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## Reserve Bank of India

### Investment by a Foreign Venture Capital Investor

Reserve Bank of India (“**RBI**”) vide it’s [circular dated October 20, 2016](#) has amended the regulations for Investment by a Foreign Venture Capital Investor (“**FVCI**”), registered under SEBI (FVCI) Regulations, 2000 (“**FVCI Regulations**”)

Investment in India by FVCI registered with Securities and Exchange Board of India (“**SEBI**”), is governed by the provisions of Schedule 6 of the Principal Regulations. In order to further liberalise and rationalise the investment regime for FVCIs and to give a filip to foreign investment in the startups, the extant regulatory provisions have been reviewed, and amendments have been carried out in Schedule 6 of [Foreign Exchange Management \(Transfer or Issue of security by a person resident outside India\) Regulations, 2000](#), through Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Third Amendment) Regulations, 2016.

As per the Amendment Notification referred to above, any FVCI which has obtained registration under the FVCI Regulations , will not require any approval from RBI and can invest in:

1. Equity or equity linked instrument or debt instrument issued by an Indian company whose shares are not listed on a recognised stock exchange at the time of issue of the said securities/instruments and engaged in any of the following sectors:
  - Biotechnology
  - IT related to hardware and software development
  - Nanotechnology
  - Seed research and development
  - Research and development of new chemical entities in pharmaceutical sector
  - Dairy industry
  - Poultry industry
  - Production of bio-fuels.



- Hotel-cum-convention centres with seating capacity of more than three thousand
  - 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).
2. Equity or equity linked instrument or debt instrument issued by an Indian 'startup' irrespective of the sector in which the startup is engaged. A startup will mean an entity (private limited company or a registered partnership firm or a limited liability partnership) incorporated or registered in India not prior to five years, with an annual turnover not exceeding Rs.25,00,00,000 (Rupees Twenty Five Crores Only) in any preceding financial year, working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property and satisfying certain conditions given in the Regulations.
  3. FVCI may open a foreign currency account and/or a rupee account with a designated branch of an Authorised Dealer for the purpose of making transactions only and exclusively under this Schedule.
  4. 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 of or income generated from investment already made as per paragraph 3 above.
  5. There will be no restriction on transfer of any security/instrument held by the FVCI to any person resident in or outside India.
  6. An entity receiving investment directly from a registered Foreign Venture Capital Investor (FVCI) will be required to report the investment, mutatis mutandis, in form FCGPR. The necessary changes in the E-biz portal is being made and separate instructions will be issued in due course. Till such time, reporting requirements, as hitherto, shall continue.



## Foreign Exchange Management of the Receipt and Payment ,2016

RBI vide it's circular dated October 20, 2016 has notified the new guidelines for Foreign Exchange Management of the Receipt and Payment to be known as Foreign Exchange Management (Manner of receipt and payment) Regulations, 2016, which provide amendments to various earlier issued Regulations viz. the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2000; Foreign Exchange Management (Receipt from, and payment to, a person resident outside India) Regulations, 2000 and Foreign Exchange Management Notification (Transactions in Indian rupees with residents of Nepal or Bhutan) Regulations 2000. The synopsis of the same is provided below-

1. Authorised Dealers (“AD”) bank may receive foreign exchange by way of remittance or by way of reimbursement from his branch or correspondent outside India against payment for exports from India or against any other payment in following manner :

- Members of Asian Clearing Union (“ACU”)

- i. Bangladesh, Myanmar, Pakistan, Sri Lanka and Republic of Maldives –

- a. Receipt for export of eligible goods and services, through ACU mechanism i.e. by debit to the ACU Dollar/Euro account in India of a bank of the member country in which the other party to the transaction is resident or by credit to the ACU Dollar/Euro account of the Authorised Dealer maintained with the correspondent bank in that member country,
- b. In any freely convertible currency for cases other than export of eligible goods and services,
- c. In respect of exports from India to Myanmar, payment may be received in any freely convertible currency or through the ACU mechanism from Myanmar.

- ii. Nepal and Bhutan-

- a. In Rupees
- b. In respect of exports from India to Nepal, may be received in any freely convertible currency also, provided the importer resident in Nepal has been permitted by the Nepal Rashtra Bank to make payment in free foreign exchange. However, such receipts shall not be routed through the ACU mechanism.

- iii. Islamic Republic of Iran – In all cases including receipts for export of eligible goods and services, in any freely convertible currency and/or as prescribed by Reserve Bank of India from time to time.

- All other countries-

- i. Receipt in rupees from the account of a bank situated in any country other than an ACU member,
- ii. In any freely convertible currency.



2. For Exports-

- In respect of export from India, receipt shall be made in a currency appropriate to the place of final destination as mentioned in the declaration form irrespective of the country of the residence of the buyer,
- Any other mode of receipt of export proceeds as prescribed by the Reserve Bank of India from time to time.

3. Payment for export of goods / software may be received from a Third Party (a party other than the buyer) as per specified conditions.

4. Receipt for exports may also be made in following manner:

- In the form of a bank draft, cheque, pay order, foreign currency notes/traveller's cheque from a buyer during his visit to India
- By debit to FCNR/NRE account in India;
- In rupees from the credit card servicing bank in India against the charge slip signed by the buyer;
- From a rupee account held in the name of an Exchange House with an Authorised Dealer if the amount does not exceed Rs. 15,00,000 ( Rupees Fifteen Lakhs Only) per export transaction; In accordance with the directions issued by the Reserve Bank to Authorised Dealers, where the export is covered by the arrangement between the Central Government and the Government of a foreign country or by the credit arrangement entered into by the Exim Bank with a financial institution in a foreign state;
- In the form of precious metals i.e. gold / silver / platinum equivalent to value of jewellery exported by Gem & Jewellery units in Special Economic Zones and Export Oriented Units on the condition that the sale contract provides for the same and the value is declared in the relevant EDF;
- any person resident in India may also receive any payment other than for exports by means of postal order/postal money order issued by a post office outside India.

5. Manner of payment in foreign exchange:

AD bank may make payment in foreign exchange by way of remittance from India or by way of reimbursement to his branch or correspondent outside India against payment for import into India, or against any other payment in the following manner:

- Members of ACU -
  - i. Bangladesh, Myanmar, Pakistan, Sri Lanka and Republic of Maldives –



- a. Payment for import of eligible goods and services by credit to the ACU Dollar/Euro account in India of a bank of the member country in which the other party to the transaction is resident or by debit to the ACU Dollar/Euro account of the Authorised Dealer maintained with the correspondent bank in that member country,
  - b. In any freely convertible currency for cases other than import of eligible goods and services
  - c. In respect of imports to India from Myanmar, payment may be made in any freely convertible currency or through the ACU mechanism from Myanmar.
- ii. Nepal and Bhutan-  
Payment may be made in Rupees
  - iii. Islamic Republic of Iran  
In all cases including payments for import of eligible goods and services, in any freely convertible currency and/or as prescribed by Reserve Bank of India to ADs from time to time.
- All other countries-
    - i. Payment in rupees from the account of a bank situated in any country other than an ACU member,
    - ii. In any freely convertible currency.
6. In respect of imports into India-
    - where the goods are shipped from ACU member, but the supplier is resident of a country other than member of ACU (other than Nepal and Bhutan), payment may be made in rupees to the account of a bank situated in any country other than an ACU member or in any freely convertible currency,
    - In all other cases, payment shall be made in a currency appropriate to the country of shipment of goods.
    - Any other mode of payment as may be prescribed by the Reserve Bank of India from time to time.
  7. Payments for import of goods / software may be made to a Third Party (a party other than the supplier) as per specified conditions.
  8. Manner of Payment in certain cases:



- Payments for import of goods may be made in foreign exchange through an international card held by him / in rupees from international credit card / debit card through the credit / debit card servicing bank in India against the charge slip signed by the importer / as prescribed by Reserve Bank from time to time, provided that the transaction is in conformity with the extant provisions including the Foreign Trade Policy in force.
- Any person resident in India may also make payment as under:
  - i. in Rupees towards meeting expenses on account of boarding, lodging and services related thereto or travel to and from and within India of a person resident outside India who is on a visit to India;
  - ii. by means of a crossed cheque or a draft as consideration for purchase of gold or silver in any form imported by such person in accordance with the terms and conditions imposed under any order issued by the Central Government under the Foreign Trade (Development and Regulations) Act, 1992 or under any other law, rules or regulations for the time being in force;
  - iii. a company or resident in India may make payment in rupees to its non whole time director who is resident outside India and is on a visit to India for the company's work and is entitled to payment of sitting fees or commission or remuneration, and travel expenses to and from and within India, in accordance with the provisions contained in the company's Memorandum of Association or Articles of Association or in any agreement entered into by it or in any resolution passed by the company in general meeting or by its Board of Directors, provided the requirements of any law, rules, regulations, directions applicable for making such payments are duly complied with.

## Foreign Investment in Other Financial Services

RBI vide its circular dated October 20, 2016 has provided guidelines for Foreign investment in Other Financial Services. The guidelines as below-

- Foreign investment up to 100% under the automatic route in ‘Other Financial Services’ would now be allowed.
- Other Financial Services will include activities which are regulated by any financial sector regulator viz. RBI, Securities and Exchange Board of India, Insurance Regulatory and Development Authority, Pension Fund Regulatory and Development Authority, National Housing Bank or any other financial sector regulator as may be notified by the Government of India in this regard. Such foreign investment shall be subject to conditionalities, including minimum capitalisation norms, as specified by the concerned Regulator/ Government Agency.
- As of now foreign investment up to 100%, under the automatic route is already allowed in Non-Banking Finance Companies (NBFCs) engaged in the 18 (Eighteen) activities listed in the relevant lists.
- In financial services activities which are not regulated or partly regulated by any financial sector regulator or where there is lack of clarity regarding regulatory oversight, foreign investment will be allowed up to 100% under the Government approval route.
- Foreign investment in an activity which is specifically regulated by the Foreign Exchange and Management Act, 1999 (“**FEMA**”), will be restricted to foreign investment levels/limits, if any, specified in that FEMA.
- Downstream investment by any entity engaged in ‘Other Financial Services’ will be subject to extant sectoral regulations and provisions of Principal Regulations.

## SECURITIES EXCHANGE BOARD OF INDIA

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### Bullion as collateral

Vide a *circular dated October 01, 2015* SEBI had specified comprehensive risk management framework for national commodity derivatives exchanges including norms on collateral that can be accepted by Exchanges from their members.

Earlier provisions regarding using bullion as a collateral stated, that the total commodities collateral for any clearing member would not exceed 15% of the total liquid assets of the clearing member.

The provisions have been modified through this circular and now the total commodities collateral for clearing member shall not exceed 30% of the total liquid assets of the clearing member, out of which non-bullion collateral shall not exceed 15% of the total liquid assets of the clearing member.

Further the Exchanges are instructed to make arrangements for timely liquidation of collaterals accepted by them and may stipulate concentration limits for collateral at member level or across all members as may be necessary based on their risk perception, capability to hold and arrangements for timely liquidation.

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Warm Regards,

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