

Indian Insurance Companies (Foreign Investment) Rules, 2015

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Rule

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Indian Insurance Companies (Foreign Investment) Rules, 2015Published vide Notification No. G.S.R. 115(E), dated 19th February, 2015Last Updated 3rd September, 2019Ministry of Finance(Department of Financial Services)G.S.R. 115(E). - In exercise of the powers conferred by clause (aaa) of sub-section (2) of Section 114 of the Insurance Act, 1938 read with clause (b) of sub-section (7A) of Section 2 of the Insurance Act, 1938 and Section 24 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), the Central Government hereby makes the following rules in respect of foreign investment in Indian insurance companies, namely:-

1. Short title and commencement.

(1)These rules may be called Indian Insurance Companies (Foreign Investment) Rules, 2015.(2)They shall come into force from the date of their publication in the Official Gazette.

2. Definitions.

- In these rules, unless the context otherwise requires, -(a)"Act" means the Insurance Act, 1938 (4 of 1938);(b)"Authority" means the Insurance Regulatory and Development Authority of India established under sub-section (1) of Section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);(c)"Control" shall have the same meaning assigned to it in the explanation to clause (b) of sub-section (7A) of Section 2 of the Insurance Act, 1938 (4 of 1938);(d)"equity share capital" shall have the same meaning assigned to it in section 43 of the Companies Act, 2013 (18 of 2013);(e)"FIPB" means the Foreign Investment Promotion Board as described in the Foreign Direct Investment Policy of the Government of India;(f)"Foreign Direct Investment" (FDI) means and includes investment by non-resident entities/persons resident

outside India and other eligible entities in the equity shares of an Indian Insurance Company under clause (i) of sub-regulation (1) of regulation 5 of the Foreign Exchange Management (Transfer or issue of Security by a Person Resident Outside India) Regulations, 2000 (hereinafter referred to as FEMA Regulations 2000); Provided that for the purpose of these rules, Foreign Direct Investment shall include investment by Foreign Venture Capital Investors (FVCI) as permissible under Regulation 6 of FEMA Regulations 2000; (g) "Foreign Investors" for the purpose of these rules means all eligible non-resident entities or persons resident outside India investing in the equity share of an Indian Insurance Company, as permitted to do so through the Foreign Direct Investment and Foreign Portfolio Investment windows under FEMA Regulations 2000 as described in these rules; (h) "Foreign Portfolio Investment" means and includes investments in the equity share of an Indian Insurance company by Foreign Institutional Investors, Foreign Portfolio Investors, Non Resident Indians, Qualified Foreign Investors and other eligible portfolio investor entities or persons in accordance with provisions contained in sub-regulations (2), (2A), (3) and (8) of regulation 5 of FEMA Regulations, 2000. (i) "Indian Insurance Company" shall have the same meaning assigned to it in sub-section (7A) of section 2 of the Insurance Act, 1938 (4 of 1938); (j) "Indian Company" shall have the same meaning assigned to the term "Company" in sub-section (20) of Section 2 of the Companies Act 2013 (18 of 2013); (k) "Indian Control of an Indian Insurance Company" means Control of such Indian Insurance Company by resident Indian citizens or Indian companies, which are owned and controlled by resident Indian citizens; (l) "Indian Ownership" of an Indian Insurance Company means more than 50 per cent of the equity capital in it is beneficially owned by resident Indian citizens or Indian companies, which are owned and controlled by resident Indian citizens; [Provided that the manner of computation of foreign holding of such Indian promoter or Indian Investor Company shall be in accordance with clause (p) of rule 2.] [Inserted by Notification No. G.S.R. 534(E), dated 3.7.2015 (w.e.f. 19.2.2015).] (la) "intermediary or insurance intermediary" shall have the meaning assigned to it in clause (f) of sub-section (1) of section 2 of the Insurance Regulatory and Development Authority Act, 1999; [Inserted by Notification No. G.S.R. 619(E), dated 2.9.2019 (w.e.f. 19.2.2015).] (m) "Non-resident Entity" shall have the meaning assigned to the term "Person resident outside India" in clause (w) of Section 2 of Foreign Exchange Management Act, 1999 (42 of 1999); (n) "Public Financial Institution" shall have the same meaning assigned to it in sub-section (72) of Section 2 of the Companies Act, 2013 (18 of 2013); (o) "Resident Indian Citizen" shall have the same meaning assigned to it in the FDI Policy 2014; (p) "Total Foreign Investment" in an Indian Insurance Company would be the sum total of direct and indirect foreign investment by Foreign Investors in such company, calculated in accordance with the Insurance Regulatory and Development Authority (Registration of Companies) Regulations 2000 read with Para 4.1.4 of the Consolidated FDI policy of the Government of India. (q) All other words and expressions used in these rules but not defined, and defined in the Act and Rules, Regulations made there under shall have the same meanings respectively assigned to them. Quantum of Foreign Direct Investment

3.

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.

4.

An Indian Insurance Company shall ensure that its ownership and control shall remain at all times in the hands of resident Indian entities referred to in clauses (k) and (l) of rule 2.

5.

[The Foreign Investment proposals up to forty-nine per cent of the total paid up equity of the Indian Insurance Company shall be allowed on the automatic route subject to verification by the Insurance Regulatory and Development Authority of India.] [Substituted 'The Foreign Direct Investment proposals upto 26 per cent of the total paid up equity of the Indian Insurance Company shall be allowed on the automatic route.' by Notification No. G.S.R. 314(E), dated 16.3.2016 (w.e.f. 19.2.2015).]

6.

[* * *] [Deleted 'Foreign Direct Investment proposals which take the total Foreign Investment in the Indian Insurance Company above 26 per cent and upto the cap of 49 per cent shall be on the FIPB route, and shall require FIPB approval subject to compliance of the provisions of the Act.' by Notification No. G.S.R. 314(E), dated 16.3.2016 (w.e.f. 19.2.2015).]

7.

Foreign Portfolio Investment in an Indian Insurance Company shall be governed by the provisions contained in sub-regulations (2), (2A), (3) and (8) of regulation 5 of FEMA Regulations, 2000 and provisions of the Securities Exchange Board of India (Foreign Portfolio Investors) Regulations.

8.

Any increase of foreign investment of an Indian insurance company shall be in accordance with the pricing guidelines specified by Reserve Bank of India under the FEMA.

9. [[Substituted by Notification No. G.S.R. 619(E), dated 2.9.2019 (w.e.f. 19.2.2015).]

(1) There shall be no cap to foreign equity investment for intermediaries or insurance intermediaries. (2) The foreign direct investment proposals under this rule 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: 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.(3)The insurance intermediary that has majority shareholding of foreign investors shall undertake the following:(i)be incorporated as a limited company under the provisions of the Companies Act, 2013;(ii)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;(iii)shall take prior permission of the Authority for repatriating dividend;(iv)shall bring in the latest technological, managerial and other skills;(v)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;(vi)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;(vii)composition of the Board of Directors and key management persons shall be as specified by the concerned regulators;]

10.

Other aspects related to or associated with or flowing from matters related to Foreign Investment in an [intermediary and insurance intermediary] [Substituted 'Indian Insurance Company' by Notification No. G.S.R. 619(E), dated 2.9.2019 (w.e.f. 19.2.2015).], which are not the subject matter of these rules, and fall within the regulatory ambit of the Authority, will be regulated as per regulations to be framed by the Authority, consistent with the relevant statutes and other rules framed there under.