

**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI-400 001**

Notification No. FEMA. 355/2015-RB

November 16, 2015

Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Eleventh Amendment) Regulations, 2015

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 in the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 ([Notification No.FEMA 20/2000-RB dated 3rd May 2000](#)) 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) (Eleventh Amendment) Regulations, 2015.
- (ii) They shall come into force from the date of publication in the official Gazette.

2. Amendment to Regulations:-

A. Amendment to Regulation 2

- (i) After the existing sub-regulation (ii f) the following shall be added namely:-

“(ii g) ‘Investment Vehicle’ shall mean an entity registered and regulated under relevant regulations framed by SEBI or any other authority designated for the purpose and shall include Real Estate Investment Trusts (REITs) governed by the SEBI (REITs) Regulations, 2014, Infrastructure Investment Trusts (Invlts) governed by the SEBI (Invlts) Regulations, 2014 and Alternative Investment Funds (AIFs) governed by the SEBI (AIFs) Regulations, 2012.”

- (ii) After the existing sub-regulation (xi), the following shall be added namely:-

“(xi A) ‘Unit’ shall mean beneficial interest of an investor in the Investment Vehicle and shall include shares or partnership interests.”

B. Amendment to Regulation 5

In the principal Regulations, in Regulation 5, after the existing sub-regulation (9), the following shall be added, namely:-

“(10) A person resident outside India (other than an individual who is citizen of or any other entity which is registered / incorporated in Pakistan or Bangladesh), including an Registered Foreign Portfolio Investor (RFPI) or a non-resident Indian (NRI) may acquire, purchase, hold, sell or transfer units of an Investment Vehicle, in the manner and subject to the terms and conditions specified in Schedule 11.”

C. Amendment to Regulation 9

In the principal Regulations, in Regulation 9, for the words,

“shares or convertible debentures or warrants,” and “shares or convertible debentures or warrants of an Indian company”, wherever they appear,

the words, “**shares or convertible debentures or warrants of an Indian company or units of an Investment Vehicle**” shall be substituted.

Provided that the words “shares or convertible debentures or warrants of an Indian company or units of an Investment Vehicle” shall not be substituted in the qualification clause of Regulation 9(1) beginning with “Further” and ending with “subject to lock-in period requirement”.

D. Amendment to Regulation 12

In the principal Regulations, in Regulation 12, after the existing sub-regulation (v), the following shall be added, namely:

“(vi) Any person who is a non-resident and holds units of an Investment Vehicle in accordance with these Regulations, may pledge such units to secure credit facilities being extended to the non-resident investor.”

E. Addition of a new Schedule

After the existing Schedule 10, the following shall be added

Schedule 11

[See Regulation 5(10)]

Investment by a person resident outside India in an Investment Vehicle

1. A person resident outside India including an RFPI and an NRI may invest in units of Investment Vehicles subject to the conditions laid down in this Schedule.
2. The payment for the units of an Investment Vehicle acquired by a person resident or

registered / incorporated outside India shall be made by an inward remittance through the normal banking channel including by debit to an NRE or an FCNR account.

3. A person resident outside India who has acquired or purchased units in accordance with this Schedule may sell or transfer in any manner or redeem the units as per regulations framed by SEBI or directions issued by RBI.

4. Downstream investment by an Investment Vehicle shall be regarded as foreign investment if neither the Sponsor nor the Manager nor the Investment Manager is Indian 'owned and controlled' as defined in Regulation 14 of the principal Regulations.

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

Explanation 1: Ownership and control is clearly determined as per the extant FDI policy. AIF is a pooled investment vehicle. 'Control' of the AIF should be in the hands of 'sponsors' and 'managers/investment managers', with the general exclusion of others. In case the 'sponsors' and 'managers/investment managers' of the AIF are individuals, for the treatment of downstream investment by such AIF as domestic, 'sponsors' and 'managers/investment managers' should be resident Indian citizens. As ownership and control cannot be determined in LLP under the extant FDI policy, a LLP shall not act as sponsor or manager/investment manager.

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

5. Downstream investment by an Investment Vehicle that is reckoned as foreign investment shall have to conform to the sectoral caps and conditions / restrictions, if any, as applicable to the company in which the downstream investment is made as per the FDI Policy or Schedule 1 of the principal Regulations.

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

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

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

[A K Pandey]
Chief General Manager

Foot Note:-

The Principal Regulations were published in the Official Gazette vide G.S.R. No.406 (E) dated May 8, 2000 in Part II, Section 3, sub-Section (i) and subsequently amended as under:-

G.S.R.No. 158(E) dated 02.03.2001
G.S.R.No. 175(E) dated 13.03.2001
G.S.R.No. 182(E) dated 14.03.2001
G.S.R.No. 4(E) dated 02.01.2002
G.S.R.No. 574(E) dated 19.08.2002
G.S.R.No. 223(E) dated 18.03.2003
G.S.R.No. 225(E) dated 18.03.2003
G.S.R.No. 558(E) dated 22.07.2003
G.S.R.No. 835(E) dated 23.10.2003
G.S.R.No. 899(E) dated 22.11.2003
G.S.R.No. 12(E) dated 07.01.2004
G.S.R.No. 278(E) dated 23.04.2004
G.S.R.No. 454(E) dated 16.07.2004
G.S.R.No. 625(E) dated 21.09.2004
G.S.R.No. 799(E) dated 08.12.2004
G.S.R.No. 201(E) dated 01.04.2005
G.S.R.No. 202(E) dated 01.04.2005
G.S.R.No. 504(E) dated 25.07.2005
G.S.R.No. 505(E) dated 25.07.2005
G.S.R.No. 513(E) dated 29.07.2005

G.S.R.No. 738(E) dated 22.12.2005
G.S.R.No. 29(E) dated 19.01.2006
G.S.R.No. 413(E) dated 11.07.2006
G.S.R.No. 712(E) dated 14.11.2007
G.S.R.No. 713(E) dated 14.11.2007
G.S.R.No. 737(E) dated 29.11.2007
G.S.R.No. 575(E) dated 05.08.2008
G.S.R.No. 896(E) dated 30.12.2008
G.S.R.No. 851(E) dated 01.12.2009
G.S.R.No. 341 (E) dated 21.04.2010
G.S.R.No. 821 (E) dated 10.11.2012
G.S.R.No. 606(E) dated 03.08.2012
G.S.R.No. 795(E) dated 30.10.2012
G.S.R.No. 796(E) dated 30.10.2012
G.S.R. No. 797(E) dated 30.10.2012
G.S.R.No. 945 (E) dated 31.12.2012
G.S.R. No.946(E) dated 31.12.2012
G.S.R. No.38(E) dated 22.01.2013
G.S.R.No.515(E) dated 30.07.2013
G.S.R.No.532(E) dated 05.08.2013
G.S.R. No.341(E) dated 28.05.2013
G.S.R.No.344(E) dated 29.05.2013
G.S.R. No.195(E) dated 01.04.2013
G.S.R.No.393(E) dated 21.06.2013
G.S.R.No.591(E) dated 04.09.2013
G.S.R.No.596(E) dated 06.09.2013
G.S.R.No.597(E) dated 06.09.2013
G.S.R.No.681(E) dated 11.10.2013
G.S.R.No.682(E) dated 11.10.2013
G.S.R. No.818(E) dated 31.12.2013
G.S.R. No.805(E) dated 30.12.2013
G.S.R.No.683(E) dated 11.10.2013
G.S.R.No.189(E) dated 19.03.2014

G.S.R.No.190(E) dated 19.03.2014
G.S.R.No.270(E) dated 07.04.2014
G.S.R.No. 361 (E) dated 27.05.2014
G.S.R.No.370(E) dated 30.05.2014
G.S.R.No.371(E) dated 30.05.2014
G.S.R.No. 435 (E) dated 08.07.2014
G.S.R.No. 400 (E) dated 12.06.2014
G.S.R.No. 436 (E) dated 08.07.2014
G.S.R.No. 487 (E) dated 11.07.2014
G.S.R.No. 632 (E) dated 02.09.2014
G.S.R.No. 798 (E) dated 13.11.2014
G.S.R.No. 799 (E) dated 13.11.2014
G.S.R.No. 800 (E) dated 13.11.2014
G.S.R.No. 829 (E) dated 21.11.2014
G.S.R.No. 906(E) dated 22.12.2014
G.S.R.No. 914 (E) dated 24.12.2014
G.S.R.No. 30 (E) dated 14.01.2015
G.S.R.No. 183 (E) dated 12.03.2015
G.S.R.No. 284 (E) dated 13.04.2015
G.S.R.No. 484 (E) dated 11.06.2015
G.S.R.No. 745 (E) dated 30.09.2015
G.S.R.No. 759 (E) dated 06.10.2015

Published in the Official Gazette of
Government of India – Extraordinary
– Part-II, Section 3,
Sub-Section (i) dated 16.11.2015-
G.S.R.No.858(E)