



**RESERVE BANK OF INDIA**  
**Foreign Exchange Department**  
**Central Office**  
**Mumbai - 400 001**

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RBI/2004-05/203

A.P. (DIR Series) Circular No. 15

October 1, 2004

To

All Banks Authorised to Deal in Foreign Exchange

Madam / Sirs,

**Conversion of External Commercial Borrowing and  
Lumpsum Fee/Royalty into Equity**

Attention of Authorised Dealer (AD) banks is invited to A.P. (DIR Series) Circular No. 34 dated November 14, 2003, in terms of which issue of equity/preference shares against lump-sum technical know-how fee, royalty and External Commercial Borrowings (ECBs) already due for payment/repayment was permitted, subject to meeting all applicable tax liabilities and compliance with the procedures prescribed.

2. The matter has been further reviewed by the Government of India, Ministry of Finance vide Press Release dated September 29, 2004 (copy enclosed). Accordingly, it has been decided to grant General Permission for conversion of ECB into equity subject to the following conditions:

- i) The activity of the company is covered under the Automatic Route for FDI or they had obtained Government approval for foreign equity in the company,
- ii) The foreign equity after such conversion of debt into equity is within the sectoral cap, if any,
- iii) Pricing of shares is as per SEBI and erstwhile CCI guidelines/regulations in the case of listed/unlisted companies as the case may be.
- iv) Compliance with the requirements prescribed under any other statute and regulation in force.

3. It is clarified that the conversion facility is available for all ECBs availed either with the general or specific permission of Reserve Bank. This would also be applicable to ECBs irrespective of whether due for repayment or not, as well as secured/unsecured loans availed from non-resident collaborators. However, import payables, deemed as ECBs would not be eligible for conversion into equity/preference shares.

#### 4. Reporting Requirements--Conversion of ECB into equity:

Details of issue of shares against conversion of ECB may be reported to the concerned Regional Office of the Reserve Bank, as indicated below:

- i) In case of **full conversion** of ECB into equity, the company shall report the conversion in form FC-GPR to the concerned Regional Office of the Reserve Bank as well as in form ECB-2 submitted to the Department of Statistical Analysis and Computer Services (DESACS), Reserve Bank of India, Bandra-Kurla Complex, Mumbai – 400 051, within seven working days from the close of month to which it relates. The words "ECB wholly converted to equity" shall be clearly indicated on top of the ECB-2 form. Once reported, filing of ECB-2 in the subsequent months is not necessary.
- ii) In case of **partial conversion** of ECB, the company shall report the converted portion in form FC-GPR to the concerned Regional Office as well as in form ECB-2 clearly differentiating the converted portion from the unconverted portion. The words "ECB partially converted to equity" shall be indicated on top of the ECB-2 form. In the subsequent months, the outstanding portion of ECB shall be reported in ECB-2 form to DESACS as per the instructions contained in AP (DIR Series) Circular no. 60 dated January 31, 2004.

#### 5. Conversion of Lumpsum fee/Royalty into equity:

We also invite your attention to paragraph 2 of the Circular mentioned above. As regards issue of equity/preference shares by conversion of lumpsum fee or royalty, the details thereof shall be reported in form FC-GPR to the concerned Regional Office of Reserve Bank.

6. Necessary amendments to Foreign Exchange Management (Transfer or issue of security by a Person Resident outside India) Regulations, 2000 dated May 3, 2000 notified vide Notification No. FEMA 20/2000-RB dated May 3, 2000 is being issued separately.

7. Authorised Dealers may bring the contents of this circular to the notice of their constituents and customers concerned.

8. The directions contained in this circular have been issued under Section 10(4) and Section 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,

**Grace Koshie**  
**Chief General Manager**

**Press Release**

**Government of India  
Ministry of Finance  
Department of Economic Affairs**

Wednesday, September 29, 2004

**SIMPLIFICATION OF FOREIGN INVESTMENT PROCEDURES**

In order to make the environment in India more attractive for foreign investors, Government has decided to simplify the procedure by placing the following under the General Permission route (i.e. RBI route) instead of existing Government approval route (i.e. FIPB route) for speedy and streamlined investment approvals:

- a) Transfer of shares from resident to non-resident (including transfer of subscribers' shares to non-residents) other than in financial services sector provided the investment is covered under automatic route, does not attract the provisions of SEBI's ( Substantial Acquisition of Shares and Takeovers ) Regulations, 1997, falls within the sectoral cap and also complies with prescribed pricing guidelines.
- b) Conversion of ECB/Loan into equity provided the activity of the company is covered under automatic route, the foreign equity after such conversion falls within the sectoral cap and also complies with prescribed pricing guidelines.
- c) Cases of increase in foreign equity participation by fresh issue of shares as well as conversion of preference shares into equity capital provided such increase falls within the sectoral cap in the relevant sectors, are within the automatic route and also complies with prescribed pricing guidelines.

In respect of the procedural simplifications given at para 1 above, the onus of complying with the sectoral cap/limits prescribed under the FDI policy as well as other guidelines/regulations would rest with the buyer and seller/issuer.

Necessary notification/circular under FEMA giving details of the simplification of procedures are being brought out by the Reserve Bank of India.