

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

Notification No.FEMA.132/2005-RB

dated March 31, 2005

**Foreign Exchange Management (Transfer or Issue of any
Foreign Security) (Amendment) Regulations, 2005**

In exercise of the powers conferred by clause (a) of sub-section (3) of Section 6, and sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), and in partial modification of its Notification No.FEMA.120/RB-2004 dated 7th July 2004 the Reserve Bank of India makes the following amendments in the, Foreign Exchange Management (Transfer or Issue of Any Foreign Security) (Amendment) Regulations, 2004, namely:-

1. Short title and Commencement:-

(i) These Regulations. may be called the Foreign Exchange Management (Transfer or Issue of Any Foreign Security)(Amendment) Regulations, 2005.

(ii) They shall come into force on the dates specified hereunder.

2. Amendment to the Regulations:-

(i) In Regulation 22, sub regulation (2) shall be substituted with the following which shall be deemed to have come into force with effect from February 9, 2005²

"(2) A person resident in India, being an individual, who is an employee or a director of an Indian office or branch of a foreign company or of a subsidiary in India of a foreign company or of an Indian company in which the foreign equity holding, either directly or indirectly, is not less than 51 per cent, may purchase the equity shares offered by the said foreign company.

Explanation

For the purpose of this clause, 'indirectly' means indirect foreign equity holding through a special purpose vehicle or a step down subsidiary."

(ii) In Regulation 24, sub-regulation (3), shall be substituted with the following, which shall be deemed to have come into force with effect from 1st October 2004¹².

"(3) An Indian company in the knowledge based sector may allow its resident employees (including working directors) to purchase" foreign securities under the ADR/GDR linked stock option schemes:

Provided that the issue of employees stock option by a listed company shall be governed by SEBI (Employees Stock Option and Stock Purchase Scheme) Guidelines, 1999 and the issue of employees stock option by an unlisted company shall be governed by the guidelines issued by the Government of India for issue of ADR/GDR linked stock options.

Provided further that the consideration for the purchase does not exceed the ceiling as stipulated by the Reserve Bank from time to time.

Explanation : For the purpose of this clause 'knowledge based sector' means such sectors as have been notified by the Government of India from time to time in terms of .its guidelines for the issue of ADR/GDR linked Employees Stock Options by the Indian Companies dated 15th September 2000."

**(F. R. Joseph)
Chief General Manager**

Foot Note :

1. The Principal Regulations were published in the Official Gazette vide G.S.R.No.456(E) dated May 8, 2000 in Part II, Section 3, sub-section (i) and subsequently superceded vide G.S.R.No.757(E) dated November 19, 2004.

¹ After a review, the condition regarding direct holding has been removed to facilitate acquisition of shares under ESOP offered by a foreign company even if the shareholding in the Indian company is held indirectly. AP (Dir Series) Circular No.32 dated February 9, 2005 was issued to give effect to this Regulation from that date.

² Government of India vide their press note dated 26th July 2004 have modified guidelines for issue of ADR / GDR linked ESOP by the Indian companies necessitating amendment to the FEMA Regulations pertaining to ADR / GDR linked ESOP. A.P. (DIR Series) Circular No.14 dated October 1, 2004 was issued to give effect to this Regulation from that date.

<p>Published in the Official Gazette of Government of India - Extraordinary - Part-II, Section 3, Sub-Section (i) dated 07.04.2005 - G.S.R.No.220(E)</p>
