

FVCI/FDI Reporting: Handle with Care

RBI has made an observation that SEBI registered Foreign Venture Capital Investor (“FVCI”) making investments in Indian Companies under FDI Scheme, are reporting such transactions to Reserve Bank of India (“RBI”) in accordance with the provisions contained in Schedule 1 of Notification No. FEMA.20 / 2000 - RB dated May 3, 2000 (“Notification”) and in addition also reporting the same transaction in accordance with Schedule 6 of the Notification *ibid*, which ultimately results in double reporting of the transaction.

RBI has, by a notification dated June 12, 2013, clarified that when SEBI registered FVCI acquires shares of an Indian company under FDI Scheme in accordance with Schedule 1 of Notification No. FEMA.20 / 2000 - RB dated May 3, 2000 the FDI investment shall be reported in form **FC-GPR/FC-TRS** as prescribed. On the other hand investments made by FVCI in a Foreign Venture Capital Investment Scheme covered under Schedule 6 of the Notification *ibid* are excluded from complying with the reporting requirements by way of filling form FC-GPR/FC-TRS as prescribed. Instead such transactions will be reported by the custodian bank in the monthly reporting format as prescribed by RBI from time to time. The SEBI registered FVCI have been granted the option of making an upfront determination of whether the investment is made under the FDI or FVCI scheme and make their reporting accordingly.

IndusLaw Quick View:

There had been different views amongst industry practitioners on whether investments by a FVCI under the FDI Scheme should be reported in form FC-GPR/FC-TRS. The clarification helps in clearing the doubts of this procedural requirement. However, this will also mean that FVCI shall have to decide upfront as to whether the investment is being made under FDI or the FVCI Scheme and ensure that no FC-GPR/FC-TRS filings are made in relation to its investments as FVCI since such filing might lead to a presumption of the investment being under the FDI route.



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