



RBI key releases

Foreign Exchange Management (Overseas Investment) Directions, 2022

Overseas investments by persons resident in India enhance the scale and scope of business operations of Indian entrepreneurs by providing global opportunities for growth. Such ventures through easier access to technology, research and development, a wider global market and reduced cost of capital along with other benefits increase the competitiveness of Indian entities and boost their brand value. These overseas investments are also important drivers of foreign trade and technology transfer thus boosting domestic employment, investment and growth through such interlinkages.

In keeping with the spirit of liberalisation and to promote ease of doing business, the Central Government and the Reserve Bank of India have been progressively simplifying the procedures and rationalising the rules and regulations under the Foreign Exchange Management Act, 1999. In this direction, a significant step has been taken with operationalisation of a new Overseas Investment regime. Foreign Exchange Management (Overseas Investment) Rules, 2022 have been notified by the Central Government vide Notification No. G.S.R. 646(E) dated August 22, 2022 and Foreign Exchange Management (Overseas Investment) Regulations, 2022 have been notified by the Reserve Bank vide Notification No. FEMA 400/2022-RB dated August 22, 2022 in supersession of the Notification No. FEMA 120/2004-RB dated July 07, 2004 [Foreign Exchange Management (Transfer or Issue of any Foreign Security) (Amendment) Regulations, 2004] and Notification No. FEMA 7 (R)/2015-RB dated January 21, 2016 [Foreign Exchange Management (Acquisition and Transfer of Immovable Property Outside India) Regulations, 2015]. The new regime simplifies the existing framework for overseas investment by persons resident in India to cover wider economic activity and significantly reduces the need for seeking specific approvals. This will reduce the compliance burden and associated compliance costs.

Some of the significant changes brought about through the new rules and regulations are summarised below:

- (i) enhanced clarity with respect to various definitions;
- (ii) introduction of the concept of “strategic sector”;
- (iii) dispensing with the requirement of approval for:

- a. deferred payment of consideration;
- b. investment/disinvestment by persons resident in India under investigation by any investigative agency/regulatory body;
- c. issuance of corporate guarantees to or on behalf of second or subsequent level step down subsidiary (SDS);
- d. write-off on account of disinvestment;

(iv) introduction of “Late Submission Fee (LSF)” for reporting delays.

The detailed operational instructions in this regard are given in Annex-I (link appended). The instructions contained in these directions shall supersede the instructions contained in the circulars listed in Annex-II.

The revised reporting forms and instructions for filling up the forms under the new regime are being provided on Reserve Bank’s website in Part VIII of the Master Direction no. 18 on ‘Reporting under Foreign Exchange Management Act, 1999’ dated January 01, 2016.

AD banks may bring the contents of the circular to the notice of their customers/constituents concerned.

The directions contained in this circular have been issued under Section 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions/ approvals, if any, required under any other law.

Please find appended the link to access the detailed document on the same <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12381&Mode=0>

Foreign Exchange Management (Overseas Investment) Regulations, 2022

In exercise of the powers conferred by sub-section (1) and clause (a) of sub-section (2) of section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank hereby makes the following regulations, namely:–

1. Short title and commencement.– (1) These regulations may be called the Foreign Exchange Management (Overseas Investment) Regulations, 2022.
(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.– (1) In these regulations, unless the context otherwise requires,–

- (a) “Act” means the Foreign Exchange Management Act, 1999 (42 of 1999);
 - (b) “debt instruments” shall have the same meaning as assigned to it in the Foreign Exchange Management (Overseas Investment) Rules, 2022;
- (2) The words and expressions used but not defined in these regulations shall have the meanings respectively assigned to them in the Act or the Foreign Exchange Management (Overseas Investment) Rules, 2022.

Please find appended the link to access the detailed document on the same <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12380&Mode=0>

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Warm Regards,

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