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## ***DEPARTMENT OF INDUSTRIAL POLICY AND PROMOTION, MINISTRY OF COMMERCE AND INDUSTRY, GOVT OF INDIA***

### ***Review of FDI policy on the Construc- tion Development Sector— amendment to Consolidated FDI Policy Circular 2014***

[Press note 10 of 2014](#) dated December 3, 2014 makes amendments Paragraph no. 6.2.11 of the Consolidated FDI Policy Circular of 2014 (“FDI Policy”), relating to Construction Development Sector including Townships, Housing and Built-up Infrastructure.

The following are the amendments to paragraph 6.2.11 of the FDI Policy:

1. Construction development projects which would include development of townships, construction of residential/commercial premises, roads or bridges, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional level infrastructure, townships.

2. Conditions to investment have also been amended to alter
  - a. In case of development of serviced housing plots, a minimum land area of 10 hectares to a no minimum land area requirement.
  - b. In case of construction development projects a minimum built up area of 50,000 sq.mts. to 20,000 sq.mts.
3. Investee companies shall now be required to bring in a minimum FDI of US\$ 5 million within 6 months of commencement of project. The Press note also provides for subsequent tranches of FDI.
4. Further, investors are now permitted to exit on completion of the project or after development of trunk infrastructure. The Government may permit repatriation of FDI or transfer of stake by one non-resident investor to another, before the completion of the project, subject to conditions.
5. The investee company is now permitted to sell only developed plots, which shall mean plots where trunk infrastructure has been made available.
6. Other conditions and exceptions for FDI in the Construction Development Sector have also been provided for, such as, application of these provisions to Hotels and Tourist resorts, Special Economic Zones, etc.

*For further information, please visit the link provided herein.*

## THE RESERVE BANK OF INDIA

### RBI : Guidelines for White Label ATMs In India

The Reserve Bank of India (“RBI”) has vide this [Circular no. RBI/2014-15/338](#), dated December 05, 2014 has reviewed Guidelines for White Label ATMs (“WLAs”) and provided the following:

1. WLAs will now be allowed to accept international credit/debit/prepaid cards. The cards issued under the card payment network schemes will be allowed for the same purpose. However, for cards issued under any other scheme, the routing and settlement should take place based on the bilateral arrangement put in place by the existing authorised networks for such purpose.
2. The facility of Dynamic Currency conversion for the use of international cards at WLAs shall be permitted if the operator decides to implement such a facility. The currency conversion rate shall only be obtained from authorised dealer bank.
3. WLA operators may now tie up with other commercial banks for cash supply. Though the cash would be owned by the WLA operators, the responsibility of ensuring the quality and genuineness of cash loaded would be of the cash supplier bank.

*For further information, please visit the link provided herein.*



## *FDI in India—Review of FDI Policy— Sector Specific Conditions in the field of Defence*



RBI vide [Circular no. 46 of 2014](#) dated December 8, 2014 provides for a review of the FDI Policy as regards the Defence sector.

1. Prior to this circular, FDI up to 26% was permitted under the government route in the defence industry subject to licence under the Industries (Development & Regulation) Act, 1951. FDI above the mentioned limit of 26% was subject to approval of the Cabinet Committee on Security.
2. Vide this Circular, items not mentioned in the list of defence items as prepared and provided by the Department of Defence Production, Ministry of Defence would not require industrial license for defence purposes. This exemption also applies to items having military as well as civilian applications.
3. Further, other foreign investments such as FDIs, FIIS, RFPIs, NRIs, FVCIs and QFIs upto 49% under the government route shall on a review effective from August, 2014, be permitted in the defence sector subject to the conditions specified in Press Note 7 of 2014. Such investments shall not exceed 24% of the total equity of the investee company.

*For further information, please visit the link provided herein.*



## ***RBI : Overseas Direct Investments by Indian Party—Rationalization / Liberalization***



RBI vide their circular no. [RBI/2014-15/371 A.P. \(DIR Series\) Circular No.54](#) dated December 29, 2014 have notified their decision to liberalize certain regulations, being the Regulation 18 and 18A of Notification No. FEMA.120/RB-2004 dated July 7, 2004 [Foreign Exchange Management (Transfer or Issue of any Foreign Security) (Amendment) Regulations, 2004] (“Notification”) read with circular A.P. (DIR Series) Circular No. 96 dated March 28, 2012. The directions contained in this circular have been issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act (FEMA), 1999. Necessary amendments to the Notification have been issued vide Notification No. FEMA.322/2014-RB dated October 14, 2014 and effective from the date of their publication in the Gazette i.e. December 03, 2014

Vide the Circular No. 54 it has been decided that:

1. With respect to the shares of Joint Venture (JV) / Wholly Owned Subsidiary (WOS) / Step Down Subsidiary (SDS), the Authorised Dealer Banks(Category I) may permit the creation of charge / pledge on such shares in favour of a domestic or overseas lender for securing the funded and / or non-funded

- facility to be availed of by the Indian party or by its group companies (irrespective of the level) under the automatic route subject to the conditions enumerated therein. These conditions include the Indian Party complying with the provisions of undertaking financial commitment under the Notification; period of charge if not specified upfront be co-terminus with the period of end use; the loan / facility availed by the JV / WOS / SDS be utilized only for its core business activities overseas and shall also be governed by the prudential norms and other guidelines issued by the Department of Banking Regulation (DBR) etc.
2. With respect to the domestic assets (movable / immovable / financial / other) of an Indian party or its group in favour of an overseas lender to the JV / WOS / SDS, the designated AD Bank may permit creation of charge on such assets under the automatic route subject to the conditions enumerated therein. These conditions include domestic assets on which charge is being created, not securitized; certificate from the Statutory Auditors' of the Indian party that the loan / funds raised overseas has not been utilized for direct or indirect investments to be obtained and kept by the designated AD; overseas lender undertaking to transfer the domestic assets by way of sale to a resident only in the event of enforcement of charge; prior approval of RBI if the resultant remittance of the proceeds upon invocation of charge exceeds the prescribed limit of financial commitment, etc.
  3. With respect to the overseas assets (excluding the shares) of the JV / WOS / SDS in favour of a domestic lender for securing the funded and / or non-funded facility to be availed of by the Indian party or by its group companies, the designated AD Bank may permit creation of charge (by way of



hypothecation, mortgage, or otherwise) on such overseas assets under the automatic route subject to the conditions mentioned in the circular. These conditions include overseas assets on which charge is being created, not securitized; invocation of charge resulting into the domestic lender acquiring the overseas assets shall require prior approval of RBI; matter relating to the setting up / acquiring the multi-layered structure of overseas entities by the Indian party are under the examination of the Reserve Bank; compliance to the provisions under Regulation 18A(2) of the Notification etc.

*For further information, please visit the link provided herein*



## **THE SECURITIES AND EXCHANGE BOARD OF INDIA**

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### ***Modification to offer for sale (OFS) of Shares through stock mechanism***

The Security exchange board of India (“SEBI”) vide [Circular No. CIR/MRD/DP/31/2014](#) has provided for modification of the guidelines provided in circulars dated CIR/MRD/DP/04/2013 dated January 25, 2013, CIR/MRD/DP/17/2013 dated May 30, 2013 and CIR/MRD/DP/ 24 /2014 dated August 08, 2014.

1. SEBI has laid down certain conditions to be fulfilled, in order to make it easier for retail investors to participate in OFS, it has been decided that seller may give an option to retail investors to place their bid at cut-off price in addition to placing price bids.
2. Pursuant to the earlier circular partial modification in respect of bids in the retail category, clearing corporation shall collect margin to the extent of 100% of order value in cash or cash equivalents. Pay-in and pay-out for retail bids shall take place as per normal secondary market transactions.
3. SEBI has advised the Stock Exchanges to take the necessary steps, put in place necessary systems, make necessary amendments to the relevant bye-laws, rules and regulations and bring the provisions of this circular to the notice of the member brokers of the stock exchange relating to the modification in this circular.

*For further information, please visit the link provided herein.*

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## **THE CENTRAL ELECTRICITY REGULATORY COMMISSION**

### ***Central Electricity Regulatory Commis- sion (CERC) (Terms and Condition for recognition and issuance of Renewa- ble Energy Certificate (REC) for Re- newable Energy Generation) (Third Amendment) Regulation, 2014.***

[The 3rd Amendment Regulation, 2014 on REC mechanism](#) dated December 30, 2014 has been pronounced. These regulations would come into force from January 1, 2015.

The following are the amendments :-

1. Distribution Licensee shall be eligible to apply for registration with the Central Agency for issuance of and dealing in Certificates provided the following conditions are fulfilled;
  - a. If, in the previous financial year, it has procured renewable energy at a tariff determined under Section 62 or 63 of the Electricity Act, 2003, in excess of the renewable purchase obligation as may be specified by the Appropriate Commission or in the National Action Plan or climate Change or Tariff policy whichever is HIGHER. Provided that any shortfall in the previous three years, in procurement against the non- solar or solar

power procurement obligation, shall be adjusted first and only the remaining additional procurement beyond the threshold renewable purchase obligation shall be considered for issuance of RECs to the distribution Licensees.

- b. certificate for procurement of Renewable Energy has been obtained from the Appropriate Commission.

- 2. New clauses (7) and (8) were added under Regulation 7 of the Principal Regulations as under:

*“(7) The Commission shall determine through a separate order, the quantum of Certificate to be issued to the eligible entities being the solar generating companies registered under REC framework prior to 1st January 2015, for one Megawatt hour of electricity generated and injected into the grid or deemed to be injected (in case of self-consumption by eligible CGP) into the grid as per the following formula: Vintage Multiplier = Floor Price of Base Year / Current Year Floor Price*

*Where,*

*“Base year” means the year 2012-13 being the year in which the floor price was determined for solar REC for a period of five years”*

*(8) The vintage multiplier as specified in clause (7) of this regulation shall be provided to the solar generating companies registered under REC framework prior 1st January 2015 and shall be applicable for the period from 1st January 2015 upto 31st March 2017, after which such projects shall be eligible for one REC for one megawatt hour of electricity generated.”*



3. Under Regulation 10, the Certificate issued under these regulations shall remain valid for one thousand and ninety five days from the date of issuance. Provided that if the RECs which expired in the financial year 2014-2015 and the RECs issued till the date of effect of this 3<sup>rd</sup> Amendment Regulation, 2014 shall remain valid for one thousand and ninety five days from the date of issuance or upto March 31, 2017 whichever is later.

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