

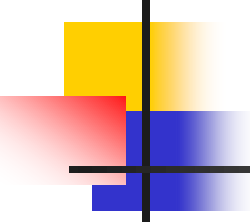
WIRC'S BORIVALI KANDIVALI (E) CPE STUDY CIRCLE

FEMA Study Course
on 29th May 2011

INVESTMENT IN INDIA

Presented by:
Mr. Paresh P. Shah

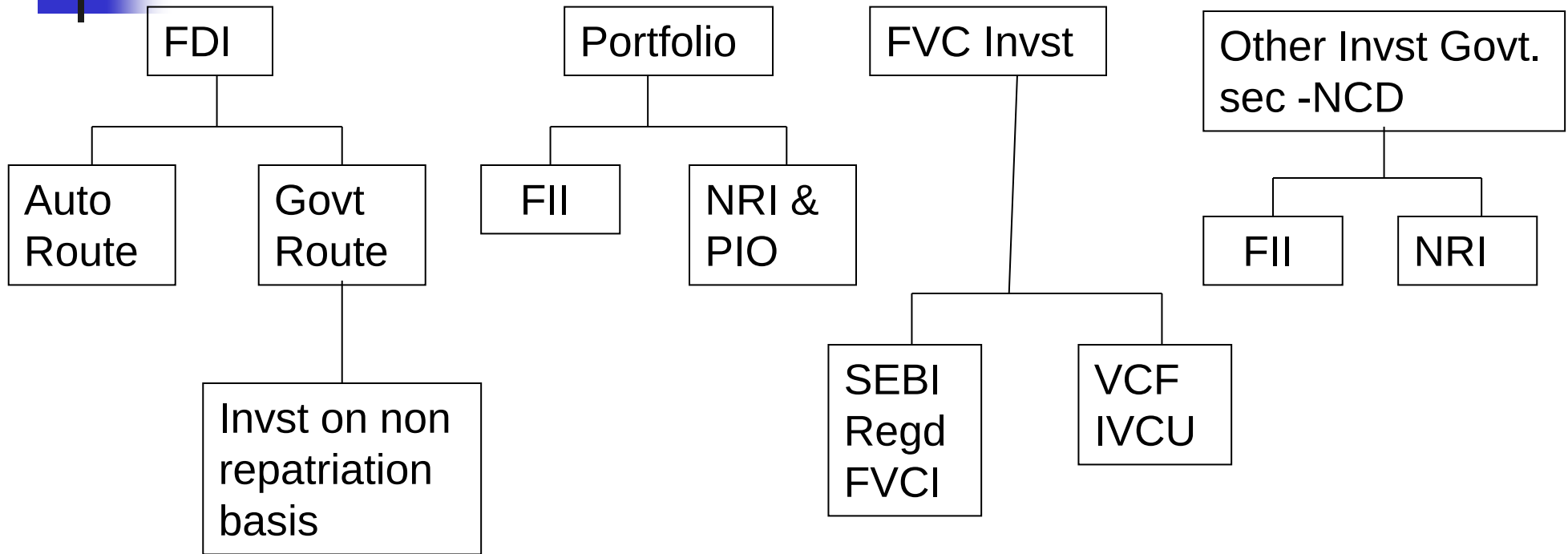
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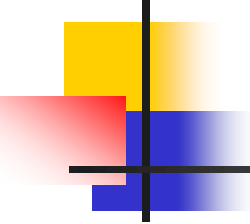


Overview of Presentation

- Investment in India.
- Foreign Direct Investment Policy.
- Automatic Route of Investment in India.
 - Foreign Direct Investment through Company in India
 - Portfolio Investment by FII & NRI's
 - Investment by NRI's
 - Other Investment of FII & NRI
 - Investment by FVCI
- Investment in Proprietary Concern and Partnership Firm
- Investment in Immovable Property.

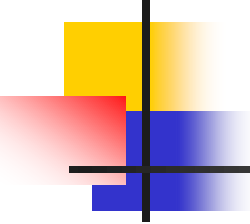
Overview of scheme of Investment by PROI





Investment in India

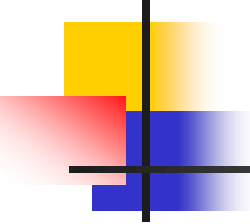
- Regulatory & Legal Framework
Industrial Development (Regulation) Act, 1951 & FEMA 1999.
- Overall Policy of Government, mainly focusses on
 - Public Sector
 - Compulsory Licensing
 - Small Scale Sector – Micro, Small & Medium Enterprises (Development) Act, 2006.
 - Locational Restriction.
- Prohibitions.
- FDI policy, Sector Specific Guidelines, Automatic route & Procedures
- FEMA provides for Rules/ modes of investment, manner of receipts, Valuations and reporting procedures.



Investment in India

Legal Framework

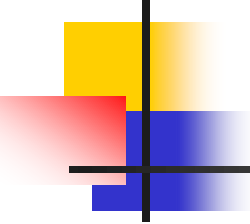
- Section 6(2) of the FEMA empowers, RBI to frame regulations in respect of permissible capital Account transactions.
- Notification No. FEMA 1/2000 RB dt. 3rd May 2000 specifies permissible capital account transactions.
- Notification No FEMA 20/2000 RB dt. 3rd May 2000 specifies regulations for issue or transfer of securities by Person Resident in India (PRII).
- FDI (Schedule 1) Portfolio Investment by FII, (Schedule 2) Portfolio Investment by NRI (Schedule 3), Investment on Non Repatriation basis (Schedule 4) Investment in securities other than shares & convertible debentures (Schedule 5) and Investment by FVCI (Schedule 6)[These are Schedule containing rules and regulations for investment under FEMA 20.]
- Master Circular 13/2010-11 dt. July 1 2010.
- Government Policy Circular No. 1 of April 2011.



Investment in India Legal Framework

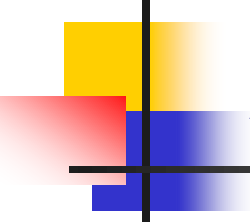
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- Investment in Partnership Firm by PROI, Notification No 24/2000-RB dt. 3rd May 2000.
- Investment in Immovable property by PROI, Notification No 21/2000-RB dt. 3rd May 2000.



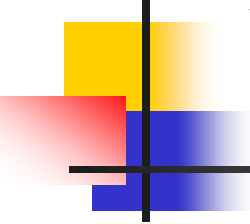
Foreign Direct Investment Policy

- Consolidated FDI Policy dt. 01.04.2011 of Ministry of Commerce & Industry (MOC & I), Department of Industrial Policy and Promotion (DIPP), Government of India (GOI) (Consolidated FDI Policy (CFDIP))
- Investment by PROI with approval of FIPB/ SIA- Guidelines of FIPB, MOC, GOI. (Para 2.1.17 of Policy)
- Investment under Automatic Route (Notification No. FEMA 20/2000-RB dated May 3, 2000)(Para 4.2 of the Policy.)



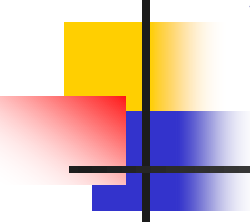
Automatic Route of Investment to PROI

- Main Conditions of issue of Shares (Reg. 5, Schedule 1, Notification No. FEMA 20/2000-RB dated May 3, 2000).
- Eligible Persons:
 - PROI other than citizen of Pakistan, entities of Pakistan.
 - Bangladesh Citizens & entities only with prior approval of FIPB.
 - OCB: Bonus Shares permitted, Right Shares with RBI Approval.
- Eligible Instruments.
 - Equity Shares, Compulsorily Convertible Preference Shares (CPS), Compulsorily Convertible Debentures (CDS).
 - As per FDI Policy 2011, companies have option of prescribing conversion formula for pricing of convertible instruments, subject to FEMA / SEBI valuation guidelines
 - Issue of Warrants, Partly paid Shares and issue of shares with deferred payments, not permitted.



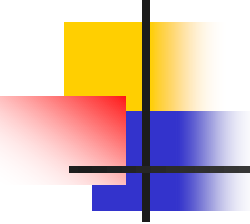
Automatic Route of Investment to PROI contd.

- FDI Investment in Indian companies (Regulation 5 of Notification No. FEMA 20/2000-RB dated May 3, 2000)
- Prohibitions (PARA 5.1 OF CFDIP)
 - Retail Trading, Atomic Energy, Lottery, Gambling & Bettings including Casinos, Chit Fund, Nidhi, Trading in Transferable Development Rights (TDRs), Activities/ Sectors not opened to Private Sector Investment, Agricultural & plantations.



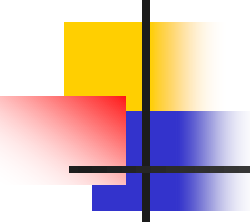
Automatic Route of Investment to PROI contd.

- In case of Previous Joint Venture or Tie Up Press Note 1 of January 12, 2005, shall apply-SIA/FIPB approval
Exception in cases when Investment is by
 - VCF, multilateral financial institution, or
 - Existing investment of JV Partner is less than 3%, or
 - It is a Defunct Joint Venture, or
 - Investment is in Information Technology/ Mining Sector.
- Investment in Micro and Small enterprises
 - Micro, Small and Medium Enterprises Act, 2006.
 - Company can issue shares upto 24 % to a PROI.
 - FIPB approval if percentage of Capital is in excess of 24% to PROI.
 - Press Note no. 6 (2009 Series)
- ADR/GDR & FCCB: Issue of FCCB and ordinary shares (Through Depository Receipt Mechanism) Scheme, 1993.



Documentation & Procedure of Issue of Shares to PROI

- Intimation of receipt of remittance to Authorised dealer (AD) within 30 days with KYC report as per CIR. NO. 44/2007-08-RB, DT. 30/05/2008 from the Banker of remitter.
- Intimation of allotment to ADs of Shares/CPS/CDS within 30 days from the date of allotment to PROI together with :
 - a) Allotment Report by Company Secretary
 - b) Valuation of Shares by CA.
 - c) Undertaking in respect of prohibited activity.
 - d) Resolution of Indian Company.
 - e) Form FC-GPR duly filled in.
- Intimation and allotment of Reporting- A Mechanism.
- Allotment is required to be made within 180 days of the receipt of remittance. Application money is required to be refunded if no allotment is made within 180 days.
- Annual FC-GPR is to filed every year by 31st July.



Manner of Receipts & Reporting of Investment

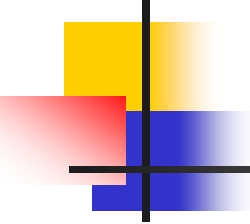
- Manner of Receipt :

Receipt of Subscription should be either by Inward remittance through normal Banking Channel or from NRE account of the Investor maintained in India.

Shares can be issued against conversion of ECB or against consideration in kind to provider of Technology/ technical know how against Royalty/ Lumpsum Fee.

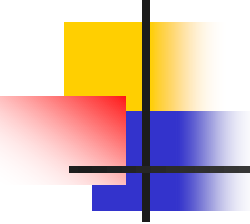
- FDI Policy 2011 now permits issue of shares, under Govt. route against (a) import of capital goods / machinery / equipment (including second-hand), and (b) Pre-operative / pre-incorporation expns (incl. rent)
- Reporting in Form FC-GPR and FC-GPR/ ECB2 in case of conversion of ECB.
- Valuation of Shares :

Discounted Free Cash Flow method by CAs.



Issue of Shares- Other modes.

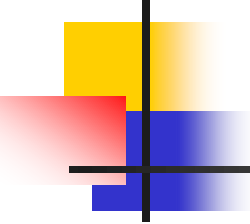
- Issue of Bonus Shares allowed.
- Issue of Right Shares
 - Price offered to PROI can not be lower than that offered to PRII.
 - Additional Shares allowed within FDI Ceiling.
 - Existing OCB allowed with prior approval.
- Amalgamation / Demerger
 - Amalgamating/ transferee company can issue shares if it is engaged in eligible sector and observes FDI ceiling.
 - Reports the transaction to RBI within 30 days of such court order of amalgamation with percentage of capital held by PROI in transferor , transferee or new company before or after the transfer.



Issue of Shares- Other modes.

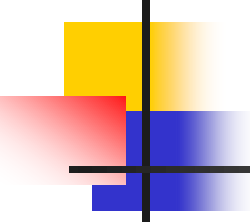
- ESOP Shares

- As per the SEBI guidelines, Face Value of shares does not exceed 5% of the paid up capital of the company.
- Either through Trust or directly, Employees of company (PROI) or its Joint Venture or the WOS outside India.
- Report the transaction to RBI within 30 days with certificate from Secretary that not exceeding 5% of the capital is issued and it is as per SEBI guidelines.



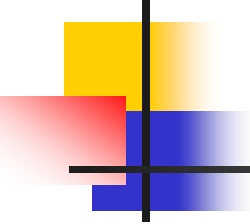
Issue of Shares under ADR/ GDR

- Foreign Exchange Resources by issue of ADR/GDR in accordance with scheme for issue of Foreign Currency Convertible Bonds and ordinary shares (through Depository Receipt mechanism)
- Issue of Depository Receipts issued by Depository Bank outside India on behalf of Indian company.
- Listed company eligible to issue shares to PROI.
- Unlisted company can issue shares under ADR/GDR scheme simultaneously with listing in domestic market.
- Unlisted company with ADR/GDR have to list within three years of such issue of ADR/GDR.
- End Use: NO bar except investment in real estate or the stock market.
- Erstwhile OCB cannot invest into ADR/GDR.
- Pricing: As per the scheme
- Sponsored ADR/GDR without increasing capital.



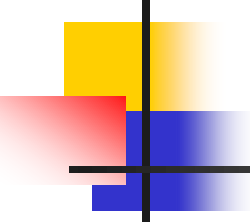
Issue of Shares under ADR/ GDR Contd.

- Two Way Fungibility possible.
 - Full Report of issue of ADR/GDR within 30 days to RBI from the date of closing the issue.
 - Quarterly return to the RBI within 15 days of the each calendar quarter.
 - Quarterly reporting until amount is invested outside India or money is brought to India.
- [Form DR & DR (Quarterly)]



Guidelines of FIPB, GOI

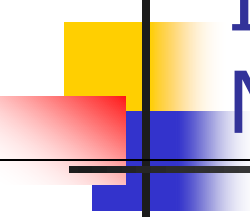
- Proposal is put before FIPB within 15 days of its receipt with the comments of respective Ministry/ries.
- Sectoral Cap & requirements to be considered by FIPB.
- Time frame of 30 days for communicating the decision by the GOI.
- Items requiring Industrial License.
- Export Oriented proposal.
- Strategic or defence related consideration.
- Priority if sector is Infrastructure or has export potential / Large scale employment potential/ item with backward linkage with Agro/ Farm Sector/ item with greater social relevance, induction of technology and capital.



Guidelines of FIPB, GOI

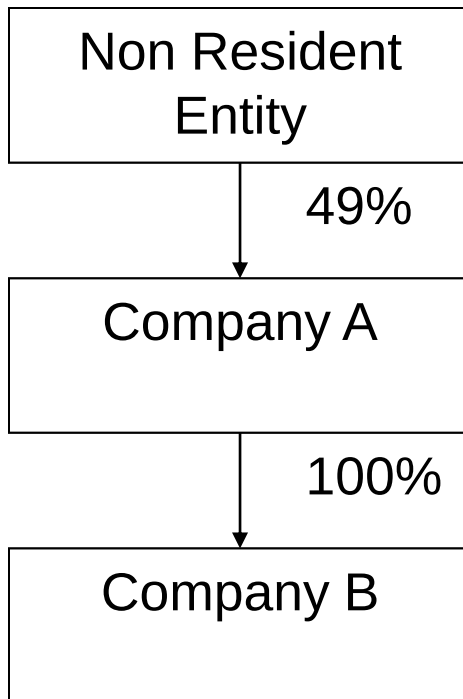
contd.

- Fresh Equity in existing company or New company with modality of right to transfer of shares etc.
- Activity is Industrial or Service.
- Sectoral Restrictions.
- Import of Hazardous or Banned items etc.

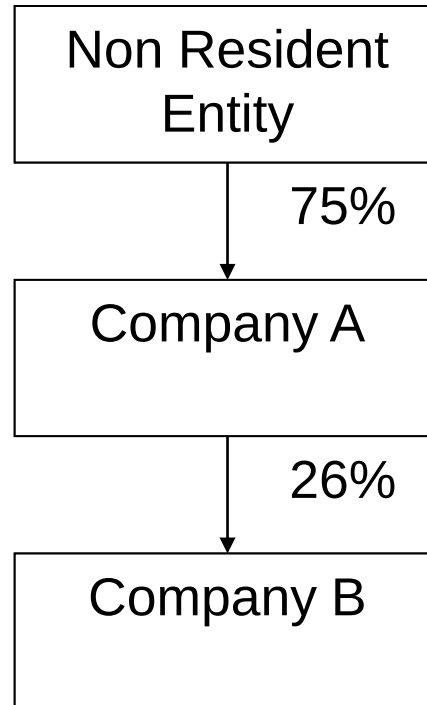


Investment through Holding Company Press Note 2 (2009 Series)

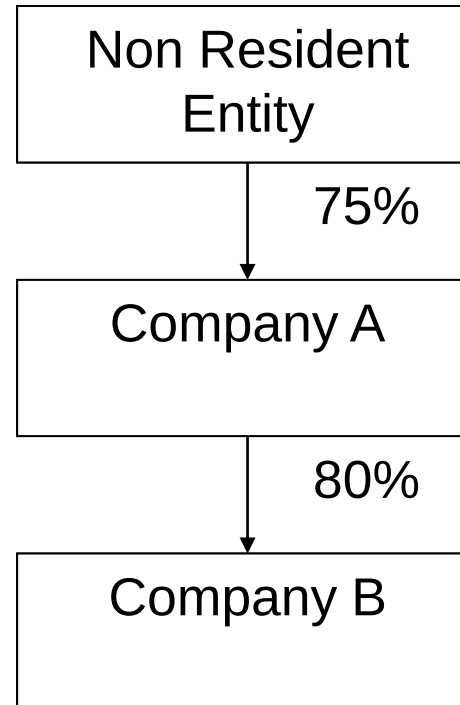
Scenario 1



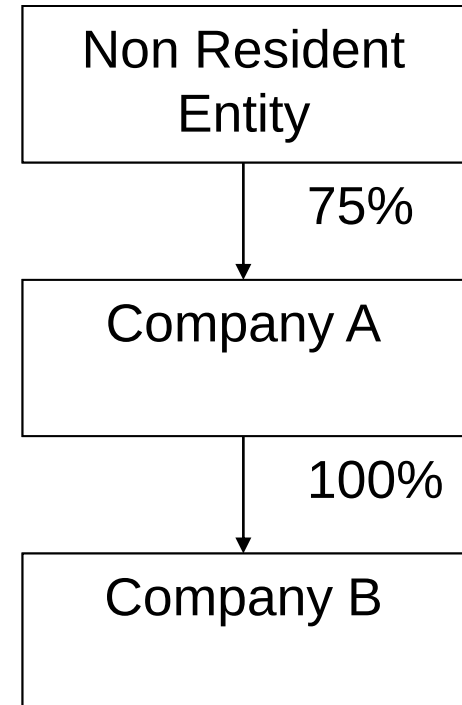
Scenario 2

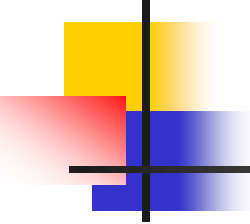


Scenario 3



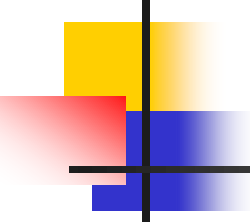
Scenario 4





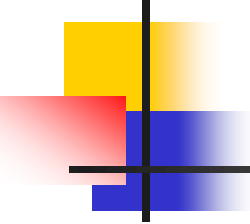
Investment through Holding Company Press Note 2 (2009 Series) contd.

- Company A is investing in company B
- Foreign Investment = Direct investment + Indirect investment
- Assuming there is no direct non resident investment in company B, foreign investment in each of the scenario is as under
 - a) Scenario 1: Nil + Nil = Nil
 - b) Scenario 2: Nil + 26% = 26%
 - c) Scenario 3: Nil + 80% = 80%
 - d) Scenario 4: Nil + 75% = 75%
- The methodology will apply at every stage where Investing Indian company is intercepted and to all Indian Companies.



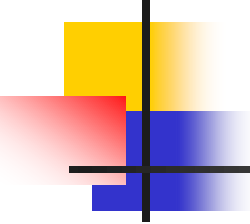
Portfolio Investment by FII in India

- Portfolio Investment and its meaning:
 - “Investment made with an intention to maximise profits, without any interest in the management and control of the company, may be defined as “ Portfolio Investment”.
- SEBI Registered FII and FII Sub accounts - are eligible.
- Total shareholding of each FII / sub account of FII shall not exceed 10% of the paid up capital of the concerned company or 10% of the paid up value of debentures of each series.
- Total holding of all FIIs / sub accounts of FIIs put together shall not exceed 24% of paid up capital.
 - Limit of 24% can be increased by the concerned company by passing special resolution up to the percentage as permitted under FDI guidelines under the Sectoral policy.



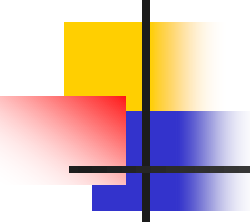
Portfolio Investment by FII in India contd.

- Domestic Asset management company or portfolio manager registered as FII for managing fund of sub account: limit as referred above, of 10% in Equity shares / Convertible debentures under sub account scheme is 5% within overall ceiling of 10% for each FII and 24% for all FIIs put together.
- FII, FII sub account, Domestic Asset management company and Portfolio manager are defined under the SEBI Guidelines. FII is also defined at paragraph 2.1.15 of the consolidated FDI policy dt. 1st April 2010
- FII means an entity established or incorporated outside India which proposes to make investment in India and which is registered as a Foreign Institutional Investor in accordance with SEBI (FII) Regulations 1995.



Portfolio Investment by FII in India contd.

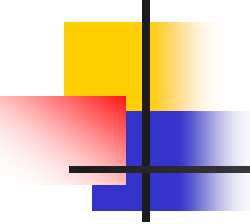
- Purchase of shares / convertible debentures only through Registered broker in India.
- Short selling or borrowing of securities, permitted subject to SEBI / RBI Guideline. [Regulation 6 – Schedule II]
 - Borrowing of securities only for delivery into short sale.
- Payment for purchase : Either by Inward remittance or through special rupee account maintained in accordance with Schedule 2 scheme, with designated branch of an Authorised Dealer in India, [Regulation 2 of the Schedule 2]
- Remittance of sale proceeds : Sale proceeds net of taxes, may be deposited in Foreign Currency account or the special rupee account.



Portfolio Investment by NRI in India

[Schedule 3]

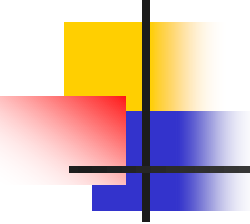
- NRI means an Individual resident outside India who is a citizen of India or is an individual of Indian origin (Paragraph 2.1.25 of the Consolidated Policy)
- Eligible Securities : Purchase of shares and convertible debentures of an Indian company only through Stock Exchange in India.
- Repatriation : Either on Repatriation or on a non repatriation basis.
- Purchase or sale only through designated branch of an Authorised Dealer
- Each NRI can purchase upto 5% of paid up value of shares or 5% of paid up value convertible debentures of each series.
- In case of all NRIs put together, above limit will be 10% .
- Limit of 10% as aforesaid can be raised by the company concerned upto 24%.



Portfolio Investment by NRI in India

[Schedule 3] contd.

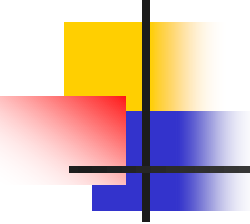
- NRI can purchase / sale the shares only on delivery basis.
- Payment for purchase :- By Inward remittance in Foreign Exchange through normal banking channel or out of funds held in NRE a/c if shares are purchased on a repatriation basis.
- Inward remittance or out of NRO / NRE / FCNR account if shares are purchased on a non repatriation basis.
- Remittance / credit for sale / maturity proceeds of shares and / or debentures : Net of taxes to NRO Account if investment is held on a non repatriation basis. Net of Indian taxes to NRI account or remitted outside India if held on repatriation basis.
- In Practice : Designated branch opens NRE a/c, NRO a/c, NRO PIS a/c and NRE PIS a/c and stock broker opens two demat account one for NRE PIS scheme and another for NRO PIS scheme. Payments are credited to these account for opening the accounts and making investment and credited with sale proceeds / redemption of securities.



Portfolio Investment by NRI in India

[Schedule 3] contd.

- NRE / NRO accounts are also used to make other investment such as units of mutual fund, debt instruments, etc., PIS a/c is used only for purchase and sale through Stock Exchange.
- Private placement as specified under FII portfolio scheme is missing under this scheme.
- FII can purchase only on repatriation basis unlike NRIs who can purchase the shares and convertible debentures on non repatriation basis also.



Purchase of securities other than shares and convertible debentures [Schedule 5]

- FII : Registered FII can purchase Government dated securities / treasury bills, listed NCD's / Bonds, commercial papers, issued by an Indian company/ies, units of a domestic mutual funds, security receipts issued by Asset Reconstruction Companies (ARC) and perpetual debt instruments for inclusion as Tier I capital and debt capital instruments as upper Tier II capital issued by banks in India, either directly from the issue or through a Recognised Stock Exchange in India.
 - FII can invest 100% in debt by forming 100% debt fund registered with SEBI.
- Investment in ARC Receipts by each FII will be limited to 10% of each issue and shall be upto 49% of each issue for all the FIIs put together.

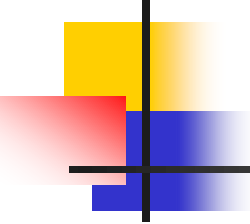
Purchase of securities other than shares and convertible debentures [Schedule 5] contd.

- Investment in Tier I capital by each FII can be upto 10% and aggregate for all FIIs shall be 49% of each issue and in Tier II capital it can be as per SEBI guidelines.
- NRI's Repatriation : Can purchase, Government dated securities or treasury bills or units of Domestic mutual fund, Bonds issued by PSU in India, shares issued by PSU being disinvestment by Government of India, as per Government Bid Guidelines.
 - Perpetual debt instruments upto 5% of the each series for each NRI and upto 24% of each series for all NRIs put together as Tier I capital of banks in India. Investment by NRI in debt capital instrument shall be as per extant policy
- NRI on Non Repatriation basis can invest, in Government dated Securities, treasury bills, units of money market mutual funds in India or National Plan / Saving Certificate.

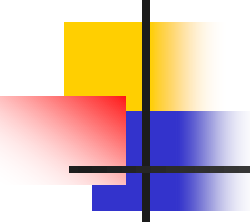
Purchase of securities other than shares and convertible debentures [Schedule 5] contd.

- Multilateral Development Bank which is specifically permitted to float rupee Bonds in India, may purchase Government dated securities.
- Central Bank of country outside India may purchase / sale government dated securities / treasury bills.
- Payment method : FII may pay by Inward remittance from abroad or from special rupee account.
 - Multilateral Development Bank : Inward remittance from outside India or from account in India held with specific approval of RBI
 - NRI can make payment from outside India through normal banking channels or by debit to NRE / FCNR account if investment is held on a non repatriation basis and can use NRO account also if investment is held on a non repatriation basis.

Purchase and sale of shares/ convertible debentures by NRIs on Non Repatriation basis (Schedule 4)



- Prohibitions : In a case if company concerned is a chit fund or a nidhi company, or is engaged in agricultural / plantation activities or Real Estate business or construction of farm houses or dealing in TDRs, investment is not permitted.
- It can be through Public issue, private placement or right issue.
- Permission to sell shares is subject to approval of FIPB by transferee, in case of previous joint venture or Tie up in India.
- Payment can be made by NRIs either through inward remittance through banking channels or out of funds held in NRE / FCNR / NRO account maintained in India. Except
- In cases of NRIs Resident in Nepal and Bhutan payment has to be received by way of inward remittance in Foreign Exchange through normal banking channels.
- Sale proceeds (Capital plus surplus) cannot be repatriated outside India and can be credited to NRO account only.



Investment by FVCI- Important Definitions

- Notification No. FEMA 20/2000-RB dt. 3rd May 2000

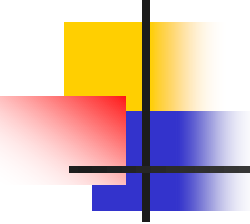
Regulation 2 (iiia):

'Foreign Venture Capital Investor' (FVCI) means an investor incorporated and established outside India which proposes to make investment in Venture Capital Fund(s) or Venture Capital Undertaking(s) in India and is registered with SEBI under SEBI (Foreign Venture Capital Investors) Regulations, 2000;]

- Notification No. FEMA 20/2000-RB dt. 3rd May 2000

Regulation (2) (va):

'Indian Venture Capital Undertaking' (IVCU) means a company incorporated in India whose shares are not listed on a recognized stock exchange in India and which is not engaged in an activity under the negative list specified by SEBI."



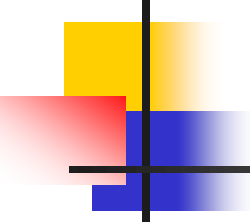
Investment by FVCI- Important Definitions

contd.

- Notification No. FEMA 20/2000-RB dt. 3rd May 2000

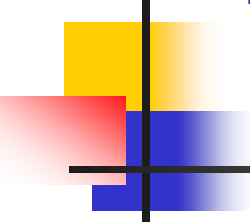
Regulation 2 (xia):

'Venture Capital Fund' (VCF) means a fund established in the form of a trust, a company Including a body corporate and registered under the Securities and Exchange Board of India (Venture Capital Fund) Regulations, 1996 which has a dedicated pool of capital raised in a manner specified under the said Regulations and which invests in venture Capital Undertakings in accordance with the said Regulations;"



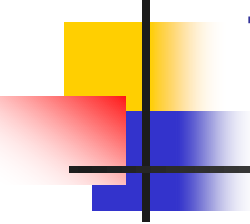
Investment by Registered FVCI in an IVCU

- Registered FVCI may invest in Indian VCU or VCFs by making application to RBI, through SEBI.
- The Regulatory Framework:
 - The SEBI (Venture Capital Funds) Regulation 1996.
 - The SEBI (Foreign Venture Capital Investors) Regulation 2000.
 - Investment by registered FVCI in India, under FEMA.
 - Government Guidelines of 20th September 1995.
- Such FVCI may invest into Equity / Equity linked instruments, Debt / Debt Instruments, debentures of IVCU or a VCF through Initial Public Offer (IPO) or Private Placement (PP) or in units of schemes / Funds set up by VCF.



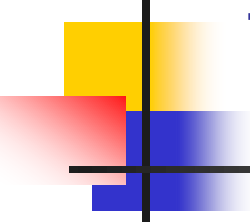
Investment by Registered FVCI in an IVCU contd.

- Payment for purchase : Either inward remittance from abroad through normal banking channels or out of funds held in account maintained with the Designated Branch of an Authorised Dealer in India.
- Forward cover is permitted.
- Valuation of Investments : A departure from normal method, which is specified in Schedule 1 (FDI Scheme) and Schedule 2 (Portfolio investment by FII). A mutually acceptable price to the buyer and the seller / issuer is specified. Thus it is a free pricing without any restriction as to maximum or minimum price
- Investment by FVCI into VCF requires FIPB approval as per Government Guideline dt. 20th September 1995.
[F.No.11/66/CCI/87-FIR,GOI,MOF,DEA,Investment division]
- Government guideline provides for tax break to VCF if investment is made in specified sectors only



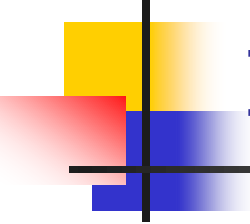
Investment by Registered FVCI in an IVCU contd.

- Consolidated Policy of April 2011 at paragraph 3.1.6 states that a Foreign Venture Capital Investor(FVCI) may contribute upto 100% of the capital of an Indian Venture Capital Undertaking and may also set up a domestic asset management company to manage the fund. All such investments can be made under automatic route in terms of Schedule 6 to Notification No. FEMA 20. A SEBI registered FVCI can also invest in domestic venture capital fund registered under the SEBI (Venture Capital Fund) Regulations, 1996. Such investments would also be subject to RBI regulations and FDI policy. However, in case the entity undertaking venture capital fund activity is a Trust registered under the Indian Trust Act, 1882, foreign investment would be permitted under the Government route. FVCIs are also allowed to invest in other companies subject to FDI Regulations.



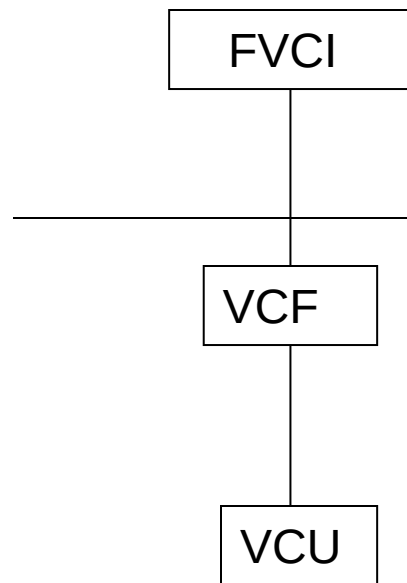
Investment by Registered FVCI in an IVCU contd.

- Both SEBI & Government guidelines have framed rules of investment as to maximum percentage of Equity in an IVCU, corpus of VCF into an IVCU etc.

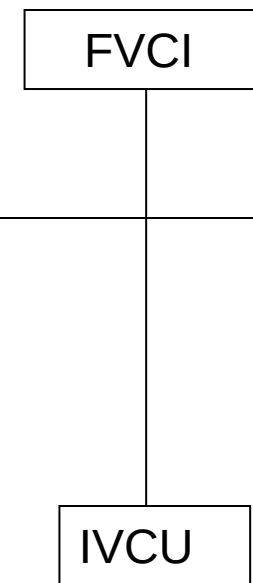


Investment by FVCI- Method of Investment

Investment through VCF



Investment directly into IVCU

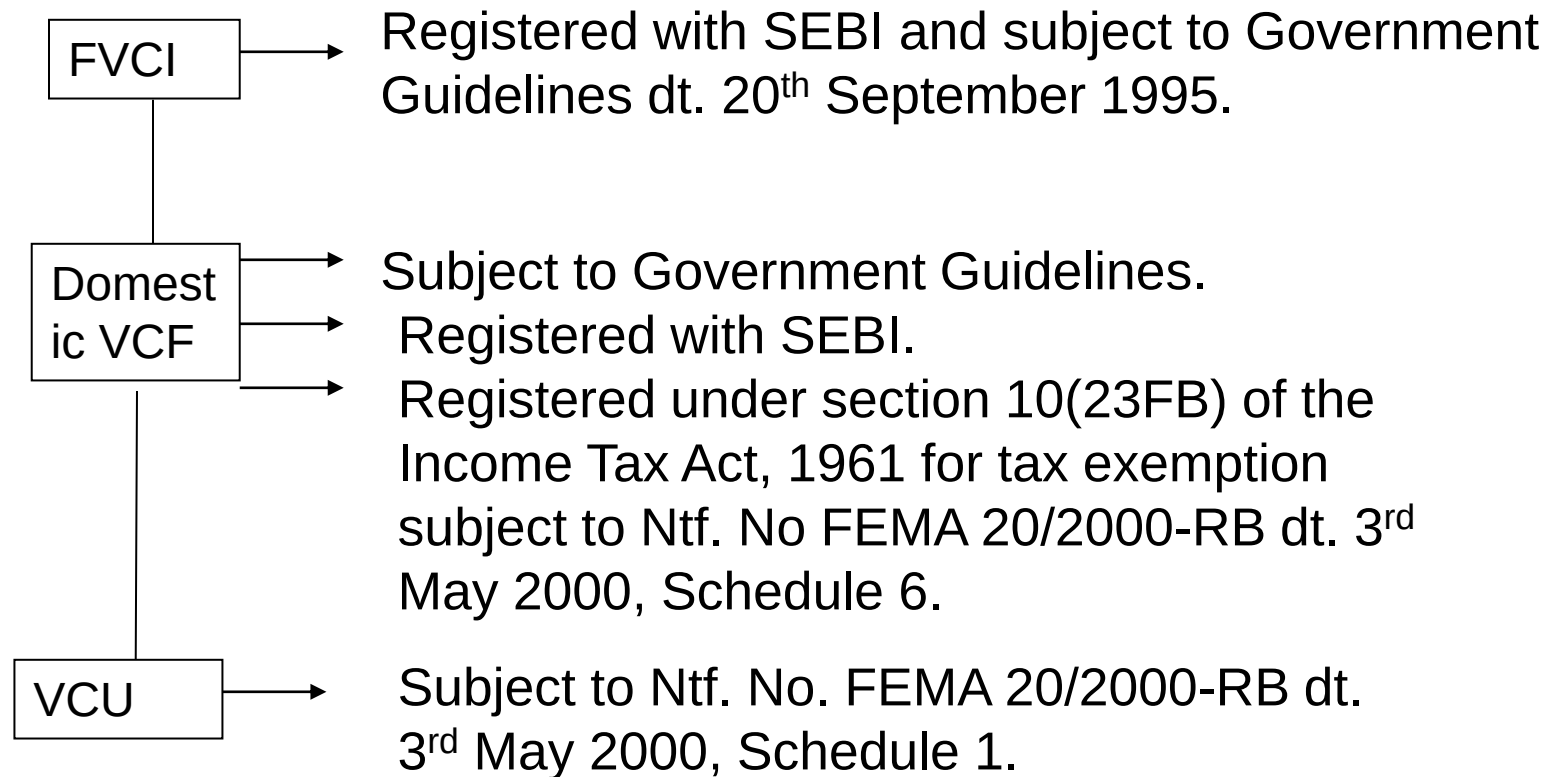


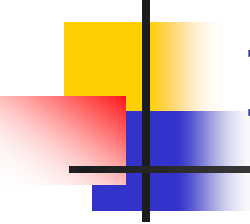
Outside India

In India

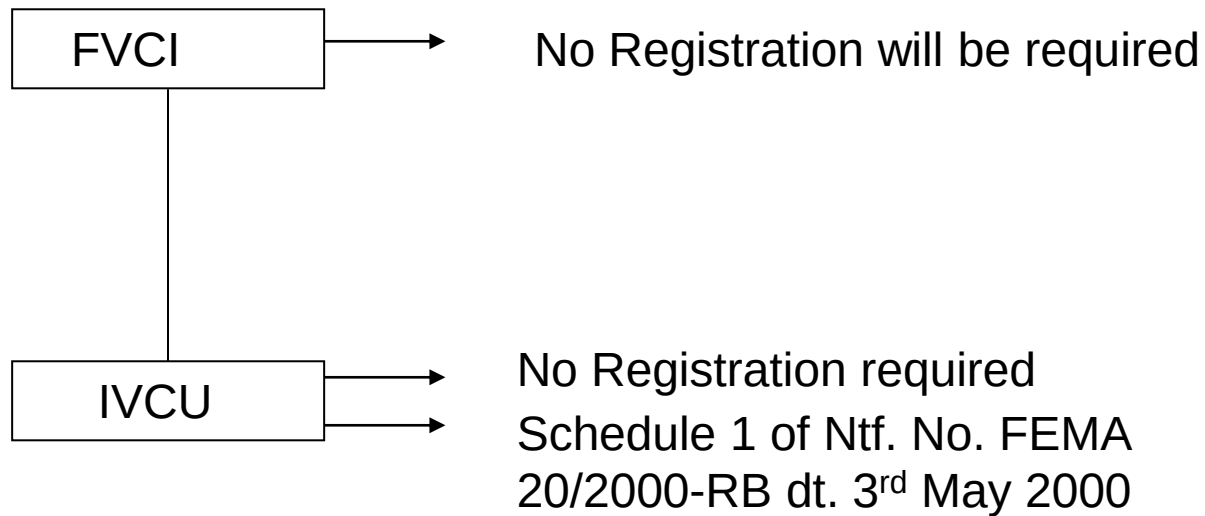
Investment by FVCI into Domestic VCF/ VCI

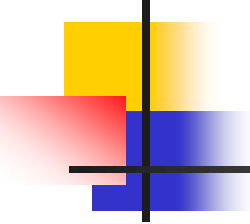
- Regulatory Framework





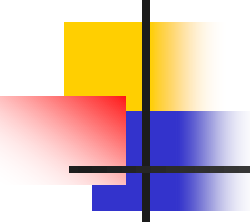
Investment by FVCI into an IVCU





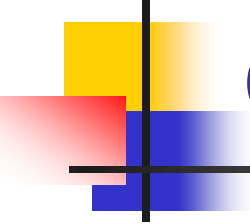
Investment in Partnership Firm by PROI

- NRI or PIO can invest as capital of the Partnership firm or Proprietary concern.
- Firm cannot engage itself into activity such as agricultural, plantations or real estate business or print media sector.
- No repatriation is allowed.
- Prior approval of RBI for repatriation of capital.
- Other PROI investment can be made only with prior approval of RBI.
- LLP is now considered as eligible entity as per Press Note 1 (2011 series) dated May 20, 2011



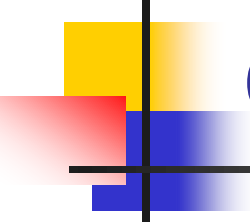
Investment in Limited Liability Partnership by PROI

- FDI in LLPs allowed through Govt. approval route only in sectors / activities where 100% FDI is allowed through automatic route and there are no FDI-linked performance related conditions such as NBFCs, Development of Townships, Housing, etc.
- LLPs not allowed in agriculture/plantation, print media & real estate
- LLPs with FDI cannot make downstream investments
- Foreign Capital participation in LLPs only by way of fresh inward remittance / NRE / FCNR Accounts
- FIIs and FVCIs cannot invest in LLPs
- No ECBs for LLPs
- Designated Partner as per Sec. 7(1) of LLP Act, 2008 should be 'Person Resident in India' as per Sec. 2(v)(i) of FEMA, 1999
- Conversion of company with FDI into LLP allowed only if all stipulations are met and with prior FIPB/Govt. approval



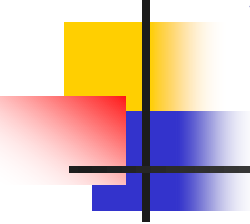
Critical Analysis of the Scheme

- Issues and Distinction
 - Can Prohibited activities under the Government Policy be carried out by NRIs, on non repatriation basis?
- FII portfolio and NRI Portfolio scheme distinction
 - Portfolio Investment both on the basis of repatriation and non repatriation together are covered under the scheme in case of NRIs.
 - Schedule 3 for NRI includes permission for both purchase as well as sale
 - Purchase and sale through stock exchange is only permitted to NRIs, no private placement or IPO is covered
 - Shortsale or borrowing of shares are not covered under schedule 3 for NRIs



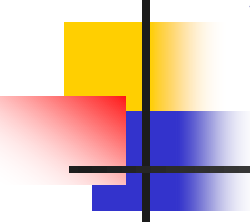
Critical Analysis of the Scheme contd.

- Investment by NRI through sub account of FII – not allowed
- Investment by NRIs through FVCI route may be possible
 - Investment in listed NCDs/Bonds, Commercial paper and ARC is not found as securities for NRIs.
 - Investment in PSU Bonds, PSU shares (as found in case of NRI on Repatriation basis) are missing in case of FII.
 - Investment in savings plan and also money market instruments (as allowed to NRIs on non repatriation basis) is also missing in case of FII.
- Permission to purchase shares/securities are covered in Schedule 1, 2, 4 and 6 whereas Schedule 3 and 5 includes both sale as well as purchase



Acquisition and Transfer of Immovable Properties

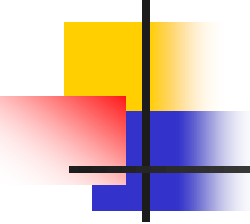
- Acquisition and Transfer of Immovable Properties in India
- Acquisition and Transfer of Immovable Properties outside India
- Investment in Real Estate Developments by NRIs
- Investment in Real Estate Developments by Foreigners



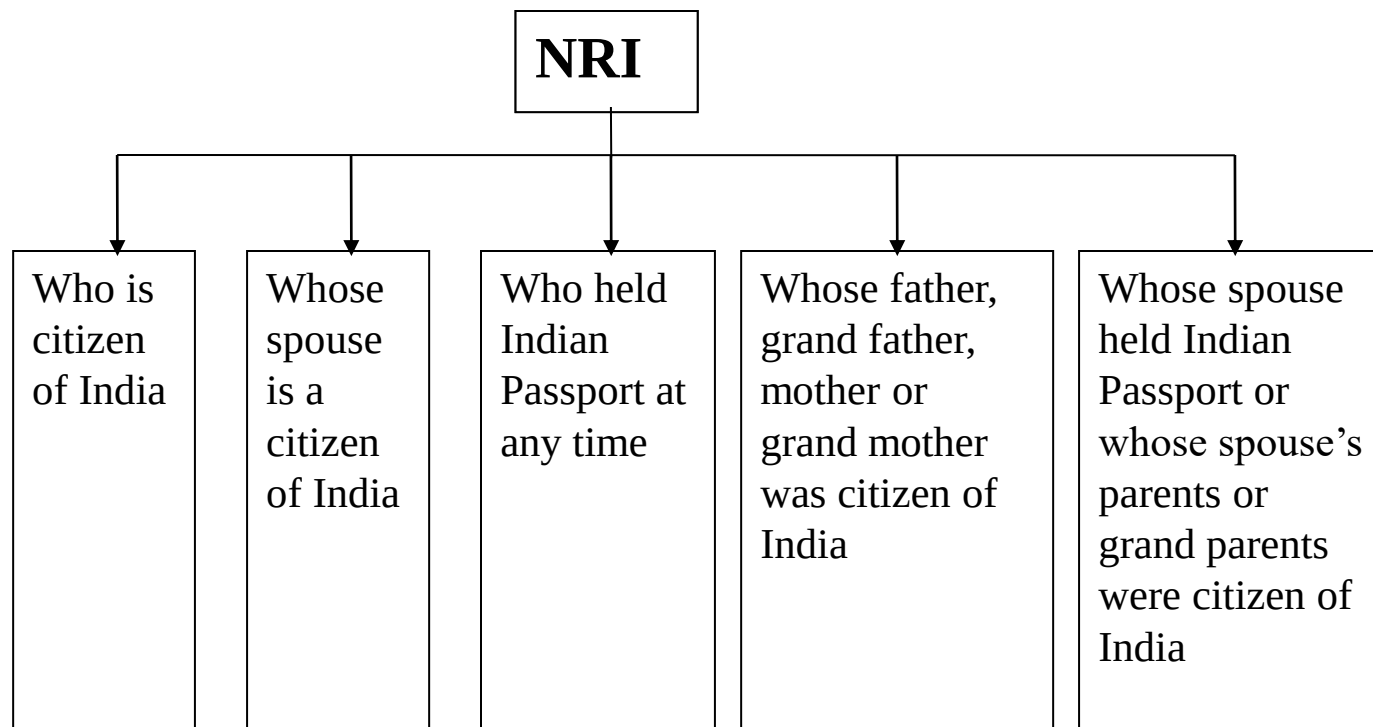
Acquisition & Transfer of Immovable Properties in India

- NRIs/PIOs – Definition
- PIOs differently defined under regulations 20 & 21
- Prohibitions
- Acquisition & Transfer of agricultural/ plantation/ farm house
- Acquisition & Transfer of other properties
- Acquisition & Transfer by way of sale/ gift/ inheritance distinguished

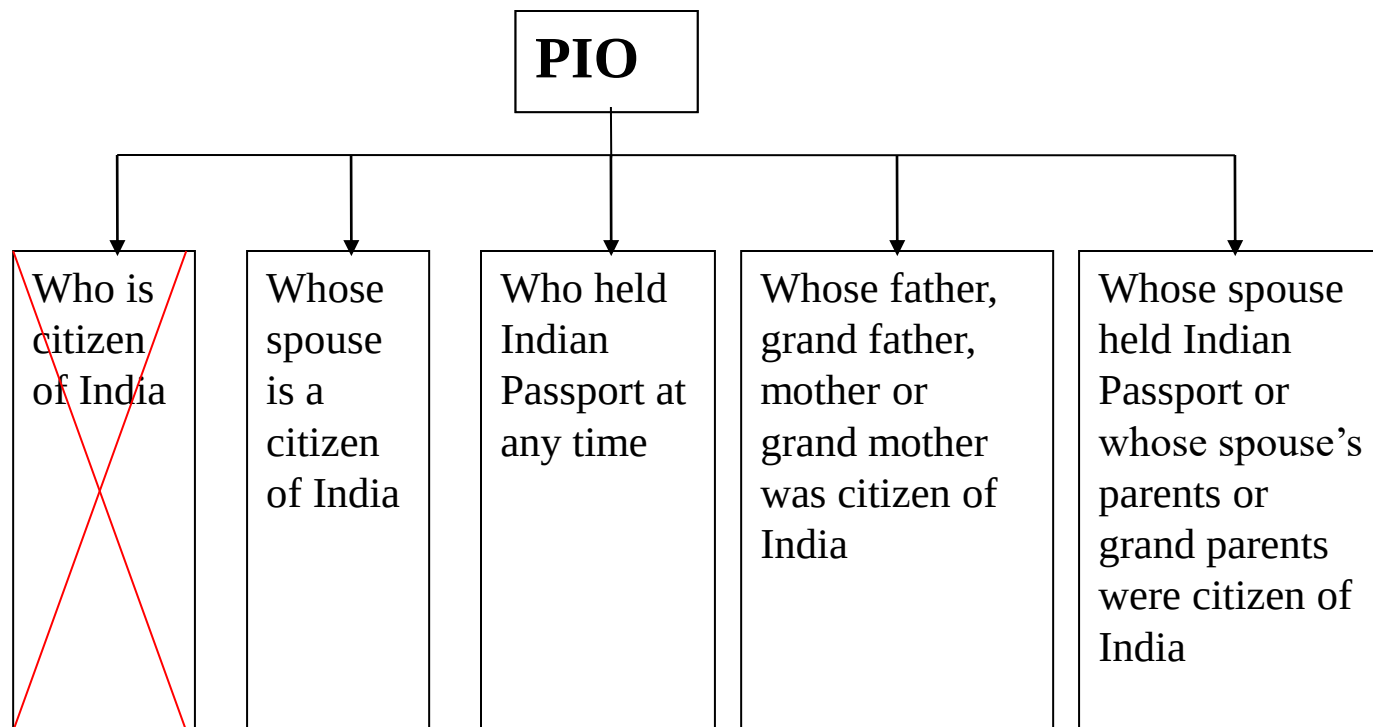
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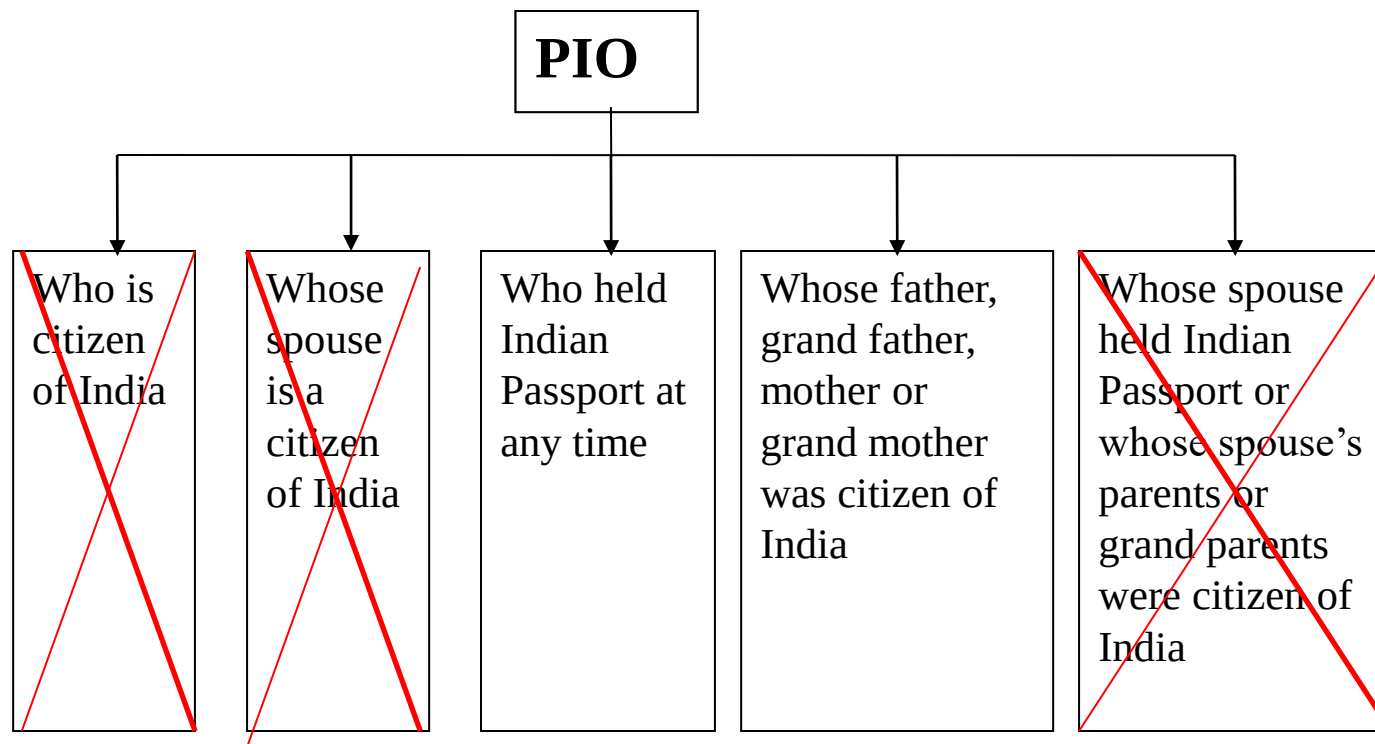
Definition of NRI – FEMA 5



Definition of PIO – FEMA 5

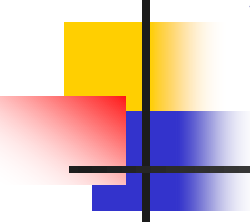


Definition of PIO – FEMA 21



Regulated Activities - Comprehensive

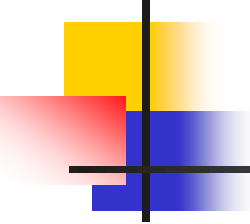
	Reg	NRI's	Reg	PIOs	Reg	PROI (All)
<u>Acquire</u>					5	In case of Branch office or other place of business, Form IPI has to be filed with RBI within 90 days Diplomatic offices of Foreign Government
Agricultural Land	Note 1	No	4(c)	inheritance from PROI/PRII		
Other Land	3(a)	Yes	4(a) 4(c) 4(b)	Purchase Inheritance Gift from NRIs, PIOs & PRII	5(a)	
<u>Transfer</u>						
Agricultural Land	3(b) Note 2	Sale, gift & inheritance to PRII only	4(e)	Sale & gift to PRII who is Indian Citizen-No inheritance		
Other Land		Gift, sale & inheritance to NRIs, PIOs & PRII	4(d) 4(f)	Sale to PRII Gift to NRIs, PIOs & PRII		
<u>Inheritance</u>		specifically referred for transfer		Mentioned only in case of acquisition & not in case of transfer		



Acquisition & Transfer of Immovable Properties in India

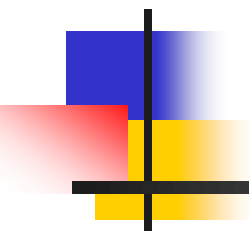
contd..

- Acquisition by private companies incorporated outside India having offices in India
- Housing Loans
- Repatriation
 - PROI – NRIs & PIOs
 - PROI with office in India
 - Repatriation limited to amount invested
 - Residential & Commercial properties distinguished
 - No Repatriation for Agricultural/plantation/farm house
- Issues & interpretations



Investment in Indian companies in real estate sector

- Legal framework
- Definition of NRIs
- Permitted activities
 - Development of serviced plots and construction of built up residential premises
 - Investment in real estate covering construction of residential and commercial premises including business centers and offices
 - Development of townships
 - City and regional level urban infrastructure facilities, including both roads and bridges
 - Investment in manufacture of building materials, which is also open to FDI
 - Investment in participatory ventures in activities mentioned above
 - Investment in housing finance institutions, which is also, open to FDI as an NBFC. Notification FEMA 20/2000 – RB dt. 3rd May 2000.
 - Investment by Foreign companies wholly owned by NRIs
- NRI & its investments – Meaning distinguished
- NRI investment under the Government Policy



Thank You
