TPS

WE SOLVE PROBLEMS

&

REPORT RESULTS

WE DON'T REPORT PROBLEMS

&

EXPLAIN REASONS

LIBERALIZED REMITTANCE SCHEME (LRS)

MASTER DIRECTIONS ON LIBERALIZED REMITTANCE SCHEME 01-JAN-2016

Liberalised Remittance Scheme

In view of the comfortable Foreign Exchange Reserves LRS was introduced on 4th February, 2004,

Introduced as a measure to facilitate **RESIDENT INDIVIDUALS** to remit funds abroad for permitted current and capital account transactions or both

Liberalised Remittance Scheme

YEAR	LIMIT (per Financial Year)
04-FEB-2004	US $ 25,000
20-DEC-2006	US $ 50,000
08-MAY-2007	US $ 1,00,000
26-SEP-2007	US $ 2,00,000
14-AUG-2013	US $ 75,000
03-JUN-2014	US $ 2,50,000

Liberalised Remittance Scheme

APPLICABILITY:

- Applies only to RESIDENT INDIVIDUALS
- Scheme available to Minors also
- Consolidation of remittance of family Members
- Banks not to finance for the facility
- For Capital & Current account transactions

Liberalised Remittance Scheme

CAPITAL ACCOUNT TRANSACTIONS – US $ 2,50,000

- ✓ Opening - foreign currency account abroad
- ✓ Acquisition of Immovable Property abroad
- ✓ Making Overseas Direct Investment,
- ✓ Making Overseas Portfolio Investments,
- ✓ Loans including loans in INR to NRI who are relatives as defined in Companies Act, 2013 (*subject to conditions*)

Liberalised Remittance Scheme

CURRENT ACCOUNT TRANSACITONS – US $ 2,50,000

- ✓ Private Visits Abroad,
- ✓ Gift / Donations,
- ✓ Going Abroad on Employment,
- ✓ Emigration,
- ✓ Maintenance of Relative abroad,
- ✓ Business Trip,
- ✓ Medical treatment abroad,
- ✓ Studies Abroad in foreign universities,

(*LRS is not permitted if employee is deputed abroad*)

Liberalised Remittance Scheme

PROHIBITED REMITTANCES

- ✓ Transactions prohibited under Current Account Rules,
- ✓ Capital account remittances to countries identified by Financial Action Task Force (FATF) as non-cooperative countries,

Liberalised Remittance Scheme

Documentation:

- RBI does not prescribe the documents to be verified,
- Individual shall identify the AD Bank through which all remittances will be made,
- Form A-2 for purchase of foreign exchange for LRS
- Copy of his/her PAN
- Relationship with AD Bank for one year for capital account transactions,

OVERSEAS INVESTMENTS

Flow of Investments (Equity) and Debt outside India

PROVISIONS

- Overseas Investment **Rules,** 2022
  Central Government
- Overseas Investment **Regulations**, 2022
  Reserve Bank of India
- Overseas Investment **Directions,** 2022
  Reserve Bank of India

All with effect from 22nd August, 2022

APPLICABILITY

- All investment transactions done by an **INVESTOR IN INDIA** (*individual or non-individual*) in an overseas investee entity

- Companies (Private & Public)
- Body Corporate (Trust, Society, etc)
- Limited Liability Partnership
- Registered Partnership Firm

Joint Venture / Wholly owned subsidiary has been done away with

SECTOR

PERMITTED SECTOR

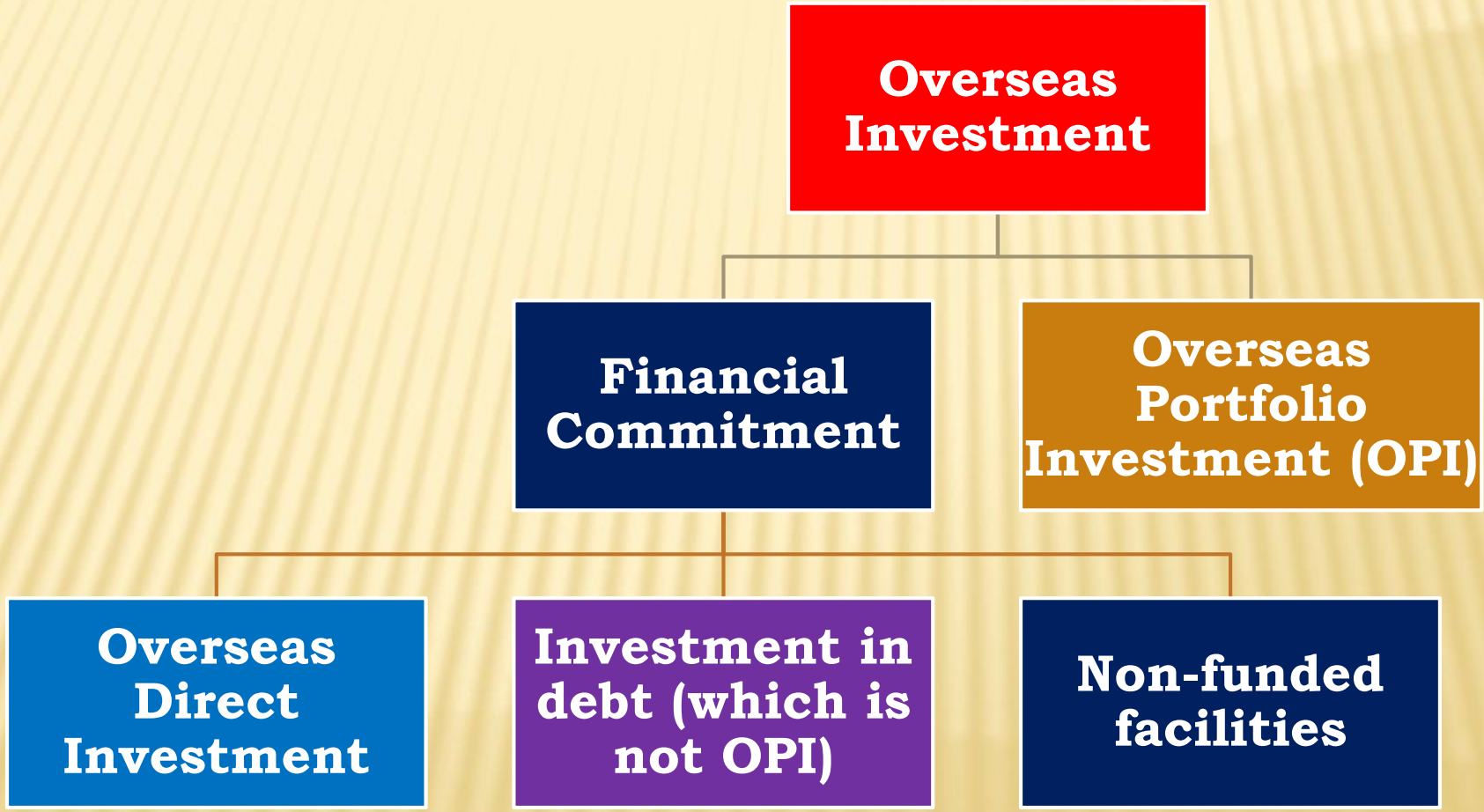
- ODI is permitted in overseas entities engaged in activities that are permissible both in India as well as in the host country.

PROHIBITED SECTOR

- Real Estate
- Gambling
- *Dealing with Financial Products linked to INR

**Can be done with the prior approval of RBI*

OVERSEAS INVESTMENT



FINANCIAL COMMITMENT

- Investment in Equity of Overseas Entity
- Investment in unlisted debt of Overseas Entity
- Non-Fund facility (Guarantee)

Are considered as Financial Commitments (FC)

FC can be done only when there is investment in the overseas entity by an Indian Entity and not otherwise.

RI cannot invest in unlisted debt or extend non-funded facility

GUARANTEE

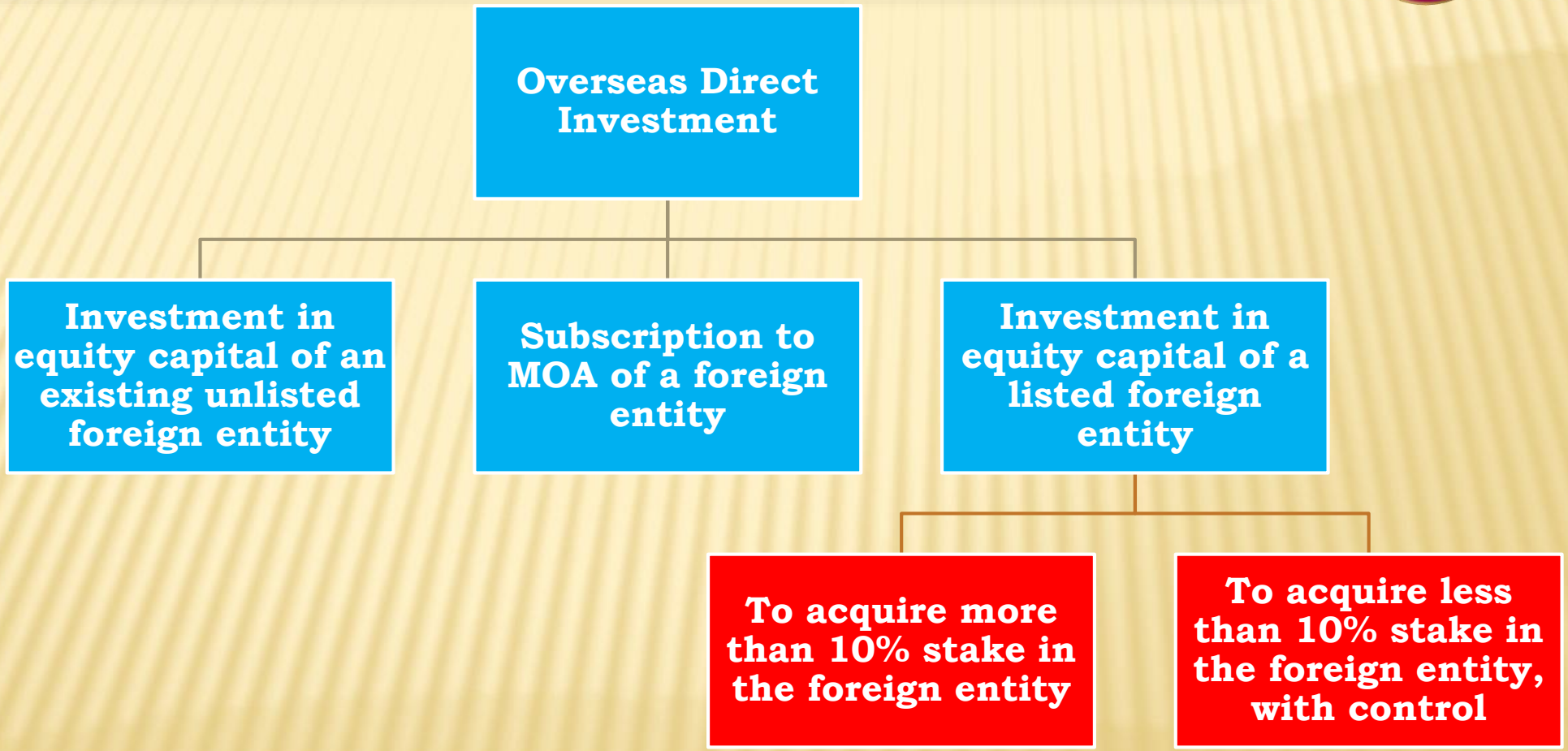
- Corporate or performance guarantee by Indian Entity

- Corporate or performance guarantee by:
  - holding Company,
  - Subsidiary Company
  - Promoter Group Company

- Personal Guarantee by Resident Individual Promoter

- Bank Guarantee backed by counter guarantee/collateral

OVERSEAS DIRECT INVESTMENT

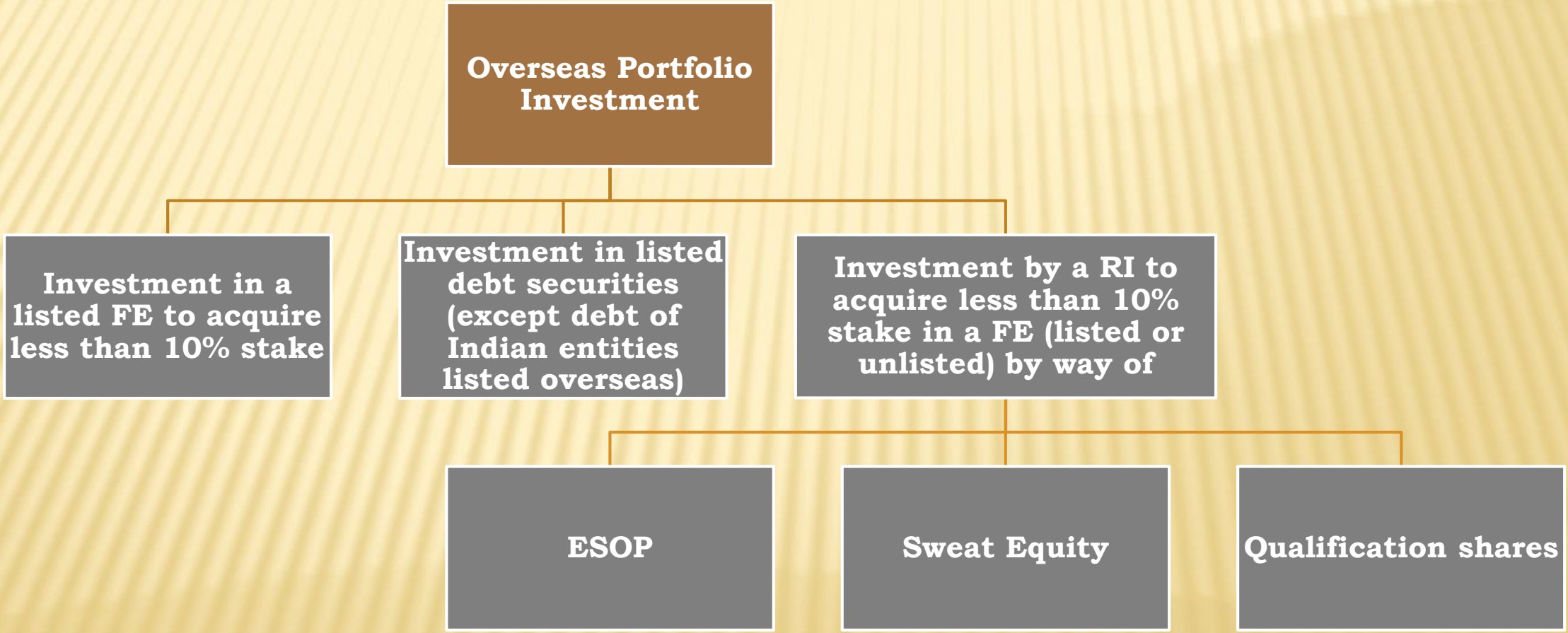


WHAT IS CONTROL?

Control with reference to overseas entity shall mean:

- Right to appoint majority of Directors
- Right to control management or policy decisions
- 10% or more voting rights

OVERSEAS PORTFOLIO INVESTMENT



INVESTMENT LIMITS by IE

OVERSEAS DIRECT INVESTMENT:

- Indian Entities can have overall financial commitment (Equity + Debt + Non-Funded Facility) up to 400% of the **NET WORTH** of the India Entity as per the latest audited financial statement

OVERSEAS PORTFOLIO INVESTMENT – In Lister Entities

- Should not exceed 50% of the net worth

NET WORTH for INVESTMENTS

COMPANIES:

Paid up capital + Free reserves + Securities Premium – accumulated losses – deferred expenses – miscellaneous expenses not written off

LLP/REGISTERED PARTNERSHIPS

Capital contribution by partners + undistributed profits – accumulated losses – deferred expenses – miscellaneous expenses not written off

EQUITY INVESTMENT - ODI

- Subscription to Memorandum
- Private Placement / Rights Issue
- Bonus Issue
- Swap of securities
- Capitalization of dues from Foreign Entity

EXCEPTIONAL MATTERS

- No Objection Certificate (NOC) to be applied and obtained from:

Respective Lender – Where it is a NPA account
ED/CBI/SFIO – Where any investigation is pending

Where no response is received with 60 days – It is a deemed consent and can proceed with the transaction

VALUATION

Valuation of Overseas Investee Company needed for:

a) Issue of Equity Instruments to IE / RI
b) Purchase by IE / RI from overseas Investor
c) Purchase by IE / RI from another IE / RI
d) Sale by IE / RI to overseas Investor

Transaction to be at an arm's length basis

INVESTMENT BY RI / IE

RESIDENT INDIAN	INDIAN ENTITY
• Investment limit subsumed – LRS (limit USD 250,000 per FY) • Financial Commitment can only be by way of equity; debt • Non-funded exposure not permitted • RI can only invest in operating entity abroad • FE cannot create Step Down Subsidiaries (*either in India or abroad*)	• Investment limit - 400% of Net Worth as per last audited financials • Financial Commitment can be by way of equity, debt or non-funded exposure • Investment by IE can be either in operating entity or in SPV • FE can create SDS either abroad or in India (*subject to conditions*)

UNIQUE IDENTIFICATION NUMBER

- A Unique Identification Number (UIN) is allotted by the Reserve Bank of India for each Foreign Entity, in which an Indian Entity or Resident Individual has made an Overseas Direct Investment

- Irrespective of the number of IE or RI making investment in the same Foreign Entity, **only one UIN will be created** for each FE

UNIQUE IDENTIFICATION NUMBER

- The Authorized Dealer handling the first equity investment transaction into the FE will be the designated AD for that FE

- All subsequent transactions into the said FE will need to be routed through the **SAME DESIGNATED AD**, by all the IE/RI who have invested in the FE

ROUTING OF ODI:

- The investor shall select one Banker as the AD Bank along with the Branch,
- Route all transactions only through that AD Banker, relating to that particular UIN
- More than one investor – all investments to be routed only through that AD bank
- Change of AD Banker or Branch is NOT POSSIBEL except with the prior approval of Reserve Bank of India

DOCUMENTATION FOR ODI:

- Client Request Letter
- Form FC
- Form A2 for purchase of foreign exchange
- PAN – Self Attested
- Form FC (*signed in all pages*)
- ODI Declaration
- Resident Individual ITR for last 3 years
- COI, MOA & AOA of the Foreign Entity
- Elaborate note on overseas foreign entity
- Source of Funds

DOCUMENTATION FOR ODI:

- **FORM FC:**

- **Section A:** Details of Indian Entity
- **Section B:** Details of the Foreign Entity
- **Section C:**Details of the transaction
- **Section D:**Declaration by the Indian Entity
- **Section E:**Certificate by the Statutory Auditors
- **Section F:** Reporting of restructuring of the B/S. of FE
- **Section G**: Reporting of disinvestment

EVIDENCE OF INVESTMENT

Provide Share certificates or such other documents from the FE within 6 months from the date of outward evidence

Copy of share certificate to be given to AD Bank

REPORTING REQUIREMENTS

EVENT BASED

Investment in Equity
Extension of Debt
Provision of Guarantee
Standby Letter of Credit (SBLC)
Bank Guarantee
Pledge of shares of Investee
Mortgage of Property

REPORTING REQUIREMENTS

TIME BASED

Annual Performance Report

Before 31st December, every year

Unaudited Financials permitted only in case where IE / RI does not enjoy control in FE

QUESTION & ANSWER

ACKNOWLEDGEMENT



T P SHRIDAR

Company Secretary

Mail: tps@tpspcs.com

Ph: 94448 98899

Please join the FEMA knowledge Group in TELEGRAM