

FEMA facilitates acquisition of foreign entity by Indian companies through cross border swaps

Simplifies [NDI Rules](#) for EoDB in line with Union Budget announcement | Effective from August 16, 2024

Swap of equity instruments of India cos, equity capital of foreign cos [R. 9A, Para 1 (d) of Schedule 1]

- Swap of equity capital of foreign company allowed in compliance of Overseas Investment Rules.
 - **Pre-amendment:** No such enabling provision.
- This will facilitate cross border merger, acquisitions, strategic investments worldwide
- Issue of equity instruments against swap of equity capital of foreign company permitted under Schedule I
- Transfer of equity instruments against swap of equity capital of foreign company permitted under Rule 9A.
- Government approval to be obtained, where required.

Investments not regarded as Downstream Investments (DI) [R. 23 (7)]

- Investments made by Indian entities that are owned or controlled by NRIs/ OCIs including foreign company/trust/firm owned & controlled by NRI/OCI will not be considered as DI.
 - **Pre-amendment:** Investments held directly by NRI/OCI on non-repat basis were only excluded.

Definition of Start up [R. 2 (an)]

- Aligned with the DPIIT [notification](#) G.S.R. 127 (E), dated the 19th February, 2019.

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Permissible FPI without Govt approval [Para 3 (a) (iii) of Schedule 1]

- Aggregate foreign portfolio investments by FPIs up to the sectoral cap allowed without Govt. approval or compliance of sectoral conditions, if there is no transfer of ownership/ control.
 - **Pre-amendment:** The threshold was aggregate FPI up to 49% or the sectoral or statutory cap, whichever is lower.
- Individual limit for foreign portfolio investment is 10% of paid-up share capital on a diluted basis.
 - Limit is for each FPI or an investor group.
 - Investor group comprises of 2 or more FPIs, including foreign Governments/their related entities, having common ownership, directly or indirectly, of more than 50% or common control

Sectoral cap for White Label ATM Operations (WLAO) [Sr. no. F.11 Schedule 1]

- 100% FDI under automatic route in case of WLAOs inserted to align with [FDI policy](#). It was permitted since [October 2015](#).

Definition of Control [R 2 (da)] –

- Aligned with CA, 2013 and in case of LLPs, right to appoint majority of DPs where DPs have control over LLP's policies.
- Standalone explanation in R. 23 and Schedule II deleted.