

# Indian Insurance Companies (Foreign Investment) Rules, 2015<sup>1</sup>

[Last amended on 19.5.2021]

In exercise of the powers conferred by clause (aaa) of sub-section (2) of section 114 of the Insurance Act, 1938 read with sub-clause (b) of clause (7A) of section 2 of the said Act, the Central Government hereby makes the following rules in respect of foreign investment in Indian insurance companies, namely:—

1. (1) These rules may be called the 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.**—<sup>2</sup>[(1)] 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);

<sup>3</sup>[(c) \* \* \*]

(d) “equity share capital” shall have the same meaning assigned to it in section 43 of the Companies Act, 2013 (18 of 2013);

<sup>4</sup>[(e) \* \* \*]

(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

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<sup>1</sup> Published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* notification G.S.R.115 (E) dated 19.2.2015, and subsequently amended *vide* notification G.S.R. 534 (E), dated 3.7. 2015, G.S.R. 314(E), dated the 16<sup>th</sup> March, 2016, G.S.R. 619(E), dated 2.9.2019 and G.S.R. 337(E), dated 19.5.2021

<sup>2</sup> Renumbered as sub-rule (1) *vide* notification G.S.R. 337(E), dated 19.5.2021

<sup>3</sup> Omitted *vide* notification G.S.R. 337(E), dated 19.5.2021

<sup>4</sup> Omitted *vide* notification G.S.R. 337(E), dated 19.5.2021

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);

<sup>5</sup>[(k) \* \* \*]

<sup>6</sup>[(l) \* \* \*]

<sup>7</sup>[(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;]

(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);

<sup>8</sup>[(o) “Resident Indian Citizen” shall have the meaning assigned to it in such policy as the Central Government may make from time to time on foreign direct investment;]

<sup>9</sup>[(p) “Total Foreign Investment” in an Indian Insurance Company shall mean the sum total of direct and indirect foreign investment by Foreign Investors in such company, calculated in such manner as is specified in regulations made by the Authority with regard to registration of Indian Insurance Companies;]

<sup>10</sup>[(q) \* \* \*]

<sup>11</sup>[(2) Words and expressions used herein and not defined in these rules, but defined in the Act or in the rules or regulations made thereunder, shall have the same meanings respectively assigned to them in the Act or in the rules or regulations.]

**3. Quantum of Foreign Direct Investment.**—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 <sup>12</sup>[seventy-four] percent. of the paid up equity capital of such Indian Insurance Company.

<sup>13</sup>[**4.** (1) In an Indian Insurance Company having foreign investment,—

(a) a majority of its directors,

(b) a majority of its Key Management Persons, and

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<sup>5</sup> Omitted *vide* notification G.S.R. 337(E), dated 19.5.2021

<sup>6</sup> Omitted *vide* notification G.S.R. 337(E), dated 19.5.2021

<sup>7</sup> Inserted *vide* notification G.S.R. 619(E), dated 2.9.2019

<sup>8</sup> Substituted *vide* notification G.S.R. 337(E), dated 19.5.2021

<sup>9</sup> Substituted *vide* notification G.S.R. 337(E), dated 19.5.2021

<sup>10</sup> Omitted *vide* notification G.S.R. 337(E), dated 19.5.2021

<sup>11</sup> Inserted *vide* notification G.S.R. 337(E), dated 19.5.2021

<sup>12</sup> Substituted *vide* notification G.S.R. 337(E), dated 19.5.2021

<sup>13</sup> Substituted *vide* notification G.S.R. 337(E), dated 19.5.2021

(c) at least one among the chairperson of its Board, its managing director and its Chief Executive Officer,

shall be Resident Indian Citizens.

*Explanation.*—For the purposes of this rule and rule 9, the expression “Key Management Person” shall have the same meaning as assigned to it in guidelines made by the Authority on corporate governance for insurers in India.

(2) Every Indian Insurance Company having foreign investment, existing on or before the date of commencement of the Indian Insurance Companies (Foreign Investment) Amendment Rules, 2021, shall within one year from such commencement comply with the requirements of the provisions of sub-rule (1).

**4A.** In an Indian Insurance Company having foreign investment exceeding forty-nine per cent.,—

- (a) for a financial year for which dividend is paid on equity shares and for which at any time the solvency margin is less than 1.2 times the control level of solvency, not less than fifty per cent. of the net profit for the financial year shall be retained in general reserve; and
- (b) not less than fifty per cent. of its directors shall be independent directors, unless the chairperson of its Board is an independent director, in which case at least one-third of its Board shall comprise of independent directors.]

<sup>14</sup>[**5.** The Foreign Investment proposals up to <sup>15</sup>[seventy-four] 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.]

<sup>16</sup>[**6.** \* \* \*]

**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 <sup>17</sup>[Foreign Exchange Management Act, 1999 (42 of 1999)].

<sup>18</sup>[**9.** (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

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<sup>14</sup> Substituted *vide* notification G.S.R.314(E), dated 16.3.2016

<sup>15</sup> Substituted for “forty-nine” *vide* notification G.S.R. 337(E), dated 19.5.2021

<sup>16</sup> Omitted *vide* notification G.S.R.314(E), dated 16.3.2016.

<sup>17</sup> Substituted for “FEMA” *vide* notification G.S.R. 337(E), dated 19.5.2021

<sup>18</sup> Substituted *vide* notification G.S.R.619(E), dated 2.9.2019

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 Indian Insurance Company, <sup>19</sup>[intermediary and insurance intermediary], 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.

**Note:** The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* notification number G.S.R. 115 (E), dated the 19<sup>th</sup> February, 2015 and were subsequently amended by notification numbers G.S.R. 534(E), dated the 3<sup>rd</sup> July, 2015, G.S.R. 314(E), dated the 16<sup>th</sup> March, 2016, G.S.R. 619(E), dated the 2<sup>nd</sup> September, 2019 and G.S.R. 337(E), dated 19.5.2021.

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<sup>19</sup> Inserted *vide* notification G.S.R.619(E), dated 2.9.2019