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

Notification No.FEMA.362/2016-RB **February 15 , 2016**

Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Second Amendment) Regulations, 2016

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) (Second Amendment) Regulations, 2016.
(ii) They shall come into force from the date of their publication in the Official Gazette.

2. Amendment of the Regulation
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),

(A) In Regulation 2, after clause (viiA) and before the existing clause (viia), the following clause shall be inserted, namely:

"(vii AA) "Manufacture", with its grammatical variations, means a change in a non-living physical object or article or thing- (a) resulting in transformation of the object or article or thing into a new and distinct object or article or thing having a different name, character and use; or (b) bringing into existence of a new and distinct object or article or thing with a different chemical composition or integral structure."

(B) In Regulation 14,

(a) in sub-regulation 1, the existing clause (i) and clause (ia) shall be amended as under respectively :

" (i) for the purpose of this regulation, the expression 'ownership and control' shall mean and include

(a) a company shall be considered as owned by resident Indian citizens if more than 50% of the capital in it is beneficially owned by resident Indian citizens and/or Indian companies, which are ultimately owned and controlled by resident Indian citizens. A Limited Liability Partnership will be considered as owned by resident Indian citizens if more than 50% of the investment in such an LLP is contributed by resident Indian citizens and/ or entities which are ultimately 'owned and controlled by resident Indian citizens' and such resident Indian citizens and entities have majority of the profit share;

(b) A company owned by non residents shall mean an Indian company that is not owned by resident Indian citizens.

(ia) 'Control' shall include the right to appoint a majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements.
Explanation: For the purpose of Limited Liability Partnership, 'control' shall mean right to appoint majority of the designated partners, where such designated partners, with specific exclusions to others, have control over all the policies of Limited Liability Partnership."

(b) in sub-regulation 3, in clause (iv), the existing sub-clause (D) shall be amended, namely:

" D) In the I&B sector where the sectoral cap is up to 49%, the company would need to be 'owned and controlled' by resident Indian citizens and Indian companies, which are owned and controlled by resident Indian citizens.

(a)For this purpose, the equity held by the largest Indian shareholder would have to be at least 51 % of the total equity, excluding the equity held by Public Sector Banks and Public Financial Institutions,

as defined in Section 4A of the Companies Act, 1956 or Section 2 (72) of the Companies Act, 2013, as the case may be. The term `largest Indian shareholder', used in this clause, will include any or a combination of the following:

(i) In the case of an individual shareholder,

(aa) The individual shareholder,

(bb) A relative of the shareholder within the meaning of Section 2 (77) of Companies Act, 2013.

(cc) A company/group of companies in which the individual shareholder/HUF to which he belongs has management and controlling interest.

(ii) In the case of an Indian company,

(aa) The Indian company

(bb) A group of Indian companies under the same management and ownership control.

(b) For the purpose of this Clause, "Indian company" shall be a company which must have a resident Indian or a relative as defined under Section 2 (77) of Companies Act, 2013/ HUF, either singly or in combination holding at least 51% of the shares.

(c) Provided that, in case of a combination of all or any of the entities mentioned in Sub-Clauses (i) and (ii) above, each of the parties shall have entered into a legally binding agreement to act as a single unit in managing the matters of the applicant company."

(c) The existing sub-regulation 5 shall be amended as under, namely:

"Guidelines for establishment of Indian companies/ transfer of ownership or control of Indian companies, from resident Indian citizens to non-resident entities, in sectors under government approval route

Foreign investment in sectors/activities under government approval route will be subject to government approval where:

(i) An Indian company is being established with foreign investment and is not owned by a resident entity or

(ii) An Indian company is being established with foreign investment and is not controlled by a resident entity or

(iii) The control of an existing Indian company, currently owned or controlled by resident Indian citizens and Indian companies, which are owned or controlled by resident Indian citizens, will be/is being transferred/passed on to a non-resident entity as a consequence of transfer of shares and/or fresh issue of shares to non-resident entities through amalgamation, merger/demerger, acquisition etc. or

(iv) The ownership of an existing Indian company, currently owned or controlled by resident Indian citizens and Indian companies, which are owned or controlled by resident Indian citizens, will be/is being transferred/passed on to a non-resident entity as a consequence of transfer of shares and/or fresh issue of shares to non-resident entities through amalgamation, merger/demerger acquisition etc.

(v) It is clarified that Foreign investment shall include all types of foreign investments i.e. FDI, investment by FIIs, FPIs, QFIs, NRIs, ADRs, GDRs, Foreign Currency Convertible Bonds (FCCB) and fully, mandatorily & compulsorily convertible preference shares/debentures, regardless of whether the said investments have been made under Schedule 1, 2, 2A, 3, 6, 8, 9 and 10 of FEMA (Transfer or Issue of Security by Persons Resident Outside India) Regulations.

(vi) Investment by NRIs under Schedule 4 of FEMA (Transfer or Issue of Security by Persons Resident Outside India) Regulations, 2000 will be deemed to be domestic investment at par with the investment made by residents.

(vii) A company, trust and partnership firm incorporated outside India and owned and controlled by non-resident Indians will be eligible for investments under Schedule 4 of FEMA (Transfer or issue of Security by Persons Resident Outside India) Regulations, 2000 and such investment will also be deemed domestic investment at par with the investment made by residents."

(d) in sub-regulation 6, the existing clause (ii) shall be amended, namely**:**

" *(ii) Downstream investments by Indian companies/LLPs will be subject to the following conditions:*

a. Such a company/LLP is to notify SIA, DIPP and FIPB of its downstream investment in the form available at http://www.fipbindia.com within 30 days of such investment, even if capital instruments have not been allotted, along with the modality of investment in new/existing ventures (with/without expansion programme);

b. Downstream investment by way of induction of foreign equity in an existing Indian Company to be duly supported by a resolution of the Board of Directors as also a shareholders agreement, if any;

c. Issue/transfer/pricing/valuation of shares shall be in accordance with applicable SEBI/RBI guidelines;

d. *For the purpose of downstream investment, the Indian companies/LLPs making the downstream investments would have to bring in requisite funds from abroad and not leverage funds from the domestic market. This would, however, not preclude downstream companies/LLPs, with operations, from raising debt in the domestic market. Downstream investments through internal accruals are permissible (For the purposes of FDI, internal accruals will mean as profits transferred to reserve account after payment of taxes), subject to the provision of clause (i) above and also as elaborated below:*
   A. *Foreign investment into an Indian company, engaged only in the activity of investing in the capital of other Indian company/ies, will require prior Government/FIPB approval, regardless of the amount or extent of foreign investment. Foreign investment into Non-Banking Finance Companies (NBFCs), carrying on activities approved for FDI, will be subject to the conditions specified in Annex B of Schedule I to these Regulations.*
   B. *Those companies, which are Core Investment Companies (CICs), will have to additional follow RBI's Regulatory Framework for CICs.*
   C. *For undertaking activities which are under automatic route and without FDI linked performance conditions, Indian company which does not have any operations and also does not have any downstream investments, will be permitted to have infusion of foreign investment under automatic route. However, approval of the Government will be required for such companies for infusion of foreign investment for undertaking activities which are under Government route, regardless of the amount or extent of foreign investment. Further, as and when such a company commences business(s) or makes downstream investment, it will have to comply with the relevant sectoral conditions on entry route, conditionalities and caps.*

   Note: Foreign investment into other Indian companies would be in accordance/compliance with the relevant sectoral conditions on entry route, conditionalities and caps;

e) *The FDI recipient Indian company at the first level which is responsible for ensuring compliance with the FDI conditionalities like no indirect foreign investment in prohibited sector, entry route, sectoral cap / conditionalities, etc. for the downstream investment made by in the subsidiary companies at second level and so on and so forth would obtain a certificate to this effect from its statutory auditor on an annual basis as regards status of compliance with the instructions on downstream investment and compliance with FEMA provisions. The fact that statutory auditor has certified that the company is in compliance with the regulations as regards downstream investment and other FEMA prescriptions will be duly mentioned in the Director's report in the Annual Report of the Indian company. In case statutory auditor has given a qualified report, the same shall be immediately brought to the notice of the Reserve Bank of India, Foreign Exchange Department (FED), Regional Office (RO) of the Reserve Bank in whose jurisdiction the Registered Office of the company is located and shall also obtain acknowledgement from the RO of having intimated it of the qualified auditor report. RO shall file the action taken report to the Chief General Manager-in-Charge, Foreign Exchange Department, Reserve Bank of India, Central Office, Central Office Building, Shahid Bhagat Singh Road, Mumbai 400001.*"

C In Schedule 1,

(i) In paragraph 2, paragraph beginning with "Provided further that the shares or convertible debentures….." and ending with "…………permitted to the extent specified in Regulation 14." shall be deleted.

(ii) *in paragraph 2, in sub-paragraph 4, after clause (iv), the following shall be added, namely:*

"(v) by way of swap of shares, provided the company in which the investment is made is engaged in an automatic route sector, subject to the condition that irrespective of the amount, valuation of the shares involved in the swap arrangement will have to be made by a Merchant Banker registered with SEBI or an Investment Banker outside India registered with the appropriate regulatory authority in the host country. Note: A company engaged in a sector where foreign investment requires Government approval may issue shares to a non-resident through swap of shares only with approval of the Government"

(iii) *in paragraph 3, the existing sub-paragraph (c) shall stands deleted.*

(iv) in 'Annex B', the existing table shall be substituted with the following, namely:

Foreign Investments caps and entry route in various sectors

SL.No	Sector/Activity	Foreign Investment Cap (%)	Entry Route
Agriculture			
1.	**Agriculture & Animal Husbandry**		
	a) Floriculture, horticulture, Apiculture and Cultivation Of vegetables & mushrooms under controlled conditions; b) Development and production of seeds and planting material; c) Animal Husbandry (including breeding of dogs), Pisiculture, Aquaculture, under controlled conditions; and d) Services related to agro and allied sectors. **Note :Besides the above, FDI is not allowed in any other agricultural sector/activity**	100%	Automatic
1.1	Other Conditions		
	The term ‘under controlled conditions’ covers the following: (i) ‘Cultivation under controlled conditions' for the categories of floriculture, horticulture, cultivation of vegetables and mushrooms is the practice of cultivation wherein rainfall, temperature, solar radiation, air humidity and culture medium are controlled artificially. Control in these parameters may be effected through protected cultivation under green houses, net houses, poly houses or any other improved infrastructure facilities where micro-climatic conditions are regulated anthropogenically (ii) In case of Animal Husbandry, scope of the term ‘under controlled conditions’ covers – (a) Rearing of animals under intensive farming systems with stall- feeding. Intensive farming system will require climate systems (ventilation, temperature/humidity management), health care and nutrition, herd registering/pedigree recording, use of machinery, waste management systems as prescribed by the National Livestock Policy 2013 and in conformity with the existing ‘Standard Operating Practices and Minimum Standard Protocol.’ (b) Poultry breeding farms and hatcheries where micro-climate is controlled through advanced technologies like incubators, ventilation systems etc. (iii) In the case of pisciculture and aquaculture, scope of the term ‘under controlled conditions’ covers – (a) Aquariums (b) Hatcheries where eggs are artificially fertilized and fry are hatched and incubated in an enclosed environment with artificial climate control. (iv) In the case of apiculture, scope of the term ‘‘under controlled conditions’ covers – a) Production of honey by bee-keeping, except in forest/wild, in designated spaces with control of temperatures and climatic factors like humidity and artificial feeding during lean seasons.		
2.	**Plantation**		
2.1	i. Tea sector including tea plantations ii. Coffee plantations iii. Rubber Plantations iv. Cardamom plantations v. Palm oil tree plantations vi. Olive oil tree plantations Note: FDI is not allowed in any plantation sector/activity except those mentioned above.	100%	Automatic route
2.2	Other Condition		
	Prior approval of the State Government concerned is required in case of any future land use change.		

3.	**MINING**		
3.1	Mining and Exploration of metal and non-metal ores including diamond, gold, silver and precious ores but excluding titanium bearing minerals and its ores; subject to the Mines and Minerals (Development & Regulation) Act, 1957.	100%	Automatic
3.2	**Coal and Lignite**		
	(1) Coal & Lignite mining for captive consumption by power projects, iron & steel and cement units and other eligible activities permitted under and subject to the provisions of Coal Mines (Nationalization) Act, 1973.	100%	Automatic
	(2) Setting up coal processing plants like washeries, subject to the condition that the company shall not do coal mining and shall not sell washed coal or sized coal from its coal processing plants in the open market and shall supply the washed or sized coal to those parties who are supplying raw coal to coal processing plants for washing or sizing.	100%	Automatic
3.3	**Mining and mineral separation of titanium bearing minerals and ores, its value addition and integrated activities**		
3.3.1	Mining and mineral separation of titanium bearing minerals & ores, its value addition and integrated activities subject to sectoral regulations and the Mines and Minerals (Development and Regulation) Act, 1957.	100%	Government
3.3.2	Other Conditions		
	(i) FDI for separation of titanium bearing minerals & ores will be subject to the following conditions viz: A. Value addition facilities are set up within India along with transfer of technology; B. Disposal of tailings during the mineral separation shall be carried out in accordance with regulations framed by the Atomic Energy Regulatory Board such as Atomic Energy (Radiation Protection) Rules, 2004 and the Atomic Energy (Safe Disposal of Radioactive Wastes) Rules, 1987. (ii) FDI will not be allowed in mining of "prescribed substances" listed in the Notification No. S.O. 61(E), dated 18.1.2006, issued by the Department of Atomic Energy.		
	Clarification: i. For titanium bearing ores such as Ilmenite, Leucoxene and Rutile, manufacture of titanium dioxide pigment and titanium sponge constitutes value addition, Ilmenite can be processed to produce Synthetic Rutile or Titanium Slag as an intermediate value added product. ii. The objective is to ensure that the raw material available in the country is utilized for setting up downstream industries and the technology available internationally is also made available for setting up such industries within the country. Thus, if with the technology transfer, the objective of the FDI Policy can be achieved, the conditions prescribed at (i) (A) above shall be deemed to be fulfilled.		
4.	**Petroleum & Natural Gas**		
4.1	Exploration activities of oil and natural gas fields, infrastructure related to marketing of petroleum products and natural gas, marketing of natural gas and petroleum products, petroleum product pipelines, natural gas/pipelines, LNG Regasification infrastructure, market study and formulation and Petroleum refining in the private sector, subject to the existing sectoral policy and regulatory framework in	100%	Automatic

	the oil marketing sector and the policy of the Government on private participation in exploration of oil and the discovered fields of national oil companies.		
4.2	Petroleum refining by the Public Sector Undertakings (PSUs), without any disinvestment or dilution of domestic equity in the existing PSUs.	49%	Automatic
5	**Manufacturing**	**100%**	**Automatic**
	Subject to the provisions of the FDI policy, foreign investment in `manufacturing' sector is under automatic route. Further, a manufacturer is permitted to sell its products manufactured in India through wholesale and/or retail, including through e-commerce without Government approval.		
6.	**Defence**		
6.1	Defence Industry subject to Industrial license under the Industries (Development & Regulation) Act, 1951	49%	Government route up to 49% Above 49% under Government route on case to case basis, wherever it is likely to result in access to modern and 'state-of-art' technology in the country.
6.2	**Other Conditions**		
	i. Infusion of fresh foreign investment within the permitted automatic route level, in a company not seeking industrial license, resulting in change in the ownership pattern or transfer of stake by existing investor to new foreign investor, will require Government approval. ii. Licence applications will be considered and licences given by the Department of Industrial Policy & Promotion, Ministry of Commerce & Industry, in consultation with Ministry of Defence and Ministry of External Affairs. iii. Foreign investment in the sector is subject to security clearance and guidelines of the M/o Defence. iv. Investee company should be structured to be self-sufficient in areas of product design and development. The investee/joint venture company along with manufacturing facility, should also have maintenance and life cycle support facility of the product being manufactured in India.		
Services Sector			
Information Services			
7.	**Broadcasting**		
7.1	**Broadcasting Carriage Services**		
7.1.1	(1) Teleports (setting up of up-linking HUBs/Teleports); (2) Direct to Home (DTH); (3) Cable Networks [Multi System Operators (MSOs)operating at National or State or District level and undertaking up gradation of networks towards digitalization and addressability]: (4) Mobile TV; (5) Headend-in-the Sky Broadcasting Service (HITS)	100%	Automatic up to 49% Government route beyond 49%
7.1.2	**Cable Networks** (Other MSOs not undertaking upgradation of networks towards digitalization and addressability and Local Cable Operators (LCOs)).	100%	Automatic up to 49% Government route beyond 49%

7.2	**Broadcasting Content Services**		
7.2.1	**Terrestrial Broadcasting FM (FM Radio),** subject to such terms and conditions, as specified from time to time, by Ministry of Information & Broadcasting, for grant of permission for setting up of FM Radio stations.	49%	Government
7.2.2	**Up-Linking of 'News & Current Affairs' TV Channels**	49%	Government
7.2.3	**Up-linking a Non-'News & Current Affairs' TV Channels/Down-linking of TV Channels**	100%	Automatic
7.3	FDI for Up-linking/Down-linking TV Channels will be subject to compliance with the relevant Up-linking/Down-linking Policy notified by the Ministry of Information & Broadcasting from time to time.		
7.4	Foreign Investment (FI) in companies engaged in all the aforestated services will be subject to relevant regulations and such terms and conditions, as may be specified from time to time, by the Ministry of Information and Broadcasting.		
7.5	The foreign investment (FI) limit in companies engaged in the afore stated activities shall include, in addition to FDI, investment by Foreign Institutional Investors (FIIs), Foreign Portfolio Investors(FPIs), Non-Resident Indians (NRIs), Foreign Currency Convertible Bonds (FCCBs), [Depository Receipts issued under Schedule 10 of these Regulations with equity shares or compulsorily and mandatorily convertible preference shares or compulsory and mandatorily convertible debentures or warrant or any other security in which foreign direct investment can be made in terms of Schedule1 of the principal Regulations, as underlying] (GDRs) and convertible preference shares held by foreign entities.]		
7.6	Foreign investment in the aforestated broadcasting carriage services will be subject to the following security conditions/ terms: **Mandatory Requirement for Key Executives of the Company** (i) The majority of Directors on the Board of the Company shall be Indian Citizens. (ii) The Chief Executive Officer (CEO), Chief Officer In-charge of technical network operations and Chief Security Officer should be resident Indian citizens **Security Clearance of Personnel** (iii) The Company, all Directors on the Board of Directors and such key executives like Managing Director/ Chief Executive Officer, Chief Financial Officer (CFO), Chief Security Officer (CSO), Chief Technical Officer (CTO), Chief Operating Officer (COO), shareholders who individually hold 10% or more paid-up capital in the company and any other category, as may be specified by the Ministry of Information and Broadcasting from time to time, shall require to be security cleared. In case of the appointment of Directors on the Board of the Company and such key executives like Managing Director/Chief Executive Officer, Chief Financial Officer (CFO), Chief Security Officer (CSO), Chief Technical Officer (CTO), Chief Operating Officer (COO), etc., as may be specified by the Ministry of Information and Broadcasting from time to time, prior permission of the Ministry of Information and Broadcasting shall have to be obtained. It shall be obligatory on the part of the company to also take prior permission from the Ministry of Information and Broadcasting before effecting any change in the Board of Directors. (iv) The Company shall be required to obtain security clearance of all foreign personnel likely to be deployed for more than 60 days in a year by way of appointment, contract, and consultancy or in any other capacity for installation, maintenance, operation or any other services prior to their		

deployment. The security clearance shall be required to be obtained every two years.

Permission vis-a-vis Security Clearance

(v) The permission shall be subject to permission holder/licensee remaining security cleared throughout the currency of permission. In case the security clearance is withdrawn the permission granted is liable to be terminated forthwith.

(vi) In the event of security clearance of any of the persons associated with the permission holder/licensee or foreign personnel being denied or withdrawn for any reasons whatsoever, the permission holder/licensee will ensure that the concerned person resigns or his services terminated forthwith after receiving such directives from the Government, failing which the permission/license granted shall be revoked and the company shall be disqualified to hold any such Permission/license in future for a period of five years.

Infrastructure/Network/Software related requirement

(vii) The officers/officials of the licensee companies dealing with the lawful interception of Services will be resident Indian citizens.

(viii) Details of infrastructure/ network diagram (technical details of the network) could be provided on a need basis only, to equipment suppliers/manufactures and the affiliate of the licensee company. Clearance from the licensor would be required if such information is to be provided to anybody else.

(ix) The Company shall not transfer the subscribers' databases to any person/place outside India unless permitted by relevant Law.

(x) The Company must provide traceable identity of their subscribers.

Monitoring, Inspection and Submission of Information

(xi) The Company should ensure that necessary provision (hardware/software) is available in their equipment for doing the Lawful interception and monitoring from a centralized location as and when required by Government.

(xii) The company, at its own costs, shall, on demand by the Government or its authorized representative, provide the necessary equipment, services and facilities at designated place(s) for continuous monitoring or the broadcasting service by or under supervision of the Government or its authorized representative.

(xiii) The Government of India, Ministry of Information & Broadcasting or its authorized representative shall have the right to inspect the broadcasting facilities. No prior permission/intimation shall be required to exercise the right of Government or its authorized representative to carry out the inspection. The company will, if required by the Government or its authorized representative, provide necessary facilities for continuous monitoring for any particular aspect of the company's activities and operations. Continuous monitoring, however, will be confined only to security related aspects, including screening of objectionable content.

(xiv) The inspection will ordinarily be carried out by the Government of India, Ministry of Information & Broadcasting or its authorized representative after reasonable notice, except in circumstances where giving such a notice will defeat the very purpose of the inspection.

(xv) The company shall submit such information with respect to its services as may be required by the Government or its authorized representative, in the format as may be required, from time to time.

(xvi) The permission holder/licensee shall be liable to furnish the Government of India or its authorized representative or TRAI or its authorized representative, such reports, accounts, estimates, returns or such other relevant information and at such periodic intervals or such times as may be required.

The service providers should familiarize/train designated officials of the Government or officials of TRAI or its authorized representative(s) in respect of relevant operations/features of their systems.

National Security Conditions

	(xvii) It shall be open to the licensor to restrict the Licensee Company from operating in any sensitive area from the National Security angle. The Government of India, Ministry of Information and Broadcasting shall have the right to temporarily suspend the permission of the permission holder/Licensee in public interest or for national security for such period or periods as it may direct. The company shall immediately comply with any directives issued in this regard failing which the permission issued shall be revoked and the company disqualified to hold any such permission, in future, for a period of five years. (xviii) The company shall not import or utilize any equipment, which are identified as unlawful and/or render network security vulnerable. **Other conditions** (xix) Licensor reserves the right to modify these conditions or incorporate new conditions considered necessary in the interest of national security and public interest or for proper provision of broadcasting services. (xx) Licensee will ensure that broadcasting service installation carried out by it should not become a safety hazard and is not in contravention of any statute, rule or regulation and public policy.		
8.	**Print Media**		
8.1	Publishing of newspaper and periodicals dealing with news and current affairs	26%	Government
8.2	Publication of Indian editions of foreign magazines dealing with news and current affairs	26%	Government
8.2.1	**Other conditions**		
	(i) 'Magazine', for the purpose of these guidelines, will be defined as a periodical publication, brought out on non-daily basis, containing public news or comments on public news. (ii) Foreign investment would also be subject to the Guidelines for Publication of Indian editions of foreign magazines dealing with news and current affairs issued by the Ministry of Information & Broadcasting on 4-12-2008.		
8.3	Publishing/printing of Scientific and Technical Magazines/ specialty journals/periodicals, subject to compliance with the legal framework as applicable and guidelines issued in this regard from time to time by Ministry of Information and Broadcasting.	100%	Government
8.4	Publication of facsimile edition of foreign newspapers	100%	Government
8.4.1	**Other conditions:**		
	(i) FDI should be made by the owner of the original foreign newspapers whose facsimile edition is proposed to be brought out in India. (ii) Publication of facsimile edition of foreign newspapers can be undertaken only by an entity incorporated or registered in India under the provisions of the Companies Act, as applicable. (iii) Publication of facsimile edition of foreign newspaper would also be subject to the Guidelines for publication of newspapers and periodicals dealing with news and current affairs and publication of facsimile edition of foreign newspapers issued by Ministry of Information & Broadcasting on 31-3-2006, as amended from time to time.		
9.	**Civil Aviation**		
9.1	The Civil Aviation sector includes Airports, Scheduled and Non-Scheduled domestic passenger airlines, Helicopter services/Seaplane services, Ground Handling Services, Maintenance and Repair organizations; Flying training institutes; and Technical training institutions. **For the purposes of the Civil Aviation sector:** (i) "Airport" means a landing and taking off area for aircrafts, usually with runways and aircraft maintenance and passenger facilities and includes aerodrome as defined in clause (2) of section 2 of the		

	Aircraft Act, 1934; (ii) "Aerodrome" means any definite or limited ground or water area intended to be used, either wholly or in part, for the landing or departure of aircraft, and includes all buildings, sheds, vessels, piers and other structures thereon or pertaining thereto; (iii) "Air transport service" means a service for the transport by air of persons, mails or any other thing, animate or inanimate, for any kind of remuneration whatsoever, whether such service consists of a single flight or series of flights; (iv) "Air Transport Undertaking" means an undertaking whose business includes the carriage by air of passengers or cargo for hire or reward; (v) "Aircraft component" means any part, the soundness and correct functioning of which, when fitted to an aircraft, is essential to the continued airworthiness or safety of the aircraft and includes any item of equipment; (vi) "Helicopter" means a heavier than air aircraft supported in flight by the reactions of the air on one or more power driven rotors on substantially vertical axis; (vii) "Scheduled air transport service" means an air transport service undertaken between the same two or more places and operated according to a published time table or with flights so regular or frequent that they constitute a recognizably systematic series, each flight being open to use by members of the public; (viii) "Non-Scheduled air Transport service" means any service which is not a scheduled air transport service and will include Cargo airlines; (ix) "Cargo airlines" would mean such airlines which meet the conditions as given in the Civil Aviation Requirements issued by the Ministry of Civil Aviation; (x) "Seaplane" means an aeroplane capable normally of taking off from and alighting solely on water; (xi) "Ground Handling" means (i) ramp handling, (ii) traffic handling both of which shall include the activities as specified by the Ministry of Civil Aviation through the Aeronautical Information Circulars from time to time, and (iii) any other activity specified by the Central Government to be a part of either ramp handling or traffic handling.		
9.2	**Airports**		
	(a) Greenfield projects (b) Existing projects	100% 100%	Automatic Automatic upto 74% ; Government Route beyond 74%
9.3	**Air Transport Services**		
	1) (a) Scheduled Air Transport Service/Domestic Scheduled Passenger Airline (b) Regional Air Transport Service	49% (100% for NRIs)	Automatic
	(2) Non-Scheduled Air Transport Service	100 %	Automatic
	(3) Helicopter services/ seaplane services requiring DGCA approval	100%	Automatic

9.3.1	**Other Conditions**		
	(a) Air Transport Services would include Domestic Scheduled Passenger Airlines; Non-Scheduled Air Transport Services, helicopter and seaplane services. (b) Foreign airlines are allowed to participate in the equity of companies operating Cargo airlines, helicopter and seaplane services, as per the limits and entry routes mentioned above. (c) Foreign airlines are also allowed to invest in the capital of Indian companies, operating scheduled and non-scheduled air transport services, up to the limit of 49% of their paid-up capital. Such investment would be subject to the following conditions: (i) It would be made under the Government approval route. (ii) The 49% limit will subsume FDI and FII/FPI investment. (iii) The investments so made would need to comply with the relevant regulations of SEBI, such as the Issue of Capital and Disclosure Requirements (ICDR) Regulations/ Substantial Acquisition of Shares and Takeovers (SAST) Regulations, as well as other applicable rules and regulations. (iv) A Scheduled Operator's Permit can be granted only to a company: a) *that is registered and has its principal place of business within India;* b) *the Chairman and at least two-thirds of the Directors of which are citizens of India; and* c) *the substantial ownership and effective control of which is vested in Indian nationals.* (v) All foreign nationals likely to be associated with Indian scheduled and non-scheduled air transport services, as a result of such investment shall be cleared from security view point before deployment; and (vi) All technical equipment that might be imported into India as a result of such investment shall require clearance from the relevant authority in the Ministry of Civil Aviation. **Note: (i) The FDI limits/entry routes, mentioned at paragraph 9.3.1 and 9.3.2 above, are applicable in the situation where there is no investment by foreign airlines**. (ii) The dispensation for NRIs regarding FDI up to 100% will also continue in respect of the investment regime specified at paragraph 9.3.1(c) (ii) above. (iii) The policy mentioned at 9.3.1(c) above is not applicable to M/s Air India Limited		
9.3.2	Foreign Airlines in the capital of the Indian companies, operating schedule and non-scheduled air transport services	49% (100% for NRIs)	Government
9.4	**Other Services under Civil Aviation sector**		
	(1)Ground Handling Services subject to sectoral regulations and security clearance	100 %	Automatic
	(2)Maintenance and Repair organizations; flying training institutes and technical training institutions	100%	Automatic
10.	**Courier services** for carrying packages, parcels and other items which do not come within the ambit of the Indian Post Office Act, 1898 and excluding the activity relating to the distribution of letters	100%	Automatic
11.	**Construction Development: Townships, Housing, Built-up infrastructure**		
11.1	Construction-development projects (which would include development of townships, construction of residential/commercial premises, roads or bridges, hotels, resorts, hospitals, educational institutions,	100%	Automatic

	recreational facilities, city and regional level infrastructure, townships)		
11.2	Each phase of the construction development project would be considered as a separate project for the purposes of FDI policy. Investment will be subject to the following conditions: (A) (i) The investor will be permitted to exit on completion of the project or after development of trunk infrastructure i.e. roads, water supply, street lighting, drainage and sewerage. (ii) Notwithstanding anything contained at (A) (i) above, a foreign investor will be permitted to exit and repatriate foreign investment before the completion of project under automatic route, provided that a lock-in-period of three years, calculated with reference to each tranche' of foreign investment has been completed. Further, transfer of stake from one non-resident to another non-resident, without repatriation of investment will neither be subject to any lock-in period nor to any government approval. (B) The project shall conform to the norms and standards, including land use requirements and provision of community amenities and common facilities, as laid down in the applicable building control regulations, bye-laws, rules, and other regulations of the State Government/Municipal/Local Body concerned. (C) The Indian investee company will be permitted to sell only developed plots. For the purposes of this policy "developed plots" will mean plots where trunk infrastructure i.e. roads, water supply, street lighting, drainage and sewerage, have been made available. (D) The Indian investee company shall be responsible for obtaining all necessary approvals, including those of the building/layout plans, developing internal and peripheral areas and other infrastructure facilities, payment of development, external development and other charges and complying with all other requirements as prescribed under applicable rules/bye-Laws/regulations of the State Government/Municipal/Local Body concerned. (E) The State Government/Municipal/Local Body concerned, which approves the building/development plans, will monitor compliance of the above conditions by the developer. **Note:** i. It is clarified that FDI is not permitted in an entity which is engaged or proposes to engage in real estate business, construction of farm houses and trading in transferable development rights (TDRs). "Real estate business" means dealing in land and immovable property with a view to earning profit therefrom and does not include development of townships, construction of residential commercial premises, roads or bridges, educational institutions, recreational facilities, city and regional level infrastructure, townships. Further, earning of rent income on lease of the property, not amounting to transfer, will not amount to real estate business. ii. Condition of lock-in period at (A) above will not apply to Hotels &Tourist Resorts, Hospitals, Special Economic Zones (SEZs), Educational Institutions, Old Age Homes and investment by NRIs. iii. Completion of the project will be determined as per the local bye-laws/rules and other regulations of State Governments. iv. It is clarified that 100 % FDI under automatic route is permitted in completed projects for operation and management of townships, malls/ shopping complexes and business centres. Consequent to foreign investment, transfer of ownership and/or control of the investee company from residents to non-residents is also permitted. However, there would be a lock-in-period of three years, calculated with reference to each tranche of FDI, and transfer of immovable property or part thereof is not permitted during this period. v. "Transfer", in relation to FDI policy on the sector, includes,- a. the sale, exchange or relinquishment of the asset; or b. the extinguishment of any rights therein; or c. the compulsory acquisition thereof under any law; or d. any transaction involving the allowing of the possession of any immovable property to be taken or		

	retained in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882) ; or e. any transaction, by acquiring shares in a company or by way of any agreement or any arrangement or in any other manner whatsoever, which has the effect of transferring, or enabling the enjoyment of, any immovable property.		
12.	**Industrial Parks -New and existing**	100%	Automatic
12.1	(i) "Industrial Park" is a project in which quality infrastructure in the form of plots of developed land or built up space or a combination with common facilities, is developed and made available to all the allottee units for the purposes of industrial activity. (ii) "Infrastructure" refers to facilities required for functioning of units located in the Industrial Park and includes roads (including approach roads), railway line/sidings including electrified railway lines and connectivities to the main railway line, water supply and sewerage, common effluent treatment facility, telecom network, generation and distribution of power, air conditioning. (iii) "Common Facilities" refer to the facilities available for all the units located in the industrial park, and include facilities of power, roads (including approach roads), railway line/sidings including electrified railway lines and connectivities to the main railway line, water supply and sewerage, common effluent treatment, common testing, telecom services, air conditioning, common facility buildings, industrial canteens, convention/conference halls, parking, travel desks, security service, first aid center, ambulance and other safety services, training facilities and such other facilities meant for common use of the units located in the Industrial Park. (iv) "Allocable area" in the Industrial Park means- (a) in the case of plots of developed land - the net site area available for allocation to the units, excluding the area for common facilities. (b) in the case of built up space - the floor area and built-up space utilized for providing common facilities. (c) in the case of a combination of developed land and built-up space - the net site and floor area available for allocation to the units excluding the site area and built-up space utilized for providing common facilities. (v) "Industrial Activity" means manufacturing; electricity; gas and water supply; post and telecommunications; software publishing, consultancy and supply; data processing, database activities and distribution of electronic content; other computer related activities; basic and applied R&D on bio-technology, pharmaceutical sciences/life sciences, natural sciences and engineering; business and management consultancy activities; and architectural, engineering and other technical activities.		
12.2	FDI in Industrial Parks would not be subject to the conditionalities applicable for construction development projects etc. spelt out in para 11 above, provided the Industrial Parks meet with the under-mentioned conditions: (i) it would comprise of a minimum of 10 units and no single unit shall occupy more than 50% of the allocable area; (ii) the minimum percentage of the area to be allocated for industrial activity shall not be less than 66% of the total allocable area.		
13.	**Satellites - Establishment and operation**		
13.1	Satellites Establishment and operation, subject to the sectoral guidelines of Department of Space/ISRO	100%	Government
14.	**Private Security Agencies**	49%	Government

15.	**Telecom services (including Telecom Infrastructure Providers Category-l)** All telecom services including Telecom Infrastructure Providers Category-I, viz. Basic, Cellular, United Access Services, Unified license (Access services), Unified License, National/ International Long Distance, Commercial V-Sat, Public Mobile Radio Trunked Services (PMRTS), Global Mobile Personal Communications Services (GMPCS), All types of ISP licenses, Voice Mail/Audiotex / UMS, Resale of IPLC, Mobile Number Portability services, Infrastructure Provider Category-I (providing dark fibre, right of way, duct space, tower) except Other Service Providers.	100%	Automatic upto 49% Government route beyond 49%
15.1.1	Other Condition		
	FDI up to 100% with 49% on the automatic route and beyond 49% on the government route subject to observance of licensing and security conditions by licensee as well as investors as notified by the Department of Telecommunications (DoT) from time to time, except **"**Other Service Providers", which are allowed 100% FDI on the automatic route.		
16.	**Trading**		
16.1	**(i) Cash & Carry Wholesale Trading/Wholesale Trading (including sourcing from MSEs)**	100%	Automatic
16.1.1	Definition: Cash & Carry Wholesale trading/Wholesale trading, would mean sale of goods/merchandise to retailers, industrial, commercial, institutional or other professional business users or to other wholesalers and related subordinated service providers. Wholesale trading would, accordingly, imply sales for the purpose of trade, business and profession, as opposed to sales for the purpose of personal consumption. The yardstick to determine whether the sale is wholesale or not would be the type of customers to whom the sale is made and not the size and volume of sales. Wholesale trading would include resale, processing and thereafter sale, bulk imports with ex-port/ ex-bonded warehouse business sales and B2B e-Commerce.		
16.1.2	**Guidelines for Cash & Carry Wholesale Trading/Wholesale Trading (WT):** (a) For undertaking 'WT', requisite licenses/registration/permits, as specified under the relevant Acts/Regulations/Rules/Orders of the State Government/Government Body/Government Authority /Local Self-Government Body under that State Government should be obtained. (b) Except in case of sales to Government, sales made by the wholesaler would be considered as 'cash & carry wholesale trading/wholesale trading' with valid business customers, only when WT are made to the following entities: (i) Entities holding sales tax/VAT registration/service tax/excise duty registration; or (ii) Entities holding trade licenses i.e. a license/registration certificate/membership certificate/registration under Shops and Establishment Act, issued by a Government Authority/Government Body/ Local Self-Government Authority, reflecting that the entity/person holding the license/registration certificate/membership certificate, as the case may be, is itself/himself/herself engaged in a business involving commercial activity; or (iii) Entities holding permits/license etc. for undertaking retail trade (like tehbazari and similar license for hawkers) from Government Authorities/Local Self Government Bodies; or		

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<tr><td></td><td colspan="3">(iv) Institutions having certificate of incorporation or registration as a society or registration as public trust for their self consumption.

Note: An Entity, to whom WT is made, may fulfil anyone of the 4 conditions.

(c) Full records indicating all the details of such sales like name of entity, kind of entity, registration/ license/permit etc. number, amount of sale etc. should be maintained on a day to day basis.

(d) WT of goods would be permitted among companies of the same group. However, such WT to group companies taken together should not exceed 25% of the total turnover of the wholesale venture.

(e) WT can be undertaken as per normal business practice, including extending credit facilities subject to applicable regulations.

(f) A wholesale/cash & carry trader can undertake single brand retail trading, subject to the conditions mentioned in para 16.3. An entity undertaking wholesale/cash and carry as well as retail business will be mandated to maintain separate books of accounts for these two arms of the business and duly audited by the statutory auditors. Conditions of the FDI policy for wholesale/cash and carry business and for retail business have to be separately complied with by the respective business arms.</td></tr>
<tr><td>16.2</td><td>B2B E-commerce activities</td><td>100%</td><td>Automatic</td></tr>
<tr><td></td><td colspan="3">E-commerce activities refer to the activity of buying and selling by a company through the e-commerce platform. 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.</td></tr>
<tr><td>16.3</td><td>Single Brand product retail trading</td><td>100%</td><td>Automatic up to 49%. Government route beyond 49%</td></tr>
<tr><td></td><td colspan="3">1) Foreign Investment in Single Brand product retail trading is aimed at attracting investments in production and marketing, improving the availability of such goods for the consumer, encouraging increased sourcing of goods from India, and enhancing competitiveness of Indian enterprises through access to global designs, technologies and management practices.
2) FDI in Single Brand product retail trading would be subject to the following conditions:

a) Products to be sold should be of a 'Single Brand' only.
b) Products should be sold under the same brand internationally i.e. products should be sold under the same brand in one or more countries other than India.
c) 'Single Brand' product-retail trading would cover only products which are branded during manufacturing. A non-resident entity or entities, whether owner of the brand or otherwise, shall be permitted to undertake 'single brand' product retail trading in the country for the specific brand, directly or through a legally tenable agreement with the· brand owner for undertaking single brand product retail trading. The onus for ensuring compliance with this condition will rest with the Indian entity carrying out single-brand product retail trading in India. The investing entity shall provide evidence to this effect at the time of seeking approval, including a copy of the licensing/franchise/sub-licence agreement, specifically indicating compliance with the above condition. The requisite evidence should be filed with the RBI for the automatic route and SIA/FIPB for cases involving approval.
d) In respect of proposals involving FDI beyond 51%, sourcing of 30 of the value of goods purchased, will be done from India, preferably from MSMEs, village and cottage industries, artisans and craftsmen, in all sectors. The quantum of domestic sourcing will be self-certified by the company, to be subsequently checked, by statutory auditors, from the duly certified accounts which the company will be required to maintain. This procurement requirement would have to be met annually from the commencement of the business i.e. opening of the first store. For the purpose of ascertaining the sourcing requirement, the relevant entity would be the company, incorporated in India, which is the recipient of Foreign Investment for the purpose of carrying out single-brand product retail trading.
e) Subject to the conditions mentioned in this Para, a single brand retail trading entity operating</td></tr>
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through brick and mortar stores, is permitted to undertake retail trading through e-commerce.

3) Application seeking permission of the Government for FDI exceeding 49 in a company which proposes to undertake single brand retail trading in India would be made to the Secretariat for Industrial Assistance (SIA) in the Department of Industrial Policy & Promotion. The applications would specifically indicate the product/product categories which are proposed to be sold under a 'Single Brand'. Any addition to the product/product categories to be sold under 'Single Brand' would require a fresh approval of the Government. In case of FDI up to 49 %, the list of products/product categories proposed to be sold except food products would be provided to the RBI.
4) Applications would be' processed in the Department of Industrial Policy & Promotion, to determine whether the proposed investment satisfies the notified guidelines, before being considered by the FIPB for Government approval.

Note:

i. Conditions mentioned at Para (2) (b) & (2) (d) will not be applicable for undertaking SBRT of Indian brands.
ii. An Indian manufacturer is permitted to sell its own branded products in any manner i.e. wholesale, retail, including through e-commerce platforms.
iii. Indian manufacturer would be the investee company, which is the owner of the Indian brand and which manufactures in India, in terms of value, at least 70% of its products in house, and sources, at most 30% from Indian manufacturers.
iv. Indian brands should be owned and controlled by resident Indian citizens and/or companies which are owned and controlled by resident Indian citizens.
v. Government may relax sourcing norms for entities undertaking single brand retail trading of products having 'state-of-art' and 'cutting-edge' technology and where local sourcing is not possible.
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<tr><td>16.4</td><td>Multi Brand Retail Trading</td><td>51%</td><td>Government</td></tr>
<tr><td></td><td colspan="3">
(1) FDI in multi brand retail trading, in all products, will be permitted, subject to the following conditions:

(i) Fresh agricultural produce, including fruits, vegetables, flowers, grains, pulses, fresh poultry, fishery and meat products, may be unbranded.

(ii) Minimum amount to be brought in, as FDI, by the foreign investor, would be US $ 100 million.

(iii) At least 50% of total FDI brought in the first tranche of US $ 100 million, shall be invested in 'back-end infrastructure' within three years, where 'back-end infrastructure' will include capital expenditure on all activities, excluding that on front-end units; for instance, back-end infrastructure will include investment made towards processing, manufacturing, distribution, design improvement, quality control, packaging, logistics, storage, warehouse, agriculture market produce infrastructure etc. Expenditure on land cost and rentals, if any, will not be counted for purposes of back-end infrastructure. Subsequent investment in the back-end infrastructure would be made by the MBRT retailer as needed, depending upon its business requirements.

(iv) At least 30% of the value of procurement of manufactured/processed products purchased shall be sourced from Indian micro, small and medium industries, which have a total investment in plant & machinery not exceeding US $ 2.00 million. This valuation refers to the value at the time of installation, without providing for depreciation. The 'small industry' status would be reckoned only at the time of first engagement with the retailer and such industry shall continue to qualify as a 'small industry' for this purpose, even if it outgrows the said investment of US $ 2.00 million during the course of its relationship with the said retailer. Sourcing from agricultural co-operatives and farmers co-operatives would also be considered in this category. The procurement requirement would have to be met, in the first instance, as an average of five years total value of the manufactured/processed products purchased, beginning 1st April of the year during which the first
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	tranche of FDI is received. Thereafter, it would have to be met on an annual basis. (v) Self-certification by the company, to ensure compliance of the conditions at serial Nos. (i), (ii) and (iv) above, which could be cross-checked, as and when required. Accordingly, the investors shall maintain accounts, duly certified by statutory auditors. (vi) Retail sales outlets may be set up only in cities with a population of more than 10 lakh as per the 2011 Census or any other cities as per the decision of the respective State Governments, and may also cover an area of 10 kms. Around the municipal/urban agglomeration limits of such cities; retail locations will be restricted to conforming areas as per the Master/Zonal Plans of the concerned cities and provision will be made for requisite facilities such as transport connectivity and parking. (vii) Government will have the first right to procurement of agricultural products. (viii) The above policy is an enabling policy only and the State Governments/Union Territories would be free to take their own decisions in regard to implementation of the policy. Therefore, retail sales outlets may be set up in those States/Union Territories which have agreed, or agree in future, to allow FDI in MBRT under this policy. The list of States/Union Territories which have conveyed their agreement is at (2) below. Such agreement, in future, to permit establishment of retail outlets under this policy, would be conveyed to the Government of India through the Department of Industrial Policy & Promotion and additions would be made to the list at (2) below accordingly. The establishment of the retail sales outlets will be in compliance of applicable State/Union Territory laws/ regulations, such as the Shops and Establishments Act etc. (ix) Retail trading, in any form, by means of e-commerce, would not be permissible, for companies with FDI, engaged in the activity of multi-brand retail trading. (x) Applications would be processed in the Department of Industrial Policy & Promotion, to determine whether the proposed investment satisfies the notified guidelines, before being considered by the FIPB for Government approval. (2) List of States/Union Territories as mentioned in Paragraph 16.4.(1) (viii) 1.Andhra Pradesh 2.Assam 3.Delhi 4.Haryana 5.Himachal Pradesh 6.Jammu & Kashmir 7. Karnataka 8.Maharashtra 9.Manipur 10.Rajasthan 11.Uttarakhand 12.Daman & Diu and Dadra and Nagar Haveli (Union Territories)		
16.5	Duty Free Shops	100%	Automatic
	(i) Duty Free Shops would mean shops set up in custom bonded area at International Airports/ International Seaports and Land Custom Stations where there is transit of international passengers. (ii) Foreign investment in Duty Free Shops is subject to compliance of conditions stipulated under the Customs Act, 1962 and other laws, rules and regulations. (iii) Duty Free Shop entity shall not engage into any retail trading activity in the Domestic Tariff Area of the country.		
	FINANCIAL SERVICES Foreign investment in other financial services, other than those indicated below, would require prior approval of the Government:		
F.1	**Asset Reconstruction Companies**		

F.1.1	‘Asset Reconstruction Company’ (ARC) means a company registered with the Reserve Bank of India under Section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act).	100%	Automatic up to 49% Government route beyond 49%
F.1.1.2	**Other Conditions** (i) Persons resident outside India can invest in the capital of Asset Reconstruction Companies (ARCs) registered with Reserve Bank, up to 49% on the automatic route, and beyond 49% on the Government route. (ii) No sponsor may hold more than 50% of the shareholding in an ARC either by way of FDI or by routing it through an FII/FPI controlled by the single sponsor. (iii) The total shareholding of an individual FII/FPI shall be below 10% of the total paid-up capital. (iv) FIIs/FPIs can invest in the Security Receipts (SRs) issued by ARCs registered with Reserve Bank. FIIs/FPIs can invest up to 74 per cent of each tranche of scheme of SRs. Such investment should be within the FII/FPI limit on corporate bonds prescribed from time to time, and sectoral caps under extant FDI Regulations should also be complied with. (v) All investments would be subject to provisions of section 3(3) (f) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.		
F.2	**Banking - Private sector**		
F.2.1	**Banking - Private sector**	74%	Automatic upto 49% Government route beyond 49% and upto 74%
F.2.2	**Other conditions:**		
	1) This 74% limit will include investment under the Portfolio Investment Scheme (PIS) by FIIs/FPIs, NRIs and shares acquired prior to September 16, 2003 by erstwhile OCBs, and shall continue to include investment made by non-residents under IPOs, Private placements, DRs and through acquisition of shares from existing shareholders 2) The aggregate foreign investment in a private bank from all sources will be allowed - up to a maximum of 74 per cent of the paid-up capital of the Bank. At all times, at least 26 per cent of the paid up capital will have to be held by residents, except in regard to a wholly-owned subsidiary of a foreign bank. 3) The stipulations as above will be applicable to all investments in existing private sector banks also. 4) The permissible limits under portfolio investment schemes through stock exchanges for FIIs/FPIs and NRIs will be as follows: (i) In the case of FIIs/FPIs, as hitherto, individual FII/FPI holding is restricted to below 10 per cent of the total paid-up capital, aggregate limit for all FIIs/FPIs/QFIs cannot exceed 24 per cent of the total paid-up capital, which can be raised up to sectoral limit of 74 per cent of the total paid-up capital by the bank concerned through a resolution by its Board of Directors followed by a special resolution to that effect by its General Body. a. In the case of NRIs, as hitherto, individual holding is restricted to 5 per cent of the total paid-up capital both on repatriation and non-repatriation basis and aggregate limit cannot exceed 10 per cent of the total paid-up capital both on repatriation and non-repatriation basis. However, NRI holding can be allowed up to 24 per cent of the total paid-up capital both on repatriation and non- repatriation basis provided the banking company passes a special resolution to that effect in the General Body. b. Applications for foreign direct investment in private banks having joint venture/subsidiary in insurance sector may be addressed to the Reserve Bank of India (RBI) for consideration in consultation with the Insurance Regulatory and Development Authority of India (IRDAI) in order to ensure that the 49 per cent limit of foreign shareholding applicable for the insurance sector is not being breached. c. Transfer of shares under FDI from residents to non-residents will continue to require approval of RBI and Government as per Regulation **14 (5) as applicable.**		

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<tr><td></td><td colspan="3">d. The policies and procedures prescribed from time to time by RBI and other institutions such as SEBI, Ministry of Corporate Affairs and IRDAI on these matters will continue to apply.
e. RBI guidelines relating to acquisition by purchase or otherwise of shares of a private bank, if such acquisition results in any person owning or controlling 5 per cent or more of the paid up capital of the private bank will apply to non- resident investors as well.

(ii) Setting up of a subsidiary by foreign banks

(a) Foreign banks will be permitted to either have branches or subsidiaries but not both.

(b) Foreign banks regulated by banking supervisory authority in the home country and meeting Reserve Bank's licensing criteria will be allowed to hold 100 per cent paid-up capital to enable them to set up a wholly-owned subsidiary in India.

(c) A foreign bank may operate in India through only one of the three channels viz., (i) branches (ii) a wholly-owned subsidiary and (iii) a subsidiary with aggregate foreign investment up to a maximum of 74 per cent in a private bank.

(d) A foreign bank will be permitted to establish a wholly-owned subsidiary either through conversion of existing branches into a subsidiary or through a fresh banking license. A foreign bank will be permitted to establish a subsidiary through acquisition of shares of an existing private sector bank provided at least 26 per cent of the paid-up capital of the private sector bank is held by residents at all times consistent with para (i) (b) above.

(e) A subsidiary of a foreign bank will be subject to the licensing requirements and conditions broadly consistent with those for new private sector banks.

(f) Guidelines for setting up a wholly-owned subsidiary of a foreign bank will be issued separately by RBI.

(g) All applications by a foreign bank for setting up a subsidiary or for conversion of their existing branches to subsidiary in India will have to be made to the RBI.

(iii) At present there is a limit of ten per cent on voting rights in respect of banking companies, and this should be noted by potential investor. Any change in the ceiling can be brought about only after final policy decisions and appropriate Parliamentary approvals.</td></tr>
<tr><td>F.3</td><td>Banking - Public Sector</td><td></td><td></td></tr>
<tr><td>F.3.1</td><td>Banking - Public Sector subject to Banking Companies (Acquisition & Transfer of Undertakings) Acts, 1970/80.

This ceiling (20%) is also applicable to the State Bank of India and its associate banks.</td><td>20%</td><td>Government</td></tr>
<tr><td>F.4</td><td>Commodity Exchanges</td><td></td><td></td></tr>
<tr><td>F.4.1</td><td colspan="3">1. Futures trading in commodities are regulated under the Forward Contracts (Regulation) Act, 1952. Commodity Exchanges, like Stock Exchanges, are infrastructure companies in the commodity futures market. With a view to infuse globally acceptable best practices, modern management skills and latest technology, it was decided to allow foreign investment in Commodity Exchanges.

2. For the purposes of this Chapter,

(i) "Commodity Exchange" is a recognized association under the provisions of the Forward Contracts (Regulation) Act, 1952, as amended from time to time, to provide exchange platform for trading in forward contracts in commodities.</td></tr>
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	(ii) "Recognized association" means an association to which recognition for the time being has been granted by the Central Government under section 6 of the Forward Contracts (Regulation) Act, 1952. (iii) "Association" means any body of individuals, whether incorporated or not, constituted for the purposes of regulating and controlling the business of the sale or purchase of any goods and commodity derivative. (iv) "Forward contract" means a contract for the delivery of goods and which is not a ready delivery contract. (v) "Commodity derivative" means- • a contract for delivery of goods, which is not a ready delivery contract; or • a contract for differences which derives its value from prices or indices of prices of such underlying goods or activities, services, rights, interests and events, as may be notified in consultation with the SEBI by the Central Government, but does not include securities.		
F.4.2	**Commodity Exchange**	49%	Automatic
F.4.3	Other conditions: (i) FII/FPI purchases shall be restricted to secondary market only. (ii) No non-resident investor/entity, including persons acting in concert, will hold more than 5% of the equity in these companies. (iii) Foreign investment in commodity exchanges will be subject to the guidelines of the Central Government / SEBI from time to time.		
F.5	**Credit Information Companies (CIC)**		
F.5.1	Credit Information Companies	100 %	Automatic
F.5.2	Other Conditions: (1) Foreign investment in Credit Information Companies is subject to the Credit Information Companies (Regulation) Act, 2005. (2) Foreign investment is permitted subject to regulatory clearance from RBI. (3) Such FII/FPI investment would be permitted subject to the conditions that: (a) A single entity should directly or indirectly hold below 10% equity; (b) Any acquisition in excess of 1 % will have to be reported to RBI as a mandatory requirement; and (c) FIIs investing in CICs shall not seek a representation on the Board of Directors based upon their shareholding.		
F.6	**Infrastructure Company in the Securities Market**		
F.6.1	Infrastructure companies in Securities Markets, namely, stock exchanges, depositories and clearing corporations, in compliance with SEBI Regulations	49%	Automatic
F.6.2	Other Conditions:		
F.6.2.1	FII/FPI can invest only through purchases in		

	the secondary market		
F.7.	**Insurance**		
F.7.1	Ins**urance** (i) Insurance Company (ii) Insurance Brokers (iii) Third Party Administrators (iv) Surveyors and Loss Assessors (v) Other Insurance Intermediaries appointed under the provisions of Insurance Regulatory and Development Authority Act, 1999 (41 of 1999)	49%	Automatic upto 26%,; Government route beyond 26% and upto 49%
F.7.2	Other Conditions: (a) No Indian insurance company shall allow the aggregate holdings by way of total foreign investment in its equity shares by foreign investors, including portfolio investors, to exceed forty-nine percent of the paid up equity capital of such Indian insurance company. (b)Foreign direct investment proposals which take the total foreign investment in the Indian insurance company above 26 percent and up to the cap of 49 percent shall be under Government route. (c) Foreign investment in the sector is subject to compliance of the provisions of the Insurance Act, 1938 and the condition that Companies bringing in FDI shall obtain necessary license from the Insurance Regulatory & Development Authority of India for undertaking insurance activities. (d)An Indian insurance company shall ensure that its ownership and control remains at all times in the hands of resident Indian entities as determined/notified by Department of Fianncial Services. (e)Foreign portfolio investment in an Indian insurance company shall be governed by the provisions contained in sub-regulations (2), (2A), (3) and (8) of regulation 5 of FEMA Regulations, 2000 and provisions of the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations. (f) Any increase of foreign investment of an Indian insurance company shall be in accordance with the pricing guidelines specified by Reserve Bank of India under the FEMA. (g)The foreign equity investment cap of 49 percent shall apply on the same terms as above to Insurance Brokers, Third Party Administrators, Surveyors and Loss Assessors and Other Insurance Intermediaries appointed under the provisions of the Insurance Regulatory and Development Authority Act,1999 (41 of 1999). (h)Provided that where an entity like a bank, whose primary business is outside the insurance area, is allowed by the Insurance Regulatory and Development Authority of India to function as an insurance intermediary, the foreign equity investment caps applicable in that sector shall continue to apply, subject to the condition that the revenues of such entities from their primary (i.e. non-insurance related) business must remain above 50 percent of their total revenues in any financial year. (i) The provisions of paragraphs F.2.2 (3) (i) (c) & (e), relating to 'Banking-Private Sector', shall be applicable in respect of bank promoted insurance companies. (j) Terms 'Control', 'Equity Share Capital', 'Foreign Direct Investment' (FDI), 'Foreign Investors', 'Foreign Portfolio Investment', 'Indian Insurance Company', 'Indian Company', 'Indian Control of an Indian Insurance Company', 'Indian Ownership', 'Non-resident Entity', 'Public Financial Institution', 'Resident Indian Citizen', 'Total Foreign Investment' will have the same meaning as provided in Notification No. G.S.R 115 (E), dated 19th February, 2015.		
F.8.	**Non-Banking Finance Companies (NBFCs)**		

F.8.1	Foreign investment in NBFC is allowed under the automatic route in only the following activities: (i) Merchant Banking (ii) Underwriting (iii) Portfolio Management Services (iv) Investment Advisory Services (v) Financial Consultancy (vi) Stock Broking (vii) Asset Management (viii) Venture Capital (ix) Custodian Services (x) Factoring (xi) Credit Rating Agencies (xii) Leasing & Finance (xiii) Housing Finance (xiv) Forex Broking (xv) Credit Card Business (xvi) Money Changing Business (xvii) Micro Credit (xviii) Rural Credit	100%	Automatic
F.8.2	Other Conditions		
	(1) Investment would be subject to the following minimum capitalisation norms: (i) US $0.5 million for foreign capital up to 51 % to be brought upfront. (ii) US $ 5 million for foreign capital more than 51 % and up to 75% to be brought upfront. (iii) US $ 50 million for foreign capital more than 75% out of which US $ 7.5 million to be brought upfront and the balance in 24 months. (iv) NBFCs (i) having foreign investment more than 75% and up to 100%, and (ii) with a minimum capitalisation of US$ 50 million, can set up step down subsidiaries for specific NBFC activities, without any restriction on the number of operating subsidiaries and without bringing in additional capital. The minimum capitalization condition as mandated by para 3.10.4.1 of DIPP Circular 1 on Consolidated FDI Policy, therefore, shall not apply to downstream subsidiaries. (v) Joint Venture operating NBFCs that have 75% or less than 75% foreign investment can also set up subsidiaries for undertaking other NBFC activities, subject to the subsidiaries also complying with the applicable minimum capitalisation norm mentioned in (i), (ii) and (iii) above and (vi) below. (vi) Non-Fund based activities: US$ 0.5 million to be brought upfront for all permitted non-fund based NBFCs irrespective of the level of foreign investment subject to the following condition: It would not be permissible for such a company to set up any subsidiary for any other activity, nor it can participate in any equity of an NBFC holding/operating company. Note: The following activities would be classified as Non-Fund Based activities: (a) Investment Advisory Services (b) Financial Consultancy (c) Forex Broking		

	(d) Money Changing Business (e) Credit Rating Agencies (vii) This will be subject to compliance with the guidelines of RBI. Note: (i) Credit Card business includes issuance, sales, marketing & design of various payment products such as credit cards, charge cards, debit cards, stored value cards, smart card, value added cards etc. (ii) Leasing & Finance covers only financial leases and not operating leases. FDI in operating leases is permitted up to 100 % on the automatic route. (2) The NBFC will have to comply with the guidelines of the relevant regulator/s, as applicable.		
F.8.3	White Label ATM Operations	**100%**	**Automatic**
	Other Conditions: i. Any non-bank entity intending to set up a WLAs should have a minimum net worth of Rs. 100 crore as per the latest financial year's audited balance sheet, which is to be maintained at all times. ii. In case the entity is also engaged in any other 18 NBFC activities, then the foreign investment in the company setting up WLA, shall have to comply with the minimum capitalisation norms for foreign investment in NBFC activities, as provided in para F.8.2. iii. FDI in the WLAO will be subject to the specific criteria and guidelines issued by RBI vide Circular No. DPSS,CO.PD.No.2298/02.10.002/2011-12, as amended from time to time.		
F.9	**Power Exchanges**		
F.9.1	Power Exchanges under the Central Electricity Regulatory Commission (Power Market) Regulations, 2010	**49%**	**Automatic**
F.9.2	Other conditions		
	(i) FII purchases shall be restricted to secondary market only; (ii) No non-resident investor/entity, including persons acting in concert, will hold more than 5% of the equity in these companies; and (iii) The foreign investment would be in compliance with SEBI Regulations; other applicable laws/regulations; security and other conditionalities.		
F.10	**Pension Sector**	49%	Automatic up to 26%; Government route beyond 26% and up to 49 %
17.	**Pharmaceuticals**		
17.1	Greenfield	100%	Automatic
17.2	Brown Field	100%	Government
17.3	Other Conditions		
	(i) 'Non-compete' clause would not be allowed except in special circumstances with the approval of the Foreign Investment Promotion Board. (ii) The prospective investor and the prospective investee are required to provide a certificate along with the FIPB application. (iii) Government may incorporate appropriate conditions for FDI in brownfield cases, at the time of granting approval.		

	Note : i. FDI upto 100% under the automatic route is permitted for manufacturing of medical devices. The abovementioned conditions will, therefore, not be applicable to greenfield as well as brownfield projects of this industry. ii. Medical device means :- a) Any instrument, apparatus, appliance, implant, material or other article, whether used alone or in combination, including the software, intended by its manufacturer to be used specially for human beings or animals for one or more of the specific purposes of :- (aa) Diagnosis, prevention, monitoring, treatment or alleviation of any disease or disorder; (ab) diagnosis, monitoring, treatment, alleviation of, or assistance for, any injury or handicap; (ac) investigation, replacement or modification or support of the anatomy or of a physiological process; (ad)supporting or sustaining life; (ae) disinfection of medical devices; (af) control of conception; and which does not achieve its primary intended action in or on the human body or animals by any pharmacological or immunological or metabolic means, but which may be assisted in its intended function by such means; b) an accessory to such an instrument, apparatus, appliance, material or other article; c) a device which is 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 in vitro examination of specimens derived from the human body or animals. iii. The definition of medical device at Note (ii) above would be subject to the amendment in Drugs and Cosmetics Act.		
18	**Railway Infrastructure**		
	Construction, operation and maintenance of the following: (i)Suburban corridor projects through PPP, (ii) speed train projects, (iii) Dedicated freight lines, (iv) Rolling stock including train sets, and locomotives/coaches manufacturing and maintenance facilities, (v) Railway Electrification, (vi) Signaling systems, (vii) Freight terminals, (viii) Passenger terminals, (ix) Infrastructure in industrial park pertaining to railway line/sidings including electrified railway lines and connectivities to main railway line and (x) Mass Rapid Transport Systems.	100%	Automatic
	Note:- (i) Foreign Direct Investment in the abovementioned activities open to private participation including FDI is subject to sectoral guidelines of Ministry of Railways. (ii) Proposals involving FDI beyond 49% in sensitive areas from security point of view, will be brought by the Ministry of Railways before the Cabinet Committee on Security (CCS) for consideration on a case to case basis.		

D. In Schedule 9,

(i) the existing paragraph 4 shall be amended as under, namely:

" 4. Entry Route

FDI in LLPs is permitted, subject to the following conditions:

i. FDI is permitted under the automatic route in LLPs operating in sectors/activities where 100% FDI is allowed through the automatic route and there are no FDI linked performance conditions.

ii. An Indian company or an LLP, having foreign investment, will be permitted to make downstream investment in another company or LLP engaged in sectors in which 100% FDI is allowed under the automatic route and there are no FDI-linked performance conditions. Onus shall be on the Indian company/ LLP accepting downstream investment to ensure compliance with the above conditions.

iii. *FDI in LLP is subject to the compliance of the conditions of LLP Act, 2008*."

(ii) the existing paragraph 8 shall stands deleted.

E. The existing Schedule 11 shall be substituted by the following, namely:

“ **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 either the Sponsor or the Manager or the Investment Manager is not 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 or LLPs, 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 to 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.

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.”

(B.P. Kanungo)
Principal 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

G.S.R.No. 823 (E) dated 30.10.2015

G.S.R.No. 858 (E) dated 16.11.2015

Published in the Official Gazette of Government of India – Extraordinary – Part-II, Section 3, Sub-Section (i) dated 15.02.2016- G.S.R.No.166(E)