



# Guide to Invest in India

VPC India



*Who can Purchase  
What?*



### *Non resident Indian (NRI)*

A Person of Indian Origin (PIO) is a citizen of any other country but whose ancestors were Indian nationals at least four generations away.

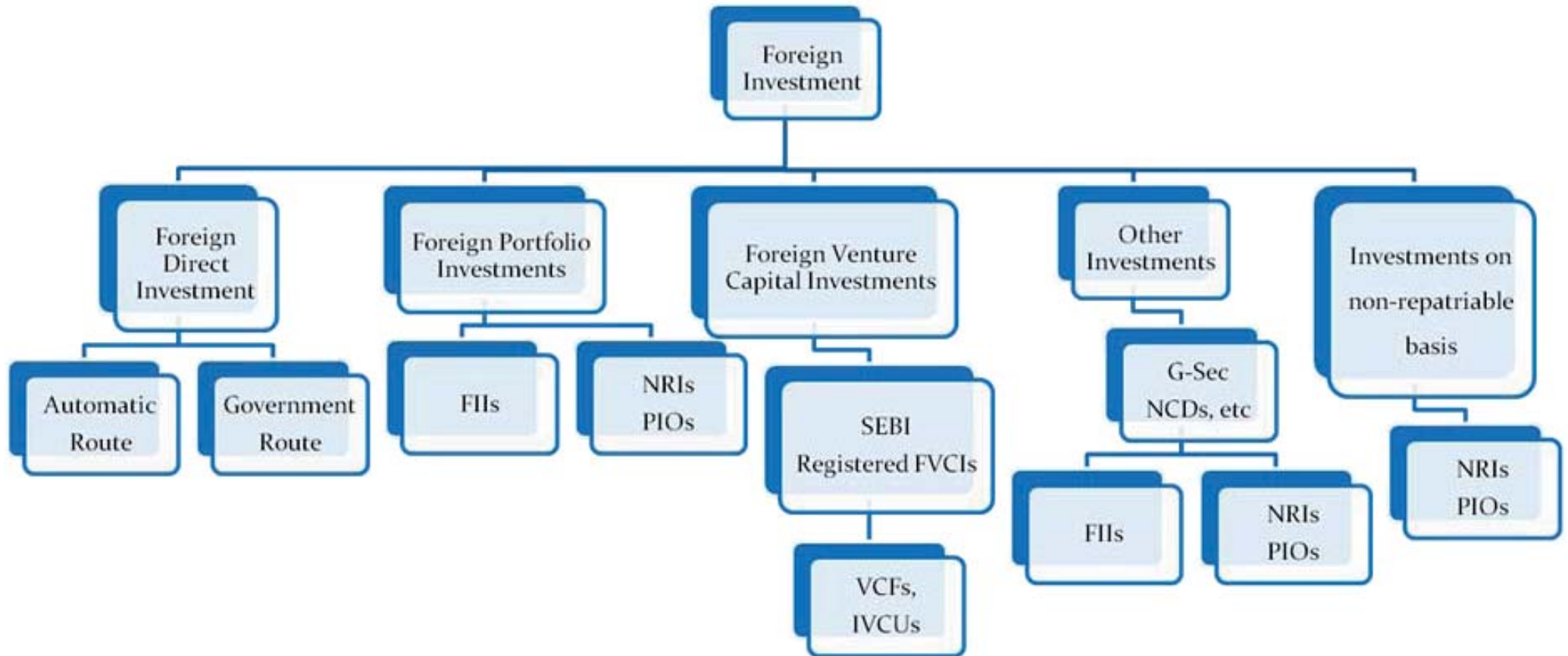
### *Person of Indian Origin (PIO)*

A person is an Indian citizen who has migrated to another country.

### *Foreign national of non Indian origin*

A person who live outside the India and not a citizen of India.

# Investments





## *Non Resident Indian(NRI):*

- All types of immovable properties except Agriculture land/Plantation property /Farm House

## *Person of Indian Origin (PIO):*

- All types of immovable properties except Agriculture land/Plantation property /Farm House



## *Foreigner:*

- A foreign national of non-Indian origin, **resident outside India** cannot purchase any immovable property in India
- Unless such property is acquired by way of inheritance from a person who was resident in India
- Foreigner can acquire or transfer immovable property in India, on lease, not exceeding five years.
- A foreign national who is a '**person resident in India** within the meaning of Section 2(v) of *Foreign Exchange Management Act* (FEMA), 1999 can purchase immovable property in India.



## *Procedures for purchase of property*

NRI's holding Indian passport do not require prior permission of Reserve Bank of India to buy residential or commercial property in India.

The purchase consideration may be paid either by remittance of funds from abroad through normal banking channels or out of NRE / FCNR / NRO account.

Income accruing by way of rent from the properties purchased or acquired by inheritance will not be allowed to be repatriated abroad even if the purchase consideration was met out of NRE / FCNR account.

It is however, necessary for foreign citizens of Indian origin to declare such property to RBI within a period of 90 days from the date of purchase in the prescribed IPI 7 to the Chief General Manager, Exchange Control Department, Foreign Investment Division, Central Office Department, Foreign Investment Division, Central Office, RBI Bombay.



## *Approvals required to buy properties*

- A foreign national who is a 'person **resident in India**' would have to obtain the approvals and fulfill the requirements, prescribed by other authorities, such as, the State Government concerned
- No approvals are required for NRI/PIO to buy properties in India.





## *Financing for Foreigners to Purchase Properties*

- NRI/PIO can avail of housing loan in Rupees from an Authorised Dealer or a Housing Finance Institution subject to certain terms and conditions laid down in **Regulation 8 of Notification No. FEMA 4/2000-RB dated May 3, 2000** viz. Foreign Exchange Management (Borrowing and lending in rupees) Regulations, 2000.



## *Sale of property in India*

Foreign national of non-Indian origin including a citizen of Pakistan or Bangladesh or Sri Lanka or Afghanistan or China or Iran or Nepal or Bhutan can sell property in India with prior approval of the Reserve Bank to

- i) A person resident in India
- ii) an NRI
- iii) a PIO

NRI/PIO can sell property in India to a

- i) A person resident in India
- ii) an NRI
- iii) a PIO



# Alternate Mode of Investments

- Investment at Large scale as FDI
- Through NCD mode
- Direct Investment in Industrial Parks/ Infrastructure Projects.



## EXCHANGEABLE BONDS – SOME FEATURES

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### Mechanism

- Parties involved – investor, issuer and issued company – tripartite agreement
- Are tradable
- Carry a competitive coupon rate
- Maturity period - three to six years
- Are a disposal tool - For instance, recently Tata Sons, the investment company for the Tatas, had to sell a portion of its holdings in Tata Consultancy Ltd to partially fund the Group's investment in Anglo-Dutch steel major Corus. EBs could have permitted Tata Sons to defer the sale of TCS shares by a few years

### Advantages

- Enables the issuer to raise capital by unlocking value in its strategic holdings in group companies
- Continued control of the group companies without any dilution
- Reap benefits of a float without actually selling shares
- Issuer company will not lose dividends on shares held by it in its group companies, during the period that the EB is not exchanged for shares in the group companies



## EXCHANGEABLE BONDS – SOME FEATURES

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### Drawbacks

If the underlying company announces a rights issue or makes a capital distribution, all shareholders in the underlying company, including the issuer, will benefit but not the investors in EBs

EBs do not necessarily enhance the credit risk profile of the issuer

The money that the issuer ultimately realizes for its holdings may not always be more than what it could have realized immediately

### Way forward

The government is working out the guidelines for issuing EBs – the maturity, coupon rate and other terms – March 6, 2007 (Economic Times, New Delhi)

EBs will allow domestic companies to tap overseas markets, albeit in conformity with the FDI sectoral caps set by the government



## FDI IN REAL ESTATE – SNAPSHOT

### SEZ Act – Salient features

- Comprehensive legislation encompassing various aspects relating to the setting-up and operations of SEZs
- Provides for a single window clearance for obtaining licenses/permissions, etc under certain Central Acts
- Provision for the setting up of designated courts to try suits of civil nature
- Provides for tax and fiscal incentives for units which are superior in comparison to other similar schemes in force
- Provides for various fiscal and tax incentives for developers also
- Provides for amendments to certain enactments
- The SEZ Rules notified by the Government of India provide a comprehensive procedural frame work regarding the operation of the SEZ
- The SEZ Rules prescribe a minimum area requirement for the development of a SEZ and positive net foreign exchange earnings by Units in the SEZ and various other procedures





## FDI IN REAL ESTATE – SNAPSHOT

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### SEZ Rules – Salient features

- Comprehensive regulations governing most aspects of the Development and Operation of SEZs
- Minimum area and processing area requirements prescribed
- Clarification on minimum area requirement for pipeline cases
- Simplification and streamlining of procedures
- Clarifications on activities that can be carried on in the processing and non processing area of the SEZ
- Notification of services that can be rendered from a SEZ unit
- Restrictions on sale of land in a SEZ





## FDI IN REAL ESTATE – SNAPSHOT

### Development of industrial parks

#### Key conditions

- The industrial park must be in accordance with the Industrial Park Scheme, 2002 notified by the Central Government
  - The existing Industrial Parks Scheme has expired and a revised Industrial Park Scheme is expected to be released shortly
  - IT parks may also qualify if they are approved under the scheme
  - The developer undertaking has to be approved by the Commerce Ministry as per the scheme
  - The industrial park must be set up for development of infrastructure facilities or should have built-up space with common facilities in any area allotted or earmarked for the purpose of industrial use
- ▶ Under the existing scheme, approval is under two modes – automatic route and approval route





## FDI IN REAL ESTATE – SNAPSHOT

### Development of industrial parks (contd...)

#### Automatic route - Key conditions

- Provision for location of minimum number of 30 separate and distinct “units”
- “Industrial use” area to be not less than 66% of total “allocable area” (allocable area excludes common areas)
- “Commercial use area” not to exceed 10% of total “allocable area” – “commercial use” not defined – however may mean banks, ATMs, shops, cafeteria, etc
- Minimum investment criteria for infrastructure development prescribed
- Once the “industrial park” is approved under the scheme, the Central Board of Direct Taxes has to notify the same for claiming 10 years’ tax holiday



## FDI IN REAL ESTATE – SNAPSHOT

### Development of industrial parks (contd...)

#### Approval route - Key aspects

- Applications not eligible for automatic approval are covered here
- Applications to be approved by the Empowered Committee constituted by the Central Government
- Each application is considered on a “case to case” basis
- On rejection of the application, the applicant shall be afforded an opportunity of being heard
- All applications received shall be placed before the committee within fifteen days of receipt





## *Government Initiatives*

- The foreign direct investment (FDI) up to 100 per cent is allowed with Government's permission for developing townships and settlements.
- New home loan borrowers of up to `1.5 million (US\$ 30,477) will get `14,865 (US\$ 302) as interest subsidy from the Government, on the condition that the cost of the house should not exceed ` 2.5 million (US\$ 50,798).
- Allowing 100 per cent FDI under the automatic route in development of Special Economic Zones (SEZ), subject to the provisions of Special Economic Zones Act 2005 and the SEZ Policy of the Department of Commerce.



# *REAL ESTATE FUND INVESTMENTS*

- **Background**
- **Advantage India**
- **Exchange Control Implications**

**Classification of Sub Regulation 5 of TISPRO Regulations**

<b>Sub regulation</b>	<b>Deals with</b>	<b>Applicable schedule</b>
5(1)	Investments by foreign individuals (other than citizens of Bangladesh and Pakistan) and foreign entities	Schedule 1
5(2)	Investments by registered Foreign Institutional Investors ("FII's")	Schedule 2
5(3)(i)	Investments by Non Resident Indians ("NRIs") under Portfolio Investment Scheme in shares and debentures of an Indian Company	Schedule 3
5(3)(ii)	Investments by NRIs other than under Portfolio Investment Scheme in shares and debentures of an Indian Company on non-repatriation basis	Schedule 4
5(4)	Investments by NRIs or registered FII's in securities other than shares and debentures of an Indian Company	Schedule 5
5(5)	Investments by registered Foreign Venture Capital Investors	Schedule 6
5(6)	Investments by registered FII's in exchange traded derivative contracts	-
5(7)	Investments by NRIs out of INR funds on non-repatriation basis	-



## *Special Economic Zones (“SEZ”)*

**100 percent FDI is permitted under the automatic route**

## *Industrial Parks, Model Towns and Growth Centres*

FDI up to 100 percent is permitted in Industrial Parks subject to the approval of Empowered Committee that has been setup by the Government of India





# *Roads & Highways, Ports and Harbours*

100 percent FDI is permitted under the automatic route in projects for construction and maintenance of roads, highways, vehicular bridges, toll roads, vehicular tunnels, ports and harbours.



## *Airports*

Upto 100 percent FDI permitted. However, investment by foreign investors beyond 74 percent requires prior approval of the FIPB

## **Mass Rapid Metro Transit System**

FDI up to 100 percent is permitted on an automatic basis in Mass Rapid Metro Transit System in all meters, including associated real estate development.



# *Regulations for investment in various sectors*

- *Regulations for investment in Hotels and Tourism sector*
- *Regulations for investment in Hospitals*
- *Regulations for investment in Special Economic Zones (“SEZs”) and Free Trade Warehousing Zones (“FTWZs ”)*
- *Regulations for investment in Industrial Parks*

# *Tax Implications*

- Taxation of Investee Companies
- *Characterization of income*
- *Interest Income*
- *Capital Gains*
- *Minimum Alternate Tax*
- *Wealth tax*
- *Service Tax*
- *Stamp Duty and other taxes*
- *Special Economic Zones*



**Thank you**

