

Review of FDI Policy for permitting foreign investment in Life Insurance Corporation of India (LIC) and other modifications for further clarity of the existing FDI Policy

DIPP Press Note No. 1 (2022 Series) dated March 14, 2022

The Government of India has reviewed the extant FDI Policy for permitting foreign investment in Life Insurance Corporation of India and other modifications for consistency and further clarify of the existing FDI Policy. Accordingly following amendments have been made under the Consolidated FDI Policy Circular of 2020, as amended from time to time (FDI Policy):

1. Definition of Convertible Note (Para 2.1.9): in the definition of convertible the period of conversion has been changed from "period not exceeding five years" to "period not exceeding 10 years".
2. Definition of Indian Company (Para 2.1.27): Definition of Indian Company has been clarified and same reads as under:

Indian Company means a Company as defined in Companies Act 2013 which is incorporated in India, or a body corporate established or constituted by or under any Central or State Act.

Note:

- a. It is clarified that reference to "Company" or "investee company" or "transferee company" or "transferor company" in the FDI policy also includes a reference to a body corporate established or constituted by or under any central or state act.
- b. It is further clarified that if the term "company" or "Indian company" or "Investee company" is qualified by reference to a company incorporated under the Companies Act, such term shall mean a company incorporated under Companies Act but not a body corporate.
- c. It is also clarified that "Indian Company" does not include a society, trust or any entity, which is excluded as an eligible investee entity under the FDI Policy.

3. New Definition of Share Based Employee Benefits added (Para 2.1.47A): a new para is inserted in FDI Policy defining Share Based Employee Benefits as under:

Share Based Employee Benefits means any issue of Capital Instruments to employees, pursuant to share based employee benefits schemes formulated by a body corporate established or constituted by or under any Central or State Act.

4. New definition of Subsidiary added (Para 2.1.48A): A new para is inserted defining Subsidiary as under:

Subsidiary shall have same meaning as assigned to it under Companies Act 2013 as amended from time to time.

5. Existing paras 3.4.2(vi) and 3.4.2(vii) are renumbered as 3.4.3 and 3.4.4

6. Definition of Real Estate Business at para 5.1(f) of existing FDI Policy and Note (i) to Para 5.1.10.2 are amended and aligned:

Amended definition of Real Estate business at para 5.1(f) will be as under:

"Real estate business" means dealing in land and immovable property with a view to earning profit there from and does not include development of townships, construction of residential/ commercial premises, roads or bridges, educational institutions, recreational facilities, city and regional level infrastructure, townships and Real Estate Investment Trusts (REITs) registered and regulated under SEBI (REITs) Regulations 2014. Further, earning of rent/ income on lease of the property, not amounting to transfer, will not amount to real estate business.

The same definition has been amended at Note (i) of Para 5.1.10.2 of FDI Policy.

7. FDI In Life Insurance Corporation – New para 5.2.22.1A is inserted:

FDI in LIC is allowed upto 20% under automatic route subject to conditions. New para 5.2.22.1A has been inserted in existing FDI Policy of 2020.

The other conditions in para 5.2.22.3 of FDI Policy are now bifurcated in two parts through insertions of new paras 5.2.22.3.1 and 5.2.22.3.2 applicable on Indian Insurance Companies / Intermediaries or insurance intermediaries and LIC respectively. The existing clauses (a) to (j) and amended clause (k) under para 5.2.22.3 are placed under para 5.2.22.3.1 titled "Other Conditions applicable to

Indian Insurance Companies and intermediaries or insurance intermediaries” and new clauses (a) to (c) are placed under para 5.2.22.3.2 titled “Other Conditions applicable to Life Insurance Corporation of India (LIC).

Please refer Press Note for detailed amendments to Other Conditions clause.

8. Para 4 and Para 5 of Annexure 3 of FDI Policy relating to acquisition of shares under scheme of merger/amalgamation/demerger and issue of employees stock option scheme (ESOPs) / seat equity are amended. The detailed amendments can be seen at Press Note link given at the end.

The above changes will take place with effect from March 14, 2022.

The detailed Press Note can be viewed at - [https://dpiit.gov.in/sites/default/files/Press\\_Note\\_1\\_2022\\_14March2022.pdf](https://dpiit.gov.in/sites/default/files/Press_Note_1_2022_14March2022.pdf)

## **RBI NOTIFICATION NO. RBI/2021-2022/161 FIDD.MSME & NFS.BC.No.16/06.02.31/2021-22 DATED FEBRUARY 18, 2022**

New Definition of Micro, Small and Medium Enterprises – Clarification

Please refer to the circular FIDD.MSME & NFS.BC. No. 12/06.02.31/2021-22 dated June 25, 2021 on ‘New Definition of Micro, Small and Medium Enterprises’.

2. In this connection, we inform that Government of India, vide their Gazette Notification S.O. 278(E) dated January 19, 2022, has notified amendments in the paragraph (7) sub-paragraph (3) in the notification of Government of India, Ministry of Micro, Small and Medium Enterprises number S.O. 2119 (E), dated June 26, 2020, published in the Gazette of India.

3. In view of the above amendment, paragraph 3 of the said circular would stand modified as under:

“The existing Entrepreneurs Memorandum (EM) Part II and Udyog Aadhaar Memorandum (UAMs) of the MSMEs obtained till June 30, 2020 shall remain valid till March 31, 2022.”

4. Further, it is clarified that the validity of documents obtained in terms of O.M. No.12(4)/ 2017-SME dated March 8, 2017 (RBI Circular FIDD.MSME & NFS.BC.No.10/06.02.31/2017-18 dated July 13, 2017), for classification of MSMEs upto June 30, 2020, are also valid upto March 31, 2022.

## **RBI NOTIFICATION NO. RBI/2021-22/175 DoS. CO. PPG.SEC/10/11.01.005/2021-22 DATED FEBRUARY 23, 2022**

Implementation of ‘Core Financial Services Solution’ by Non-Banking Financial Companies (NBFCs)

A reference is invited to para 3.2.3 (j) of the Reserve Bank’s Circular Ref. DOR.CRE.REC.No.60/03.10.001/2021-22 dated October 22, 2021 on ‘Scale Based Regulation (SBR): A Revised Regulatory Framework for NBFCs’ in terms of which NBFCs with 10 and more branches are mandated to adopt Core Banking Solution.

2. Accordingly, it has been decided that NBFCs – Middle Layer and NBFCs - Upper Layer with 10 and more ‘Fixed point service delivery units’<sup>1</sup> as on October 1, 2022 shall be mandatorily required to implement ‘Core Financial Services Solution (CFSS)’, akin to the Core Banking Solution (CBS) adopted by banks. The CFSS shall provide for seamless customer interface in digital offerings and transactions relating to products and services with anywhere / anytime facility, enable integration of NBFCs’ functions, provide centralised database and accounting records, and be able to generate suitable MIS, both for internal purposes and regulatory reporting.

3. The timeframe for implementation of the requirement as indicated in Para 2 above shall be as under:

Category of NBFC	Timeframe for implementation
NBFC – Middle and Upper Layers with 10 or more ‘Fixed point service delivery units’	On or before September 30, 2025 However, NBFC-UL shall ensure that the CFSS is implemented at least in 70 per cent of ‘Fixed point service delivery units’ on or before

	September 30, 2024.
NBFC – Base Layer and NBFC – Middle and Upper Layers with fewer than 10 'Fixed point service delivery units'	Not mandatory. However, they may consider implementation of a Core Financial Services Solution for their own benefit.

4. A quarterly progress report on implementation of the Core Financial Services Solution, along with various milestones as approved by the Board / Committee of the Board, shall be furnished by the NBFC to the Senior Supervisory Manager (SSM) Office of Reserve Bank starting from quarter ending March 31, 2023.

### **3. RBI NOTIFICATION NO. RBI/2021-22/177 DOR.REC.MRG. 90/16.20.000/2021-22 DATED March 3, 2022**

Investment in Umbrella Organization (UO) by Primary (Urban) Co-operative Banks

Please refer to circular UBD.(PCB).BPD.Cir.No.46/16.20.000/2008-09 dated January 30, 2009 on Investments in Non-SLR securities by Primary (Urban) Co-operative Banks. Paragraph 2(i) of the circular states that the non-SLR investments shall be limited to ten per cent of a bank's total deposits as on March 31 of the previous year. Further, paragraph 2(iii)(b) states that investments in unlisted securities shall not exceed ten per cent of the total non-SLR investments at any time.

2. RBI has accorded regulatory approval to National Federation of Urban Co-operative Banks and Credit Societies Ltd. (NAFCUB) in June 2019 for formation of Umbrella Organization (UO) for the UCB Sector. The approval inter-alia permits UCBs to subscribe to capital of the UO on voluntary basis.

3. It is advised that the investment made for subscribing to the capital of the UO, for acquiring its membership, shall be exempt from the limits prescribed in Paragraphs 2(i) and 2(iii)(b) of the circular ibid.

Applicability

4. This circular is applicable to all Primary (Urban) Co-operative Banks.

5. These instructions come into effect from the date of the circular.

### **4. RBI NOTIFICATION NO. RBI/2021-22/179 DOR.CAP.REC.92/09.18.201/2021-22 DATED March 8, 2022**

Issue and regulation of share capital and securities - Primary (Urban) Co-operative Banks

The Banking Regulation (Amendment) Act, 2020 (No. 39 of 2020), notified in the Gazette of India on September 29, 2020 (vide Notification No. 64 of that date), is deemed to have come into force with effect from June 29, 2020 for Primary (Urban) Co-operative Banks (UCBs).

2. The extant instructions for UCBs on issue and regulation of capital funds have been reviewed keeping in view, inter alia, the provisions of Section 12 read with Section 56 of the amended Banking Regulation Act, 1949 (BR Act).

Augmentation of capital funds

3. UCBs are permitted to raise share capital, as hitherto, by way of (i) issue of shares to persons within their area of operation, in accordance with the provisions of their bye-laws, and (ii) issue of additional shares to the existing members.

4. UCBs are also permitted to issue the following instruments to augment their capital:

#### **I. Preference Shares**

- a. Perpetual Non-Cumulative Preference Shares (PNCPS) eligible for inclusion in Tier I capital
- b. Perpetual Cumulative Preference Shares (PCPS) eligible for inclusion in Tier II capital
- c. Redeemable Non-Cumulative Preference Shares (RNCPS) eligible for inclusion in Tier II capital
- d. Redeemable Cumulative Preference Shares (RCPS) eligible for inclusion in Tier II capital

#### **II. Debt instruments**

- a. Perpetual Debt Instruments (PDI) eligible for inclusion in Tier I capital
- b. Long Term Subordinated Bonds (LTSB) eligible for inclusion in Tier II capital

5. The guidelines governing the instruments specified in para 4 (I) &(II) above, indicating the regulatory requirements, are enclosed in Annexes I & II respectively.

6. For the purpose of enhancing investor education on the risk characteristics of regulatory capital requirements, UCBs, which issue regulatory capital instruments as specified in para 4 above, shall adhere to the following conditions:

a) For floating rate instruments, banks should not use its Fixed Deposit rate as benchmark.

b) A specific sign-off as quoted below, from the investors, for having understood the features and risks of the instruments, may be incorporated in the common application form of the proposed issue:

"By making this application, I / we acknowledge that I / we have understood the terms and conditions of the issue of [Name of the share/security] being issued by [Name of the bank] as disclosed in the Prospectus and Offer Document".

c) UCBs shall ensure that all the publicity material / offer document, application form and other communication with the investor should clearly state in bold letters (Arial font, size 14, equivalent size in English / Vernacular version) how a PNCPS / PCPS / RNCPS / RCPS / PDI / LTSB, as the case may be, is different from a fixed deposit, and that these instruments are not covered by deposit insurance.

d) The procedure for transfer to legal heirs in the event of death of the subscriber of the instrument should also be specified.

#### Refund of share capital

7. In terms of Section 12 (2) (ii) read with Section 56 of the BR Act, a co-operative bank shall not withdraw or reduce its share capital, except to the extent and subject to such conditions as the Reserve Bank may specify in this behalf. Accordingly, it has been decided to permit UCBs to refund the share capital to their members, or nominees / heirs of deceased members, on demand, subject to the following conditions:

a) The bank's capital to risk-weighted assets ratio (CRAR) is 9 percent or above, both as per the latest audited financial statements and the last CRAR as assessed by RBI during statutory inspection.

b) Such refund does not result in the CRAR of the bank falling below regulatory minimum of 9 per cent.

8. It is clarified that for the purpose of computing CRAR as above, accretion to capital funds after the balance sheet date<sup>1</sup>, other than by way of profits, may be taken into account. Any reduction in capital funds, including by way of losses, during the aforesaid period shall also be considered.

#### Share linking to borrowing norms

9. Borrowings from UCBs are linked to shareholdings of the borrowing members as below:

i. 5 per cent of the borrowings, if the borrowings are on unsecured basis.

ii. 2.5 per cent of the borrowings, in case of secured borrowings.

iii. In case of secured borrowings by Micro and Small Enterprises (MSE), 2.5 per cent of the borrowings; of which 1 per cent is to be collected initially and the balance of 1.5 per cent is to be collected in the course of next 2 years.

10. The above share linking norm may be applicable for member's shareholdings up to the limit of 5 per cent of the total paid up share capital of the bank. Where a member is already holding 5 per cent of the total paid up share capital of a UCB, it would not be necessary for him / her to subscribe to any additional share capital on account of the application of extant share linking norms. In other words, a borrowing member may be required to hold shares for an amount that may be computed as per the extant share linking norms or for an amount that is 5 per cent of the total paid up share capital of the bank, whichever is lower.

11. In terms of the extant norms<sup>2</sup>, UCBs which maintain CRAR of 12 per cent on a continuous basis, are exempted from the mandatory share linking norms outlined in para 9 above. On a review, it has been decided that the share-linking to borrowing norms shall be discretionary for UCBs which meet the minimum regulatory CRAR criteria of 9 per cent and a Tier 1 CRAR of 5.5 per cent as per the latest audited financial statements and the last CRAR as assessed by RBI during statutory inspection. Such UCBs shall have a Board-approved policy on share-linking to borrowing norms, which shall be implemented in a transparent, consistent and non-discriminatory manner. The policy may be reviewed by the Board at the beginning of the accounting year. UCBs which do not maintain the minimum

CRAR of 9 percent and Tier 1 CRAR of 5.5 per cent, shall continue to be guided by the norms on share-linking to borrowing as specified in paragraph 9 above.

12. Perpetual Non-Cumulative Preference Shares (PNCPS) held by members / subscribers, may be treated as shares for the purpose of compliance with the extant share linking to borrowing norms.

Repeal

13. The list of circulars, that stand repealed fully or partially, is furnished in Appendix to the circular.

Annex I, Annex II and Appendix to this circular can be accessed at <https://www.rbi.org.in/Scripts/NotificationUser.aspx/NotificationUser.aspx?Id=12251&Mode=0>

#### **5. RBI NOTIFICATION NO. RBI/2021-22/180 DOR.STR.REC.93/04.02.001/2021-22 DATED March 8, 2022**

Interest Equalization Scheme on Pre and Post Shipment Rupee Export Credit - Extension

Please refer to the instructions issued vide circular DOR.CRE(DIR).REC.28/04.02.001/2021-22 dated July 1, 2021.

2. Government of India has approved the extension of Interest Equalization Scheme for Pre and Post Shipment Rupee Export Credit ('Scheme') up to March 31, 2024 or till further review, whichever is earlier. The extension takes effect from October 1, 2021 and ends on March 31, 2024. The modifications made by the Government to the Scheme are detailed below:

- 2.1 'Telecom Instruments' sector having six HS lines<sup>1</sup> shall be out of the purview of the Scheme, except for MSME manufacturer exporters.
- 2.2 Revised interest equalisation rates under the Scheme will now be 3 per cent for MSME manufacturer exporters exporting under any HS lines, and 2 per cent for manufacturer exporters and merchant exporters exporting under 410 HS lines (after excluding 6 HS lines pertaining to Telecom Sector as mentioned above).
- 2.3 Banks, while issuing approval to the exporter, will necessarily furnish i) the prevailing interest rate, ii) the interest subvention being provided, and iii) the net rate being charged to each exporter, so as to ensure transparency and greater accountability in the operation of the Scheme.
- 2.4 The extended Scheme will not be available to those beneficiaries who are availing the benefit under any Production Linked Incentive (PLI) scheme of the government.

3. For the period from October 1, 2021 to March 31, 2022, banks shall identify the eligible exporters as per the Scheme, credit their accounts with the eligible amount of interest equalisation and submit sector-wise consolidated reimbursement claim for the said period to the Reserve Bank by April 30, 2022.

4. With effect from April 1, 2022, banks shall reduce the interest rate charged to the eligible exporters upfront as per the guidelines and submit the claims in original within 15 days from the end of the respective month, with bank's seal, and signed by authorised person, in the prescribed format, as modified (Annex I).

5. Other provisions of the extant instructions issued by the Bank on the captioned Scheme shall remain unchanged.

#### **6. RBI NOTIFICATION NO. RBI/DOR/2021-22/89 DoR.FIN.REC.95/03.10.038/2021-22 DATED March 14, 2022**

Master Direction - Reserve Bank of India (Regulatory Framework for Microfinance Loans) Directions, 2022 has been issued on 14th March 2022.

Details can be seen at <https://www.rbi.org.in/Scripts/NotificationUser.aspx/NotificationUser.aspx?Id=12256&Mode=0>