

June 8, 2007.

To

All Category - I Authorised Dealer banks

Madam/Sir,

Foreign Investments in Debentures —Revised Guidelines

1. Attention of Authorised Dealers is invited to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 notified vide Notification No. FEMA 20 / 2000 -RB dated May 3, 2000 as amended from time to time. In terms of Schedule 1 of the notification, a person resident outside India can purchase equity/ preference/ convertible preference shares and convertible debentures issued by an Indian company.
2. It has been noticed that some Indian companies are raising funds under the FDI route through issue of hybrid instruments such as optionally convertible/ partially convertible debentures which are intrinsically debt-like instruments. Routing of debt flows through the FDI route circumvents the framework in place for regulating debt flows into the country. It is clarified that henceforth, only instruments which are fully and mandatorily convertible into equity, within a specified time would be reckoned as part of equity under the FDI Policy and eligible to be issued to persons resident outside India under the Foreign Direct Investment Scheme in terms of Regulation 5 (1) of Foreign Exchange Management (Transfer and Issue of shares by a Person Resident outside India) Regulations, 2000 notified vide Notification No. FEMA 20/2000-RB dated May 3, 2000.
3. FIIs, registered with SEBI, would be eligible to invest as hitherto in listed non-convertible debentures/ bonds issued by Indian companies in terms of RBI/SEBI norms on investment in rupee debt instruments, including the ceilings prescribed from time to time.
4. It is further clarified that companies which have already received funds from outside India for issue of partially/optionally convertible instruments on or before June 7, 2007 may issue such instruments. Further, the existing investments in instruments which are not fully and mandatorily convertible into equity may continue till their current maturity.
5. Necessary amendments to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 are being notified separately.
6. AD Category - I banks may bring the contents of the circular to the notice of their constituents concerned.

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7. 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,

Salim Gangadharan
Chief General Manager