*Webinar Transcript | 19 August, 2026*

# RBI's Draft Foreign Investment Rules

India's foreign investment framework is being rewritten — and the draft "FI Rules" set to replace the NDI Rules bring some sweeping, and in places ambiguous, changes.

In this webinar highlight, Shivam and Prashant break down what's actually changing and why it matters for founders, funds, and private credit players.

## Relevant Research:

*RBI's Draft Foreign Investment Rules: Streamlining, or Shifting the Goalposts?*

## Speakers:

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Prashant Khurana: Counsel, Resolüt Partners

## Transcript:

### Q: Do pricing guidelines now apply even when one foreign investor sells to another?

**Shivam:** First, most importantly, the way we see it, pricing guidelines, right? From a practice perspective. Until now it was pretty clear. If you were investing, taking money into India, if you were taking money out of India, pricing guidelines applied, and it was clearly spelled out in the NDI rules the situations in which it didn't apply and the situations in which it applied. Now it's one simple rule: if you're doing foreign investment, pricing guidelines apply. And that has one unintended consequence that means today, if a non-resident, a foreign investor, sells to another foreign investor, they now have to comply with pricing guidelines, or at least that's what it seems to be. Again, we don't know how its going to play out, we don't know what the intent is. And even if you think about it from a broader regulatory perspective, what really could be the intent there, right? There's no exchange control, there's no foreign exchange happening really there. It's money between two non-residents.

**Q: Why does "at a price" instead of a price band hurt founders and ratchets?**

**Prashant:** One of the most remarkable ones for me that stood out was the use of the phrase "any sort of foreign investment shall be at a price." So it's no longer the band that we thought that if you're bringing money into India it must happen with the floor price being the fair market value, and if you're taking money out of India, with the ceiling being fair market value. It needs to be at the precise price that the valuation report now specifies, if you're doing an unlisted trade. And that basically means that all sorts of valuation adjustments that we were accustomed to ratchets if you read it that literally... So if you are a founder today and you're going to raise money for your startup, your valuation report will give what? Some projected cash flows, and it'll use that to determine some valuation for you. It effectively means that you're bound by that valuation now. So either you make your projections astronomical, or there's absolutely no way for you to get a higher valuation for your investment which is something that is actually quite detrimental even to the Indian founders and startup guys.

**Q: What is the pricing rule for off-market listed trades now?**

**Shivam:** Today, under the NDI rules as it stands, if you're doing an on-market listed trade, it's pretty clear  the pricing guidelines apply, whatever is the market price. If you're doing an off-market trade in listed securities, the NDI rules deem that it needs to be in compliance with the pref allotment pricing guidelines — the 10-90 days revamp that you see in ICDR. Today, the proposal is that even off-market and on-market trades, both, have to be in compliance with the rules set out by SEBI, right? SEBI does identify pricing guidelines in certain cases for prefs, for takeovers, etc. But it hasn't spoken about block deals, etc. It hasn't spoken about pricing in the context of off-market deals, right? So now there's a bit of ambiguity — if you're doing an off-market trade, what is the applicable pricing guideline from an exchange control perspective? We don't know. SEBI hasn't clarified it, the RBI hasn't clarified it. So it's a bit of a gap.

**Q: Have put options been liberalised — and is the one-year holding period gone?**

**Prashant:** There was an entire clarification that used to exist under the NDI rules, which says that you cannot have put options over equity instruments where an assured return is being promised by the resident to a non-resident. And that is gone now that clarification doesn't exist. But I don't think that means you can sell at whatever price. I think you're still governed largely by the pricing guidelines. A second condition that exists in that clarification today is the one-year holding-period requirement that a put option can only be exercised by someone who has held the shares as a non-resident for a period of at least one year. That requirement is gone, and that is a general liberalization. But I guess there is a SEBI circular that continues to govern it.

**Q: What does the complete relaxation of pledge rules mean for private credit?**

**Shivam:** The next big change and quite a big change for the private credit folks is the complete relaxation of pledge. Until now, there were a whole host of conditionalities attached to pledge. In fact, I should put it the other way around you could only do a pledge in a handful of situations.

For example, if your borrower was raising ECB, then the promoter of the borrower could pledge the shares of the borrower in favor of the ECB lender that‘s one situation.

### Q: Is Your Sister Company in China Now a “Foreign Investor” in India — and Does PN3 Apply?

**Shivam:** The FI rules have introduced an interesting construct, which is: they say that if a foreign investor invests into an Indian company, then the person sitting on top of him his shareholder, and even sister group companies they all become, or are deemed to be... they are, in fact, just foreign investors, right? So one investment by a foreign investor into a group of entities, and they all suddenly become foreign investors for the purposes of the FI rules. What could possibly be the intent of this level of aggregation?

**Prashant:** If it’s an investment by Apple China into Apple India, does PN3 start applying — simply because a group company is coming in? Until now, we’ve understood PN3 as mandatorily requiring you to go and get an approval from the government for any investment greater than 10%. If that starts applying, then this would mean that practically every investor in the world who has investments in China — and doesn’t have investments in the second-largest economy in the world — needs to get an approval from the government when investing in India. I don’t think that’s the intent.

### Q: Could an India-Managed AIF Suddenly Wake Up as a Foreign-Owned Entity?

**Shivam:** You have an unfortunate situation where RBI said, “we’re not looking at this — our schedules are gone, maybe they’ll come later, but for now the schedules are gone; let SEBI handle this.” SEBI has not handled it. Here’s what it looks like: Indian sponsor, Indian investment manager, the team is sitting in Bombay, and all the unit holders are based abroad. So what — is it now a foreign-owned FPI, AIF? Is that what the intent is?

**Prashant:** So the intent is: if you are a fund based out of India, managed by Indian fund managers, and you happen to have LPs who are majority offshore folks, does that make you a foreign fund? I don’t think that’s how it should be. Because the idea is that the fund’s investment decisions will be made by people who are resident in India — the fund has been set up by people who are resident in India, and therefore control should be said to be with them. But that’s not written in the SEBI regulations, unfortunately, because SEBI never defined it from an exchange control standpoint.

### Q: Does the Onus of Compliance Now Sit on the Foreign Investor?

**Shivam:** One small — very small, but important — point to note. They’re all small but important points, right? The onus of compliance is now also on foreign investors.

**Prashant:** When we say the onus of compliance, this is not the investment action itself — we‘re not talking about your Form FC-GPR filing. What we are talking about is every single condition that you have to comply with as a company going forward. Your conditions — for example, if you are in multi-brand retail, there are sourcing requirements that you have to fulfill. Those conditions also need to be met. So all of that will now come onto a foreign investor.

### Q: Is the FDI vs FPI Distinction Now Purely a 10% Test?

**Shivam:** Another interesting change is in how the terms FPI (foreign portfolio investment) and FDI (foreign direct investment) have come through. Until now it was pretty clear: if you're doing listed securities, then below 10% is foreign portfolio investment. All unlisted investment is foreign direct investment, and above 10% listed securities is foreign direct investment as well. This whole unlisted/listed parameter has gone now from the definition of foreign portfolio versus foreign direct investment. It's not very simple — less than 10% is foreign portfolio investment, more than 10% is foreign direct investment. They've shifted completely to quantum. It's in line with some of the changes that have been thought through since the time the Mayaram Committee report came out in 2014, which signal a shift from an investor-focused regime to an investment-focused regime.

### Q: Will your accountant now decide what counts as equity?

**Shivam:** Equity is fairly simply defined today — "equity instruments" in the NDI rules. It's equity of any Indian company, so that's equity shares, CCDs, CCPS; it can be partly paid; share warrants are also covered — it's an objective definition as to what is the equity instrument. It is now shifted, or it's proposed to be shifted, I should say, to a principle-based regulation in the new FI rules. So what they've gone with is that it's now defined based on the classification by the investing company in line with accounting standards — if the investing company's accounting standards require it to classify a certain instrument as equity, then it is equity for the purposes of the NDI rules. It's all very raw, it's all in draft form, so let's see how this evolves and comes out. And we look forward to you guys also writing into the regulator, writing into us, et cetera — please read our research paper. We're going to be in the loop on this, and looking forward to seeing how this evolves in the future.