

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

Notification No. FEMA.181 / RB-2008

dated October 1, 2008

Foreign Exchange Management (Transfer or Issue of Any Foreign Security) (Second Amendment) Regulations, 2008

In exercise of the powers conferred by clause (a) of sub-section (3) of Section 6 and sub-section (2) of 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 Any Foreign Security) Regulations, 2004 ([Notification No. FEMA.120/RB-2004](#) dated July 7, 2004) namely:-

1. Short Title & Commencement:-

- (i) These Regulations shall be called the Foreign Exchange Management (Transfer or Issue of Any Foreign Security) (Second Amendment) Regulations, 2008.
- (ii) These Regulations shall be deemed to have come into effect from the dates specified in these regulations.

2. Amendment of Regulation 2:-

In the Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004, (Notification No. FEMA.120/RB-2004 dated July 7, 2004, hereinafter referred as the principal regulations),

In Regulation 2, after clause (qa), the following new clauses shall be inserted and shall be deemed to have been inserted with effect from the 27th day of June 2008, namely:-

"(qb) 'Trust' means a Trust registered under the Indian Trust Act, 1882".

“(qc) 'Society' means a Society registered under the Societies Registration Act, 1860”.

3. Insertion of new Regulation in Part I :-

In the principal regulations, in Part I, after Regulation 9, the following regulation shall be inserted and shall be deemed to have been inserted with effect from the 27th day of June 2008, namely:-

"9A Overseas Investments by Registered Trust/Society:-

Registered Trusts and Societies engaged in the manufacturing/educational sector satisfying the criteria as per schedule III of the Notification may invest in the same sector(s) in a Joint Venture/Wholly Owned Subsidiary outside India with the prior approval of the Reserve Bank."

4. Insertion of new Schedule: -

In the principal regulations, after Schedule II, the following new Schedule shall be inserted and shall be deemed to have been inserted with effect from the 27th day of June 2008, namely:-

"Schedule III

(See Regulation 9A)

Overseas Investments by Registered Trust/Society

Criteria for overseas investment by Registered Trust/Society

Trust

- i) The Trust should be registered under the Indian Trust Act, 1882.
- ii) The Trust deed permits the proposed investment overseas.
- iii) The proposed investment should be approved by the trustee/s.
- iv) The Authorised Dealer bank is satisfied that the Trust is KYC (Know Your
Your
Customer) compliant and is engaged in a bonafide activity.

- v) The Trust has been in existence at least for a period of three years.
- vi) The Trust has not come under the adverse notice of any Regulatory / Enforcement agency like the Directorate of Enforcement, CBI etc.

Society

- i) The Society should be registered under the Societies Registration Act, 1860.
- ii) The Memorandum of Association and rules and regulations permit the Society to make the proposed investment which should also be approved by the governing body / council or a managing / executive committee.
- iii) The Authorised Dealer bank is satisfied that the Society is KYC (Know Your Customer) compliant and is engaged in a bonafide activity.
- iv) The Society has been in existence at least for a period of three years.
- v) The Society has not come under the adverse notice of any Regulatory / Enforcement agency like the Directorate of Enforcement, CBI etc.

In addition to the registration, the activities which require special license / permission either from the Ministry of Home Affairs, Government of India or from the relevant local authority, as the case may be, the Authorised Dealer Category – I bank should ensure that such special license /permission has been obtained by the applicant.

5. Amendment of Regulation 11:-

In the principal regulations, in Part I, in Regulation 11, in the proviso to sub-regulation (1), for the words “export proceeds have remained unrealized beyond a period of six months from the date of export” the words “export proceeds have remained unrealized beyond the prescribed period of realization” shall be substituted and shall be deemed to have been substituted with effect from the 3rd day of June 2008.

6. Amendment of Regulation 9A:-

In Regulation 9A after the words “manufacturing/educational sector” the words “and which have set up hospital(s) in India” shall be inserted and shall be deemed to have been inserted with effect from the 13th day of August 2008.

(Salim Gangadharan)
Chief General Manager-in-Charge

Foot Note:

(i) The Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 were published in the Official Gazette vide G.S.R.No.757 (E) dated November 19, 2004 and subsequently amended vide:

G.S.R. No.220 (E) dated April 7, 2005

G.S.R. No.337 (E) dated May 27, 2005

G.S.R. No.552 (E) dated August 31, 2005

G.S.R.No. 535(E) dated September 6, 2006

G.S.R.No. 13(E) dated January 5, 2008

G.S.R.No. 209(E) dated March 25, 2008

G. S.R. No. ----- dated -----

G. S.R. No. ----- dated -----

(ii) It is clarified that no person will be adversely affected as a result of retrospective effect being given to these Regulations.

<p>Published in the Official Gazette of Government of India – Extraordinary – Part-II, Section 3, Sub-Section (i) dated 31.10.2008 - G.S.R.No. 756 (E)</p>
