

FEMA (Non-Debt Instruments) (Third Amendment) Rules, 2026 | Foreign Individuals now Permitted to Invest in Listed Indian Securities

18 June 2026

Introduction

On 12 June 2026, the Ministry of Finance (Department of Economic Affairs) notified the Foreign Exchange Management (Non-Debt Instruments) (Third Amendment) Rules, 2026 (Amendment Rules), amending the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 (NDI Rules).

At its core, the Amendment Rules represent a significant liberalisation of the Schedule III route under the NDI Rules, by expanding the erstwhile NRI / OCI investment route to all individual persons resident outside India (PROIs) including an Non-Resident Indian (NRI) or an Overseas Citizen of India (OCI), thereby permitting foreign individuals to purchase and sell listed Indian securities on a repatriation basis, subject to the prescribed conditions. This measure is part of a broader package of steps announced by the Government of India on 5 June 2026 aimed at reversing capital outflows and supporting the stability of the Indian rupee.

We set out below our analysis of the key features of the Amendment Rules.

Analysis

Expansion of Investor Eligibility: The most significant change introduced by the Amendment Rules is the broadening of investor eligibility under Chapter V and Schedule III of the NDI Rules. Previously, the Schedule III route under the NDI Rules for investment in listed securities on repatriation basis was available only to NRIs and OCIs. The Amendment Rules substitute references to 'NRI or OCI' with '*an individual person resident outside India including an NRI or an OCI*' throughout the relevant provisions. Accordingly, individual PROIs who are not NRIs or OCIs may now access the Schedule III route, subject to the prescribed conditions, investment limits and approval requirements.

Purchase and Sale of Listed Securities: Under the amended Rule 12 and the substituted Schedule III of the NDI Rules, an individual PROI may, on a repatriation basis, purchase or sell equity instruments of a listed Indian company and other securities on a recognised stock exchange in India, through a branch designated by an Authorised Dealer for the purpose.

Investment Limits: The Amendment Rules prescribe the following investment thresholds under Schedule III of the NDI Rules:

- **Individual Limit:** The total holding by any individual PROI must be less than 10% of the total paid-up equity capital on a fully diluted basis, or less than 10% of the paid-up value of each series of debentures, preference shares, or share warrants issued by an Indian company.
- **Aggregate Limit:** The total holdings of all individual PROIs put together in an Indian company under Schedule III of the NDI Rules must not exceed 24% of the total paid-up equity capital on a fully diluted basis, or 24% of each series of debentures, preference shares, or share warrants.
- **Cross-Aggregate Limit:** The total holding of an individual PROI in a listed Indian company under Schedule II, III or any other schedule of the NDI Rules shall be less than the prescribed individual limit of less than 10%. In case of investment of 10% or more, the investors would be required to divest their shares as per the procedure provided below.

Breach of Investment Limits and Reclassification as Foreign Direct Investment (FDI): The Amendment Rules introduce a detailed framework for addressing breaches of the prescribed investment limits:

- An investment made by an individual PROI in breach of the prescribed limit of less than 10% must be divested within 5 trading days from the date of settlement of the trades causing the breach.
- If the individual PROI chooses not to divest, the entire investment in the company concerned by such individual shall be treated as FDI, and the individual shall not make any further portfolio investment in that company.
- Where an individual PROI's holding is reclassified as FDI, the investment will need to comply with the full range of FDI conditions applicable under the NDI Rules including *inter alia* entry routes, sectoral caps and reporting obligations.
- The individual PROI must, through the designated branch of the Authorised Dealer, bring the breach to the notice of the depositories as well as the concerned company within 7 trading days from the date of settlement of the trades causing the breach.
- The divestment of holdings and reclassification of foreign portfolio investment as FDI shall be subject to conditions as specified by the Securities and Exchange Board of India (SEBI) and the Reserve Bank of India (RBI) for foreign portfolio investors.
- Importantly, a breach of the aggregate or sectoral limit on account of such acquisition, for the period between the acquisition and the sale or conversion to FDI within the prescribed time, shall not be reckoned as a contravention under the NDI Rules.

Transfer of Equity Instruments: The amended Rule 13 of the NDI Rules permits an individual PROI holding equity instruments of an Indian company or units on a repatriation basis to transfer the same by way of sale or gift to any person resident outside India. However, prior Government approval is required in the following scenarios:

- where the company is engaged in a sector which requires Government approval;
- where the transfer results in the transfer of ownership or control of a listed Indian company to entities or citizens of a country which shares a land border with India, or where the beneficial owner of such investment is a citizen of any such country (*detailed below*).

Land Border Restrictions: While the Amendment Rules liberalise access to listed Indian securities for individual PROIs, they also put in place safeguards, *i.e.*, approval requirement for investments and transfers involving land-bordering countries. Accordingly, an investment by an individual or transfer by an individual PROI will require prior government approval where such investment or transfer results in the transfer of ownership¹ or control of a listed Indian company to entities or citizens of a country which shares a land border with India, or where the beneficial owner² of such investment is a citizen of any such country. Importantly, the introduction of the requirement for such approval does not present a new compliance requirement but is clarificatory and harmonises the Amendment Rules with the present land-border investment framework.

The safeguard is significant because the Amendment Rules expand the eligible investor beyond NRIs and OCIs to all individual PROIs. As a result, while foreign individuals generally may now access the Schedule III route under the NDI Rules, investments involving individuals, entities or beneficial owners from land bordering jurisdictions will continue to require careful scrutiny. In particular, investors, Authorised Dealers and Indian listed companies will need to assess not only the immediate investor's jurisdiction, but also the beneficial ownership of the investment, especially where investment structures involve nominees, pooled arrangements, layered holding structures or other intermediated ownership arrangements.

KYC and Demat Account Requirements: Individual PROIs seeking to invest under the expanded Schedule III route will be required to open a demat account with a designated branch of an Authorised Dealer bank. This will entail compliance with Know Your Customer (KYC) norms prescribed by the RBI and SEBI. Given that the Amendment Rules extend the route to all foreign individuals (and not just NRIs / OCIs who may already hold Indian bank accounts or permanent account numbers), Authorised Dealer banks will have to develop onboarding frameworks tailored to foreign nationals who may not have prior banking or

¹ Ownership in this context means 'ownership' as defined under Rule, 23 of the NDI Rules, *i.e.*, beneficial holding of more than fifty per cent of the equity instruments of such company and "ownership of an LLP" shall mean contribution of more than fifty per cent in its capital and having majority profit share.

² Beneficial owner shall have the same meaning as assigned to it in the Prevention of Money Laundering Act, 2002 and determined as per the criteria specified under rule 9(3) of the Prevention of Money Laundering (Maintenance of Records) Rules, 2005.

investment relationships in India.

Interplay with Securities Law - "Control": The concept of 'control' is relevant under both the FEMA framework and the SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011 (SAST Regulations). Under the RBI Master Direction on Foreign Investment in India, control is defined by reference to Section 2(27) of the Companies Act, 2013.³ The definition of 'control'⁴ under SAST Regulations is substantively similar. This is critical because the land-border investment framework requires prior government approval where an investment results in the transfer of "ownership or control" of a listed Indian company to entities or citizens of a land-bordering country. There may therefore be situations where an individual PROI's holding is below 10% but the investor may nonetheless be considered to have acquired "control", which could trigger both the SEBI open offer obligation under the SAST Regulations and the land-border investment framework. Investors, intermediaries and listed companies will need to assess control implications under both frameworks.

Comment

The Amendment Rules represent a significant and measured step towards liberalizing investment entry points into India's listed securities market. By extending the Schedule III route to all individual PROIs, the Government has broadened the pool of eligible investors while retaining calibrated safeguards, including investment thresholds, land-bordering approval requirements and the FDI reclassification framework.

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³ Section 2(27), Companies Act 2013. Control is defined as: – the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner.

⁴ Section 2(e), SAST Regulations. Control is defined as:- right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner.



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