

NATIONAL LAW UNIVERSITY JODHPUR

End Term Examination May– 2025
Semester – II. LL.M (Corporate Law)
Subject: Investment Law

Time: 3 hours

Mark: 100 marks

Instructions:

- i. *All the questions carry equal marks.*
 - ii. *The students are required to attempt four questions.*
 - iii. *The question paper comprises three pages.*
-

Q.1). XYZ Global Pvt. Ltd., an Indian company engaged in software development, had made an equity investment in CodeX Ltd., a foreign entity based in Singapore, in 2021 in accordance with applicable FEMA provisions. In 2025, CodeX Ltd. announces a rights issue and also declares bonus shares to its existing shareholders. XYZ Global Pvt. Ltd. wishes to subscribe to the rights issue and accept the bonus shares. It also considers renouncing a portion of its rights to a business partner based in Germany. Meanwhile, XYZ Global Pvt. Ltd. has identified a new investment opportunity in TechNova Inc., a startup located in Pakistan, which offers AI-based solutions in the logistics sector. The company plans to make this investment through its wholly owned foreign subsidiary in Dubai. XYZ Global Pvt. Ltd. has also applied for a financial commitment of Rs. 1200 crore, which exceeds its net worth of Rs. 250 crore, arguing that the investment is in a strategic sector. It seeks to route a portion of the investment through swap of securities. Additionally, it is revealed that XYZ Global Pvt. Ltd. has an account classified as a non-performing asset by a public sector bank. Although the company had applied for a “No Objection Certificate” (NOC) from the concerned bank 45 days ago, it has not yet received any response.

Based on the above facts, answer the following:

- a) Advise XYZ Global Pvt. Ltd. regarding its rights issue and bonus share entitlements in CodeX Ltd., including the proposal to renounce rights to a German entity.
- b) Examine the legality and procedural requirements of the proposed investment in TechNova Inc. via the Dubai subsidiary.
- c) Evaluate whether the proposed financial commitment of Rs. 1200 crore is permissible, and under what circumstances it may be allowed.
- d) Discuss the implications of the pending No Objection Certificate (NOC) and the legal position of the company in proceeding with its proposed overseas investment.

(Marks 6.25x4=25)

Q.2). The SEBI (Foreign Portfolio Investors) Regulations, as amended in 2023 and 2024, provide a detailed legal framework for the registration and regulation of Foreign Portfolio Investors (FPIs) in India. Critically analyze the legal and procedural framework for the grant of certificate of registration to FPIs under the SEBI (FPI) Regulations with reference to the following:

- a) The procedure for application, including the role and responsibilities of the designated depository participant (DDP);
- b) The eligibility criteria for registration as an FPI under Regulation 4, with emphasis on:

- The status of non-resident Indians, overseas citizens of India, and resident Indian individuals and entities;
 - Exceptions and special provisions applicable to IFSC-based applicants;
- c) The categorization of FPIs into Category I and Category II, and the significance of such classification in regulatory compliance;
 - d) The grounds and procedure for rejection of an application, and the mechanism available for reconsideration by SEBI;
 - e) The conditions and process relating to suspension, cancellation, or surrender of FPI registration.

Note: Refer to relevant provisions and amendments to support your analysis.

(Marks 5x5=25)

Q.3). Siddharth, an Indian resident, inherited a property in London from his uncle in 2020. However, he failed to declare this foreign asset to the Reserve Bank of India or any other authority. In 2024, he sold the property and invested the proceeds in foreign securities without obtaining any permission from the RBI. The total value of the transaction was approximately USD 2 million. Following a tip-off, the Enforcement Directorate (ED) initiated an investigation. During the course of the inquiry, Siddharth dishonestly transferred a part of his movable assets from India to an overseas account. He also failed to respond to the notice issued under Section 13(1) by the Adjudicating Authority. As a result, a warrant for his arrest was issued and executed in Mumbai. He was presented before the Adjudicating Authority, who ordered his detention in civil prison. Meanwhile, Siddharth submitted an application for compounding of the contravention under Section 15 of FEMA.

With reference to the provisions of the Foreign Exchange Management Act, 1999, answer the following:

- a) Examine whether Siddharth's actions amount to a contravention under Section 13(1) and (1A).
- b) Discuss the scope of penalties and criminal liability Siddharth may face under Sections 13(1), (1A), and (1C).
- c) Analyze the legal validity of the arrest and detention orders issued against him under Section 14.
- d) Can Siddharth's application for compounding of the contravention be accepted at this stage? Discuss with reasons.
- e) Discuss the power of the Adjudicating Authority in respect of confiscation of property and enforcement of penalty in such cases.

(Marks 5x5=25)

Q.4). Global Strategic Ventures Ltd., a Singapore-based company, proposes to invest in TechAgro Pvt. Ltd., an Indian company engaged in the manufacture of agricultural machinery (a sector with 100% FDI allowed under the automatic route with no FDI-linked performance conditions). The investment includes the issuance of equity instruments worth USD 450,000 against pre-incorporation expenses, and an additional USD 2 million through the purchase of shares on a recognized stock exchange, funded via dividend proceeds from TechAgro. Meanwhile, AgroGlobal LLP, an LLP engaged in real estate business, also offers 30% profit share to the same investor. Further, Global Strategic Ventures plans to acquire a 20% stake in IndiPetro Pvt. Ltd., an Indian company holding participating interest in oil fields. Critically examine the permissibility, procedural compliance, and sectoral restrictions or approvals required for each component of the investment-

above under the FEMA (Non-Debt Instruments) Rules, 2019, highlighting the applicable sectoral caps and entry routes.

(Marks 25)

Q.5). An Indian company, Alpha Pvt. Ltd., is owned and controlled by resident Indian citizens. It receives foreign investment and subsequently sets up a wholly-owned subsidiary, Beta Ltd., which makes a downstream investment in another Indian company, Gamma Pvt. Ltd. However, it is later revealed that the original foreign investment in Alpha Pvt. Ltd. was routed through a complex structure involving a fund based in Mauritius, where Indian promoters have significant ownership. The Reserve Bank of India suspects that this could amount to round tripping in violation of the FDI Policy. In light of the relevant provisions under Rule 23 of the FEMA (Non-Debt Instruments) Rules, critically analyze the legality of the downstream investment structure and discuss the regulatory implications and obligations of the entities involved.

(Marks 25)

Q.6). Write a comparative note on the following:

- a) Capital account transactions vs current account transactions.
- b) International commercial arbitration vs investment arbitration.

(Marks 12.5x2=25)

NATIONAL LAW UNIVERSITY JODHPUR

End Term Examination May- 2025
Semester – II. LL.M (Corporate Law)
Subject: Investment Law

Time: 3 hours

Mark: 100 marks

Instructions:

- i. All the questions carry equal marks.
- ii. The students are required to attempt four questions.
- iii. The question paper comprises three pages.

Q.1). ABC Pvt. Ltd., an Indian entity engaged in manufacturing electronics, intends to expand its operations internationally. It proposes to make an Overseas Direct Investment (ODI) in two foreign entities:

1. Electra Inc., USA – a tech company engaged in a general insurance business that supports the electronic equipment supply chain in the US.
2. FinVest Pte. Ltd., Singapore – a non-banking financial services firm operating in wealth management.

The last three financial years of ABC Pvt. Ltd. show the following net profits:

- FY 2019-2020 – Rs. 12 crore
- FY 2020-2021 – Rs. (-) 5 crore
- FY 2021-2022 – Rs. (-) 3 crore
- FY 2022-2023 – Rs. 15 crore

The company has a net worth of Rs. 200 crore as per its last audited balance sheet and intends to use Rs. 750 crore as total financial commitment for the above investments, partly raised through External Commercial Borrowings (ECBs). Further, ABC Pvt. Ltd. is not registered with any Indian financial sector regulator, but claims that the foreign entities operate in sectors supporting its core business.

Based on the above facts, answer the following questions:

- a) Examine the legality of ABC Pvt. Ltd.'s proposed investment in Electra Inc., referring to the relevant provisions.
- b) Assess whether ABC Pvt. Ltd. is permitted to invest in FinVest Pte. Ltd., and under what conditions.
- c) Determine whether the proposed total financial commitment of Rs. 750 crore is within the permissible limits.
- d) Comment on the applicability of the Covid-19 profit exclusion clause for determining eligibility for ODI in financial services.

(Marks 6.25x4=25)

Q.2). GlobalVest Capital LLP, a private equity fund incorporated in Singapore, seeks to invest in listed Indian securities as a Foreign Portfolio Investor (FPI). The fund includes contributions from the following entities:

- A Non-Resident Indian (NRI) contributing 20% of the corpus,
- A resident Indian individual contributing 10% through the Liberalised Remittance Scheme,
- A resident Indian company acting as the fund manager, eligible under Section 9A of the Income Tax Act,
- An unregulated Cayman Islands fund contributing 30%, managed by a SEBI-registered Category I FPI from the UK.

The designated depository participant (DDP) initially refuses to register the applicant citing eligibility concerns, including issues of "control" by NRIs and resident Indians, and questions about the investor's jurisdiction and regulatory status. After filing for reconsideration, GlobalVest Capital LLP is granted a conditional registration as a Category II FPI, which they now wish to surrender due to internal restructuring and exit from Indian markets. Meanwhile, the fund still holds securities and open derivative positions in India, and its certificate of registration has expired without renewal.

Based on the above facts, answer the following:

- a) Identify and analyze the key legal and regulatory issues involved in the eligibility and registration process under the SEBI (FPI) Regulations, 2019 (as amended).
- b) Assess the categorization of GlobalVest Capital LLP as a Category II FPI - is this appropriate under Regulation 5? Why or why not?
- c) Discuss the process and conditions under which the certificate of registration may be surrendered or deemed to be surrendered, particularly in light of the fund's failure to renew registration and its continued holdings in India.
- d) Offer your reasoned views on how SEBI and the DDP should ideally handle such complex applications involving layered fund structures, mixed contributions from NRIs and resident Indians, and offshore entities.

(Marks 6.25x4=25)

Q.3). Rohit, an Indian citizen, secured admission to a Master's program in Canada in September 2023. Before leaving India, he had been residing in Mumbai and was employed with a private company. He resigned from his job and moved to Canada with the intention to pursue his studies for the next two years. While in Canada, Rohit took up a part-time job and opened a bank account there for receiving his salary and managing his expenses. Over the course of the year, he stopped receiving financial assistance from his family in India and became financially self-sufficient. During this period, he sold his car in India and transferred the proceeds (amounting to INR 6 lakhs) to his Canadian bank account. He also applied for a student loan in India (before leaving) which was sanctioned and disbursed to his Indian bank account. In March 2025, during an audit, the Enforcement Directorate raised queries about the legality of Rohit's foreign remittance transactions. Rohit argued that he should be treated as a "non-resident" under FEMA and is entitled to the privileges available to NRIs, including the remittance of funds abroad.

With reference to the definition of "person resident in India" under the Foreign Exchange Management Act, 1999, and the Reserve Bank of India's clarification regarding the treatment of Indian students studying abroad, examine the residential status of Rohit, who has moved to the United States for a two-year postgraduate program. Assess the legality of the remittance made by Rohit from the sale proceeds of his immovable property in India to his overseas account. Further, evaluate whether Rohit continues to be eligible for the student loan that he availed while he was a resident in India. If it is found that Rohit has violated any provisions of FEMA, analyse the potential penalty that may be imposed under Section 13 of the Act. Lastly, discuss the rationale behind RBI's liberal interpretation of residency status in favour of Indian students pursuing studies abroad.

(Marks 25)

Q.4). Mr. Li Wei, a citizen of China, is the beneficial owner of Dragon Capital Ltd, a Hong Kong-based investment firm. In January 2024, Dragon Capital Ltd acquired 26% equity in ZenTech Pvt. Ltd, an Indian company engaged in the manufacturing of telecom equipment, a sector with 100% FDI permitted under the automatic route subject to security clearance. However, the investment was made without obtaining prior government approval, despite the fact that China shares a land border with India. Later, Dragon Capital proposed to increase its stake to 49% by purchasing additional equity from existing shareholders through the stock exchange. The investment was to be funded from dividend earnings credited into a specially designated non-interest-bearing rupee account. Separately, Dragon Capital also sought to invest in a Limited Liability Partnership (LLP) operating in real estate development in Mumbai. The LLP has an Indian partner, and the proposal included a profit-sharing arrangement. Meanwhile, another Indian company, AgriVentures Pvt. Ltd, issued equity shares to Dragon Capital Ltd against pre-incorporation expenses exceeding USD 500,000, without reporting the transaction to the RBI within 30 days.

With reference to the relevant FEMA Regulations/Rules, answer the following:

- a) Discuss the legality and compliance issues surrounding the initial and proposed increased investment by Dragon Capital in ZenTech Pvt. Ltd.
- b) Examine whether prior government approval was required in this case.
- c) Analyze the permissibility of Dragon Capital's investment in the LLP engaged in real estate development.
- d) Evaluate the compliance obligations and implications of the equity issued by AgriVentures Pvt. Ltd. against pre-incorporation expenses.
- e) Explain the sectoral cap and entry route applicable to FDI in telecom and real estate sectors in India.

(Marks 5x5=25)

Q.5). PQR LLP, incorporated in India, is owned and controlled by persons resident outside India. It proposes to invest in STU Pvt. Ltd., an Indian company engaged in the software development sector, where 100% FDI is permitted under the automatic route and there are no FDI-linked performance conditions. Subsequently, STU Pvt. Ltd. plans to acquire a 60% equity stake in MNO Pvt. Ltd., an Indian company operating in the same sector. STU Pvt. Ltd. is currently owned and controlled by resident Indian citizens. Analyze whether the proposed structure of investments is permissible under Rule 23 of the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019, focusing specifically on the issues of "ownership" and "control" at each level. Discuss the compliance requirements, if any, for the investee and investor entities.

(Marks 25)

Q.6). Write notes on the following topics:

- a. Prohibition on foreign exchange transactions under current account and capital account regulations.
- b. Bilateral Investment Treaties (BITs) and their key features.

(Marks 12.5x2=25)