



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

RBI/2014-15/316
A.P. (DIR Series) Circular No. 41

November 25, 2014

To

All Category – I Authorised Dealer Banks

Madam/ Sir,

Routing of funds raised abroad to India

Attention of Authorised Dealers – Category - I (AD Category – I) banks is invited to the extant regulatory framework under the Foreign Exchange Management Act (FEMA), 1999 related to the External Commercial Borrowings (ECB), issuance of guarantees, and overseas direct investment from India.

2. It has come to our notice that some Indian companies are accessing overseas market for debt funds through overseas holding / associate / subsidiary / group companies. It has also been reported that such borrowings are raised at rates exceeding the ceiling applicable in terms of extant FEMA regulations and that the funds so raised are routed to the Indian companies which accounts for sole/major operations of the group. Different modalities/structures are resorted to for channeling such funds for Indian operations including investment in rupee bonds floated by the Indian company.

3. On a review of the matter in light of the existing regulatory framework, it is clarified as under:

- i. Indian companies or their AD Category – I banks are not allowed to issue any direct or indirect guarantee or create any contingent liability or offer any security in any form for such borrowings by their overseas holding / associate / subsidiary / group companies except for the purposes explicitly permitted in the relevant Regulations.

- ii. Further, funds raised abroad by overseas holding / associate / subsidiary / group companies of Indian companies with support of the Indian companies or their AD Category – I banks as mentioned at (i) above cannot be used in India unless it conforms to the general or specific permission granted under the relevant Regulations.
- iii. Indian companies or their AD Category – I banks using or establishing structures which contravene the above shall render themselves liable for penal action as prescribed under FEMA, 1999.

4. AD Category – I banks may bring the contents of this Circular to the notice of their constituents and customers.

5. The directions contained in the 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 required, if any, under any other law.

Yours faithfully

B P Kanungo
Principal Chief General Manager