

# IMPORT OF GOODS AND SERVICES:

## 1. Introduction:

Import of goods and services into India is allowed as per Section 5 of FEMA, 1999 read with FEM (Current Account Transaction) Rules, 2000. Import Trade is regulated by DGFT (Directorate General of Foreign Trade) under the Ministry of Commerce and Industry, Department of Commerce, Government of India.

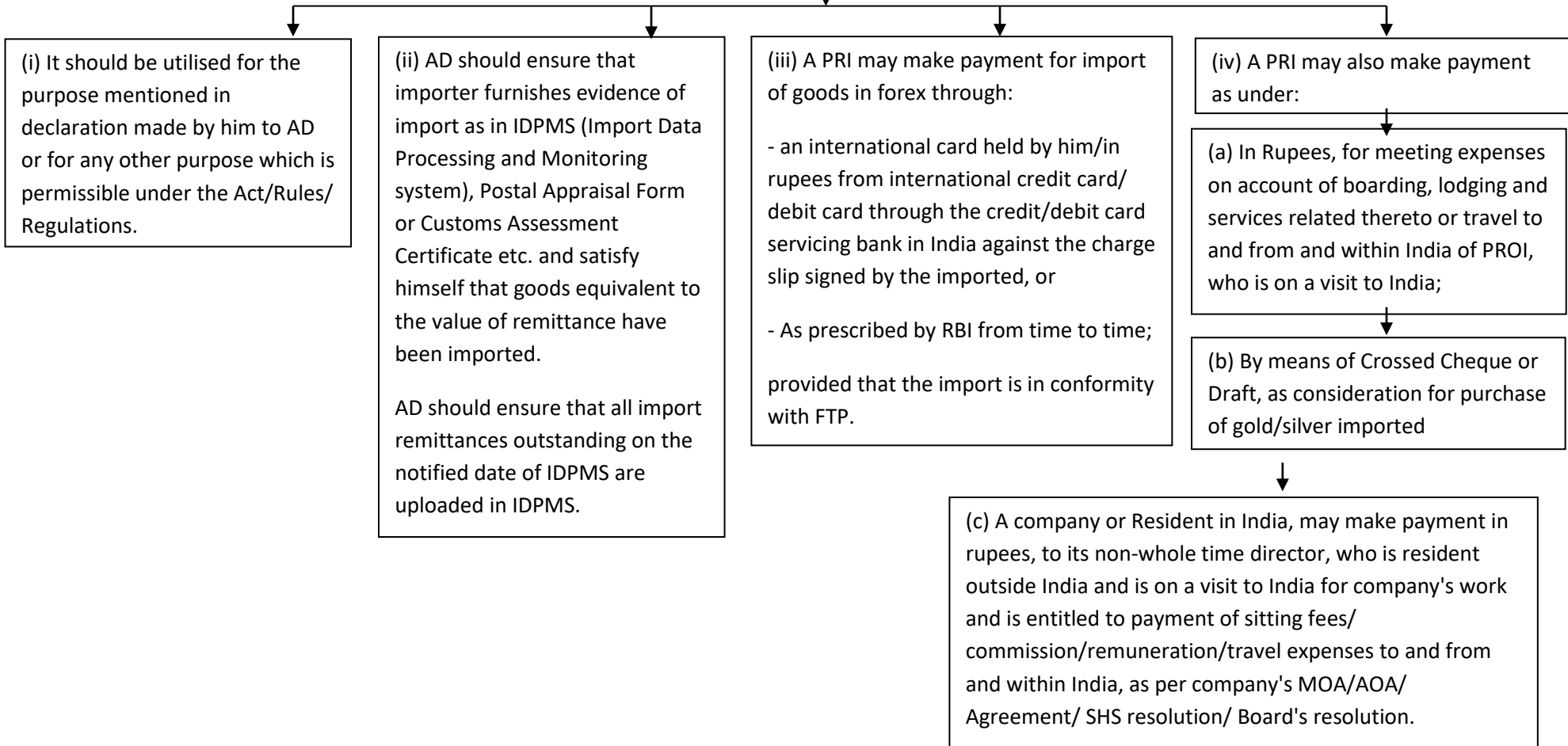
Authorised Dealer Category-1 Banks should ensure that imports into India are in conformity with FTP in force and FEM (Current Account Transactions) Rules, 2000 and directions issued by RBI order FEMA, 1999 from time to time.

## 2. General Guidelines for Imports:

1. General: Rules and Regulations are to be followed by Authorised dealer (AD), while overtaking import payment transactions on behalf of clients. AD must particularly adhere to KYC guidelines issued by RBI.

2. Remittances for Import Payments: AD may allow remittances for making payments for Imports, after ensuring that all requisite details are made available by importer and remittances is for bonafide trade transactions as per law.

### 3. Obligation of Purchaser of Foreign Exchange:



#### 4. Time limit for Settlement of Import Payments:

(i) For Normal Imports – Remittances against Imports should be completed not later than 6 months from date of shipment, except in cases where amounts are withheld towards guarantee of performance etc. AD may permit 'delayed' settlement of import dues, due to disputes, financial difficulties etc.

However interest, if any, on such delayed payments, usance bills (bills of exchange that allow drawee to have period of credit on term) or overdue interest is payable only for a period upto 3 years from date of shipment at rate prescribed or trade credit from time to time.

(ii) For Deferred Payment Arrangement (DPA): DPA (including suppliers' and buyers' credit) upto 5 years are treated as trade credits for which guidelines as mentioned in Circular for ECB and Trade Credits may be followed.

## 5. Extension of Time:

(i) Limit of Extension: AD can consider granting extension of time for settlement of import dues upto a period of 6 months at a time (maximum upto a period of 3 years) irrespective of the invoice value for delays on account of disputes about quantity or quality or non-fulfilment of terms of contract; financial difficulties and cases where importer has filed suit against seller.

In cases, where 'sector' specific guidelines have been issued by RBI for extension of time (i.e. rough, cut and polished diamonds), the same will be applicable.

(ii) Circumstances: While granting extension of time, AD must ensure that:

(a) Import transactions covered by invoices are not under investigation by ED/ CBI/etc.

(b) While considering extension beyond 1 year from date of remittance, the total outstanding of importer does not exceed 1 million USD or 10% of average import remittances during 2 preceding FY, whichever is lower &

(c) where extension of time has been granted by AD, the date upto which extension has been granted may be indicated in 'Remarks' column.

### Note:

- Cases not covered by above instructions/beyond the above limits, may be referred to concerned Regional Office of RBI
- The above extension period shall be reported in IDPMS as per message "Bill of Entry Extension" and the date upto which extension is granted will be indicated in "Extension Date" column.

**6. Import of Foreign Exchange/Indian Rupees:**

Except as otherwise provided in Regulations, no person shall without general/ special permission of RBI, import/bring in India, any Foreign Currency. It is governed by FEMA, 1999 and FEM Regulations 2000.

- RBI may allow a person to bring into India, currency notes of Government of India/RBI, subject to RBI's terms and conditions.

**7. Import of Foreign Exchange into India: A person may:**

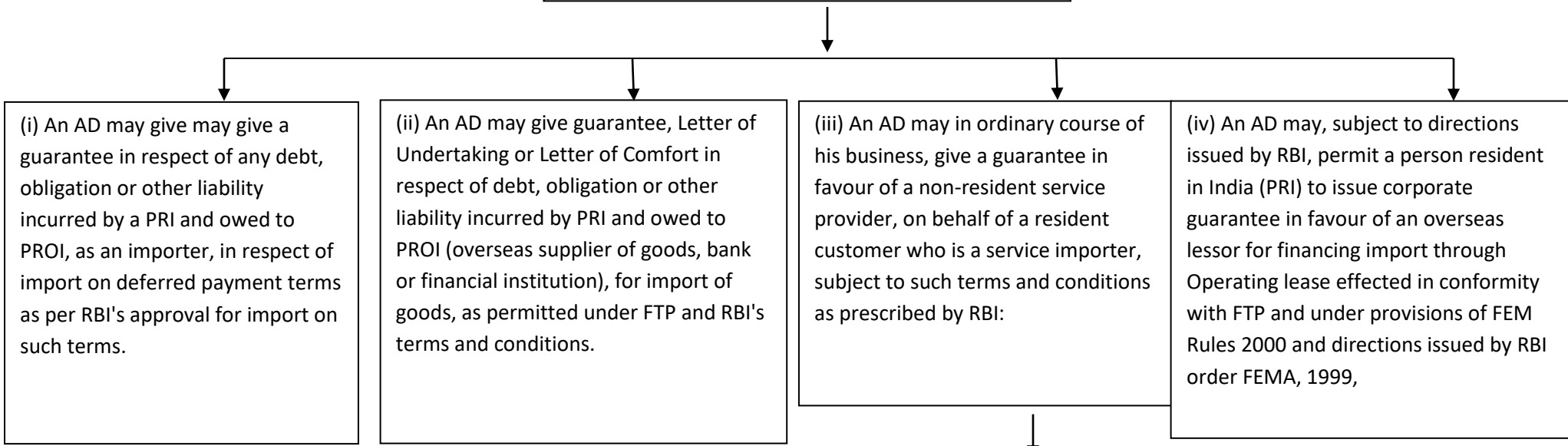
- Send into India, without limit, fore in any form (other than currency notes, bank notes and travellers cheque) Bring into India from any place outside India, without limit, fore (other than unissued notes), subject to condition that such person makes a declaration to Custom Authorities, on arrival in India, at Airport in Currency Declaration Form (CDF)

Provided that, it shall not be necessary to make such declaration if aggregate value of Fore in form of currency notes, bank notes or travellers cheque, brought in by such person at any time does not exceed USD 10,000 or equivalent and/or the aggregate value of foreign currency notes (Cash Portion] alone brought in by such person at any one time does not exceed USD 5,000 or its equivalent.

**8. Import of Indian Currency and Currency Notes:**

- Any PRI who had gone out of India on a temporary visit, may bring into India, at the time of his return from any place outside India (except Nepal and Bhutan), currency notes of GOI and RBI notes upto an amount not exceeding Rs.25,000 A person may bring into India from Nepal or Bhutan, currency notes of GOI and RBI for any amount in denominations upto Rs.100/-

**9. Issue of Guarantee by an AD:**



**Limits of Providing Guarantee**

Service Importer (SI)	Amount of Guarantee
When a SI is other than a public sector company or Dept./Undertaking of GOI/State Govt.	No Guarantee for an amount exceeding USD 5,00,000 or its equivalent shall be issued
Where the SI is public sector company or No Dept/undertaking of GOI/State Govt.	No Guarantee for an amount exceeding USD 1,00,000 or its equivalent shall be issued without prior approval of MoF, Government of India

OVERSEAS DIRECT INVESTMENTS BY RESIDENT INDIVIDUALS:

**Introduction:**

Overseas Direct Investment (ODI) or financial commitment in JV (Joint Venture) and WOS (Wholly Owned Subsidiaries) have been recognised as important avenues for promoting global business by Indian Entrepreneurs. JV are perceived as a medium of economic and business co-operation between India and other countries.

Section 6 of FEMA, 1999 provides powers to RBI to specify in consultation with GOI, the classes of permissible capital A/c transactions and permissible limits

RBI issued FEM (Transfer or issue of any Foreign Security) Regulations, 2004 on 7/July/2004.

This seeks to regulate acquisition and transfer of a foreign security by a PRI i.e. investment by Indian entities in overseas JV and WOS as also investment by a PRI in shares and securities issued outside India

**Important Definitions:**

(i) Direct Investment Outside India: means Investments, either under Automatic route or Approval route, by way of:

(ii) Financial Commitment: means the amount of direct investment by way of contribution to equity, loan and 100% of amount of guarantees and 50% of performance guarantees issued by an Indian Party to or on behalf of its overseas JV or WOS company.

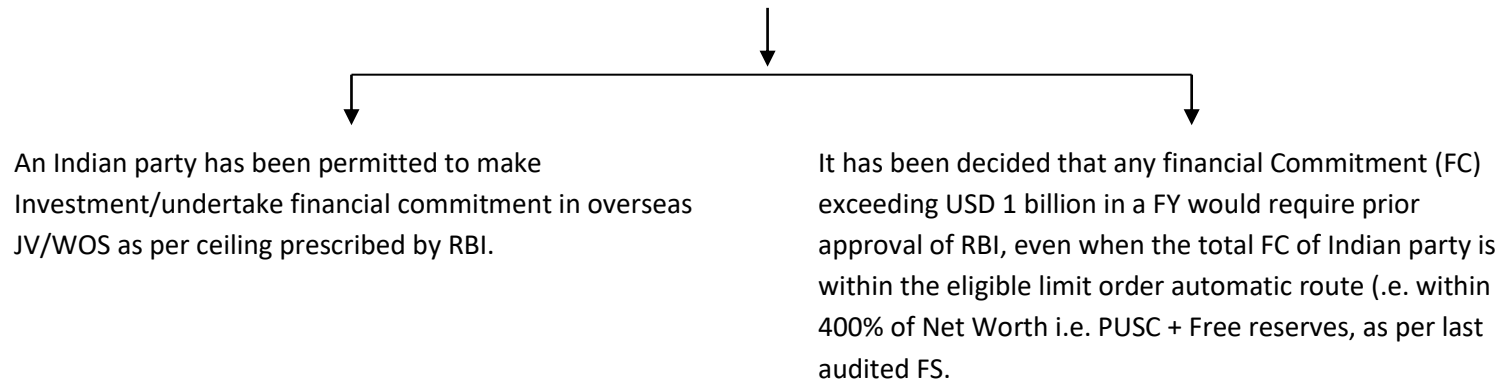
- contribution to capital/subsorption to MOA of foreign entity or

- purchase of existing shares of a foreign entity either by market purchase or private placement or through stock exchange, signifying a long-term interest in foreign entity (JV or WOS)

However it does not include Portfolio Investment - i.e. investments in form of a group of assets including transactions in equity, debt securities, bonds, debentures, bank notes etc.

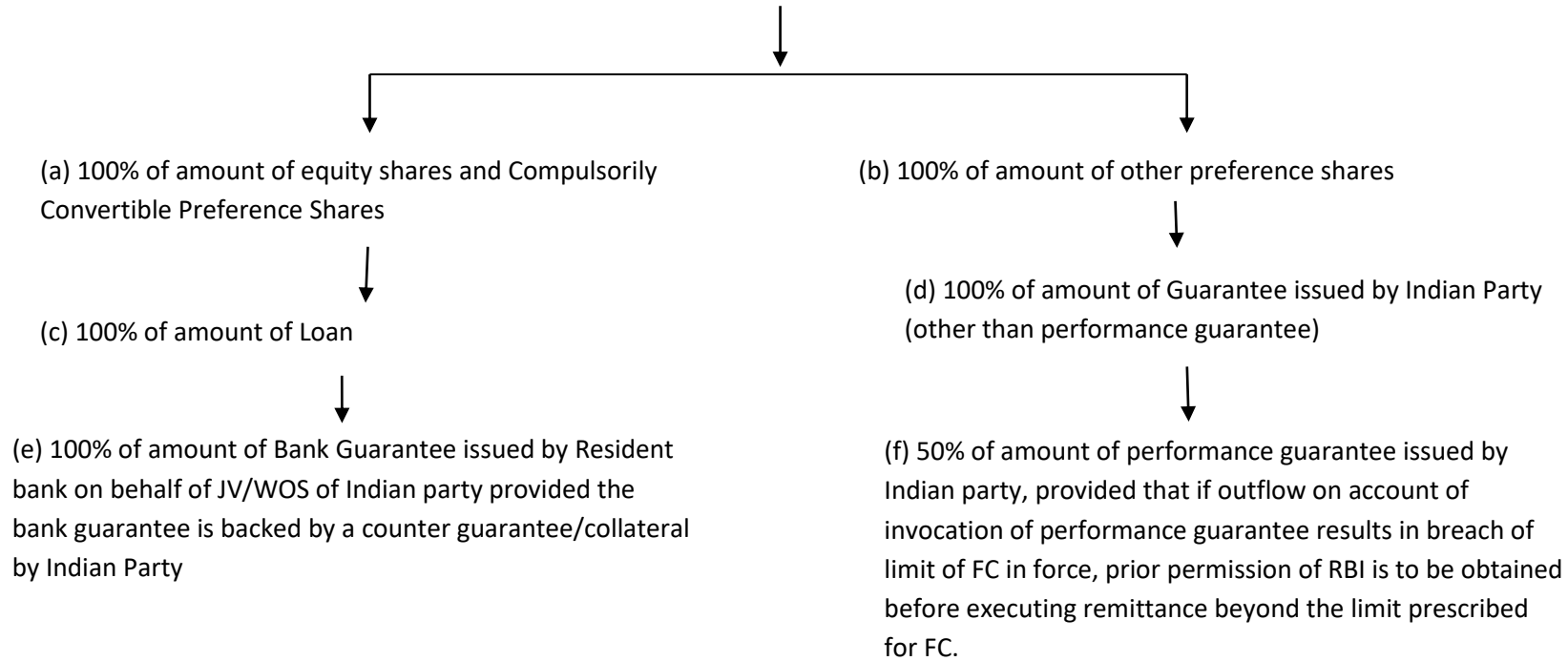
**Modes of ODI:**

**(1) Automatic Route for ODI or Financial Commitment:**



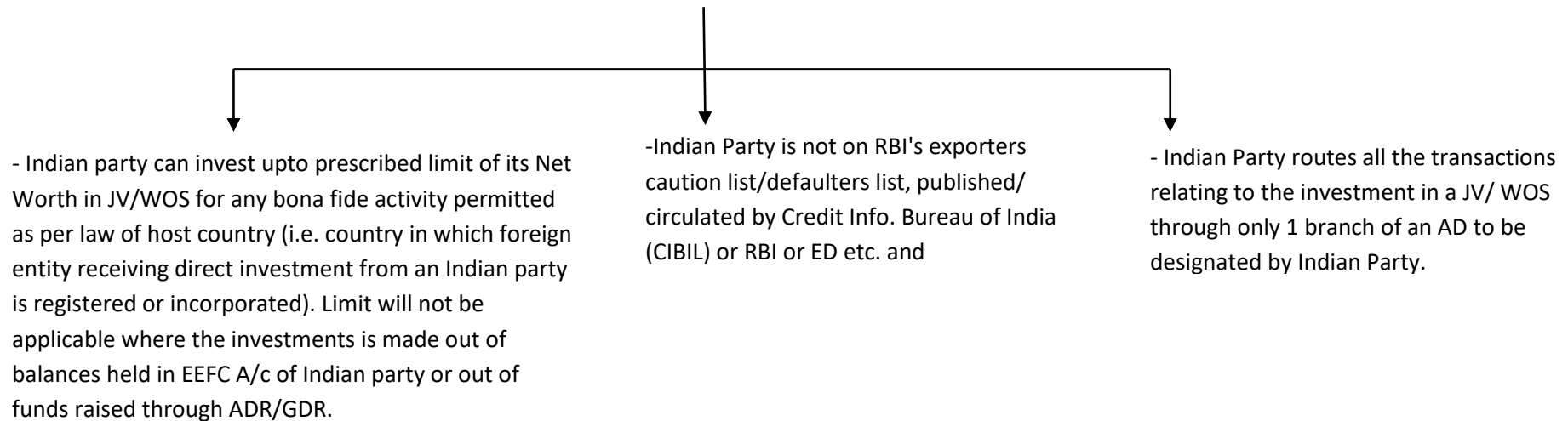
**Chart-2**

Limit Permissible:  
The total F.C. of Indian Party in all JV/WOS shall comprise  
of following:

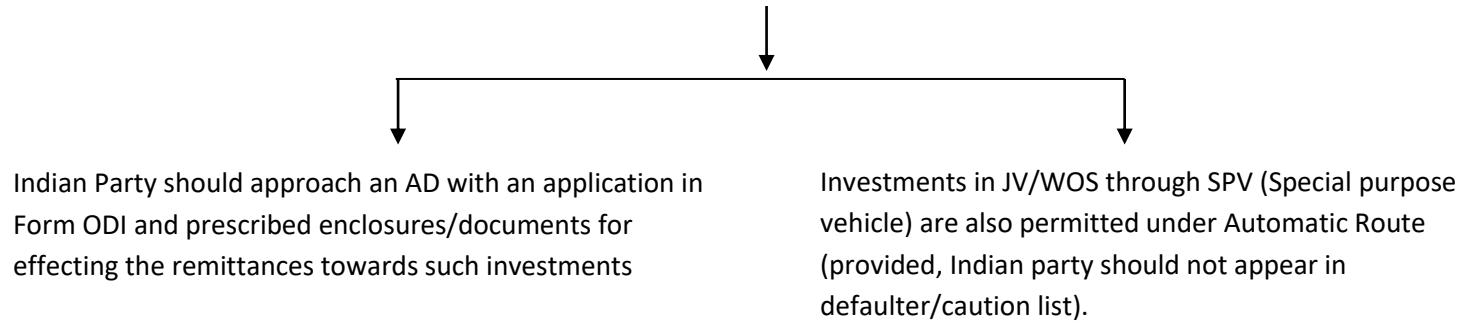


**Requirement for Investments/FC:**

Criteria for ODI under Automatic Route is as under:



**Process:**



(2) Approval Route for Direct Investment or FC outside India:

Chart-4

(i) Prior approval of RBI would be required in all other cases of ODI/FC abroad

(ii) RBI would also consider the following points:

- Prima facie viability of JV/WOS outside India;

- Contribution to external trade and other benefits which will accrue to India

- Financial position and business track record of Indian party and foreign entity and

- Expertise and Experience of Indian Party in the same or related line of activity as of JV/WOS outside India

Therefore, under Approval Route, prior approval of RBI required, for which a specific application in Form ODI is to be done through AD Category I banks.

**Chart-5**

**Overseas Direct Investment by Resident Individuals:**

A Resident individual may make ODI in equity shares and compulsorily convertible preference shares of JV/WOS outside India.

Limit of this ODI shall be within the overall limit prescribed by RBI order provisions of Liberalised Remittance Scheme, as prescribed by RBI.

**Prohibitions on ODI:**

- Indian parties are prohibited from making investment in foreign entity engaged in Real Estate (i.e. buying/selling of real estate or trading in TDRs, but does not include dept. of townships, construction of residential/commercial premises roads or bridges) or banking business, without prior approval of RBI.

An overseas entity, having direct/indirect equity participation by an Indian Party, shall not offer financial products linked to Indian Rupee without specific approval of RBI (Eg: Rupee Exchange rates, Stock Indices linked to Indian market etc.)

**General Permission:**  
General permission has been granted to persons resident in India for purchase/ acquisition of securities in following manner:

- out of funds held in RFC A/C

-as bonus shares on existing holding of foreign currency shares; and

- when not permanently resident in India, out of their foreign currency resources outside India.

General Permission is also available to sell the shares so purchased or acquired.