

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

**Notification No.FEMA. 137 /2005-RB**

**Dated 22 July, 2005**

**Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) ( Fourth 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) the Reserve Bank of India hereby makes the following amendments in the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 (Notification No. FEMA 20/2000-RB dated 3<sup>rd</sup> May 2000) namely:-

**1. Short Title & Commencement:-**

- (i) These Regulations may be called the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) ( Fourth Amendment) Regulations, 2005.
- (ii) They shall come into force from the date of its 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 Regulation 10, in sub-Regulation A, for the clause (a) the following shall be substituted:

- "(a) (i) any security, by way of gift, shall make an application to the Reserve Bank for its approval.
- (ii) The Reserve Bank may grant such approval on being satisfied of the following conditions:
    - a) The donee is eligible to hold such a security under Schedules 1, 4 and 5 of these Regulations.
    - b) The gift does not exceed 5% of the paid up capital of the Indian company/each series of debentures/each mutual fund scheme.
    - c) The applicable sectoral cap/foreign direct investment limit in the Indian company is not breached.

- d) The donor and the donee are relatives as defined in section 6 of the Companies Act, 1956.
  - e) The value of security to be transferred by the donor together with any security transferred to any person residing outside India as gift in the calendar year does not exceed the rupee equivalent of USD 25,000.
  - f) Such other conditions as considered necessary in public interest by the Reserve Bank.
- (iii) The application for approval referred to in sub clause (i) shall contain the following information/documents:
- (a) Name and address of the donor and the donee.
  - (b) Relationship between the donor and the donee.
  - (c) Reasons for making the gift.
  - (d) In case of Government dated securities and treasury bills and bonds, a certificate issued by a Chartered Accountant on the market value of such securities.
  - (e) In case of units of domestic mutual funds and units of Money Market Mutual Funds, a certificate from the issuer on the Net Asset Value of such security.
  - (f) In case of shares and debentures, a certificate from a Chartered Accountant on the value of such securities according to the guidelines issued by the Securities & Exchange Board of India or the erstwhile CCI with regard to listed companies and unlisted companies respectively.

Certificate from the concerned Indian company certifying that the proposed transfer of shares/convertible debentures, by way of gift, from resident to the non-resident shall not breach the applicable sectoral cap/FDI limit in the company and that the proposed number of shares/convertible debentures to be held by the non-resident transferee shall not exceed 5% of the paid up capital of the company."

(Vinay Baijal)  
Chief General Manager

**Foot Note:** The Principal Regulations were published in the Official Gazette vide G.S.R.No. 406 (E) dated May 3, 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

**Published in the Official Gazette of Government  
of India - Extraordinary - Part-II, Section 3,  
Sub-Section (i) dated 25.07.2005 - G.S.R.No.504(E)**