

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

Notification No. FEMA. 298/2014-RB

March 13, 2014

Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Third Amendment) Regulations, 2014

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, 2014.
- (ii) Save as expressly provided, the amendment shall be deemed to have come into force from 20th day of May 2011.

2. Amendment to Regulation 2

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), in Regulation 2, after clause (vii), the following new clause shall be inserted, namely:-

“(viiA) ‘Limited Liability Partnership (LLP)’ means a partnership formed and registered under the Limited Liability Partnership Act, 2008.”

3. Amendment to Regulation 5

In Regulation 5, after the sub-regulation (8), the following new sub-Regulation shall be added, namely:-

“(9) A person resident outside India (other than a citizen of Pakistan or Bangladesh) or an entity incorporated outside India, (other than an entity in Pakistan or Bangladesh), not being a registered Foreign Institutional Investor

or Foreign Venture Capital Investor or Qualified Foreign Investor registered with SEBI or Foreign Portfolio Investor registered in accordance with SEBI guidelines, may contribute foreign capital either by way of capital contribution or by way of acquisition / transfer of profit shares in the capital structure of an LLP under Foreign Direct Investment, subject to the terms and conditions as specified in Schedule 9.”

4. After the existing Schedule 8, new “Schedule 9” shall be added.

(Rudra Narayan Kar)
Chief General Manager-in-Charge

Foot Note:

(i) 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._____ dated _____
G.S.R.No.683(E) dated 11.10.2013
G.S.R.No.805(E) dated 30.12.2013
G.S.R.No.818(E) dated 31.12.2013
G.S.R.No.270(E) dated 07.04.2014
G.S.R.No.189(E) dated 19.03.2014

(ii) It is clarified that no person will be adversely affected as a result of the retrospective effect being given to these regulations.

**Published in the Official Gazette of
Government of India – Extraordinary –
Part-II, Section 3, Sub-Section (i)
dated 19.03.2014- G.S.R.No.190 (E)**

Schedule 9

[See Regulation 5(9)]

Scheme for Acquisition/ Transfer by a person resident outside India of capital contribution or profit share of Limited Liability Partnerships (LLPs)

The Scheme shall be called Foreign Direct Investment (FDI-LLP) in Limited Liability Partnerships (LLP) formed and registered under the Limited Liability Partnership Act, 2008.

1. Eligible Investors:

A person resident outside India or an entity incorporated outside India shall be eligible investor for the purpose of FDI in LLPs. However, the following persons shall not be eligible to invest in LLPs:

- (i) a citizen/entity of Pakistan and Bangladesh or
- (ii) a SEBI registered Foreign Institutional Investor (FII) or
- (iii) a SEBI registered Foreign Venture Capital Investor (FVCI) or
- (iv) a SEBI registered Qualified Foreign Investor (QFI) or
- (v) a Foreign Portfolio Investor registered in accordance with Securities Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014 (RFPI).

2. Eligibility of LLP for accepting foreign Investment

- (i) A LLP, existing or new, operating in sectors/activities where 100% FDI is allowed under the automatic route of FDI Scheme would be eligible to receive FDI. For ascertaining such sectors, reference shall be made to Annex B to Schedule 1 of Notification No. FEMA. 20/ 2000-RB dated 3rd May 2000 as amended from time to time.
- (ii) A LLP engaged in following sectors/activities shall not be eligible to accept (FDI):
 - a) Sectors eligible to accept 100% FDI under automatic route but are subject to FDI-linked performance related conditions (for example

minimum capitalisation norms applicable to 'Non-Banking Finance Companies' or 'Development of Townships, Housing, Built-up infrastructure and Construction-development projects', etc.); or

- b) Sectors eligible to accept less than 100% FDI under automatic route; or
- c) Sectors eligible to accept FDI under Government Approval route; or
- d) Agricultural/plantation activity and print media; or
- e) Sectors ineligible to accept FDI i.e. any sector which is prohibited under extant FDI policy (Annex A to Schedule 1 to Notification No. FEMA 20/ 2000-RB dated 3rd May 2000) as well as sectors/activities prohibited in terms of Regulation 4(b) to Notification No. FEMA 1 / 2000-RB dated 3rd May 2000 as amended from time to time.

3. Eligible investment

Contribution to the capital of an LLP would be an eligible investment under the scheme.

Note: Investment by way of 'profit share' will fall under the category of reinvestment of earnings

4. Entry Route

FDI in a LLP shall require prior Government/FIPB approval.

Any form of foreign investment in a LLP, direct or indirect (regardless of nature of 'ownership' or 'control' of an Indian Company) shall require Government/FIPB approval.

5. Pricing

FDI in a LLP either by way of capital contribution or by way of acquisition / transfer of profit shares, would have to be more than or equal to the fair price as worked out with any valuation norm which is internationally accepted/ adopted as per market practice (hereinafter referred to as "fair price of capital contribution/profit share of an LLP") and a valuation certificate to that effect shall be issued by the Chartered Accountant or by a practicing Cost Accountant or by an approved valuer from the panel maintained by the Central Government.

In case of transfer of capital contribution/profit share from a resident to a non-resident, the transfer shall be for a consideration equal to or more than the fair price

of capital contribution/profit share of an LLP. Further, in case of transfer of capital contribution/profit share from a non-resident to resident, the transfer shall be for a consideration which is less than or equal to the fair price of the capital contribution/profit share of an LLP.

6. Mode of payment for an eligible investor

Payment by an eligible investor towards capital contribution of LLPs will be allowed only by way of cash consideration to be received -

- i) by way of inward remittance through normal banking channels; or
- ii) by debit to NRE/FCNR(B) account of the person concerned, maintained with an AD Category - I bank.

7. Reporting

- (i) LLPs shall report to the Regional Office concerned of the Reserve Bank, the details of the receipt of the amount of consideration for capital contribution and 'profit shares' in Form FOREIGN DIRECT INVESTMENT-LLP(I) as specified by Reserve Bank from time to time, together with a copy/ies of the FIRC/s evidencing the receipt of the remittance along with the KYC report on the non-resident investor, through an AD Category – I bank, and valuation certificate (as per paragraph 4 above) as regards pricing at the earliest but not later than 30 days from the date of receipt of the amount of consideration. The report would be acknowledged by the Regional Office concerned, which would allot a Unique Identification Number (UIN) for the amount reported.
- (ii) The AD Category – I bank in India, receiving the remittance should obtain a KYC report in respect of the foreign investor from the overseas bank remitting the amount.
- (iii) Disinvestment / transfer of capital contribution or profit share between a resident and a non-resident (or vice versa) shall required to be reported within 60 days from the date of receipt of funds in Form FOREIGN DIRECT INVESTMENT-LLP(II) as specified by Reserve Bank from time to time.

8. Downstream investment

- a) An Indian company, having foreign investment (direct or indirect, irrespective of percentage of such foreign investment) will be permitted to make downstream investment in an LLP only if both, the company as well as the

LLP, are operating in sectors where 100% FDI is allowed under the automatic route and there are no FDI-linked performance related conditions. Onus shall be on the LLP accepting investment from Indian Company registered under the provisions of the companies Act, as applicable to ensure compliance with downstream requirement as stated above.

- b) A LLP with FDI under this scheme will not be eligible to make any downstream investments in any entity in India.

9. Other Conditions:

- i) In case an LLP with FDI has a body corporate as a designated partner or nominates an individual to act as a designated partner in accordance with the provisions of Section 7 of the Limited Liability Partnership Act, 2008, such a body corporate should only be a company registered in India under the provisions of the Companies Act, as applicable and not any other body, such as an LLP or a Trust. For such LLPs, the designated partner "resident in India", as defined under the 'Explanation' to Section 7(1) of the Limited Liability Partnership Act, 2008, would also have to satisfy the definition of "person resident in India", as prescribed under Section 2(v)(i) of the Foreign Exchange Management Act, 1999.
- ii) The designated partners will be responsible for compliance with all the above conditions and also liable for all penalties imposed on the LLP for their contravention, if any.
- iii) Conversion of a company with FDI, into an LLP, will be allowed only if the above stipulations (except the stipulation as regards mode of payment) are met and with the prior approval of FIPB/Government.
- iv) LLPs shall not be permitted to avail External Commercial Borrowings (ECBs).

10. The LLP which have received foreign investment between May 20, 2011 to the date of issuance of instructions issued in this regard by Reserve Bank shall comply with the reporting requirement in respect of FDI within 30 or 60 days, as applicable, from the date of issuance of these instructions.

Form FOREIGN DIRECT INVESTMENT- LLP (I)

Report by the Limited Liability Partnerships (LLPs) receiving amount of consideration for capital contribution and acquisition of profit shares under the Scheme

(To be filed by the LLP through its Authorised Dealer Category – I bank, with the Regional Office of the Reserve Bank under whose jurisdiction the Registered Office of the Limited Liability Partnership making the declaration is situated, not later than 30 days from the date of receipt of the amount of consideration)

Permanent Account Number (PAN) of the investee LLP given by the IT Department	<table border="1" style="width: 100%; height: 20px; border-collapse: collapse;"> <tr> <td style="width: 5%;"></td><td style="width: 5%;"></td><td style="width: 5%;"></td><td style="width: 5%;"></td><td style="width: 5%;"></td><td style="width: 5%;"></td><td style="width: 5%;"></td><td style="width: 5%;"></td><td style="width: 5%;"></td><td style="width: 5%;"></td><td style="width: 5%;"></td><td style="width: 5%;"></td><td style="width: 5%;"></td><td style="width: 5%;"></td><td style="width: 5%;"></td><td style="width: 5%;"></td><td style="width: 5%;"></td><td style="width: 5%;"></td><td style="width: 5%;"></td><td style="width: 5%;"></td> </tr> </table>																				

No.	Particulars	(In Block Letters)
1.	Name of the Limited Liability Partnership Address of the Registered Office	
	State	
	Fax	
	Telephone	
	e-mail	
	Identification No.(LLPIN) issued by Office of Registrar for LLP. Date of Registration	
	Whether existing LLP or new LLP	Existing LLP / New LLP (strike off whichever is not applicable)
	If existing LLP, give registration number allotted by	

	business activity. NIC Code	
ii)	It is confirmed that 100% FDI is allowed under automatic route as per FDI policy without any FDI-linked performance related conditions.	Yes/No
iii)	Details of Government Approval (ref. no. of approval letter and date). [Copy enclosed]	
6.	Name of the AD bank through whom the remittance is received.	
7.	Address of the AD bank	

(Authorised signatory of the investee LLP) (Stamp)	(Authorised signatory of the AD bank) (Stamp)
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FOR USE OF THE RESERVE BANK ONLY:

Unique Identification Number for the

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remittance received:

DECLARATION TO BE FILED BY THE AUTHORISED REPRESENTATIVE OF THE LIMITED LIABILITY PARTNERSHIP: (*Delete whichever is not applicable and authenticate*)

We hereby declare that:

1. We comply with the procedure for capital contribution and profit shares as laid down under the Notification No. FEMA 20/2000-RB dated 3rd May 2000, as amended from time to time.

2. Capital contribution /profit shares have been issued to the non-resident investor in terms of FIPB approval No._____ dated _____

3. We enclose the following documents in compliance with to Notification No. FEMA 20/2000-RB dated 3rd May 2000:

- (i) A certificate from our designated partner certifying that
 - (a) all the requirements of the LLP Act, 2008 have been complied with;
 - (b) terms and conditions of the Government approval, have been complied with;
 - (c) the LLP is eligible to issue capital contribution /profit shares under these Regulations; and
 - (d) the LLP has all original certificates issued by authorised dealers in India evidencing receipt of amount of consideration in accordance with Notification No. FEMA 20/2000-RB dated 3rd May, 2000.
- (ii) A certificate from the Chartered Accountant/Cost Accountant/ approved valuer from the panel maintained by the Central Government, indicating the manner of arriving at the fair price of the capital contribution/profit shares issued to the persons resident outside India.

4. The foreign investment received and reported now will be utilized in compliance with the provisions of the Prevention of Money Laundering Act, 2002 (PMLA) and Unlawful Activities(Prevention) Act, 1967 (UAPA). We confirm that the investment complies with the provisions of all applicable Rules and Regulations.

5. Unique Identification Numbers given for all the remittances received so far as consideration for capital contribution and acquisition of profit shares (details as above), by Reserve Bank.

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(Signature of the Applicant)*

:_____

(Name in Block Letters)

:_____

(Designation of the signatory) :_____

Place:

Date:

(* To be signed by Designated Partner/Authorised Signatory of the LLP)

CERTIFICATE TO BE FILED BY THE DESIGNATED PARTNER/AUTHORISED SIGNATORY OF THE LIMITED LIABILITY PARTNERSHIP ACCEPTING THE INVESTMENT:

In respect of the abovementioned details, we certify the following:

1. All the requirements of the Limited Liability Partnership Act, 2008 have been complied with.
2. Terms and conditions of the Government approval, if any, have been complied with.
3. The LLP is eligible to issue capital contribution/profit shares under these Regulations.
4. The LLP has all original certificates issued by AD Category – I banks in India, evidencing receipt of amount of consideration in accordance with provisions of Notification No. FEMA 20/2000-RB dated May 3, 2000.

(Name & Signature of the Designated Partner/Authorised Signatory of the LLP)
(Seal)

FOR USE OF THE RESERVE BANK ONLY:

Registration Number for the FOREIGN DIRECT INVESTMENT-LLP:

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Unique Identification Number allotted to the Company at the time of reporting receipt of remittance.

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Form FOREIGN DIRECT INVESTMENT-LLP-(II)		
Declaration regarding transfer of capital contribution/profit shares of an Limited Liability Partnership from resident to non- resident / non-resident to resident		
(to be submitted to the Authorised Dealer Category-1 bank branch in quadruplicate within 60 days from the date of receipt of funds)		
The following documents are enclosed <i>For transfer of capital contribution /profit shares of a Limited Liability Partnership by a person resident in India</i> <ul style="list-style-type: none"> i. Consent Letter duly signed by the seller and buyer or their duly appointed agent and in the latter case the Power of Attorney Document. ii. The capital contribution/ profit share holding pattern of the investee LLP after the acquisition of capital contribution/ profit shares by a person resident outside India. iii. Certificate indicating fair value of shares from the Chartered Accountant/Cost Accountant/approved valuer from the panel maintained by the Central Government. iv. Declaration from the buyer to the effect that he is eligible to acquire capital contribution /profit shares i.e., necessary Government approval has been obtained by the buyer or seller and terms and conditions of the Government approval, the foreign investment limits mentioned therein as well as the pricing guidelines have been complied with. <i>Additional documents in respect of capital contribution /profit shares of an Limited Liability Partnership by a person resident outside India.</i> <ul style="list-style-type: none"> v. No Objection/Tax Clearance Certificate from Income Tax Authority/ Chartered Account//Cost Accountant/ Company Secretary in practice. 		
1	Name of the Limited Liability Partnership	
	Address (including e-mail , telephone Number, Fax no)	
	Activity	

	Identification No.(LLPIN)	
2	Nature of transaction <i>(Strike out whichever is not applicable)</i>	Transfer from resident to non-resident / Transfer from non-resident to resident
3	Name of the buyer Constitution / Nature of the investing Entity Specify whether 1. Individual 2. LLP 3. Company 4. Foreign Trust 5. Private Equity Fund 6. Pension/ Provident Fund 7. Sovereign Wealth Fund (SWF ^π) 8. Partnership / Proprietorship firm 9. Financial Institution 10. NRIs / PIOs 11. Others	
	Date and Place of Incorporation	
	Address of the buyer <i>(including e-mail, telephone number, Fax no.)</i>	
5	Name of the seller	
	Constitution / Nature of the disinvesting partner Specify whether 1. Individual 2. LLP	

^π SWF means a Government investment vehicle which is funded by foreign exchange assets, and which manages those assets separately from the official reserves of the monetary authorities.

^Π SWF means a Government investment vehicle which is funded by foreign exchange assets, and which manages those assets separately from the official reserves of the monetary authorities.

	3. Company 4. Foreign Trust 5. Private Equity Fund 6. Pension/ Provident Fund 7. Sovereign Wealth Fund (SWF ^{II}) 8. Partnership/ Proprietorship firm 9. Financial Institution 10. NRIs/PIOs 11. others				
	Date and Place of Registration				
	Address of the seller (including e-mail, telephone Number, Fax no)				
6	Particulars of earlier FIPB approvals.				
7	Details regarding capital contribution or profit shares of a Limited Liability Partnership to be transferred.				
	<i>Date of the transaction</i>	<i>Percentage of capital contribution/profit share</i>	<i>Value in Rs.</i>	<i>Negotiated Price for the transfer* in Rs.</i>	<i>Amount of consideration in Rs.</i>
8	Foreign Investments in the Limited Liability Partnership		capital contribution/ profit shares	Percentage	
		Before the transfer			
		After the transfer			
	Price as per Valuation guidelines*.				
	*Valuation report (certificate				

from the Chartered Accountant/Cost Accountant /approved valuer from the panel maintained by the Central Government to be attached).	
<p>Declaration by the transferor / transferee</p> <p>I / We hereby declare that :</p> <ul style="list-style-type: none"> i. The particulars given above are true and correct to the best of my/our knowledge and belief. ii. I/ We, was/were holding the capital contribution/profit shares of a Limited Liability Partnership as per foreign investment policy issued by the Government of India as well as notified under FEMA Regulations. iii. I/ We, am/are eligible to acquire the capital contribution /profit shares of a Limited Liability Partnership in terms of the foreign investment policy issued by the Government of India as well as notified under FEMA Regulations. iv. The foreign investment limit as per Government approval and the pricing guidelines have been adhered to. <p style="text-align: right;">Signature of the Declarant or his duly authorised agent</p> <p>Date:</p> <p>Note: <i>In respect of the transfer of capital contribution /profit shares of a Limited Liability Partnership from resident to non- resident the declaration has to be signed by the non- resident buyer, and in respect of the transfer of capital contribution /profit shares of a Limited Liability Partnership from non-resident to resident the declaration has to be signed by the non-resident seller.</i></p>	

Certificate by the AD Bank Branch

It is certified that the application is complete in all respects.

The receipt /payment for the transaction are in accordance with FEMA Regulations / Reserve Bank guidelines.

Signature

Name and Designation of the Officer

Date: Name of the AD Bank Branch

AD Bank Branch Code

Know Your Customer (KYC) Form in respect of the non-resident investor

Registered Name of the Remitter / Investor (Name, if the investor is an Individual)	
Registration Number (Unique Identification Number* in case remitter is an Individual)	
Registered Address (Permanent Address if remitter is an Individual)	
Name of the Remitter's Bank	
Remitter's Bank Account No.	
Period of banking relationship with the remitter	

* Passport No., Social Security No, or any Unique No. certifying the bonafides of the remitter as prevalent in the remitter's country.

We confirm that all the information furnished above is true and accurate as provided by the overseas remitting bank of the non-resident investor.

(Signature of the Authorised Official
of the AD bank receiving the remittance)

Date :

Place:

Stamp :