

April 20, 2007

To,

All Category - I Authorised Dealer Banks

Madam / Sir,

Overseas Direct Investment- Rationalisation

Attention of Authorised Dealer Category - I (AD Category - I) banks is invited to Notification No.FEMA120/RB-2004 dated July 7, 2004, [Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 as amended from time to time (the Notification)]. In order to rationalise the existing provisions, the following changes have been effected in the Regulations governing overseas investments.

1. Investment in a foreign security by swap or exchange of shares of an Indian company

In terms of Regulation 8 of the Notification *ibid*, an Indian party is permitted to acquire shares of a foreign company, engaged in a bonafide business activity, in exchange of ADRs / GDRs issued to the latter in accordance with the scheme for issue of Foreign Currency Convertible Bonds and Ordinary Shares (through Depository Receipt Mechanism) Scheme, 1993, and the guidelines issued there under from time to time by the Central Government. This is further subject to certain conditions, valuation norms and reporting to the Reserve Bank. Such acquisitions shall, henceforth, be considered as an accepted mode of overseas direct investment and shall be subsumed under the limit specified in Regulation 6 of the Notification *ibid*.

2. Pledge of shares of the overseas JV / WOS to an overseas lender

In terms of Regulation 18 of the Notification *ibid*, an Indian party is permitted to transfer by way of pledge, shares held in a JV / WOS outside India, as a security for availing of fund based or non-fund based facilities for itself or for the JV / WOS, to an AD Category – I bank in India.

In order to provide operational flexibility to Indian parties for availing fund based and non-fund based facilities overseas, Indian parties are now permitted to transfer by way of pledge, the shares held in overseas JV / WOS, to an overseas lender, provided the lender is regulated and supervised as a bank and the total financial commitments of the Indian party remain within the limit stipulated by Reserve Bank for overseas investments.

3. AD Category – I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

4. Necessary amendments to Notification No.FEMA120/RB-2004 dated July 7, 2004, [Foreign Exchange Management (Transfer or Issue of Any Foreign Security)] are being notified separately.

5. The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act 1999 (42 of 1999) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

(Salim Gangadharan)
Chief General Manager