

Foreign Investment in "unregulated financial services" entities - Press release

The Government of India has issued a Press Release prescribing the minimum capitalisation norms for foreign investment in other Financial Services activities that are "unregulated" including for unregistered or exempt entities.

Background

In 2016, the foreign investment policy in 'other Financial Services' was amended to provide that financial services activities can have foreign investment up to 100% under automatic route. However, foreign investment in financial services activities which were not regulated by any Financial Sector Regulator or where only part of the financial services activity was regulated or where there was doubt regarding the regulatory oversight, foreign investment was allowed under Government approval route subject to conditions including minimum capitalisation requirements.

Press release

As per the press release dated 16 April 2018, unregulated entities will require to adhere to the minimum capitalisation norms which are as follows:

Sr. No.	Nature of activity	Minimum capitalisation requirement (US\$)
1	Fund based activities	20 million
2	Non-fund based activities	2 million

In line with the pre-2016 policy, fund based activities would include Merchant Banking, Under Writing, Portfolio Management Services, Stock Broking, Asset Management, Venture Capital, Custodian Services, Factoring, Leasing & Finance, Housing Finance, Credit Card Business, Micro Credit, Rural Credit. Non-fund based activities would include Investment advisory services, Financial Consultancy, Forex Broking, Money Changing Business, Credit Rating Agencies.

The Press Release also provides an explanatory Note to clarify that fund and non-fund based activities shall include the above activities to the extent that they are –

- not regulated by any financial sector regulator - this shall include scenarios where the entity is not registered with the concerned sector regulator and/ or the entity/ activity is exempted under the concerned sector regulations; or
- where only part of the financial services activity is regulated; or
- where there is a doubt regarding the regulatory oversight.

While detailed guidance (in the form of notification/ circular) is awaited from the Reserve Bank of India (RBI), the above press release may create a lot of challenges, for otherwise exempt/ unregulated entities in the financial services sector. We expect representation to be made by impacted entities to the Government and the RBI.

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With Best Regards
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