

Reserve Bank of India
Foreign Exchange Department
Central Office
Mumbai – 400 001

Notification No. FEMA.387/2017-RB

March 09, 2017

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

In exercise of the powers conferred by clause (b) of sub-section (3) of Section 6 and Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), 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) (Fourth Amendment) Regulations, 2017.

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

2. Amendment of the Regulations

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](#)), in Regulations 2,

- i. after the sub-regulation (ii dd) and before the existing sub-regulation (ii e), the following sub-regulations shall be inserted:

“(ii E) E-commerce:

- a. ‘E-commerce’ means buying and selling of goods and services including digital products over digital & electronic network.
- b. ‘E-commerce entity’ means a company incorporated under the Companies Act, 1956 or the Companies Act, 2013 or a foreign company covered under section 2 (42) of the Companies Act, 2013 or an office, branch or agency in India as provided in Section 2 (v) (iii) of FEMA 1999, owned or controlled by a person resident outside India and conducting the e-commerce business.
- c. ‘Inventory based model of e-commerce’ means an e-commerce activity where inventory of goods and services is owned by e-commerce entity and is sold to the consumers directly.
- d. ‘Market place model of e-commerce’ means providing of an information technology platform by an e-commerce entity on a digital & electronic network to act as a facilitator between buyer and seller.”

3. Amendment of Schedule 1

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](#)), in Schedule 1, in the existing Annex B, the existing entry 16.2 shall be substituted by the following:

16.2	E-Commerce	% of equity/FDI Cap	Entry route
16.2.1	B2B E-commerce activities	100 %	Automatic
	Such companies would engage only in Business to Business (B2B) e-commerce and not in retail trading, inter alia implying that existing restrictions on FDI in domestic trading would be applicable to e-commerce as well.		
16.2.2	Market place model of e-commerce	100 %	Automatic
16.2.3	Other Conditions		

	<p>a) Digital & electronic network will include network of computers, television channels and any other internet application used in automated manner such as web pages, extranets, mobiles etc.</p> <p>b) Marketplace e-commerce entity will be permitted to enter into transactions with sellers registered on its platform on B2B basis.</p> <p>c) E-commerce marketplace may provide support services to sellers in respect of warehousing, logistics, order fulfilment, call centre, payment collection and other services.</p> <p>d) E-commerce entity providing a marketplace will not exercise ownership over the inventory i.e. goods purported to be sold. Such an ownership over the inventory will render the business into inventory based model.</p> <p>e) An e-commerce entity will not permit more than 25% of the sales value on financial year basis affected through its marketplace from one vendor or their group companies.</p> <p>f) Goods/services made available for sale electronically on website should clearly provide name, address and other contact details of the seller. Post sales, delivery of goods to the customers and customer satisfaction will be responsibility of the seller.</p> <p>g) Payments for sale may be facilitated by the e-commerce entity in conformity with the guidelines of the Reserve Bank of India.</p> <p>h) Any warranty /guarantee of goods and services sold will be responsibility of the seller.</p> <p>i) E-commerce entities providing marketplace will not directly or indirectly influence the sale price of goods or services and shall maintain level playing field.</p> <p>j) Guidelines on cash and carry wholesale trading as given in S.No. 16.1.2 (stated above) shall apply to B2B e-commerce activities.</p> <p>Note: FDI is not permitted in inventory based model of e-commerce.</p>
16.2.4	Sale of services through e-commerce shall be under automatic route subject to the sector specific conditions, applicable laws/regulations, security and other conditionalities.

(Shekhar Bhatnagar)
Chief General Manager-in-Charge

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
G.S.R.No. 823 (E) dated 30.10.2015
G.S.R.No. 858 (E) dated 16.11.2015
G.S.R.No. 983 (E) dated 17.12.2015
G.S.R.No. 165 (E) dated 15.02.2016
G.S.R.No. 166 (E) dated 15.02.2016
G.S.R.No. 369 (E) dated 30.03.2016
G.S.R.No. 465 (E) dated 28.04.2016
G.S.R.No. 537 (E) dated 20.05.2016
G.S.R.No. 879 (E) dated 09.09.2016
G.S.R.No. 1002 (E) dated 24.10.2016
G.S.R.No. 1003 (E) dated 24.10.2016
G.S.R.No. 1015 (E) dated 27.10.2016
G.S.R.No. 1042 (E) dated 04.11.2016
G.S.R.No 1118 (E) dated 07.12.2016
G.S.R.No 16 (E) dated 10.01.2017
G.S.R.No 17 (E) dated 10.01.2017

Published in the Official Gazette of Government of
India – Extraordinary – Part-II, Section 3,
Sub-Section (i) dated 09.03.2017- G.S.R.No. 224(E)