

August 17, 2005

To,
All Banks Authorised to Deal in Foreign Exchange

Madam/Sir,

Foreign Direct Investment (FDI) in Construction Development Sector

Attention of Authorised Dealer (AD) banks is invited to Schedule I of Notification No. FEMA 20/2000-RB dated May 3, 2000, as amended from time to time.

2. With a view to catalyzing FDI in townships, housing, built-up infrastructure and construction development projects, Government of India, (Ministry of Commerce & Industry), vide Press Note 2 (2005) dated March 3, 2005, has decided to permit FDI upto 100 per cent under the automatic route, in townships, housing, built-up infrastructure and construction development projects (which would include, but not be restricted to, housing, commercial premises, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional level infrastructure), subject to the guidelines mentioned therein.

3. Accordingly, Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations 2000 notified vide Reserve Bank Notification No. FEMA 20/2000-RB dated May 3, 2000, has been amended vide Notification No. FEMA 136/2005-RB dated July 19, 2005 [Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) (Third Amendment) Regulations 2005]. A copy of the Government Notification G.S.R. No. 513(E) dated July 29, 2005 incorporating the amendment is annexed.

4. Authorised Dealer banks may bring the contents of this circular to the notice of their constituents/customers 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) and are without prejudice to permissions/approvals, if any, required under any other law.

Yours faithfully,

(Vinay Bajjal)
Chief General Manager

[A.P. (DIR) Series Circular No. 07 dated August 17, 2005]

Notification No.FEMA. 136 /2005-RB dated July 19, 2005

Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) (Third Amendment) Regulations, 2005

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 amendments in the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000, as amended from time to time, 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) (Third Amendment) Regulations, 2005.
- ii) They shall come into force from the date of their publication in the official gazette.

2. Amendment of the Regulations :-

In the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 in Annexure B the following shall be added :

Sector	Investment Cap	Description of Activity / Items / Conditions
(1)	(2)	(3)
23. Townships, housing, built-up infrastructure and construction – development projects. The sector would include, but not be restricted to, housing, commercial premises, hotels, resorts, hospitals, educational institutions, recreational	100%	The investment shall be subject to the following guidelines : (a) Minimum area to be developed under each project shall be as under : (i) In case of development of serviced housing plots – 10 hectares. (ii) In case of construction – development project - 50,000 sq.mtrs. (iii) In case of combination project, any one of the above two conditions.

facilities, city and regional level infrastructure.

- (b) The investment shall be subject to the following conditions :
- (i) Minimum capitalization of US \$ 10 Million for wholly owned subsidiaries and US \$ 5 Million for joint ventures with Indian partners. The funds would have to be brought in within six months of commencement of business of the Company.
 - (ii) Original investment cannot be repatriated before a period of three years from completion of minimum capitalization. However, the investor may be permitted to exit earlier with prior approval of the Government through the FIPB.
- (c) At least 50% of the project must be developed within a period of five years from the date of obtaining all statutory clearances. The investor shall not be permitted to sell undeveloped plots.
- (d) The project shall conform to the norms and standards, as laid down in the applicable building control regulations, bye-laws, rules, and other regulations of the State Government / Municipal / Local Body concerned.
- (e) The investor shall be responsible for obtaining all necessary approvals, including those of the building / layout plans, developing internal and peripheral areas and other infrastructure facilities, payment of development, external development and other charges and complying with all other requirements as prescribed under applicable rules / bye-laws / regulations of the State Government / Municipal / Local Body concerned.
- (f) The State Government / Municipal / Local Body concerned, which approves the building / development plans, shall monitor compliance of the above conditions by the developer.

Note: For the purpose of these guidelines, “undeveloped plots” will mean where roads, water supply, street lighting,

drainage, sewerage, and other conveniences, as applicable under prescribed regulations, have not been made available. It will be necessary that the investor provides this infrastructure and obtains the completion certificate from the concerned local body / service agency before he would be allowed to dispose of serviced housing plots.

-sd/-

(Vinay Baijal)
Chief General Manager

Footnote : 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. 158(E) dated 02.03.2001

G.S.R.No. 175(E) dated 13.03.2001

G.S.R.No. 182(E) dated 14.03.2001

G.S.R.No. 4(E) dated 02.01.2002

G.S.R.No. 574(E) dated 19.08.2002

G.S.R.No. 223(E) dated 18.03.2003

G.S.R.No. 225(E) dated 18.03.2003

G.S.R.No. 558(E) dated 22.07.2003

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 07.01.2004

G.S.R.No. 278(E) dated 23.04.2004

G.S.R.No. 454(E) dated 16.07.2004

G.S.R.No. 625(E) dated 21.09.2004

G.S.R.No. 799(E) dated 08.12.2004

G.S.R.No. 201(E) dated 01.04.2005

G.S.R.No. 202(E) dated 01.04.2005

G.S.R.No. 513(E) dated 29.07.2005