

**MINISTRY OF FINANCE**  
**(Department of Economic Affairs)**

**NOTIFICATION**

New Delhi, the 27th April, 2020

**S.O. 1374(E).**—In exercise of the powers conferred by clauses (aa) and (ab) of sub-section (2) of section 46 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Central Government hereby makes the following rules further to amend the Foreign Exchange Management (Non-debt Instruments) Rules, 2019, namely:-

1. **Short title and commencement.** - (1) These rules may be called the Foreign Exchange Management (Non-debt Instruments) (Second Amendment) Rules, 2020.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 (hereinafter referred to as the principal rules), in rule 7, the explanation shall be omitted.
3. In the principal rules, after rule 7, the following rule shall be inserted, namely:

**“7A. Acquisition after renunciation of rights.-** *A person resident outside India who has acquired a right from a person resident in India who has renounced it may acquire equity instruments (other than share warrants) against the said rights as per pricing guidelines specified under rule 21 of these rules”.*

4. In the principal rules, in Schedule 1, in the Table,-

(i) against serial number 15.3.1, in the entries under column (2), under sub-heading “Note”, in serial number (3), after the words “first store”, the words “*or start of online retail, whichever is earlier*” shall be inserted.

(ii) serial number F.8.1, for the entries in column (2), under the heading “Sector/Activity”, the following entry shall be substituted, namely:-

*“Insurance Company”*

(iii) for serial number F. 8.2 and the entries relating thereto, the following serial number and entries shall be substituted, namely:-

(1)	(2)	(3)	(4)
“F.8.2	<i>Intermediaries or Insurance Intermediaries including insurance brokers, re-insurance brokers, insurance consultants, corporate agents, third party administrator, Surveyors and Loss Assessors and such other entities, as may be notified by the Insurance Regulatory and Development Authority of India from time to time.</i>	100%	<i>Automatic”</i>

(iv) after serial number F.8.2 as so substituted, the following serial number and entries shall be inserted, namely :-

(1)	(2)
“F.8.3	<b>Other Conditions</b>
	<p>(a) <i>No Indian Insurance company shall allow the aggregate holdings by way of total foreign investment in its equity shares by foreign investors, including portfolio investors, to exceed forty-nine percent of the paid up equity capital of such Indian Insurance Company.</i></p> <p>(b) <i>The foreign investment up to forty-nine percent of the total paid-up equity of the Indian Insurance Company shall be allowed on the automatic route subject to approval or verification by the Insurance Regulatory and Development Authority of India.</i></p> <p>(c) <i>Foreign investment in this sector shall be subject to compliance with the provisions of the Insurance Act, 1938 and the condition that Companies receiving FDI shall obtain necessary license or approval from the Insurance Regulatory and Development Authority of India for undertaking insurance and related activities.</i></p> <p>(d) <i>An Indian Insurance company shall ensure that its ownership and control remains at all times in the hands of resident Indian entities as determined by Department of Financial Services or Insurance Regulatory and Development Authority of India as per the rules or regulation issued by them from time to time.</i></p> <p>(e) <i>Foreign portfolio investment in an Indian Insurance company shall be governed by the provisions contained in Chapter-IV, rule 10 and rule 11 read with Schedule-II of these rules and provisions of the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014.</i></p> <p>(f) <i>Any increase in foreign investment in an Indian Insurance company shall be in accordance with the pricing guidelines specified in these rules.</i></p> <p>(g) <i>The foreign equity investment cap of 100 per cent shall apply on the same terms as above to insurance brokers, re-insurance brokers, insurance consultants, corporate agents, third party administrator, Surveyors and Loss Assessors and such other entities, as may be notified by the Insurance Regulatory and Development Authority of India from time to time. However, the condition of Indian owned and controlled, as specified in clause (d) above, shall not be applicable to Intermediaries and Insurance Intermediaries and composition of the Board of Directors and key management persons shall be as specified by the concerned regulators from time to time.</i></p> <p>(h) <i>The foreign direct investment proposals shall be allowed under the automatic route subject to verification by the Authority and the foreign investment in intermediaries or insurance intermediaries shall be governed by the same terms as provided under rules 7 and 8 of the Indian Insurance Companies (Foreign Investment) Rules, 2015, as amended from time to time:</i></p> <p><i>Provided that where an entity like a Bank, whose primary business is outside the insurance area, is allowed by the Authority to function as an insurance intermediary, the foreign equity investment caps applicable in that sector shall continue to apply, subject to the condition that the revenues of such entities from the primary (non-insurance related) business must remain above 50 per cent of their total revenues in any financial year.</i></p>

	<p>(i) <i>The insurance intermediary that has majority shareholding of foreign investors shall undertake the following:</i></p> <p>(i) <i>be incorporated as a limited company under the provisions of the Companies Act, 2013;</i></p> <p>(ii) <i>at least one from among the Chairman of the Board of Directors or the Chief Executive Officer or Principal Officer or Managing Director of the insurance intermediary shall be a resident Indian citizen;</i></p> <p>(iii) <i>shall take prior permission of the Authority for repatriating dividend;</i></p> <p>(iv) <i>shall bring in the latest technological, managerial and other skills;</i></p> <p>(v) <i>shall not make payments to the foreign group or promoter or subsidiary or interconnected or associate entities beyond what is necessary or permitted by the Authority;</i></p> <p>(vi) <i>shall make disclosures in the formats to be specified by the Authority of all payments made to its group or promoter or subsidiary or interconnected or associate entities;</i></p> <p>(vii) <i>composition of the Board of Directors and key management persons shall be as specified by the concerned regulators;</i></p> <p>(j) <i>The other condition under the heading 'Banking-Private Sector' specified against serial number F.2.1 shall be applicable in respect of bank promoted insurance companies.</i></p> <p>(k) <i>Terms 'Control', 'Equity Share Capital', 'Foreign Direct Investment' (FDI), 'Foreign Investors', 'Foreign Portfolio Investment', 'Indian Insurance Company', 'Indian Company', 'Indian Control of an Indian Insurance Company', 'Indian Ownership', 'Non-resident Entity', 'Public Financial Institution', 'Resident Indian Citizen', 'Total Foreign Investment' will have the same meaning as provided in Notification No. G.S.R 115 (E), dated the 19<sup>th</sup> February, 2015 issued by Department of Financial Services and regulations issued by Insurance Regulatory and Development Authority of India from time to time."</i></p>
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(v) In the principal rules, in Schedule II, for the entries in clause (iii) of sub-paragraph (a) of paragraph 1, the following entries shall be substituted, namely:-

*"The FPIs investing in breach of the prescribed limit shall have the option of divesting their holdings within five trading days from the date of settlement of the trades causing the breach. In case the FPI chooses not to divest, then the entire investment in the company by such FPI and its investor group shall be considered as investment under Foreign Direct Investment (FDI) and the FPI and its investor group shall not make further portfolio investment in the company concerned. The FPI, through its designated custodian, shall bring the same to the notice of the depositories as well as the concerned company for effecting necessary changes in their records, within seven trading days from the date of settlement of the trades causing the breach. The divestment of holdings by the FPI and the reclassification of FPI investment as FDI shall be subject to further conditions, if any, specified by Securities and Exchange Board of India and the Reserve Bank in this regard. The breach of the said aggregate or sectoral limit on account of such acquisition for the period between the acquisition and sale or conversion to FDI within the prescribed time, shall not be reckoned as a contravention under these rules."*

[F. No. 01/05/EM/2019]

ANAND MOHAN BAJAJ, Jt. Secy.

**Note:** The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number S.O.3732 (E), dated the 17th October, 2019 and subsequently amended vide numbers S.O. 4355 (E), dated the 5th December 2019 and S.O. 1278 (E), dated the 22nd April, 2020.