

**RESERVE BANK OF INDIA
(FOREIGN EXCHANGE DEPARTMENT)
CENTRAL OFFICE
MUMBAI 400 001**

Notification No.FEMA.125/2004-RB

dated November 27, 2004

**Foreign Exchange Management (Transfer or Issue of Security by
a Person Resident Outside India) (Fifth Amendment) Regulations, 2004**

In exercise of the powers conferred by clause (B) of sub-section (3) of Section 6 and Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999) and in partial modification of its Notification No.FEMA.20/2000-RB, dated 3rd May 2000, the Reserve Bank of India makes the following Regulation to amend the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000, namely :

1. Short title and commencement

- (i) These regulations may be called the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) (Fifth Amendment) Regulations, 2004.
- (ii) These amendments come into effect from October 01, 2004.*

2. Amendment of the Regulations

- (i) In Paragraph 2 of Schedule 1, after Sub-paragraph (4), the following sub-paragraph may be added :

"(5) An Indian company, otherwise eligible to issue shares under this Schedule may issue equity/preference shares, subject to pricing guidelines as given in paragraph 5 of this Schedule, to a person resident outside India,

- (i) being a provider of technology/technical know-how, against Royalty/Lumpsum fees due for payment;
- (ii) against External Commercial Borrowing (ECB) (other than import dues deemed as ECB or Trade Credit as per RBI Guidelines)

Provided, that the foreign equity in the company after the conversion of royalty/ lumpsum fee/ECB into equity is within the sectoral cap notified, if any".

- (ii) In Paragraph 3, after the words "beyond the sectoral limits stipulated in Annexure B" the words "either directly or by conversion of ECB/royalty/lumpsum fee" may be added.

- (iii) In Paragraph 8, the following explanation may be added after sub-para (ii):

"Explanation : Conversion of Royalty/Lumpsum fee due for payment or conversion of ECB, as given elsewhere in this Schedule, shall be treated as consideration for issue of shares within the meaning of this paragraph."

- (iv) In Paragraph 9, sub-paragraph (1)(B), the following proviso may be added :

"Provided that, in addition to above, the company shall report the conversion of ECB into equity, in ECB-2 Return of the respective month in case of full conversion of ECB. In case of partial conversion of ECB, the converted portion shall be reported in form FC-GPR to the concerned Regional Office of Reserve Bank and non-converted portion in Form ECB-2."

**Shyamala Gopinath
Deputy Governor**

Foot Note :

- (i) *This has been mentioned as the date on which the directions were issued to Authorised Dealers vide A.P. (DIR Series) Circular No.15 dated October 1, 2004.
- (ii) The Principal Regulations were published in the Official Gazette vide G.S.R.No.406(E) dated May 8, 2000 in Part II, Section 3, Sub-section (i) and subsequently amended as under :

G.S.R.No.175(E) dated 13/3/2001
G.S.R.No.182(E) dated 14/3/2001
G.S.R.No.158(E) dated 2/3/2001
G.S.R.No.574(E) dated 19/8/2002
G.S.R.No.4(E) dated 2/1/2002
G.S.R.No.223(E) dated 18/3/2003
G.S.R.No.225(E) dated 18/3/2003
G.S.R.No.558(E) dated 22/7/2003
G.S.R.No.835(E) dated 23/10/2003
G.S.R.No.899(E) dated 22/11/2003
G.S.R.No.12(E) dated 7/1/2004
G.S.R.No.278(E) dated 23/4/2004
G.S.R.No.625(E) dated 21/9/2004

<p>Published in the Official Gazette of Government of India - Extraordinary - Part-II, Section 3, Sub-Section (i) dated 08.12.2004 - G.S.R.No.799(E)</p>
