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Tax and Regulatory Updates - India

Foreign Portfolio Investors

2018-19

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1. Regulatory Updates - SEBI (1 February 2018 till date)

i. Easing India Access Norms for investment by Foreign Portfolio Investor's (FPI)

Securities and Exchange Board of India (SEBI) issued circular dated 15 February 2018 amending the following regulatory provisions:

- Discontinuance of requirements for seeking prior approval from SEBI in case of change in local custodian (LC) / Designated Depository Participant (DDP).
- Rationalization of procedure for submission of protected cell companies /multi class share vehicles Declarations and Undertakings (D&U) and Investor grouping requirement at the time of continuance of registration of FPIs
- Placing reliance on due diligence carried out by erstwhile DDP at the time of change of LC/ DDP of FPIs
- Exemption to FPIs having Multiple Investment Managers (MIM) structure from seeking prior approval from SEBI in case of Free of Cost (FOC) transfer of assets
- Simplification of process for addition of share class
- Permitting FPIs operating under the Multiple Investment Managers (MIM) structure to appoint multiple custodians
- Permitting appropriately regulated Private Bank/ Merchant Bank to invest on their behalf and also on behalf of their clients
- Clarifications on Conditional registration for existing FPI:

Source: SEBI Circular CIR/IMD/FPIC/ 26 /2018 dated 15 February 2018

ii. SEBI issues clarifications in respect of investment by certain Category II FPIs

With regard to circular on "Easing of access norms for investment by FPIs", SEBI provided clarifications in respect of investment by certain Category II FPIs:

- Collective Investment Vehicle of Private Banks/Merchant Banks investing on behalf of clients, should ensure compliance with conditions mentioned in the circular while making investment on behalf of the clients;
- Appropriately regulated broad based insurance/ reinsurance companies must maintain undivided common portfolio. Also, segregated portfolio or investor/ policy-holder level investment structure are not permitted;
- Other appropriately regulated persons permitted as Cat II FPIs (viz. Asset management companies (AMC), investment managers/ advisers, Portfolio managers, Broker-dealer and Swap-dealer) are permitted:
 - to invest their proprietary funds,
 - to invest client funds by taking separate registration as broad based fund having common portfolio or as an Offshore Derivative Instruments issuing FPI
 - AMC having thematic portfolios can also have segregated structure if each theme is broad based

Source: SEBI circular CIR/IMD/FPIC/47/2018 dated 13 March 2018

iii. Due Diligence requirements under FATCA and CRS

SEBI listed the due diligence requirements under Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standards (CRS) to be undertaken by DDP and Custodians of Securities particularly in relation to FPIs.

The key highlights of the circular are –

- All DDPs and Custodians directed to obtain valid FATCA and CRS self-certifications from the FPIs at the time of account opening. SEBI registration to be granted to FPIs only after obtaining valid self-certifications.
- Custodians are directed to carry out the due diligence on the accounts held by Global Custodian (GC) end-clients. The Custodian may rely on the FATCA/CRS documentation done by GC for the account holders including the self-certification, however, the obligations for due diligence and reporting will remain with the Custodian.
- All Financial Institutions (FIs) are required to develop a process to capture/validate information collected through self-certification forms and a framework for due-diligence and maintaining reporting information. FIs to also have a system for audit for compliance with FATCA-CRS rules.
- FIs are required to annually certify to SEBI regarding FATCA-CRS compliance as part of the audit report on internal controls.
- SEBI to examine the compliance aspects during inspection.

Source: SEBI circular IMD/FPIC/CIR/P/2018/53 dated 21 March 2018

iv. Separate limit of Interest Rate Futures (IRFs) for FPIs

Reserve Bank of India (RBI) and SEBI issued circulars to allocate separate limit of INR 50 billion to FPIs for taking long position in IRFs. This was done to facilitate further market development and to ensure that FPIs' access to bond futures remains uninterrupted during the phase when FPI limits on Government securities (G-Sec) were under auction.

The allocation was subject to following conditions:

- the aggregate long position of all FPIs, each of whom has a net long position in any IRF instrument, not to exceed INR 50 billion, aggregated across all IRF instruments,
- No FPI to acquire net long position in excess of INR 18 billion at any point of time.
- For each IRF, position of FPIs with a net long position to be aggregated. FPIs with a net short position in the instrument to not be reckoned.
- The revised limits to be as under:
 - FPIs investment limits in G-Sec – INR 2,015 billion
 - FPI investment limit in IRFs – INR 50 billion

Source: RBI Circular RBI/2017-18/137 FMRD. DIRD.6/14.03.001 /2017-18 dated 1 March 2018 and SEBI circular IMD/FPIC/CIR/P/ 2018/46 dated 8 March 2018

v. Revision of FPI exposure limits relating to exchange traded currency derivatives contracts

RBI and SEBI revised the limits upto which the FPIs can take exposure to exchange traded currency derivatives (ETCD) and specified the underlying requirements:

- FPIs may take a long or short position without establishing any underlying exposure, upto a single limit of USD 100 million equivalent, across all currency pairs involving INR, put together, and combined across all the stock exchanges.
- FPIs to ensure that their short positions at all stock exchanges across all contracts in (FCY)-INR pairs do not exceed USD 100 million
- To take long positions in excess of USD 100 million in all contracts in FCY-INR pairs, FPIs required to have an underlying exposure in Indian debt or equity securities, including units of equity/debt mutual funds.
- The onus of complying with the above provisions to rest with the FPI. In case of contravention, the FPI renders itself liable to any action that may be warranted by RBI.

Source: SEBI/HO/MRD/DP/CIR/P/2018/50 dated 15 March 2018

vi. SEBI reviews framework for stocks in Derivative Segment

With a view to improve market integrity and provide better alignment of cash and derivatives segment, SEBI introduced following measures in connection with the eligibility criteria, exit criteria and settlement of stock derivatives as under:

- Physical settlement of stock derivatives to be mandatory in a phased/ calibrated manner
- Enhanced eligibility criteria for introduction of stocks in options and future contracts ('Enhanced criteria') provided
- Cash settlement: where derivatives meet the enhanced criteria
- Physical settlement: where derivatives (new/ existing) do not meet the enhanced criteria for a continuous 3 months.
- Exit from derivatives segment: where derivatives do not meet
 - the eligibility criteria as per SEBI circular dated July 23, 2012 for a continuous 3 months.
 - the enhanced eligibility criteria after a period of one year from the date of this circular.
- Stocks which meet the enhanced eligibility criteria shall also move to physical settlement albeit in a phased/calibrated manner.

Source: SEBI circular SEBI/HO/MRD/DP/CIR/P/2018/67 dated 11 April 2018

vii. SEBI amends SEBI (FPI) Regulations 2014

SEBI made the following amendments to the FPI Regulations:

- Cat I FPI-applicant to be considered as eligible for registration, if the applicant is a resident in a country as approved by the Government of India.
- The below conditions of Regulation 4 will not apply to Cat I and Cat II FPI applicants
 - the applicant is legally permitted to invest in securities outside the country of its incorporation or establishment or place of business;
 - the applicant is authorized by its Memorandum of Association, Articles of Association or equivalent document(s) or the agreement to invest on its own behalf or on behalf of its clients;
 - the applicant has sufficient experience, good track record, is professionally competent, financially sound and has a generally good reputation of fairness and integrity;
 - grant of certificate to the applicant is in the interest of the development of the securities market;
- Appropriately regulated Broker dealers and swap dealers eligible for Cat II FPI registration.
- A fund deemed to be broad based FPI if a sovereign wealth fund, insurance/ re-insurance company or a pension fund is an institutional investor of the FPI- applicant, and the institutional investors hold more than 50 percent of shares or units of the applicant at all times.
- Broad based status achieved on the basis of investors of underlying funds required to fulfil the eligibility requirement specified by SEBI.
- If number of investors, in case of Cat II FPI, falls below the required limit for broad based fund, the FPI has 90 days to regain the broad based status, failing which, it would be re-categorized.
- FPI to be a fit and proper person based on the criteria specified in Schedule II of SEBI Intermediaries Regulation 2008
- FPI required to provide any additional information or documents including beneficiary ownership details of their clients as may be required by the DDP or SEBI or any other enforcement agency to ensure compliance with the Prevention of Money Laundering Act (PMLA), 2002 and the rules and regulations prescribed thereunder, the Financial Action Task Force (FATF) standards and circulars issued from time to time by SEBI.
- Encumbrance created to meet any statutory and regulatory requirements to not be considered by DDP while ensuring that shares held by FPI are free from encumbrance.

SEBI Notification: Securities And Exchange Board Of India (Foreign Portfolio Investors) (Amendment) Regulations, 2018 dated 5 April 2018

viii. SEBI issued circular on monitoring of Foreign Investment limits in listed Indian companies.

SEBI, in consultation with RBI decided to put in place a new system for monitoring foreign investment limits in listed Indian companies. The new system made operational on 18 May 2018 and replacing existing mechanism. The architecture of the new system includes:

- The onus of compliance with the investment limits on Indian company.
- The depositories to put in place the required infrastructure and IT systems for operationalizing the monitoring mechanism.
- The stock exchanges to put in place required infrastructure and IT systems for disseminating information on the available headroom in respect of companies.
- Depositories to issue circulars and guidelines for collecting data on foreign investments from listed companies.
- The Indian companies are required to provide data by 15 May 2018
- A red flag to be activated whenever the foreign investment is within 3 percent or less than 3 percent of the aggregate NRI/ FPI limits or sectoral cap.
- Once investment limits have been breached, the depositories to inform exchanges who will issue circulars/ public notifications and halt all further purchases.
- The excess holdings can only be sold to domestic investors within five days.
- Action to be taken by SEBI in case there is failure to disinvest.

Source: SEBI Circular IMD/FPIC/CIR/P/2018/61 dated 5 April 2018.

ix. SEBI issued clarification on clubbing of investment limit for FPIs owned by Foreign Governments

SEBI issued circular on clubbing of investment limits for foreign governments (FG) and their related entities (RE) viz. foreign central banks, sovereign wealth funds and foreign governmental agencies (FGA) by issuing following clarifications:

- The investment by FGAs to be clubbed with the investment by the FG / its RE for the purpose of calculation of 10 percent limit for FPI investments in a single company, if they form part of an investor group.
- In order to monitor the investment limits of FPIs/ investor groups, SEBI advised DDPs/ custodians of securities to approach National Securities Depository Limited (NSDL) to get information.
- Where there is a breach of the prescribed limit, the FPI to:
 - divest their holdings within five trading days or
 - such investment to be considered as investment under foreign direct investment (FDI) at the FPI's option.
- Subject to conditions, SEBI may recognise certain entities to be distinct and separate if GOI entered into agreements or treaties with other sovereign governments to specifically recognise certain entities to be distinct and separate.

Source: SEBI Circular SEBI/HO/IMD/FPIC/CIR/P/2018/66 dated 10 April, 2018

x. SEBI permits foreign entities to participate in commodity derivatives market

SEBI released consultation paper on 18 May 2018 seeking comments on the proposed framework for enabling foreign entities, having actual exposure to Indian commodity market, to hedge on the Indian commodity derivatives market.

SEBI constituted an advisory committee which recommended increasing participation in commodity derivative market by permitting new participants in a phased manner- Cat III AIF, foreign participants having exposure to commodities, FPIs etc.

Pursuant to feedback received from the market participants during the consultative process, SEBI released circular dated 9 October 2018 permitting foreign entities having actual exposure to Indian commodity

markets, to participate in the commodity derivative segment of recognized stock exchanges for hedging their exposure. Such foreign entities to be known as "Eligible Foreign Entities" (EFEs).

The detailed regulatory framework for participation by the EFEs have been outlined in the said circular. The provisions of this circular to come into effect from 9 October 2018.

Source: SEBI Paper dated 18 May 2018 & SEBI circular SEBI/HO/CDMRD/DMP/CIR/P/2018/134 dated 9 October 2018

xi. SEBI issued circular on review of investment by FPI in debt

In accordance with RBI notification dated 15 June 2018, SEBI issued circular discontinuing auction process for G-Sec and State Development Loans (SDL) carried out by stock exchange w.e.f 15 June 2018. Further, SEBI withdrew any circulars issued for monitoring of G-Sec and SDL w.e.f 1 June 2018.

It was clarified that depositories to monitor the corporate debt investments limits at the investor group level and the custodians to be responsible for monitoring their own clients.

Source: SEBI Circular IMD/FPIC/CIR/P/2018/101 dated 15 June 2018

xii. SEBI permits foreign investors to trade in IFSC through Segregated Nominee Account Structure

Foreign Investors were permitted to trade on stock exchanges in IFSC via Segregated Nominee Account Structure (SNAS) maintained with Segregated Nominee Account Providers (Providers) subject to compliance with regulatory requirements.

Regulatory requirements relates to identification of end client, unique client code, order placement at client level, client level margining, position limits.

Stock exchanges, brokers and providers required to submit information to SEBI on relevant trades and KYC of end clients. The KYC requirement to be as per the provisions of PLMA, 2002 and its rules and KYC to be shared with Central KYC Registry to be adhered by Providers for end clients to extent applicable to FPIs.

The circular elaborates on aspects such as -Entities Eligible to offer SNAS, Registration of Providers, Eligibility criteria for Provides, KYC of end clients, Unique Client Code used for order entry, Margin computation and reporting etc

Source: SEBI circular SEBI/HO/MRD/DRMNP/ CIR/P/2018/83 dated 24 May 2018

xiii. SEBI issued circular in respect of FPI investment through primary market issuances.

SEBI issued a circular to ensure compliance of investment limit by FPI and investor group in the total issued capital of the company upon allotment of shares during primary market issuance.

Accordingly, the Registrar and Transfer Agents (RTA) to undertake the following actions within the timelines for issue procedure prescribed by SEBI

- Use the Indian PAN for checking compliance for a single FPI
- Obtain validation from depositories in respect of FPIs who have invested in the particular primary market issuance to ensure that there is no breach of investment limit.

The depositories to put in place necessary systems for sharing of information with RTA within the timelines for issue procedure.

Source: SEBI Circular IMD/FPIC/CIR/P/2018/114 dated 13 July 2018

xiv. SEBI issued revised norms on Know Your Client (KYC) Requirements and eligibility conditions for FPIs

SEBI vide circular of 10 April 2018 had prescribed that the identification of beneficial owner of FPIs would be in accordance with the Prevention of Money-laundering (Maintenance of Records) Rules, 2005 [PMLA Rules]. In this regard, SEBI received various representations from the investor community to reconsider its decision in view of the practical and operational challenges that they anticipated in implementation of the circular.

Considering the widespread discontent, a working group was formed was set-up under the Chairmanship of Mr. H. R. Khan (Retired Deputy Governor of RBI) to address the concerns. SEBI, on basis of interim recommendations of the Working Group, issued two separate circulars on 21 September 2018 prescribing the revised norms on KYC Requirements and Eligibility conditions for FPIs.

Key aspects on KYC requirements:

Identification and verification of Beneficial Owner (BO) – For category II and III FPIs

Beneficial Ownership criteria as per PMLA Rules to apply for KYC identification purposes only and not for determining eligibility of FPIs.

BOs are the natural persons who ultimately own or control an FPI and are to be identified in accordance with Rule 9 of PMLA Rules.

BOs of FPIs having General Partner/ Limited Partnership structure to be identified on ownership or entitlement basis and control basis

In case of FPIs coming from “high risk jurisdictions” intermediaries:

- may apply lower materiality threshold of 10% for identification of BO and
- ensure KYC documentation as applicable to Category III FPIs.

The materiality threshold to identify the BO to be first applied at the level of FPI and next look through basis to apply to identify the BO of the intermediate shareholder / owner entity

FPIs required to maintain list of BOs and provide the information as per the prescribed format

Offshore Derivative Instrument issuing FPIs to identify and verify BO in the subscriber entities

Senior Managing Official for identification as BO means an individual as designated by the FPI who holds a senior management position and makes key decision relating to the FPI

Rule 9(3)(f) of the PMLA provides that where the FPI, or owner of controlling interest is listed on a stock exchange, or is a subsidiary of such a company, it is not necessary to identify and verify the identity of the BO. SEBI clarified that foreign company is not entitled to such exemption.

Periodic KYC review:

- Category III and Category II FPIs from high risk jurisdictions- on a yearly basis
- Other FPIs- at the time of continuation of FPI registration
- FPIs shall be subject to review as and when there is change in material information / disclosure

KYC documentation with respect to financial data for Category III FPI prescribed

Exempted documents to be provided during investigations/ enquiry

Data security: KYC Registration Agencies (KRA) to lock personal information provided regarding BOs. The information to be made available to intermediaries on need to know basis using authentication method after KRA gets confirmation from FPI/ Global custodian

Period for maintenance of records prescribed – 5 years from date of cessation of transactions with the FPI. In case of pending litigation, till the proceedings are complete.

Timeline for compliance: Existing FPIs required to provide list of BOs within six months from date of this circular

Documentation: Any Government issued identity documents can be disclosed in BO declaration

Key aspects on eligibility of NRI/ OCI/ RI:

- Non Resident Indian (NRI) and Overseas Citizen of India (OCI) to have the same meaning as assigned under Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017
- NRIs / OCIs / Resident Indian (RIs) allowed to be constituents of FPIs provided:
 - a) contributions of NRI/OCI/RI to be below 25 per cent from single NRI/OCI/RI; and

b) below 50 percent in aggregate of the corpus of the FPI.

Exception: Where FPIs invest only in mutual funds in India.

- NRI/OCI/RI not be in control of the FPI.

Exception: Where Investment Manager (IM) is controlled and / or owned by NRIs/OCIs/RIs subject to following conditions:

- a) IM is appropriately regulated in its home jurisdiction and registers itself as a non-investing FPI **or**
 - b) IM is incorporated or set-up under Indian laws and appropriately regulated with SEBI **or**
 - c) Where FPIs are 'offshore funds' as approved under SEBI (Mutual Funds) Regulation, 1996
- A non-investing FPI may be directly or indirectly fully owned and/ or controlled by NRI/OCI/RI.
 - FPIs to be given a time period of two years from the date of coming into force of the amended regulations or from the date of registration, whichever is later in order to satisfy these eligibility conditions.
 - In case of temporary breach, a time period of 90 days to be given to ensure compliance with above conditions.

Source: SEBI circulars CIR/IMD/FPIC/CIR/P/2018/131 and CIR/IMD/FPIC/CIR/P/2018/132 dated 21 September 2018

xv. SEBI to share monthly data on FPI registration

For the purpose of transparency in the processing of applications for FPI registration, SEBI decided that the **average time** taken by DDP in processing such application be disseminated on SEBI website.

To facilitate this, DDP to provide information to SEBI by 5th working day of the month in the format prescribed for immediately preceding month.

Source: SEBI circular SEBI/HO/FPIC/CIR/P/2018/135 dated 11 October 2018

xvi. SEBI issued guidelines for interoperability amongst Clearing Corporations (CCP).

With a view to allocate capital for market participants efficiently, save on cost and provide for better execution of trades, SEBI released guidelines to enable interoperability among clearing corporations.

Interoperability allows market participants to consolidate their clearing and settlement functions at a single CCP irrespective of exchange where trade is executed. Guidelines to apply to all recognized CCP excluding those operating in IFSC and all products available for trading except commodity derivatives.

Source: SEBI circular CIR/MRD/DRMNP/CIR/P/2018/145 dated 27 November 2018.

xvii. SEBI publishes report of Expert Committee on listing of equity shares of Indian companies on foreign stock exchanges and listing of shares of overseas companies on Indian stock exchanges

SEBI had constituted an expert committee which recommended as follows:

Listing of equity shares of companies incorporated in India on foreign stock exchanges

- Listing may be allowed only on specified stock exchanges in Permissible Jurisdictions such as NASDAQ, NYSE, Shanghai Stock Exchange, Tokyo and London Stock Exchange etc.
- RBI to set out regulatory framework for purchase of equity shares of a company incorporated in India listed on a foreign stock exchange by a person resident outside India by amending Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 (FEMA 20).
- Ministry of Corporate Affairs (MCA) to issue a clarification that Chapter III (on Prospectus and allotment of Securities) of the Companies Act, 2013 **not to apply**.

- Listing of shares of unlisted companies incorporated in India on foreign stock exchanges to be governed by listing framework of the concerned Permissible Jurisdiction and relevant Indian laws like Companies Act 2013
- Listing of shares listed of Indian company on foreign stock exchanges to be governed by rules / regulations/ laws/ initial and continuous listing/ disclosure requirements, as are applicable to companies listed in India.
- **KYC and Anti-Money Laundering (AML)** framework existing in Permissible Jurisdictions to be taken as acceptable standards for compliance.
- Requirement to submit information of beneficial owner of equity shares holding 10% or more of the ultimate beneficial interest in company as per Companies (Significant Beneficial Owners) Rules, 2018.
- Department of Revenue to provide clarity on
 - tax on issuance and transfer of equity shares of companies incorporated in India listed on foreign exchange and related reporting obligations. Reference may be drawn to American Depository Receipt (ADR) / Global Depository Receipt (GDR) regime.
 - applicability of section 56 of the Income Tax Act, 1961(the Act) - listing and valuation rules
- Accounting standards of the **country of listing** to be applicable. The company to prepare consolidated financial statements in accordance with applicable Indian Accounting Standards, as applicable for statutory reporting purposes.

Listing of equity shares of companies incorporated outside India on Indian Stock Exchanges

- Company incorporated outside India to be incorporated only in Permissible Jurisdictions such as USA, UK, Hong Kong, France etc.
- RBI to set out regulatory framework for permitting investments by Indian residents and transfer of securities by amending Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004
- RBI to amend Foreign Exchange Management (Deposit) Regulations, 2016 to enable companies incorporated outside India to open bank accounts in India denominated in Indian rupees for listing purposes and transactions related thereto.
- MCA to introduce provisions in Companies Act to enable SEBI to make regulations to permit listing of equity shares of companies incorporated outside India on Indian stock exchanges.
- SEBI to amend the regulations on Listing Obligations and Disclosure, Issue of Capital and Disclosure, Prohibition of Insider Trading, Substantial Acquisition of Shares and Takeovers etc to provide a framework for enabling listing of equity shares of companies incorporated outside India on Indian stock exchanges.
- Department of Revenue to provide clarity on determination of Fair Market Value in the context of valuation norms and applicability of Place of Effective Management (POEM) provisions

Comments from the public on the report were sought until 24 December 2018.

Source: SEBI report dated 4 December 2018

xviii. SEBI issues circular on clubbing of investment limits

In supersession of the directions contained in circulars dated 10 April 2018 on KYC Requirements for FPI and in partial modification on Clarification on clubbing of investment limits of foreign Government/ foreign Government related entities, SEBI has clarified that:

- Clubbing of investment limit to be on basis of **common ownership** of more than **50%** or based on **common control**.

Exception: Clubbing of investment limit on basis of common control **not** to be done in case of:

 - FPIs which are appropriately regulated public retail funds
 - FPIs which are public retail funds majority owned by appropriately regulated public retail funds on look through basis

- FPIs which are public retail funds and investment manager of such FPIs are appropriately regulated
- **Public retail funds** means:
 - Mutual funds or unit trusts which are open for subscription to retail investors
 - Insurance companies **not** having segregated portfolios for their investors
 - Pension funds
- **Control** means:
 - Right to appoint majority of directors
 - Control the management
 - Control the policy decisions
- **Investor group:** two or more FPIs (including foreign government having **direct or indirect** common ownership of more than 50% or **control** is to be treated as investor group.
- Investments by foreign government/ related entities from provinces/ states of countries with federal structure not to be clubbed if the foreign entities have different ownership and control.

Source: SEBI circular SEBI/HO/IMD/FPIC/CIR/P/2018/150 dated 13 December 2018.

xix. SEBI provides manner for physical settlement of stock derivatives.

SEBI vide its circular dated 11 April 2018 had stated that stock derivatives which meet the enhanced eligibility criteria to also move to physical settlement in a phased manner. Accordingly, SEBI has provided the manner for such derivatives as follows:

- Stocks which are being cash settled to be ranked in descending order based on daily market capitalization averaged for the month of December 2018.
- Based on the ranking arrived at above
 - bottom 50 stocks to move to physical settlement from April 2019 expiry onwards,
 - next 50 stocks from the bottom to move to physical settlement from July 2019 expiry onwards,
 - remaining stocks to move to physical settlement from October 2019 expiry onwards
- Derivatives introduced on new stocks meeting the enhanced eligibility criteria, after the date of this circular, to also be physically settled.

All other conditions specified in circular dated 11 April 2018 to continue to remain in force.

Source: SEBI circular SEBI/HO/MRD/DOPI/CIR/P/2018/161 dated 31 December 2018

xx. Amendment in SEBI (Foreign Portfolio Investor) Regulations, 2014

SEBI amended FPI Regulations 2014 vide notification dated 31 December 2018.

The key amendments are summarized below:

Provisions of earlier KYC circular now incorporated in regulations:

- Definition of control included
- Eligibility conditions of Non Resident Indians (NRI), Overseas Citizens of India (OCI) and resident Indians (RI) as constituents of FPI detailed
- Investor group and clubbing of investment limits

Other changes:

- Definition of investment manager, government agency provided. Definition of person, resident in India, NRI and OCI amended.
- Definition of opaque structure widened to include situations where FPI or beneficial owners have issued/ maintained bearer shares
- Consequences on FPI upon non-compliance of conditions provided for NRI, OCIs and RIs.

- Compliance of provisions relating to Financial Action Task Force extended to underlying investor identified as contributing 25 percent or more in corpus of FPI or on basis of control.
- FPIs and underlying investor (identified as above) not to be from a jurisdiction mentioned in United Nations Security Council sanction list
- Depositories to maintain database on additional information – name, nationality, government identification card and provide reports to Board

Source: Securities and Exchange Board of India (Foreign Portfolio Investors) (Third Amendment) Regulations, 2018

xxi. SEBI releases consultation paper on amendment to Infrastructure Investment Trusts and Real Estate Investment Trusts Regulations

SEBI has invited comments from public on its suggestions to make amendment to SEBI (Infrastructure Investment Trusts) Regulations, 2014 (InvIT Regulations) and SEBI (Real Estate Investment Trusts) Regulations, 2014 (REIT Regulations). The comments are to be submitted via post or email latest by **18 February 2019**.

Based on the feedback received by SEBI from market participant, following amendments are being proposed by SEBI to provide flexibility to issuers **in terms of fund raising and increasing access to investors**:

- **Reduction in minimum allotment and trading lot for publically issued InvITs and REITs**.- initial application and trading to be of 100 units and value of one such lot in range INR 15,000- 20,000
- **Increase in leverage limit for InvITs**- to be increased from exiting 49 percent to 70 percent in accordance with manner prescribed.
- **New regulatory structure for privately placed unlisted InvITs** – a separate framework to provide for number of investors, leverage, assets, minimum investments etc.

Source: SEBI Consultation Paper Amendment of SEBI (Infrastructure Investment Trusts) Regulation, 2014 and SEBI (Real Estate Investment Trusts) Regulation, 2014 dated 25 January 2019.

xxii. Grant of Qualifying Central Counterparty status to central counterparties operating in IFSC

India International Clearing Corporation (IFSC) Limited and NSE IFSC Clearing Corporation Limited, functioning as central counterparties (CCPs) in GIFT – IFSC have been granted the status of qualifying central counterparty (QCCP).

These clearing corporations have qualified as QCCPs in view of the fact that these are regulated by SEBI.

These clearing corporations are also subjected, on an on-going basis, to rules and regulations that are consistent with the Principles for Financial Market Infrastructures (PFMIs) issued by the Committee on Payments and Market Infrastructures (CPMI) and International Organisation of Securities Commissions (IOSCO).

Source: SEBI Press Release PR. No 5/2019 dated 25 January 2019

2. Regulatory Updates – RBI (1 February 2018 till date)

i. Revised guidelines for FPIs participation in ETCD Market

RBI vide its circular dated 26 February 2018 revised the limits:

- FPIs are allowed to take both long and short positions upto a single limit of USD 100 million equivalent across all currency pairs involving INR put together and combined across all Exchanges.
- These limits do not require FPIs to establish any underlying exposure.
- The obligation of complying with the provisions rests with the participant in the ETCD market. The participant shall be liable for any violation as per the provisions of Foreign Exchange Management Act, regulations, directions, etc. issued thereunder.

Source: RBI circular No. RBI/2017-18/134 A.P.(DIR Series) Circular No.18 dated 26 February 2018

ii. RBI modified Comprehensive Guidelines on Derivatives, 2007.

RBI issued notification wherein stand-alone plain vanilla forex options (without attached structures) purchased by clients will be exempt from user suitability and appropriateness norms and requirement will be on par with forex forward contracts.

Source: RBI Notification: RBI/2017-18/151 DBR.No.BP.BC. 103/21.04.157/2017-18 dated 6 April 2018

iii. RBI updated Master Direction on Know Your Customer

The key provisions relevant to FPI are as under:

FPI accounts to be opened by accepting KYC documents, subject to Income Tax (FATCA/CRS) Rules.

The banks to obtain undertaking from FPIs or the Global Custodian acting on behalf of the FPI that as and when required, the exempted documents will be submitted.

Source: RBI Notification: RBI/DBR/2015-16/18 Master Direction DBR.AML.BC.No.81/14.01.001/2015-16 dated 20 April 2018

iv. RBI revised investment limits by FPI in government securities

RBI issued notification to revise the investment limits.

- Coupon re-investment in G-Sec which was earlier kept outside the investment limit to be considered within G-Sec limits at the time of periodic re-setting of limits.
- sub limit for investment by Long-term FPIs in infrastructure sector removed and the existing investment and free limits shall be merged into corporate debt
- The existing and revised limits are as follows:

Type of instrument	Existing Limits	Revised Limits for the period Apr- Sep 2018	Revised Limits for the period Sep – Mar 2019
G- Sec – General	191,300	207,300*	223,300
G- Sec- Long Term	65,100	78,700	92,300
SDL- General	31,500	34,800	38,100
SDL- Long Term	13,600	7,100	7,100
Corporate Bonds	244,323	266,700	289,100
Total	545,823	594,600	649,900

*Includes INR 4,760 crore one time addition in limit to provide inclusion of coupon investment amount in utilization.

Source: SEBI Circular SEBI/IMD/FPIC/CIR/P/2018/70 dated 12 April, 2018 and RBI Circular RBI/2017-18/150 A.P. (DIR Series) Cir No. 22 dated 6 April 2018

v. RBI reviewed Investment by FPI in Debt

RBI issued changes in operational aspects of FPI investments in debt w.e.f 25 April 2018 as follows:

Minimum residual maturity requirement

- **G-Sec and SDLs:** The three years minimum residual maturity requirement withdrawn. The investment in securities with residual maturity below 1 year under either category to not exceed, at any point of time, 20 percent of the total investment of that FPI in that category.
- **Corporate Bonds:** Investment with minimum residual maturity of above one year permitted.

Security-wise limit – Cap on aggregate FPI investments in any G-secs

Aggregate FPI investment capped at 30 percent of the outstanding stock of that security.

Online monitoring of G-sec utilisation limits

Online auction mechanism to be discontinued with effect from 1 June 2018. Utilisation of FPI limits to be monitored online thereafter by Clearing Corporation of India Ltd (CCIL).

Concentration Limit: With respect to G-Sec, SDLs and corporate debt:

- Long Term FPIs: 15 percent of prevailing investment limit for that category
- Other FPI: 10 percent of prevailing investment limit for that category
- One time relaxation measure allowed if concentration limit breached.

Single/Group investor-wise limit in corporate bonds:

In any Corporate Bond: Not to exceed 50 percent of any issue. If the limit is exceeded, no further investment allowed in that issue till stipulation is met.

In any single corporate (including entities related to the corporate): Not to exceed 20 percent of investor-FPI's corporate bond portfolio. If the limit is exceeded, no further investment allowed in that issue till stipulation is met.

Other Changes: FPI shall not invest in partly paid instruments.

Source: RBI Notification RBI/2017-18/168 A.P. (DIR Series) Circular No. 24 dated April 27, 2018

vi. RBI issues notification on monitoring of foreign investment limits in listed Indian companies.

RBI in consultation with SEBI decided to put in place a new system for monitoring of foreign investment limits in listed Indian companies.

SEBI notified the mechanism vide its circulars dated 5 April 2018 and 27 April 2018. Listed companies to provide data and information by 15 May 2018

In case of non-compliance, the listed Indian companies to not be able to receive foreign investment and will be non-compliant with FEMA and its regulations.

Source: RBI notification RBI/2017-18/172 dated 3 May 2018

vii. RBI eases Minimum Maturity requirement for FPI investments in Debt securities

RBI issued notification stating that investments by an FPI in corporate bonds with residual maturity below 1 year not to exceed, at any point in time, 20% of the total investment of such FPI in corporate bonds.

RBI, provided further clarification with respect to the following:

- FPIs permitted to invest in **treasury bills** issued by the Central Government.
- The requirement that investment in securities G-secs, SDLs or corporate bonds with residual maturity **below one year** not to exceed 20% of total investment by an FPI in that category, to apply **on a continuous basis**.
- In case investments in securities with **less than one year** residual maturity, **is more than 20% of total investment in any category**,
 - the FPI to bring such share **below 20% within a period of six months** from the date of this circular;
 - the FPI to ensure that **no further additions** are made to the portfolio of securities with residual maturity of less than one year **either through fresh purchases or through roll-down of investments**

with current tenor of more than one year, until the share of such portfolio of securities falls below 20% of the total investment in that category.

The implementation date of online monitoring of utilization of G-sec limits set as **1 June, 2018**. The existing process for monitoring of limits as well as allocation of limit through auction mechanism to continue in the meantime.

Source: RBI notification RBI/2017-18/170 dated 1 May 2018.

viii. RBI issued notification on operational aspects of investment by FPI in debt

RBI issued notification to provide operational flexibility and transition path for FPI and custodians. The notification contains the following directions:

Revision of minimum residual maturity requirements:

Short Term investments by a FPI in corporate debt not to exceed 20 percent of total investments

Exceptions:

- if the short-term investments consist entirely of investments made on or before 27 April 2018
- if investment is in Security Receipts issued by an Asset Reconstruction Company.

Online monitoring of investment in G-Sec and SDL categories:

- The online monitoring of utilization of investment to be carried out by CCIL
- Breach of the investment limit required to be reversed.
- Upon sale/redemption, FPI may reinvest within a period of two working days including date of sale/redemption. If not made within that time period, reinvestment shall be subject to availability of limits for that category.
- The primary responsibility of complying with the limits viz., investment utilization limit, security wise limit in G-secs, concentration limit and minimum residual maturity requirement to lie with FPIs and custodians.

Single/ Group investor wise limits in corporate bonds

Investment by FPI and related FPIs in any corporate bond not to exceed 50 percent of that issue.

Investment by FPI in any single corporate not to exceed 20 percent of the investee and related entities corporate bond portfolio

Exceptions:

- new investments to be exempted from the exposure limit till March 31, 2019. These new investments, however, have to comply with this requirement thereafter.
- FPIs registering after April 27, 2018 permitted to comply with this requirement by March 31, 2019, or six months from the date of registration, whichever is later.

Single/ Group investor wise limits in corporate bonds not to apply to investments by Multilateral Financial Institutions and investments by FPIs in SRs.

Pipeline investments in corporate bonds

Investments that were under the process but had not materialized as on 27 April 2018 to be exempt from the requirement limit of 50 percent in any corporate bond and 20 percent in a single corporate subject to custodian's satisfaction of the following parameters:

- Price/rate, tenor and amount of investment has been agreed upon between the FPI and the issuer on or before 27 April 2018
- The actual investment shall commence by 31 December 2018 and
- Proposed investments are in compliance with the applicable regulations prior to 27 April 2018.

Custodians to adhere to the above conditions based on their assessment and permit / not permit such investments by FPIs without reference to RBI.

Source: RBI notification RBI/2017-18/199 A.P.(DIR Series) Cir No. 31 dated 15 June 2018

ix. RBI issued notification for reporting of foreign investment in Single Master Form (SMF)

RBI introduced SMF with the objective of integrating the extant reporting structures of various types of foreign investment in India. SMF to be submitted online by the Indian entities.

SMF provides facility for reporting total foreign investment in an Indian entity and investments by persons resident outside India in an Investment Vehicle.

Prior to implementation of SMF, the Indian entities will have to submit data on the total foreign investment in a specified format with RBI from 28 June 2018 to 12 July 2018. In case of non-compliance the Indian entities would not be able to receive foreign investment.

Source: RBI notification RBI/2017-18/194 A.P (DIR Series) Cir No.30 dated 7 June 2018

x. RBI releases a discussion paper on Voluntary Retention Route (VRR) for investments by FPIs

With an objective to attract long-term and stable FPI investments into debt markets while providing FPIs with operational flexibility to manage their investments, RBI released a discussion paper on VRR for public consultation, inviting comments from market participants by **19 October 2018**.

SEBI registered FPIs eligible to invest in Central Government and State Government securities (VRR-Govt) and corporate debts (VRR-Debt). This would be in addition to the General Investment Limit under the Medium Term Framework.

Allocation of total amount of investment limit (**auction amount**) to individual FPIs to be made through **auction process**. Post allocation, FPIs to invest the allocated Committed Portfolio Size (CPS) in debt instruments and remain invested at all times during the period subject to relaxations:

- FPIs required to invest minimum of 67% of the CPS within one month.
- The flexibility for modulating investments between 67%-100% of CPS intended to enable FPIs to adjust their portfolio size as per their investment philosophy.

The retention period to commence from the end of one-month period. Amount of investment to be in terms of face value of securities.

FPI to have below options to manage its portfolio

- **Renew before maturity:** FPIs can continue investments under this route by opting for additional identical retention period
- **Liquidate:** If FPI doesn't wish to continue, it may liquidate its portfolio and exit; or
Shift its investments under VRR to General Investment limit subject to limit availability.
- **Sale:** in exceptional circumstances (where FPI is exiting from all activities in India), it may sell its investments to other FPI(s). However, buyer FPI to abide by all the terms and conditions applicable to the seller FPI.

FPI that violate any of its commitment under VRR to be deregistered by SEBI.

Income from investments through VRR may be reinvested at the discretion of the FPI. Such investments will be permitted beyond the CPS.

- Other operational aspects such as responsibility of adherence to requirements, agreement with custodian, separate special non-resident rupee account, separate securities account, provided. No fresh KYC needed for VRR investments.

Source: RBI press release No. 2018-2019/806 dated 5 October 2018

xi. New External Commercial Borrowing (ECB) framework released

RBI released new ECB policy to rationalize existing ECB framework and rupee denominated bonds (RDB). Key changes are as follows:

- **Merging of tracks-** Track I, II and III of ECB and RDB from existing framework merged into the following categories:
 - FCY denominated Foreign currency borrowing
 - INR denominated EBC
- **Eligible borrowers:** Scope expanded to include all entities eligible to receive Foreign Direct Investment (FDI)
- **Eligible lenders:** The previous ECB framework defined a recognized lender for each track. As per the revised framework, the overseas lender needs to be a resident of FATF or IOSCO compliant country.
- Borrowing limit enhanced to **USD 750 million** or equivalent per financial year for all category of borrowers. Earlier, the limits were dependent on sector the companies operated in.
- Minimum average maturity period (MAMP) of **3 years** applicable uniformly to all borrowers.
Exception: ECB raised from foreign equity holder and utilised for specific purposes can have MAMP of 5 years. Manufacturing sector companies raising ECB upto 50 million can have MAMP of 1 year.
- **Late submission of fees (LSF) for delay in reporting:** Any borrower can regularize delay in reporting of drawdown of ECB proceeds before obtaining Loan Registration Number (LRN) or delay in submission of Form ECB 2 returns by payment of LSF as per procedure laid down.

Source: RBI Notification RBI/2018-19/109 A.P. (DIR Series) Circular No. 17 dated 16 January 2019

xii. RBI amends Foreign Exchange Management (Deposit) Regulations, 2016

RBI issued notification amending Foreign Exchange Management (Deposit) Regulations, 2016. The key amendments are as under:

- Registered FPIs and a Foreign Venture Capital Investor allowed to open and maintain a non-interest bearing foreign currency account for the purpose of making investment in accordance with Foreign Exchange Management (Transfer or issue of security by a person resident outside India) Regulations, 2017 (FEMA -20).
- Approval of the RBI to be obtained in cases requiring renewal beyond 7 years of opening of SNRR account.
Exception: the restriction of 7 years not to apply to SNRR accounts opened by a person resident outside India for the purpose of making investment in India in accordance with FEMA -20.
- The securities permissible for opening escrow accounts expanded to capital instruments/convertible notes from erstwhile shares/ convertible debentures.
- Guarantee issued by authorized dealer subject to terms and conditions specified in Foreign Exchange Management (Guarantee) Regulations 2000 is a permissible credit to the escrow account for
 - non-resident corporates for acquisition/ transfer capital instruments/convertible notes through open offers/ delisting/ exit offers or
 - resident and non-resident acquirers for acquisition/ transfer of capital instruments/convertible notes

Source: RBI Notification No. FEMA 5 (R)(1)/2018-RB dated 9 November 2018

3. Relevant Income-tax Updates

1. Key income-tax amendments / Circulars/ Press Releases

i. Central Board of Direct Taxes (CBDT) issued FAQs on new taxation regime of long-term capital gains proposed in Finance Bill, 2018

The Finance Bill, 2018 proposed to withdraw exemption under Section 10 (38) of the Income-tax Act, 1961 and introduce a new Section 112A to provide that Long Term Capital Gain(s) (LTCG) arising from transfer of long-term capital asset exceeding INR1 lakh be taxed at a concessional rate of 10 percent.

Since the introduction of the Finance Bill, 2018 on 1 February 2018, several queries have been raised on various issues relating to the proposed new regime for taxation of LTCG. CBDT issued responses to these queries in the form of 24 Frequently Asked Questions.

Source: CBDT order F. No. 370149/20/2018-TPL dated 4 February 2018.

ii. CBDT Order - Processing of returns under Section 143(1) of the Income-tax Act which are pushed to the AOs by CPC

CBDT issued an order stating that it has launched a software for processing of returns on Income-tax Business Application (ITBA). The returns pushed to the AO for processing by the Centralised Processing Centre (CPC) are required to be processed electronically on the ITBA.

However, in exceptional circumstances, whenever returns cannot be processed because of technical difficulties in functioning of ITBA, in order to provide an uninterrupted taxpayer service, the AO can also manually process the return that is pushed to them by the CPC, with prior administrative approval of Principal Commissioner of Income Tax.

Source: CBDT order F. No. 225/ 53/2018/ITA.II, dated 28 March 2018

iii. CBDT Circular – revision of monetary limits for filing of appeals by the tax department before the Income-tax Appellate Tribunal, High Courts and Supreme Court

CBDT specified the monetary limits and other conditions for filing of appeals by the tax department on merits before the Income-tax Appellate Tribunal (ITAT), High Court (HC) and Special Leave Petitions (SLPs) before the Supreme Court (SC).

Appeals not to be filed in cases where the tax effect does not exceed as follows:

Appeals/ SLP in Income tax matters	Monetary Limits (INR)
Before ITAT	20,00,000
Before HC	50,00,000
Before SC	1,00,00,000

Exceptions to monetary limit were

- Constitutional Validity is challenged
- CBDT order, notification, instruction, or circular has been held illegal or ultra vires
- Revenue Audit objection is accepted by Department
- Addition relates to undisclosed foreign assets/ bank accounts
- Writ matters and direct tax matters other than income tax
- Tax effect is not quantifiable or not involved – like registration of trusts/ institutions under section 12/12AA

The circular also to apply retrospectively to pending SLPs/appeals/cross objections/ reference. Pending appeals below the specified monetary limits may be withdrawn/not pressed.

Source: CBDT Circular No. 3/2018 dated 11 July 2018 and F. No 279/ Misc.M 73/2018-ITJ

iv. CBDT issues instruction w.r.t conduct of assessment proceedings during 2018-19

CBDT issued instruction on 12 February 2018, directing assessments to be conducted through EProceedings functionality **except** in search related assessments **and** in cases where taxpayer objects conduct of assessment proceedings electronically.

Pursuant to the instruction, CBDT provided list of cases where it is not mandatory to conduct assessment electronically:

- Where assessments are framed in case of search, re-assessment, best judgement assessment
- Where, in assessments are set aside
- Where assessment are framed in non-PAN cases
- Where income tax return was filed in paper mode and assessee does not yet have an 'efiling' account
- In stations connected with VSAT or with limited capacity of bandwidth as specified
- Where substantial hearing had already taken place in conventional mode, prior to issue of instruction dated 12 February 2018, with prior approval of Principal CIT/ CIT.
- In exceptional circumstances, where administrative difficulties exist, with approval of Pr.CIT/ CIT

Further, personal hearing/ attendance may take place in following situations with details uploaded subsequently-

- Where books of accounts are to be examined
- Where assessing officer (AO) invokes provisions relating to discovery, and production of evidence in relation to conducting inquiries
- Where examination of witness is required
- Where AO issues show case notice contemplating adverse view and assessee request personal hearing through e-filing account

Source: CBDT Instruction No. 03/ 2018 dated 20 August 2018.

v. CBDT issued guideline for manual selection of return for complete scrutiny-FY 2018-19

CBDT provided the following parameters for manual selection of cases:

- Where addition was made in earlier assessments on a recurring issue of law or fact
In case where the quantum of addition exceeds INR 2.5 million in metro cities and INR 1 million in other cities and,
Where such addition
 - is final and no further appeal was filed
 - was confined at any stage of appellate process in favour of revenue and assessee has not filed further appeal
 - was confirmed at any stage of appeal in favour of revenue and no further appeal of assessee is pending
- Pertaining to survey under section 133A
- Assessment in search and seizure cases
- Return filed in response to notice u/s 148
- Where certain registration/ approval earlier granted under the Act has been withdrawn but the assessee has found to be claiming tax exemption/ deduction.
- Information relating to specific tax evasion for relevant year is given by government authorities.

Source: CBDT Instruction No. 04/ 2018 dated 20 August 2018.

vi. Exemption towards/ for interest income on specified off-shore RDB

Interest payable by an Indian company or a business trust to a non-resident, including a foreign company, in respect of RDB issued outside India before the 1st of July, 2020 is liable for concessional rate of tax of five percent. Section 194LC of the Act provides for the deduction of tax at a lower rate of five percent on the said interest payment.

To contain the Current Account Deficit and augment foreign exchange inflow, Government of India further incentivised low cost foreign borrowings through off-shore rupee denominated bond.

Source: CBDT press release dated 17 September 2018

vii. CBDT issued clarification on nature of acquisitions of shares where the requirement of payment of STT is not applicable

CBDT issued a notification providing three situations comprising a negative list which are not eligible to benefit of concessional rate under section 112A (unless STT is levied). Each of these three situations has exceptions (which qualify for benefit even if no STT is paid on acquisition)

The three negative situations (and their exceptions) are listed as (a), (b) and (c) below:

(a) Preferential acquisition of existing listed Indian equity shares which are not frequently traded on stock exchange. This situation has 4 exceptions which are as under: –

- Acquisition of listed equity shares as approved by courts/ SEBI / RBI
- Acquisition of listed equity shares by non-resident as per foreign direct investment (FDI) guidelines
- Acquisition of listed equity shares made by venture capital fund/ Qualified Institutional Buyer (QIB) etc
- Acquisition of listed equity shares through preferential issue to which SEBI (Issue of Capital and Disclosure Requirement) Regulations, 2009 do not apply

(b) Acquisition of exiting listed equity shares which are not entered though recognized stock exchange yet is in accordance with Securities Contract Regulations Act, 1956. This situation has 9 exceptions which are as under:

- acquisition of listed equity shares through an issue of share by a company other than preferential issue
- acquisition of listed equity shares by scheduled banks, reconstruction and securitization companies, public financial institutions during their ordinary course of business
- acquisition of listed equity shares as approved by Supreme Court/ High Courts/ National Company Law Tribunal /SEBI / RBI
- acquisition of listed equity shares under employee stock option scheme or employee stock purchase scheme framed by SEBI
- acquisition of listed equity shares by non-resident as per FDI guidelines
- acquisition of listed equity shares as per SEBI (Substantial Acquisition of Shares and Takeovers) regulations, 2011
- acquisition of listed equity shares from government
- acquisition of listed equity shares made by venture capital fund/ QIB etc.
- acquisition of listed equity shares by transfer of a capital asset by a person to a firm or other association of person (AOP) or body of individuals (BOI) in which he is or becomes partner or member by way of capital contribution or otherwise.
- acquisition of listed equity shares by transfer of a capital asset by way of distribution of capital assets on the dissolution of a firm or other AOP or BOI or otherwise

(c) Acquisition of delisted equity shares during delisting period, which are subsequently re-listed

Source: CBDT Notification No. 60/2018/F. No. 370142/ 9/2017-TPL dated 1 October 2018.

viii. Examining additional issues and expanding scope of enquiry in Limited Scrutiny cases.

Cases selected under 'Limited Scrutiny' Under Computer Aided Scrutiny Selection (CASS) 2017 and 2018 cycles, AO could not enquire beyond the issues for which the case was selected even in situations where AO had information pointing out specific tax evasion given by any law-enforcement/ intelligence/regulatory authority or agency to tax officer.

In view of the above, CBDT issued directive providing that where credible material or information has been / is provided by law enforcement / intelligent/ regulatory authority or agency regarding tax- evasion by the assessee, such information can also be examined during the course of conduct of assessment proceedings in Limited scrutiny cases with proper administrative approval of the concerned Principal Commission of Income Tax (Pr. CIT)/ CIT.

Procedure to be adopted:

- AO to duly record reasons for expanding scope
- AO to place reasons before Pr.CIT/ CIT for his approval
- AO to intimate assessee of the additional issues
- Joint Commissioner of Income tax may examine records/ issue directions in suitable cases.
- Further, review/ inspection by the administrative authorities to be undertaken in such cases to prevent fishing and roving enquiries.

The directive is effective 28 November 2018 and applied to pending cases selected under CASS 2017 and 2018 cycles.

Source: CBDT directive no. F. No 225/402/2018/ITA.II dated 28 November 2018

2. Tax Treaty Updates

i. Double Tax Avoidance Agreement (DTAA) between India and Hong Kong made effective from 1 April 2019

India and Hong Kong Special Administrative Region of People's Republic of China (HKSAR) signed a tax treaty, on 19 March 2018, to stimulate flow of investment, technology and personnel from India to HKSAR & vice versa, prevent double taxation and provide for exchange of information between the two contracting states. India and HKSAR completed all the relevant procedures required for the entry into force of the agreement on 11 May 2018 and 30th November 2018 respectively. The agreement to be effective in India from 1 April 2019.

The following are the highlights of the key relevant income streams:

1. **Interest, royalties and fees for technical services** -
Taxable in India at the rate of 10 percent on gross basis subject to fulfilment of the beneficial ownership test
2. **Capital Gains** –
Gains from transfer of shares of an Indian company to be taxed in India;
Gains from transfer of other securities (like debt securities, derivatives, etc) may be taxed in each Contracting Party in accordance with the provisions of its domestic law. Accordingly, the same would also be taxable in India.
The benefits shall be denied if the main purpose or one of the main purposes is to take advantage of India-Hong Kong tax treaty, if any.
3. **Other Income** – Taxable in both India and Hong Kong.

Source: Ministry of Finance Notification No. 89/2018/F.No. 500/124/97-FTD-II] dated 21 December 2018

ii. Central Board of Direct Taxes (CBDT) issued press release on amendment to India-China tax treaty

India and China signed a protocol to amend the India-China tax treaty . Changes include:

- update in the existing provisions for exchange of information to the latest international standards.

- incorporation of changes required to implement tax treaty related minimum standards under the action reports of Base Erosion & Profit Shifting (BEPS) project. Changes as per BEPS Action Reports, as agreed upon, incorporated

Source: CBDT Press Release dated 26 November 2018

iii. Protocol amending the India-Kuwait tax treaty notified on 4 May 2018

Central Board of Direct Taxes (CBDT) issued a press release with regard to protocol to amendment to the India-Kuwait tax treaty.

The Protocol updated the provisions in the tax treaty for exchange of information as per international standards.

It has also enabled sharing of the information received from Kuwait for tax purposes with other law enforcement agencies with authorisation of the competent authority of Kuwait and vice versa.

Source: CBDT Press Release dated 7 May 2018

3. Relevant Income Tax Decisions

i. Application of Interest article of India-France DTAA where recipient of interest was not having permanent establishment in country where it had received interest

Provisions of sub-articles (1) and (2) of Article 12 of India-France DTAA would apply only when recipient of interest was not having a permanent establishment in country where it had received interest. It was held that once an enterprise was found to be carrying on the related business or profession through a PE or a fixed base in the other contracting state, the scheme of taxability on the gross basis, as implicit in the taxation of dividend, interest, royalties and fees for technical services and other incomes under the tax treaties, would not apply.

Source: *Credit Agricole Corporate & Investment Bank v. Deputy Director of Income-tax [2018] 89 taxmann.com 345 (Mumbai - Trib.)*

ii. India-Mauritius tax treaty benefit available

The AAR in the case of AB Holdings, Mauritius-II, based on the facts and circumstances of the case, held that investments made by the applicant in Indian entity were not for tax avoidance to take away the benefit of the tax treaty since the investments were made through proper banking channels.

The movements of directors in and out of Mauritius at different times cannot lead to the conclusion that the control and management of the company was not in Mauritius, or that it was with the holding company. Therefore, the capital gains on transfer of shares of an Indian company by a Mauritian company are not taxable under the tax treaty.

Source: AAR: AB Holdings, Mauritius-II, AAR. No 1129 of 2011 http://www.in.kpmg.com/TaxFlashNews-INT/KPMG-Flash_News-AB-Holdings-Mauritius-II-1.pdf

iii. India-Mauritius tax treaty benefit denied

The AAR in the case of AB Mauritius on perusal of Share Purchase Agreement (SPA), minutes of meeting of board of directors, etc. held that the Applicant was not acting as an independent company to take decisions on its own and could not be treated as the owner of shares.

The US holding company has taken the key decisions with respect to purchase of Indian company's shares. SPA shows that the ownership of the shares was also with the US company. Therefore, the AAR denied the India-Mauritius tax treaty benefit to the applicant and held that the capital gains are taxable in the hands of US company under the India-US tax treaty.

Source: AAR: AB Mauritius, A.A.R. No 1128 of 2011 http://www.in.kpmg.com/TaxFlashNews-INT/KPMG-Flash_News-AB-Holdings-Mauritius-II-1.pdf

iv. In case of conflict between tax rate prescribed in Section 206AA of Income Tax Act, 1961 and the tax treaty, the tax treaty rate would apply.

The Delhi High Court held that the provision in Section 206AA of the Income-tax Act, 1961 has to be read to mean that where the non-resident deductee conducts its operation from outside the territory of India whose government has entered into a tax treaty with India, the rate of taxation would be governed by the provisions of the tax treaty.

Danisco India Private Limited Vs. Union Of India & Ors. (2018) 101 CCH 0050 (Delhi HC)

v. Assessment made in case of non-existent entity is a nullity

In the instant case, a company merged with another in the year 2009. The company's return of income filed for AY 2006-07 was selected for assessment. The notices and proceedings were made on the old name.

Where assessment under section 143(3) was framed on a non-existent entity and thus, primary jurisdiction did not exist, no question of law arose and assessment was not accepted.

Source: Principal Commissioner of Income-tax-6 v. Nokia Solutions & Network India (P.) Ltd. - [2018] 90 taxmann.com 369 (Delhi)

vi. Failure to submit a 'Tax Residency Certificate'(TRC) as required by s. 90(4) of the Act is not a bar to grant of benefits under the DTAA. However, the assessee is required to produce reasonable evidence of the entitlement of foreign entity to benefits under the DTAA.

The issue involved was whether the US entity to whom the payments were made by the assessee company, was entitled to the benefits of Indo US tax treaty. Two aspects arose - **First**, whether the treaty protection could be declined to the US entity simply on the short ground that the US entity was not able to, or did not, furnish the TRC under section 90(4) of the Act; **second**, whether the US entity did not, on merits, satisfy the requirements of the Indo US tax treaty.

Ahmedabad ITAT held that an eligible assessee cannot be declined the treaty protection under section 90(2) on the ground that the said assessee has not been able to furnish a TRC in the prescribed form.

The assessee has to satisfy his eligibility for treaty protection nevertheless and the onus of satisfying the same by any other mode, i.e. other than a TRC, appears to be much more demanding than furnishing of a TRC. To be entitled for Indo US tax treaty benefits in India, a foreign enterprise has to establish that it is a resident of the other contracting state, i.e. the United States.

Source: Skaps Industries India Pvt Ltd vs. Income Tax Officer Intl Taxation, Ahm. (ITA Nos. 478 and 479/Ahd/2018)

vii. Mumbai Tribunal grants interest exemption, accepts TRC for inferring beneficial ownership

Mumbai ITAT ruled that interest income earned by assessee-bank from investments in debt securities is not taxable in India. It held that the assessee beneficially owns the interest income and therefore granted exemption under Article 11(3)(c) of the India-Mauritius DTAA.

Tribunal accepted assessee's reliance on Tax Residency Certificate (TRC) issued by the Mauritian Revenue authorities to accept the position that the interest income is beneficially owned by the assessee. Further, ITAT relied on CBDT circular 789 of 2000 and opined that the circular on income from capital gain and dividend would equally apply for interest income. The ITAT cited Bombay HC ruling in Universal International Music B.V where the circular was held applicable in case of royalty income.

Source: HSBC Bank (Mauritius) Limited v. DCIT (Mum ITA No. 1709/ Mum/ 2016 dated 02 July 2018).

viii. Tax authorities may allow deposit of less than 20 per cent of demand to grant stay

CBDT vide Office Memorandum dated 31 July 2017 required payment of 20 percent of the disputed demand (increased from 15 percent) for granting stay of demand till disposal of first appeal. The Supreme Court held that it will be open to the tax authorities, to grant deposit orders of a lesser amount than 20 per cent for stay of demand on the basis of facts of individual cases.

Source: PCIT vs L.G Electronics India Pvt Ltd (Civil Appeal No. 6850 of 2018)

ix. Penalty not to be levied on every wrong claim for deduction

The assessee had disclosed all particulars of income and claimed expense. The AO disallowed the claim without holding it to be false and levied penalty under section 271(1)(c) on account of furnishing inaccurate particulars of income. Delhi High Court held that penalty is not to be levied merely because assessee had claimed expenditure, which was not accepted by AO. The assessee cannot be penalized for making a claim which in itself is unsustainable in law

Source: Principal Commissioner of Income-tax-8 v. Samtel India Ltd. - [2018] 96 taxmann.com 162 (Delhi) dated 9 July 2018

x. ITAT permits applying beneficial provisions of Act for one source & treaty for another source of income

The Mumbai ITAT held that tax payer is entitled to claim benefits of DTAA to the extent the same are more beneficial as compared to the Act.

The taxpayer received management fee and service fee from its Indian subsidiary for the services rendered. The management fee was considered as business income and in the absence of permanent establishment in India, the same was not taxed as per DTAA. Service fee was considered as fees for technical services under section 115A of the Act.

Relying on the judgement by Bangalore ITAT ruling in IBM world Trade Corporation v ADIT (IT) (2015) ITAT held, that in case of multiple sources of income, the tax payer can adopt the provisions of the Act for one source while applying the provisions of DTAA for the other.

Source: Dimension Data Asia Pacific Pte. Ltd v. DCIT (IT) -2(1)(1) ITA No. 1635 & 1636/ Mum/2017 dated 12 October 2018

xi. Tax deducted at source (TDS) rate under India-Japan DTAA not to be topped with surcharge, education cess

ITAT held that assessee was liable to deduct TDS without including the surcharge, education cess on royalty and brand usage fees paid to Panasonic Corporation Japan and deleted disallowance for short deduction of TDS.

ITAT referred to Article 2 of DTAA which provides that tax includes surcharge and held that there was no obligation upon the assessee to deduct TDS on the payment made after including the surcharge over and above the tax rate as specified under the provision of DTAA.

Further, ITAT relying on Kolkata ITAT ruling in DIC Asia Pacific Pte. Ltd held that education cess partakes the character of surcharge.

Source: ACIT vs M/s. Panasonic Energy India Co. Ltd I.T.A. No. 2882/Ahd/2016 dated 3 December 2018 (Ahmedabad ITAT)

xii. Validity of notice issued in name of the company prior to its merger challenged

In the present case, the assessing office (AO) had notice for reassessment proceedings. Against the notice, the assessee filed petition before the Gujrat High Court (HC). The Gujarat HC relying on judgement of Division Bench in Khurana Engg. Ltd v. Dy CIT (2014) quashed the notices.

The HC held that once the company had amalgamated with transferee-company, its independent existence did not survive and therefore, it would no longer be amenable to assessment proceedings. The notices sent to the assessee-company are invalid. The notices for reassessment should have been addressed to the transferee-company.

Against the decision of the HC, the income tax department filed a special leave petition before the Supreme Court which was dismissed.

Source: Assistant Commissioner of Income-tax (Central) Circular 1(2) v. Dharmnath Shares & Services (P.) Ltd. - [2018] 100 taxmann.com 416 (SC)

xiii. High Court quashes re-assessment as AO minutely examined interest exemption claim in original assessment.

The assessee had claimed interest income on External Commercial Borrowings ('ECB') as exempt under Article 11 of India-Mauritius DTAA, which was allowed by AO during original scrutiny assessment. Subsequently, the AO issued notice claiming that income had escaped assessment on ground that the assessee failed to satisfy the 'beneficial ownership' criteria. The assessee filed a writ petition before Bombay HC challenging notice for reopening of assessment.

The HC observed that the entire issue was minutely examined by AO during the original scrutiny assessment and held that re-examining the issue on the ground that assessee does not carry on bonafide banking activities in Mauritius amounts to 'change of opinion'. Accordingly, HC quashed the notice.

Source: HSBC Bank (Mauritius) Limited vs Dy. Commissioner of Income Tax – Writ Petition No 3156 of 2018.

xiv. CBDT identifies non-filers through Non-filers Monitoring System (NMS) by using Data Analytics

Non-filers Monitoring System (NMS) aims to identify and monitor persons who enter into high value transactions and have potential tax liabilities for financial year 2017-18 but have not filed their tax returns.

NMS were identified from the various databases of the Income tax department. E-verification of these NMS cases is enabled to reduce the compliance cost for taxpayers by soliciting their response online.

Non-filers can assess their tax liability and file the Income Tax Returns (ITR) or submit online response within 21 days. However, in cases where no return is filed or no response is received, initiation of proceedings to be considered under the Income-tax Act, 1961.

Source: CBDT Press Release dated 22 January 2019.

4. Miscellaneous changes

i. CFTC enables US clients to access NSE derivatives

The Commodity Futures Trading Commission (CFTC) in USA issued Part 30 exemptive order dated May 17, 2018 to the National Stock Exchange of India (NSE).

The order issued to NSE permits its members to accept U.S. customer funds directly for the purpose of trading in futures and options contracts on NSE without the members having to register with the CFTC as a futures commission merchant.

The exemptive program of CFTC provides US customers with increased access to foreign futures markets.

Source: NSE Press Release dated 18 May 2018

ii. STT leviable at 0.10 percent on physical settlement of stock derivatives

National Stock Exchange (NSE) issued circular dated 17 July 2017 relating to levy of STT on physical settlement of stock derivatives (futures and options). In this regard, the Association of National Members of India filed an appeal before the Securities Appellate Tribunal and thereafter, filed a writ petition before the Bombay High Court. The HC asked CBDT to clarify the subject of levy of STT.

CBDT opined that where a derivative contract is being settled by physical delivery of shares, the transaction would not be any different from transaction in equity shares where the contract is settled by actual delivery of transfer of shares and the rates of STT as applicable to such delivery-based equity transactions shall also be applicable to such derivative transaction.

NSE released a circular stating that STT is payable by both the Purchaser (receiver) of the securities as well as the Seller (giver) of the securities w.e.f July 2018 expiry at the rate of 0.10 percent in case of physically settled stock derivatives (both futures and options).

Source: NSE Circular Ref No. 2/2018 dated 30 August 2018 and CBDT Instruction F. No 272/ M-40/ 2018 –ITJ) dated 27 August 2018

iii. Ministry of Finance notified Common Application Form

A Common Application Form (CAF) was designed and notified with a view to enhance operational flexibility and ease of access to Indian capital markets to FPIs. CAF to be used for the purpose of registration, opening of bank and demat account and application for PAN.

The various sections in the CAF are:

- Part A- KYC Information
- Part B- FPI Registration Information
- Part C- Additional information for obtaining PAN
- Part D- Additional information only for individual
- Part E- Declaration and Undertaking

Source: Ministry of Finance, Department of Economic Affairs, F. No. 4/15/2016- ECB. dated 21 August 2018

4. Market Watch- select press articles during FY 18-19

i. NSE IFSC launches debt securities; lists IREDA's masala bonds

NSE launched the debt securities platform at its IFSC at Gujarat's Gift City with the listing of Indian Renewable Energy Development Agency (IREDA) Rs 1,950-crore green masala bond. This will allow the listing and trading of debt securities in foreign currencies as well as the rupee-denominated masala bonds. IREDA green masala bond were first issued in September last year on the London Stock Exchange and later on Singapore Stock Exchange in October.

<https://economictimes.indiatimes.com/markets/stocks/news/nse-ifsc-launches-debt-securities-lists-iredas-masala-bonds/articleshow/63336452.cms>

ii. FPIs take the IPO route in search of value as markets remain pricey

Secondary market valuations FPIs seem to believe, have gotten a bit too rich. Hence, they are headed toward primary issues to buy large slices of the India growth story. FPIs have invested \$2.59 billion (or Rs 17,612 crore) in Indian equities through the primary market – investments through IPOs or QIBs – in the current year so far.

<https://economictimes.indiatimes.com/markets/stocks/news/fpis-take-the-ipo-route-in-search-of-value-as-markets-remain-pricey/articleshow/64912229.cms>

iii. 25 countries in global banks' 'high risk' list

China, UAE, Cyprus and significantly, Mauritius, along with 21 other countries have been tagged as “high-risk jurisdictions” by global banks acting as custodians for foreign funds which comprise the largest group of investors in the Indian stock market.

Other countries figuring in the 'high-risk jurisdiction' list are Bahamas, Bahrain, Bermuda, British Virgin Islands, Cayman, Channel Islands, Cook Islands, Guernsey, Indonesia, Isle of Man, Jersey, Kuwait, Liechtenstein, Malaysia, Oman, the Philippines, Russia, Saudi Arabia, Thailand, Trinidad and Tobago, and Turkey. Hong Kong, Switzerland, and Luxembourg have been excluded from the list.

<https://economictimes.indiatimes.com/industry/banking/finance/banking/25-countries-in-global-banks-high-risk-list/articleshow/64863022.cms>

iv. RBI may launch \$30-35 billion NRI bonds in Q3

RBI is likely to issue non-resident bonds worth USD 30-35 billion in the third quarter if the rupee plumbs the 70-mark and if overseas inflows do not revive, says a report.

It can be recalled that after the rupee hit 68.85 in summer of 2013, the RBI was forced to launch the maiden NRI bonds and mopped up USD30 billion with a three-year maturity. According to the report, RBI will have to inject USD 37 billion of reserve money/durable liquidity in FY19 to fund 6 per cent old series GDP growth.

<https://economictimes.indiatimes.com/markets/bonds/rbi-may-launch-30-35-billion-nri-bonds-in-q3/articleshow/65312134.cms>

v. SEBI sets up panel to look at 'on tap' bond issues

Markets regulator SEBI has set up a working group, comprising mainly experts from the debt market, to suggest probable rules and finer details for corporates to mobilise funds by issuing 'on tap' bonds. These are debt instruments that are issued by a corporate entity as and when investors want to buy them.

<https://timesofindia.indiatimes.com/business/india-business/sebi-sets-up-panel-to-look-at-on-tap-bond-issues/articleshow/65941047.cms>

vi. BSE, NSE get approval for commex platform

The BSE and NSE, the two leading stock exchanges in India, said they have received approval from markets regulator SEBI to launch commodity derivatives trading (commex) platforms and would commence operations in this new segment on October 1. Once the two stock exchanges launch, investors will be able

to trade in stocks, bonds, derivatives on stocks, commodities, exchange rates and interest rates on the same platform.

<https://timesofindia.indiatimes.com/business/india-business/bse-nse-get-approval-for-commex-platform/articleshowprint/65878738.cms>

vii. FPIs can now vote through a single online platform

Global custodians are offering a single online voting platform for their foreign institutional clients as a measure to improve transparency in the voting system. FPIs can now get on to their custodian website, see all the forthcoming board meetings in a single window and access what their proxy advisors' recommendations are on the subject.

Subsequently, they can either choose to vote in-line with the recommendations or against it. In case the FPI is undecided, it could designate the custodian to take an appropriate call.

<https://economictimes.indiatimes.com/markets/stocks/news/fpis-can-now-vote-through-a-single-online-platform/articleshow/66439936.cms>

viii. Investing in India-bound funds 'can be round tripping'

The capital market regulator's recent decision to allow Indians to invest in global funds that deploy up to 50 per cent of their money in the country may fall foul of income tax laws on round tripping.

Tax authorities can term it as 'textbook round tripping' under GAAR framework, experts said SEBI's decision last month essentially means that any India-based investor could invest in funds — be it a FPI, private equity or venture capital — set up outside the country.

<https://economictimes.indiatimes.com/markets/stocks/news/investing-in-india-bound-funds-can-be-round-tripping/articleshow/66279790.cms>

ix. FPIs may get easier access to Indian markets

FPIs could soon have easier access to Indian markets. A SEBI expert panel is set to propose liberalised rules establishing a fast-track registration process for FPIs besides allowing them to invest in different classes of securities having more flexible structures. It currently takes three to four weeks or even longer to grant licences to FPIs as they have to await procedures such as notarisation of documents.

<https://economictimes.indiatimes.com/markets/stocks/news/fpis-may-get-easier-access-to-indian-markets/articleshow/66142916.cms>

x. NSE and SGX may soon launch Nifty index from IFSC

The arbitration process involving the NSE and the Singapore Exchange (SGX) has been deferred and the two bourses are a step closer to launching Nifty index from IFSC, Gift City.

The government has provided several incentives for using IFSC, including tax sops and single application form for FPI registration. SEBI also relaxed several compliance requirements.

<https://economictimes.indiatimes.com/markets/stocks/news/nse-and-sgx-may-soon-launch-nifty-index-from-ifsc-et-now/articleshow/66806826.cms>

xi. Gift City gets a boost with SEBI allowing AIFs in IFSC

IFSC, Gift City could emerge as the hotspot for private equity funds and venture capitalists with the SEBI allowing AIFs — a product category for the affluent investors — to operate from Gift City.

The move assumes significance as the Central government has been making efforts to bring the fund management industry on shore from current favourite destinations like Hong Kong and Singapore.

All the AIFs launched from IFSC would be dollar based and hence provide convenience for off-shore investors. Further, the logistic and legal costs of setting up a fund in IFSC is significantly lower than other destinations such as Singapore.

<https://economictimes.indiatimes.com/markets/stocks/news/gift-city-gets-a-boost-with-sebi-allowing-aifs-in/articleshow/66839151.cms>

xii. SEBI plans to allow custodial services in commodity derivatives market

SEBI plans to allow custodial services in the commodity derivatives market to enable institutional participation.

Under the proposal, existing custodians will be permitted to add commodities as an asset class and provide physical delivery of both securities and commodities, officials said.

<https://www.thehindubusinessline.com/markets/sebi-plans-to-allow-custodial-services-in-commodity-derivatives-market/article25717424.ece>

xiii. MSE gets SEBI nod for weekly options on currency products

Metropolitan Stock Exchange (MSE) has received approval from SEBI to launch weekly options on US Dollar–Indian Rupee (USD-INR) and two new currency products. The exchange is introducing a weekly hedging product – Currency Options on USD-INR, which will enable participants to reduce their cost of hedging.

<https://economictimes.indiatimes.com/markets/stocks/news/mse-gets-sebi-nod-for-weekly-options-on-currency-products/articleshow/66930708.cms>

xiv. New data privacy rules for FPIs soon

SEBI is working on new data privacy norms for FPIs. The move comes as the regulations are said to be in conflict with the domestic laws of several countries, especially European nations and Canada, which together account for 40 per cent of total FPI flows into India.

The concerns of FPIs relate mostly to the compatibility of SEBI's new know-your-customer (KYC) requirements with data localisation norms applicable in their home countries. The process assumes significance as SEBI had set a March 2019 deadline for FPIs to submit KYC documentation as per the revised rules.

<https://economictimes.indiatimes.com/markets/stocks/news/new-data-privacy-rules-for-fpis-soon/articleshow/67429990.cms>

xv. SEBI brings in single regime for FPI, NRI and PIO investors

SEBI has come out with rules for merger of FPIs and non-resident Indian/overseas citizens of India routes to bring in a single regime for foreign investors and regulate NRI and person of Indian Origin fund inflows. Further, the regulator has relaxed its norms for clubbing of investment limits by well-regulated foreign investors.

Under the new norm, multiple entities having common ownership, directly or indirectly, of more than 50 per cent will be treated as part of the same investor group and their investment limits would be clubbed, as per the notification. Besides, the clubbing of investment limit would not be applicable in case of entities having common control, if the FPIs are appropriately regulated public retail funds.

<https://economictimes.indiatimes.com/markets/stocks/news/sebi-brings-in-single-regime-for-fpi-nri-and-pio-fund-inflows/articleshow/67369675.cms>

xvi. Investment via P-notes rises to Rs 79,513 crore till Dec

Fund inflow into the Indian capital market through participatory notes (P-notes) climbed to Rs 79,513 crore till the end of December 2018 in the current financial year, amid SEBI relaxing norms for clubbing of investment limits by FPIs.

Of the total investments made till last month, P-note holdings in equities were at Rs 56,747 crore, while the remaining was in debt and derivatives markets.

<https://economictimes.indiatimes.com/markets/stocks/news/investment-via-p-notes-rises-to-rs-79513-crore-till-dec/articleshow/67660435.cms>

xvii. Realty market to see more global funds inflow in next 3-5 years

India's real estate sector is likely to see increased interest from global investors and allocation of long-term capital in the next three to five years given strong fundamentals and much required regulatory and policy initiatives.

<https://economictimes.indiatimes.com/industry/services/property/-cstruction/realty-market-to-see-more-global-funds-inflow-in-next-3-5-years/articleshow/67782749.cms>

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<https://economictimes.indiatimes.com/markets/stocks/news/new-data-privacy-rules-for-fpis-soon/articleshow/67429990.cms>

xix. RBI meets FPI paving way for future investment

The RBI met about 40 FPIs for the first time in about five years to gauge overseas investment interest in domestic fixed-income and debt securities. About 10-15 large custodian banks from the US and Europe also took part in the discussions.

The meeting was chaired by deputy governor Viral Acharya, who reportedly wanted investors to avail the Voluntary Retention Route (VRR). The VRR, which is still in its draft stage, seeks to draw long-term and stable overseas portfolio investments into India's debt markets.

<https://economictimes.indiatimes.com/markets/stocks/news/rbi-meets-foreign-portfolio-investors-paving-way-for-future-investment/articleshow/67630653.cms>

xx. SEBI brings in single regime for FPI, NRI and PIO investors

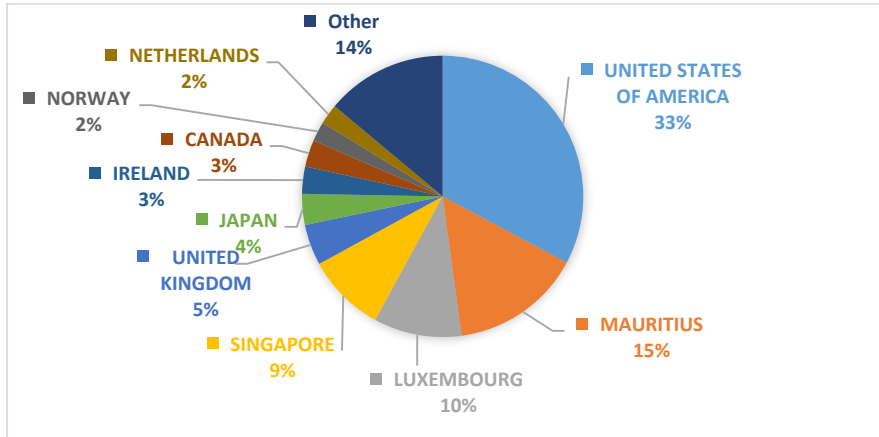
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5. Market Trends - relevant to FPIs

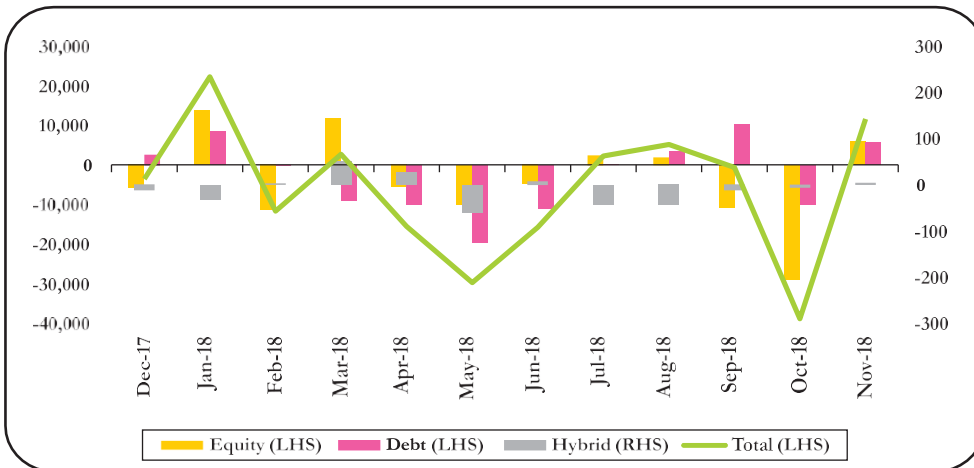
Countrywise AUC of FII/FPI for the year ended 2018



Source: NSDL website

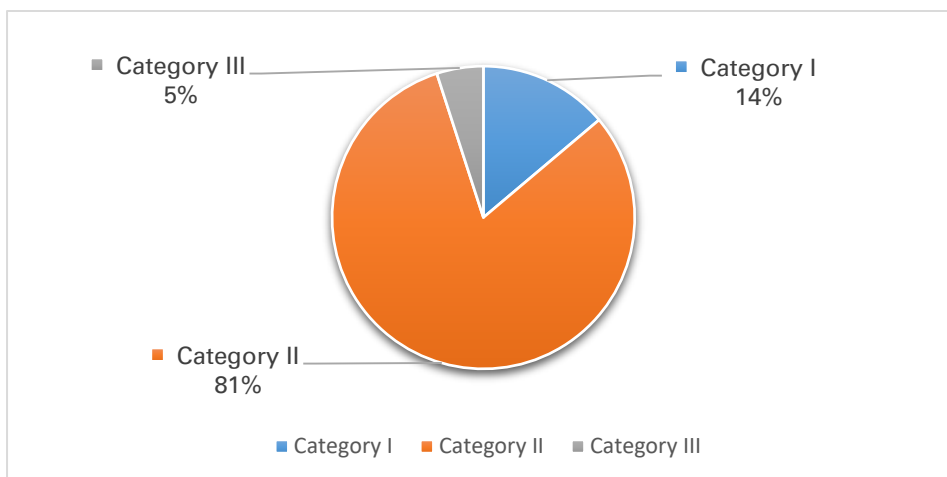
AUC comprises of Equity, Debt and Hybrid investments

Trends in Total FPIs Investment (in crores) - Dec 17 - Nov 18



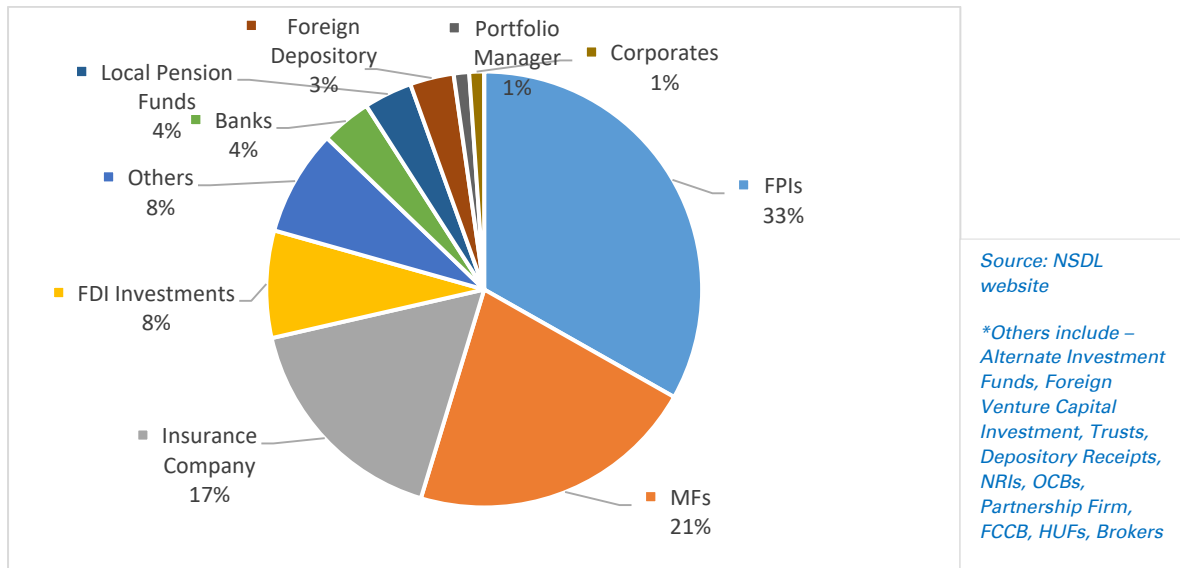
Source: SEBI Bulletin - December 2018

Category Wise AUC of FII/FPI for the year ended 2018

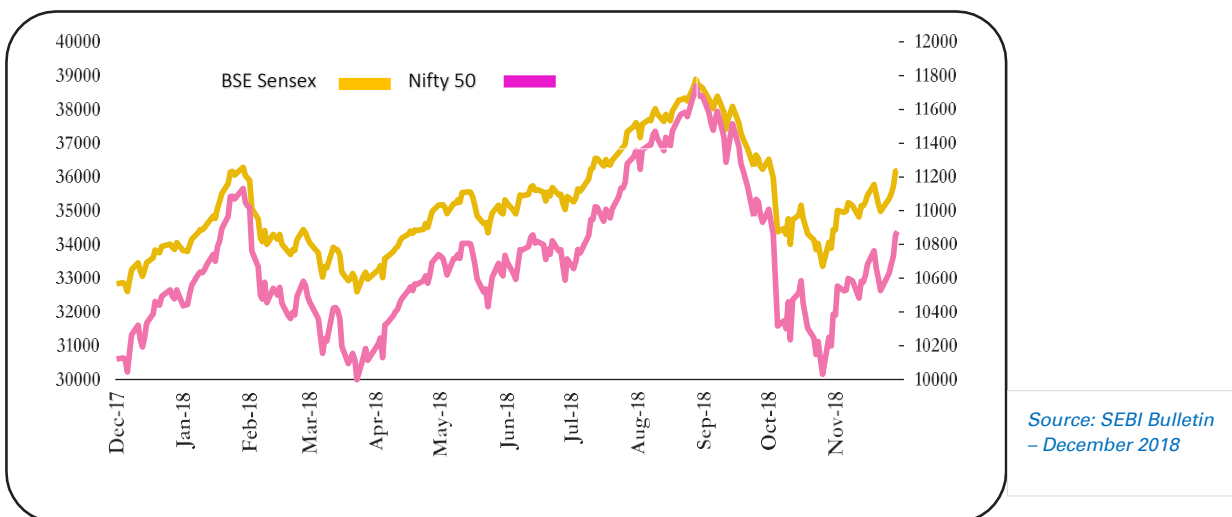


Source: NSDL website

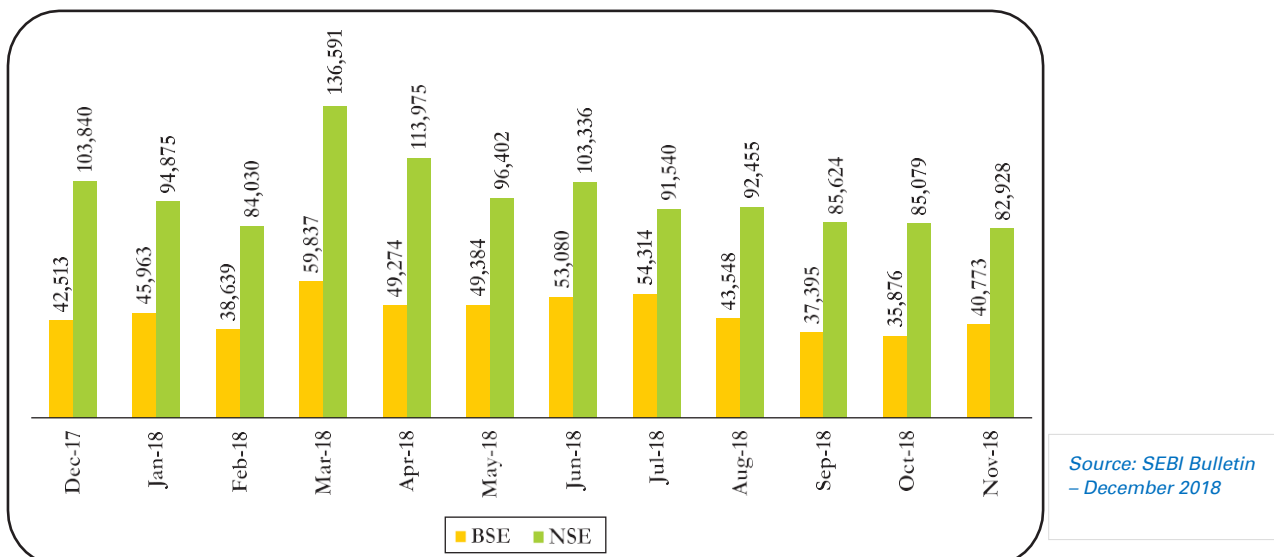
Investor category wise AUC for the year ended 2018



Movement of BSE Sensex and Nifty 50– Dec 17 - Nov 18



Trends in Turnover of Corporate Bonds (INR crore)- Dec 17 - Nov 18





Thank you

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