

**Reserve Bank of India
Foreign Exchange Department
Central Office
Mumbai**

Notification No.FEMA.20(R) (1)/2018-RB

March 26, 2018

Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Amendment) Regulations, 2018

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), the Reserve Bank of India hereby makes the following amendments to the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2017 ([Notification No. FEMA. 20 \(R\)/2017-RB dated November 07, 2017](#)) (hereinafter referred to as 'the Principal Regulations'), namely:-

1. Short Title & Commencement

(i) These Regulations may be called the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Amendment) Regulations, 2018.

(ii) They shall come into force from the date of their publication in the Official Gazette.

2. Amendment to Regulation 16.B

In Regulation 16.B,

(i) The existing sub-regulation 5, shall be substituted by the following namely:

“(5) (a) Foreign Investment in investing companies not registered as Non-Banking Financial Companies with the Reserve Bank and in core investment companies (CICs), both engaged in the activity of investing in the capital of other Indian entities, will require prior Government approval.

Note: Compliance to these Regulations by the core investment companies is in addition to the compliance of the regulatory framework prescribed to such companies as NBFCs under the Reserve Bank of India Act, 1934 and regulations framed thereunder.

(b) Foreign investment in investing companies registered as Non-Banking Financial Companies (NBFCs) with the Reserve Bank, will be under 100% automatic route.

(ii) After the existing sub-regulation 7, the following shall be inserted namely,

“(8) 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 shall be carried out as joint audit wherein one of the auditors is not part of the same network.”

(iii) The existing SL. No 9.3(a) shall be substituted by the following, namely:

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|--|---|------|--|
| | (a) (i) Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline (ii) Regional Air Transport Service | 100% | Automatic up to 49% Government route beyond 49% (Automatic up to 100% for NRIs and OCIs) |
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(iv) In SL.No 9.5, after clause (c), the following shall be inserted, namely:

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

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

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

(v) In SL.No 9.5, Note (3) shall be deleted.

(vi) In SL. No 10.2, after Note 6, a new Note 7 shall be inserted, namely:

“(7) Real estate broking services shall be excluded from the definition of “real estate business” and 100% foreign investment is allowed in real estate broking services under automatic route.”

(vii) In SL.No 15.3, under the column Entry route, the words, “Automatic up to 49%; Government route beyond 49%” shall be substituted by the words “Automatic”.

(viii) In SL.No 15.3.1, the existing clause (d) shall be substituted by the following, namely:

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

(ix) In SL.No 15.3.1, clause (g) and clause (h) shall be deleted.

(x) In SL.No 15.3.1, after the omitted clause (h), the following shall be inserted, namely

“(i) Single brand retail trading entity shall be permitted to set off its incremental sourcing of goods from India for global operations during initial 5 years, beginning 1st April of the year of the opening of first store, against the mandatory sourcing requirement of 30% of purchases from India. For this purpose, incremental sourcing shall mean the increase in terms of value of such global sourcing from India for that single brand (in INR terms) in a particular financial year from India over the preceding financial year, by the non-resident entities undertaking single brand retail trading, either directly or through their group companies. After completion of this 5 years period, the SBRT entity shall be required to meet the 30% sourcing norms directly towards its India’s operation, on an annual basis.”

(xi) In SL.No 15.3.1, Note 2 and Note 3 shall be deleted.

(xii) In SL.No 15.3.1, the existing Note 5 shall be substituted by the following, namely:

“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 15.3.1(e) above will be applicable. A Committee under the Chairmanship of Secretary, DIPP, with representatives from NITI Aayog, concerned Administrative Ministry and independent technical expert(s) on the subject will examine the claim of applicants on the issue of the products being in the nature of ‘state-of-art’ and ‘cutting-edge’ technology where local sourcing is not possible and give recommendations for such relaxation.”

(xiii) In SL.No 16.3, in Note 2, in clause (a), in sub-clause (ab), the existing word “handicap” shall be substituted by the word, “disability”.

(xiv) In SL.No 16.3, in Note 2, clause (c) shall be substituted by the following, namely:

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

(xv) In SL.No 16.3, the existing Note 3 shall be deleted.

(xvi) In SL.No F.6.1, the existing clause (a) shall be deleted.

3. Amendment to Schedule 1

In Schedule 1,

(i) The existing Para 1 (4), shall be substituted by the following namely:

(4) An Indian company may issue, subject to compliance with the conditions prescribed by the Central Government and/or the Reserve Bank from time to time, capital instruments to a person resident outside India, if the Indian investee company is engaged in an automatic route sector, against:

- (a) Swap of capital instruments; or
- (b) Import of capital goods/ machinery/ equipment (excluding second-hand machinery); or
- (c) Pre-operative/ pre-incorporation expenses (including payments of rent etc.).

Provided Government approval shall be obtained if the Indian investee company is engaged in a sector under Government route. The applications for approval shall be made in the manner prescribed by the Central Government from time to time.

(ii) The existing Para 1 (6), shall be deleted:

(Shekhar Bhatnagar)
Chief General Manager-in-Charge

Foot Note:-

The Principal Regulations were published in the Official Gazette vide G.S.R. No. 1374(E) dated November 07, 2017 in Part II, Section 3, sub-Section (i).and subsequently amended as under

[G.S.R. No. 279\(E\) dated 26.03.2018](#)