

### **Partly-paid up Shares and Warrants – Foreign Investment under Automatic Route**

The Reserve Bank of India (“RBI”) has, vide its circular dated July 14, 2014, declared that partly paid up shares and warrants would also be eligible instruments for foreign investment through the Foreign Direct Investment (FDI) route or Foreign Portfolio Investment (FPI) route under the automatic route, foreign investment in which instruments was earlier allowed only under the approval route.

The foreign investment in such instruments is subject to compliance with FDI/FPI schemes and the following conditions:

Parameters	Partly Paid-up Shares	Warrants
<b>Pricing</b>	Up-front as per the pricing guidelines applicable for equity shares	Upfront - Pricing and conversion formula (if any). Price at the time of conversion should not be lower than the fair value worked out, at the time of issuance of such warrants.
<b>Payment of Consideration</b>	Minimum of 25% of total consideration – Upfront Balance amount - 12 months (except where the issue size exceeds Rs. 500 crores and monitoring agency is appointed in accordance with SEBI (ICDR) Regulations)	Minimum of 25% of total consideration – Upfront Balance amount - 18 months
<b>Reporting</b>	Advance Reporting Form – For each upfront/call payment FC-GPR/FC-TRS – To the extent the equity shares are paid up	
<b>Sectoral Caps</b>	Indian Company and Foreign Investors to ensure that sectoral caps are not breached even after the shares are fully paid-up or warrants are converted into fully paid-up equity shares	
<b>Investment in Non-Repatriation Basis</b>	NRIs are allowed to invest, subject to compliance with Companies Act, SEBI guidelines and Income Tax provisions.	

#### **ARA LAW View:**

Foreign investment being allowed in partly paid up shares and warrants under automatic route would:

1. Provide flexibility to the foreign investors to make deferred payments and enable efficient structuring of such transactions.
2. Benefit investors as well as Indian companies who wish to raise foreign capital on attractive terms;
3. Further, the strict terms and conditions such as the maximum conversion period and pricing would ensure that the mechanism is not subject to abuse.