Foreign Exchange Management – Foreign Direct Investment
ARF - FC-GPR- FCTRS - Scrutiny - Checklist
FC-GPR- Scrutiny

- FEMA Notification No.20/RB-2000 dated May 03, 2000 as amended from time to time
- Schedule 1 – FDI
- Schedule 2 – PIS (FII)
- Schedule -2A (RFPI) (FII and QFI –Qualified Foreign Investor)
- Schedule 3 – NRI – Stock exchange – repatriation and non-repatriation basis
- Schedule 4 – NRI on non-repatriation basis
- Schedule 5 – NRs purchasing other than shares and convertible instruments
FC-GPR- Scrutiny

- Schedule 6 – FVCI investment in VCU / IVCF
- Schedule 7 – IDR by eligible companies outside India
- Schedule 8 – QFI investments
- Schedule 9 – LLP
- Schedule 10 – issue of shares to Foreign Depository to issue Depository Receipts
ARF- Scrutiny

- **ARF Reporting**
- Forwarded through AD bank.
- Regd office of the company – region of RO
- Check FIRC copy/ Debit certificate/ KYC enclosed
- PAN No. mentioned
- Investment for FDI or not??
- Investor name matches with FIRC/ KYC
- Foreign address of the investor given
- Date of receipt of funds filled up
ARF- Scrutiny

- **ARF Reporting**
- Amount (INR/FC) matches with FIRC
- Automatic/ Approval route (copy of FIPB approval)
- Authentication by company/ AD bank
- Date of submission of ARF to AD and onward submission to RBI??
- If in order issue UIN
- Delay– UIN-CA/Compounding memo
ARF- Scrutiny

- **LLP – ARF cum FCGPR**
- Designated Partner Identification No.
- Only Approval Route- 100% FDI is permitted under Automatic route as per FDI policy with no conditions to be fulfilled
- FIPB approval letter
ARF-FIRC - Scrutiny

- FIRC
  - (i) Check name of the beneficiary company,
  - remitter bank,
  - remitter,
  - date of credit of inward remittance,
  - INR equivalent,
  - purpose of remittance filled up in the FIRC and for FDI?
ARF-FIRC - Scrutiny

- **FIRC** (ii) Name/s of the remitter in FIRC and name/s of the investor/s in the FCGPR are **matching** - If different, **NOC** from the remitter/s and nature of relationship between the remitter and investor, letter from the investor, board resolution by investee company.

- (iii) From NRE/ FCNR(B)/ SNRR account- investor's AD bank letter/ debit certificate – name, account type, amount, date of debit, etc.
ARF-KYC - Scrutiny

• KYC
• Signed by the AD bank in India
• Prescribed format
• All the columns filled up?
• Registration No/ UIN or passport?
• If remitter/s and investor/s are different, KYC reports for both to be submitted
• If debt from NRE/FCNR(B)/SNRR – No KYC required

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FC-GPR- Scrutiny

- FCGPR routed through the AD bank
- Registered Office in the Region of RO
- Filed under Schedule 1 of FEMA 20???
- FCGPR in original & latest format
- PAN No. filled up (10 digit)?
- Date of issue given/ matches with para 4(a)
- Date of Incorporation of the company
- Existing/ New company? - FDI registration number by RBI
- NIC code-Activity 2008 list
- State and district code
FC-GPR - Scrutiny

- FDI percentage & Automatic/ approval route (copy of FIPB approval)
- If shares issued =>2 NR investors same day, only 1 FCGPR to be filed.
- Constitution of the non-resident/ Foreign Address only.
- Date of incorporation of foreign company
- Type of issue
- Type of security filled up correctly
FC-GPR - Scrutiny

• Warrants 25% upfront- balance in 18 m – terms upfront (to the extent called up)
• Partly paid up shares- 25% upfront-balance in 12m – 100/500 cr no time limit – monitoring agency (FCGPR to the extent called up)
• Inward remittance details/ Surplus-shortage?
• Post-issue share holding pattern tallies? If not, FC-TRS/previous RBI ack. ? – Listed ??
• Declaration part filled up correctly?
• Inapplicable clauses - authenticate
FC-GPR - Scrutiny

- UIN details – reported or not?
- **Authorized signatory** - Director/ MD/ Company Secretary **only**
- **Date, place, Name** of the authorized signatory filled up?

- Delay in receipt of FCGPR – CA/ compounding memo
FC-GPR – LLP- Scrutiny

- LLP – ARF cum FCGPR
- Designated Partner Identification No.
- 100% FDI is permitted under Automatic route as per FDI policy with no conditions to be fulfilled
- FIPB approval letter
- Certificate from designated partner
- Valuation certificate from CA/ Cost accountant/ approved valuer from Govt panel
FC-GPR - Scrutiny

- **Company Secretary’s Certificate**
- Submit in **original**
- All the clauses in the certificate must be as per **format/ any conditionality mentioned**
- **Registration number** of Practicing CS
- Indian company’s name indicated? (if issued not as a continuation page of FCGPR)
- If name of investor/s, the number of shares issued / date of issue mentioned in the certificate, whether they tally with FCGPR
FC-GPR - Scrutiny

- **Chartered Accountant’s certificate**
- Submit in **original**
- Subscribe to MoA/ Rights/ Bonus – No CA certificate
- **Valuation** based on latest balance sheet and as per erstwhile **CCI guidelines** (allotment < 7.4.2010)
- Valuation based on **Discounted Free Cash Flow (DCF)** Method (allotment=> 7.4.2010)
- W.E.F 15.7.2014, for unlisted – Internationally accepted methodology
FC-GPR - Scrutiny

- contd...CA Certificate
- **Fair Value** has to be indicated clearly
- Indian company’s name is appearing in the certificate
- Valuation of equity share as on the date/near to the date of issue is required – CCPS/CCDs/warrants
- Date of issue of CA certificate be nearest to the date of issue of shares.
FC-GPR - Scrutiny

- ESOPs – plain paper reporting for stock options - at the time of issue shares FCGPR within 30 days - not more than 5% of capital and scheme as per SEBI guidelines

- Merger/ Amalgamation – Court order - FCGPR (not to exceed sectoral cap – activity permitted as per FDI policy)

- ECB conversion in to Equity – CA certificate for outstanding ECB, copy of ECB-2 returns
FC-TRS - Scrutiny

- FCTRS- to be filed within 60 days from the date of the transaction
- If delay – AD bank refer to RO of FED, RBI
- RO to verify –
- Delay –
- KYC of non-resident remitter
- If transfer already effected by Indian company
- Signed by non-resident seller/ buyer or his agent
FC-TRS - Scrutiny

- Please see the FCTRS for documents to be filed
THANKS

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