



DAY 05 || Comprehensive Course on
Foreign Exchange Management, 1999

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Overseas Direct Investment



Governing Regulation

Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004 vide Notification No. FEMA.120/RB-2004 dated July 7, 2004

- Regulation 1 to Regulation 4
- Regulation 5 to Reg. 18 - Part 1 - Direct Investment outside India
- Regulation 19 and 20 - Part II Investments abroad by Individuals in India
- Regulation 21 - Prohibition on issue of foreign security by a person resident in India.
- Regulation 22- Permission for purchase /acquisition of foreign securities in certain cases
- Regulations 23 -**Transfer of a foreign security by a person resident in India**
- Regulation 24 :**General Permission for Acquisition of foreign securities as qualification / rights shares**
- Regulation 25 :- **Prior permission of Reserve Bank in certain cases**
- Regulation 26:- **Investment by Mutual Funds**

Master Direction – Direct Investment by Residents in Joint Venture (JV) / Wholly Owned Subsidiary (WOS) Abroad
updated as on Sept 18, 2019

- Section A – General
- Section B - Direct Investment (or financial commitment) outside India
- SECTION C - Other investments in foreign securities

Governing Regulation

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- Regulation 26:- Investment by Mutual Funds

Investments in Foreign Securities other than by way of Direct Investment – FCCBs

Foreign Exchange Management (Borrowing and Lending) Regulations, 2018

Who can
Invest

How much
can be
invested

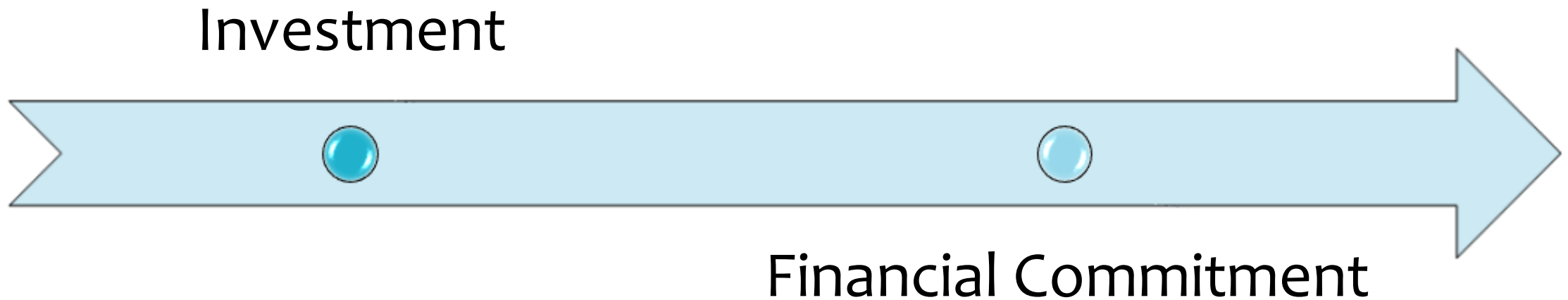
In what
manner can it
be invested

What funds
can be used

Permission

Regulation 6 of the Notification No. FEMA 120/RB-2004 dated July 7, 2004

an Indian Party has been permitted to make investment / undertake financial commitment in overseas Joint Ventures (JV) / Wholly Owned Subsidiaries (WOS), as per the ceiling prescribed by the Reserve Bank from time to time.



Permission

Regulation 6 of the Notification No. FEMA 120/RB-2004 dated July 7, 2004

- an Indian Party has been permitted
- ODI is a capital account transaction

- To make investment / undertake financial commitment
- Remittance is not a precondition

- in overseas Joint Ventures (JV) / Wholly Owned Subsidiaries (WOS),
- Joint venture
- WOS

- as per the ceiling prescribed by the Reserve Bank from time to time.
- Keeps changing based on CAD of India

FAQ 12

Q	Are overseas investments freely allowed in all the countries and are there any restrictions regarding the currency of investment?
Ans	Investment in Pakistan is allowed under the approval route. Investments in Nepal can be only in Indian Rupees. Investments in Bhutan are allowed in Indian Rupees and in freely convertible currencies.

Joint Venture || WOS

Joint Venture

- Means a foreign entity
- Registered or incorporated in accordance with the laws and regulations of host country
- In which Indian Party makes direct investment

Wholly Owned Subsidiaries

- Means a foreign entity
- registered or incorporated in accordance with the laws and regulations of host country
- Whose entire capital is held by Indian Party.

Joint Venture || WOS

Joint Venture

- Means a foreign entity
- Registered or incorporated in accordance with the laws and regulations of host country
- In which **Indian Party** makes direct investment

What happens in case of entity holding 99% capital?
Will it become Joint venture?

Wholly Owned Subsidiaries

- Means a foreign entity
- registered or incorporated in accordance with the laws and regulations of host country
- **Whose entire capital is held by Indian Party.**

Joint Venture || WOS

Joint Venture

- Means a foreign entity
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- In which Indian Party makes direct investment

Wholly Owned Subsidiaries

- Means a foreign entity
- registered or incorporated in accordance with the laws and regulations of host country
- Whose entire capital is held by Indian Party.

- ✓ "Joint Venture (JV)" / "Wholly Owned Subsidiary (WOS)" means a foreign entity formed, registered or incorporated in accordance with the laws and regulations of the host country in which the Indian party/Resident Indian makes a direct investment;
- ✓ A foreign entity is termed as JV of the Indian Party/Resident Indian when there are other foreign promoters holding the stake along with the Indian Party. In case of WOS entire capital is held by the one or more Indian Party/Resident Indian.

Joint Venture || WOS

Joint Venture

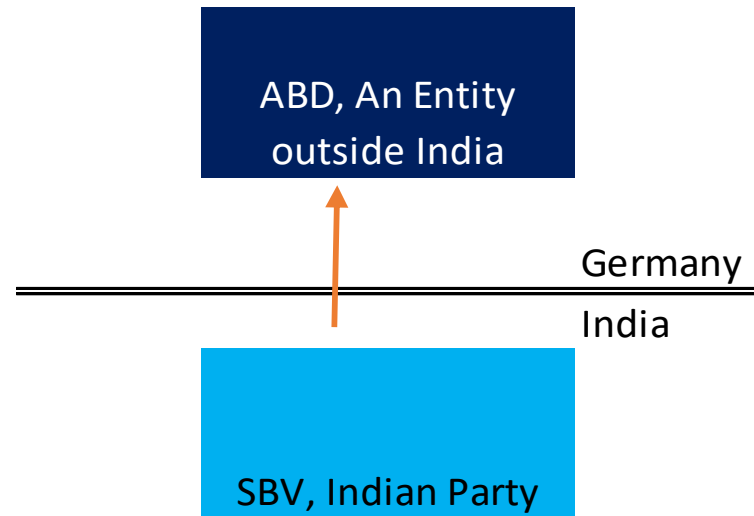
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- In which Indian Party makes direct investment

Wholly Owned Subsidiaries

- Means a foreign entity
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- Whose entire capital is held by Indian Party.

Can investment be made in Unincorporated entities outside India?

Investment – Where the investment can be made



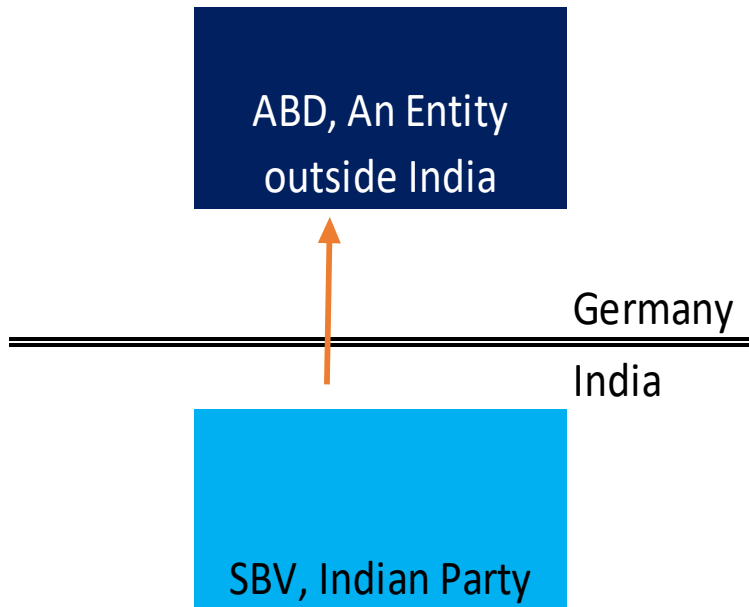
Facts of the case

SBV, Indian party is in Pharmaceuticals sector in India

ABD is in the business of manufacturing the plastic toys

Can such an investment be made by SBV

Investment



Facts of the case

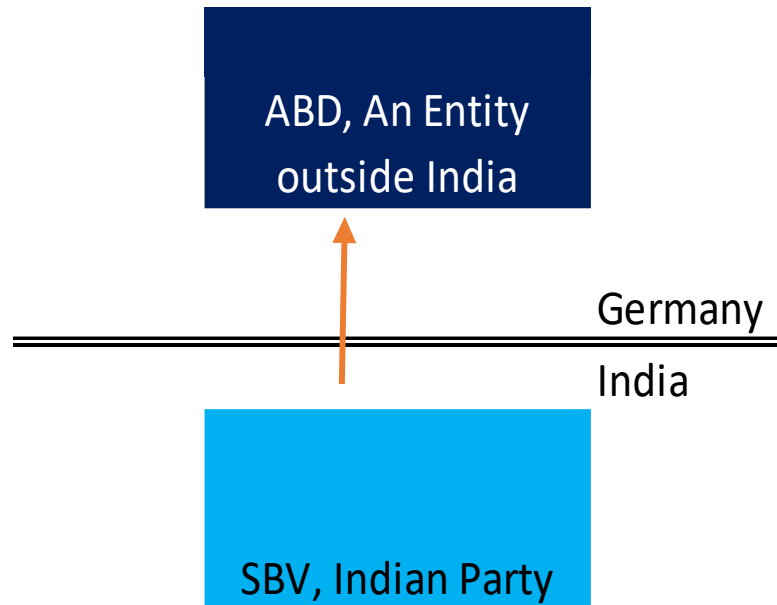
SBV, Indian party is in Pharmaceuticals sector in India

ABD is in the business of manufacturing the plastic toys

Can such an investment be made by

An Indian Party can make overseas direct investment in any bonafide activity

Investment



Facts of the case

SBV, Indian party is in Pharmaceuticals sector in India

ABD is in the business of giving General Insurance

Can such an investment be made by SBV

Prohibition on Investment

- Indian parties are prohibited to make investment in a foreign entity engaged
 - in **real estate** [meaning buying and selling of real estate or trading in Transferable Development Rights (TDRs) but does not include development of townships, construction of residential/commercial premises, roads or bridges]
 - or **banking business**,without the prior approval of the RBI.
 - **Financial Services** subjected to conditions
- Vide a clarification issued by the RBI in April 2013, an overseas entity, having direct or indirect equity participation by an Indian party, shall not offer **financial products linked to Indian** Rupee (eg, non-deliverable trades involving foreign currency, rupee exchange rates and stock indices linked to the Indian market) without the specific approval of the RBI. Any incidence of such product facilitation would be treated as a contravention of the extant FEMA regulations and would consequently attract action under the relevant provisions of FEMA, 1999.

Prohibition on Investment

- Investments / financial commitments by an Indian Party are not permitted in an overseas entity located in the countries identified by the Financial Action Task Force (FATF) as “**non co-operative countries and territories**” as per list available on FATF website www.fatf-gafi.org or as notified by the Reserve Bank of India from time to time.
- Investments / financial commitments in **Pakistan** by Indian Parties are permissible under the approval route.

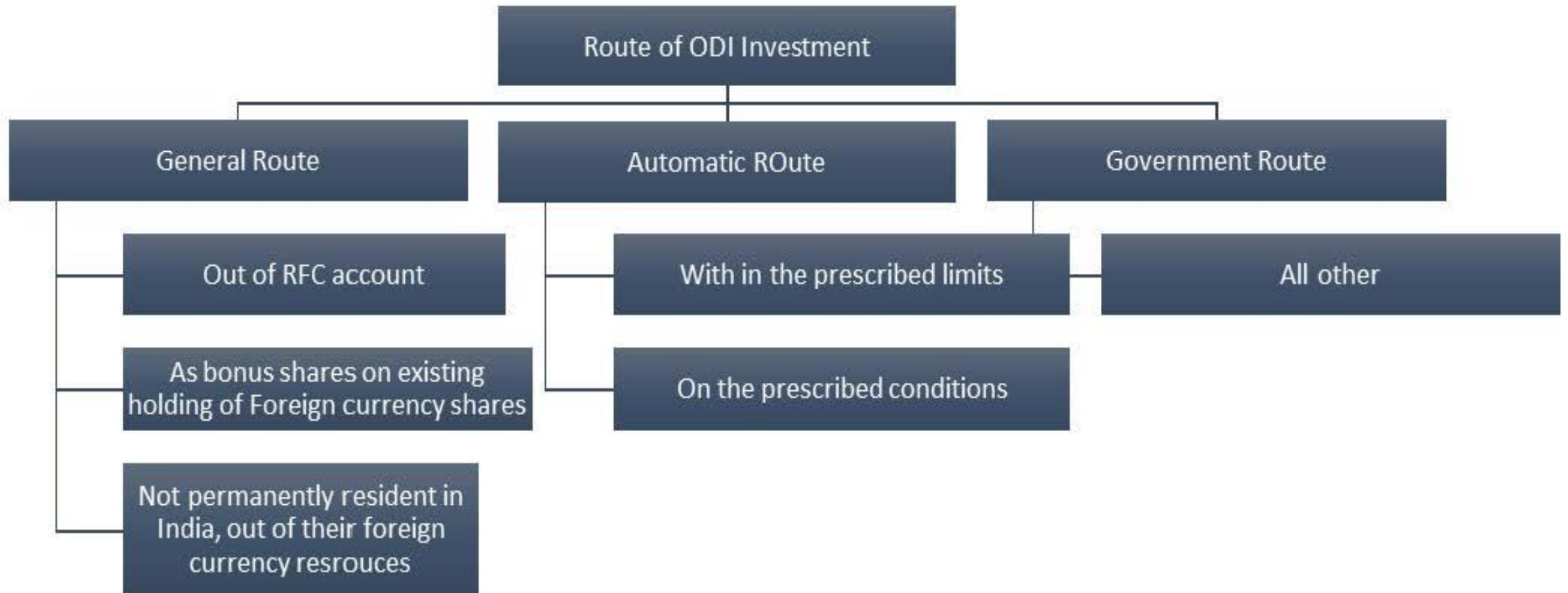
F. SECTORS ATTRACTING HIGHEST ODI OUTFLOWS (Financial Years):

Rank	Sectors	Yearly Actual Outflows (In US\$ Million)			Cumulative Outflows	
		2018-19	2019-20	2020-21 (Upto July 2020)	In US\$ Million	As % of 'Total ODI (Apr, 18 - July, 20)
1	MANUFACTURING	3,015.25	2,813.63	705.91	6,534.79	23.30
2	FINANCIAL, INSURANCE AND BUSINESS SERVICES	5,344.67	3,674.13	617.9	9,636.70	34.36
3	WHOLESALE, RETAIL TRADE, RESTAURANTS AND HOTELS	1,768.03	2,322.61	418.76	4,509.40	16.08
4	CONSTRUCTION	762.59	875.47	237.3	1,875.36	6.69
5	AGRICULTURE AND MINING	1,997.02	640.33	191.36	2,828.71	10.09
6	ELECTRICITY, GAS AND WATER	140.45	797.27	79.55	1,017.27	3.63
7	TRANSPORT, STORAGE AND COMMUNICATION SERVICES	113.77	890.85	22.27	1,026.89	3.66
8	COMMUNITY, SOCIAL AND PERSONAL SERVICES	306.17	199.19	22.33	527.69	1.88
9	MISCELLANEOUS	42.89	35.25	7.38	85.52	0.20
	Total	13,490.84	12,248.73	2,302.76	28,042.33	

Routes

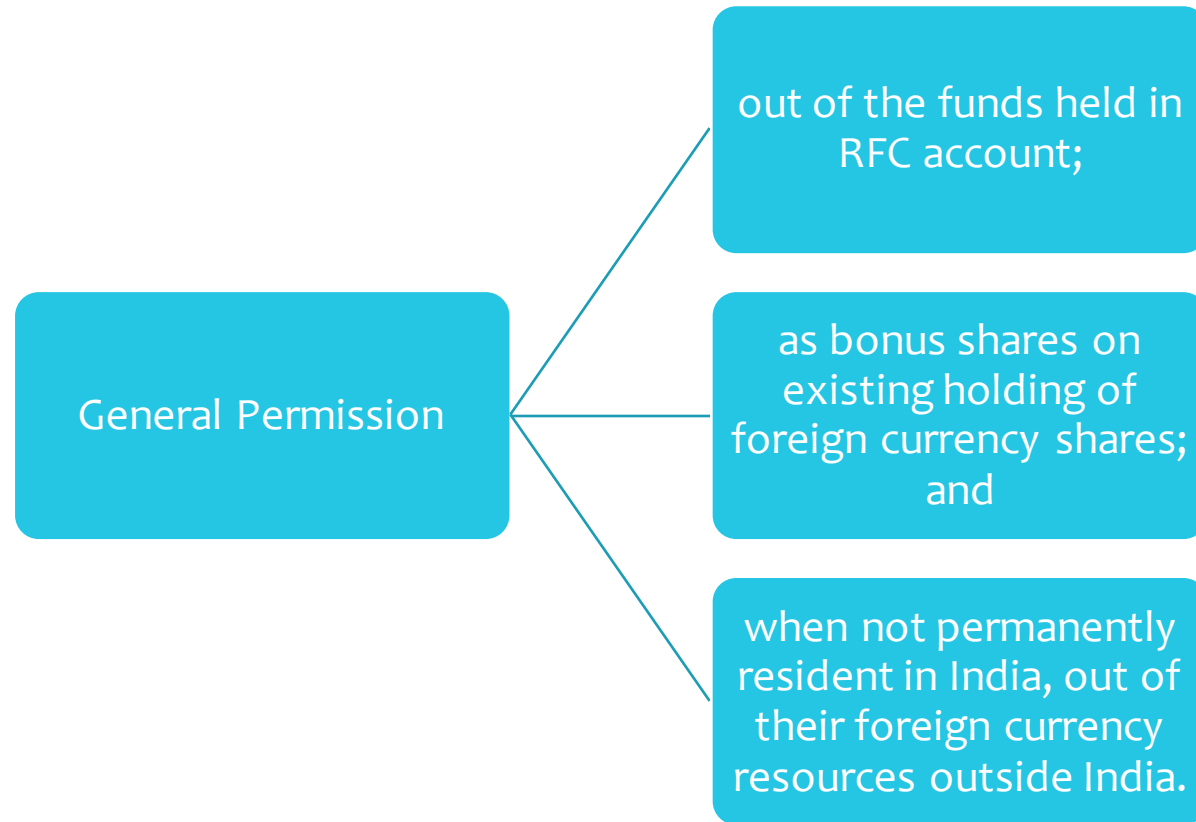


Route of ODI Investment



General permission

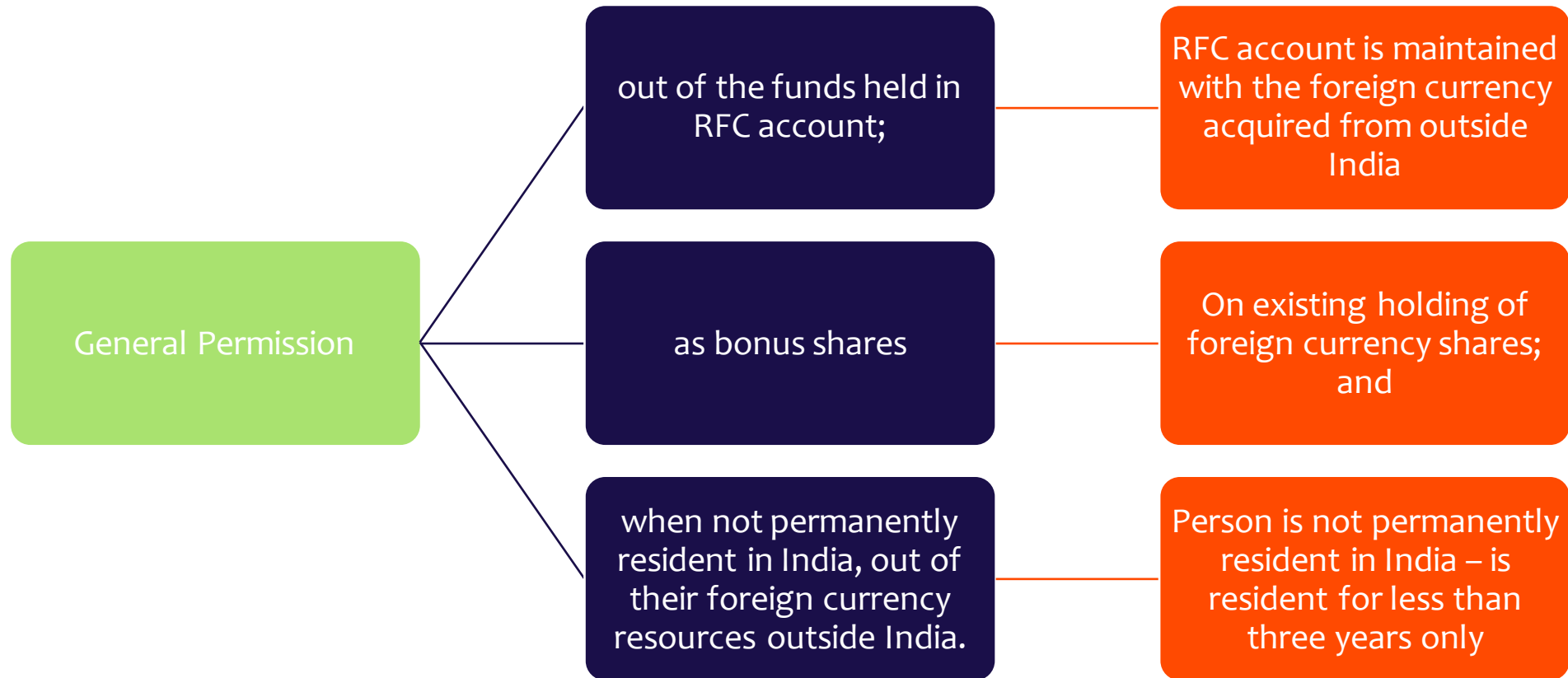
has been granted to persons residents in India for purchase / acquisition of securities in the following manner:



General permission is also available to sell the shares so purchased or acquired.

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General permission is also available to sell the shares so purchased or acquired.

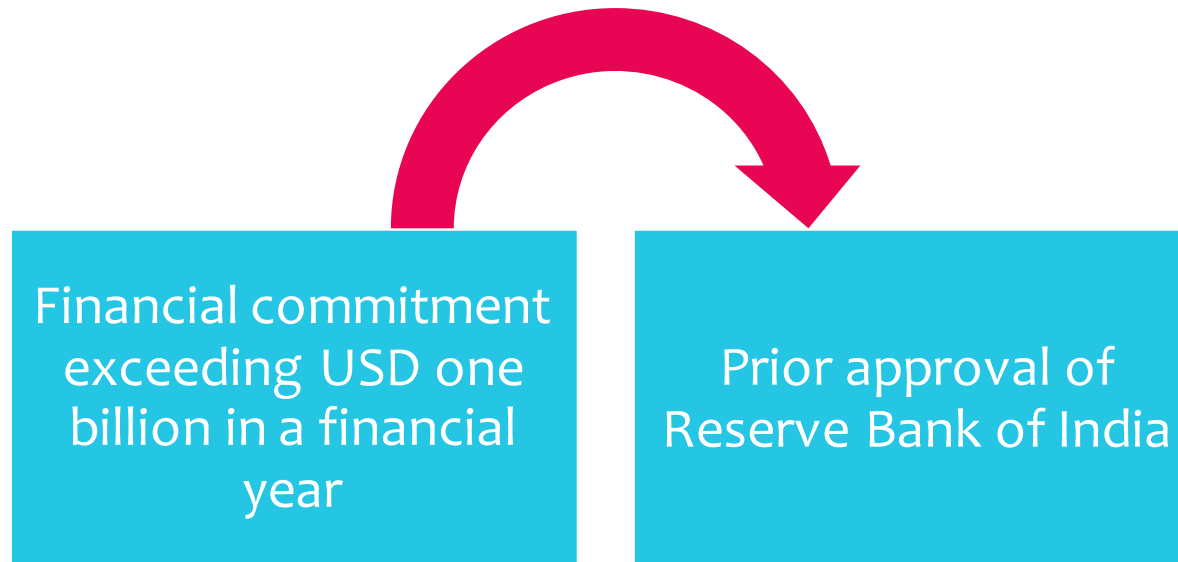
Automatic Route

- An Indian party can make investment/undertake financial commitment (FC) in overseas JVs/WOSs, as per the ceiling prescribed by the RBI from time to time.

Automatic Route

Financial commitment exceeding USD 1 billion

- Any financial commitment exceeding USD 1 billion (or its equivalent) in a financial year would require prior approval of the Reserve Bank
 - *even when the total FC of the Indian Party is within the eligible limit under the automatic route (i.e., within 400% of the net worth as per the last audited balance sheet).*
 - With effect from July 03, 2014,



Approval Route

Any investment over and above prescribed limit can be made under the approval route in which an application to RBI is required to be submitted.

Approval Route

Application

- The applicant should approach their designated Authorized Dealer (AD) with the proposal which shall be submitted to Reserve Bank after due scrutiny and with the specific recommendations of the designated AD bank along with supporting documents (as mentioned below) to the following address:

The Chief General Manager,
Reserve Bank of India,
Foreign Exchange Department,
Overseas Investment Division,
Amar Building, 5th Floor,
Sir P. M. Road, Fort,
Mumbai 400001.

A close-up photograph of a glowing incandescent lightbulb. The bulb is illuminated from within, casting a warm, golden light. The glass of the bulb is clear, and the internal filament structure is visible. A white rectangular box is overlaid on the right side of the image, containing the text "Investment outside India".

Investment outside India

Direct investment outside India

Regulation 2(e) of the ODI Regulations

‘Direct investment outside India’ means:

"investment by way of contribution to the capital or subscription to the Memorandum of Association of a foreign entity or by way of purchase of existing shares of a foreign entity either by market purchase or private placement or through stock exchange, but does not include portfolio investment"

Direct investment outside India

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Market
purchase

Private
Placement

Through
stock
exchange

Direct investment outside India

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❖ *Portfolio investment not defined.*

❖ only listed Indian companies are permitted to invest up to 50% of their net worth as on the date of the last audited balance sheet in (i) shares and (ii) bonds/fixed income securities, rated not below investment grade by accredited/registered credit rating agencies, issued by listed overseas companies

Form for monthly reporting of Portfolio Investment and Overseas Investment by Mutual Fund

(As per Regulation 6B and 6C of FEMA Notification No 120/RB-2004 dated July 07, 2004 as amended from time to time)

AD bank name and code -

Name and address of the AD bank branch -

Month	Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sep	Oct	Nov	Dec
Year												

A. Overseas Investments by Listed Indian Companies

(Figures in USD million)

		No. of Investors	Amount
I.	Net Amount of Investment held abroad (Opening Balance)		
II.	Investments made during the month (Outflow)		
III.	Disinvestments made during the month (Inflow)		
IV.	Net Amount of Investments held abroad (Closing Balance)		

B. Overseas Investment by Mutual Funds

Mutual Fund Name *

Mutual Fund Location *

Investment Details

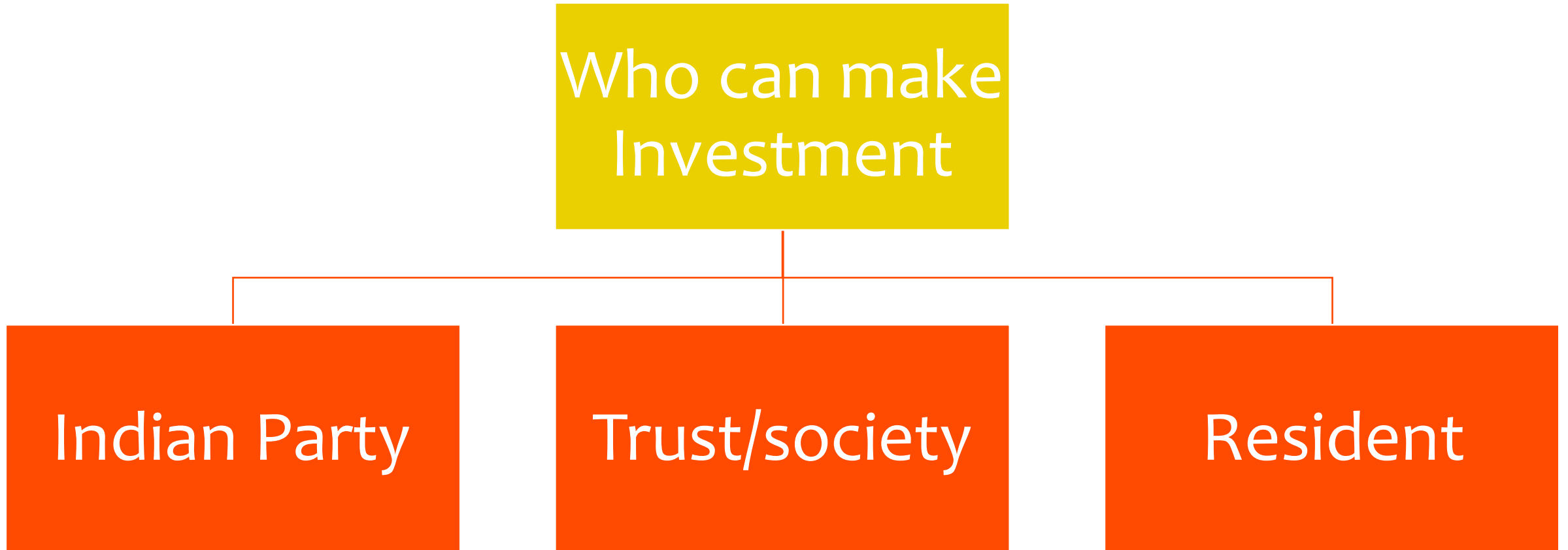
(Figures in USD million)

		ADR/GDR	Debt Instruments	Equity	ETF (Securities)	Mutual Funds	Total
I.	Net Amount of Investment held abroad (Opening Balance)						
II.	Investments made during the month (Outflow)						
III.	Disinvestments made during the month						

A modern, minimalist desk setup with a laptop, smartphone, and headphones. The desk is light-colored and features a laptop with a silver finish, a white smartphone, and a pair of black headphones. In the background, there is a stack of papers and a small potted plant. The overall aesthetic is clean and professional.

Who can make investment

Who can make investment



Indian Party

Regulation 2(k) of ODI Regulations

- "Indian Party" means a company incorporated in India or a body created under an Act of Parliament or a partnership firm registered under the Indian Partnership Act, 1932, or a Limited Liability Partnership (LLP), registered under the Limited Liability Partnership Act, 2008 (6 of 2009), making investment in a Joint Venture or Wholly Owned Subsidiary abroad, and includes any other entity in India as may be notified by the Reserve Bank:
- Provided that when more than one such company, body or entity make an investment in the foreign entity, all such companies or bodies or entities shall together constitute the "Indian Party"

Eligible entities

Regulation 2(k) of ODI Regulations

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- Provided that when more than one such company, body or entity make an investment in the foreign entity, all such companies or bodies or entities shall together constitute the "Indian Party"
- ❖ *In case of investment in overseas JV/WOS abroad by a registered partnership firm, where the entire funding for such investment is done by the firm, it will be in order for individual partners to hold shares for and on behalf of the firm in the overseas JV/WOS if the host country regulations or operational requirements warrant such holdings.*

Overseas investments by proprietorship and Partnership concerns

- a) The proprietorship concern / unregistered partnership firm in India is classified as 'Status Holder' as per the Foreign Trade Policy issued by the Ministry of Commerce and Industry, Govt. of India from time to time;
- b) The proprietorship concern / unregistered partnership firm in India has a proven track record, i.e., the export outstanding does not exceed 10% of the average export realisation of the preceding three years and a consistently high export performance;
- c) The Authorised Dealer bank is satisfied that the proprietorship concern / unregistered partnership firm in India is KYC (Know Your Customer) compliant, engaged in the proposed business and has turnover as indicated;
- d) The proprietorship concern / unregistered partnership firm in India has not come under the adverse notice of any Government agency like the Directorate of Enforcement, Central Bureau of Investigation, Income Tax Department, etc. and does not appear in the exporters' caution list of the Reserve Bank or in the list of defaulters to the banking system in India; and
- e) The amount of proposed investment (or financial commitment) outside India does not exceed 10 per cent of the average of last three years' export realisation or 200 per cent of the net owned funds of the proprietorship concern/ unregistered partnership firm in India, whichever is lower.

Overseas investments by proprietorship and Partnership concerns

- a) The proprietorship concern / unregistered partnership firm in India is classified as 'Status Holder' as per the Foreign Trade Policy issued by the Ministry of Commerce and Industry, Govt. of India from time to time;
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- c) The Authorised Dealer bank is satisfied that the proprietorship concern / unregistered partnership firm in India is KYC (Know Your Customer) compliant, engaged in the proposed business and has turnover as indicated;
- d) The proprietorship concern / unregistered partnership firm in India has not come under the adverse notice of any Government agency like the Directorate of Enforcement, Central Bureau of Investigation, Income Tax Department, etc. and does not appear in the exporters' caution list of the Reserve Bank or in the list of defaulters to the banking system in India; and
- e) **The amount of proposed investment (or financial commitment) outside India does not exceed 10 per cent of the average of last three years' export realisation or 200 per cent of the net owned funds of the proprietorship concern/unregistered partnership firm in India, whichever is lower.**

Overseas investments by proprietorship and Partnership concerns

Form ODI

V. Financial particulars of the IP for the last 3 years (If the IP is engaged in the financial sector or falls under the category of Proprietorship, Unregistered Partnership)			
i. Particulars (Actual Amt. in Rs.)	Year 1 [31-3-]	Year 2 [31-3 -]	Year 3 [31-3-]
ii. Foreign exchange earnings (excluding equity exports to JV/WOS)			
iii. Net profit			
iv. Paid-up Capital			
v. Net worth of (a) Indian Party			

Eligible entities

Regulation 2(k) of ODI Regulations

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- Provided that when more than one such company, body or entity make an investment in the foreign entity, all such companies or bodies or entities shall together constitute the "Indian Party"
- ❖ W.e.f May 07, 2014, LLP is allowed to make overseas investment. LLP means a body corporate having perpetual succession duly formed and incorporated under the Limited Liability Partnership Act, 2008 (No.6 of 2009).

Eligible entities

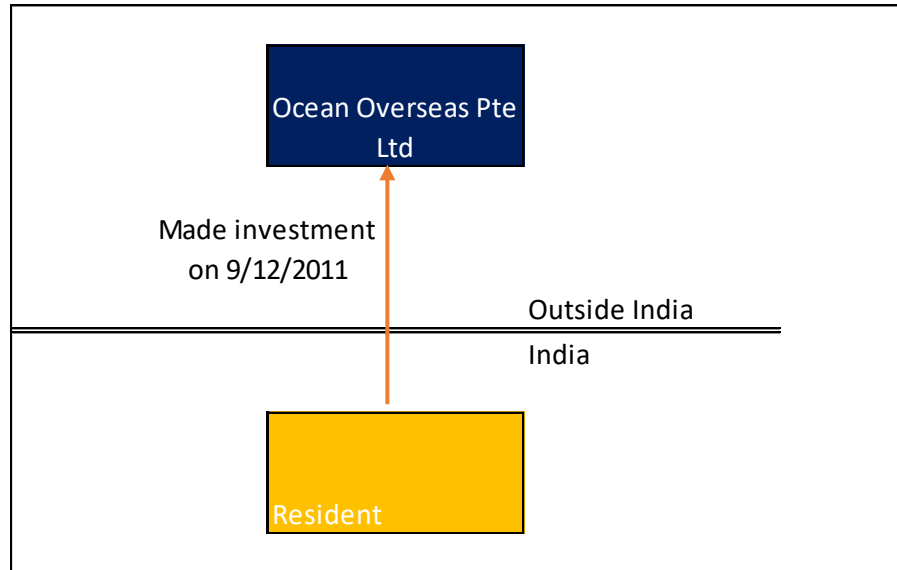
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Provided that when more than one such company, body or entity make an investment in the foreign entity, all such companies or bodies or entities shall together constitute the "Indian Party"

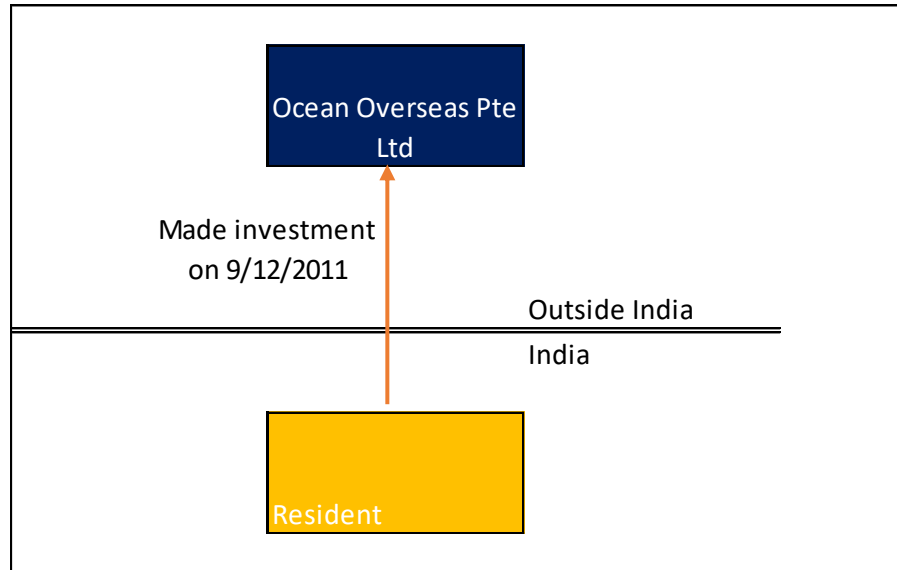
- ✓ With effect from August 05, 2013 vide Notification No. 263, resident individuals can make investment up to the limit specified in the liberalised remittance scheme.
- ✓ Effective from November 21, 2014 vide A.P.(DIR Series) Circular No.48 dated December 09, 2014 Domestic VCFs/Alternative Investment Funds registered with SEBI may invest in equity and equity linked instruments of off-shore Venture Capital Undertakings, subject to an overall limit of USD 500 million.

CA No 4986 / 2019



Rubal Bansal from Bhavnagar invested in Ocean overseas Ptr. Limited on 9 Dec 2011

CA No 4986 / 2019



Rubal Bansal from Bhavnagar invested in Ocean overseas Ptr. Limited on 9 Dec 2011

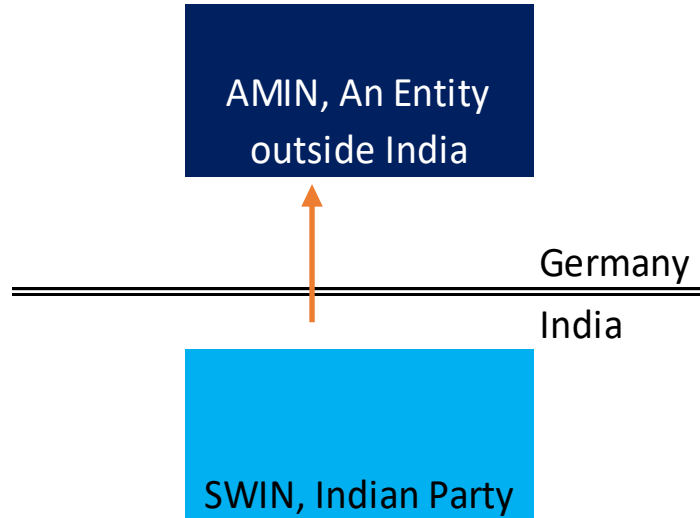
The contravention sought to be compounded pertain to setting up of an overseas entity by resident individual before August 05, 2013, in contravention of Regulation 5(1) of Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004

Indian Party

Regulation 2(k) of ODI Regulations

- "Indian Party" means a company incorporated in India or a body created under an Act of Parliament or a partnership firm registered under the Indian Partnership Act, 1932, or a Limited Liability Partnership (LLP), registered under the Limited Liability Partnership Act, 2008 (6 of 2009), making investment in a Joint Venture or Wholly Owned Subsidiary abroad, and includes any other entity in India as may be notified by the Reserve Bank:
- Provided that when more than one such company, body or entity make an investment in the foreign entity, all such companies or bodies or entities shall together constitute the "Indian Party"

Indian Party Regulation 2(k) of ODI Regulations



Facts of the case

Swin is an Indian entity

In 2017, There was a investigation on SWIN and that investigation is ongoing

You are an AD Bank

In 2021, SWIN approaches you with Form ODI to make remittance outside India

The purpose of remittance is acquire substantial stake in AMIN

What shall you do?

Resident Individuals

With effect from August 05, 2013 vide Notification No. 263

- Resident individuals can make investment up to the limit specified in the liberalised remittance scheme.
- General permission has been granted to persons (individual) resident in India for purchase/acquisition of securities as under:
 - a) Out of funds held in the RFC account;
 - b) As bonus shares on existing holding of foreign currency shares;
 - c) When not permanently resident in India, from the foreign currency resources outside India.
- General permission is also available to sell the shares so purchased or acquired.

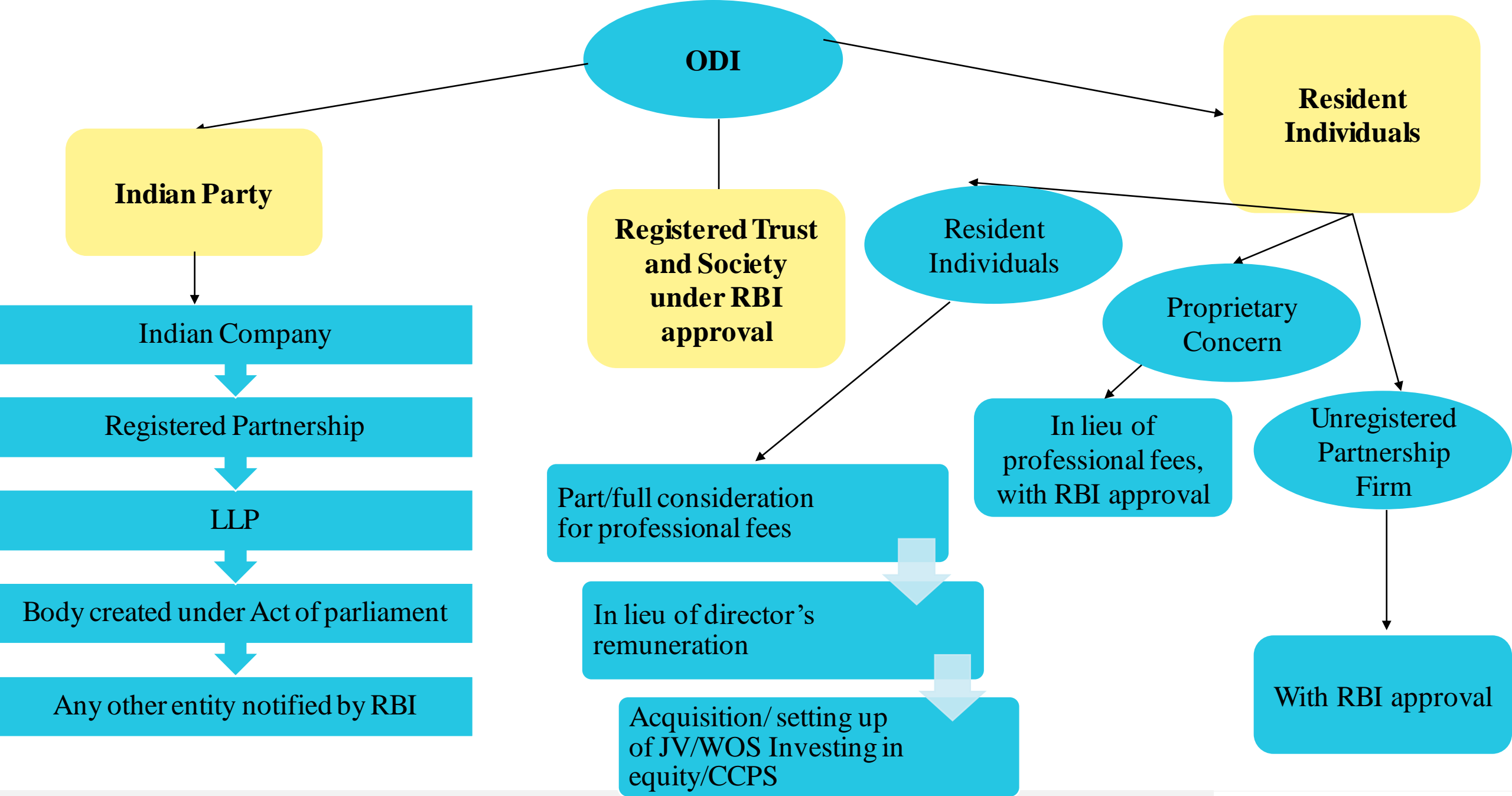
Direct investment by Trust

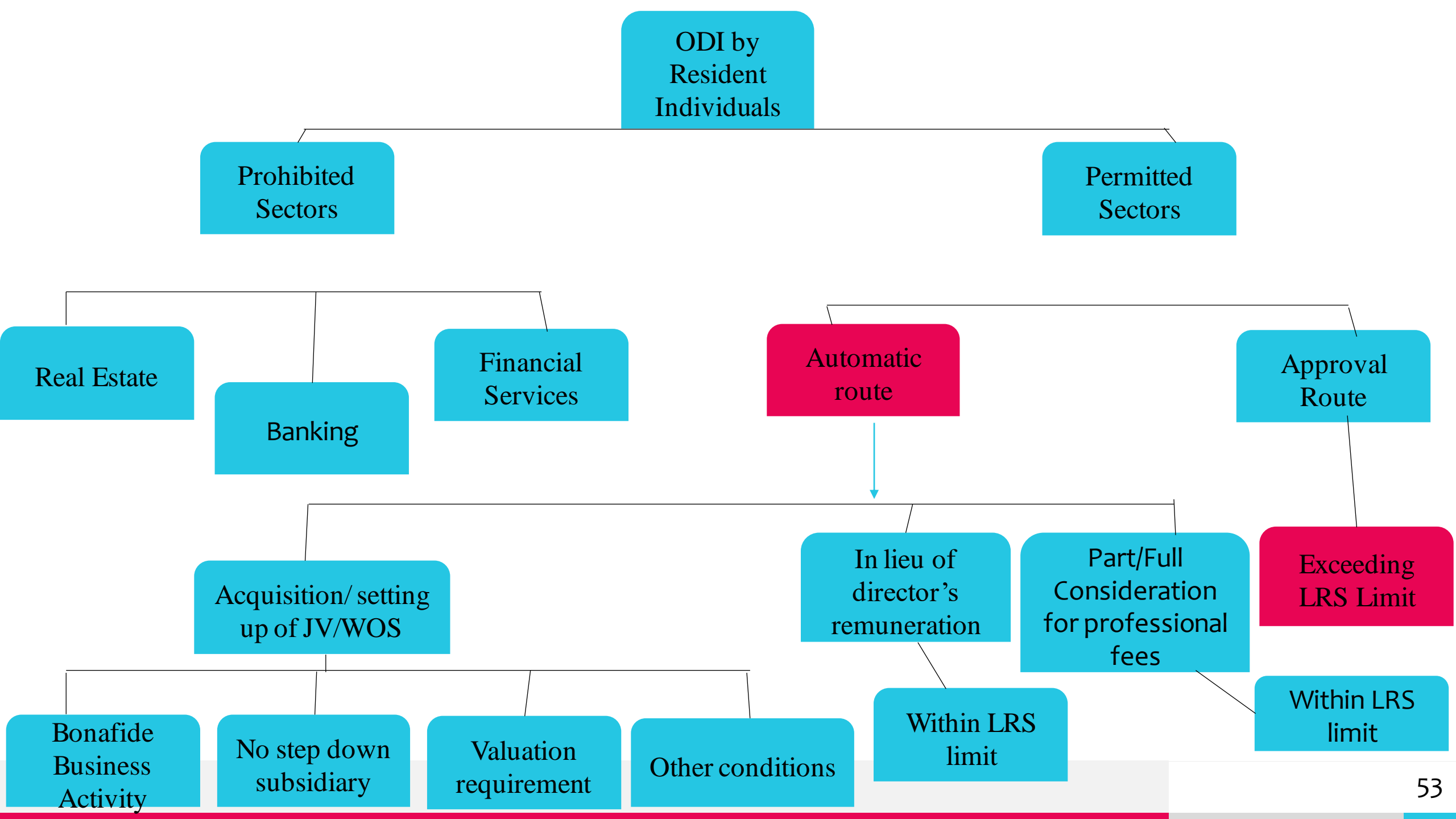
- Registered Trusts and Societies engaged in **manufacturing/ educational/ hospital sector** are allowed to make investment (or financial commitment) in the same sector(s) in a JV/WOS outside India, with the prior approval of the Reserve Bank.
- Trust can also make direct investment outside India. Trust means a Trust registered under the Indian Trust Act, 1882;
- Eligibility Criteria for Trust
 - ✓ i. The Trust should be registered under the Indian Trust Act, 1882;
 - ✓ ii. The Trust deed permits the proposed investment overseas;
 - ✓ iii. The proposed investment should be approved by the trustee/s;
 - ✓ iv. The AD Category – I bank is satisfied that the Trust is KYC (Know Your Customer) compliant and is engaged in a bona fide activity;
 - ✓ v. The Trust has been in existence at least for a period of three years;
 - ✓ vi. The Trust has not come under the adverse notice of any Regulatory/Enforcement agency like the Directorate of Enforcement, Central Bureau of Investigation (CBI), etc.

Direct Investment by Society

- Society can also make direct investment outside India. ‘Society’ means a society registered under the Societies Registration Act, 1860. Eligibility Criteria for Society
 - ✓ i. The Society should be registered under the Societies Registration Act, 1860.
 - ✓ ii. The Memorandum of Association and rules and regulations permit the Society to make the proposed investment which should also be approved by the governing body/council or a managing/executive committee.
 - ✓ iii. The AD Category - I bank is satisfied that the Society is KYC (Know Your Customer) compliant and is engaged in a bona fide activity;
 - ✓ iv. The Society has been in existence at least for a period of three years;
 - ✓ v. The Society has not come under the adverse notice of any Regulatory/Enforcement agency like the Directorate of Enforcement, CBI, etc,
 - ✓ vi. special license/permission has been obtained by the applicant in case the activities require special license/permission either from the Ministry of Home Affairs, Government of India or from the relevant local authority, as the case may be.

In addition to the registration, the AD Category – I bank should ensure that the special license / permission has been obtained by the applicant in case the activities require special license / permission either from the Ministry of Home Affairs, Government of India or from the relevant local authority, as the case may be.





ODI by Resident Individuals

Prohibited Sectors

Permitted Sectors

Real Estate

Banking

Financial Services

Automatic route

Approval Route

Acquisition/ setting up of JV/WOS

In lieu of director's remuneration

Part/Full Consideration for professional fees

Exceeding LRS Limit

Bonafide Business Activity

No step down subsidiary

Valuation requirement

Other conditions

Within LRS limit

Within LRS limit

**How much can be
invested?**



Limit of Investment

The limit of investment prescribed by the RBI is as follows:

- **The total financial commitment of the Indian party in Joint Ventures/Wholly Owned Subsidiaries shall not exceed 400% of the net worth of the Indian Party as on the date of the last audited balance sheet;**
- *400% of the net worth:* An Indian party can make investment within the limit of 400% of the net worth of the company as on the date of the last audited balance sheet.
- *As on the date of last audited balance sheet:* The total FC of the Indian party in JVs/WOSs shall not exceed 400% of the net worth of the Indian Party as on the date of the last audited balance sheet.
- *Balances held in EEFC Account:* In respect of balances held in EEFC account of the Indian Party the limits of FC vis-à-vis the net worth does not apply.
- *Proceeds of ADR / GDR:* Proceeds of foreign currency funds raised through ADR / GDR issues the limits of FC vis-à-vis the net worth does not apply.

Limit of Investment

The limit of investment prescribed by the RBI is as follows:

- **The total financial commitment of the Indian party in Joint Ventures/Wholly Owned Subsidiaries shall not exceed 400% of the net worth of the Indian Party as on the date of the last audited balance sheet;**
- **400% of the net worth: An Indian party can make investment within the limit of 400% of the net worth of the company as on the date of the last audited balance sheet.**
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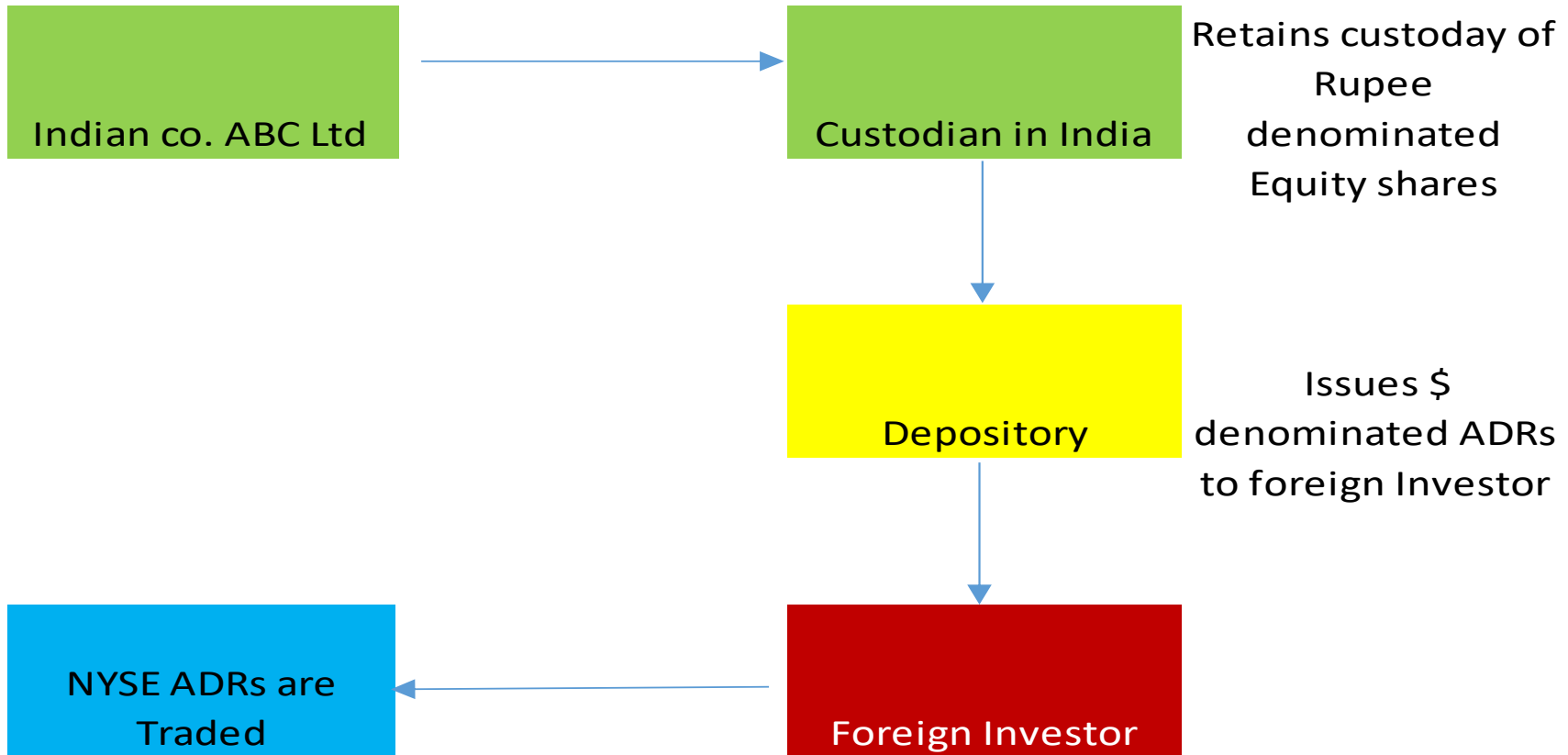
Limit of Investment

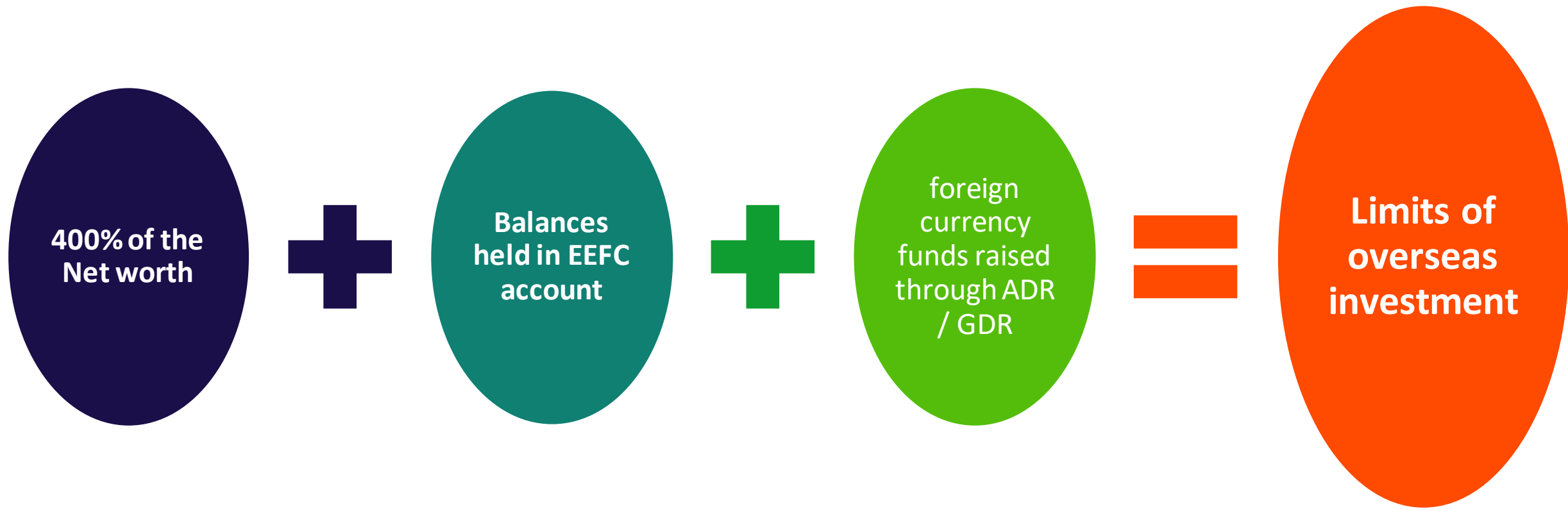
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ADR/GDR

American Depository Receipt || Global Depository Receipt





Limit

- *400% of net worth is an aggregate limit:* The limit of 400% of net worth for Financial Commitment is the aggregate FC of the Indian party, in all the JVs/WOSs put together.
- *The FC is to be calculated at the time of making investment* The FC is to be calculated at the time of making investment. For example, if the FC at the time of making further investment into the JV/WOS exceeds (together with the investment already made) 400% of the net worth as on the last audited balance sheet such further investment can be made only with the approval of the RBI.

Example

ABCN Ltd. An Indian Company in Pharmaceutical sector

Particulars	Amount in INR (in Million)
Net worth of ABCN Ltd.	100
Balance in EEFC Account	100
Proceeds of foreign currency funds raised through ADR/GDR issues	100

Example

ABCN Ltd. An Indian Company in Pharmaceutical sector

Particulars	Amount in INR (in Million)
Net worth of ABCN Ltd.	100
Balance in EEFC Account	100
Proceeds of foreign currency funds raised through ADR/GDR issues	100
Total Financial commitment	600

Example

ABCN Ltd. An Indian Company in Pharmaceutical sector

Particulars	Amount in INR (in Million)	Calculation
Net worth of ABCN Ltd.	100	400%
Balance in EEFC Account	100	Amount not to be counted in 400%
Proceeds of foreign currency funds raised through ADR/GDR issues	100	Amount not to be counted in 400%
Total Financial commitment	600	

Meaning and computation of term Net worth

As per Regulation 2(o) of the ODI Regulations:

"Paid up capital of the company and the reserves and surplus of the company.

For the purpose of computation of net worth the last audited balance sheet of the Indian party is considered.

the net worth of its holding company (which holds at least 51% direct stake in the Indian Party)

or its subsidiary company (in which the Indian party holds at least 51% direct stake) may be taken into account

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or its subsidiary company (in which the Indian party holds at least 51% direct stake) may be taken into account

- ✓ to the extent not availed by the holding company or the subsidiary independently
- ✓ and has furnished a letter of disclaimer in favour of the Indian Party.

Meaning and computation of term Net worth

As per Regulation 2(o) of the ODI Regulations:

- The total FC of the Indian party, in all the JVs/WOSs put together, shall not exceed 400% of the net worth of the Indian party as on the date of the last audited balance sheet. The object is to limit the outflow of money through various manufactured ways of remitting money.
- **Net worth = Paid up capital + Free Reserves**
- The limit of 400% of net worth for FC is the aggregate FC of the Indian party, in all the JVS/WOSs put together.
- This facility is not available to partnership firms. Also the partnership firm's net worth cannot be taken into account by an incorporated entity.

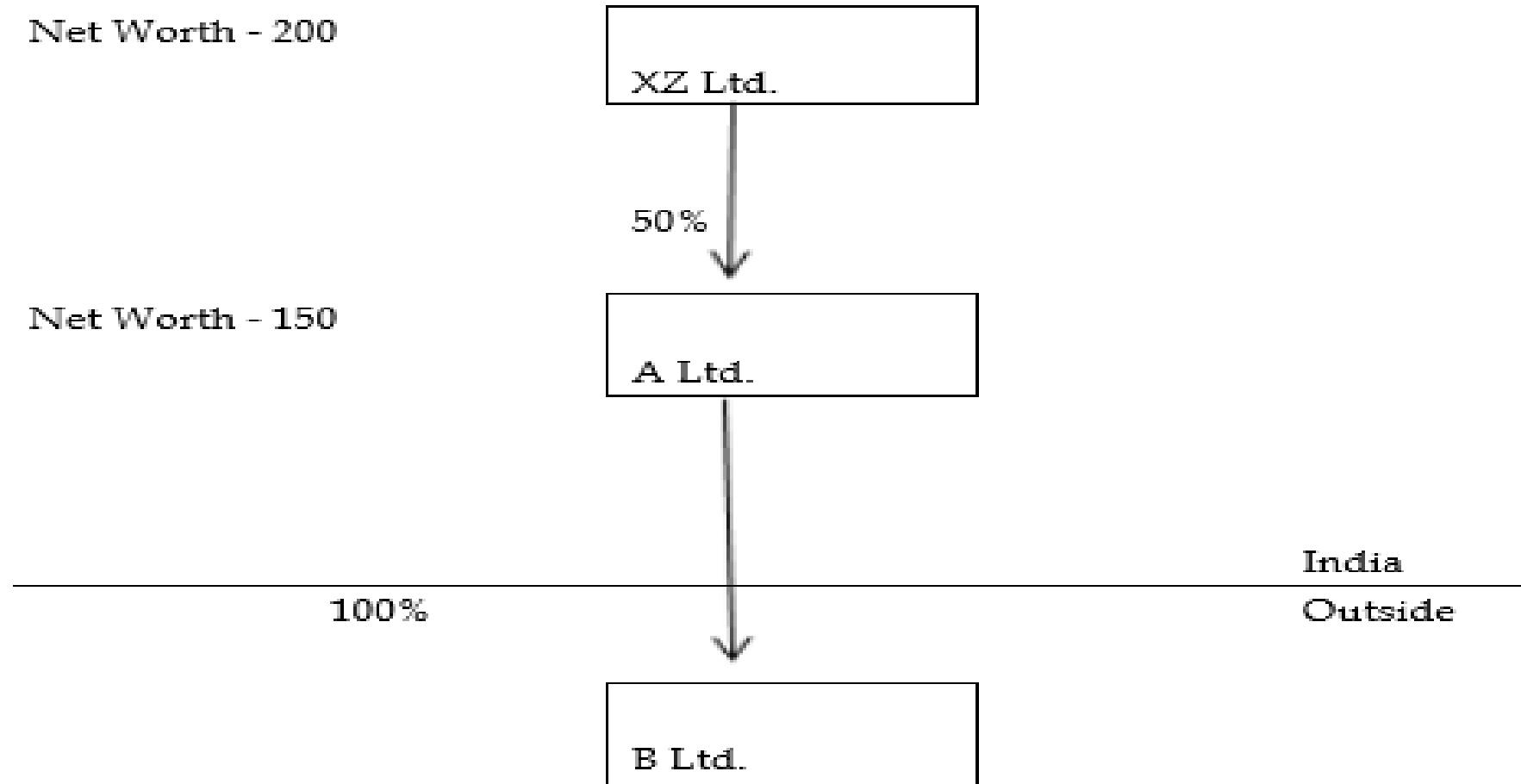
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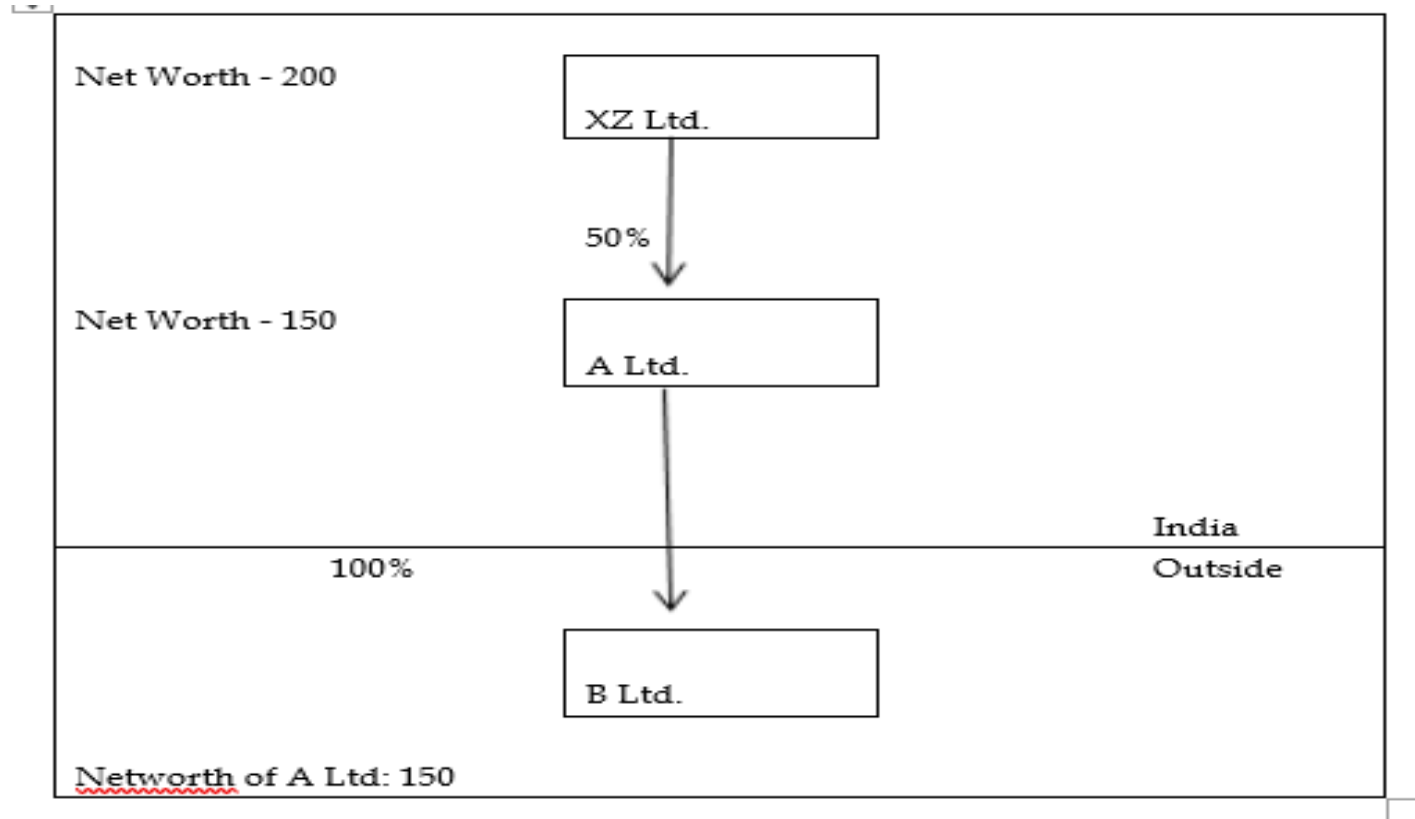
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Example

Networth to be taken for the purpose of investment outside India

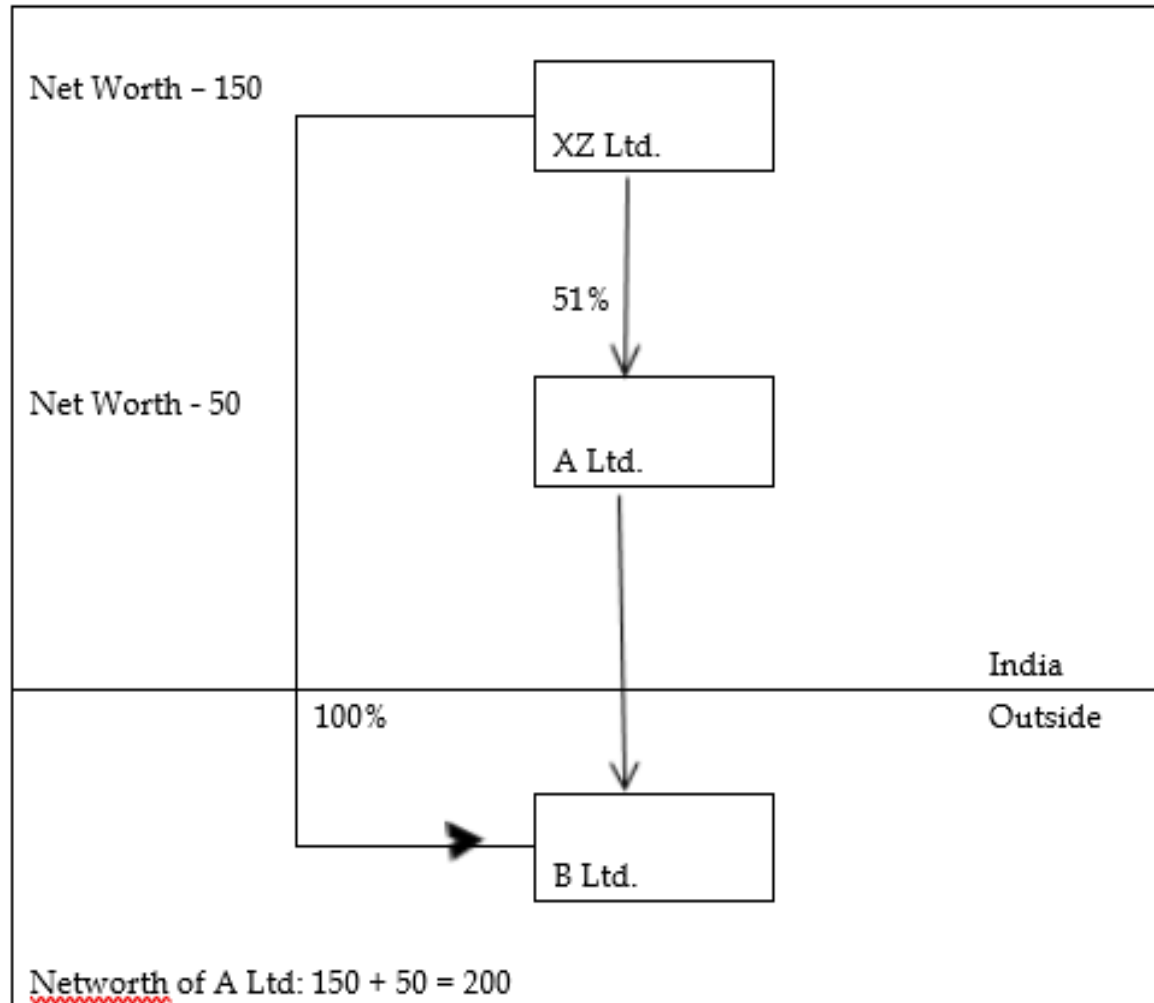


Example



In case where A Ltd is desirous of making investment outside India, the net worth of XZ Ltd. will not be clubbed as the holding of XZ Ltd. in A Ltd is only 50%.

Example



- In contrast to the above case, in the below case for calculation of net worth of A Ltd. the Net worth of its holding company ABC Ltd. shall be taken in account as the holding of XZ Ltd. in A Ltd is only 51%.

Meaning and computation of 'financial commitment'

As per Regulation 2(f) of ODI Regulation

- 'Financial commitment' means the amount of direct investment by way of contribution to equity and loan and 50 per cent of the amount of guarantees issued by an Indian party to or on behalf of its overseas Joint Venture Company or Wholly Owned Subsidiary;

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B. COMPONENT-WISE BREAK-UP OF ODI DURING:

(Figures in US \$ mn)

Financial year	<u>Overseas Direct Investment (ODI)</u>				Financial Commitment (II+III+IV)	Actual ODI Outflow (II+III+V)
	Equity	Loans	Guarantee Issued	Guarantee Invoked		
I	II	III	IV	V	VI	VII
2018-2019	8,067.52	4,227.42	24,135.89	1,195.82	36,430.89	13,490.82
2019-2020	6,148.81	5,950.08	21,206.13	149.83	33305.02	12248.72
2020-2021 (Upto July 2020)	1,281.09	1,006.63	6,642.95	15.00	8,930.67	2302.72
Total	15497.42	11184.13	51984.97	1360.65	78666.52	28042.20

'Financial commitment'

- The total FC of the Indian party in JVs /WOSs shall not exceed 400% of the net worth of the Indian Party as on the date of the **last audited balance sheet**;
- Any FC exceeding USD 1 (one) billion (or its equivalent) in a financial year would require prior approval of the RBI even when the total FC of the Indian Party is within the eligible limit under the automatic route (ie, within 400% of the net worth as per the last audited balance sheet).
- A.P. (DIR Series) Circular No.1 dated July 3, 2014.

'Financial commitment

- The total FC of the Indian Party in all the JVs/WOSs shall comprise the following:
 - a) 100% of the amount of equity shares;**
 - b) 100% of the amount of compulsorily and mandatorily convertible preference shares [Compulsorily Convertible Preference Shares (CCPS) shall be treated at par with equity shares]–

The change in the policy came w.e.f. 28 March 2012 vide A.P. (DIR Series) Circular No. 96 prior to this the CCPS were treated as Loans.
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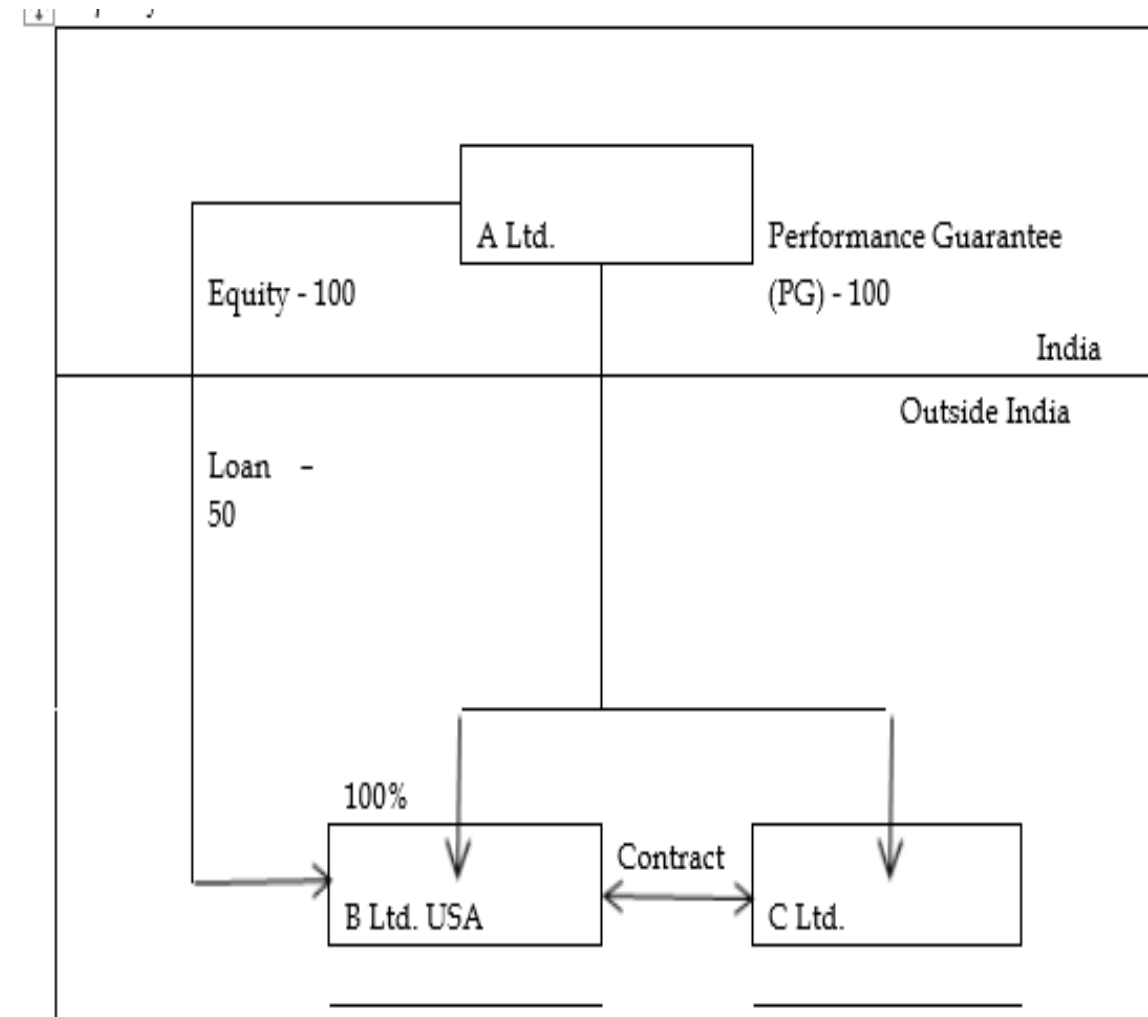
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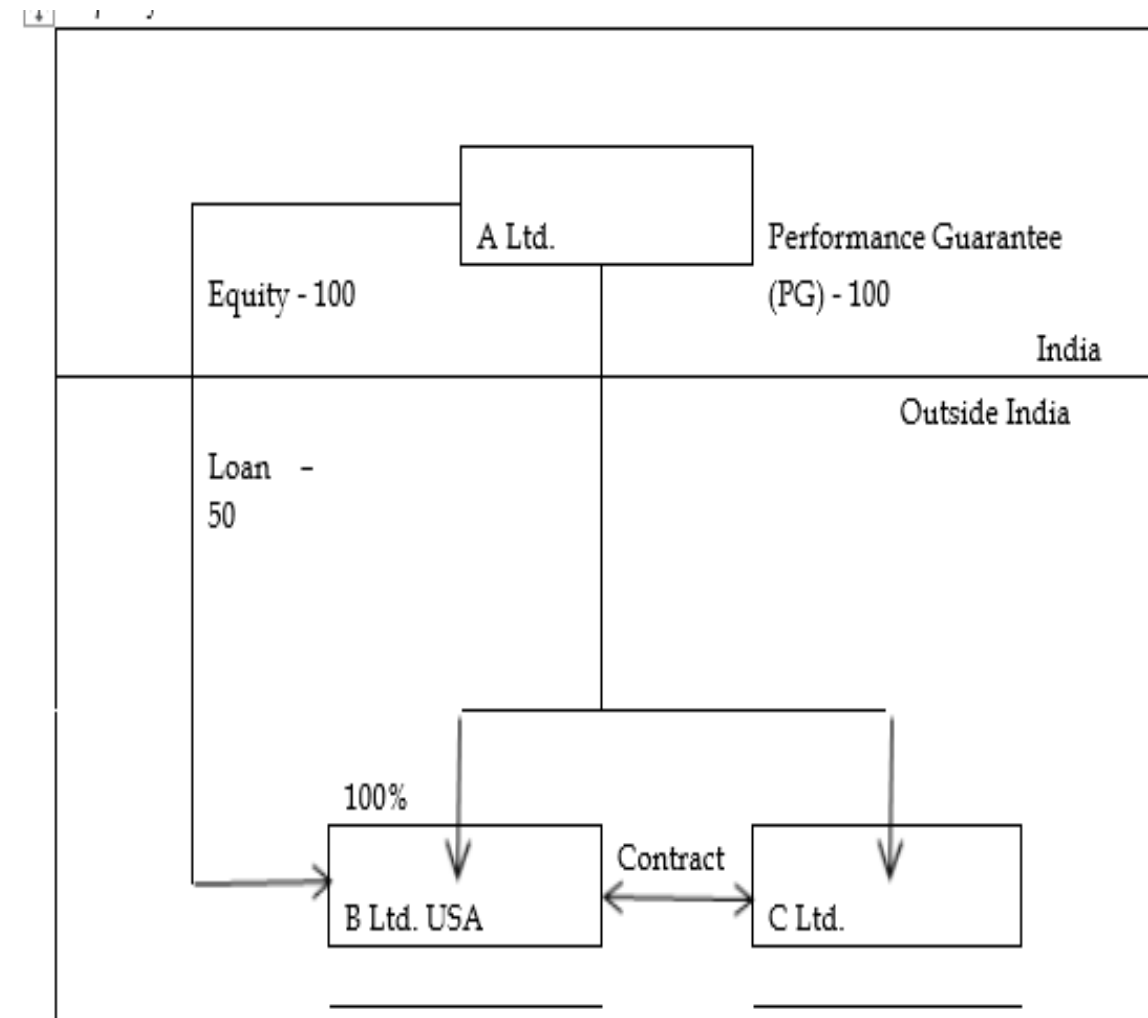
Example of Financial Commitment

- B Ltd., a company incorporated in USA, is a wholly owned subsidiary of A Ltd. an Indian Company.
 - A Ltd.'s (with net worth of 50) investment in B Ltd. is as under:
 - Equity contribution – 100;
 - Loan – 50
 - A Ltd. has also given Performance Guarantee (PG) of 100 to C Ltd. On behalf of B Ltd.
- What is the FC of A Ltd.?



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 - Loan – 50
 - A Ltd. has also given Performance Guarantee (PG) of 100 to C Ltd. On behalf of B Ltd.
- What is the FC of A Ltd.?
FC of A Ltd: 100 (E) + 50 (L) + 50 (PG)* = 200
- *only 50% of the Performance Guarantee is taken for calculation of FC.



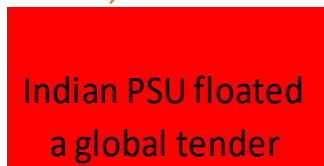
Case Study

Singapore subsidiary entity got a contract to execute an order in India.

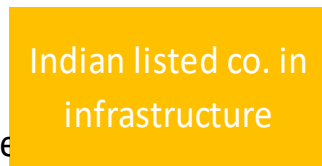


100% subsidiary
Singapore

India



← Guarantee



In case where an Indian company in the infrastructure sector opened a subsidiary in Singapore, under a global tender floated from Indian PSU, the Singapore subsidiary entity got a contract to execute an order in India.

The precondition of which was that 10% of the award amount was required to be given as corporate guarantee by the Singapore entity. Singapore entity approached the Indian PSU with a request to allow it to provide the guarantee through its Indian holding company.

The PSU agreed to receive guarantee on behalf of the Singapore entity from its Indian holding company. The guarantee was issued from Indian Company to PSU on behalf of Singapore entity.

Case Study

- in case where an Indian company in the infrastructure sector opened a subsidiary in Singapore, under a global tender floated from Indian PSU, the Singapore subsidiary entity got a contract to execute an order in India. The precondition of which was that 10% of the award amount was required to be given as corporate guarantee by the Singapore entity. Singapore entity approached the Indian PSU with a request to allow it to provide the guarantee through its Indian holding company. The PSU agreed to receive guarantee on behalf of the Singapore entity from its Indian holding company. The guarantee was issued from Indian Company to PSU on behalf of Singapore entity.
- In this case, the Indian company is required to file the FORM ODI for corporate guarantee issued on behalf of Singapore entity to RBI and to check if its overseas investment is within the overall limit of 100% of FC after providing the guarantee.

How



Procedure under Automatic Route

- If the FC of the company is within the prescribed limits, the overseas investment can be made without any prior approval from the RBI.
 - ❖ Only an intimation of investment is required to be given to Authorised Dealer Category - I bank in Form ODI **within a period of 30 days from the date of the transaction.**
 - ❖ After the initial investment any changes post investment need to be informed to RBI in form ODI only.
 - ❖ An Annual Form which is Annual Performance Report (Part of ODI form) is also required to be submitted on an annual basis.

Procedure under Approval Route

- An application in Form ODI along with prescribed enclosures/documents is required to be made to an Authorised Dealer Category - I bank for the purpose of taking prior approval of the RBI for seeking permission of investment.
- *Unique Identification Number (UIN)*: On filing of Form ODI with the AD Category - I Banks, it will generate a UIN online and allot to the Indian Investor. The UIN allotted to each JV or WOS abroad is required to be quoted in all correspondence with the RBI. AD Category - I banks may allow additional investment in an existing overseas concern set up by an Indian party, after the RBI has allotted necessary UIN to the overseas project.
- All transactions relating to a JV/WOS should be routed through one branch of an Authorised Dealer bank to be designated by the Indian party.

Form ODI

The structure of the rationalised and revised Form ODI comprises the following parts

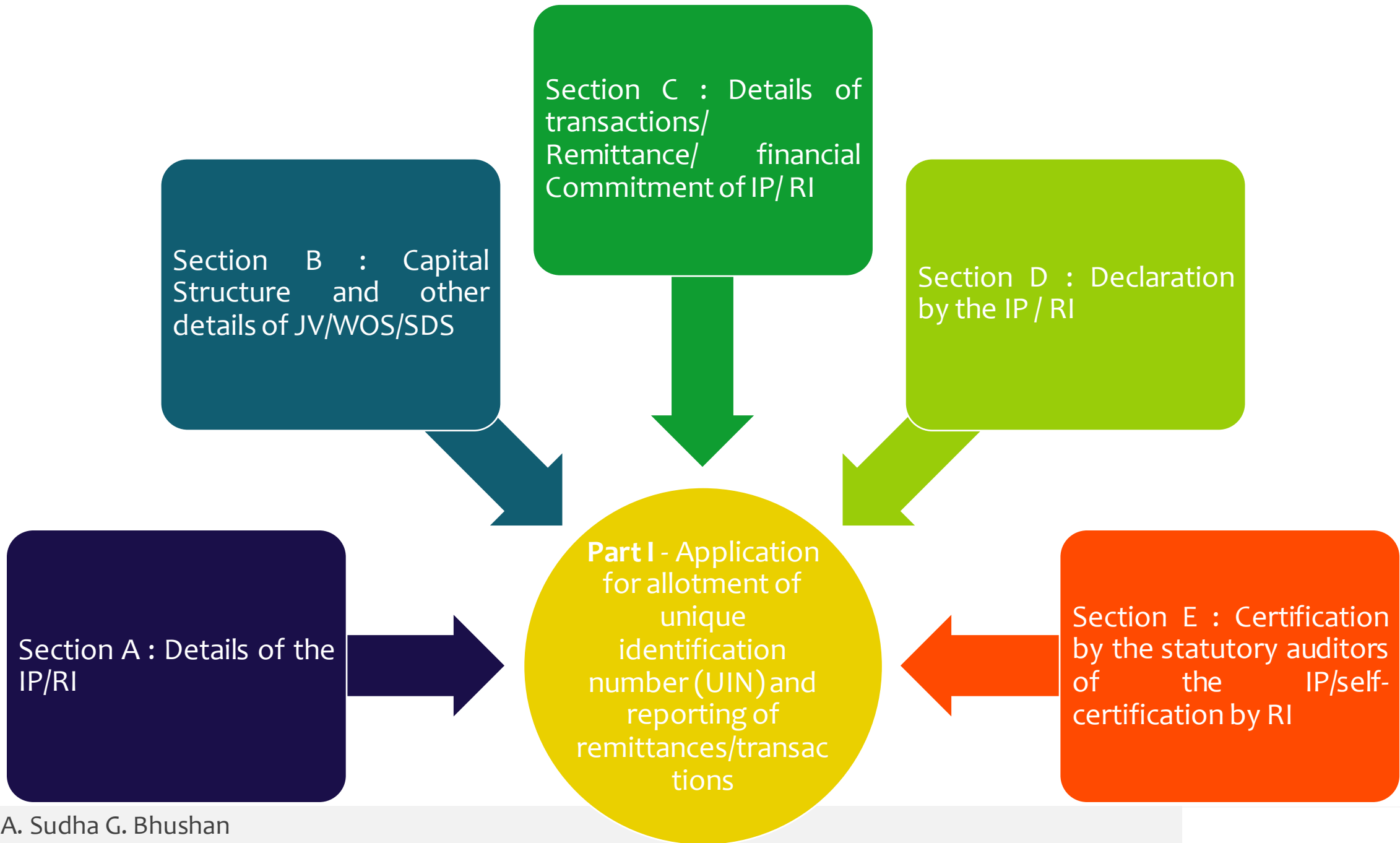
Part I – Application for allotment of Unique Identification Number (UIN) and reporting of Remittances / Transactions:

- Section A – Details of the IP / RI.
- Section B – Capital Structure and other details of JV/ WOS/ SDS.
- Section C - Details of Transaction/ Remittance/ Financial Commitment of IP/ RI.
- Section D – Declaration by the IP/ RI.
- Section E – Certificate by the statutory auditors of the IP/ self-certification by RI.

Part II - Annual Performance Report (APR)

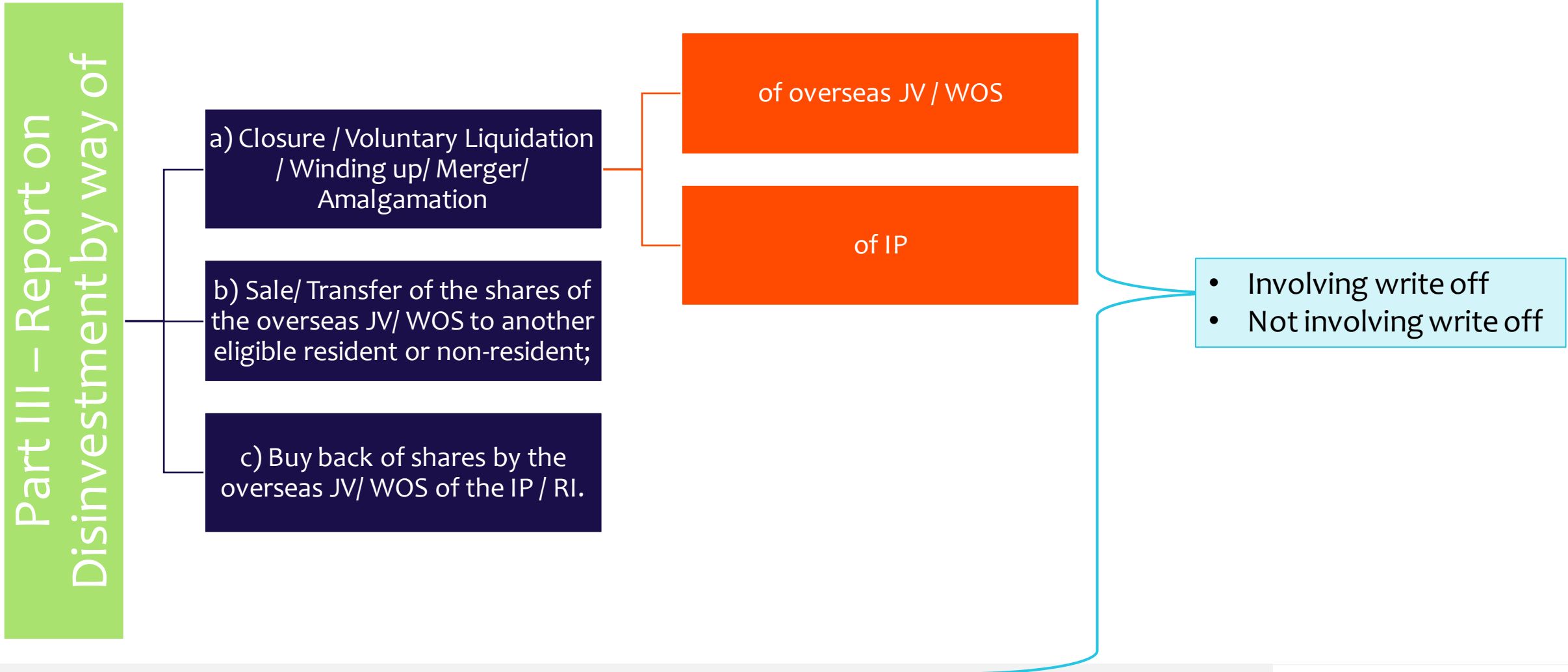
Part III – Report on Disinvestment by way of

- a) Closure / Voluntary Liquidation / Winding up/ Merger/ Amalgamation of overseas JV / WOS;
- b) Sale/ Transfer of the shares of the overseas JV/ WOS to another eligible resident or non-resident;
- c) Closure / Voluntary Liquidation / Winding up/ Merger/ Amalgamation of IP; and
- d) Buy back of shares by the overseas JV/ WOS of the IP / RI.



Form ODI

Part III



Form ODI

- An annual return on Foreign Liabilities and Assets (FLA) is required to be submitted directly by all the Indian companies which have made FDI abroad (i.e. overseas investment) in the previous year(s) including the current year, to the Director, External Liabilities and Assets Statistics Division, Department of Statistics and Information Management (DSIM), Reserve Bank of India.
- The Annual Return on FLA is available on the RBI website (www.rbi.org.in → Forms category → Foreign Exchange Management Act Forms) which can be duly filled-in, validated and sent by e-mail, by July 15 every year.

To be filled by the AD branch (strike out whichever is not applicable)

We hereby confirm that the remittance/ transaction of (amount in FCY) _____ towards _____ (equity/ loan/ guarantee)

- i) has been allowed under the Automatic Route based on the certification given by the statutory auditors confirming compliance with the prescribed terms and conditions by the Indian Party;
- ii) has been allowed under the Approved Route based on the certification given by the statutory auditors confirming compliance with the prescribed terms and conditions by the Indian Party;
- iii) is in accordance with the terms and conditions of the approval letter issued by the Reserve Bank;
- iv) has been allowed on behalf of the Resident Individual under LRS as per Schedule V of Notification No. FEMA 120/RB-2004 dated July 07, 2004 as amended from time to time; and
- v) in respect of the guarantee invoked, the remittance has been made after satisfying that the claim is in conformity with the terms and conditions of the guarantee issued to/on behalf of the JV/WOS abroad.

Signature of authorized official				<u>Stamp/Seal</u>
Name & Designation of the Authorized Official				
Place:		Date:		
Telephone No:		Fax No:		

Approval Route

Documents

Section D and Section E of Form ODI - Part I by the designated Authorized Dealer:

a) A letter from the designated AD of the IP in a sealed cover mentioning the following details:

- Transaction number generated by the OID application.
- Brief details of the Indian entity.
- Brief details of the overseas entity.
- Background of the proposal, if any.
- Brief details of the transaction.
- Reason/s for seeking approval mentioning the extant FEMA provisions.
- Observations of the designated AD bank with respect to the following:
 - Prima facie viability of the JV/WOS outside India;
 - Contribution to external trade and other benefits which will accrue to India through such investment;
 - Financial position and business track record of the IP and the foreign entity;
 - Expertise and experience of the IP in the same or related line of activity of the JV/WOS outside India.
- Recommendations of the designated AD bank.

b) A letter from the IP addressed to the designated AD bank.

Approval Route

Documents

- c) Board resolution for the proposed transaction/s.
- d) Diagrammatic representation of the organisational structure indicating all the subsidiaries of the IP horizontally and vertically with their stake (direct & indirect) and status (whether operating company or SPV).
- e) Incorporation certificate and the valuation certificate for the overseas entity (if applicable).
- f) Other relevant documents properly numbered, indexed and flagged.

Approval Route

Process

- Online Reporting of Form ODI .
- Online OID application has been revamped to further reduce the traditional paper based filing system, to provide the AD banks fast and easy accessibility to data for reference purpose, to improve the coverage and ensure proper monitoring of the flows in a dynamic environment.
- Accordingly, modules in online OID application have been added, wherein all the ODI forms as mentioned in this circular may be reported.
- A concept of AD Maker, AD Checker and AD Authorizer has now been introduced in the online application process. The AD Maker shall initiate the transaction and submit to the AD Checker for verification of the transaction before submission to Reserve Bank. The AD Authorizer shall have the authority to ratify these ODI transaction which are pending due to various reasons, such as, delay arising on account of seeking further clarification from the IP / RI, technical difficulty in reporting the transaction in the online OID application and on account of delay in completing the due diligence process.

Process

- The AD bank may identify an official in the middle management level who may be assigned the responsibility of the AD Authorizer. The Authorizer shall be entrusted with the following responsibilities: (i) Examining the genuineness of the reason/s behind late submission of the ODI Forms. (ii) Ratifying those online transaction which are reported with a delay owing to operational difficulties after recording the facts in the online OID application under the Remarks column.
- The Centralized Unit / Nodal Office of the AD bank should ensure online reporting of Overseas Investments in the application hosted on the website <https://oid.rbi.org.in>¹⁸. The AD Maker, AD Checker and AD Authoriser identified by the AD Bank may obtain a user-id for accessing the online OID application by submitting a request in the prescribed format (Annex IV).

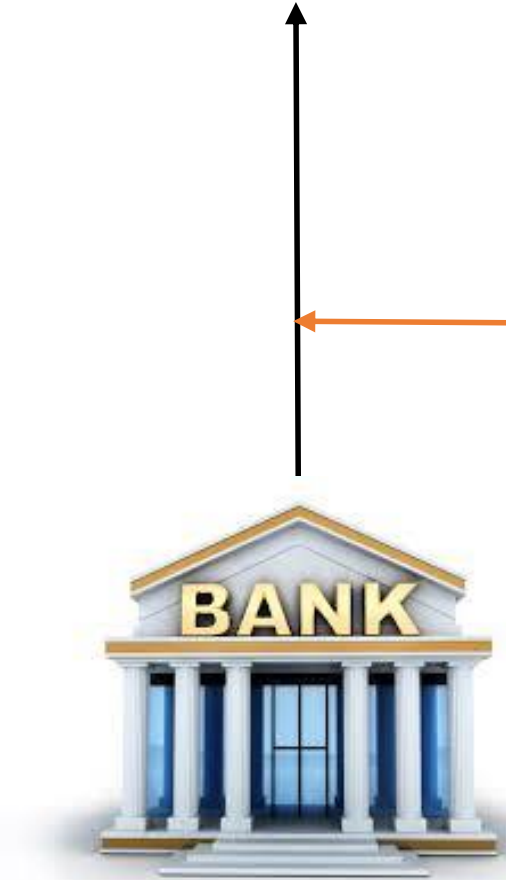
Reserve Bank
of India



Corporates,
Individuals etc.



Accountant
Valuer
Economist
IT expert
Rocket scientist !!



- (i) A letter from the designated AD of the IP in a sealed cover mentioning the following details:
- Transaction number generated by the OID application
 - Brief details of the Indian entity
 - Brief details of the overseas entity
 - Background of the proposal, if any
 - Brief details of the transaction
 - Reason/s for seeking approval mentioning the extant FEMA provisions.
 - Observation of the designated AD bank with respect to the following:
 - Prima facie viability of the JV/ WOS outside India;
 - Contribution to external trade and other benefits which will accrue to India through such investment;
 - Financial position and business track record of the IP and the foreign entity;
 - Expertise and experience of the IP in the same or related line of activity of the JV/ WOS outside India.
 - Recommendations of the designated AD bank
- (ii) A letter from the IP addressed to the designated AD bank.
- (iii) Board resolution for the proposed transaction/s.
- (iv) Diagrammatic representation of the organisational structure indicating all the subsidiaries of the IP horizontally and vertically with their stake (direct & indirect) and status (whether operating company or SPV).
- (v) Incorporation certificate and the valuation certificate for the overseas entity (if applicable).
- (vi) Other relevant documents properly numbered, indexed and flagged.
- (c) Part I contains details of the JV/WOS, Indian Parties/ Resident Individuals and the remittance, other financial commitment of the overseas entity and shall be submitted
- a. at the time of initial remittance, all subsequent remittances / other forms of financial commitment shall be undertaken only after the allotment of UIN.
 - b. for subsequent remittances / other forms of financial commitment, the forms of
- (d) subsequent remittances (or financial commitment) under the approval route should be made, only after receipt of auto generated

Methods of Funding





CA No 5010/ 2019

- The applicant company was incorporated on February 01, 2007 as Windlass Engineers & Services Pvt. Ltd. under the Companies Act 1956. (CIN U74991UR2007PTC032356). The company undertakes manufacturing of oilfield equipment and servicing of machines.
- The applicant company had set up an overseas Joint Venture (JV) named ‘Windlass International Limited’ (WIL) in British Virgin Island in 2015.
- The overseas JV (WIL) allotted equity shares to the applicant company **on February 17, 2016** for a total value of USD 23,76,146.40,
- against which the applicant company made two remittances of USD 15,53,885.37 and USD 2,96,960 on February 17, 2016 and June 07, 2016, respectively.

CA No 5010/2019

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- against which the applicant company made two remittances of USD 15,53,885.37 and USD 2,96,960 on February 17, 2016 and June 07, 2016, respectively.
- The receipt of shares for the balance amount of USD 5,25,301.03 - **against which no payment was made to the JV**, was in contravention of Regulation 5(1) read with Regulation 6(3) of FEMA 120.
- Further, the receipt of shares on February 17, 2016 **prior to the date of remittance** (June 07, 2016) of USD 2,96,960 was also in contravention of Regulation 5(1) read with Regulation 6(3) of FEMA 120 .

Drawal of Foreign Exchange

- A party can draw foreign exchange up to the permissible limits of investments by submitting the duly filled in Form ODI together with Form A2 to the AD Category-I banks.

Investment by capitalisation

- (1) An Indian party may make direct investment outside India by way of capitalisation in full or part of the amount due to the Indian Party from the foreign entity towards:
 - i. Payment for export of plant, machinery, equipment and other goods/software to the foreign entity; and
 - ii. Fees, royalties, commissions or other entitlements due to the Indian party from the foreign entity for the supply of technical know-how, consultancy, managerial or other services.
- *Prior permission of the RBI if sale proceeds unrealised for more than 6 months:* Prior permission of RBI shall be required for capitalisation where the export proceeds have remained unrealised beyond a period of six months from the date of export, or from the date on which such payment for fees, royalties, commission has become due as the case may be.
- Capitalisation of export proceeds or other entitlements, which are overdue, would require prior approval of the RBI for which the Indian parties should make an application in form ODI to the RBI for consideration.

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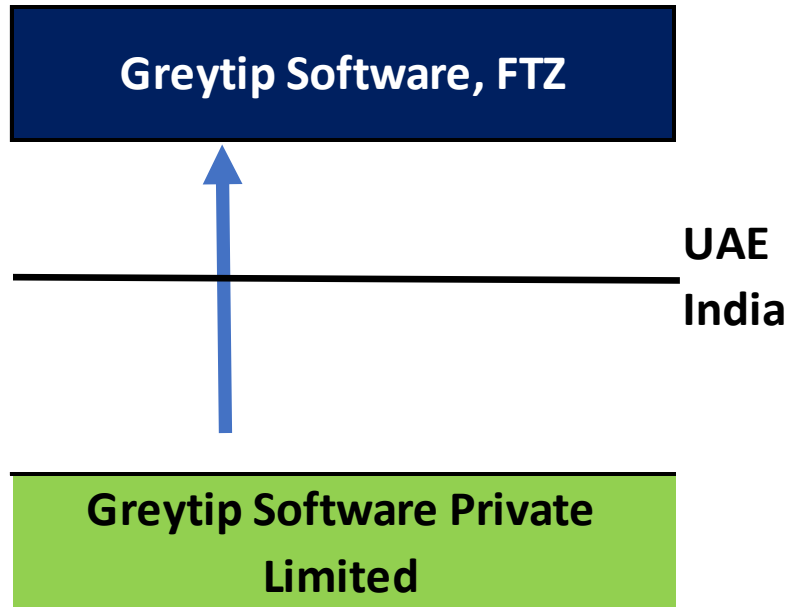
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- Capitalisation of export proceeds or other entitlements, which are overdue, would require prior approval of the RBI for which the Indian parties should make **an application in form ODI to the RBI for consideration.**

C.A. 4359/2017 - Greytip Software Private Limited



- The applicant had incorporated a WoS named Greytip Software, FTZ in UAE and equity contribution was made in the form of capitalization of software export
- The applicant had not declared such capitalization of export proceed in the Form SOFTEX and also had not submitted Form ODI.
- Contravention of Regulation 12(1) of Notification No. FEMA. 120/2004-RB

C.A. 4359/2017 - Greytip Software Private Limited

- The contraventions sought to be compounded are (i) capitalization of software exports made to WOS without submitting Softex and ODI part I to Reserve Bank and delayed submission of the Annual Performance Report (APR) for the years financial years ending March 2012, 2013 and 2014 as they contravene Regulation 6(2)(vi), 12(1), 12(3) and 15(iii) of Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 notified vide Notification No 120/2004-RB dated July 4, 2004.
- The applicant was incorporated as Greytip Software Private Limited on November 29, 1994 and is engaged in the business of providing HR and Payroll software and allied activities. The applicant incorporated a WOS Viz., Greytip Software, FTZ in UAE on January 8, 2012.
- Equity contribution was made in the form of capitalization of software export receivables worth AED 1,00,000/- (Rs.12,56,839/-) on April 1, 2012. The same was done without submitting Form ODI-part I and Form Softex, thereby contravening the provision of Regulation 6(2)(vi) and regulation 12 of Notification No FEMA 120-RB 2004. The applicant also reported Annual Performance Reports (APRs) for the years 2013, 2014 and 2015 with delay. The ODI- Part 1 and APRs were reported to Reserve Bank by the Authorized Dealer Bank on December 19, 2016 and February 15, 2017 respectively and all the transactions were regularized on April 25, 2017.
- As per Regulation 6(2)(vi) of the said notification, it requires that the Indian Party to submit Part I of the Form ODI, duly completed, to the designated branch of an authorized dealer. In the instant matter, amount of contravention is AED 1,00,000/- (Rs.12,56,839/-) and the period of contravention is nine years approximately.
- Regulation 12(1) of the said notification requires that An Indian Party exporting goods / software / plant and machinery from India towards equity contribution in a Joint Venture or Wholly Owned Subsidiary outside India shall declare it on GR / SDF / SOFTEX form, as the case may be, which shall be super scribed as "Exports against equity participation in the JV / WOS abroad", and also quoting Identification Number, if already allotted by Reserve Bank which was contravened for an amount of AED 1,00,000/- (Rs.12,56,839/-) and the period of contravention is less than one year approximately.

- Regulation 12(3) of the said notification requires that an Indian Party capitalizing exports under Regulation 11 shall, within six months from the date of export, or any further time as allowed by Reserve Bank, submit to Reserve Bank copy/ies of the share certificate/s or any document issued by the Joint Venture or Wholly Owned Subsidiary outside India to the satisfaction of Reserve Bank evidencing the investment from the Indian Party together with the duplicate of GR / SDF / SOFTEX form through the branch of an authorized dealer designated by it. The same was contravened to an amount of AED 1,00,000/- (Rs.12,56,839/-) and the period of contravention is less than one year approximately.
- Regulation 15(iii) of the said notification requires to submit to the Reserve Bank, through the designated Authorised Dealer, every year on or before a specified date, an Annual Performance Report (APR) in Part III of Form ODI, as prescribed by the Reserve Bank from time to time, in respect of each JV or WOS outside India, and other reports or documents as may be prescribed by the Reserve Bank from time to time. The APR, so required to be submitted, has to be based on the audited annual accounts of the JV / WOS for the preceding year, unless specifically exempted by the Reserve Bank. There was a delayed submission of 3 APR (i.e. for the years 2012-13, 2013-14 and 2015-16).
- The applicant was given an opportunity for personal hearing vide the Reserve Bank's letter FED.CO. CEFA .No./114/15.20.67/2016-17 dated July 6, 2017 and the same was held on July 19, 2017 during which Shri Navin Agarwal, Head Finance, Greytip Software Private Limited represented the applicants.
- The admitted contraventions have been compounded and a payment of Rs. 1,24,375/- is to be made.

Investment by SWAP of shares

- The overseas investment can be made via swap of shares. **The swap of shares required FIPB approval earlier. Via Press Note 12/2015, the swap of shares is liberalised to be under automatic route.**

Route of investment

- Approval of the Government is required for investment by swap of shares for sector under Government approval route.
- No approval of the Government is required for investment in automatic route sectors by way of swap of shares..

Valuation

- Valuation of the shares will have to be made by a Category I Merchant Banker registered with SEBI or an investment banker outside India registered with the appropriate regulatory authority in the host country irrespective of the amount.

Undertaking

- An undertaking to the effect that future sale/ transfer of shares so acquired by non-residents in the Indian company shall be in accordance with the provisions of Notification No. FEMA 20/2000-RB dated 3 May 2000, as amended from time to time is required to be given.

Reporting by AD Bank

- AD Category-I banks are required to submit to the RBI the details of transactions such as the number of shares received/allotted, premium paid/received, brokerage paid/received, etc, and also confirmation to the effect that the inward leg of transaction has been as per the permitted route and the valuation has been done as per the laid-down procedure and that the overseas company's shares are issued/transferred in the name of the Indian investing company.

Investment by way of swap of shares

- In the case of investment by way of share swap, AD Category – I banks are additionally required to submit to the Reserve Bank the details of transactions such as number of shares received / allotted, premium paid / received, brokerage paid / received, etc., and also confirmation to the effect that the inward leg of transaction has been approved by FIPB (if required) and the valuation has been done as per the laid-down procedure and that the overseas company's shares are issued / transferred in the name of the Indian investing company. AD Category – I bank may also obtain an undertaking from the applicants to the effect that future sale / transfer of shares so acquired by Non-Residents in the Indian company shall be in accordance with the provisions of [Notification No. FEMA 20/2000-RB dated May 3, 2000](#), as amended from time to time.

Investment funded by external commercial borrowings

- One of the ways of funding is raising the funds from outside India by an Indian party as ECBs by following the ECB guidelines. As per ECB guidelines, funds can be raised for direct investment outside India and is included in the permitted uses of the ECB. In case where the investment is funded by ECB, an investment up to 400% of net worth can be made under the automatic route.

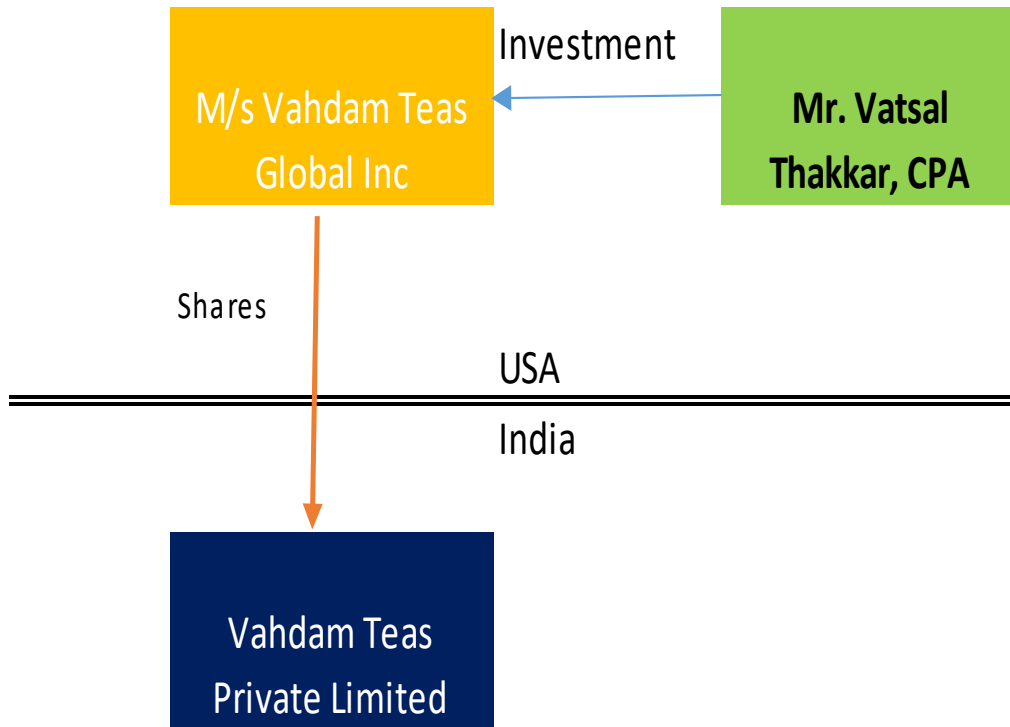
Investment funded by EEFC Account

- EEFC Account is a non-interest-bearing account wherein resident foreign exchange earners can credit up to 100% of their foreign exchange earnings. The account is made of in case where the overseas investment is funded through balance held in EEFC account or through proceeds of ADR/GDR issue in that case the ceiling of 100% of the net worth will not apply.

Investment funded by ADR/GDR issue

- An Indian party may acquire shares of a foreign company engaged in a bona fide business activity, in exchange of ADRs/GDRs issued to the latter

CA No 5056 / 2019

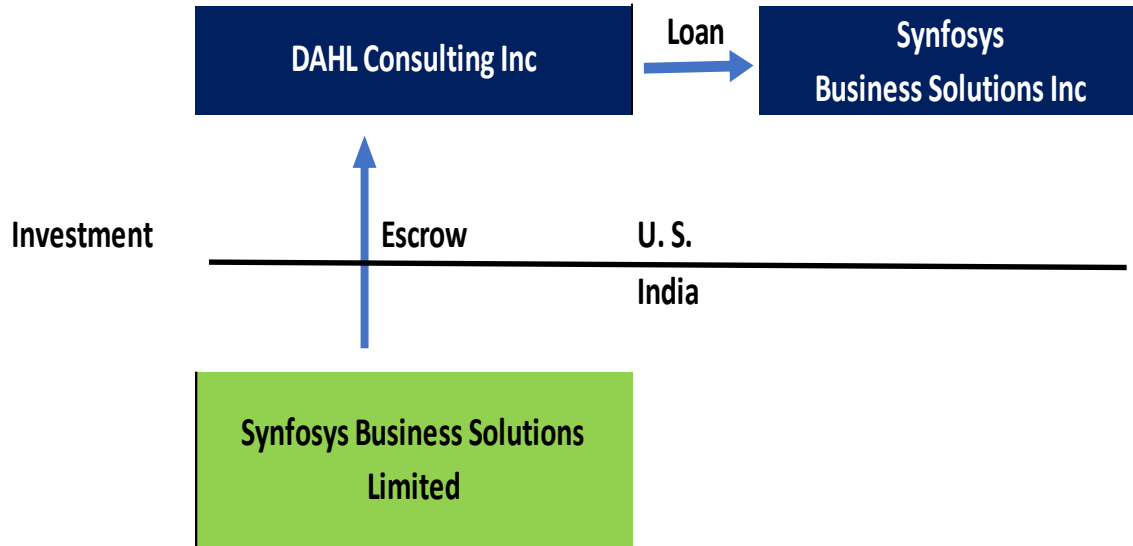


- The applicant company had set up an Wholly Owned Subsidiary (WOS), M/s Vahdam Teas Global Inc., in USA on January 08, 2018 and
- the WOS was engaged in the business of distribution and marketing of teas. The applicant company had made an investment of USD 100 into the WOS.
- The investment was made by Mr. Vatsal Thakkar a certified public accountant(CPA) who had incurred the expenses on behalf of the applicant company and the WOS issued 1000 shares to the applicant company at USD 0.10 par value.

Opening of Foreign Currency Account abroad by an Indian Party

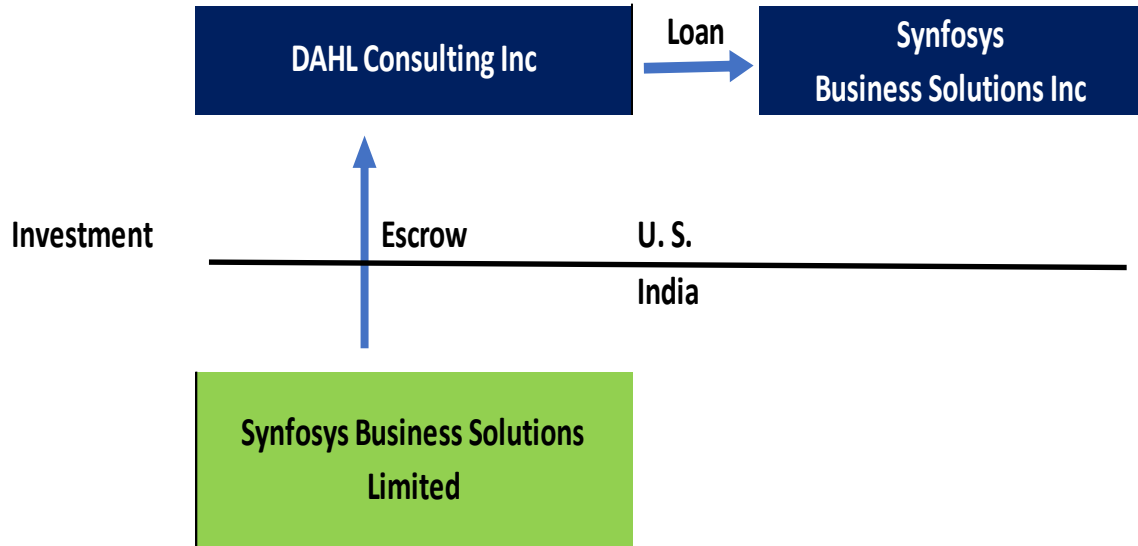
- In terms of the conditions stipulated under [A.P. \(DIR Series\) Circular No. 101 dated April 02, 2012](#), eligible Indian Party may open, hold and maintain Foreign Currency Account (FCA) abroad for the purpose of overseas direct investments subject to the following terms and conditions:
 - I. The host country regulations stipulate that the investments into the country are required to be routed through a designated account.
 - II. FCA shall be opened, held and maintained as per the regulation of the host country.
 - III. The remittances sent to the FCA by the Indian party should be utilized only for making overseas direct investment into the JV / WOS abroad.
 - IV. Any amount received in the account by way of dividend and / or other entitlements from the subsidiary shall be repatriated to India within 30 days from the date of credit.
 - V. The Indian Party should submit the details of debits and credits in the FCA on yearly basis to the designated AD bank with a certificate from the Statutory Auditors of the Indian party certifying that the FCA was maintained as per the host country laws and the extant FEMA regulations / provisions as applicable.

C.A. 4409/2017 – Synfosys Business Solutions Limited



- In May, 2012 SBSL entered into an agreement with DAHL Consulting Inc in USA to acquire its 100% stake for a consideration of USD 18 million and in terms of the said agreement it opened an escrow account with Wells Fargo Bank, USA.
- The acquisition did not take place as the applicant was not able to raise adequate funds and the purchase contract was terminated resulting in the closure of escrow account abroad.
- Some amount was repatriated back to India.
- The applicant kept the balance of some amount in escrow account for providing a loan to Business Solutions Inc, USA, WOS outside India for which reporting had not been done.

C.A. 4409/2017 – Synfosys Business Solutions Limited

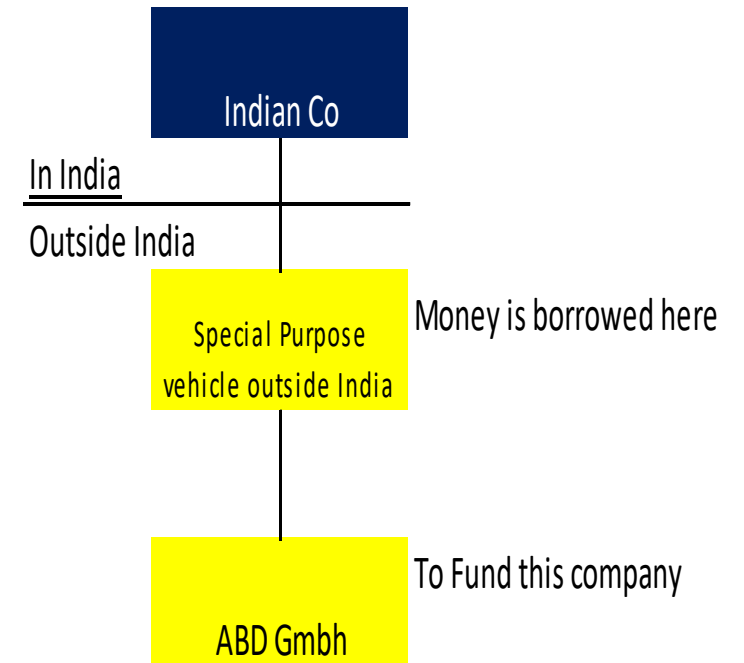


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- The acquisition did not take place as the applicant was not able to raise adequate funds and the purchase contract was terminated resulting in the closure of escrow account abroad.
- Some amount was repatriated back to India.
- The applicant kept the balance of some amount in escrow account for providing a loan to Business Solutions Inc, USA, WOS outside India for which reporting had not been done.
- **Using the amount remitted abroad through an escrow account for purposes- other than for ODI, is not permitted, Contravention of Regulation 6(2)(ii) of Notification No. FEMA No. 120/2004-RB.**

Leveraged buy out

Creation of SPV

- Special Purpose Vehicle (SPV) is created abroad
- portion of funding is arranged through the overseas bank on the loan
- being secured either by shares or assets of the target company and/or guarantee by the Indian parent.
- Setting up of an SPV under the automatic route is permitted for the purpose of making an investment in JV/WOS overseas.



Pre-Conditions for ODI



JV/WOS in bona-fide
business activity

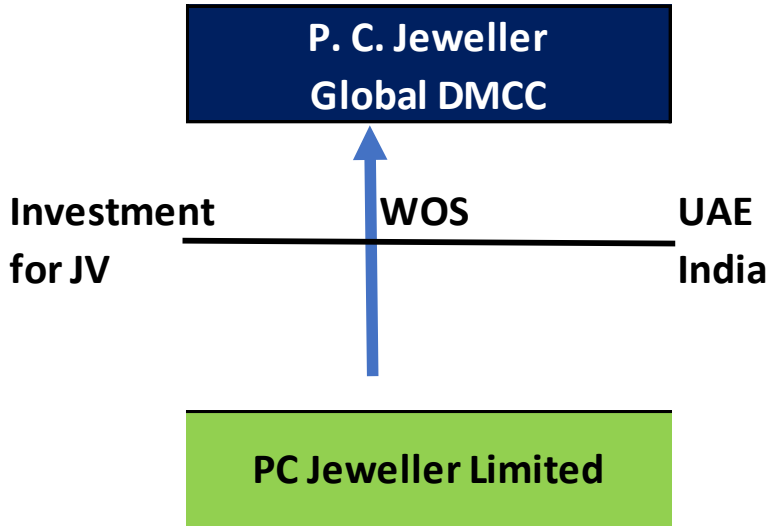
IP not on RBI's caution/
defaulter list or under
investigation

IP has submitted APR for
all overseas investment

All transactions relating to
Investment to be routed
through same AD Bank

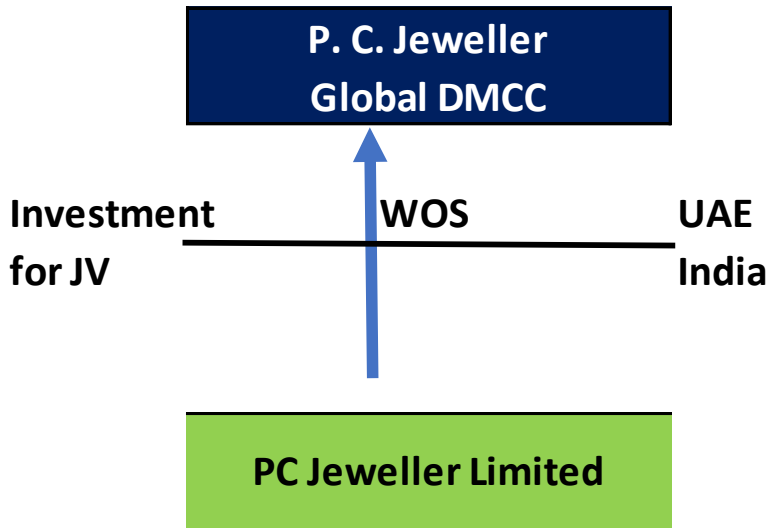
JV/WOS should not be set up
in countries regarded as
'non-cooperative countries
and territories' by FATF

C.A. No. 4619/2018 - PC Jeweller Limited



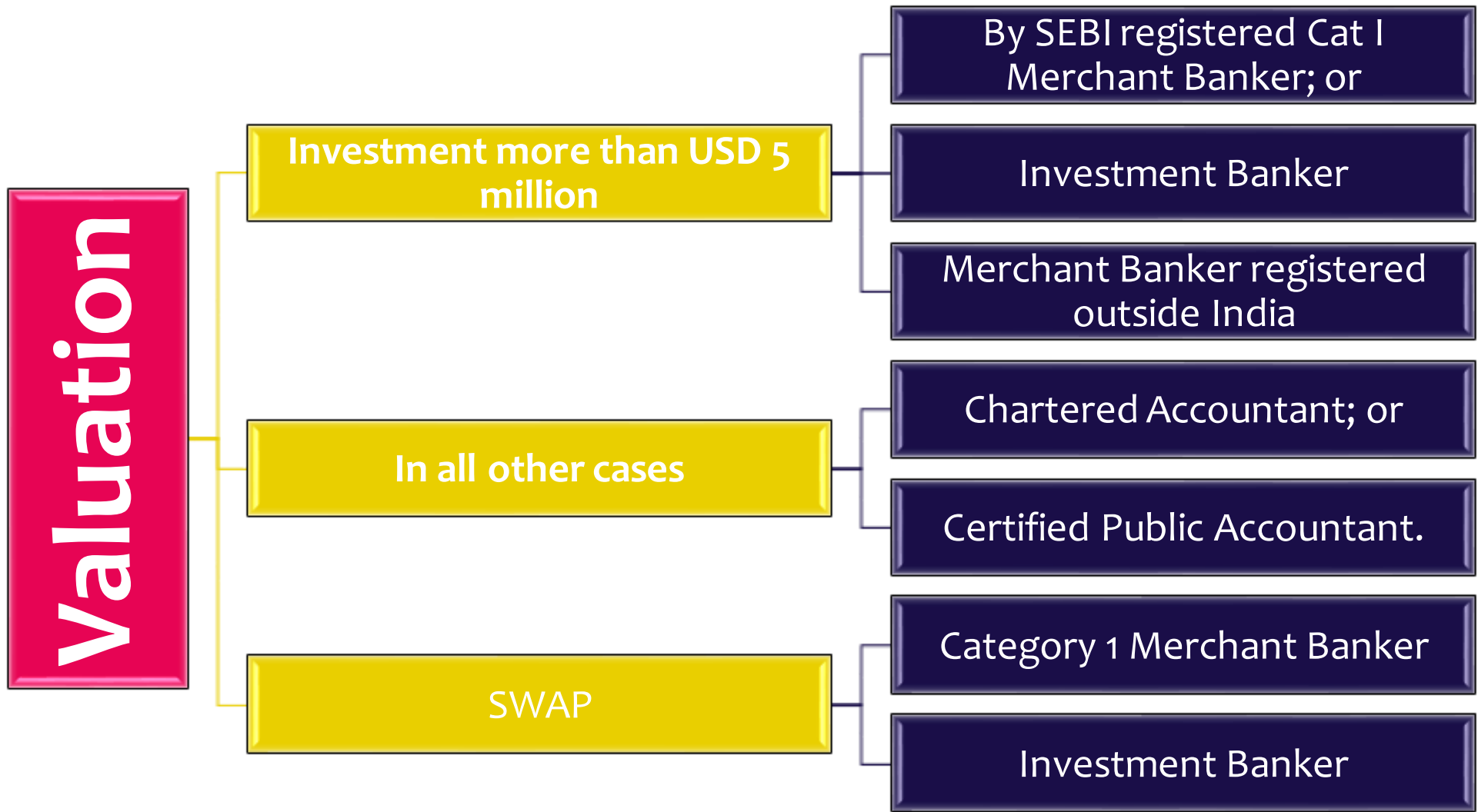
- The applicant, was incorporated as P Chand Jewellers Private Limited
- Its name was subsequently changed to PC Jewellers Private Limited then to PC Jeweller Private Limited. The status of the applicant company was changed to public limited company on August 02, 2011.
- The applicant set up a wholly-owned subsidiary (WOS) namely, P. C. Jeweller Global DMCC in UAE and made remittances.
- The applicant was under investigation by Directorate of Revenue Intelligence (DRI) which concluded in July 2014 and a show cause notice (SCN) dated was issued to the applicant. The applicant filed an appeal against the SCN to Commissioner (customs) Imports in January 2015 which is pending till date.

C.A. No. 4619/2018 - PC Jeweller Limited



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- The applicant was under investigation by Directorate of Revenue Intelligence (DRI) which concluded in July 2014 and a show cause notice (SCN) dated was issued to the applicant. The applicant filed an appeal against the SCN to Commissioner (customs) Imports in January 2015 which is pending till date.
- The applicant was not eligible to undertake overseas direct investment (ODI), under the automatic route pending disposal of the appeal and prior approval of RBI should have been obtained.
- The applicant thus contravened regulation 6(2)(iii) of Notification No. FEMA 120/2004-RB.

Valuation Requirement by ODI



**Thanks
Your Queries !!**



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