

FEMA  
INVESTMENTS IN  
IMMOVABLE PROPERTY  
IN INDIA & OUTSIDE INDIA  
INCLUDING FDI IN REAL ESTATE

Western India Regional Council

By

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# Part 1

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## □ Introduction

23-08-2014

# Important Aspects

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- Acquisition of Immoveable Property in India or outside India is a Capital Account Transaction
- Power is granted to RBI to regulate such transactions under section 6 of FEMA
- Under FEMA eligibility for investment in immovable property depends on the “residential status” of the acquirer
  - Residential status of a person is not determined by RBI but Residential status is determined by operation of law
  - The onus is on an individual to prove his / her residential status, if questioned by any authority
- FEMA does not define the term immovable property
  - It will include all types of immovable property – residential, commercial, industrial or agricultural property

# Important Aspects & Definitions

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- A Person resident outside India can be categorized as a
  - Non-Resident Indian (NRI) or
  - Foreign national of Indian Origin (PIO) or
  - Foreign national of non-Indian origin
  
- The term NRI has not been defined in FEMA, 1999
  - Section 2(v) defines the term “person resident in India”
  - Section 2(w) defines the term “person resident outside India” – as a person who is not resident in India
  
- The term NRI has different meanings under different Notifications: -
  - Under Notification No. 13 – Remittance of Assets – An NRI is defined to mean a person residing outside India, who is a citizen of India
  - Under Notification No. 5 – Deposits – An NRI is defined as a person resident outside India who is a citizen of India or is a Person of Indian Origin (PIO)

# Definitions

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- The term PIO is also not defined in FEMA, 1999 – The term PIO has different meanings under different notifications: -
  - Under Notification 5 – PIO means a citizen of any country other than Bangladesh or Pakistan, if
    - He at any time held Indian passport; or
    - He or either of his parents or any of his grand- parents was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955 (57 of 1955); or
    - The person is a spouse of an Indian citizen or a person referred to in sub-clause (a) or (b)
  - The relevant definition of PIO for investment in Immovable Property is given in Regulation 2(c) of the Notification 21 – PIO means an individual (not being a citizen of Pakistan or Bangladesh or Sri Lanka or Afghanistan or China or Iran or Nepal or Bhutan) who -
    - At anytime he has held an Indian passport; or
    - He or either of his parents or grand parents was a citizen of India by virtue of Constitution of India or the Citizenship Act 1955

# Definitions

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- For the purpose of Immovable property, meaning given under Notification 13 is relevant
  - Non-Resident Indian (NRI) means a citizen of India resident outside India
  - It does not include a PIO
  
- A „Person of Indian Origin' means an individual (not being a citizen of Pakistan or Bangladesh or Sri Lanka or Afghanistan or China or Iran or Nepal or Bhutan) who
  - At any time, held an Indian Passport or
  - Who or either of whose father or mother or whose grandfather or grandmother was a citizen of India by virtue of the Constitution of India or the Citizenship Act, 1955
  
- The word “transfer” is defined in Section 2(ze) – it is an inclusive definition – it includes sale, purchase, exchange, mortgage, pledge, gift, loan or any other form of transfer of right, title, possession or lien

# Part 2 – Immovable Property in India

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- Investment in Immovable Property in India



# Regulatory Framework

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- Section 6(3)(i) grants power to RBI
  - ▣ To regulate “acquisition or transfer of immovable property in India, other than a lease not exceeding five years, by a person resident outside India”
  
- Section 6(5) – General Exemption – provides that
  - ▣ “A person resident outside India can hold, own, transfer or invest in immovable property situated in India if such property was acquired, held or owned by such person when he was a resident in India or inherited from a person who was a resident in India”
  
- Notification No. FEMA 21/2000-RB dated May 3, 2000

# Change of Status – NRI / PIO

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- An Indian citizen resident in India at the time of acquisition of immovable property – who has subsequently become a NRI / PIO
  - ▣ Can continue to hold any immovable property, including agricultural land, plantation property and farm house, acquired by him when he was resident in India
  
- Sale proceeds must be credited to the NRO account of the NRI / PIO

# Acquisition & Transfer

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- Notification No. FEMA 21 /2000-RB dated May 3, 2000 – Covers acquisition and transfer by
  - Individuals Resident outside India
  - Branch office in India of person resident outside India
  - Foreign Embassies / Diplomats / Consulate Generals

# Acquisition – Other than FDI

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- Individuals Resident outside India mean
  - ▣ Non-Resident Indians (NRI)
  - ▣ Persons of Indian Origin (PIO)
  - ▣ Foreign Nationals resident outside India (NR)
  
- Individuals resident in India mean
  - ▣ Citizens of India who are resident in India
  - ▣ Foreign Nationals who are resident in India

# Acquisition – Purchase by NRI / PIO

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- General permission to purchase immovable property in India given to
  - ▣ NRI
  - ▣ PIO
- General Permission covers purchase in India of
  - ▣ Residential Property
  - ▣ Commercial Property
- General permission does not cover purchase in India of
  - ▣ Agricultural land
  - ▣ Plantation property
  - ▣ Farm house in India
- No documents are required to be filed with RBI

# Acquisition – Purchase by NRI / PIO

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- No restriction on the number of residential / commercial properties that can be purchased
  - ▣ Trading in real estate not permitted
- Payment for purchase has to be
  - ▣ By way of inward remittance from any place outside India through normal banking channel
  - ▣ From NRE, NRO & FCNR(B) account maintained in India
  - ▣ Payment by traveller's cheque or foreign currency notes or any other mode is not permitted

# Acquisition – Purchase by NR

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- Foreign Nationals resident outside India and who are not PIO
  - Cannot purchase any immovable property in India except by way of inheritance from a person who was resident in India
  - Can acquire or transfer immovable property in India, on lease, not exceeding five years – there is no requirement of taking any permission of /or reporting to RBI such acquisition

# Acquisition – Purchase by NR

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- Foreign nationals, who are not PIO, whether they are resident in India or outside India who had acquired immovable property under FERA after obtaining prior approval of RBI
  - Can continue to hold the immovable property under holding license obtained under FERA from RBI
  - Can transfer the property only after obtaining prior approval of RBI



# Acquisition – Purchase by NR

17

- Foreign Nationals who are resident in India and who are not PIO
  - Can purchase immovable property in India - subject to obtaining the approvals and fulfilling requirements, if any, prescribed by other authorities, such as, the State Government concerned, etc.
  - The onus to prove his / her residential status under FEMA is on the individual
  - Exception
    - Foreign Nationals resident in India who are citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal and Bhutan require prior approval of RBI for purchase / transfer of immovable property in India
    - They can acquire / transfer immovable property in India, on lease, not exceeding five years without taking prior approval of RBI

# Acquisition – Gift to NRI / PIO

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- NRI / PIO can acquire residential or commercial property by way of gift from
  - A person resident in India (Indian citizen or foreign national)
  - A NRI
  - A PIO
  
- NRI / PIO cannot acquire agricultural land / plantation property / farm house in India by way of gift

# Acquisition – Gift to NR

19

- Foreign Nationals resident outside India and who are not PIO
  - ▣ Cannot acquire any immovable property in India by way of gift
- Foreign Nationals (other than citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal and Bhutan) who are resident in India and who are not PIO
  - ▣ Can acquire any immovable property in India by way of gift

# Acquisition – Inheritance by NRI / PIO

20

- NRI / PIO can acquire immovable property by way of inheritance from
  - ▣ A person resident in India
  - ▣ A person resident outside India who has acquired the property in accordance with the foreign exchange regulations applicable at that point of time

# Acquisition – Inheritance by NR

21

- Foreign Nationals resident outside India and who are not PIO can acquire immovable property by way of inheritance from
  - ▣ A person resident in India
  - ▣ A person resident outside India who has acquired the same in accordance with the foreign exchange regulations applicable at that point of time
  
- Foreign Nationals (other than citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal and Bhutan) who are resident in India and who are not PIO
  - ▣ Can acquire any immovable property in India by way of inheritance
  
- Foreign Nationals who are citizens of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal and Bhutan
  - ▣ Can acquire immovable property by way of inheritance after obtaining prior approval of RBI

# Transfer – Sale by NRI

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- A NRI can sell their residential / commercial property in India to
  - ▣ A person resident in India
  - ▣ A NRI
  - ▣ A PIO
  
- NRI can sell their agricultural land / a plantation property / a farm house in India to
  - ▣ A person resident in India who is a citizen of India
  
- Sale to a foreign national who is not resident in India will require prior approval from RBI

# Transfer – Sale by PIO

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- A PIO can sell their residential / commercial property in India to
  - ▣ A person resident in India
  - ▣ A NRI
  
- PIO can sell their agricultural land / a plantation property / a farm house in India to
  - ▣ A person resident in India who is a citizen of India
  
- Sale to a PIO / foreign national who is not resident in India
  - ▣ Will require prior approval from RBI

# Transfer – Sale by NR

24

- Foreign nationals (including citizens of Pakistan or Bangladesh or Sri Lanka or Afghanistan or China or Iran or Nepal or Bhutan) who are not PIO can sell their residential / commercial property in India only after obtaining prior approval of RBI to
  - A person resident in India
  - A NRI
  - A PIO
  
- Foreign nationals resident in India and who are not PIO can sell their agricultural land/plantation property/ farm house in India only after obtaining prior approval of RBI
  
- Foreign nationals resident outside India and who are not PIO can sell their agricultural land/plantation property/ farm house in India only after obtaining prior approval of RBI



# Transfer – Gift by NRI / PIO

25

- NRI / PIO can gift their residential / commercial property in India to
  - ▣ A person resident in India
  - ▣ A NRI
  - ▣ A PIO
  
- NRI / PIO can gift their agricultural land / plantation property / farm house in India only to a person resident in India who is a citizen of India

# Transfer – Gift by NR

26

- Foreign nationals who are not resident in India and not PIO will have to obtain prior approval of RBI for gifting their residential / commercial property in India
- Foreign nationals who are resident in India and not PIO will have to obtain prior approval of RBI to gift their agricultural land / plantation property / farm house in India

# Mortgage by NRI / PIO / NR

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- NRI / PIO can mortgage their residential / commercial property in India with
  - ▣ A bank / housing finance institution in India
  - ▣ A bank outside India after obtaining prior approval of RBI
- Foreign nationals who are not PIO can mortgage their residential / commercial property in India only after obtaining prior approval of RBI

# Repatriation of sale proceeds – NRI / PIO

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- When property was acquired in foreign currency in accordance with the provisions of the foreign exchange law in force at the time of acquisition
- The amount to be repatriated does not exceed
  - ▣ The amount paid for acquisition of the immovable property in foreign exchange received through normal banking channels, or
  - ▣ The amount paid out of funds held in Foreign Currency Non-Resident Account, or
  - ▣ The foreign currency equivalent (as on the date of payment) of the amount paid where such payment was made from the funds held in Non-Resident External account for acquisition of the property
- In the case of residential property, the repatriation of sale proceeds is restricted to not more than two such properties
- Repatriation means
  - ▣ The buying or drawing of foreign exchange from an authorised dealer in India and remitting it outside India through normal banking channels
  - ▣ Crediting it to an account denominated in foreign currency (FCNR(B) Account) or to an account in Indian currency maintained with an authorised dealer from which it can be converted in foreign currency (NRE Account)

# Repatriation of sale proceeds – NRI / PIO

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- Example – When property was acquired in foreign currency in accordance with the provisions of the foreign exchange law in force at the time of acquisition
  - ▣ Invested – US \$ 1 million – in Rs. 50 million
  - ▣ Sold – US \$ 3 million – in Rs. 180 million
  - ▣ Profit – US \$ 2 million – in Rs. 130 million
  - ▣ Tax – in Rs. 26 million
  - ▣ Amount that can be remitted directly – US \$ 1 million – in Rs. 60 million
  
- Credited to NRO account for remittance under US \$ 1 million Scheme – in Rs. 94 million (Rs. 180 – Rs. 26 – Rs. 60)

# Repatriation of sale proceeds – NRI / PIO

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- When property was acquired out of Rupee resources / by way of gift / inheritance
  - ▣ The sales proceeds must be credited to the NRO Account of the seller
  - ▣ They can repatriate an amount up to US \$ 1 million per financial year (after payment of applicable taxes) out of the balance in the NRO account / sale proceeds of assets by way of purchase / the assets in India acquired by him by way of inheritance / legacy
  - ▣ Remittances exceeding US \$ 1 million in any financial year can be made only after obtaining prior permission from RBI

# Repatriation of sale proceeds – NR

31

- Foreign Nationals resident outside India and who are not PIO
  - Can repatriate outside India the sale proceeds of any immovable property situated in India inherited by them from a person resident outside India only after obtaining prior approval from RBI
  
- Foreign Nationals (other than citizen of Pakistan, Bangladesh, Sri Lanka, China, Afghanistan, Iran Nepal and Bhutan) resident in India and who are not PIO
  - Have general permission to repatriate outside India the sale proceeds of any immovable property situated in India inherited by them from a person resident in India
  
- Foreign Nationals who citizen of Pakistan, Bangladesh, Sri Lanka, China, Afghanistan, Iran Nepal and Bhutan and are resident in India but who are not PIO
  - Can repatriate outside India the sale proceeds of any immovable property situated in India inherited by them from a person resident in India only after obtaining prior approval from RBI

# Miscellaneous – NRI / PIO

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- Repatriation – cancellation of booking
  - Amount of refund due on account cancellation of application/ earnest money/ purchase consideration or on account of non-allotment of flat / plot / cancellation of bookings / deals for purchase of residential, commercial property, together with interest, if any, can be credited to the NRE / FCNR(B) / NRO Account, as the case maybe, of the NRI / PIO purchaser
  - Repatriation of interest on such cancellation is permitted, subject to payment of taxes



# Miscellaneous – NRI / PIO

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- Letting out / Renting of residential / commercial property in India
  - NRI / PIO do not require any permission from RBI to let out their residential / commercial property in India
  - Rent can be credited to their NRO / NRE Account and can be repatriated after paying appropriate taxes
  - Rent can be remitted directly to their overseas bank account if appropriate tax has been deducted by the remitter

# Acquisition – BO / PO

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- Branch Office (BO) / Project Office (PO), in India, of a foreign entity (other than a company from Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal and Bhutan)
  - Can acquire any immovable property in India, which is necessary for or incidental to carrying on such activity
  - Can acquire immovable property by way of lease for a period not exceeding 5 years
  
- BO / PO in India of an entities from Pakistan, Bangladesh, Sri Lanka, Afghanistan, Iran, Bhutan or China
  - Can acquire immovable property in India only after obtaining prior approval from RBI
  - Can acquire immovable property by way of lease for a period not exceeding 5 years without RBI permission
  
- Payment for the acquisition must be made by way of foreign inward remittance through the proper banking channels

# Acquisition – BO / PO

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- Form IPI must be filed with RBI within 90 days from the date of acquisition
- The property can be mortgaged as security against borrowing with a Bank in India
- Upon winding up of the business - sale proceeds can be repatriated only after obtaining prior approval from RBI

# Acquisition by LO

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- Liaison Office (LO), in India, of a foreign company cannot acquire immovable property in India
- LO can only acquire immovable property by way of lease for a period not exceeding 5 years
- No Form needs to be filed by the LO for taking the immovable property on lease

# Acquisition – Foreign Embassies

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- Foreign Embassies / Diplomats / Consulate  
Generals can purchase and sell any immovable property in India – other than agricultural land / plantation property / farm house
  
- After obtaining clearance from the Government of India, Ministry of External Affairs
  
- Consideration for the acquisition must be by way of foreign inward remittance through normal banking channel

# Part 3

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- FDI in Construction & Development Activity And Industrial Parks

# Regulatory Framework

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- Consolidated FDI Policy issued by DIPP – Latest Policy – Circular 1 of 2014 issued on April 17, 2014
  
- Notification No. 20/RB-2000 dated May 3, 2000 – as amended from time to time
  - Schedule 1 – Annexure B

# Regulatory Framework

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- Intimation to be filed with RBI within 30 days of receipt of money towards FDI
- Form FC-GPR to be filed with RBI within 30 days of allotment under FDI
- Valuation norms to be complied with for determining the rate at which equity shares have to be allotted – Can be any Internationally accepted Valuation Method
- Statement of Foreign Liabilities & Assets as on March 31 has to be filed with RBI on or before July 15 every year



# Real Estate under FEMA

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- For the purpose of FEMA – Real Estate means Construction Development: Townships, Housing, Built-up infrastructure and construction-development projects
- It includes – housing, commercial premises, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional level infrastructure
- It does not include – Trading in Transferable Development Rights (TDR), Real Estate Business (dealing in land and immovable property with a view to earning profit or earning income therefrom) and Construction of Farm Houses

# Who can invest

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- A person resident outside India
- An entity incorporated outside India
- Citizens of Bangladesh or entities incorporated in Bangladesh can invest in India with the prior approval of the FIPB
- Citizens of Pakistan or entities incorporated in Pakistan can, after obtaining prior approval of the FIPB, invest in an Indian company not be engaged in sectors / activities pertaining to defence, space and atomic energy
- NRI, resident in Nepal and Bhutan as well as citizens of Nepal and Bhutan are
- permitted to invest in shares and convertible debentures of Indian companies on repatriation basis if investment is made only by way of inward remittance in free foreign exchange through normal banking channels

# Type of Indian Entity that can Accept

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- Indian Company:
  - General FDI Guidelines
  - Certain Relaxations in FDI policy (including Investments by NRI / PIO)
  
- Partnership Firm / Proprietary Concern:
  - NRI / PIO can invest under automatic route
  - Others require prior approval from RBI
  - The firm or proprietary concern cannot engage in agricultural / plantation activities or real estate business or print media sector
  - Investment can be on non-repatriation basis only – Investment on repatriation basis only after obtaining prior approval of RBI
  - Current Income can be freely repatriated after payment of taxes
  
- Limited Liability Partnerships (LLP):
  - Permissible with prior FIPB approval in sectors where 100% FDI is permitted and no performance related conditions are attached
    - FDI in LLP for investment in Real Estate Sector is not permissible (Except by NRI / PIO as they are not affected by performance related conditions)

# Guidelines for Investment

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- Investment permitted
  - 100% under Automatic Route
- Minimum capitalization
  - US \$10 million for wholly owned subsidiaries
  - US \$ 5 million for joint ventures with Indian partners
  - The funds would have to be brought in within six months of commencement of business of the Company
  - Original investment cannot be repatriated before a period of 3 years from completion of minimum capitalization
    - Original investment means the entire amount brought in as FDI
    - Lock-in period of 3 years to be calculated from the date of receipt of each installment / tranche of FDI or from the date of completion of minimum capitalization, whichever is later
    - Investor may be permitted to exit earlier with prior approval of the Government through the FIPB

# Guidelines for Investment

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- Minimum area to be developed under each project would be as under
  - ▣ In case of development of serviced housing plots, a minimum land area of 10 hectares
  - ▣ In case of construction-development projects, a minimum built-up area of 50,000 sq. mts.
  - ▣ In case of a combination project, any one of the above two conditions would suffice
  
- At least 50% of each such project must be developed within a period of 5 years from the date of obtaining all statutory clearances
  - ▣ The investor / investee company cannot sell undeveloped plots
    - “Undeveloped Plots” mean plots where roads, water supply, street lighting, drainage, sewerage, and other conveniences, as applicable under prescribed regulations, have not been made available
    - The investor must provide this infrastructure and obtain the completion certificate from the concerned local body / service agency before he is allowed to dispose of serviced housing plots

# Guidelines for Investment

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- The project must conform to the norms and standards laid down in the applicable building control regulations, bye-laws, rules, and other regulations of the State Government / Municipal / Local Body concerned
- The investor / investee company will be responsible for obtaining all necessary approvals, developing internal and peripheral areas and other infrastructure facilities, payment of development, external development and other charges and complying with all other requirements as prescribed under applicable rules / bye-laws / regulations of the State Government / Municipal / Local Body concerned
- The State Government / Municipal / Local Body concerned, which approves the building / development plans, has to monitor compliance of the conditions by the developer

# Guidelines for Investment

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- Approval Route – Prior approval from FIPB will have to be obtained before accepting any FDI
  - Where the project does not meet
    - The minimum area requirements
    - The minimum investment criteria
  
- Can a Company receive FDI in when
  - It has both FDI compliant and FDI non-compliant projects
  - It has FDI compliant real estate project along with other FDI permitted business
  
- Purchase of Agricultural Land for Real Estate Development?
  - Depends upon State Policy
  - In Maharashtra- Possible if approved under S. 63(1)(a) of Bombay Tenancy and Agricultural Land Act, 1948
  
- Construct and lease – is it permitted?

23-08-2014

# Relaxation of Guidelines

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- Guidelines for FDI in Construction activity are not applicable to investment in
  - Hotels & Tourism
  - Hospitals
  - Special Economic Zones (SEZ)
  - Education Sector
  - Old Age Homes
  - Investment by NRI / PIO
  
- Relaxation is in respect of the following 4 conditions
  - Minimum Area
  - Minimum investment and time period of 6 Months for bringing in the investment
  - 50% Project development within 5 years
  - Lock in period of 3 years for repatriation of initial investment



# FDI in Industrial Parks

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- Investment permitted
  - ▣ 100% under Automatic Route
- Minimum Area
  - ▣ A minimum of 10 units and no single unit must occupy more than 50% of the allocable area
  - ▣ The minimum percentage of the area to be allocated for industrial activity must not be less than 66% of the total allocable area
  - ▣ If these criteria are not satisfied – Will be treated as a construction & development project and all its conditions will apply

# Part 4

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- Investment in Immovable Property Outside India

# Regulatory Framework

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- Section 6(3)(h) grants power to RBI
  - ▣ To regulate “acquisition or transfer of immoveable property outside India, by a person resident in India”
  
- Section 6(4) provides that
  - ▣ “A person resident in India can hold, own or transfer any immoveable property outside India if the same was acquired, held or owned by such person when he was a person resident outside India or the immoveable property was inherited from a person resident outside India”
  
- Notification No. FEMA 7/2000-RB dated May 3, 2000

# Acquisition & Transfer

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- Notification No. FEMA 7/2000-RB dated May 3, 2000 covers
  - Persons Resident in India
    - Indian citizens resident in India
  - Overseas offices of Indian entities
  
- Does not cover / apply to property acquired by
  - A foreign citizen resident in India – he can deal with immovable property outside India in any manner they want
  - A person resident in India on or before 8th July, 1947 and continued to be held by him with the permission of RBI

# Residents who are Indian Citizens

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- Can acquire immovable property outside India by way of
  - ▣ Purchase out of foreign exchange held in their RFC account
  - ▣ Gift from a person who acquired the same when he was a NR or from a person who inherited the same from a NR
  - ▣ Inheritance from a person who acquired the same when he was a NR or from a person who inherited the same from a NR
  
- Can gift the immovable property to their relative who is a person resident in India
  - ▣ „Relative“ in relation to an individual means husband, wife, brother or sister or any lineal ascendant or descendant of that individual

# Investment under Liberalized Remittance Scheme (LRS)

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- Present limit for investment overseas – US \$ 125,000
- Investment can be made for any permitted current or capital account transactions or a combination of both
- Remittance cannot be made for transactions which are otherwise not permissible under FEMA and those in the nature of remittance for margins or margin calls to overseas exchanges/ overseas counterparty
- With effect from August 14, 2013, the scheme was not available for remittances for acquisition of immovable property directly or indirectly outside India
  - However with effect from July 11, 2014 remittances up to US \$ 125,000 can be made for acquisition of immovable property outside India

# Indian Company

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- Overseas office (branch/office/representative )of an Indian Company can
  - Acquire immovable property outside India for
    - Its business
    - Residential purposes of its staff
  - Lease immoveable property outside India for a period not exceeding 5 years without obtaining RBI permission
  - The overseas office cannot create liability outside India for the H. O.
    - Payment must therefore be through remittances within the permitted limits / Retained profits – after obtaining RBI permission
  
- Exporters whose export outstanding does not exceed 5% of exports made during the previous financial year and who had a minimum export turnover of US \$ 100,000/- during the last financial can open / hire warehouses abroad for an initial period of one year
  - Renewal is subject to the exporter satisfying the above requirements

# Part 5

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- ODI in Construction & Development Activity



# Regulatory Framework

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- Notification No. FEMA.120/RB-2004 dated July 7, 2004
  - Regulation 5(2) – No Indian party shall make any direct investment in a foreign entity engaged in real estate business or banking business or in the business of financial services activity
  
- "Real estate business" means buying and selling of real estate or trading in Transferable Development Rights (TDRs) but does not include development of townships, construction of residential / commercial premises, roads or bridges

# Regulatory Framework

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- Application in Form ODI – Part I
- Annual Performance Report as on date of end of Financial Year of the Overseas Entity to be filed with RBI on or before June 30 every year in Form ODI – Part III
- Valuation norms to be complied with for determining the rate at which investment in equity shares to be made
- Statement of Foreign Liabilities & Assets as on March 31 has to be filed with RBI on or before July 15 every year

# Construction & Development Activities

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- Investment in development of townships, construction of residential / commercial premises, roads or bridges can be up to 400% of net worth of the Indian Party
  
- Limit of 400% of net worth of the Indian Party not applicable – Investment can be without any limit – if investment made out of
  - ▣ Funds held in RFC account
  - ▣ Balances held in EEFC account
  - ▣ Proceeds of foreign currency funds raised through ADR / GDR issues
  
- If investment is funded by ECB availed by the Indian Party the limit on investment will be 400% of the net worth of the Indian party

# Thank You!