

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

Notification No.FEMA.363/ 2016-RB

April 28, 2016

**Foreign Exchange Management (Transfer or Issue of Security by a Person
Resident outside India) (Third 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) (Third Amendment) Regulations, 2016.
- (ii) They shall come into force from the date of publication in the official Gazette.

2. Amendment to Regulation 2

A. After the existing sub-regulation (ii), a new sub-regulation shall be inserted namely:-

“(iiA) ‘Category I Alternative Investment Fund (Cat-I AIF)’ means an Alternative Investment Fund registered under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 which raises money and invests in such funds or sectors or activities or areas in accordance with the said Regulations.”

B. The existing sub-regulation (vb) shall be deleted.

C. After the existing sub-regulation (x), a new sub-regulation shall be inserted namely:-

“(xA) ‘startup’ shall mean an entity, incorporated or registered in India not prior to five years, with an annual turnover not exceeding INR 25 Crores in any preceding financial year, working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property,

Provided that such entity is not formed by splitting up, or reconstruction of a business already in existence.

For this purpose,

- (i) ‘entity’ shall mean a private limited company (as defined in the Companies Act, 2013), or a registered partnership firm (registered under section 59 of the Partnership Act, 1932) or a limited liability partnership (under the Limited Liability Partnership Act, 2008).
- (ii) the expression ‘turnover’ shall have the same meaning as assigned to it under the Companies Act, 2013.
- (iii) An entity is considered to be working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property if it aims to develop and commercialize (a) a new product or service or process; or (b) a significantly improved existing product or service or process that will create or add value for customers or workflow.

Provided that it will not include the mere act of developing (a) products or services or processes which do not have potential for commercialization; or (b) undifferentiated products or services or processes or (c) products or services or processes with no or limited incremental value for customers or workflow.

3. Amendment to Regulation 5

In Regulation 5, the existing sub-regulation (5) shall be substituted by the following namely:-

“(5) A Foreign Venture Capital Investor registered with SEBI may make investment in the manner and subject to the terms and conditions specified in Schedule 6.”

4. Amendment to Schedule 6

In the principal regulations, the existing Schedule 6 shall be substituted by the following, namely:-

“SCHEDULE 6
[See Regulation 5(5)]
INVESTMENT BY A REGISTERED FOREIGN VENTURE CAPITAL INVESTOR

1. Investment by Foreign Venture Capital Investor

- (1) A Foreign Venture Capital Investor (FVCI) registered under the SEBI (FVCI) Regulations, 2000, may purchase
 - (a) equity or equity linked instruments or debt instruments, issued by an Indian company engaged in any sector mentioned at Annex to this Schedule and whose shares are not listed on a recognised stock exchange at the time of issue of the said securities/instruments;
 - (b) equity or equity linked instruments or debt instruments issued by a startup, irrespective of the sector in which it is engaged;
 - (c) units of a Venture Capital Fund (VCF) or of a Category I Alternative Investment Fund (Cat-I AIF) or units of a scheme or of a fund set up by a VCF or by a Cat-I AIF;
subject to the terms and conditions as may be laid down by the Reserve Bank.

Note: An FVCI registered under the SEBI (FVCI) Regulations, 2000 shall not require any prior approval of RBI for investments made under this Schedule.

- (2) A registered FVCI may purchase the securities / instruments mentioned above either from the issuer of these securities / instruments or from any person holding these securities / instruments or on a recognized stock exchange.
- (3) The consideration for all investment by an FVCI shall be paid out of inward remittance from abroad through normal banking channels or out of sale / maturity proceeds or income generated from investment already made as stated earlier.

2. Maintenance of account by the registered FVCI

A registered FVCI may open a foreign currency account and/or a rupee account with a designated branch of an Authorised Dealer subject to the condition that the account will be used only and exclusively for transactions under this Schedule.

3. Transfer of investments

The FVCI may acquire, by purchase or otherwise, from, or transfer, by sale or otherwise, to, any person resident or non-resident, any security / instrument it is allowed to invest in, at a price that is mutually acceptable to the buyer and the seller/issuer. The FVCI may also receive the proceeds of the liquidation of VCFs or of Cat-I AIFs or of schemes/funds set up by the VCFs or Cat-I AIFs.

4. Reporting

The actual inflow/outflow and the investments made by FVCIs may be reported in a manner as prescribed by Reserve Bank or SEBI.

Annex

List of sectors in which a Foreign Venture Capital Investor is allowed to invest

1. Biotechnology
2. IT related to hardware and software development
3. Nanotechnology
4. Seed research and development
5. Research and development of new chemical entities in pharmaceutical sector
6. Dairy industry
7. Poultry industry
8. Production of bio-fuels
9. Hotel-cum-convention centres with seating capacity of more than three thousand.
10. Infrastructure sector. *(This will include activities included within the scope of the definition of infrastructure under the External Commercial Borrowing guidelines / policies notified under the extant FEMA Regulations as amended from time to time).*”

(Shekhar Bhatnagar)
Chief General Manager-in-Charge

Foot Note:-

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

G.S.R.No. 158(E) dated 02.03.2001
G.S.R.No. 175(E) dated 13.03.2001
G.S.R.No. 182(E) dated 14.03.2001
G.S.R.No. 4(E) dated 02.01.2002
G.S.R.No. 574(E) dated 19.08.2002
G.S.R.No. 223(E) dated 18.03.2003
G.S.R.No. 225(E) dated 18.03.2003
G.S.R.No. 558(E) dated 22.07.2003
G.S.R.No. 835(E) dated 23.10.2003
G.S.R.No. 899(E) dated 22.11.2003
G.S.R.No. 12(E) dated 07.01.2004
G.S.R.No. 278(E) dated 23.04.2004
G.S.R.No. 454(E) dated 16.07.2004
G.S.R.No. 625(E) dated 21.09.2004
G.S.R.No. 799(E) dated 08.12.2004
G.S.R.No. 201(E) dated 01.04.2005
G.S.R.No. 202(E) dated 01.04.2005
G.S.R.No. 504(E) dated 25.07.2005
G.S.R.No. 505(E) dated 25.07.2005
G.S.R.No. 513(E) dated 29.07.2005
G.S.R.No. 738(E) dated 22.12.2005
G.S.R.No. 29(E) dated 19.01.2006

G.S.R.No. 413(E) dated 11.07.2006
G.S.R.No. 712(E) dated 14.11.2007
G.S.R.No. 713(E) dated 14.11.2007
G.S.R.No. 737(E) dated 29.11.2007
G.S.R.No. 575(E) dated 05.08.2008
G.S.R.No. 896(E) dated 30.12.2008
G.S.R.No. 851(E) dated 01.12.2009
G.S.R.No. 341 (E) dated 21.04.2010
G.S.R.No. 821 (E) dated 10.11.2012
G.S.R.No. 606(E) dated 03.08.2012
G.S.R.No. 795(E) dated 30.10.2012
G.S.R.No. 796(E) dated 30.10.2012
G.S.R. No. 797(E) dated 30.10.2012
G.S.R.No. 945 (E) dated 31.12.2012
G.S.R. No.946(E) dated 31.12.2012
G.S.R. No.38(E) dated 22.01.2013
G.S.R.No.515(E) dated 30.07.2013
G.S.R.No.532(E) dated 05.08.2013
G.S.R. No.341(E) dated 28.05.2013
G.S.R.No.344(E) dated 29.05.2013
G.S.R. No.195(E) dated 01.04.2013
G.S.R.No.393(E) dated 21.06.2013
G.S.R.No.591(E) dated 04.09.2013
G.S.R.No.596(E) dated 06.09.2013
G.S.R.No.597(E) dated 06.09.2013
G.S.R.No.681(E) dated 11.10.2013
G.S.R.No.682(E) dated 11.10.2013
G.S.R. No.818(E) dated 31.12.2013
G.S.R. No.805(E) dated 30.12.2013
G.S.R.No.683(E) dated 11.10.2013
G.S.R.No.189(E) dated 19.03.2014
G.S.R.No.190(E) dated 19.03.2014
G.S.R.No.270(E) dated 07.04.2014
G.S.R.No. 361 (E) dated 27.05.2014
G.S.R.No.370(E) dated 30.05.2014
G.S.R.No.371(E) dated 30.05.2014
G.S.R.No. 435 (E) dated 08.07.2014
G.S.R.No. 400 (E) dated 12.06.2014
G.S.R.No. 436 (E) dated 08.07.2014
G.S.R.No. 487 (E) dated 11.07.2014
G.S.R.No. 632 (E) dated 02.09.2014
G.S.R.No. 798 (E) dated 13.11.2014

G.S.R.No. 799 (E) dated 13.11.2014
G.S.R.No. 800 (E) dated 13.11.2014
G.S.R.No. 829 (E) dated 21.11.2014
G.S.R.No. 906(E) dated 22.12.2014
G.S.R.No. 914 (E) dated 24.12.2014
G.S.R.No. 30 (E) dated 14.01.2015
G.S.R.No. 183 (E) dated 12.03.2015
G.S.R.No. 284 (E) dated 13.04.2015
G.S.R.No. 484 (E) dated 11.06.2015
G.S.R.No. 745 (E) dated 30.09.2015
G.S.R.No. 759 (E) dated 06.10.2015
G.S.R.No. 823 (E) dated 30.10.2015
G.S.R.No. 858 (E) dated 16.11.2015
G.S.R.No. 165 (E) dated 15.02.2016
G.S.R.No. 166 (E) dated 15.02.2016
G.S.R.No. 369 (E) dated 30.03.2016

Published in the Official Gazette of Government of India – Extraordinary – Part-II, Section 3, Sub-Section (i) dated 28.04.2016- G.S.R.No.465(E)
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