

July 1, 2006

To,

All Banks Authorised to Deal in Foreign Exchange

Madam / Sir,

**Master Circular on Direct Investment by Residents in Joint Venture (JV)/
Wholly Owned Subsidiary (WOS) abroad**

Direct investments by residents in Joint Venture (JV) and Wholly Owned Subsidiary (WOS) abroad are being allowed, in terms of clause (a) of sub-section (3) of section 6 of the Foreign Exchange Management Act 1999, (42 of 1999) read with Notification No. GSR 757 (E) dated November 19, 2004 and FEMA Notification 120/RB-2004 dated July 7, 2004 as amended from time to time.

2. This Master Circular consolidates the existing instructions on the subject of **“Direct Investment by Residents in Joint Venture (JV) / Wholly Owned Subsidiary (WOS) abroad”** at one place. The list of underlying circulars/notifications is furnished in Appendix.

3. This Master Circular is issued with a sunset clause of one year. This circular will stand withdrawn on July 01, 2007 and be replaced by an updated Master Circular on the subject.

Yours faithfully,

(M. Sebastian)
Chief General Manager

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PART – I

Section A - General

A.1 Introduction

Overseas investments in Joint Ventures (JV) and Wholly Owned Subsidiaries (WOS) have been recognised as important avenues for promoting global business by Indian entrepreneurs. Joint ventures are perceived as a medium of economic co-operation between India and other countries. Transfer of technology and skill, sharing of results of R&D, access to wider global market, promotion of brand image, generation of employment and utilisation of raw materials available in India and in the host country are other significant benefits arising out of such overseas investments. They are also important drivers of foreign trade through increased exports of plant and machinery and goods from India and also a source of foreign exchange earnings by way of dividend earnings, royalty, technical know-how fee and other entitlements on such investments

In keeping with the spirit of liberalisation, which has become the hallmark of economic policy in general, and Foreign Exchange regulations in particular, the Reserve Bank has been progressively relaxing its rules and simplifying the procedures both for current account as well as capital account transactions.

A.2 Statutory basis

Section 6 of the Foreign Exchange Management Act provides powers to the Reserve Bank to specify, in consultation with the Central Government the classes of permissible Capital Account transactions and limits upto which exchange is admissible for such transactions. Section 6(3) of the aforesaid Act provides powers to the Reserve Bank to prohibit, restrict or regulate various transactions referred to in the sub-clauses of that sub-section, by making Regulations.

In exercise of the above powers, the Reserve Bank has in supersession of earlier Notification No.FEMA19/RB-2000 dated 3rd May 2000 and amendments thereto, issued Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004 vide Notification No. FEMA 120/RB-2004 dated July 7, 2004 (as amended vide Notification No. FEMA 132/2005-RB dated 31st March

2005, Notification No. FEMA 135/2005-RB dated 17th May 2005 and Notification No. FEMA 139/2005-RB dated 11th August 2006 (hereinafter referred to as 'the Notification'). The Notification seeks to regulate acquisition and transfer of a foreign security by a person resident in India i.e. investment by Indian entities in overseas joint ventures and wholly owned subsidiaries as also investment by a person resident in India in shares and securities issued outside India.

A.3 Prohibitions

Indian parties are prohibited from making investment in a foreign entity engaged in real estate business or banking business.

A.4 General Permission

In terms of Regulation 4 of the Notification, general permission has been granted to residents for purchase / acquisition of securities and sale of shares / securities so acquired -

- (a) out of funds held in RFC account; and
- (b) as bonus shares on existing holding of foreign currency shares.
- (c) out of their foreign currency resources outside India.

Section B - Direct Investment Outside India

B.1 Automatic Route

In terms of Regulation 6 of the Notification, an Indian party has been permitted to make investment in an overseas joint venture (JV) / wholly owned subsidiary (WOS) by submitting form ODA, duly completed, to a designated branch of an authorised dealer bank, upto 200 per cent of the net worth of the Indian party as on the date of the last audited balance sheet. This ceiling will not be applicable where the investment is made out of balances held in Exchange Earners' Foreign Currency account of the Indian party or out of funds raised through ADRs/GDRs. Such investments in Nepal are permitted only in Indian rupees. Such investments in Bhutan are permitted in Indian Rupees as well as in freely convertible currencies. All dues receivable on investments made in freely convertible currencies, as well as their sale / winding up proceeds are required to be repatriated to India in freely convertible currencies only. The automatic route facility is not available for investment in Pakistan.

The above ceiling will include contribution to the capital of the overseas JV / WOS, loan granted to the JV / WOS, and 50 per cent of guarantees issued to or on behalf of the JV/WOS. Such investments are subject to the following conditions:

- a) The Indian entity may only extend loan / guarantee to an overseas concern in which it has equity participation. Indian entities may offer any form of guarantee - corporate or personal / primary or collateral / guarantee by the promoter company / guarantee by group company, sister concern or associate company in India; provided that
 - i) All financial commitments including all forms of guarantees are within the overall prescribed ceiling for overseas investment of the Indian party i.e. currently within 200 per cent of the networth of the investing company (Indian party).
 - ii) No guarantee is 'open ended' i.e. the amount of the guarantee should be specified upfront, and
 - iii) As in the case of corporate guarantees, all guarantees are required to be reported to RBI, in Form ODR.

Guarantees issued by banks in India in favour of WOSs / JVs outside India, would be outside this ceiling and would be subject to prudential norms issued by RBI from time to time.

- b) The Indian entity should not be on the Reserve Bank's Exporters caution list / list of defaulters to the banking system circulated by the Reserve Bank / The Credit Information Bureau (India) Ltd (CIBIL) or under investigation by any investigation / enforcement agency or regulatory body.
- c) All transactions relating to a JV / WOS should be routed through one branch of an authorised dealer bank to be designated by the Indian entity.
- d) In case of partial / full acquisition of an existing foreign company, where the investment is more than USD 5.00 million, valuation of the shares of the company shall be made by a Category I Merchant Banker registered with SEBI or an Investment Banker / Merchant Banker outside India registered with the appropriate regulatory authority in the host country; and, in all other cases by a Chartered Accountant or a Certified Public Accountant. However, in cases of investment by way of swap of shares, in all cases irrespective of the amount, valuation of the shares will have to be by a Category I Merchant Banker registered with SEBI or an Investment Banker outside India registered with the appropriate regulatory authority in the host country. Approval of the Foreign Investment Promotion Board (FIPB) will also be a precondition.

In case of investment in overseas JV / WOS abroad by a Partnership firm, where entire funding for such investment is done by the firm, it will be in order for individual partners to hold shares for and on behalf of the firm in the overseas JV / WOS if the host country regulations or operational requirements warrant such holdings.

B.2 Method of Funding

Investment in an overseas JV / WOS may be funded out of one or more of the following sources: -

- i) drawal of foreign exchange from an authorised dealer bank in India.
- ii) capitalisation of exports.

- iii) swap of shares (valuation as mentioned in para B.1 (d) above)
- iv) utilisation of proceeds of External Commercial Borrowings (ECBs) / Foreign Currency Convertible Bonds (FCCBs).
- v) balances held in EEFC account of the Indian entity.
- vi) utilisation of proceeds of foreign currency funds raised through ADR / GDR issues.

In respect of (v) and (vi) above, the ceiling of 200 per cent of networth will not apply. However in respect of investments in the financial sector, they will be subject to compliance of Regulation 7 of the Notification *ibid*, irrespective of method of funding.

B.3 Capitalisation of exports and other dues

- a) Indian entities are also permitted to capitalise the payments due from the foreign entity towards exports, fees, royalties or any other entitlements due from the foreign entity for supplying technical know-how, consultancy, managerial and other services within the ceilings applicable. Export proceeds remaining unrealised beyond a period of six months from the date of export will require the prior approval of the Reserve Bank before capitalisation.
- b) Indian software exporters are permitted to receive 25 per cent of the value of their exports to an overseas software company in the form of shares without entering into Joint Venture Agreements, with prior approval of the Reserve Bank.

B.4 Investment under swap or exchange of shares arrangement

In terms of Regulation 8 of the Notification, Indian entities engaged in any activity who have already made an ADR / GDR issue, may acquire shares of foreign companies engaged in the same core activity in exchange of ADRs / GDRs issued to the latter in accordance with the scheme for issue of Foreign Currency Convertible Bonds and Ordinary Shares (through Depository Receipt Mechanism) Scheme 1993, and the guidelines issued thereunder from time to time by the Central Government, subject to compliance with the following conditions:

- a. ADRs/GDRs are listed on any stock exchange outside India;
- b. such investment by the Indian Party does not exceed the higher of the following:

- i. 200 per cent of networth of the Indian as on the date of the last audited balance sheet
- ii. amount equivalent to 10 times the export earnings of the Indian Party during the preceding financial year as reflected in its audited financial statements. For the purpose of reckoning the limit, the investments already made under Regulation 6 are to be included.
- c. the ADR and / or GDR issue for the purpose of acquisition is backed by underlying fresh equity shares issued by the Indian entity;
- d. the total holding in the Indian entity by persons resident outside India in the expanded capital base, after the new ADR and / or GDR issue, does not exceed the sectoral cap prescribed under the relevant regulations for such investment;
- e. valuation of the shares of the foreign company, shall be
 - i as per the recommendations of the Investment Banker if the shares are not listed on any stock exchange; or
 - ii. based on the current market capitalization of the foreign company arrived at on the basis of monthly average price on any stock exchange abroad for the three months preceding the month in which the acquisition is committed and over and above, the premium, if any, as recommended by the Investment Banker in its due diligence report in other cases.

The Indian entity is required to report such acquisition in form ODG to the Reserve Bank within a period of 30 days from the date of the transaction.

B. 5 Investment in Equity of Companies Registered Overseas / Rated Debt Instruments

(i) Corporates

Listed Indian companies are permitted to invest abroad in companies, (a) listed on a recognized stock exchange and (b) which has the share holding of at least 10 per cent in an Indian company listed on a recognized stock exchange in India (as on 1st January of the year of the investment). They are also permitted to invest in rated bonds / fixed income securities of such companies. Such investments shall

not exceed 25 per cent of the Indian company's net worth as on the date of the latest audited balance sheet.

(ii) Individuals

Resident individuals are permitted to invest in equity and in rated bonds / fixed income securities of overseas companies indicated at (i) above without any monetary limit.

(iii) Investment by Mutual Funds

Mutual Funds are permitted to invest in ADRs / GDRs of the Indian companies, rated debt instruments and also invest in equity of overseas companies indicated at (i) above within an overall cap USD 1 billion. Accordingly, Mutual Funds desirous of availing of this facility may approach SEBI for necessary permission. General permission is available to the above categories of investors for sale of securities so acquired.

B.6 Approval of the Reserve Bank

Prior approval of the Reserve Bank would be required in all other cases of direct investment abroad. For this purpose, application together with necessary documents should be made in

- a) Form ODB if the investment is for acquiring shares of foreign company engaged in the same core activity in exchange of ADRs / GDRs issued to the latter in excess of 200 per cent of the networth of the Indian entity or ten times the export earnings (whichever is higher) or for acquisition of shares of a company outside India, in lieu of fees due to it for professional services rendered to the said company.
- b) Form ODI in all other cases.

Reserve Bank, would inter alia, take into account the following factors while considering such applications:

- a) Prima facie viability of the JV / WOS outside India;
- b) Contribution to external trade and other benefits which will accrue to India through such investment;

- c) Financial position and business track record of the Indian entity and the foreign entity;
- d) Expertise and experience of the Indian entity in the same or related line of activity of the JV / WOS outside India.

B.7 Investment in the Financial Services Sector

In terms of Regulation 7 of the Notification, an Indian entity seeking to make investment in an entity engaged in the financial sector should also fulfill the following additional conditions:

- (i) be registered with the appropriate regulatory authority in India for conducting the financial sector activities;
- (ii) have earned net profit during the preceding three financial years from the financial services activities;
- (iii) have obtained approval for investment in financial sector activities abroad from concerned regulatory authorities in India and abroad; and
- (iv) have fulfilled the prudential norms relating to capital adequacy as prescribed by the concerned regulatory authority in India.

A step down subsidiary of JV / WOS investing in a financial services sector is also required to comply with the above conditions.

B.8 Post investment changes/additional investment in existing JV / WOS

A JV / WOS set up by the Indian entity as per the Regulations may diversify its activities / set up step down subsidiary / alter the shareholding pattern in the overseas entity subject to the Indian entity reporting to the Reserve Bank, the details of such decisions taken by the JV / WOS within 30 days of the approval of those decisions by the competent authority concerned of such JV / WOS in terms of local laws of the host country, and, include the same in the Annual Performance Report (APR) required to be forwarded annually to the Reserve Bank.

B.9 Acquisition of a foreign company through bidding or tender procedure

An Indian entity may remit earnest money deposit or issue a bid bond guarantee for acquisition of a foreign company through bidding and tender procedure and also make subsequent remittances through an authorised dealer bank in accordance with the provisions of Regulation 14 of the Notification.

B.10 Obligations of Indian Entity

An Indian entity which has made direct investment abroad is under obligation to (a) receive share certificate or any other document as an evidence of investment, (b) repatriate to India the dues receivable from foreign entity and (c) submit the documents / Annual Performance Report to the Reserve Bank, in accordance with the provisions specified in Regulation 15 of the Notification.

B.11 Transfer by way of sale of shares of a JV / WOS

Indian entities may also disinvest without prior approval of the Reserve Bank, in the undernoted categories:

- i) in case where the JV / WOS is listed in the overseas stock exchange.
- ii) in cases where the Indian promoter company is listed on a stock exchange in India and has a networth of not less than Rs.100 crore.
- iii) where the Indian promoter is an unlisted company and the investment in overseas venture does not exceed USD 10 million.

The Indian entity is required to submit details of the disinvestment through its designated Authorised Dealer bank within 30 days from the date of investment. An Indian entity, which does not satisfy the conditions laid down, shall have to apply to the Reserve Bank for prior permission.

B.12 Pledge of Shares

An Indian entity may pledge the shares of JV / WOS to an authorised dealer bank or a financial institution in India for availing of any credit facility for itself or for the JV / WOS abroad in terms of Regulation 18 of the Notification.

B.13 Hedging of Overseas Direct Investments

Resident entities having overseas direct investments are permitted to hedge the exchange risk arising out of such investments. Authorised Dealer banks may enter into forward / option contracts with residents who wish to hedge their overseas direct investments (in equity and loan), subject to verification of such exposure and provided further that the contracts are completed by delivery or rolled over on the due date.

If a hedge becomes uncovered in part or full owing to shrinking of the market value of the overseas direct investment, the hedge may continue to the original maturity. Rollovers on the due date are permitted upto the extent of market value as on that date.

B.14 Overseas Investments by Proprietorship Concerns

With a view to enabling recognized star exporters with a proven track record and a consistently high export performance to reap the benefits of globalization and liberalization, proprietary/unregistered partnership firms are now allowed to set up a JV / WOS outside India with prior approval of the Reserve Bank subject to satisfying certain eligibility criteria. An application in form ODI may be made to the Chief General Manager, Reserve Bank of India, Foreign Exchange Department, Overseas Investment Division, Central Office, Amar Bhawan, 3rd Floor, Fort, Mumbai 400 001, through the Authorised Dealer bank. Authorised Dealer banks may forward such investment proposals, with their comments and recommendations, to the Reserve Bank for consideration.

SECTION C - Investment in Foreign Securities other than by way of Direct Investment

C.1 Permission for purchase / acquisition of foreign securities in certain cases

General permission has been granted to a person resident in India who is an individual -

- a) to acquire foreign securities as a gift from any person resident outside India; or
- b) to acquire shares under Cashless Employees Stock Option Scheme issued by a company outside India, provided it does not involve any remittance from India, or
- c) to acquire shares by way of inheritance from a person whether resident in or outside India;
- d) to purchase equity shares offered by a foreign company under its ESOP Schemes if he 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, an Indian company in which foreign equity holding, either direct or through a holding company/Special Purpose Vehicle (SPV), is not less than 51 per cent. Authorised Dealer banks are permitted to allow remittances for purchase of shares by eligible persons under this provision irrespective of the method of operationalisation of the scheme i.e where the shares under the scheme are offered directly by the issuing company or indirectly through a trust / a Special Purpose Vehicle (SPV) / step down subsidiary, provided (i) the company issuing the shares effectively, directly or indirectly, holds in the Indian company, whose employees / directors are being offered shares, not less than 51 per cent of its equity, (ii) the shares under the ESOP Scheme are offered by the issuing company globally on uniform basis, and (iii) An Annual Return (Annex A, Part II, item 11) is submitted by the Indian company to the Reserve Bank through the Authorised Dealer bank giving details of remittances / beneficiaries /etc.

- e) Foreign companies are permitted to repurchase the shares issued to residents in India under any ESOP Scheme provided (i) the shares were issued in accordance with the Rules / Regulations framed under Foreign Exchange Management Act, 1999, (ii) the shares are being repurchased in terms of the initial offer document and, (iii) An annual return is submitted through the Authorised Dealer bank giving details of remittances / beneficiaries, etc.
- f) In all other cases, not covered by general or special permission, approval of the Reserve Bank is required to be obtained before acquisition of a foreign security.

C.2 Transfer of a foreign security by a person resident in India

The shares acquired by persons resident in India in accordance with the provisions of Foreign Exchange Management Act, 1999 or Rules or Regulations made thereunder are allowed to be pledged for obtaining credit facilities in India from an Authorised Dealer bank / Public Financial Institution.

C.3 General permission in certain cases

Residents are permitted to acquire a foreign security, if it represents –

- a) qualification shares
for becoming a director of a company outside India provided it does not exceed 1 per cent of the paid up capital of the overseas company and the consideration for the acquisition does not exceed USD 20,000/- in a calendar year.
- b) rights shares
provided that the rights shares are being issued by virtue of holding shares in accordance with the provisions of law for the time being in force.
- c) purchase of shares
of a JV / WOS abroad of the Indian promoter company by the employees/directors of Indian promoter company which is engaged in the field of software where the consideration for purchase does not exceed

USD 10,000 or its equivalent per employee in a block of five calendar years; the shares so acquired do not exceed 5 per cent of the paid-up capital of the JV / WOS outside India; and after allotment of such shares, the percentage of shares held by the Indian promoter company, together with shares allotted to its employees is not less than the percentage of shares held by the Indian promoter company prior to such allotment.

d) purchase of foreign securities under ADR / GDR linked stock option schemes by resident employees of Indian companies in the knowledge based sectors, including working directors provided purchase consideration does not exceed US\$ 50,000 or its equivalent in a block of five calendar years.

PART - II

Operational Instructions to Authorised Dealer Banks

1 Designated branches

Authorised Dealer banks are required to designate select branches at different centres to undertake foreign exchange transactions in connection with overseas direct investment under Regulation 6 of the Notification. An eligible Indian entity making investment in a Joint Venture (JV) / Wholly Owned Subsidiary (WOS) outside India, is required to route all its transactions relating to the investment through only one branch of an Authorised Dealer (AD) bank designated by it. All communications from the Indian parties, to the Reserve Bank, relating to the investment outside India should also be routed through the same branch of the AD bank that has been designated by the Indian investor for the investment. The designated AD bank while forwarding the request from their customers to the Reserve Bank, shall also forward its comments / recommendations on the request. However, the Indian investor / promoter may designate different AD banks / branches of AD banks for different JV / WOS outside India promoted by them.

Investments under Regulation 6

AD banks may allow investments upto the permissible limits on receipt of application in form ODA together with form A-2, duly filled in, from the Indian entity /entities making investments in a JV/WOS abroad subject to their complying with the conditions specified in Regulation 6 of Notification FEMA No.120/RB-2004 dated July 7, 2004 as amended. Investment in financial services should however comply with additional norms stipulated at Regulation 7 *ibid*. While forwarding the report of remittance in respect of investment in Financial Services Sector, AD banks may certify that approval from the Regulatory Authorities in India and abroad have been obtained. Before allowing the remittance AD banks are required to ensure that the necessary documents, as prescribed in form ODA, have been submitted. **Form ODA and other documents should not be submitted to the Reserve Bank.**

2 General procedural instructions

(i) **Immediately** after effecting the remittance, the AD banks are required to forward a report on remittance in the revised form ODR, in duplicate (format enclosed) to the Chief General Manager, Foreign Exchange Department, Overseas Investment Division, 3rd floor, Amar Building., Mumbai - 400 001. AD banks may ensure that the remittances on account of investments by a partnership firm / proprietorship firm are reported with the superscription "Remittance by partnership firm/ proprietorship firm". In cases where the investment is being made jointly by more than one Indian entity, form ODA is required to be signed jointly by all the investing entities and submitted to the designated branch of the AD bank. AD banks should forward to the Reserve Bank a consolidated form ODR indicating details of each party. The same procedure should be followed where the investment is made out of the proceeds of ADR / GDR issues of an Indian entity in terms of Regulation 6(5) of the Notification. The Reserve Bank would allot only one Unique Identification number to the overseas project.

(ii) Clause (v) of sub-regulation (2) of Regulation 6 provides that all transactions relating to investment in a JV / WOS are to be routed through only one designated branch of an AD bank designated by the Indian entity. For proper follow-up, the AD bank is required to maintain party-wise record in respect of each JV / WOS separately.

(iii) AD banks should allow remittance towards loan to the JV / WOS and / or issue guarantee to / on behalf of the JV / WOS abroad only after ensuring that the Indian party has an equity stake in the JV / WOS.

3 Investments under Regulation 11

In terms of Regulation 11, Indian entities are permitted to make direct investment in JV / WOS abroad by way of capitalisation of exports or other dues/entitlements like royalties, technical know-how fees, consultancy fees, etc. In such cases also, the Indian entity is required to submit details of the

capitalisation in form ODA to the designated branch of the AD bank. Such investments by way of capitalisation are also to be reckoned while computing the cap of 200 per cent prescribed in terms of Regulation 6. Further, in cases where the export proceeds are being capitalised in accordance with the provisions of Regulation 11, the AD banks are required to obtain a custom certified copy of the invoice as required under Regulation 12(2) and forward it to the Reserve Bank together with revised form ODR. Capitalisation of export proceeds or other entitlements, which are overdue, would require prior approval of the Reserve Bank for which the Indian entities should make an application in form ODI to the Reserve Bank for consideration.

4 Allotment of Unique Identification Number

On receipt of the form ODR from the AD bank, the Reserve Bank will allot a unique identification number to each JV or WOS abroad, which is required to be quoted in all the future correspondence by the AD banks or the Indian entity with the Reserve Bank. AD banks may allow additional investment in an existing overseas concern set up by an Indian party, in terms of Regulation 6 only after the Reserve Bank has allotted necessary identification number to the overseas project.

5 Investment by way of share swap

In the case of investment by way of share swap, AD banks are additionally required to submit to the Reserve Bank the details of transactions such as number of shares received / allotted, premium paid / received, brokerage paid / received etc., and also confirmation to the effect that the inward leg of transaction has been approved by FIPB and the valuation has been done as per laid-down procedure and that the overseas company's shares are issued / transferred in the name of the Indian investing company. AD bank may also obtain from the applicants an undertaking to the effect that future sale / transfer of shares so acquired by Non-Residents in the Indian company shall be in accordance with the provisions of Notification No. FEMA 20/2000-RB dated May 3, 2000 as amended from time to time.

6 Investments under Regulation 9

In terms of Regulation 9, investment in JV / WOS in certain cases requires prior approval of the Reserve Bank. AD banks may allow remittances under these specific approvals granted by the Reserve Bank and report the same to the Chief General Manager, Foreign Exchange Department, Central Office, Overseas Investment Division, Amar Building, 3rd floor, Mumbai 400 001 in the form ODR.

7 Purchase of foreign securities under ADR / GDR linked Stock Option Scheme

AD banks may make remittances upto USD 50,000 or its equivalent in a block of five calendar years, without the prior approval of the Reserve Bank, for purchase of foreign securities under the ADR / GDR linked ESOPs, after satisfying that the issuing company has followed the relevant guidelines of SEBI / Government.

8 Remittance towards Earnest Money Deposit or Issue of Bid Bond Guarantee

(i) In terms of Regulation 14 of the Notification, AD banks may, on being approached by an Indian entity which is eligible for investment under Regulation 6, allow remittance towards Earnest Money Deposit (EMD) to the extent eligible after obtaining Form A2 duly filled in or may issue bid bond guarantee on their behalf for participation in bidding or tender procedure for acquisition of a company incorporated outside India. On winning the bid, AD banks may remit the acquisition value after obtaining Form A2 duly filled in and report such remittance (including the amount initially remitted towards EMD) to the Chief General Manager, Foreign Exchange Department, Central Office, Overseas Investment Division, Amar Building, 3rd floor, Mumbai 400 001 in form ODR. AD banks, while permitting remittance towards EMD should advise the Indian entity that in case they are not successful in the bid, they should ensure that the amount remitted is repatriated in accordance with Foreign Exchange Management (Realisation, Repatriation & Surrender of Foreign Exchange) Regulations, 2000 (cf. Notification No. FEMA 9/2000-RB dated 3rd May 2000).

(ii) In cases where an Indian entity, after being successful in the bid / tender decides not to proceed further with the investment, AD banks should submit details of remittance allowed towards EMD / invoked bid bond guarantee in form ODR to the Chief General Manager, Foreign Exchange Department, Central Office, Overseas Investment Division, Amar Building, 3rd floor, Mumbai 400 001.

(iii) In case the Indian entity is successful in the bid, but the terms and conditions of acquisition of a company outside India are not in conformity with the provisions of Regulations in Part I, or different from those for which approval under sub-regulation (3) was obtained, the Indian entity should obtain approval from the Reserve Bank by submitting form ODI.

9. Transfer by way of sale of shares of a JV / WOS outside India

The Indian entity should report details, as indicated in para II below, of the disinvestment through the AD bank within 30 days of disinvestment. Sale proceeds of shares / securities shall be repatriated to India immediately on receipt thereof and in any case not later than 90 days from the date of sale of the shares / securities.

II. AD banks will forward only a report regarding disinvestment to the Regional Office of the Reserve Bank, which inter alia, should indicate the following:-

- (i) Identification Number.
- (ii) Name of Indian company.
- (iii) Name of the country and amount of investment approved.
- (iv) Amount of disinvestment.
- (v) Date of repatriation of the disinvestment proceeds.

10. Criteria for considering investment proposals outside India by established proprietorship or unregistered partnership exporter firms

- i) The Partnership / Proprietorship firm is a DGFT recognized Star Export House (export exceeding Rs.15 crore) per annum.
- ii) The AD bank is satisfied that the exporter is KYC (Know Your Customer) compliant, is engaged in the proposed business and has turnover as indicated.

iii) Exporter has proven track record i.e. export outstanding does not exceed 10 per cent of the average export realization of preceding three years.

iv) The exporter has not come under adverse notice of any Government agency like Enforcement Directorate, CBI and does not appear in the exporters' caution list of the Reserve Bank or in the list of defaulters to the banking system in India.

v) The amount of investment outside India does not exceed 10 per cent of the average of here year export realization or 200 per cent of the net owned funds of the firm, whichever is lower.

11. ESOP Reporting

Annex – A

Statement of shares allotted to Indian employees / directors under ESOP

Schemes for the year ended March _____

(to be submitted on the letterhead of the company through their AD bank)

We, M/s....., (Indian company) hereby declare that :

a) M/s (foreign company) has issued shares to our employees under ESOP Scheme during the year as under

(i) No. of shares allotted :

(ii) Number of employees/directors who accepted shares :

(iii) Amount remitted :

b) effective holding of the foreign company M/s in the Indian company, as on March 31, _____, is not less than 51% and

c) the information furnished above is true and correct to the best of our knowledge and belief.

Signature of the Authorised Official :
Name :
Designation :
Date :

To,

The Chief General Manager
Reserve Bank of India
Foreign Exchange Department,
Overseas Investment Division,
Central Office, Amar Bldg., 3rd Floor,
Sir. P.M. Road, Fort, Mumbai 400 001.

Annex –B

Statement of shares repurchased by the issuing company from Indian employees / directors under ESOP Schemes for the year ended March _____

(to be submitted on the letterhead of the company through their AD bank)

We, M/s (Indian company) hereby declare that :

a) M/s (foreign company) has repurchased shares issued to our employees under ESOP Scheme during the year,

(i) Number of shares allotted :

(ii) Number of employees/directors who sold shares :

(iii) Amount of remittance (inward) :

b) effective holding of the foreign company M/s in the Indian company, as on March 31, _____, is not less than 51% and

c) the information furnished above is true and correct to the best of our knowledge and belief.

Signature of the Authorised Official :

Name :

Designation :

Date :

To,

The Chief General Manager
Reserve Bank of India
Foreign Exchange Department,
Overseas Investment Division,
Central Office, Amar Bldg., 3rd Floor,
Sir. P.M. Road, Fort,
Mumbai 400 001.

ODA

DIRECT INVESTMENT IN JOINT VENTURE(JV) / WHOLLY OWNED SUBSIDIARY (WOS) ABROAD UNDER AUTOMATIC ROUTE

To

(Name and address of the authorised dealer bank)	For use by RBI only															
	Date of receipt						Inward No									
	Identification No															

[All amounts in Foreign Currency (FC) and Indian Rupees (INR), should be in thousands only]

I. GENERAL

Nature and category of the investment [Please tick(<input type="checkbox"/>) the appropriate box] :			
A. Fresh Proposal		B. Supplementary Proposal	
(i) Participation in JV abroad		(a)(i) Enhancement of equity in existing JV/ WOS abroad	
(ii) Contribution in WOS		(ii) Grant/enhancement of loan in existing JV/WOS	
(iii) Full/partial* take over of an existing foreign concern		(iii) Extension/enhancement of guarantee	
(iv) Acquisition of a company overseas through bidding or tender procedure		(iv) Others (Please specify)	

(*Strike out whichever is not applicable)

II - PARTICULARS OF INDIAN PARTY

(a) Name and Address of the Indian party Tel. No. Fax No. Email ID	

(b) Date of incorporation	(c) Status*
---------------------------	-------------

*(a) Public Ltd. Company (1), (b) Private Limited Company (2)

(c) Public Sector Undertaking (3), (d) Others (4) (Please specify)

(d) Name of the Industrial House/ Group to which the Indian party belongs		
(e)(i) Existing line of activity of the Indian party (Please tick the appropriate box)		(ii) Brief particulars of the products manufactured/goods traded/services rendered
Manufacturing Trading Financial Services Non-Financial Services Others (please specify)	<input type="checkbox"/>	
	<input type="checkbox"/>	
	<input type="checkbox"/>	
	<input type="checkbox"/>	
	<input type="checkbox"/>	

(f) Years of experience in the existing line of activity

(g) Financial details for the last three years

(Amount in INR)

Financial Year ending	Domestic sales/turn-over	Foreign exchange earnings from exports (excluding equity exports to existing JV/WOS)	Foreign exchange earnings (other than exports)	Net profit/ (Loss)	Paid-up capital	Net worth
(1)	(2)	(3)	(4)	(5)	(6)	(7)

(h) Particulars of EEFC Account

(Amount in FCY)

Account No.	Balance as on	Name of the Bank/Branch

(i) Particulars of ADR/GDR funds raised (applicable only where the proposed investment is funded fully/partly out of ADR/GDR funds)

(Amount in FCY)

(i) Date of issue		(iv) Amount utilised so far	
(ii) Amount issued		(v) Out of (ii) above, amount utilised for overseas investments	
(iii) Issue Price		(vi) Balance available (Please indicate where the funds have been parked)	

(j) Details of ECB/ FCCB (applicable only where the proposed investment is funded fully/partly out of ECB/FCCB funds) (Amount in FCY)			
Registration No.			
Details of Share Swap Transaction (applicable only where the proposed investment is funded fully/partly out of ECB/FCCB funds) (Amount in FCY)			
Name Of the Indian Co.		Name of the Foreign Co.	
No. of Shares Allotted		No. of Shares Received	
Value per Share		Value per Share	
Premium Received		Premium Paid	

III - PARTICULARS OF THE FOREIGN PARTNER / CONCERN

(a)Date of incorporation:							
	D	D	M	M	Y	Y	Y
(b) Name / Address of the foreign partner/concern							
Tel. No.							
Fax No.							
Email ID							
(c)Years of experience in the proposed field of collaboration:							
(d)Financial details during the last three years :							

(Amount in FCY)

Accounting year ending	Sales/ turnover	Net fixed assets	Net Profits/ (loss)	Paid-up capital	Net worth	Dividend (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)

IV. Particulars of JV/WOS

(i) Line of activity of the proposed JV/WOS
(Please tick the appropriate box)

(ii) Brief particulars of the products manufactured/goods traded/services rendered

(a) Manufacturing
(b) Trading
(c) Financial Services
(d) Non-financial services
(e) Others (Please specify)
(iii) Location (country) of the proposed JV/WOS:

(iv) Time-frame for project implementation of the project:

(v) Accounting year followed in host country:

<u>V. Financial Package</u>		<u>(Amount in FCY)</u>	
(a) Estimated cost of the project -			
of which			
(i) Cost of capital equipment			
(ii) Cost of land			
(iii) Cost of civil works			
(iv) Cost of misc. fixed assets			
(v) Preliminary & pre-operative expenses			
(vi) Contingencies			
(viii) Others (Please specify)			
Total*			
(b) Equity share capital of the JV/WOS			
(i) By the Indian party	% to total equity	(ii) By foreign collaborator	% to total equity

*Where the investment is for partial/full takeover of an existing foreign concern, the total cost of acquisition may be furnished. A certificate from a chartered Accountant about reasonableness of the acquisition price should be enclosed.

<u>(c) Debt Finance</u>		<u>(Amount in FCY)</u>				
	<u>Amount</u>		<u>Period</u>		<u>Rate of Interest</u>	
	TL*	WC**	TL	WC	TL	WC
(i) By Indian Party						
(ii) By the Foreign Partner						
(iii) By banks/FIs in India						
(iv) By banks/FIs abroad						
Total						
* TL = Term Loan ** WC = Working Capital						
[V(a) should tally with the sum of equity and term loan as given at (b) and (c) above						
(Amount in FCY)						

(d)Guarantees/other contingent liabilities	Amount	Period		Remittance towards invoked guarantee
(i) By Indian Party				
(ii) By Foreign Partner				
(iii) By banks/FIs in India				
(iv) By banks abroad				

VI. Method of Contribution by Indian Party	(Amount in FCY)
(i) Foreign Exchange from the Market	
(ii) Out of EEFC Balances	
(iii) Out of ADR/ GDR Proceeds	
(iv)Capitalisation of Export proceeds	
(v) Capitalisation of other dues (please specify)	
(vi) Swap of Shares	
(vii) Out of ECB/ FCCB balances	

VII.Profitability Projections of the overseas JV/WOS	(Amount in FCY)					
	Years of operation					
	1	2	3	4	5	Total
(a)Gross sales/turnover						
(b)Net Profit(Loss)						
(c)Dividend						
(d)Net worth						

VIII. Projected repatriable entitlements, if any	(Amount in FCY)					
	Years of operation					
	1	2.	3	4	5	TOTAL
(a) Dividend						
(b) Others (Please specify)						
TOTAL						

IX.Projected non-equity exports	(Amount in INR)					
	Years of Operation					
	1	2	3	4	5	TOTAL
FOB Value						

DECLARATION

We hereby certify that (i) the information furnished above are true and correct, (ii) all the legal and other formalities in India and the host country for the above investment have been/will be complied with, (iii) the amount of investment by way of equity/loan and 50% of the guarantee, either out of market purchase of foreign exchange or the balances held in the EEFC account, utilisation of ADR/GDR proceeds, capitalisation of exports/other entitlements, swap of shares, utilisation of ECB/ FCCB proceeds is as per extant regulations and (iv) no investigations by Directorate of Enforcement are pending against us and (v) our name is not in the Exporters' Caution List of the Reserve Bank. /list of defaulters to the Banking system circulated by the RBI, or under investigation by the Enforcement Directorate/ SEBI/IRDA etc.

Place: _____

(Signature of authorised official)

Date : _____

Stamp/Seal

Name:-----

Designation-----

List of enclosures :

- | | |
|----|----|
| 1. | 4. |
| 2. | 5. |
| 3. | 6. |

Certificate by the Statutory Auditors of the Indian party

It is certified that the terms and conditions contained in FEMA Notification 19/RB-2000 dated May 3, 2000 as amended from time to time (Foreign Exchange Management (Transfer & Issue of Foreign Securities) Regulations, 2000) have been complied with by the Indian party in respect of the investment under report. In particular, it is further certified that- (i)the investment is not in real estate oriented or banking business, and (ii)* the amount of foreign exchange proposed to be purchased for remittance towards the investment together with remittances already made and exports and other dues capitalised/ swap of shares/ investment from ECB/FCCB balances for investment abroad under the Automatic Route is/will be within 100 % of the net worth of the Indian party as on the date of last audited balance sheet, (iii)**that the Indian party has (a) has made net profits

during preceding three years, (b) has fulfilled the prudential norms of capital adequacy as prescribed by the concerned regulatory authority; (c) has been registered with the appropriate regulatory authority in India and (d) has obtained approval for investment in financial sector activities abroad from the concerned regulatory authorities in India and abroad (vi)*** proceeds of ADR/GDR being used for the investment is within 100 % of the amount raised abroad by way of ADR/GDR issues (vii) @has complied with the valuation norms prescribed for investment by way of swap of shares (viii)# has complied with the ECB guidelines *Applicable if investment in part or full is funded out of purchase of foreign exchange from market and/or capitalisation of exports & other dues.

**Applicable only in cases where the investment is in the financial services sector (e.g. insurance, mutual fund , asset management, etc.)

***Applicable where investment is funded, in part or full, out of ADR/GDR proceeds.

@ Applicable where investment is funded, by way of swap of shares

Applicable where investment is funded through ECB/FCCB balances

Instructions for filling up the Form ODA

1. This form, in duplicate, should be submitted to the authorised dealer bank for the purpose of making remittance.

2. The form should be complete in all respects and accompanied by

- (i) certificate from the statutory auditors in the format given in the form and
- (ii) certified copy of the resolution of the Board of Directors indicating the amount of investment approved by the Board.

In respect of supplementary proposals involving additional equity, loan or guarantee, the particulars furnished in form **ODA** submitted earlier in respect of the same JV/WOS need not be insisted upon; however, revised particulars of the repatriable entitlements etc., to the extent applicable, may only be obtained.

3. Where there is more than one Indian party making investment in the same JV/WOS overseas, form ODA should be obtained by all the Indian parties jointly along with a certificate(s) from other ADs, if remittances are effected by the latter.

4. In case where the Indian party is successful in the bid for overseas acquisitions for which it has already made remittance towards Earnest Money Deposit or issued bid bond guarantee, under a bidding or tender procedure, while effecting the final remittance towards such acquisition, a report in the form ODA may be obtained.



ODB

Application for issue of ADRs/GDRs on back to back basis for overseas acquisitions

- i) Name and address of the Indian Company :
- ii) Status of Indian Company [public limited :
company, private limited company, public
sector undertaking or others (please specify)]
- iii) Name of the Industrial Group/House to :
which the applicant company belongs
- iv) Date of incorporation :
- v) Existing line(s) of activity (activities) :
- vi) Financial particulars of the Indian :
company for the last three years.

(Rs.in crores)

<u>Financial year ended</u>	<u>Domesti c Sales</u>	<u>Forex earnings by way of exports</u>	<u>Forex earnings (other than export of goods/service s)</u>	<u>Net Profits/ (Loss)</u>	<u>Paid up capital</u>	<u>Net worth</u>
<u>(1)</u>	<u>(2)</u>	<u>(3)</u>	<u>(4)</u>	<u>(5)</u>	<u>(6)</u>	<u>(7)</u>
		-				
		-				

vii) Particulars of the existing overseas JV/WOS set up/acquired by the applicant company and its operational details for the last three years.

(Amount in foreign currency / million)

<u>Name of the overseas concern and its location</u>	<u>Approval No. issued by RBI</u>	<u>Name of foreign Currency</u>	<u>Amount of Investment</u>		
			<u>Equity Guarantee</u>	<u>Loan</u>	
<u>(1)</u>	<u>(2)</u>	<u>(3)</u>	<u>(4)</u>	<u>(5)</u>	<u>(6)</u>
			-		
			-		
			-		

<u>Average annual turnover</u>	<u>Amount repatriated to India</u>			<u>Profit(loss) during the last year</u>	<u>Net worth as per the last balance sheet</u>
	<u>Dividend Exports realised</u>	<u>Other</u>	<u>entitlements</u>		
<u>(7)</u>	<u>(8)</u>	<u>(9)</u>	<u>(10)</u>	<u>(11)</u>	<u>(12)</u>

viii) Amount of blanket approval limit being sought for and the justification therefor.
(Please see the instructions)

ix) If the applicant company or its sister concern/promoters/directors are under Exporters' Caution List of the Reserve Bank or their affairs are under investigation by Directorate of Enforcement/other law enforcing agencies, the brief particulars thereof and the present position may be indicated here.

Instructions for filling up the form ODB

1. The form complete in all respects should be submitted in triplicate to the Chief General Manager, Reserve Bank of India, Foreign Exchange Department, Central Office, Overseas Investment Department, Amar Building, Mumbai – 400 001.

2. For foreign currency SWIFT codes may be used.

3. If any specific acquisition deal has been negotiated, the details thereof including the name of the overseas company being acquired, its performance for the last three years, share exchange ratio, acquisition price, valuation report

4. A brief write-up incorporating, inter alia, the tentative business plan of overseas acquisitions, country of location of such foreign companies and their line of activity and financial and operational particulars, rough estimates of acquisition cost and the basis thereof, likely benefits to the applicant company and the country from such acquisitions, such as, synergy between operations, dividend and other inflows, access to technology, incremental exports, etc. should be enclosed to this form. The information furnished will be kept confidential.

5. A note indicating likely benefits to the acquiring company may also be furnished as an Annexure.

II. Details of ADRs/GDRs issued on Stock Swap basis for the acquisition under report :

- a) Number and Amount of ADRs/GDRs issued for the purpose

- b) (i) Name of the stock exchange on which the ADRs/GDRs are listed

(ii) Name of the Issue Manager

- c) Number of underlying share of the Indian company for each ADR/GDR issue

- d) (i) Acquisition price per share of the overseas (acquired) company

(ii) Price of share recommended by the Investment Banker

- e) Price of each underlying share and ADR/GDR of the Indian company (acquiring company)

- f) Basis of valuation of price of the share of the Indian company

- g) Share Exchange Ratio
(Share price of the acquired company/
share price of the acquiring company)

III. Details of the foreign (acquired) company

- a) Name and address of the company : _____

- b) Name(s) and address of the share holders of the acquiring company offering the shares in exchange _____

- c) Line(s) of activity (activities) of the company _____

d) Financial particulars of the company for the last 3 years

Accounting year ended	Name of Foreign Currency	Gross Sales/ Turnover	(Amount in Foreign Currency/million)		
			Net Profit/ (Loss)	Paid up capital	Net-worth
(1)	(2)	(3)	(4)	(5)	(6)
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

iv) **Post-acquisition equity structure of Indian company (acquiring company) and foreign company (acquired company)**

(a) <u>Indian Company</u> (%of non-resident holding to total equity)		(b) <u>Foreign Company</u> (% of Indian holding to total equity)	
<u>Pre acquisition</u>	<u>Post acquisition</u>	<u>Pre acquisition</u>	<u>Post acquisition</u>
_____	_____	_____	_____

v) **Cumulative position of ADRs/GDRs issued for overseas acquisitions under the scheme**

Sr. No.	Date of Issue	Amount of Issue	Issue price per ADR/GDR	(Amount in Foreign Currency/million)		
				Amount outstanding	Name of the foreign company acquired	Date of report to RBI in form ODG
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	_____	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____	_____

vi) Any other information relevant to the acquisition under report

DECLARATION

It is certified that the information furnished above is true and correct. It is further certified that all the legal and other regulatory requirements in India and the host country of acquisition have been complied with.

Place _____

(Signature of authorised official)

Date _____



Name : _____

Designation : _____

Encls : 1.

4.

2.

5.

3.

6.



Instructions for filling up the form ODG

(This may be detached and retained by the Indian company)

1. ODG form complete in all respects should be submitted in triplicate to the Chief General Manager, Foreign Exchange Department, Reserve Bank of India, Central Office, Overseas Investment Division, Amar Building, Mumbai 400 001.

2. The following documents should be enclosed to this form :-

(A) A statement from the Statutory Auditors of the Indian company certifying that (i) the Indian Party has already made an ADR and / or GDR issue and that such ADRs/GDRs are currently listed on any stock exchange outside India;

such investment by the Indian Party does not exceed the higher of the following amounts, namely: -

iii. amount equivalent to 100 percent networth of the Indian Co.

iv. amount equivalent to 10 times the export earnings of the Indian Party during the preceding financial year as reflected in its audited balance-sheet, inclusive of all investments made under Regulations in Part I, including under (i) of this clause, in the same financial year,

(ii) the issued amount of the ADRs/GDRs exchanged for acquiring shares of the overseas (acquired) company is within the limit specified in the Foreign Exchange Management.(Transfer and Issue of Foreign Security) Regulations,2000

(iii) the ADRs and/or GDRs issued for the purpose of acquisitions are backed by underlying fresh equity shares of the Indian party;

(iv) after the new ADR and/or GDR issue, the total holding in the Indian party by persons resident outside India in the expanded capital base, does not exceed the sectoral cap prescribed under the relevant regulations for such investments in the activities in which the Indian party is engaged; and

(v) where the shares of the foreign (acquired) company are not listed in any stock exchange, its valuation for acquisition is in accordance with the recommendations of the Investment Banker

or

where the shares of the foreign (acquired) company is listed on a stock exchange abroad, the valuation of its shares is based on current market capitalisation of the acquired company arrived at on the basis of monthly average price on any stock exchange abroad for the 3 months preceding the month in which the acquisition is committed and over and above, the premium, if any, as recommended by the Investment Banker in its due diligence report.

(B) Copy of the report together with due diligence report, if any, from an Investment Banker in support of the valuation as indicated at above.

(C) Other relevant documents as submitted to the Stock Exchange/Regulatory Authorities in the host country of the company acquired.

ODI

Application to Reserve Bank of India for Direct Investment in a Joint Venture/ Wholly Owned Subsidiary Abroad

For office use only

Date of Receipt -----
Inward No. -----

--

Part A - General

I. **Brief Particulars of proposed Investment**

(i) Financial commitment (in FCY) ----- (ii) Country of location -----
--

(iii) Nature of Investment

(A) Investment in a new project (i.e. fresh proposal) OR
(B) Investment in an existing project (i.e supplementary proposal)

Approval/Identification No.

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Please indicate 13 digit number issued by RBI

Purpose of Investment

- (a) Participant in JV
- (b) Contribution in WOS
- (c) Full acquisition of a foreign concern
- (d) Partial acquisition of a foreign concern
- (e) Others (please specify)

Purpose of Investment

- (a) Enhancement of equity of the existing JV/WOS
- (b) Grant of/Enhancement of loan
- (c) Extension/Enhancement of Guarantee
- (d) Others (Please specify)

II. Line of Activity of the JV/WOS

(Please tick the relevant box)

(a) (i) Manufacturing (ii) Trading (iii) Financial (iv) Non Financial Services (v) Others (Please specify)	<table border="1" style="border-collapse: collapse; width: 50px; height: 100px;"> <tr><td style="width: 50px; height: 25px;"></td></tr> <tr><td style="width: 50px; height: 25px;"></td></tr> <tr><td style="width: 50px; height: 25px;"></td></tr> <tr><td style="width: 50px; height: 25px;"></td></tr> <tr><td style="width: 50px; height: 25px;"></td></tr> </table>						(b) Brief particulars of products to be manufactured/goods to be traded / services to be rendered ----- -----

III. Proposed capital structure of the JV/WOS

(a) Indian Party (ies) % stake in equity	% stake in equity	(b) Foreign Partner(s)
1. ----- - 2. ----- 3. -----	----- ----- -----	1. ----- 2. ----- 3. -----

Part –B - Particular of Indian Party(ies) and Foreign Partner(s) indicated at A. III above.

I. Indian Party

(Cases where there are more than one Indian party, information may be given on separate sheets for each of the parties)

- (i) Name & Address
- (ii) Date of Incorporation _____
- (iii) Date of Commencement of Business _____
- (iv) Status * _____
- (v) Existing Line of Activity _____
- (vi) Years of experience in the line of Activity. _____
- (vii) % of Non-resident interest in the share capital of the Indian Party

* (a) Public Ltd. Company (1), (b) Private Limited Company (2),

(c) Public Sector Undertaking (3), (d) Others (4) (Please specify).

(viii) Financial particulars of the Indian Party for the last 3 years

Accounting year	Domestic sales	Foreign exchange earnings from exports (excluding equity exports to existing JV/WOS)	Foreign exchange earnings other than from exports	Net Profit/(Loss)	Paid-up capital	Net worth
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1						
2						
3						

(ix). Particulars of existing Joint Ventures (JV) and Wholly Owned Subsidiaries (WOS) already in operation or under implementation, of the Indian party and its group concerns and foreign exchange earnings from these concerns :

Sr. No	Name of Indian Party	Name of JV/WOS/ Country	Approval No. allotted by Reserve Bank	(Amount in FCY)		
				Equity	Loan	Guarantee
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1						
2						
3						
4						
5						

Total Repatriations (R) vis-à-vis Entitlements (E) (entitlements & repatriations in the last 3 years to be given in brackets)

Total non-equity of export made so far (figures for last three years to be given in brackets)

	Dividend		Others		Projected exports (12)	Exports made (13)	Outstanding, if any (14)
	(E) (8)	(R) (9)	(E) (10)	(R) (11)			
1.							
2.							
3.							
4.							
5.							

II. Particulars of the Foreign Partner(s)/concern

(To be filled in case of foreign investment in JVs only. Cases where there are more than one foreign partner, information may be given on separate sheets for each of the collaborators)

(a) Name & Address of the foreign partner/concern: _____

(b) Date of incorporation

(c) Years of experience in the proposed field of collaboration

(d) Financial particulars of the foreign partner/concern during the last 3 years:

Accounting Year ending (1)	Sales (2)	Net profits/(loss) (3)	Paid-up Capital (4)	(Amount in FCY)	
				Net worth (5)	Dividend % (6)
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

(c) Foreign equity: i) Amount _____ ii) % to total equity

V. (a) Position of Term Loan (TL) /Working Capital (WC) Loan availed of by JV/WOS

(Amount in FCY)

	Amount approved		Outstanding amount		<u>Overdue amount , if any</u>		
	TL	WC	TL	WC	TL	WC	<u>Total</u> TL + WC
(i)From Indian Party (ii)From foreign partner (iii)From Indian banks/ financial institutions (iv) Others (Please specify)							
Total:							

(b) Position of guarantees extended to JV/WOS

(Amount in FCY)

	Amount of guarantee approved/extended	Amount invoked/claimed (if any)	Date of Invocation	Amount paid so far

(i) By Indian Party (ii) By foreign party (iii) By banks /financial institutions in India (iv) By banks /financial institutions outside India (v) Others (Please specify)			
--	--	--	--

VI. Operational details of the JV/WOS for the last three years
 (Amount in FCY)

<u>ended)</u>	<u>(Year ended)</u>	<u>(Year ended)</u>	<u>(Year</u>
	(1)	(2)	(3)
(i) Gross Sales/Turnover			
(ii) Net Profit/(Loss)			
(iii) Dividend			
(iv) Net Worth			

VII. Entitlements(E) and Repatriation (R) from the JV/WOS

outstanding (During the last (Since commencement (Total
 entitlement due for year ended) of business)

- repatriation)
- (i) Dividend
 - (ii) Others* (Please specify)
 - (iii) Non equity exports realised
 - (iv) FDI Inflows

* (Royalties, technical know-how fees, consultancy fees, etc.)

VIII. Present proposal in brief with supporting reasons:

Part-D- Financial Package of JV/WOS

(If the project is to be implemented in phases, separate sheets showing phase-wise distribution of cost should be attached and only the total of all the phases should be indicated below)

Rate of exchange applied for the projections.

1 US \$ = INR _____
 FCY _____ Units = US \$ _____

II. Estimated cost of the project * (Amount in FCY)

- (i) Cost of capital equipment
- (ii) Cost of land
- (iii) Cost of civil works
- (iv) Cost of misc. fixed assets
- (v) Preliminary & preoperative expenses
- (vi) Contingencies
- (vii) Others (Please specify)

Total :

* In case of supplementary proposals, the revised cost of the project may be indicated

III. Financing of the estimated project cost:

	<u>Equity</u>		Term loan(TL)/ Working Capital (WC)			Guarantee	
	Amount of Equity	% age to total equity	Amount/	Period/	Rate of Interest	Amount	Period
(A) By Indian Party(ies)							
(i)							
(ii)							
(iii)							
SubTotal :							

(B) By Foreign Partners							
(i)							
(ii)							
(iii)							
<u>Sub Total</u>							
C) By Banks/ FIs/others							
i)							
ii)							
iii)							
<u>Sub Total</u>							
Total of A to C							

(Equity share capital plus term loan above should be equal to the total cost of the project as at II above.)

IV Method of Investment

(Amount in FCY)

- (a) By the Indian party
 - (i) Cash remittance
 - (ii) Capitalisation of
 - (A) Export of plant & machinery/goods
 - (B) Others (Please specify)
 - (iii) ADRs/GDRs raised abroad
 - (iv) Swap of shares
 - (v) Others(Please specify)
 - Total
- (b) By the foreign partner
 - (i) Cash
 - (ii) Fixed assets
 - (iii) Loans
 - (iv) Others (Please specify)
 - Total
- (c) Funding of Indian investment
 - (i) Self-generated funds
 - (ii) Assistance under Overseas Investment Finance Scheme of the EXIM Bank, if applicable
 - (iii) Resources raised through ADRs/ GDRs
 - (iv) Loans from banks/financial institutions
 - (v) Out of balance in EEFC Account
 - (vi) Swap of shares
 - (vii) Others (Please specify)
 - Total

- V. **Management of the foreign concern.** (Whether the Indian party will have management control? If yes, give brief particulars of management/managerial functions to be discharged by the Indian party).

PART - E – Financial projections of the fresh/ revised financial projections in case of supplementary investment proposals

- I. **Profitability Projections:** (Amount in FCY)
Years of operation

		1	2	3	4	5
(a)	Gross sales/turnover					
(b)	Operating cost excluding depreciation and interest					
(c)	Depreciation					
(d)	Interest					
	(i) On term loans					
	(ii) On Working Capital loans					
(e)	Tax					
(f)	Net Profit)/(Loss)					
(g)	Dividend					
(h)	Transfer to reserves					
(i)	Accumulated reserves & surplus /(loss)					
(j)	Net-worth					

II. Repatriable entitlements of Indian Party, net of host country tax, during the next 5 years of operation
(Amount in FCY)

		Years of operation					
		1	2	3	4	5	Total
(a)	Dividend						
(b)	Technical know-how fees						
(c)	Royalty						
(d)	Engineering/ Technical services fees						
(e)	Consultancy/ Management fees						
(f)	Selling agency commission						
(g)	Others (Please specify)						
	Total						

III. Projected for non equity/incremental exports (Amount in INR)

		Years of operation					
		1	2	3	4	5	Total
	FOB Value						

IV. (a) Whether the applicant party/ies, its promoters, directors, etc. have come under investigations by Enforcement Directorate. If yes, the brief details thereof including present stage of investigation/adjudication/manner of disposal of the case should be furnished.

(b) Whether the promoter Indian party/ies is/are presently on the Exporters' Caution -list of RBI for non-realisation of export proceeds. If so, the present position may be indicated.

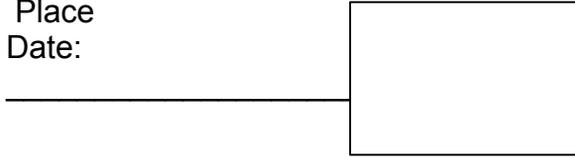
V. Any other information relevant to this proposal, including any special benefits/incentives available in the host country for setting up/acquiring the proposed concern:

VI. Name and address, telephone, telex and fax numbers of the branch of the authorised dealer through whom remittance towards the investment will be made.

[DECLARATION]

I/We hereby certify that the information furnished above are true and correct.

Place
Date:

_____ 

(Signature of authorised official)

Name:.....

Designation:.....

List of enclosures :

- | | |
|----|----|
| 1. | 4. |
| 2. | 5. |
| 3. | 6. |



ANNEXURE

Instructions for filling up the Form ODI

(This part should be detached and retained by the applicant)

(1) Application complete in all respects should be submitted in three sets together with the following documents to the Chief General Manager, Reserve Bank of India, Foreign Exchange Department, Central Office, Overseas Investment Division (OID), Amar Building, Mumbai - 400 001 :

- (a) Draft Joint Venture Agreement (or Memorandum & Articles of Association in the case of a Wholly Owned Subsidiary) specifying the equity structure, management, rights and responsibilities of shareholders and also draft agreement(s) for supply of technical know-how, management and other services, if applicable.
- (b) A detailed project/feasibility report incorporating, inter alia, projected funds flow statement and balance sheets for five years, the information on various leverage and profitability ratios like debt-equity ratio, debt service coverage ratio, return on investments, etc. of the foreign concern accompanied by the statement from a Chartered Accountant certifying the ratios and projections, given in the application/report.
- (c) A report from the bankers of the Indian party in sealed/closed cover.
- (d) The latest Annual Accounts, i.e. Balance Sheet and Profit and Loss Account along with the Directors' Report of the Indian party and of the foreign collaborator in case of a joint venture.
- (e) Additional documents as under, if the application is made for partial/full take over of an existing foreign concern :-
 - (i) A copy of the certificate of incorporation of the foreign concern;
 - (ii) Latest Annual Accounts, i.e. the Balance Sheet and Profit and Loss Account along with Directors' report of the foreign concern ; and
 - (iii) A copy of the share valuation certificate from
 - (i) where the investment is more than US \$ 5 (five) million, by a Category I Merchant Banker registered with SEBI or an Investment Banker/Merchant Banker registered with the appropriate regulatory authority in the host country; and
 - (ii) in all other cases, by a Chartered Accountant or a Certified Public Accountant
- (f) A report from the bankers of the Indian party in sealed/closed cover.
- (g) The latest Annual Accounts, i.e. Balance Sheet and Profit and Loss Account along with the Directors' Report of the Indian party and of the foreign collaborator in case of a joint venture.

- (f) A copy of the resolution of the Board of Directors of the Indian party/(ies) approving the proposed investment.
- (g) Where investment is in the financial services sector, a certificate from a Chartered Accountant/Auditor's firm to the effect that the Indian Party :
 - (i) has earned a net profit during the preceding three years from the financial services activity;
 - (ii) is registered with the appropriate regulatory authorities;
 - (iii) has obtained approval for investment in financial sector activities abroad from concerned regulatory authorities in India and abroad; and
 - (iv) fulfilled the prudential norms relating to capital adequacy as prescribed by the concerned regulatory authority in India

2. Where there are more than one Indian promoter of the JV/WOS, only one application should be submitted on behalf of all the promoters.

3 (a) In case an Indian party is seeking approval for acquisition of overseas concern through bidding/tender procedure (with/without remittance of any earnest money deposit (EMD)/issue of bid bond guarantee), Indian Party should approach the Reserve Bank atleast one month in advance from the last date for submission of bid to the overseas authority with the following documents :

- (i) application in form ODI, to the extent applicable;
- (ii) certified relevant extracts of the terms and conditions of bid;
- (iii) Chartered Accountant's certificate indicating the valuation of shares and assets of the overseas concern justifying the acquisition price, where applicable; and
- (iv) a project/feasibility report.

(b). In the case where the bid is won by the Indian Party but the terms and conditions of the acquisition are different from those furnished earlier to the Reserve Bank, the Indian Party should apply afresh to the Reserve Bank in form ODI for prior approval before putting through the transaction.

ODR

Report on Remittances for Overseas Direct Investment by Authorised Dealers

All amounts in Foreign Currency(FCY)
and Indian Rupees (INR) should be in
thousand only.

For use by RBI only

Date of Receipt

Inward No.

Identification No.

Name and address of the authorised dealer	:	_____

Telephone No.	:	_____
FAX No.	:	_____
e-mail	:	_____
A.D. Code	:	_____

If the investment is in the existing JV/WOS, please indicate Identification/Approval No.
already allotted :

No.																				
-----	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

I. GENERAL

Nature and category of the investment [Please tick (✓) the appropriate box] :			
A. Fresh Proposal		B. Supplementary Proposal	
(i) Participation in JV abroad		(i) Enhancement of equity in existing JV/WOS abroad	
(ii) Contribution in WOS		(ii) Grant/enhancement of loan in existing JV/WOS	
(iii) Full/partial* takeover of an existing foreign concern		(iii) Extension/enhancement of guarantee	
(iv) Acquisition of a company overseas through bidding or tender procedure		(iv) Others (Please specify)	

(* Strike out whichever is not applicable)

II. PARTICULARS OF INDIAN PARTY

(a) Name and Address of the Indian party _____ _____ _____	
Telephone No. :	_____
FAX No. :	_____
e-mail :	_____
(b) Status*	
(c) Name of the Industrial House/Group to which the Indian party belongs	
(d) (i) Existing line of activity of the Indian party (Please tick the appropriate box)	(ii) Brief particulars of the products manufactured/goods traded/services rendered
Manufacturing	<input type="checkbox"/>
Trading	<input type="checkbox"/>
Financial Services	<input type="checkbox"/>
Non-Financial Services	<input type="checkbox"/>
Others (please specify)	<input type="checkbox"/>
(e) Years of experience in the existing line of activity :	

* (a) Public Ltd. Company (1), (b) Private Ltd. Company (2)
(c) Public Sector Undertaking (3), (d) Others (4)
(Please specify)

III. PARTICULARS OF THE FOREIGN PARTNER/CONCERN(in case of JV)

(a) Details of the foreign partner/concern	
Name :	_____
Address :	_____
Telephone No. :	_____
FAX No. :	_____
e-mail :	_____
(b) Years of experience in the proposed field of collaboration :	

IV. PARTICULARS OF JV/WOS

(i) Name and Address of the JV/WOS _____ _____ _____	
Telephone No. :	_____
FAX No. :	_____
e-mail :	_____
(ii) Country of location:	

(iii) Line of activity of the JV/WOS (Please tick the appropriate box)		(iv) Brief particulars of the products manufactured/ goods traded/services rendered	
(a) Manufacturing			
(b) Trading			
(c) Financial Services			
(d) Non-financial Services			
(e) Others (Please specify)			
(v) Percentage holding by Indian Party (in case of JV) :		Percentage holding by foreign partner (in case of JV) :	
(vi) Time-frame for implementation of the project :			
(vii) Accounting year followed in the host country :			

V. PROFITABILITY PROJECTIONS OF THE OVERSEAS JV/WOS

(Amount in FCY)**

	Years of Operation					
	1	2	3	4	5	Total
(a) Gross sales/turnover						
(b) Net Profit(Loss)						
(c) Dividend						
(d) Net worth						

VI. PROJECTED REPATRIABLE ENTITLEMENTS

(Amount in FCY)**

	Years of Operation					
	1	2	3	4	5	Total
(a) Dividend						
(b) Others (Please specify)						
Total						

VII. PROJECTED NON-EQUITY EXPORTS

(Amount in INR)

	Years of Operation					
	1	2	3	4	5	Total
FOB Value						

VIII. DETAILS OF REMITTANCES EFFECTED

Investments under Automatic Route/approval issued by the Reserve Bank (Strike out whichever is not applicable)			
Currency**			
Amount of the proposed investment :			
Equity	Loan	Guarantee	Date of Remittance
Details of actual remittance effected :			
(a) From EEFC A/c.			
Equity	Loan	Guarantee(Invoked)	Date of Remittance
(b) By Market Purchases			
Equity	Loan	Guarantee(Invoked)	Date of Remittance
(c) From the ADR/GDR funds parked in India/outside India (Strike out whichever is not applicable)			
Equity	Loan	Guarantee(Invoked)	Date of Remittance
(d) By Swap of Shares			
Equity	Loan	Guarantee(Invoked)	Date of Swap
		XX	
(e) From ECB/ FCCB balances			
Equity	Loan	Guarantee(Invoked)	Date of Transaction
(f) Capitalisation of Exports/Other dues			
Date of capitalization:		Amount:	
(h) Guarantee issued: Date (Fresh / Already Existing Guarantee Period Extended)		Amount:	
Validity Period			

@ Please specify the other dues being capitalised viz., royalty, technical know-how fee, consultancy fees, etc.

** Please indicate name of the foreign currency(FCY) as per SWIFT code.

We hereby confirm that the remittance* has been allowed under the Automatic Route based on the certification given by the statutory auditors (in form **ODA**) confirming compliance with the prescribed terms and conditions by the Indian party/*is in accordance with the terms and conditions of the approval letter issued by the Reserve Bank./*in respect of the invoked guarantee has been made after satisfying that the claim is in conformity with the terms and conditions of the guarantee issued to/on behalf of the JV/WOS abroad.

* strike out whichever is not applicable

Place _____

Date _____

Signature of the Authorised Official
of the Bank

Name : _____

Designation : _____

Tel.No. : _____

FAX No. : _____

Note :

This form should be forwarded to the Overseas Investment Division, Central Office, Foreign Exchange Department, Reserve Bank of India, Amar Building (Third Floor), Fort, Mumbai 400 001 **immediately** after making the remittance/capitalisation of exports, other dues, etc.



**List of Circulars/Notifications consolidated in the Master Circular
Direct Investment in Joint Ventures/ Wholly Owned Subsidiaries Abroad**

Notifications issued

Sl. No.	Notification No.	Date
1.	FEMA.120/RB-2004	July 07, 2004
2.	FEMA.132/RB-2005	March 31, 2005
3.	FEMA.135/RB-2005	May 17, 2005
4.	FEMA.139/RB-2005	August 11, 2005

Sl. No.	Circular No.	Date
1.	AP (DIR Series) Circular No.14	October 01, 2004
2.	AP (DIR Series) Circular No.32	February 09, 2005
3.	AP (DIR Series) Circular No.42	May 12, 2005
4..	AP (DIR Series) Circular No.9	August 29, 2005
5.	AP (DIR Series) Circular No.29	March 27, 2006
6.	AP (DIR Series) Circular No.30	April 5, 2006
