Foreign Investments in India
A.P. (DIR Series) Circular No.38 (December 3, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai - 400 001

A.P. (DIR Series) Circular No.38

December 3, 2003

To

All Authorised Dealers in Foreign Exchange

Madam/ Sirs,

Foreign Investments in India

- **Recent liberalisation measures relating to Foreign Direct Investment – FEMA No.94/2000-RB**
- **Summary of Regulatory Provisions covering Foreign Investments in India**

Attention of Authorised Dealers is invited to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 notified by the Reserve Bank of India vide Notification No.FEMA.20/2000-RB dated May 3, 2000 as amended from time to time.

2. The Reserve Bank has issued FEMA Notification No. FEMA 94/2003-RB dated June 18, 2003 (Second Amendment) covering certain modifications and measures for liberalisation, in consultation with the Government in the area of Foreign Direct Investment. A copy of the Notification is enclosed.

3. A gist of the current regulatory provisions (as amended from time to time) relating to foreign investment is given in the Annexure for guidance.

4. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

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).

Yours faithfully,
Grace Koshie
Chief General Manager

Annexure

Foreign Investments in India

1. Statutory Provisions

Foreign Investments in India are governed by the provisions of Section 6 of the Foreign Exchange Management Act (FEMA) 1999 and are subject to the Regulations issued by the Reserve Bank of India under FEMA 1999. The Regulations have been notified vide Notification No.FEMA 20/2000-RB dated May 3, 2000. An Indian entity cannot issue any security to a person resident outside India or shall not record in its books any transfer of security from or to such person save as otherwise provided in the Act or the Rules or Regulations framed thereunder or with the specific permission of the Reserve Bank.

2. Foreign Direct Investment Policy

2.1 Foreign Investments in India are not permissible in the following cases

(i) in the business of chit fund, or

(ii) Nidhi Company , or

(iii) in agricultural or plantation activities or

(iv) in real estate business, or construction of farm houses, or

(v) In trading in Transferable Development Rights (TDRs).

2.2 In addition, the Government has also notified the following activities where Foreign Direct Investment is not permissible.

1. Retail Trading
2. Atomic Energy
3. Lottery Business
4. Gambling and Betting
5. Housing and Real Estate business
6. Agriculture (excluding Floriculture, Horticulture, Development of Seeds, Animal Husbandry, Pisiculture and Cultivation of Vegetables, Mushrooms etc. under controlled conditions and services related to Agro and allied sectors) and Plantations(Other than Tea plantations).

2.3 In other cases, investments can be made either with the specific prior approval of the Government i.e the Secretariat for Industrial Assistance/Foreign Investment Promotion Board (SIA/FIPB) or under the Automatic Route. A list of the Activities requiring the approval of the Government is given in Annexure-A to Schedule 1 to FEMA Notification No 20 while details of the Industries which are covered under the Automatic Route are given as Annexure-B to the said Schedule. The Automatic Route is not open to those foreign investors who have/had a previous financial/technical/ trademark collaboration in an existing domestic company engaged in the same or allied activity. Also, if the activity of the issuer company requires an Industrial Licence under the provisions of the Industries (Development and Regulation) Act 1951 or under locational policy notified by Government of India under the Industrial Policy 1991, Automatic Route is not available.

2.4 Eligibility for Investment in India

A person resident outside India (other than a citizen of Pakistan, Bangladesh, Sri Lanka) or an incorporated entity outside India (other than an entity in Bangladesh or Pakistan) has general permission to purchase shares or convertible debentures or preference shares of an Indian company subject to certain terms and conditions.

2.5 Nature of Investments

2.5.1 The Indian companies have also got the general permission to issue partly convertible debentures/ partly convertible preference shares provided the terms of issue are in accordance with the Schedule for convertible portion and in accordance with Regulation 5 of Notification No. FEMA 4/2000-RB dated May 3, 2000 for the non-convertible portion. Companies can issue NCDs only to NRIs and that too by means of a public Issue. The coupon rate on partly convertible preference shares/partly convertible debentures should not exceed State Bank of India's prime lending rate plus 300 basis points.

2.5.2 Trading is permitted under Automatic Route with FDI upto 51 % provided it is primarily towards export activities, and the undertaking is an export house/trading house/super trading house/star trading house. The Government also permits certain trading activities under FIPB route.

2.5.3 A company which is a small scale industrial unit and not engaged in any activity or in manufacture of items included in Annexure A to Notification No.20 may issue shares or convertible debentures to a non-resident , to the extent of 24% of its paid-up capital if,

a) It has given up its small scale status;

b) It is not engaged or does not propose to engage in manufacture of items reserved for small scale sector; and

c) It complies with the ceilings specified in Annexure B to Notification No.20.

3. <u>Issue of Shares</u>

3.1 Issue of Rights/Bonus Shares

General permission is also available to Indian companies to issue Bonus/Rights Shares. The rights shares or debentures purchased by the person resident outside India shall be subject to the same conditions including restrictions in regard to repatriability as are applicable to the original shares against which rights shares or debentures are issued. Further, the existing non-resident share holders may apply for issue of additional shares and the investee company may allot the same subject to the condition that the overall issue of shares to non-residents in the total paid-up capital does not exceed the sectoral cap. In other words, non-residents may subscribe for additional shares over and above shares offered on rights basis by the company and renounce the shares offered either in full or part thereof in favour of a person named by them. Residents may subscribe for additional shares over and above the shares offered on rights basis by the company and also renounce the shares offered either in full or part thereof in favour of a person named by them. However, as clarified in terms of AP DIR circular No. 14 dated September 16, 2003, this facility would not be available to investors who have been allotted such shares as OCBs.

3.2 Acquisition of shares under a Scheme of Amalgamation/Merger

Where a Scheme of merger or amalgamation of two or more Indian companies has been approved by a court in India, the transferee company may issue shares to the shareholders of the transferor company, resident outside India subject to ensuring that the percentage of shareholding of persons resident outside India, in the transferee or new company does not exceed the percentage specified in the approval granted by the Central Government or the Reserve Bank. In case the percentage is likely to exceed the percentage specified in the approval or the Regulations, the transferor company or the transferee or new company may, after obtaining an approval from the Central Government, apply to the Reserve Bank for its approval under these Regulations. Further, the transferor company or the transferee or new company shall not engage in agriculture, plantation or real estate business or trading in TDRs.

3.3 Issue of shares under the Employees Stock Option Scheme (ESOPS)

A company may issue shares under the ESOPS to its employees or employees of its joint venture or wholly-owned subsidiary abroad who are resident outside India, directly or through a Trust subject to the conditions that the scheme has been drawn in terms of regulations issued under the Securities Exchange Board of India Act, 1992, and face value of the shares to be allotted under the scheme to the non-resident employees does not exceed 5% of the paid-up capital of the issuing company. The Trust and the issuing company should ensure that value of shares held by persons resident outside India under the scheme does not exceed the limit specified in clause (b) of sub-regulation (1) thereof.

3.4 Issue of shares by Indian companies under ADR/GDR

3.4.1 An Indian company may issue its rupee denominated shares to a person resident outside India being a depository for the purpose of issuing Global Depository Receipts(GDRs) and/ or American Depository Receipts(ADRs). The company issuing these shares should ensure that it has:

a) approval from the Ministry of Finance, Government of India to issue such ADRs and /or GDRs or is eligible to issue ADRs/GDRs in terms of the relevant scheme in force or notification issued by the Ministry of Finance, and

b) is not otherwise ineligible to issue shares to persons resident outside India in terms of these Regulations, and

c) the ADRs/GDRs are issued in accordance with the provisions of the Foreign Currency Convertible Bonds and Ordinary Shares(through Depository Receipt Mechanism) Scheme, 1993 and guidelines issued by the Central Government.

3.4.2 A registered broker may purchase shares of an Indian company on behalf of a person resident outside India for purpose of converting the shares into ADRs/GDRs subject to compliance with provisions of the Foreign Currency Convertible Bonds and Ordinary Shares (through Depository Receipt Mechanism) Scheme, 1993. The operative guidelines for the limited two way fungibility under the issue "Issue of Foreign Currency Convertible bonds and Ordinary shares (through Depositary Receipt Mechanism) Scheme, 1993 has been issued vide A.P.(DIR Series) Circular No. 21 dated February 13, 2002.

An Indian company may sponsor issue of ADRs/GDRs with an overseas depository against shares held by its shareholders at a price to be determined by the Lead Manager.

3.4.3 Utilising the proceeds – Retention of proceeds abroad

Pending repatriation or utilisation of the foreign exchange resources raised, the Indian company may invest the foreign currency funds in deposits with or in Certificate of Deposits or other instruments of banks which have been rated not less than A+1 by Standard and Poor or P1 by Moody's for short-term obligations or in deposits with branch outside India of an Authorised Dealer in India and in treasury bills and other monetary instruments with a maturity of one year or less.

3.4.4 In order to encourage Indian companies to list ADRs/GDRs on the overseas exchanges, through the schemes of sponsored ADRs/GDRs, resident shareholders of Indian companies have been permitted to offer their shares for conversion to ADRs/GDRs and to receive the sale proceeds in foreign currency with FIPB approval.

3.4.5 The ADR/GDR/FCCB proceeds may be utilised in the first stage acquisition of shares in the disinvestment process and also in the mandatory second stage offer to the public in view of their strategic importance.

ADs have been permitted to allow Indian companies to prepay the existing FCCB subject to certain conditions.

3.5 Reporting of such Issues

The Indian company issuing shares shall furnish to the Reserve Bank full details of such issue in the form specified in Annexure C to Notification No.FEMA 20/2000-RB dated 3rd May 2000 within 30 days from the date of closing of the issue .The company should also furnish a quarterly return in the form specified in Annexure D to the Reserve Bank within 15 days of the close of the calendar quarter.

3.6 General Permissions to the Indian companies

Indian companies receiving subscription from non-residents for issue of shares have also got the general permission for the following:-

(a) Refund of funds received towards allotment of shares under Regulation 5(1) of the Reserve Bank's Notification No.FEMA 20/2000-RB dated 3rd May 2000;

(b) Remittance of surplus funds received for purchase of shares offered on rights basis;

(c) Remittance on account of surplus funds received for purchase of shares or on account of cancellation of trade, under two-way fungibility of ADRs/GDRs.

4.1 Transfer of Shares and convertible debentures

General permission has been granted to non-residents/NRIs for transfer of shares and convertible debentures of an Indian company as under:-

- A person resident outside India (other than NRI and OCB) may transfer by way of sale or gift the shares or convertible debentures to any person resident outside India (including NRIs/OCBs) provided transferee has obtained prior permission of Central Government to acquire the shares if he has previous venture or tie-up in India through investment in shares or convertible debentures or a technical collaboration or a trade mark agreement or investment in the same field or allied field in which the Indian company whose shares are being transferred, is engaged.

- NRI or OCB may transfer by way of sale or gift the shares or convertible debentures held by him or it to another non-resident Indian.

- The person resident outside India may transfer any security to a person resident in India by way of gift.

4.2 Prior permission of RBI in certain cases for transfer of Security

A person resident in India who proposes to transfer any share or convertible debenture of an Indian company by way of sale or gift to a person resident outside India will have to obtain prior approval of Secretariat for Industrial Assistance, Govt of India, followed by permission from the RBI. The above two-stage approval is applicable even when the transfer is made on non-repatriation basis. A person resident outside India holding shares/convertible debentures of an Indian company may transfer by way of sale to a person resident in India by obtaining prior permission from RBI in form TS 1.

4.3 Issue Price.

Prices of shares issued to persons resident outside India under Schedule I, shall not be less than the price worked out in accordance with the SEBI guidelines, where the issuing company is listed on any recognised stock exchange in India, and fair valuation of shares is done by a Chartered Accountant as per the guidelines issued by the erstwhile Controller of Capital Issues, in all other cases.

4.4 Reporting by Indian companies

An Indian company issuing shares or convertible debentures in accordance with these Regulations shall submit to the Reserve Bank the details of advance remittance, not later than 30 days from the date of receipt of the amount of consideration , giving details regarding :-

- Name and address of the foreign investors
- Date of receipt of funds and their rupee equivalent
- Name and address of the Authorised Dealer through whom the funds have been received, and
- Details of the Government approval, if any,

5. Report in Form FC-GPR

After the Issue of shares, the company should file a report in Form FC-GPR not later than 30 days from the date of issue of shares, The report should contain the following details,

- A certificate from the Company Secretary of the company accepting investment from persons resident outside India certifying that
    - All the requirements of the Companies Act, 1956 have been complied with;
    - Terms and conditions of the Government approval, if any, have been complied with;
    - The company is eligible to issue shares under these Regulations, and
    - The company has all original certificates issued by Authorised Dealers in India evidencing receipt of amount of consideration.

- A certificate from Statutory Auditors or a Chartered Accountant indicating the manner of arriving at the price of the shares issued to the persons resident outside India.

6. Permission for retaining share subscription money received from persons resident outside India in a foreign currency account.

The Reserve Bank may permit an Indian company issuing shares to persons resident outside India under this Schedule to retain the subscription amount in a foreign currency account, subject to such terms and conditions as it may stipulate.

7. Portfolio Investment Scheme (PIS)

7.1 Foreign Institutional Investors registered with SEBI and Non-resident Indians are eligible to purchase shares and convertible debentures under the PIS. The concerned companies should apply to the RBI for permission through a designated bank which is granted along with permission for opening foreign currency account and/or a Rupee account with a designated branch of an Authorised Dealer.

Investment by Foreign Institutional Investors (FIIs)(Schedule 2)

7.2 In the case of FIIs, the total holding of each FII/SEBI approved Sub A/C shall not exceed 10% of the total paid-up equity capital or 10% of the paid-up value of each series of convertible debentures issued by an Indian company and the total holdings of all FIIs/sub-accounts of FIIs put together shall not exceed 24% of the paid-up equity capital or paid-up value of each series of convertible debentures. This limit of 24% can be increased to the sectoral cap/statutory limit as applicable to the Indian company concerned by passing of a resolution by its Board of Directors, followed by passing of a special resolution to that effect by its General Body.

The FIIs are also permitted to trade in all exchange traded derivative contracts subject to certain limits. ADs can also offer forward cover to FIIs to the extent of total inward remittance net of liquidated investments. FIIs are not permitted to invest in Print Media Sector without prior approval of Government of India, Foreign Investment Promotion Board and Ministry of Information & Broadcasting.

Registered FIIs have been permitted to purchase shares/convertible debentures of an Indian company through offer / private placement. This is subject to applicable ceiling as indicated in Schedule 2 to Notification No. FEMA 20/2000-RB dated 3rd May 2000. It is clarified that a FII may invest in a particular issue of an Indian company either under Schedule 1 or Schedule 2. It cannot, however, avail of both the routes simultaneously for a particular issue. The ADs have to ensure that the FIIs which are purchasing the shares by debit to the special rupee accounts report these details separately in the LEC (FII) returns. The company which has issued the shares to the FIIs under Schedule 1 (FDI) (for which the payment has been received directly into company’s account) and under Schedule 2 (for which the payment has been received from FIIs’ account maintained with Authorised Dealer in India) should report these figures separately under item 4(b) of the FC-GPR return so that the details could be suitably reconciled for statistical / monitoring purposes.

<u>The FII shall restrict allocation of its total investment between equities and debt including dated Government Securities and Treasury Bills in the Indian Capital Market in the ratio of 70:30 The FII can form a 100% Debt Fund and get registered with SEBI for investment in debt investments (Schedule 5).</u>

Investments by NRIs

7.3 In the case of NRIs it is to be ensured that the paid-up value of shares/ convertible debentures purchased by an NRI both on repatriation and non-repatriation basis does not exceed 5% of the paid-up capital / paid-up value of each series of debentures. The aggregate paid-up value of shares/ convertible debentures purchased by all NRIs should not exceed 10% of the paid-up capital of the company/paid-up value of series of debentures of the company provided that the NRI shall not purchase shares or convertible debentures of an Indian company which is engaged in Print Media. The aggregate ceiling of 10% can be raised to 24%, if the General Body of the Indian company concerned passes a special resolution to that effect. The NRI investor takes delivery of the shares purchased and gives delivery of shares sold. Payment for purchase of shares and/or debentures is made by inward remittance in foreign exchange through normal banking channels or out of funds held in NRE/FCNR account maintained in India if the shares are purchased on repatriation basis and by inward remittance or out of funds held in NRE/FCNR/NRO account of the NRI concerned, maintained in India where shares/debentures are purchased on non-repatriation basis. The link office of the designated branch of an AD shall furnish to the Chief General Manager, Reserve Bank of India, Exchange Control Department, Central Office, Mumbai a report on a daily basis on PIS transactions undertaken by it, such report to be furnished on-line or on a floppy or in a hard copy in a format supplied by RBI.

NRIs have also the general permission to purchase on repatriation basis Govt dated securities, Treasury bills, units of domestic Mutual funds bonds issued by public sector undertakings and shares in public sector enterprise being divested by the Govt of India (Schedule 5).

With effect from 29th November 2001, OCBs are not permitted to invest under the PIS in India. Further, the OCBs that have already made investments under the PIS, may continue to hold such shares/ convertible debentures till such time these are sold on the stock exchange.

8. Purchase of other securities

Foreign Institutional Investor can buy with repatriation benefits dated securities/ treasury bills, non-convertible debentures /bonds issued by Indian companies and units of domestic mutual funds either directly from the issuer of such securities or through a registered stock broker on a recognised stock exchange in India.

A non-resident Indian (NRI) can invest on non-repatriation basis in the shares or convertible debentures of Indian companis which are not engaged in Chit Fund or Nidhi Company or in agricultural/plantation activities or real estate business or construction of farm houses or dealing in Transferable Development rights and Print Media. There is no limit on NRI purchasing shares/ convertible debentures issued by an Indian company whether by public issue or private placement. Amount of consideration for such purchase shall be paid by inward remittance through normal Banking channels from abroad or out of funds held in NRE/FCNR/NRO account maintained with the AD. In the case of NRIs resident in Nepal and Bhutan the amount of consideration for such purchase shall be paid only by way of inward remittance in foreign exchange through normal banking channels. The sale proceeds shall be credited to NRO account. The amount invested under the scheme and the capital appreciation thereon shall not be allowed to be repatriated abroad.

9. Investments in other securities on non-repatriation basis

NRI can also, without any limit, purchase on non-repatriation basis dated Government securities, treasury bills, units of domestic mutual funds, units of Money Market Mutual Funds or National Plan / Savings certificates.

10. Investments by Venture Capital Funds (Schedule 6)

A SEBI registered Foreign Venture Capital Investor (FVCI) with general permission from RBI under FEMA regulations can invest in Indian Venture Capital Undertaking (IVCU) or in a Venture Capital Fund(VCF) or in a Scheme floated by such VCFs. They can purchase equity/equity linked instruments/debt instruments, debentures of an IVCU or of a VCF through initial public offer or private placement or in units of schemes/ funds set up by a VCF. The Reserve Bank, on application, may permit a FVCI to open a foreign currency account or rupee account with a designated branch of an Authorised Dealer. The purchase/ sale of shares, debentures, units can be at a price that is mutually acceptable to the buyer and the seller /issuer. ADs are also authorised to offer forward cover to FVCIs to the extent of total inward remittance net of liquidated investments.

Annexure A

(A) List of Activities for which Automatic Route of RBI for investment from person resident outside India is not available

1. Domestic Airlines
2. Petroleum Sector (except for private sector oil refining)
3. Investing companies in Infrastructure & Services Sector
4. Defence and Strategic Industries
5. Atomic Minerals
6. Print Media
7. Broadcasting
8. Postal services
9. Courier Services
10. Establishment and Operation of satellite
11. Development of Integrated Township
12. Tea Sector

(B) List of activities or items for which FDI is prohibited.

1. Retail Trading
2. Atomic Energy
3. Lottery Business
4. Gambling and Betting
5. Housing and Real Estate business
6. Agriculture (excluding Floriculture, Horticulture, Development of seeds, Animal Husbandry, Pisiculture and Cultivation of vegetables, mushrooms etc. under controlled conditions and services related to agro and allied sectors) and Plantations (Other than Tea plantations)

Annexure B

Sectoral cap on Investments by persons resident outside India

Sector	Investment Cap	Description of Activity / Items / Conditions
1. Private Sector Banking	49%	Subject to guidelines issued by RBI from time to time
2. Non-Banking Financial Companies	100%	FDI /NRI/OCB investments allowed in the following 19 NBFC activities shall be as per the levels indicated below : a) Activities covered : 1. Merchant Banking 2. Under writing 3. Portfolio Management Services 4. Investment Advisory Services 5. Financial Consultancy 6. Stock-broking 7. Asset Management 8. Venture Capital 9. Custodial Services 10. Factoring 11. Credit Reference Agencies 12. Credit Rating Agencies 13. Leasing & Finance 14. Housing Finance 15. Forex-broking 16. Credit Card Business 17. Money-changing Business 18. Micro-credit 19. Rural credit b) Minimum Capitalisation norms for fund based NBFCs i) for FDI upto 51%, US $ 0.5 million to be brought in upfront ii) If the FDI is above 51 % and upto 75 %, US $ 5 million to be brought upfront iii) If the FDI is above75 % and upto 100 %, US $ 50 million out of which $ 7.5 million to be brought in upfront and the balance in 24 months c) Minimum Capitalisation norms for non-fund based activities. <u>Minimum Capitalisation norm of US$0.5 million is applicable in respect of non-fund based NBFCs with foreign investment.</u> d) Foreign investors can set up 100% operating subsidiaries without the condition to disinvest a minimum of 25% of its equity to Indian entities, subject to bringing in US $ 50 million as at b) (iii) above (without any restriction on number of operating subsidiaries without bringing in additional capital) e) Joint Venture operating NBFCs that have 75% or less than 75% foreign investment will also be allowed to set up subsidiaries for undertaking other NBFC activities , subject to the subsidiaries also complying with the applicable minimum capital inflow i.e, (b)(I) and (b)(ii) above. f) FDI in the NBFC sector is put on automatic route subject to compliance with guidelines of the Reserve Bank of India. RBI would issue appropriate guidelines in this regard

3. Insurance	26%	FDI upto 26% in the Insurance sector is allowed on the automatic route subject to obtaining licence from Insurance Regulatory & Development Authority(IRDA)
4. Telecommunications	49 %	i) In basic, Cellular, Value Added Services, and Global Mobile Personal Communications by Satellite, FDI is limited to 49% subject to licencing and security requirements and adherence by the companies (which are investing and the companies in which the investment is being made) to the license conditions for foreign equity cap and lock-in period for transfer and addition of equity and other license provisions. ii) ISPs with gateways, radio paging and end-to-end bandwidth, FDI is permitted upto74% with FDI, beyond 49% requiring Government approval. These services would be subject to licensing and security requirements iii) No equity cap is applicable to manufacturing activities. iv) FDI upto 100% is allowed for the following activities in the telecom sector: a) ISPs not providing gateways (both for satellite and submarine cables) b) Infrastructure Providers providing dark fibre (IP Category 1) c) Electronic Mail, and d) Voice Mail The above would be subject to the following conditions; FDI upto 100% is allowed subject to the condition that such companies would divest 26% of their equity in favour of Indian public in 5 years, if these companies are listed in other parts of the world. The above services would be subject to licencing and security requirements, wherever required Proposal for FDI beyond 49% shall be considered by FIPB on case-to-case basis.
5. Petroleum Refining (Private Sector)	100%	FDI permitted upto 100 % in case of private Indian companies.
6. Housing and Real Estate	100 %	Only NRIs/OCBs are allowed to invest upto 100 % in the areas listed below : a) Development of serviced plots and construction of built-up residential premises b) Investment in real estate covering construction of residential and commercial premises including business centres and offices c) Development of townships d) City and regional level urban infrastructure facilities, including both roads and bridges e) Investment in manufacture of building materials f) Investment in participatory ventures in (a) to (e) above g) Investment in Housing finance institutions which is also opened to FDI as an NBFC
7. Coal & Lignite		i) Private Indian companies setting up or operating power projects as well as coal and lignite mines for

		captive consumption are allowed FDI upto 100%. ii) 100% FDI is allowed for setting up coal processing plants subject to the condition that the company shall not do coal mining and shall not sell washed coal or sized coal from its coal processing plants in the open market and shall supply the washed or sized coal to those parties who are supplying raw coal to coal processing plants for washing or sizing. iii) FDI upto 74% is allowed for exploration or mining of coal or lignite for captive consumption. iv) In all the above cases, FDI is allowed upto 50% under the automatic route subject to the condition that such investment shall not exceed 49%of the equity of a PSU.
8. Venture Capital Fund (VCF) and Venture Capital Company(VCC)		Offshore Venture Capital Funds/ companies are allowed to invest in domestic venture capital undertaking as well as other companies through the automatic route, subject only to SEBI regulations and sector specific caps on FDI.
9. Trading		Trading is permitted under automatic route with FDI upto 51% provided it involves primarily export activities, and the undertaking is an export house/ trading house / super trading house/ star trading house. However, under the FIPB route: (i) 100% FDI is permitted in case of trading companies for the following activities: a) exports; b) bulk imports with export/ ex-bonded warehouse sales; c) cash and carry wholesale trading; d) other import of goods or services provided at least 75% is for procurement and sale of the same group and not for third party use or onward transfer/ distribution/sales. ii) The following kinds of trading are also permitted , subject to provisions of Exim Policy. a) Companies for providing after sales services(that is not trading per se) b) Domestic trading of products of JVs is permitted at the wholesale level for such trading companies who wish to market manufactured products on behalf of their Joint ventures in which they have equity participation in India c) Trading of hi-tech items/ items requiring specialised after sales service d) Trading of items for social sector e) Trading of hi-tech, medical and diagnostic items. f) Trading of items sourced from the small scale sector under which, based on technology provided and laid down quality specifications, a company can market that item under its brand name g) Domestic sourcing of products for exports h) Test marketing of such items for which a company has approval for manufacture provided such test marketing facility will be for a period of two years, and investment in setting up manufacturing facilities commences simultaneously with test marketing. i) FDI upto 100% permitted for E-commerce activities subject to the condition that such companies would divest 26% of their equity in favour of the Indian public in five years, if these

		companies are listed in other parts of the world. Such companies would engage only in business to business (B2B) e-commerce and not in retail trading.
10. Power	100%	FDI allowed upto 100 % in respect of projects relating to electricity generation, transmission and distribution, other than atomic reactor power plants. There is no limit on the project cost and quantum of foreign direct investment.
11. Drugs & Pharmaceuticals	100 %	FDI permitted upto 100 % for manufacture of drugs and pharmaceuticals provided the activity does not attract compulsory licensing or involve use of recombinant DNA technology and specific cell/tissue targeted formulations. FDI proposals for the manufacture of licensable drugs and pharmaceuticals and bulk drugs produced by recombinant DNA technology and specific cell/tissue targeted formulations will require prior Govt. approval.
12. Road and highways, Ports and harbours	100%	In projects for construction and maintenance of roads, highways, vehicular bridges, toll roads, vehicular tunnels, ports and harbours.
13. Hotel & Tourism	100 %	The term hotels include restaurants, beach resorts and other tourist complexes providing accommodation and/ or catering and food facilities to tourists. Tourism related industry include travel agencies, tour operating agencies and tourist transport operating agencies, units providing facilities for cultural, adventure and wild life experience to tourists, surface, air and water transport facilities to tourists, leisure, entertainment, amusement, sports and health units for tourists and Convention/Seminar units and organisations. For foreign technology agreements, automatic approval is granted if (i) Upto 3% of the capital cost of the project is proposed to be paid for technical and consultancy services including fees for architects, design, supervision, etc. (ii) Upto 3% of the net turnover is payable for franchising and marketing/publicity support fee, and Upto 10% of gross operating profit is payable for management fee, including incentive fee.
14.Mining	74 % 100 %	(i) For exploration and mining of diamonds and precious stones FDI is allowed upto 74 % under automatic route (ii) For exploration and mining of gold and silver and minerals other than diamonds and precious stones, metallurgy and processing FDI is allowed upto 100 % under automatic route (iii) Press Note 18 (1998 series) dated 14/12/98 would not be applicable for setting up 100 % owned subsidiaries in so far as the mining sector is concerned, subject to a declaration from the applicant that he has no existing joint venture for the same area and/or the particular mineral.
15. Advertising	100 %	Advertising Sector FDI upto 100 % allowed on the automatic route
16. Films	100 %	Film Sector (Film production, exhibition and distribution including related services/products)

		FDI upto 100 % allowed on the automatic route with no entry-level condition
17. Airports	74 %	Govt approval required beyond 74 %
18. Mass Rapid Transport Systems	100 %	FDI upto 100% is permitted on the automatic route in mass rapid transport system in all metros including associated real estate development
19. Pollution Control & Management	100 %	In both manufacture of pollution control equipment and consultancy for integration of pollution control systems is permitted on the automatic route
20. Special Economic Zones	100 %	All manufacturing activities except: (i) Arms and ammunition , Explosives and allied items Of defence equipments, Defence aircrafts and warships, (ii) Atomic substances, Narcotics and Psychotropic Substances and hazardous Chemicals, (iii) Distillation and brewing of Alcoholic drinks and (iv) Cigarette/cigars and manufactured tobacco substitutes.

"FORM FC-GPR"

(To be filed with the Regional Office of the RBI under whose jurisdiction the registered office of the company making the declaration is situated)

We (Name of the Company)--------------------------

Declare that, being eligible to issue shares to non-residents under the permission granted under Notification No.FEMA 20/2000-RB dated 3rd May 2000, furnish the following information in connection with shares issued.

1. Name and address (Registered office)
   Of the Indian company issuing shares
   to non-residents
2. Whether existing company or new
   company recently formed
3. Activities of the company

NIC Code	Description

(In case no NIC code has been allotted to the activity, the company may classify in the nearest broad category. In case it is not at all possible to classify the activity under the NIC Code, only description may be given).

4. Particulars of shares/convertible debentures issued

   (a) Name and country of the foreign investor

   (b) Category of investor (Foreign National/NRI/OCB/FII/Foreign Company, Foreign Venture Capital Fund, Foreign Venture Capital Company etc.)

   (c) Whether the shares are issued under Automatic Route/Government Approval or on rights/bonus basis (Please quote SIA/FIPB approval number where applicable)

   (d) Details of shares/convertible debentures issued (Please furnish details for equity shares, preference shares and convertible debentures separately)

No. of shares/value convertible debentures case Issue Price shares	Face value of shares At par (RS.)/premium of Rs. - per share, control premium non-competition fee etc	Total face Ratio in of bonus

Total inflow on account of }
issue of shares to non-residents } Rs.
(including premium if any) }

(d)(i) We are a listed company, price in terms of SEBI guidelines per share is Rs.

OR

(ii) The company is not listed, fair value of the share in terms of guidelines issued by the erstwhile CCI is Rs.

OR

(iii) Shares are issued on rights basis

OR

(iv) Shares have been issued as a result of merger/de-merger/amalgamation

5. Capital structure of the company

(after issue of shares as per item 4)

			Equity	(Rupees) Preference
I	Paid up capital			
II	(a) Non-resident Investment			
	(i) NRI/OCB			
	(ii) Others (specify)			
	(b) Resident investment			
		Total	--------------------	-----------------------------
III	Existing percentage of non-resident investment in the paid up capital [II a as a percentage of I]	} NRIs/OCBs		-------------------%
		} Others		-------------------%
		}	**Total**	------------------ %

Declaration

We hereby declare that :

1. We have carefully followed the procedure for issue of shares as laid down under the Automatic Route as indicated in the Notification No. FEMA 20/2000-RB dated 3rd May 2000.

2. Foreign equity(ies)(other than individuals) to whom we have issued shares does/do not have any previous joint venture or technical collaboration or trade mark agreement in India in the same or allied field.

1. We don't require an Industrial Licence under the Industries (Development and Regulation) Act, 1951 or in terms of locational policy notified by the Government under the new Industrial Policy of 1991.

2. We are an SSI unit & the investment limit of 24 % has been observed, **OR** we are not an SSI unit.

(Delete whichever is not applicable under signature)

5. Our proposal is within the sectoral policy/cap permissible under the automatic route of RBI.

OR

II Shares have been issued in terms of SIA/FIPB approval No. --------------------- dated ------------------------.

OR

III Shares have been issued on rights basis and the shares are issued to non-residents at a price that is not lower than that at which shares issued to residents.

OR

IV Shares issued are bonus shares.

OR

V Shares have been issued under a scheme of merger and amalgamation of two or more Indian companies or reconstruction by way of demerger or otherwise of an Indian company, duly approved by a court in India.

For------------------------------
(Name of the company /seal)

Signature

Name : ________________________

*Designation : ___________________

Date :

Place :

(* To be signed by senior official/responsible person in the company)