

Highlights of NRB Foreign Investment and Loan Management Bylaws 2078



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Background

The name of this bylaw is "Foreign Investment and Loan Management Bylaws 2078" and is effective from Magh 9, 2078 (23 January 2022).

Some Important Definitions

- "Technology transfer" means any transfer of technology to be made under an agreement between an industry and a foreign investor on the following matters:
 - (1) Patent, design, trademark, goodwill, technological specificity, formula, process,
 - (2) User's license, technological know-how sharing or use of technological knowledge (franchise),
 - (3) Provision of foreign technical adviser, management and marketing service or other technological skill or knowledge.
- "Foreign investment" means the following investment made by a foreign investor in an industry or company:
 - (1) Investment in shares in foreign currency,
 - (2) Re-investment of dividends derived from foreign currency or shares,
 - (3) Lease finance made in accordance with Section 6 of FITTA Act, 2075,
 - (4) Investment made in venture capital fund in accordance with Section 9 of FITTA Act, 2075,
 - (5) Investment made in listed securities through secondary securities market in accordance with Section 10 of FITTA Act, 2075
 - (6) Investment made by purchasing shares or assets of a company incorporated in Nepal,
 - (7) Investment received through the banking channel after issuing securities in a foreign capital market by industry or company incorporated in Nepal in accordance with Section 11 of FITTA Act, 2075,
 - (8) Investment made through technology transfer, or
 - (9) Investment maintained by establishing and expanding an industry in Nepal.
- "Unit" means Foreign Exchange Facilitation Unit falling under Foreign Exchange Management Department of NRB set up at One Stop Service Center established as per section 37 of Industrial Enterprise Act 2076.

Approval to avail exchange facility of foreign currency for repatriation of foreign investment and earned money (Section 6)

In the following cases, approval may be given by NRB to avail exchange facility of foreign currency for repatriation as per provision of sections 20 & 26 of FITTA, 2075:

- Proceeds from the sale of foreign investment shares,

- The amount of profits or dividends received from foreign investment,
- If the industry or company goes into dissolution or liquidation, the excess amount remaining after payment of entire liability after dissolution or liquidation,
- The amount of benefits (royalties) received under the technology transfer agreement,
- However, royalty or fee for the use of trademarks falling under technology transfer in liquor industries other than those involved in 100% export of the liquor will be as per the Foreign Investment and Technology Transfer Regulations, 2077.
- The amount of lease rent under lease investment,
- The amount of any compensation or indemnity received from the final decision of a case, arbitration, or any other legal process in Nepal,
- The amount allowed to be taken back as per prevailing law.

Process: An application, attaching documents as per annexure 9 shall be made to the unit. The facility shall be provided on the basis of approval/ recommendation of the body approving the foreign investment or the concerned body. If such approval/ recommendation cannot be obtained due to the nature of the transaction or for transactions carried out through the branch office, approval for the exchange facility may be provided by NRB on the basis of necessary evidence and justification.

Time limit: NRB shall make a decision and give written information to the applicant within 15 days of receiving the application along with all required documents.

Transfer: Approval is granted for transfer by depositing in the bank account of the foreign investor in the country from which the investment was made.

Prior Approval Required for Foreign Loan (Section 7)

- Prior approval should be obtained (unless exempted by any other prevailing laws) from NRB by any Nepalese individual, firm, company, bank & financial institution or association willing to obtain a loan from a foreign country within the purview of provisions mentioned in annexure 10 in Indian currency or convertible foreign currency.
- Application along with the documents and papers as mentioned in annexure 11 should be submitted for obtaining permission as specified in (1) above.
- NRB shall give written information to the applicant about the application received in accordance with (2) above within 15 working days of such receipt.
- Respective banks or financial institutions should issue the certificate in the format mentioned in Annex 12 for the fund approved and remitted inside Nepal in accordance with (3) above.

Recording of Loan with NRB (Section 8)

For the recording of the amount of loan remitted inside Nepal in accordance with section 7, the borrower should apply NRB within 6 months of such remittance in the format specified in Annexure 14 along with documents specified in annexure 13.

Foreign Currency Conversion Facility for Repayment of Foreign Loans (Section 9)

Banks and financial institutions should provide the facility of conversion of foreign currency to the borrower of foreign loan for repayment of interest and principal as defined in the loan repayment schedule of foreign loans availed and recorded with NRB in accordance with section 7 and section 9, respectively. Further approval from NRB is not required for such a facility.

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