/ PO

- Applications from foreign companies (a body corporate incorporated outside India, including a firm or other association of individuals) for establishing BO/ LO/ PO in India **shall be considered by the AD Category-I bank** as per the guidelines given by Reserve Bank of India (RBI).

- **Validity period of an LO is generally for 3 years**, except in case of Non-Banking Finance Companies (NBFCs) and those entities engaged in construction and development sectors, for whom the validity period is 2 years only.

- Validity period of project office is **for the tenure of the project**

- General permission available to non-resident companies to establish POs in India, provided they have secured a contract from an Indian company to execute a project in India

- **Extension for another 3 years** could be granted to the LO by the AD Banker if all the compliances are in place and the conditions of original approval are met

- No further extension is considered for liaison offices of entities which are NBFCs and those engaged in construction and development sectors. Upon expiry of the validity period, the offices shall have to either close down or be converted into a Joint Venture / Wholly Owned Subsidiary in conformity with the extant Foreign Direct Investment policy.

- Applicants from **Bangladesh, Sri Lanka, Afghanistan, Iran, China, Hong Kong, Macau or Pakistan** desirous of opening BO/LO/PO in India shall have to register with the state police authorities

- Requests for establishing additional BOs / LOs may be submitted to the AD Category-I bank in a fresh FNC form - If the number of offices exceeds 4 (ie 1 BO/ LO in each zone), the applicant has to justify the need for additional office and it shall require prior approval of RBI

Set-up/Compliances of a LO/BO/ PO

- Prior approval from RBI in prescribed Form required for opening of above offices if:

Applicant is citizen/ registered/ incorporated in Pakistan

Applicant is citizen/ registered/ incorporated in Sri Lanka, Afghanistan, Iran, China, Hong Kong, Macau and application is for opening BO/ LO/ PO in Jammu & Kashmir, North East region, Andaman & Nicobar islands

Principal business of applicant falls in four sectors- Defence, Telecom, Private Security and Information & Broadcasting

Applicant is NGO, Non-profit organization, body/ agency/ department of foreign government

- Non-resident entity to have financially sound track record

Branch Office	Liaison Office
• Profit making track record during immediately preceding **5 FYs** in home country; and • Net worth - Not less than **USD 100,000/ equivalent**	• Profit making track record during immediately **3 FYs** in home country; and • Net worth - Not less than **USD 50,000/ equivalent**

Net Worth [total of paid-up capital and free reserves, less intangible assets as per the latest Audited Balance Sheet or Account Statement certified by a Certified Public Accountant or any Registered Accounts Practitioner by whatever name called].

Set-up/Compliances of a LO/BO/ PO

- If not financially sound, Letter of Comfort from its parent/ Group Company
- Application for establishing BO/ LO/ PO in India may be submitted by the non-resident entity in **Form FNC** to a designated AD Category - I bank (ie an AD Category-I Bank identified by the applicant with whom they intend to pursue banking relations) along with the prescribed documents mentioned in the Form and the LOC, wherever applicable
- AD Banker to verify and forward the details to the RBI and accord approval post receipt of Unique Identification Number (UIN) from the RBI
- Office required to be registered with RoC once it establishes place of business in India
- Permanent Account Number (PAN) from the Income Tax Authorities to be obtained on setting up of their office in India
- As per Section 6(3)(h) of the FEMA, BO/ LO/ PO have general permission to carry out permitted/ incidental activities from leased property subject to lease **period not exceeding five years**
- **Annual Activity Certificate** (AAC) as at March 31 of each year to be filed with designated AD Category-I bank and DGIT (International Taxation), New Delhi
- In case of multiple BOs / LOs, a combined AAC in respect of all the offices in India to be filed by the nodal office of the BOs/ LOs

Set-up/Compliances of a LO/BO/ PO

- Change in name of existing LO/ BO may be permitted by AD Category-I Bank only if the non-resident entity changes its name **without change in ownership** and if the application to this effect is received with the Board resolution for change of name and documents/ certificate from ROC India showing change of name.

- Where change in name is requested **on account of acquisitions or mergers of foreign entities** involving change in ownership, the acquired entity or new entity is required to apply afresh by closing the existing entity.

- Approvals given to one foreign entity is **not transferrable** to another foreign entity

- Change in Top Management such as CEO/ MD/ CMD etc of BO/ LO does not require prior approval from the Reserve Bank/ AD Category-I bank. However, AD Category-I bank should be intimated about the same

Bank Accounts

LO shall not maintain more than one bank account at any given time without the prior permission of Reserve Bank of India

CREDITS

- Funds received from HO through normal banking channels for meeting the expenses of the office
- Refund of security deposits paid from LO's account or directly by the Head Office through normal banking channels
- Refund of taxes, duties etc., received from tax authorities, paid from LO's bank account
- Sale proceeds of assets of the LO

DEBITS

- Only for meeting local expenses of the office

- **For Branch office -** Credits should represent the funds received from HO through normal banking channels for meeting the expenses of the office and any legitimate receivables arising in the process of its business operations. Debits to this account shall be for the expenses incurred by the BO and towards remittance of profit/winding up proceeds

Remittance of surplus

- **Branch office**

  - Permitted to remit its annual earnings (net of applicable Indian taxes)

  - Key documents for remittance of proceeds include:
    - CA certificate
      - **Manner of arriving at remittable profit;**
      - **Entire remittable profit has been earned by undertaking permitted activities; and**
      - **Profit does not include any profit on revaluation of the assets of the branch**
    - Certified copy of audited balance sheet and profit & loss account

- **Project office**

  - AD Category-I banker may permit **intermittent remittances** by PO pending winding up/ completion of the project on submission of the following documents:
    - CA certificate that **sufficient provisions have been made to meet Indian liabilities, including income-tax**
    - Undertaking from the PO that the remittance will not affect the completion of the project and that any shortfall in funds will be met by inward remittances

Closure of BO/ LO/ PO

Application to be filed with designated AD Category-I bank by BO/LO/PO

Application to be accompanied by:

- **RBI/ AD Category-I bank's approval for establishment**
- **Auditor's certificate (confirming all assets & liabilities, computation of remittable amount, confirming no income accruing outside India has remained unrepatriated to India)**
- **Confirmation from the applicant/parent company that no legal proceedings in any Court in India are pending against the BO/ LO/ PO**
- **Report from RoC regarding compliance with Companies Act, 2013 with respect to winding up of BO/ LO, wherever applicable**
- **Designated AD Category-I bank to ensure Annual Activity Certificate has been filed**
- **Any other documents specified while granting approval**

Designated AD Category-I bank may allow remittance of winding up proceeds after obtaining permission of closure from sectoral regulators along with above documents

Case Study

- **ABC GmbH, a German conglomerate has set up a Liaison office in Bangalore to study the Indian market conditions and conduct feasibility studies/ other preparatory activities to evaluate entry into India. The lease agreement for office premises has been entered directly between ABC GmbH and the Indian premises owner. The lease rentals are paid directly by ABC GmbH to the Indian premises owner. Is this arrangement okay from FEMA perspective?**

- **Also, a Director of ABC GmbH LO in India has signed some contracts for undertaking few research projects in India. Is this compliant with FEMA requirements?**

Shareholders Agreement

Shareholders Agreement

- Shareholders' agreement **is binding only on the parties to the shareholders' agreement**, as it is a contractual arrangement between the parties
- Shareholders' agreement is not **enforceable on third parties**
- Term of shareholders' agreement is at the **discretion of the shareholders** entering in to such agreement
- Shareholders' agreement lay down clearly **defined rights and obligations** between and of the parties, such as determining matters requiring special resolution or providing veto rights to certain shareholders (more so in case of private equity and venture capital partners), financing the requirements of the company, defining the obligation of each of the shareholder towards the company etc
- If there are one or more non-resident parties to the shareholders' agreements, any law applicable to the parties can be included for resolving disputes [*However, if any judgment is passed against an Indian party in a foreign court, for such judgment to be enforced in India, a fresh suit on the judgment should be filed in India, if such foreign country does not have a reciprocity arrangement with India*]
- The parties to the shareholders' agreement are free to include an **arbitration clause** with seat outside India and/or under a law other that of India as long as one of the parties to the shareholders is a non-resident
- **A clause must be included that all restrictive covenants (including representations and warranties) would be subject to the exchange control regulations, as may be applicable [for the time being in force] to ensure that there are no violations (such as call and put options as it may result in assured return on exit)**

Capital instruments can contain an optionality clause subject to a minimum lock-in period of 1 year or as prescribed for the specific sector, whichever is higher, but without any option or right to exit at an assured price

Shareholders Agreement

Some clauses often found in a Shareholders' Agreement to regulate the transfer of shares:

Right of First Refusal: Holders of share wanting to sell and monetize them, must first offer them to stakeholders who hold the right of first refusal *(usually existing shareholders)*. Only when the latter refuses or cannot buy those shares can the seller sell them to a third-party (*Basic structure, but its regulation and mechanisms can be diverse*)

Right of First Offer: Enables a preferential option to certain stakeholders in which the prices of the shares are fixed at the outset. The shareholder who wants to sell his/ her stake shall first offer the shares to the holder of the right of first offer holder at the fixed price. Upon refusal, the seller can sell them to a third-party

Drag-along Rights: Agreement between the shareholder, where the shareholder wishing to sell his shares to a third party has the right to drag all the other shareholders and make complete exit from the company

Tag-along Rights: Other shareholders enjoy a right to tag-along with the seller and sell their shares to the same party

Buy-back Rights: Right to claim back the shares of a certain shareholder on withdrawal or death of the shareholder

Call Option: Gives its holder the right to buy a certain number of shares at a predetermined price *('strike price')* between the date of purchase and the options expiration date

Put Option: Gives its holder the right to sell a specified number of shares at a predetermined price *('strike price')* on or before the expiration date of the contract

Anti-Dilution: A shareholder given shares at certain price enjoys the right to receive additional shares at no extra cost if the company decides to issue to another person at a price lower than agreed (done to offset the price difference)

Pre-emptive: The Company has to offer any future shares that may be issued, first to the Shareholder *(on a pro rate basis)* before offering it to any other party, as well as allow the shareholder to maintain his/ her shareholding pattern

Reporting Compliances – Going forward

FLA Return

Particulars	Remarks
❑ **Requirement**	• Annual return on Foreign Liabilities and Assets (FLA) required to be submitted directly by all the Indian companies/ LLPs which have received FDI and/ or ODI in the previous year(s) including the current year ie companies holding foreign assets or liabilities in their balance sheets • If the Indian company does not have any outstanding investment in respect of inward and outward FDI as on end-March of reporting year, the company need not submit the FLA return • If a company has received only share application money and does not have any foreign direct investment or overseas direct investment outstanding as on end-March of the reporting year, then that company is not required to fill up FLA return • Shares issued by reporting company to non-resident on non-repatriable basis should not be considered as foreign investment; therefore, companies which have issued the shares to non-resident only on non-repatriable basis, is not required to submit the FLA Return
❑ **Due Date**	• Based on provisional/ unaudited accounts by July 15 every year **(through e-mail from authorized person of the Company such as Director/ CFO/ Company Secretary etc**); need to be revised as per audited financials by end of September
❑ **Consequence of non-filing**	• Considered as violation of reporting requirements under FEMA and penalty may be levied for non-compliance

Detailed FAQ on FLA available at https://www.rbi.org.in/scriptS/FAQView.aspx?Id=95

1. Single Master Form (SMF)

RBI has introduced an online reporting facility through Single Master Form (SMF) to integrate reporting of total foreign investment in India. SFM would subsume all reporting requirements, irrespective of the capital instrument through which the foreign investment is made. AP (DIR Series) Circular No 30 issued on June 7 2018 to lay down the roadmap for implementation of reporting of foreign investments through SMF

Key highlights

- Facility for reporting total foreign investment by a non-resident in an Indian entity ie Company, LLP, other investment vehicles such as REITs / InvIts / AIFs
- Existing Companies / LLPs were provided with an online interface from June 28, 2018 to July 20, 2018 for filing information on total foreign investment in prescribed **Entity Master Form**
- **Indian entities not complying with this pre-requisite will not be able to receive foreign investment (including indirect foreign investment) and will be considered as non-compliant with FEMA**
- **With effect from September 1, 2018 all new filings for FC-GPR , FC-TRS , LLP-I , LLP-II and CN will be in SMF only. FC-GPR and FC-TRS shall not be filed on ebiz**
- SMF would subsume the following forms for reporting of foreign investment:

Form	Reporting
Form FC-GPR	Issue of capital instruments by Indian company to Person Resident Outside India (PROI)
Form FC-TRS	Transfer of capital instruments between PROI and person resident in India
Form LLP-I	FDI in LLP through capital contribution and profit shares
Form LLP-II	Disinvestment/ transfer of capital contribution and profit shares in LLP

Form	Reporting
Form ESOP	Issue of ESOPs / sweat eq. shares / shares against exercise of ESOP by Indian company to an employee resident outside India
Form CN	Issue or transfer of convertible notes
Form DRR	Issue/transfer of Depository Receipts
Form DI	Downstream investment (indirect foreign investment) in a company or LLP
Form InVi	Investment by PROI in an investment vehicle

User Manuals available on https://firms.rbi.org.in

1. Single Master Form (SMF)

Attachments to SMF

- Shareholding pattern of the relevant Indian entity

- Declaration to be filed by the authorized representative of the Indian entity (this declaration is in relation to the Indian entity's compliance with laws such as FEMA, Prevention of Money Laundering Act, 2002 and Unlawful Activities (Prevention) Act, 1967)

- Certificate from the Company Secretary of the Indian entity (format of this certificate has been annexed to SMF and requires the Company Secretary to certify that the entity has complied with FEMA and the regulations made thereunder, and with the Companies Act, 2013 or the Limited Liability Partnership Act, 2008)

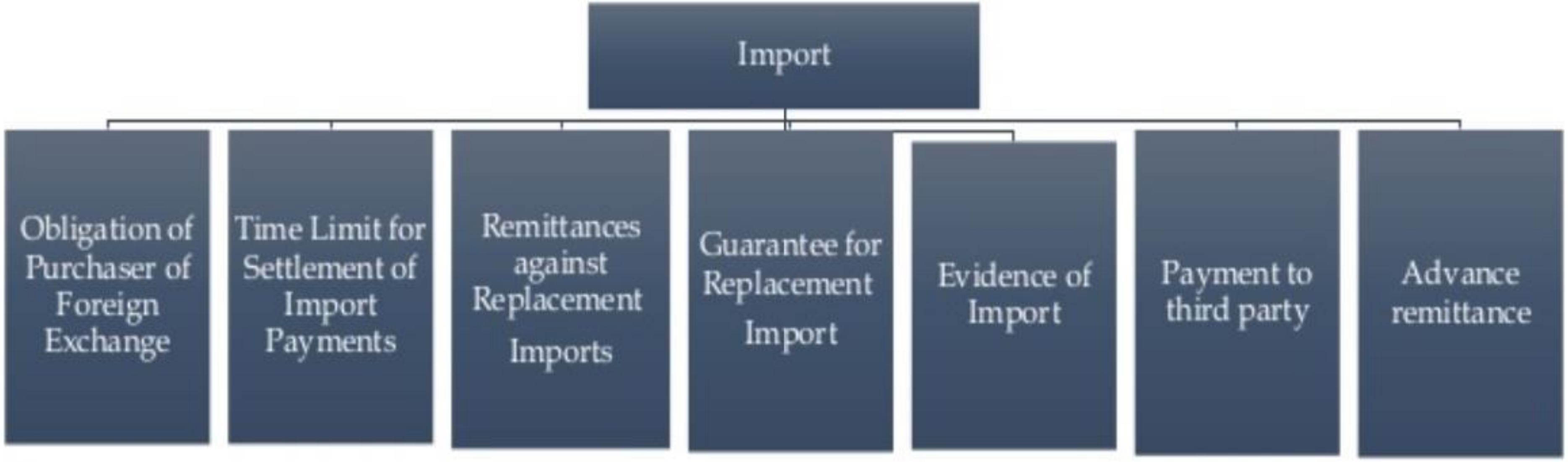
- Certificate indicating the manner of arriving at the price

- Declaration by the non-resident transferor or transferee

Import of Goods and Services

Master Direction

General principles – Points to be noted



- Where specific guidelines do not exist: AD may be governed by normal trade practices
- AD must adhere to KYC guidelines issued by RBI
- Remittance for import payments after requisite details are made available
- Import License
  - Goods included in the negative list – license required under the Foreign Trade Policy
  - Other goods – AD may freely open letter of credits & allow remittance for imports

General principles – Points to be noted

<u>Obligation of Purchaser of foreign exchange</u>

- ***Person acquiring foreign exchange*** –
  - ➢ use it either for the purpose mentioned in the application or
  - ➢ for any other purpose permitted under the Act, Rules or Regulations
- ***Foreign exchange utilised for import of goods*** – Proof regarding import - Bill of entry, Postal appraisal form or custom authorities certificate, etc should be submitted
- ***Payment for import –*** through international credit card/debit card through credit/ debit card servicing bank in India against charge slip signed by importer and in line with other regulations prescribed by RBI
- ***Debentures*** – Must be compulsorily convertible

<u>Time limit for settlement of imports</u>

- Remittance against import – **within 6 months from date of shipment** (except in cases where amounts are withheld towards guarantee of performance)
- AD may grant extension in settlement of import dues delayed **due to disputes, financial difficulties**, etc
- Interest on delayed payments related to imports
  - ➢ For a period **upto 3 years from the date of shipment**
  - ➢ Interest rate - **Rate prescribed for trade credit**

General principles – Points to be noted

<u>Time limit for deferred payment arrangements</u>

- Deferred payment arrangements **upto 5 years** – including suppliers' and buyers' credit - treated as trade credits – guidelines in Master Circular for ECB and Trade credits may be followed

- Extension of time – AD Banker can consider granting extension of time for settlement of import dues upto a period of **6 months at a time (maximum upto a period of 3 years) irrespective of invoice value for delays on account of disputes about quantity or quality or non-fulfillment of contract terms, financial difficulties and pending suit against the seller**

- While granting extension of time, AD Category–I banks must ensure that the import transactions covered by the invoices are **not under investigation ED/ CBI**

- While considering extension beyond 1 year from the date of shipment, total outstanding of the importer **does not exceed USD 1 million or 10 percent of average import remittances during preceding 2 financial years, whichever is lower**

Third party payments for import transactions

AD category I banks are allowed to make payments to a third party for import of goods, subject to certain conditions

- Firm irrevocable purchase order/ tripartite agreement should be in place (However this requirement may not be insisted upon in case where documentary evidence for circumstances leading to third party payments/name of third party being mentioned in irrevocable order/ invoice has been produced)
- AD bank should be satisfied with the bonafides of the transactions
- Invoice should contain a narration that the related payment has to be made to the (named) third party
- Bill of Entry should mention the name of the shipper as also the narration that the related payment has to be made to the (named) third party

Issue of Guarantee by Authorised Dealer

- Authorised dealer may give guarantee in respect of any debt or obligation incurred by PRI and owed to PROI
- Guarantee in the form of Letter of undertaking or letter of comfort, for import of goods
- Guarantee could also be issued to **non-resident service provider** on behalf of resident service importer:
  - Limit – For amount up to **USD 1,00,000** for public sector company/ undertaking of Government (State or Central) without approval of the Ministry of Finance
  - **USD 5,00,000** (for other than public sector company/ undertaking of Government)

Advance Remittances

- Advance remittance for import of goods **without any ceiling**, permitted subject to:

  - If advance remittance > USD 2,00,000 or its equivalent, AD Banker required to obtain
    - Unconditional and Irrevocable letter of credit or
    - guarantee from an International bank of repute situated outside India or
  - If importer (other than PSU, Govt of India/State, Public sector company) unable to obtain bank guarantee from overseas supplier
    - AD satisfied about the track record & bonafides of the importer – bank guarantee may not be insisted if advance remittance < USD 5,000,000
    - AD to frame their own guidelines & suitable policy framed by bank's Board of Directors
  - Public Sector Company or a Department / Undertaking of the Government of India / State Government
    - If not in a position to obtain a guarantee from an international bank of repute - Advance exceeding USD 1,00,000 (subject to obtaining waiver from the Ministry of Finance)

Evidence of Imports - Physical Imports

- **Obligatory for AD to obtain proof of import**
  - Exchange control copy of **Bill of Entry** for home consumption
  - Exchange control copy of **Bill of Entry for warehousing** in case of 100 percent EOU
  - **Customs Assessment Certificate or Postal Appraisal Form** where the import has been made by post
- **Evidence of import in lieu of Bill of Entry Certificate** from **CEO or Auditor of the company** that the goods for which the remittance is already imported
  - Remittance is less than USD 1,000,000, **AND**
  - Importer is a:
  - **Company listed on a stock exchange in India and net worth is more than INR 100 crores (Last audited BS), or**
  - **Public Sector Company or an Undertaking of the Govt of India or its departments, or**
  - **Autonomous bodies like Indian Institute of Science / Indian Institute of Technology, etc. which are audited by the CAG**

Evidence of Imports - Non- Physical Imports

- Import of software or data through internet / datacom channels or
- Drawings & designs through e-mail / fax
- **A certificate from CA that software/ data/drawing/ design has been received by the importer to be obtained**

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Annexures

KSCAA
Karnataka State Chartered Accountants Association ®

Workshop on
Foreign Exchange Management Act [FEMA]

Practitioners Approach

From Basics to Advanced

India is one of the largest FDI destinations in the world with the relaxation of foreign exchange restrictions, there has been a significant flow of investments into India. At the same time, Indian businesses have been making investments and acquisitions overseas. With the inbound and outbound investments rising, it is essential to understand the rules, regulations and policies that govern such capital inflows and outflows as practitioner. All transactions involving foreign exchange fall under preview of Foreign Exchange Management Act (FEMA) read with FDI policy.

KSCAA is organising workshop on FEMA to provide complete insight of FEMA from basics to advanced approach to the practitioner, including latest trends in FEMA and practical aspects from the Authorised Dealer Banks. This workshop will identify the practical issues and help create real-world understanding of the foreign exchange laws and policy in India.

Who can attend

Chartered Accountants, Cost Accountants, Company Secretaries, Tax Consultants, Finance Controllers, CFOs, Finance Managers, Accountants and Accounting staff involved in FEMA Activities.

Workshop Dates (4 Days)*
4th September 2018 to
7th September 2018.
Tuesday to Friday
Timing:
4.30 PM to 7.30 PM

Workshop Venue*
Vasavi Vidyanikethan Trust (VVN),
No.3, Vani Vilas Road, V.V. Puram, Basavanagudi, Bengaluru – 560 004

Workshop Fee
Rs. 2,500 (Plus GST)
Or
Rs. 2,950 (All inclusive)
Course Fee includes Course Material, Refreshments

COURSE COVERAGE:

- FEMA regulations
- FDI Policy of India
- Investment Policies
- Export and import related regulatory issues
- Outbound Investment Policy
- International Finance: External Commercial Borrowings (ECBs)
- Remittances under FEMA

For detailed content see overleaf

COURSE EXPERTS:

- Sandeep Jhunjhunwala, FCA
- Authorised Dealer (Banker) – Regulatory teams from Standard Chartered Bank and HSBC
- Other eminent speakers

Registration/Enquiries

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*Subject to confirmation

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KSCAA
Karnataka State Chartered Accountants Association ®

Workshop on
Foreign Exchange Management Act [FEMA]

Practitioners Approach

From Basics to Advanced

DETAILED COURSE CONTENT:

FEMA regulations

- Types of Transaction - Current and capital account transactions
- Automatic and Approval route
- Regulatory setup – Finance Ministry, DIPP, FIPB, RBI etc
- FEMA – Basic principles

FDI Policy of India

- Entry routes and eligible entities
- Sectoral analysis - Restricted, Prohibited & Permitted
- Eligible Instruments for Investment and pricing
- Reporting and Remittance
- Enforceability of Share Transfer Restrictions
- Indirect Foreign Investments
- Downstream Investments
- Transfer of Shares
- Round Tripping
- Recent FDI relaxation and key developments on FDI policy

Investment Policies

- Investment in Liaison office/ Branch office/ Project office/ Company / Joint ventures/ LLPs - Setup and closure
- FII and FVCI, including AIF
- Funding of subsidiaries
- Drafting of shareholders agreement (brief discussion over relevant clauses)
- Key points to be considered while making Downstream Investment
- Merger/ Acquisition – Key Developments
- Regulations, Reporting, Compliances and Compounding procedures
- Pointers for Valuation of securities (especially convertible debentures)
- Do and do not's for Investor and Investee companies
- Documents to file and permission from RBI/ AD Banker
- Form FLA and SMF - Foreign Investment Reporting Process

Export and import related regulatory issues

- Trade discount and reduction in invoice value
- Regulatory waivers
- Advance remittance, write off, netting off
- Time limit for export/ import payments, interest payments etc
- Trade credit: Supplier's credit and Buyer's credit

Outbound Investment Policy

- Overseas direct Investment by Corporates/ Partnership firms and individual
- Precautions while making an investment
- Drafting of agreements (brief discussion over relevant clauses)
- Reporting requirements, compliances and procedures
- Loan to WOS/ Pledge of shares
- Manner, mode and funding of investment
- ESOPs to non - resident employees
- ODI by LLPs/ Trusts/ Societies
- FEMA vis-à-vis Tax Treaty

International Finance: External Commercial Borrowings (ECBs)

- Basics of External Commercial Borrowings
- ECB vs other mode of financing (domestic finance/ ADR/ GDR) – Cost benefit analysis
- Drafting of ECB agreements and corporate guarantees (Points to be considered, including transfer pricing and income tax related issues)
- Conversion of ECB into equity
- Security and Guarantees
- Trade credits
- Structured Obligations
- Reporting requirements
- Instruments which requires ECB compliances

Remittances under FEMA

- Types of accounts (NRE, NRO and EEFC)
- Precautions to be taken in operation of accounts
- Remittances (manner and mode of remittances)
- Points of caution while making/ receiving remittances
- Investment in immovable property in India
- Liberalized remittance Scheme

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OPEN HOUSE & DISCUSSIONS

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Sandeep is a Fellow member of the Institute of Chartered Accountants of India and an Associate Member of the Institute of Company Secretaries of India. He also holds Bachelor's degrees in Law and Commerce. Sandeep has more than 12 years of experience in consulting in varied fields of tax and regulatory matters.

He specialises in advising clients with tax optimised business and operational structures. He has worked on a number of leading multi-national companies in information technology, communication, real estate, entertainment, pharmaceuticals, e-commerce and automotive sectors and has been extensively involved in tax and regulatory advisory, compliance support, planning opportunities and litigation support on direct tax and regulatory matters.

He has been a speaker/ panelist on tax and regulatory matters at various forums such as NASSCOM, ASSOCHAM, CII, BCIC, NAREDCO, CREDAI etc, industrial/ trade bodies such as TiE, Indo-American Chamber of Commerce, Indo-Italian Chamber of Commerce, Royal Institution of Chartered Surveyors (RICS), various Government recognised start-up incubators, Bangalore chapters of the ICAI, ICSI & ICMAI and leading Business Schools & Engineering/ Commerce colleges in Bangalore. He is also a visiting faculty for taxation at the Bangalore Chapters of the ICAI and ICSI.

Recently, he has been awarded honorary memberships by the National Real Estate Development Council (NAREDCO) and Builders and Real Estate Developers Association of India (BREDAI) and also nominated for few non-standing committees of the ICAI, including its Career Counselling Committee. He is also a mentor for the Startup India programme of the Government of India. Sandeep also serves as a member in Taxation and Representation committees of Karnataka State Chartered Accountants Association (KSCAA).