



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

RBI/2009-10/106
A.P. (DIR Series) Circular No. 05

July 22, 2009

To

All Category – I Authorised Dealer banks

Madam / Sir,

Issue of Indian Depository Receipts (IDRs)

Attention of Authorised Dealer Category-I (AD Category-I) banks is invited to Companies (Issue of Indian Depository Receipts) Rules, 2004 (IDR Rules) notified by the Ministry of Corporate Affairs and subsequent amendments made thereto and Circular No. SEBI / CFD / DIL / DIP / 20 /2006 / 3 / 4 dated April 3, 2006 issued by the Securities and Exchange Board of India (SEBI) regarding issue of Indian Depository Receipts by foreign companies in India and the SEBI (Disclosure and Investor Protection) Guidelines, 2000.

2. In order to facilitate the eligible companies resident outside India to issue Indian Depository Receipts (IDRs) through a Domestic Depository and to permit persons resident in India and outside India to purchase, possess, transfer and redeem IDRs, it has been decided to operationalise the IDR Rules, notified by the Government of India, as amended from time to time, with immediate effect.

3. Accordingly, eligible companies resident outside India may issue Indian Depository Receipts (IDRs) through a Domestic Depository. The permission has been granted subject to compliance with the Companies (Issue of Depository Receipts) Rules, 2004 and subsequent amendments made thereto and the SEBI

(DIP) Guidelines, 2000, as amended from time to time. In case of raising of funds through issuance of IDRs by financial/banking companies having presence in India, either through a branch or subsidiary, the approval of the sectoral regulator(s) should be obtained before the issuance of IDRs.

Investment by Persons resident in India / FIIs / NRIs in IDRs

4. The FEMA Regulations shall not be applicable to persons resident in India as defined under section 2(v) of FEMA, 1999, for investing in IDRs and subsequent transfer arising out of transaction on a recognized Stock Exchange in India. Foreign Institutional Investors (FIIs) including SEBI approved sub-accounts of the FIIs, registered with SEBI and Non-Resident Indians (NRIs) may also invest, purchase, hold and transfer IDRs of eligible companies resident outside India and issued in the Indian capital market, subject 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. Further, NRIs are allowed to invest in the IDRs out of funds held in their NRE / FCNR(B) account, maintained with an Authorised Dealer / Authorised bank.

Fungibility

5. Automatic fungibility of IDRs is not permitted.

Period of redemption

6. IDRs shall not be redeemable into underlying equity shares before the expiry of one year period from the date of issue of the IDRs.

Procedure for transfer and redemption of IDRs

7. At the time of redemption / conversion of IDRs into underlying shares, the Indian holders (persons resident in India) of IDRs shall comply with the provisions of the Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 notified vide [Notification No. FEMA 120 / RB-2004 dated July 7 2004](#), as amended from time to time. Accordingly, the following guidelines shall be followed, on redemption of IDRs:

- i. Listed Indian companies may either sell or continue to hold the underlying shares subject to the terms and conditions as per Regulations 6B and 7 of Notification No. FEMA 120/RB-2004 dated July 7, 2004, as amended from time to time.
- ii. Indian Mutual Funds, registered with SEBI may either sell or continue to hold the underlying shares subject to the terms and conditions as per Regulation 6C of Notification No. FEMA 120/RB-2004 dated July 7, 2004, as amended from time to time.
- iii. Other persons resident in India including resident individuals are allowed to hold the underlying shares only for the purpose of sale within a period of 30 days from the date of conversion of the IDRs into underlying shares.
- iv. The FEMA provisions shall not apply to the holding of the underlying shares, on redemption of IDRs by the FIIs including SEBI approved sub-accounts of the FIIs and NRIs.

Others

8. The proceeds of the issue of IDRs shall be immediately repatriated outside India by the eligible companies issuing such IDRs. The IDRs issued shall be denominated in Indian Rupees.

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

10. Necessary amendments to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000 and Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004, are being issued separately.

11. 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-in-Charge