

June 14, 2007

To,
All Category - I Authorised Dealer Banks

Madam / Sir,

Overseas Direct Investment- Liberalisation

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). As announced in the Annual Policy Statement for the Year 2007-08 (paras 132, 133 and 134), the Regulations governing overseas investments have further been liberalised as under :

1. Enhancement of limit for Overseas Direct Investment (para 132)

In terms of Regulation 6 of the Notification *ibid*, the total overseas investment of an Indian party in all its Joint Ventures (JVs) and / or Wholly Owned Subsidiaries (WOSs) abroad engaged in any bonafide business activity should not exceed 200 per cent of its net worth. In order to provide greater flexibility to Indian parties (companies incorporated in India or created under an Act of Parliament) for investments abroad, the existing limit of 200 per cent of the net worth of the Indian party has been enhanced to 300 per cent of the net worth. However, the limit applicable to registered partnership firms for overseas investment will continue to be 200 per cent of their net worth. Accordingly, AD Category – I banks may allow overseas investments under the Automatic Route up to 300 per cent of the net worth of the Indian party (other than registered partnership firms), as on the date of the last audited balance sheet.

2. Financial Commitment for overseas investment – guarantees issued by an Indian Party to or on behalf of the JV WOS (para 132)

In terms of Regulation 2(f) of the Notification *ibid*, "financial commitment" means the amount of direct investment by way of contribution to equity, loan and 50 per cent of the amount of guarantees issued by an Indian party to or on behalf of its overseas Joint Venture Company (JV) or Wholly Owned Subsidiary (WOS). As a measure of rationalisation of the extant norms, it has been decided to reckon 100 per cent of the amount of guarantees issued by an Indian party for determining the "financial commitment" for overseas investment by an Indian party. Accordingly, "financial commitment" for overseas investment by an Indian party would, henceforth, mean direct investment by way of contribution to equity, loan and the total amount of guarantees by the investing company / promoter company / group company / sister concern or associate company /

partnership firm in India. The revised norms will be applicable, with immediate effect, for both new and existing investments.

3. Portfolio Investment by Listed Indian Companies (para 134)

In terms of Regulation 6B of the Notification *ibid*, listed Indian companies are permitted to invest up to 25 per cent of their net worth in the equity of listed foreign companies, which are listed on a recognised stock exchange and having shareholding of at least 10 per cent in Indian companies listed on a recognised stock exchange in India and rated bonds / fixed income securities issued by overseas companies, under the portfolio investment scheme. In order to provide greater opportunities to listed Indian companies for portfolio investments, the existing limit of 25 per cent has been enhanced to 35 per cent of the net worth of the investing company as on the date of its last audited balance sheet. All other terms and conditions stipulated in Regulation 6B of the Notification shall remain unchanged.

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

5. 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.

6. 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

Withdrawn w.e.f. August 22, 2022