



RESERVE BANK OF INDIA
Foreign Exchange Department
Central Office
Mumbai - 400 001

RBI/2014-15/234
A.P. (DIR Series) Circular No.31

September 17, 2014

To
All Category - I Authorised Dealer Banks

Madam / Sir,

Foreign Direct Investment (FDI) in India - Issue of equity shares under the FDI Scheme against legitimate dues

Attention of Authorised Dealers Category – I (AD Category - I) banks 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, [A.P. \(DIR Series\) Circular No. 15 dated October 1, 2004](#), and [Notification No. FEMA 242/2012- RB Dated October 19, 2012](#).

2. In terms of paragraph 2(4) of the Schedule 1 of the Notification, ibid, an Indian company under the automatic route may issue shares/convertible debentures to a person resident outside India against lump-sum technical know-how fee, royalty External Commercial Borrowings (ECBs) (other than import dues deemed as ECB or Trade Credit as per RBI guidelines) and import payables of capital goods by units in Special Economic Zones subject to certain conditions like entry route, sectoral cap, pricing guidelines and compliance with the applicable tax laws.

3. The extant guidelines for issue of shares/convertible debentures under the automatic route have been reviewed in consultation with the Government of India and, accordingly, it has been decided to permit issue of equity shares against any other funds payable by the investee company, remittance of which does not require prior permission of the Government of India or Reserve Bank of India under FEMA, 1999 or any rules/ regulations framed or directions issued thereunder, provided that:

- i. The equity shares shall be issued in accordance with the extant FDI guidelines on sectoral caps, pricing guidelines etc. as amended by Reserve bank of India, from time to time;

Explanation: Issue of shares/convertible debentures that require Government approval in terms of paragraph 3 of Schedule 1 of FEMA 20 or import dues deemed as ECB or trade credit or payable against import of second hand machinery shall continue to be dealt in accordance with extant guidelines;

- ii. The issue of equity shares under this provision shall be subject to tax laws as applicable to the funds payable and the conversion to equity should be net of applicable taxes.

4. All the other conditions for issuance of equity shares under the automatic route (c.f. paragraph 2(4) (i) (ii) (iii) of schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000) and Government approval route [c.f. paragraph 3 of schedule 1 of Notification No. FEMA 20/2000-RB dated May 3, 2000] shall remain unchanged.

5. AD Category – I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

6. Reserve Bank has since amended the subject Regulations accordingly through the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Twelfth Amendment) Regulations, 2014 which have been notified vide [Notification No. FEMA.315/2014-RB dated July 10, 2014](#), vide G.S.R. No.632 dated September 2, 2014.

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

(B.P.Kanungo)

Principal Chief General Manager