



## State Bank of Pakistan

### DRAFT POLICY

#### Investment Abroad by Residents

##### **13. Investment Abroad by Residents.**

The residents of Pakistan including firms and companies are allowed to make equity based investment (other than portfolio investment) in companies (whether incorporated or not)/Joint Ventures and establish branch offices abroad on repatriable basis, subject to the following terms and conditions and in the manner stipulated below:

##### **I. Basic Terms and Conditions:**

Following basic terms and conditions will apply to all categories of investment abroad:

1. Investment abroad is allowed only for those countries that allow repatriation of profits, dividends and capital. However, equity investment in India, shall be subject to prior approval of SBP.
2. The funds proposed for investment should be legitimate and tax paid, and the investor should have a clean record of loan repayments.
3. No ML and TF related investigation is pending against the applicant or its beneficial owner/key management personnel under Anti Money Laundering Act, 2010 or Anti-Terrorism Act, 1997 as amended from time to time.

##### **II. Category-wise specific Terms and Conditions:**

Following terms and conditions will apply specifically to each category of Investment abroad:

##### **A. Establishment of subsidiary/branch office abroad by export oriented companies/firms for promoting exports:**

- a. In order to facilitate the companies/firms incorporated/registered in Pakistan in increasing exports of the country by expanding their business offshore, Authorized Dealers are granted general permission to allow the following equity investment abroad transactions:
  - i. Establishment/acquisition of subsidiary and additional capital injection in subsidiary.
  - ii. Establishment/acquisition of marketing/ liaison/ representative office abroad and remittance of their annual budgeted operational expenses.
- b. However, this general permission is subject to following terms and conditions:
  1. Total amount of remittance during a calendar year, under this general permission, should not exceed the 10% of average annual export earnings of last three calendar years of the applicant, or USD 100,000 whichever is higher. Authorized dealer can open standby letter of credit to facilitate the offshore entity of the applicant for raising funds from offshore jurisdiction, within this limit. Any investment proposal exceeding this limit will be forwarded to SBP, which will be evaluated as per terms and conditions defined for this category of Investment abroad.
  2. At any point of time, investment abroad of the applicant should not exceed 80% of its equity (after adjusting for investments in subsidiaries/ associates, intangibles (including DTAs), receivables from related entities etc.).
  3. Transactions shall be carried out by the exporter by utilizing foreign currency funds available to the credit of special foreign currency accounts maintained in terms of Para 12, 35, 36 and 37 of Chapter 12 of Foreign Exchange Manual. However, if the balance available in its special foreign currency accounts is not sufficient, remittance of balance amount can be allowed from interbank market.

4. The export overdue of intending investor shall not be more than 1% of the previous year's exports.
5. The threshold of up to USD 30,000 shall be observed for allowing annual budgeted operational expenses of a marketing/ liaison/ representative office for the first year of investment. However, an increase of up to 10% may be allowed in annual budgeted operational expenses in the following years subject to valid justification of increase in expenses by the applicant.
6. One transaction per jurisdiction shall be allowed for establishment/ acquisition of subsidiary/ marketing/ liaison/ representative office abroad.
7. All the transactions under this general permission shall be routed through only one branch of an Authorized Dealer to be designated by the applicant and duly acknowledged by the Exchange Policy Department of State Bank of Pakistan. The request for designation of the branch shall be routed through the Head Office of the bank, where the bank shall maintain record of all such designations.
8. The branch so designated by the applicant shall be liable to maintain complete party wise record of transactions allowed by it. The designated branch shall also maintain the complete record of repatriation of dividend/disinvestment proceeds from investments abroad by its each customer.
9. The Authorized dealer shall ensure the following through assessment of relevant information/documents submitted by the applicant, before allowing the transaction under this general permission:
  - i. In case the applicant do not have any significant export earnings during last three calendar years, the Authorized dealer shall obtain details of products to be exported by the applicant and an undertaking that proposed investment has the potential to increase the exports of Pakistan.
  - ii. The business activity of the company, firm in which investment is desired to be made should ordinarily be of the same nature as that in which the applicant is already engaged in Pakistan.
  - iii. The investor should be financially sound as shown by its audited accounts for the last three years.
  - iv. The bonafides of the applicant and the genuineness of the transaction by verifying the necessary documents.
  - v. In case of acquisition of subsidiary abroad, the Authorized Dealer shall allow the transaction after satisfying itself with respect to valuation of the company being acquired. In case the target company is unlisted, and the amount of investment is above USD 1 million, the Authorized dealer may allow the transaction after satisfying itself through a valuation report from a leading accredited business valuation firm of the country in which investment is to be made.
  - vi. While assessing any request for establishment/acquisition of subsidiary or marketing/ liaison/ representative office abroad, due weightage shall be given to the performance of previous investments abroad in terms of profit repatriation, increase in exports etc.
  - vii. In case of additional capital injection in subsidiary, due weightage shall be given to its previous performance.

**B. Establishment of Holding Company (HoldCo) abroad by residents for raising capital from abroad:**

- a. In order to facilitate the companies ("OpCo") in raising capital from abroad, following general permissions are granted:
  - i. OpCo is allowed to incorporate a holding company ("HoldCo") abroad. For this purpose, Authorized dealers are allowed to remit the initial incorporation expenses, on actual basis but not exceeding USD 10,000 or equivalent in other currencies,

subject to condition that the applicant company is eligible as per terms and conditions.

- ii. After incorporation the HoldCo abroad, the existing shareholders (individuals/ companies/ firms) of OpCo (“Founders”) are once allowed to swap their shares, of equal value, to mirror the shareholding of OpCo in HoldCo, within 30 days, by acquiring shares of HoldCo against transfer of their shareholding in OpCo to the non-resident HoldCo on repatriation basis. However, no remittance in this regard shall be allowed from Pakistan.
  - iii. Subsequently, resident companies/firms and Founders are allowed to acquire the shares issued by HoldCo against payment of funds to OpCo locally in PKR. Consequently, the OpCo can issue shares of equal value in favor of non-resident HoldCo, on repatriation basis.
- b. These general permissions are subject to following terms and conditions:
1. The company shall be eligible for incorporation of holding company abroad under this general permission, provided that:
    - i. The company is incorporated as a private limited company under the Companies Act, 2017 (erstwhile Companies Ordinance 1984) not before 5 years, provided that such entity is not formed by splitting up, or reconstruction of a business already in existence
    - ii. The Company has annual turnover below PKR 2 billion since its incorporation
    - iii. The company has equity (including retained earnings) below PKR 250 million as per latest audited financials
    - iv. The company is working towards innovation, development or improvement of products or processes or services, or if it is a scalable business model with a high potential of employment generation or wealth creation.
  2. HoldCo shall repatriate the funds, raised from abroad to Pakistan, as equity based investment in OpCo, in following manner:
    - i. At least 90% of the funds raised from abroad on annual basis during first three years after its incorporation, subject to a minimum of USD 1 million (net of dividend remitted by OpCo) during first three years.
    - ii. At least 50% of funds raised from abroad on annual basis after three years of its incorporation.
    - iii. The above conditions shall be applicable until total investment (net of dividend remitted by OpCo) by HoldCo in OpCo reached to a level of USD 10 million.
  3. The OpCo can issue shares in favor of HoldCo, against the amount received from abroad, on repatriation basis in terms of provisions of para 6 and 7 of Chapter 20 of Foreign Exchange Manual. The OpCo shall report to SBP within 30 days of issuance of shares through its Authorized dealer, along with details of funds raised by HoldCo.
  4. HoldCo shall remit the dividends to Pakistan against shares acquired by resident companies/firms and Founders.
  5. Authorized dealer who remitted the initial expenses for establishment of HoldCo abroad, shall arrange to ensure the compliance of all terms and conditions.

**C. Investment abroad by resident companies/firms for expansion of business:**

The residents of Pakistan including firms and companies are allowed to make equity based investment (other than portfolio investment) in companies (whether incorporated or not)/Joint Ventures and establish branch offices abroad on repatriable basis, with prior permission of State Bank of Pakistan and subject to the following terms and conditions:

1. Only companies incorporated in Pakistan including foreign controlled companies and firms owned by Pakistani Nationals resident in Pakistan are allowed investment under this category.
2. The business activity of the company, firm, joint venture in which investment is desired to be made should ordinarily be of the same nature as that in which the investor is already engaged in Pakistan, or in which the investor has the potential to acquire sufficient expertise from the market for running the business.
3. The investor should be financially sound as shown by its audited accounts for the last three years. In the case of a company in the I.T. business, however, the condition of three years may be reduced to one year.
4. The proposal should be economically viable as evidenced from a feasibility report. It should have the potential for future earnings of foreign exchange coupled with other advantages to the country such as employment opportunities for Pakistani nationals and improvement in national human resources.
5. Funding for the proposed investment abroad shall be allowed from the foreign currency funds available to the credit of special foreign currency accounts maintained by the applicant in terms of Para 12, 35, 36 and 37 of Chapter 12 of Foreign Exchange Manual. However, in case the applicant does not have any such account or the balance available in its special foreign currency accounts is not sufficient, remittance can be allowed from interbank market.
6. The State Bank under the aforesaid guideline would also deal with the proposals emanating from the Public Sector Organizations providing financial services whereas the concerned ministry would deal with the investment proposals from all other public sector organizations.

**D. Investment abroad by Resident Individuals:**

1. General permission is granted to resident individuals for small investments in a few shares of listed companies abroad. This also includes participation by Pakistani employees of subsidiaries of foreign companies in Pakistan in their share option plans. This general permission is subject to following terms and conditions:
  - i. The maximum shareholding in a single investee company, under this general permission, shall not exceed 1% of shares of the investee company at any time.
  - ii. The maximum amount that can be remitted under this general permission shall not exceed USD 10,000 or equivalent during a calendar year.
  - iii. All the transactions under this general permission shall be routed through only one branch of an Authorized Dealer to be designated by the each individual or company (in case of share option plans) and duly acknowledged by the Exchange Policy Department of State Bank of Pakistan. The request for designation of the branch shall be routed through the Head Office of the Authorized Dealer, where the Authorized Dealer shall maintain record of all such designations.
2. General permission is granted to resident individuals to acquire the shares of companies abroad issued to them as sweat equity against their efforts and services, without any monetary consideration. This general permission is subject to the following terms and conditions:
  - i. The maximum shareholding, under this general permission, shall not exceed 15% of shares of the investee company at any time.
  - ii. The investor could acquire shares under this general permission against its efforts and services related to the field where the investor has expertise.
  - iii. The investor shall submit the agreement, confirming this arrangement, to SBP through its bank while reporting this investment, along with its detailed profile showing his/her field of expertise with documentary evidences.

**III. Post investment requirements:**

After making investment, in terms of these regulations, the investor is required to:

1. Submit the documentary evidences related to establishment/ acquisition of subsidiary/ branch office/ shares abroad, within one month of making the investment, through designated authorized dealer.
2. Make a return to State Bank on the prescribed form V-100 through their banker within one month of making the investment;
3. Provide a copy of Certificate of Incorporation and Certificate of Commencement of Business in the country where investment will take place to the Authorized Dealer along with copies of the share certificates so invested and bonus issues, if any.
4. Each company/firm who remitted funds abroad under this policy shall submit audited accounts of the investee company to the Authorized Dealer on annual basis.
5. Repatriate the dividend/disinvestments proceeds (including capital gains) to Pakistan through normal banking channels. The amounts so received would be converted to local currency by the bank concerned and a Proceeds Realization Certificate in original evidencing the same shall be filed by the owner with the State Bank through its Authorized Dealer. Such amounts shall not be allowed for credit to a Foreign Currency Account or for purchase of Pakistani securities on Repatriable basis.

**IV. Approval Process:**

The detailed applications for the purpose along with audited accounts, particulars of Directors/Partners of the investor company/firm (not required in case of individuals), name and address of the foreign company/firm in which investment is desired to be made, its line of business and particulars of its Directors/Partners, should be forwarded to the Authorized Dealer. In cases where specific/prior approval of State Bank is required, the Authorized Dealer will forward the same to Director, Exchange Policy Department, State Bank of Pakistan, Karachi, along with its review of the application (against applicable terms and conditions) and specific recommendations. Any application submitted to State Bank without proper review and specific recommendation of the Authorized Dealer would not be entertained.