

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

**Notification No.283/2013-RB**

**August 14, 2013**

**Foreign Exchange Management (Transfer or Issue of any  
Foreign Security) (Fifth 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 of India hereby makes the following amendments in the Foreign Exchange Management (Transfer or Issue of Any Foreign Security) (Amendment) 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) (Fifth Amendment) Regulations, 2013.
- (ii) They shall come into force from the date of their publication in the Official Gazette.

**2. Amendment to Regulation 6 in Part I**

- (i) In Regulation 6, in sub-regulation (2), for clause (i) **the following shall be substituted:**

“The total financial commitment of the Indian Party in Joint Ventures / Wholly Owned Subsidiaries shall not exceed 100%, or as decided by the Reserve Bank from time to time, of the net worth of the Indian Party as on the date of the last audited balance sheet.

Explanation: For the purpose of determining the 'total financial commitment' within the limit of 100%, or as decided by the Reserve Bank from time to time, of the net worth, the following shall be reckoned, namely:

- (a) Remittance by market purchases, namely in freely convertible currencies; in case of Bhutan, investment made in freely convertible currencies or equivalent Indian Rupees, in case of Nepal investment made only in Indian Rupees;
- (b) Capitalization of export proceeds and other dues and entitlements as mentioned in Regulation 11;
- (c) Hundred percent of the value of guarantees issued by the Indian party to on or behalf of the joint venture company or wholly owned subsidiary;
- (d) Investment in agricultural operations through overseas offices or directly;
- (e) External Commercial Borrowing in conformity with other parameters of the ECB guidelines;
- (f) Fifty percent of the value of performance guarantee issued by the Indian party to or on behalf of the JV/WOS.

Explanation : In cases where invocation of the performance guarantees breach the ceiling for the financial exposure of 100 per cent, or as decided by the Reserve Bank from time to time, of the net worth of the Indian party, the Indian party shall seek the prior approval of the Reserve Bank before remitting funds from India, on account of such invocation.

- (g) Hundred percent of the value of the bank guarantee issued by a resident bank on behalf of an overseas JV/WOS of the Indian party, which is backed by a counter guarantee / collateral by the Indian party.

Overseas direct investment by an Indian party in Pakistan shall henceforth be considered under the approval route under regulation 9 of this Notification."

- (ii) In Regulation 6, in sub-regulation (3), in clause (ii), for the words :

"drawal of foreign exchange from an authorised dealer in India shall not exceed 400 % of the net worth of the Indian Party as on the date of last audited balance sheet;

**Explanation:** For the purpose of the limit of 400 % of the net worth the following shall be reckoned, namely: " **the following shall be substituted :**

"drawal of foreign exchange from an authorised dealer in India shall not exceed 100%, or as decided by the Reserve Bank from time to time, of the net worth of the Indian Party as on the date of last audited balance sheet;

**Explanation:** For the purpose of the limit of 100%, or as decided by the Reserve Bank from time to time, of the net worth, the following shall be reckoned, namely:"

- (iii) In Regulation 6, in sub-regulation (3), for clause (ii)(h) **the following shall be substituted:**

"(h) Fifty per cent of the value of performance guarantee issued by Indian party to or on behalf of the JV/WOS.

**Explanation :** In cases where invocation of the performance guarantees breach the ceiling for the financial exposure of 100 %, or as decided by the Reserve Bank from time to time, of the net worth of the Indian party, the Indian party shall seek the prior approval of the Reserve Bank before remitting funds from India, on account of such invocation."

**(C.D. Srinivasan)**  
**Chief General Manager**

**Foot Note:**

(ii) 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,  
G.S.R. No.947(E) dated November 22, 2012,  
G.S.R. No.529(E) dated August 05, 2013,  
G.S.R. No.\_\_\_\_\_ dated \_\_\_\_\_ ,  
G.S.R. No.345(E) dated May 29, 2013 and  
G.S.R. No.516(E) dated July 30, 2013.

**Published in the Official Gazette of Government  
of India – Extraordinary – Part-II, Section 3,  
Sub-Section (i) dated 14.08.2013- G.S.R.No.552 (E)**