

GOOD NEWS FOR STARTUPS

Reserve Bank of India announced vide Press Release on 2nd February, 2016 relaxing the Regulatory requirement

In line with Government's Start-up India initiative, the Reserve Bank of India announced steps being taken for ease of doing business and to contribute towards an ecosystem that is conducive for growth of start-ups.

A. Proposed changes for Start-up Enterprises:

The following regulatory changes for easing the cross-border transactions, particularly relating to the operations of the start-up enterprises are proposed to be made, in consultation with the Government of India.

1. Enabling start-up enterprises, **irrespective of the sector** in which they are engaged, to receive foreign venture capital investment and also explicitly enabling transfer of shares from **Foreign Venture Capital Investors to other residents or non-residents**.
2. Permitting, in case of transfer of ownership of a start-up enterprises, receipt of the consideration amount on a deferred basis as also enabling escrow arrangement or indemnity arrangement up to a period of **18 months**.
3. Enabling **online submission of A2** forms for outward remittances on the basis of the form alone or with document(s) upload/submission, depending on the nature of remittance.
4. Simplifying the process for dealing with delayed reporting of Foreign Direct Investment (FDI) related transaction by building **a penalty structure into the regulations itself**.

The notifications/circulars under Foreign Exchange Management Act (FEMA), wherever necessary, will be issued RBI shortly.

B. Proposals under consideration:

1. Permitting start-up enterprises to access rupee loans under **External Commercial Borrowing (ECB) framework** with relaxations in respect of eligible lenders, etc.
2. Issuance of innovative **FDI instruments like convertible notes** by start-up enterprises.
3. Streamlining of **overseas investment operations** for the start-up enterprises.

Certain other issues that are permissible under the existing regime will be clarified by RBI.

1. Issue of shares without cash payment through **sweat equity** or against any legitimate payment owed by the company remittance of which does not require any permission under FEMA.
2. Collection of payments by start-up enterprises on behalf of their subsidiaries abroad
 - RBI has already created a dedicated mail id helpstartup@rbi.org.in to provide assistance and guidance to the start-up sector.
 - Further, electronic reporting of investment and subsequent transactions will be made on **e-Biz platform only**.
 - Submission of physical forms will be discontinued with effect from February 8, 2016.

C. Conclusion:

These measures will create an enabling framework for receiving foreign venture capital, differing contractual structures embedded in investment instruments, deferring receipt of considerations for transfer of ownership, facilities for escrow arrangements and simplification of documentation and reporting procedures.
