

**Reserve Bank of India
Foreign Exchange Department
Central Office,
Mumbai-400 001**

Notification No. FEMA.263/RB-2013 **dated March 05, 2013**

**Foreign Exchange Management (Transfer or Issue of any
Foreign Security) (Amendment) Regulations, 2013**

In exercise of the powers conferred by clause (a) of sub-section (3) of Section 6 and sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank hereby makes the following amendments in the Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations 2004 ([Notification No. FEMA 120/RB-2004 dated July 7, 2004](#)), as amended from time to time, (hereinafter called the Principal Regulations or the Notification) namely:-

1. Short Title & Commencement:-

- (i) These Regulations shall be called the Foreign Exchange Management (Transfer or Issue of Any Foreign Security) (Amendment) Regulations, 2013.
- (ii) They shall come into force from the date of publication in Official Gazette

2. Insertion of New Regulation 20A

In Part II, after Regulation 20, the following Regulation shall be inserted:

“20A. Acquisition or Setting up of a JV or WOS abroad by resident individual

A resident individual (single or in association with another resident individual or with an ‘Indian Party’ as defined in this Notification) satisfying the criteria as per Schedule V of this Notification, may make overseas direct investment in the equity shares and compulsorily convertible preference shares of a Joint Venture (JV) or Wholly Owned Subsidiary (WOS) outside India.”

3. Insertion of New Schedule V

After Schedule IV, the following Schedule shall be inserted:

“Schedule V [See Regulation 20A]

A. Overseas Direct Investments by Resident Individuals

1. Resident individual is prohibited from making direct investment in a JV or WOS abroad which is engaged in the real estate business or banking business or in the business of financial services activity.
2. The JV or WOS abroad shall be engaged in bonafide business activity.
3. Resident individual is prohibited from making direct investment in a JV / WOS [set up or acquired abroad individually or in association with other resident individual and / or with an Indian party] located in the countries identified by the Financial Action Task Force (FATF) as "non co-operative countries and territories" as available on FATF website www.fatf-gafi.org or as notified by the Reserve Bank.
4. The resident individual shall not be on the Reserve Bank's Exporters Caution List or List of defaulters to the banking system or under investigation by any investigation / enforcement agency or regulatory body.
5. At the time of investments, the permissible ceiling shall be within the overall ceiling prescribed for the resident individual under Liberalised Remittance Scheme as prescribed by the Reserve Bank from time to time. [Explanation: The investment made out of the balances held in EEFC / RFC account shall also be restricted to the limit prescribed under LRS.]
6. The JV or WOS, to be acquired / set up by a resident individual under this Schedule, shall be an operating entity only and no step down subsidiary is allowed to be acquired or set up by the JV or WOS.
7. For the purpose of making investment under this Schedule, the valuation shall be as per Regulation 6(6)(a) of this Notification.
8. The financial commitment by a resident individual to / on behalf of the JV or WOS, other than the overseas direct investments as defined under Regulation 2(e) read with Regulation 20A of this Notification, is prohibited.

B. Post Investment Changes

Any alteration in shareholding pattern of the JV or WOS may be reported to the designated AD within 30 days including reporting in the Annual Performance Report as required to be submitted in terms of Regulation 15 of this Notification.

C. Disinvestment by Resident Individuals

1. A resident individual, who has acquired / set up a JV or WOS under the provisions of this Schedule, may disinvest (partially or fully) by way of transfer / sale or by way of liquidation / merger of the JV or WOS.
2. Disinvestment by a resident individual shall be allowed after one year from the date of making first remittance for setting up or acquiring the JV or WOS abroad.
3. The disinvestment proceeds shall be repatriated to India immediately and in any case not later than 60 days from the date of disinvestment and the same may be reported to the designated AD.
4. No write off shall be allowed in case of disinvestments by the resident individuals.

D. Reporting Requirements

1. The resident individual, making overseas direct investments under the provisions of this Schedule, shall submit Part I of the Form ODI, duly completed, to the designated authorised dealer, within 30 days of making the remittance.
2. The investment, as made by a resident individual, shall be reported by the designated authorised dealer to the Reserve Bank in Form ODI Part I and II within 30 days of making the remittance.
3. The obligations as required in terms of Regulation 15 of this Notification shall also apply to the resident individuals who have set up or acquired a JV or WOS under the provisions of this Schedule.
4. The disinvestment by the resident individual may be reported by the designated AD to the Reserve Bank in Form ODI Part IV within 30 days of receipt of disinvestment proceeds.”

(Rashmi Fauzdar)
Chief General Manager

Foot Note:

The Principal Regulations were published in the Official Gazette of GOI vide G.S.R. No 757 (E) dated November 19, 2004 – in Part II, Section 3, Sub-section (i) and subsequently amended vide :-

G.S.R. No. 220 (E) dated April 7, 2005,
G.S.R. No. 337 (E) dated May 27, 2005,
G.S.R. No. 552 (E) dated August 31, 2005,
G.S.R. No. 535 (E) dated September 6, 2006,
G.S.R. No.13 (E) dated January 5, 2008,
G.S.R. No. 209(E) dated March 25, 2008,
G.S.R. No.676 (E) dated September 24, 2008,
G.S.R. No.756 (E) dated September 31, 2008,
G.S.R. No.108 (E) dated February 20, 2009,
G.S.R. No. 301(E) dated May 1, 2009,
G.S.R. No. 441(E) dated June 23, 2009,
G.S.R. No. 609(E) dated August 28, 2009,
G.S.R. No. 607(E) dated August 3, 2012,
G.S.R. No. 609(E) dated August 3, 2012 and
G.S.R. No. 947(E) dated December 31, 2012.

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Sub-Section (i) dated 05.08.2013- G.S.R.No.529 (E)**