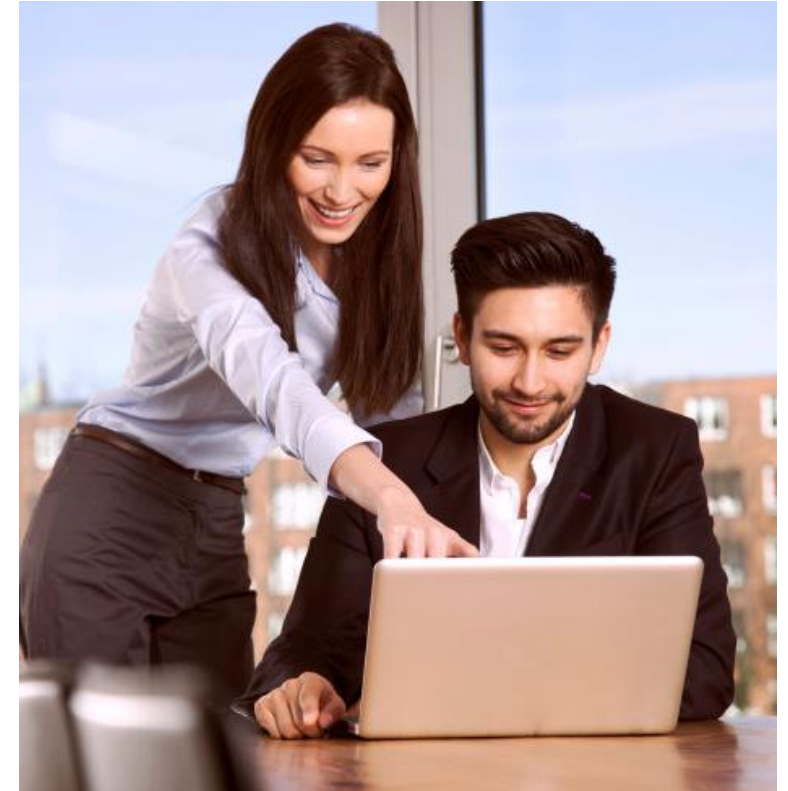


FinMin amends Foreign Exchange Management (Non-debt Instruments) Rules 2019 (1/3)

Summary

The Ministry of Finance (FinMin) has amended Foreign Exchange Management (Non-debt Instruments) Rules 2019. The amended rules –

- relaxes foreign investment norms for insurance intermediaries.
- mandates valuation of right shares acquired by a non-resident, after renunciation of rights by an Indian resident, in accordance with the pricing guidelines.
- tightens sourcing norms in case of Single Brand Retail Trading (SBRT).
- imposes additional condition for divestment of holdings by a Foreign Portfolio Investment (FPI) and reclassification of FPI investment as Foreign Direct Investment (FDI).



FinMin amends Foreign Exchange Management (Non-debt Instruments) Rules 2019 (2/3)

Relaxation of foreign investment norms for insurance intermediaries

In case of insurance intermediaries, earlier FDI was allowed upto 49% under the automatic route. Now, 100% FDI is allowed under automatic route. However, for insurance companies, the limit would still remain upto 49% FDI under the automatic route.

Insurance intermediaries with majority foreign investors are also required to adhere to the following additional conditions:

- Should be incorporated as a limited company in India.
- Composition of board of directors and key managerial person (KMP) shall be as specified by concerned regulators.
- At least one KMP or chairman of the board of directors should be an Indian resident.
- Shall make proper disclosures and take prior permission of Insurance Regulatory and Development Authority of India (IRDAI) before repatriating dividend or making other payments to foreign related entity.
- Shall bring in the latest technological, managerial and other skills.

FinMin amends Foreign Exchange Management (Non-debt Instruments) Rules 2019 (3/3)

Valuation on acquisition of right shares

Foreign resident acquiring right shares, after renunciation of rights by an Indian resident, are now required to get valuation of shares done as per the pricing guidelines specified.

Tightening of sourcing norms in case of SBRT

As per extant regulations, in cases of foreign investment of more than 51% under SBRT, 30% of the value of goods purchased are required to be sourced from India. However, the above norms were not applicable upto a period of three years from the date of opening of first store for entities undertaking SBRT with state of the art and cutting-edge technology and where local sourcing was not possible.

Now, the relaxation of 3 years is applicable from the date of opening of first store or start of online retail, whichever is earlier.

Additional conditions for divestment of holdings by the FPI and the reclassification of FPI investment as FDI

Under the extant regulations, an FPI could invest, through equity instruments, upto 10% of the paid-up share capital of a listed Indian company. However, investment made by all FPIs taken together should not exceed 24% of the paid-up share capital in such listed company.

FPIs investing in breach of the aforesaid limits are allowed to divest their additional holdings within five trading days. In case the FPI chooses not to divest, then the entire investment is considered as FDI and the FPI will not be allowed to make further investment in the company.

Now, FinMin has added that the divestment of holdings by the FPI and the consequent reclassification as FDI shall be subject to further conditions, if any, specified by the SEBI or RBI.