

FEMA ke FUNDAE

Overseas Investment Part – III (Schedule II and Schedule III)

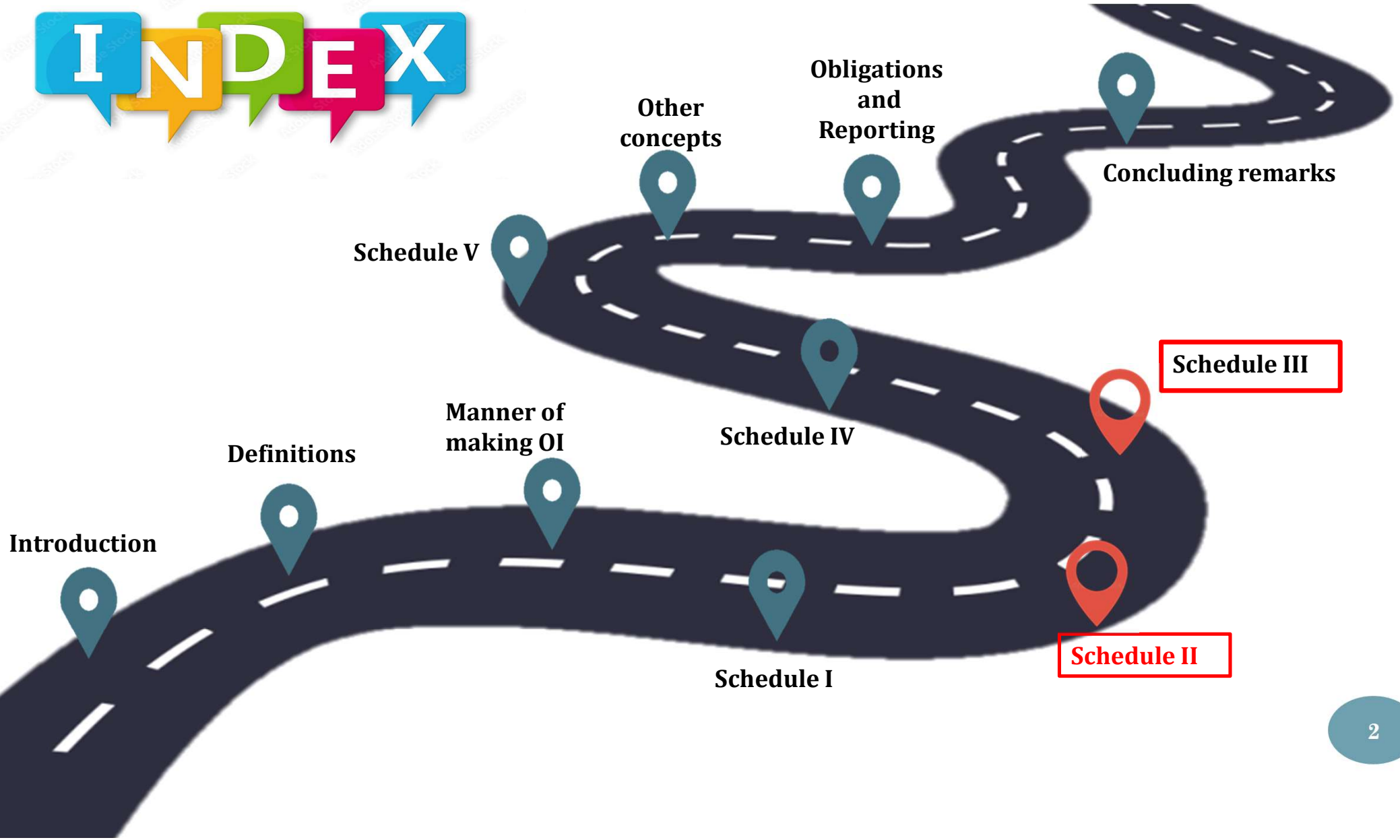
#FamiliarwithFEMA

Date : 12.October.2022

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Issue No. : 18

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ABBREVIATIONS

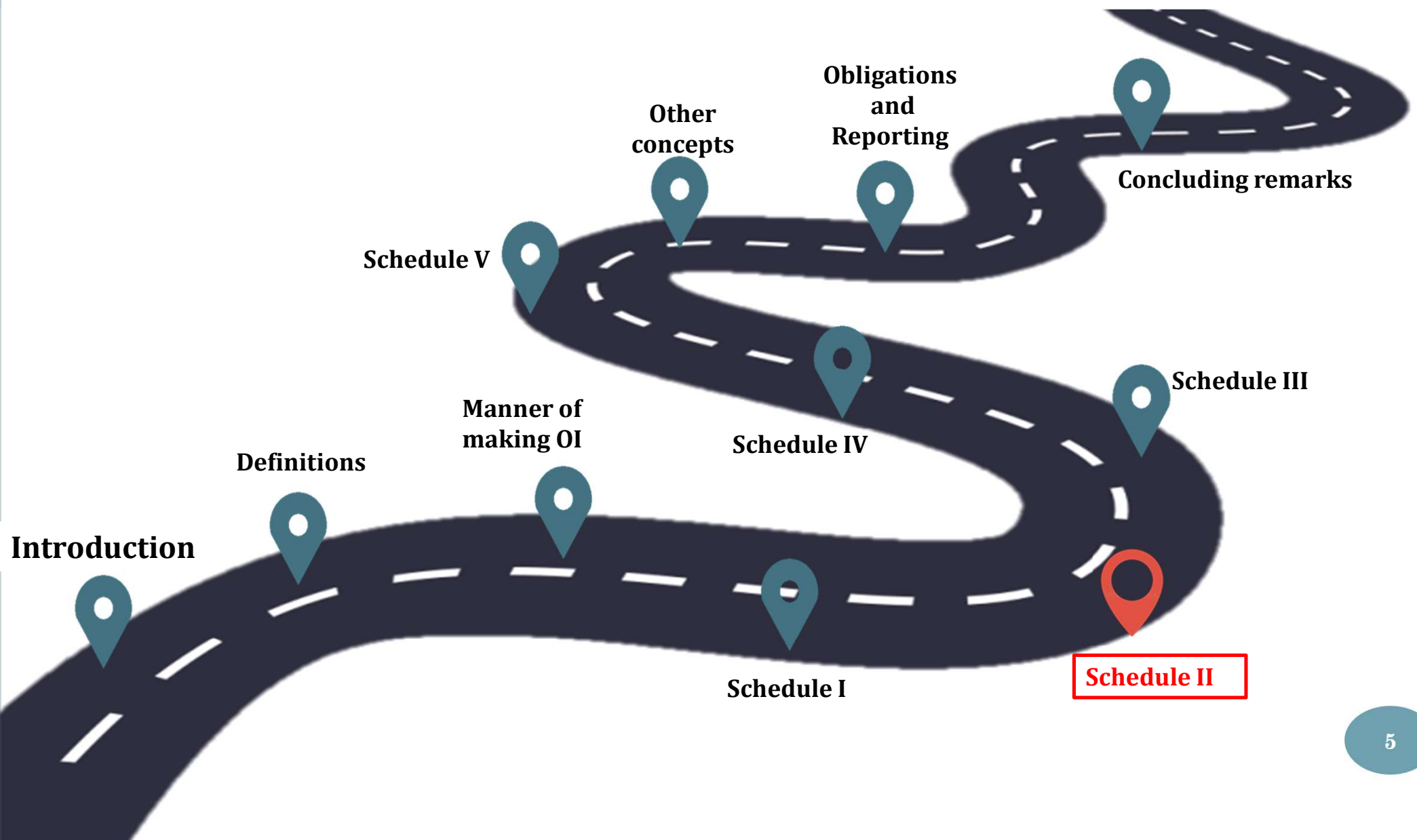
Abbreviations	Key word
ODI	Overseas Direct Investment
OPI	Overseas Portfolio Investment
OI	Overseas Investment
AIF	Alternate Investment Fund
VCF	Venture Capital Fund
IFSC	International Financial Service Centre
SDS	Step-Down Subsidiary
SPV	Special-purpose Vehicle
FC	Financial Commitment
AD bank	Authorise Dealer Bank

Abbreviations	Key word
RBI	Reserve Bank of India
NOC	No Objection Certificate
NPA	Non-performing Asset
JV	Joint Venture
WOS	Wholly Owned Subsidiary
IP	Indian Party
CA	Chartered Accountant
PROI	Person resident outside India
PRIN	Person resident in India
FCRA	Foreign Contribution (Regulation) Act, 2010

ABBREVIATIONS

Abbreviations	Key word
ESOP	Employee Stock Ownership Plan
FEMA, 1999	Foreign Exchange Management Act, 1999
LRS	Liberalised Remittance Scheme
SEBI	Securities and Exchange Board of India
BDRs	Bullion Depository Receipts
MF	Mutual Fund
ECB	External Commercial Borrowings
ADR	American Depository Receipt
GDR	Global Depository Receipt
UIN	Unique Identification Number
APR	Annual Performance Report

Abbreviations	Key word
FLA	Foreign Liabilities and Assets
IE	Indian Entity
FE	Foreign Entity
LSF	Late Submission Fee
FS	Financial Statements
SWIFT	Society for Worldwide Interbank Financial Telecommunication



MANNER OF MAKING OPI BY AN INDIAN ENTITY

An Indian entity may make OPI which shall **not exceed fifty percent of its net worth** as on the date of its last audited balance sheet in the following manner



Unlisted Indian entity

- acquisition of equity capital by way of **rights issue or allotment of bonus shares**;
- **Capitalisation** within the time period, if any, specified for realisation under the Act, of any amount due towards the Indian entity from the foreign entity
- the **swap** of securities;
- **merger, demerger, amalgamation** or any such scheme



Listed Indian company

- may make OPI including by way of **reinvestment**.

OPI BY AN INDIAN ENTITY

1



OPI should not be made in

any unlisted debt instruments

any security which is issued by a person resident in India who is not in an IFSC

any commodities including Bullion Depository Receipts (BDRs)

any derivatives unless otherwise permitted by Reserve Bank

2

A listed Indian company may make OPI, including by way of reinvestment, in accordance with schedule II of the OI Rules.

An unlisted Indian entity may make OPI in accordance with schedule II of the OI Rules.

OPI BY AN INDIAN ENTITY

3



Mr. Iyer

has invested listed equity capital of a listed entity

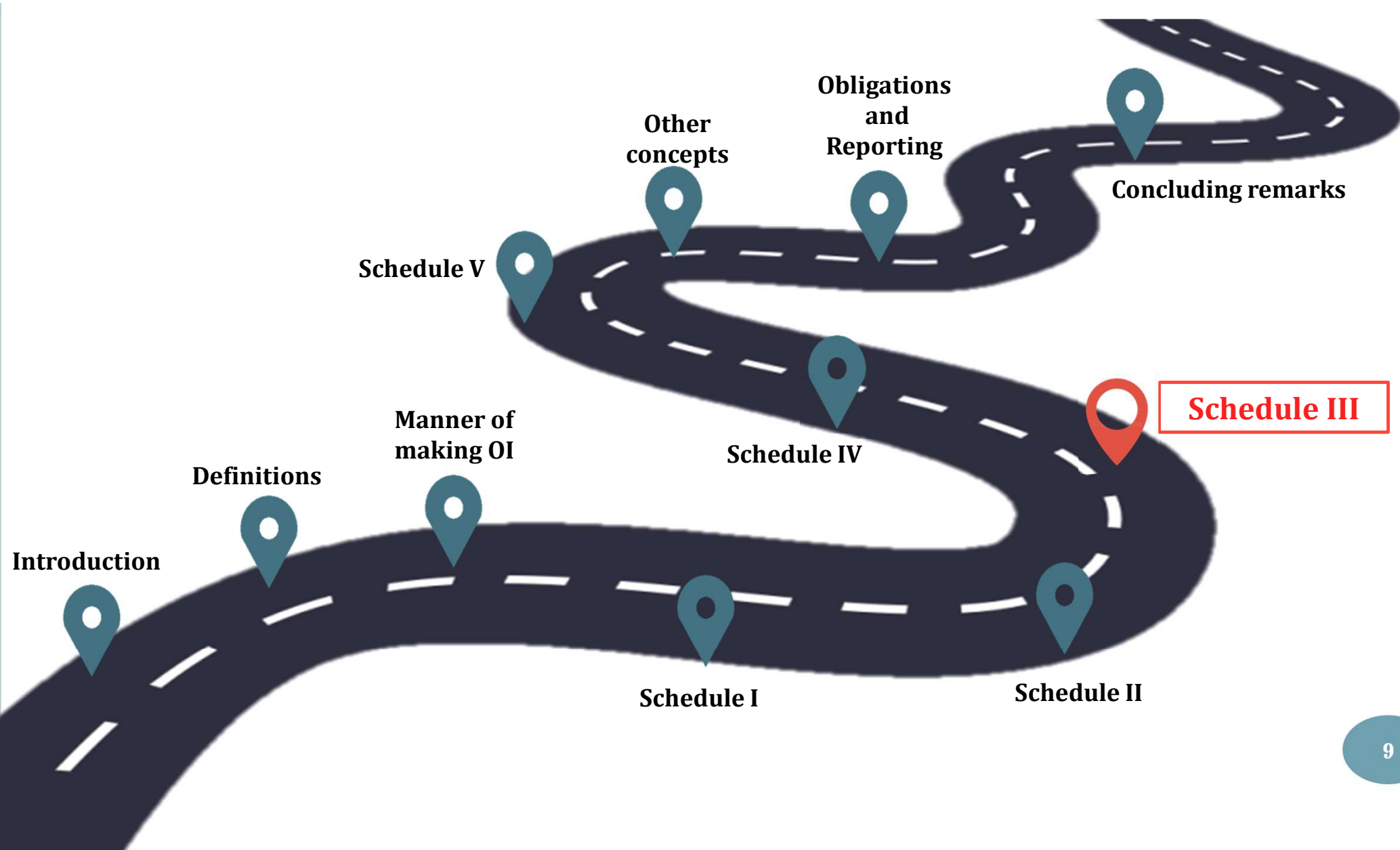


Babita Inc.

If Babita Ltd. is delisted, the investment by Mr. Iyer shall continue to be treated as OPI until any further investment is made by Mr. Iyer in Babita Inc. Any further investment made in the equity capital of Babita Inc after its delisting shall be made as ODI.

4

The investment (including sponsor contribution) in units of any investment fund overseas, duly regulated by the regulator for the financial sector in the host jurisdiction, shall be considered as OPI.



MANNER OF MAKING OI BY RI

Any resident individual making **ODI** by way of **investment in equity capital** or **OPI** shall be subject to the **overall ceiling under the Liberalised Remittance Scheme** of the Reserve Bank.

A resident individual may make or hold Overseas Investment by way of :

ODI in an **operating foreign entity not engaged in financial services activity** and which does not have subsidiary or step down subsidiary where the resident individual has control in the foreign entity

OPI, including by way of **reinvestment**;

ODI or OPI may be made by way of Swap of Securities, Capitalisation, gift, right or bonus issue, inheritance, sweat equity shares, Employee Stock Ownership Plan or Employee Benefits Scheme, minimum qualification shares

ACQUISITION BY WAY OF GIFT



A resident individual has been permitted to gift foreign securities to his relative resident in India **without RBI approval.**



A resident individual is permitted to receive foreign securities by way of gift from a person resident outside India, subject to **compliance with the provisions of Foreign Contribution (Regulation) Act, 2010 ('FCRA').**

ACQUISITION OF SHARES OR INTEREST UNDER ESOP OR EMPLOYEE BENEFITS SCHEME OR SWEAT EQUITY SHARES

A resident individual, who is an employee or a director of an office in India or branch of an overseas entity or a subsidiary in India of an overseas entity or of an Indian entity in which the overseas entity has direct or indirect equity holding, **may acquire, without limit, shares or interest under Employee Stock Ownership Plan or Employee Benefits Scheme or sweat equity shares** offered by such overseas entity, provided that the issue of Employee Stock Ownership Plan or Employee Benefits Scheme are **offered by the issuing overseas entity globally on a uniform basis.**

Notwithstanding anything contained in these rules, a resident individual may acquire Employee Stock Ownership Plans under any scheme of the **Central Government.**

**And One
More thing...**

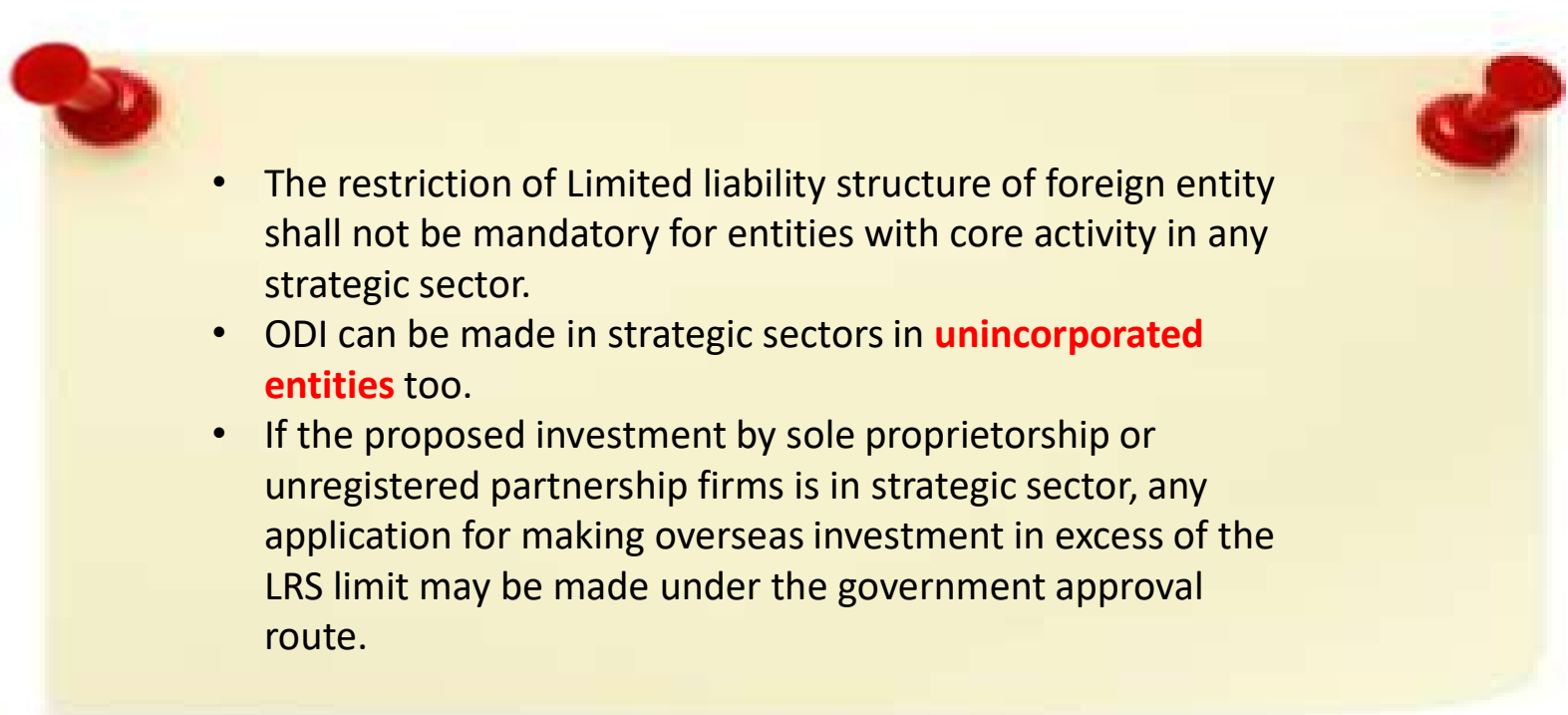




New

ODI IN STRATEGIC SECTOR

ODI can be done in Strategic sector with **approval of central government**.

- 
- The restriction of Limited liability structure of foreign entity shall not be mandatory for entities with core activity in any strategic sector.
 - ODI can be made in strategic sectors in **unincorporated entities** too.
 - If the proposed investment by sole proprietorship or unregistered partnership firms is in strategic sector, any application for making overseas investment in excess of the LRS limit may be made under the government approval route.

ODI BY WAY OF RIGHTS AND BONUS ISSUE



Rights Issue

Bonus Issue

Shares can be acquired and a **Form FC** is required to be filed.

Renunciation:

Shares can be renounced to :

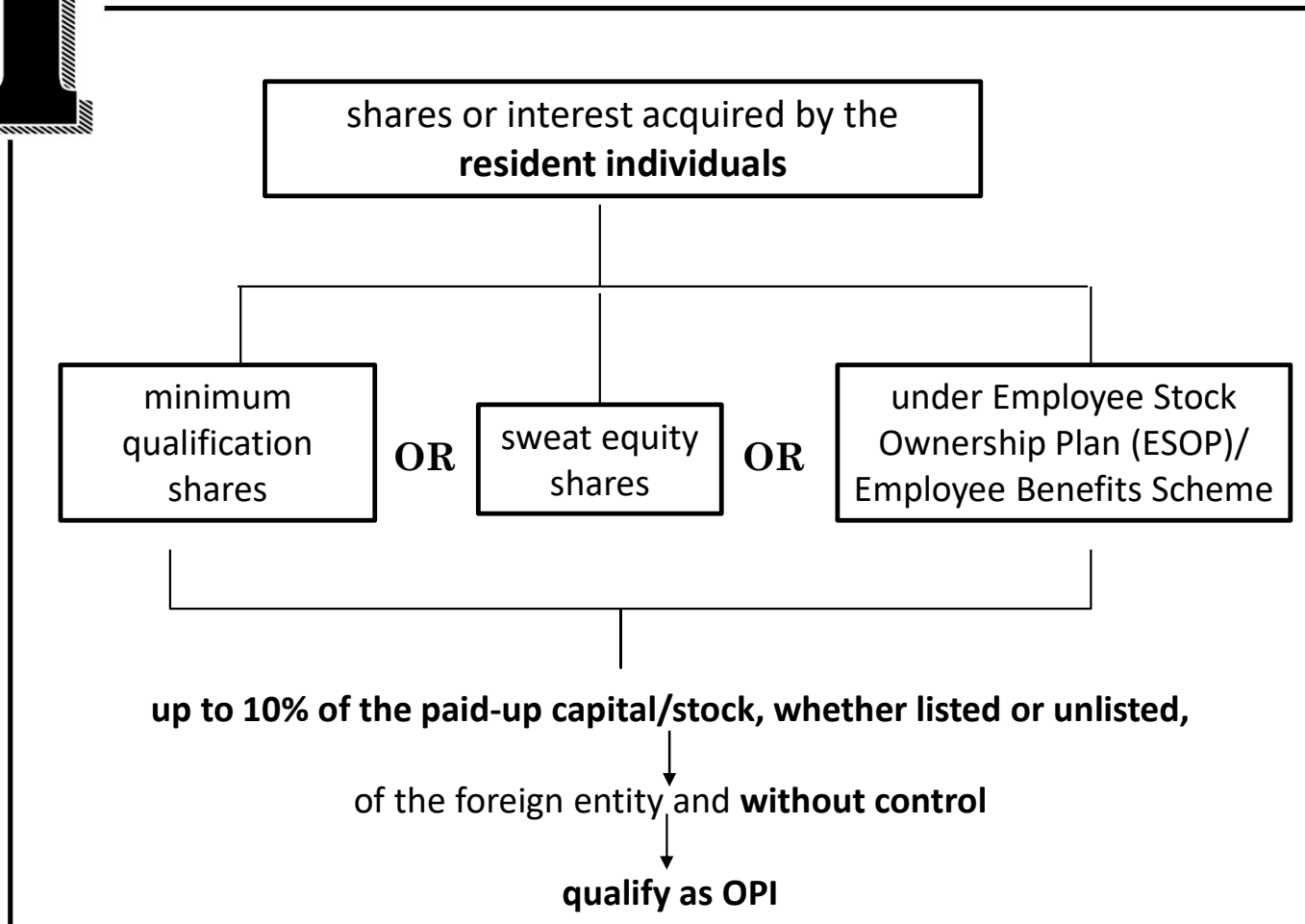
- PROI
- PRIN
- **No reporting is required**

Not treated as fresh financial commitment, so, **No reporting Required**



OPI BY RESIDENT INDIVIDUAL

1



2

Resident individuals may make OPI within the **overall limit for Liberalised Remittance Scheme (LRS)**.

The investment **(including sponsor contribution)** in **units of any investment fund overseas** shall be considered as OPI.

OPI BY RESIDENT INDIVIDUAL

3



Mr. Iyer

has invested listed equity capital of a
listed entity

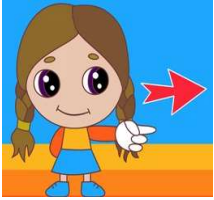


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The investment (including sponsor contribution) in units of any investment fund overseas, duly regulated by the regulator for the financial sector in the host jurisdiction, shall be considered as OPI.



In the next part, we will cover the **Schedule IV, Schedule V and Other Concepts.**

**To be continued next
WEDNESDAY...**





We are open to your Queries/Suggestions/Feedbacks



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