

Due Diligence under FEMA, 1999

Nagpur Branch of ICAI

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ALLOWABILITY

Mentioned below are the items of balance sheet and corresponding FEMA regulation that needs to be checked for applicability and compliance:

Equity and Liabilities	Nature under FEMA, 1999	Governing Regulation as per FEMA 1999
(1) SHAREHOLDERS' FUND		
(a) Share capital		
Equity Share Capital		
(a) Issued and subscribed Fully paid up capital	Equity	<ul style="list-style-type: none"> FEM (Non – Debt Instruments) Rules, 2019 notified on October 17,2019 FEM (Mode of Payment and Reporting of Non-Debt Instruments) Regulations 2019 notified on October 17, 2019 Master Direction – Foreign Investment in India 11/2017-18 (RBI/FED/2017-18/60) Consolidated FDI Policy Circular of 2020

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(b) Partly Paid up shares	Equity	<ul style="list-style-type: none"> FEM (Non – Debt Instruments) Rules, 2019 notified on October 17,2019 FEM (Mode of Payment and Reporting of Non-Debt Instruments) Regulations 2019 notified on October 17, 2019 Master Direction – Foreign Investment in India 11/2017-18 (RBI/FED/2017-18/60) Consolidated FDI Policy Circular of 2020
(c) Equity Share capital (issued by way of Right issue/Bonus shares)	Equity	<ul style="list-style-type: none"> FEM (Non – Debt Instruments) Rules, 2019 notified on October 17,2019 FEM (Mode of Payment and Reporting of Non-Debt Instruments) Regulations 2019 notified on October 17, 2019 Master Direction – Foreign Investment in India 11/2017-18 (RBI/FED/2017-18/60) Consolidated FDI Policy Circular of 2020
Preference Capital		
(i) Compulsory Convertible preference share	Equity	<ul style="list-style-type: none"> FEM (Non – Debt Instruments) Rules, 2019 notified on October 17,2019 FEM (Mode of Payment and Reporting of Non-Debt Instruments) Regulations 2019 notified on October 17, 2019 Master Direction – Foreign Investment in India 11/2017-18 (RBI/FED/2017-18/60) Consolidated FDI Policy Circular of 2020
(ii) Non-Convertible preference share	Debt as per FEMA, 1999	<ul style="list-style-type: none"> FEM (Borrowing or Lending) Regulations, 2018 FEMA (Guarantee) Regulations, 2000 Master Direction - External Commercial Borrowings, Trade Credits and Structured Obligations
(b) Reserves and surplus		
Dividend	Repatriation of dividend	Foreign Exchange Management (Current Account Transactions) Rules, 2000 as amended from time to time
Share Premium Account	Valuation of shares	<ul style="list-style-type: none"> FEM (Non – Debt Instruments) Rules, 2019 notified on October 17,2019 FEM (Mode of Payment and Reporting of Non-Debt Instruments) Regulations 2019 notified on October 17, 2019 Master Direction – Foreign Investment in India 11/2017-18 (RBI/FED/2017-18/60)

		<ul style="list-style-type: none"> Consolidated FDI Policy Circular of 2020
Share option outstanding Account	Employees stock option	<ul style="list-style-type: none"> FEM (Non – Debt Instruments) Rules, 2019 notified on October 17,2019 FEM (Mode of Payment and Reporting of Non-Debt Instruments) Regulations 2019 notified on October 17, 2019 Master Direction – Foreign Investment in India 11/2017-18 (RBI/FED/2017-18/60) Consolidated FDI Policy Circular of 2020
(c) Money received against share Warrants		
Warrants	Warrants	<ul style="list-style-type: none"> FEM (Non – Debt Instruments) Rules, 2019 notified on October 17,2019 FEM (Mode of Payment and Reporting of Non-Debt Instruments) Regulations 2019 notified on October 17, 2019 Master Direction – Foreign Investment in India 11/2017-18 (RBI/FED/2017-18/60) Consolidated FDI Policy Circular of 2020
(2) SHARE APPLICATION MONEY PENDING ALLOTMENT		
Share Application Money	Share Capital	<ul style="list-style-type: none"> FEM (Non – Debt Instruments) Rules, 2019 notified on October 17,2019 FEM (Mode of Payment and Reporting of Non-Debt Instruments) Regulations 2019 notified on October 17, 2019 Master Direction – Foreign Investment in India 11/2017-18 (RBI/FED/2017-18/60) Consolidated FDI Policy Circular of 2020
(3) NON- CURRENT LIABILITY		
(a) Long-term borrowings		
Debt from foreign institution/foreign equity holder	External Commercial Borrowings	<ul style="list-style-type: none"> FEM (Borrowing or Lending) Regulations, 2018 FEMA (Guarantee) Regulations, 2000 Master Direction - External Commercial Borrowings, Trade Credits and Structured Obligations
Bonds	Foreign Currency Convertible Bonds/ Foreign Currency Exchangeable Bonds	<ul style="list-style-type: none"> FEM (Borrowing or Lending) Regulations, 2018 FEMA (Guarantee) Regulations, 2000

		<ul style="list-style-type: none"> Master Direction - External Commercial Borrowings, Trade Credits and Structured Obligations
(b) Deferred tax liabilities (Net)		
Gain/loss arising out of foreign exchange transactions	Hedging of gain/loss arising out of foreign exchange transactions	Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000
(c) Other long-term liabilities		
Fully and mandatorily convertible debentures	Equity for the purpose of FEMA	<ul style="list-style-type: none"> FEM (Non – Debt Instruments) Rules, 2019 notified on October 17,2019 FEM (Mode of Payment and Reporting of Non-Debt Instruments) Regulations 2019 notified on October 17, 2019 Master Direction – Foreign Investment in India 11/2017-18 (RBI/FED/2017-18/60) Consolidated FDI Policy Circular of 2020
(d) Long-term provisions		
(4) CURRENT LIABILITY		
(a) Short-term borrowings		
Trade Credit	Suppliers credit/Buyers credit	<ul style="list-style-type: none"> FEM (Borrowing or Lending) Regulations, 2018 FEMA (Guarantee) Regulations, 2000 Master Direction - External Commercial Borrowings, Trade Credits and Structured Obligations
(b) Trade payables		
Invoice Payable	Import payment	Foreign Exchange Management (Current Account Transactions) Rules, 2000
(c) Other current liabilities		
Advance Payments	Advance Payments received against Exports	Foreign Exchange Management (Export of Goods and Services) Regulations, 2015 read with Master Direction – Export of Goods and Services (FED Master Direction No. 16/2015-16)
(d) Short-term provisions		
TOTAL		
ASSETS	Nature as per FEMA, 1999	Governing Regulation
(1) NON-CURRENT ASSETS		
(a) Fixed assets		

Tangible Assets	Immovable Property outside India	FEM (Acquisition and transfer of immovable property outside India) Regulations, 2015 and FEM (Foreign Currency Accounts by a person resident in India) Regulations, 2015 and FEM (Remittance of Assets) Regulations, 2016
(b) Non-current investments		
Investment in Equity Instruments of foreign Company	Overseas Direct investment	FEM (Transfer or issue of any foreign security) Regulations, 2004 read with Master Direction – Direct Investment by Residents in Joint Venture (JV) / Wholly Owned Subsidiary (WOS) Abroad (FED Master Direction No. 15/2015-16)
Investment in equity instrument of Indian Company	Downstream Investment	<ul style="list-style-type: none"> • FEM (Non – Debt Instruments) Rules, 2019 notified on October 17,2019 • FEM (Mode of Payment and Reporting of Non-Debt Instruments) Regulations 2019 notified on October 17, 2019 • Master Direction – Foreign Investment in India 11/2017-18 (RBI/FED/2017-18/60) • Consolidated FDI Policy Circular of 2020
(c) Deferred tax assets (net)		
Gain/loss arising out of foreign exchange transactions	Hedging of gain/loss arising out of foreign exchange transactions	Foreign Exchange Management (Foreign exchange derivative contracts) Regulations, 2000
(d) Long-term loans and advances		
loan/ advance	Loan/advance to the foreign entity	FEM (Transfer or issue of any foreign security) Regulations, 2004 read with Master Direction – Direct Investment by Residents in Joint Venture (JV) / Wholly Owned Subsidiary (WOS) Abroad (FED Master Direction No. 15/2015-16)
(e) Other non-current assets		
Assets on lease	Export of goods on lease rentals/hire charges	FEM (Export of Goods and Services) Regulations, 2015 read with Master Direction – Export of Goods and Services (FED Master Direction No. 16/2015-16)
(2) CURRENT ASSETS		
(a) Current investments		
Investment in listed overseas companies	Portfolio investment overseas	Exchange Management (Overseas Investment) Rules,2022 and Foreign Exchange Management (Overseas Investment) Regulations, 2022 along with Foreign Exchange Management (Overseas Investment) Directions, 2022.
Investment in debt instruments of overseas company	Overseas investment	Exchange Management (Overseas Investment) Rules,2022 and Foreign Exchange Management (Overseas Investment)

		Regulations, 2022 along with Foreign Exchange Management (Overseas Investment) Directions, 2022.	
(b) Inventories			
(c) Trade receivables			
Debtors	Export Proceeds	FEM (Export of Goods and Services) Regulations, 2015 read with Master Direction – Export of Goods and Services (FED Master Direction No. 16/2015-16)	
Bad debts	Writing off of exports proceeds	FEM (Export of Goods and Services) Regulations, 2015 read with Master Direction – Export of Goods and Services (FED Master Direction No. 16/2015-16)	
(d) Cash and cash equivalents			
Bank Account	Foreign Currency account in India or Bank Account outside India	FEM (Foreign Currency Accounts by a person resident in India) Regulations, 2015	
(e) Short-term loans and advances			
Prepaid Invoice	Advance remittances for imports	FEM (Current Account Transactions) Rules, 2000	
(f) Other current assets			
Pre-operative expense	Pre incorporation expenses	FEM (Current Account Transactions) Rules, 2000	
TOTAL			
CONTINGENT LIABILITY AND COMMITMENTS			
Contingent liability			
Guarantee	Contingent liability	FEM (Guarantees) Regulations, 2000	
Security	Contingent Liability (pledge of immovable property, securities etc.)	Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 read with Master Direction - External Commercial Borrowings, Trade Credits and Structured Obligations (FED Master Direction No.5/2018-19)	
Commitments			
Forward contracts outstanding	Commitment	Foreign Exchange Management (Foreign exchange derivative contracts) Regulations	
Options contracts outstanding	Commitment	Foreign Exchange Management (Foreign exchange derivative contracts) Regulations	