

**Foreign Investments in India – Acquisition of Immovable Property
A.P. (DIR Series) Circular No.43 (Dec 8, 2003)**

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

A.P. (DIR Series) Circular No.43

December 8 , 2003

To

All Authorised Dealers in Foreign Exchange

Madam/ Sirs,

Foreign Investments in India – Acquisition of Immovable Property

Attention of Authorised Dealers is invited to the Foreign Exchange Management (Acquisition and transfer of immovable property in India) Regulations, 2000 notified by the Reserve Bank of India vide Notification No.FEMA.21/2000-RB dated May 3, 2000 as amended from time to time giving effect to the provisions of the Foreign Exchange Management Act (FEMA), 1999 relating to acquisition and transfer of immovable property by foreign companies/persons resident outside India.

2. The Reserve Bank has issued Notification No.[FEMA.93/2003-RB dated June 9, 2003](#) covering further modifications and measures for liberalisation with regard to acquisition of immovable property (copy enclosed). The updated instructions are summarised in the [Annexure](#) for ready reference.

3. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

4. 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)

Yours faithfully,

**Grace Koshie
Chief General Manager**

Annexure

[A.P.(DIR Series) Circular No.43
dated December 8, 2003]

Foreign Investments in India – A summary of updated instructions regarding acquisition of immovable property

1 Acquisition and Transfer of Immovable Property in India

(i) Acquisition by a person resident outside India

A person resident outside India who is a citizen of India can acquire any immovable property in India other than agricultural/ plantation /farm house.

(ii) Acquisition by way of transfer

A person resident outside India may transfer any immovable property other than agricultural or plantation property or farm house to a person resident outside India who is a citizen of India or to a person of Indian origin (PIO) resident outside India or a person resident in India . He may however transfer agricultural land/ plantation property/ farm house only to Indian citizens permanently residing in India. A PIO can transfer any immovable property in India other than agricultural land/ farm house/ plantation property by way of sale to a person resident in India and agricultural land/plantation/farm house by way of gift or sale to only an Indian citizen permanently residing in India. He may also transfer residential or commercial property in India by way of gift to a person resident in India or to a person resident outside India who is a citizen of India or to a person of Indian origin resident outside India.

(iii) Acquisition by way of Gift

A PIO resident outside India can acquire any immovable property other than agricultural land/ farm house/ plantation property in India by purchase or by way of gift and any immovable property by way of inheritance. For acquiring the property, the funds should come from abroad or by debit to any non-resident account, viz., NRE/FCNR/NRO account of the investor. The gift can be received from a person resident in India or from a person resident outside India who is a citizen of India or from a PIO resident outside India.

(iv) Acquisition by way of inheritance

The immovable property can be acquired by PIO by way of inheritance from a person resident in India or a person resident outside India provided he has in turn acquired such property in accordance with Foreign Exchange Law/Regulations in force at the time of acquisition.

2 Purchase/ Sale of immovable Property by Foreign Embassies/Diplomats/ Consulate Generals

Foreign Embassy/Diplomat/Consulate General has been allowed to purchase/ sell immovable property in India other than agricultural land/ plantation property / farm house provided (i) clearance from Government of India, Ministry of External Affairs is obtained for such purchase/ sale, and (ii) the consideration for acquisition of immovable property in India is paid out of funds remitted from abroad through banking channel.

3. Acquisition of Immovable Property for carrying on a permitted activity

A person resident outside India who has a branch, office or other place of business (excluding a liaison office) for carrying on his business activity with requisite approvals in India may acquire an immovable property in India which is necessary for or incidental to carrying on such activity provided that all applicable laws, rules, regulations or directions for the time being in force are duly complied with. The entity/concerned person would have to file a declaration in form IPI with the Reserve Bank, within ninety days from the date of such acquisition. The non-resident is eligible to transfer by way of mortgage the said immovable property to an Authorised Dealer as a security for any borrowing.

4. Repatriation of sale proceeds.

In the event of sale of immovable property other than agricultural land/ farm house/ plantation property in India, Authorised Dealer may allow repatriation of sale proceeds outside India provided;

- i) the immovable property was acquired by the seller in accordance with the provisions of the Foreign Exchange Law in force at the time of acquisition by him or the provisions of FEMA Regulations;
- ii) the amount to be repatriated does not exceed (a) the amount paid for acquisition of the immovable property in foreign exchange received through normal banking channels or out of funds held in Foreign Currency Non-Resident Account or (b) the foreign currency equivalent as on the date of payment, of the amount paid where such payment was made from the funds held in Non-Resident External Account for acquisition of the property.
- iii) In the case of residential property, the repatriation of sale proceeds is restricted to not more than two such properties.
- iv) Authorised Dealers may allow to NRIs/PIOs the facility of repatriation of funds out of balances held in their Non-resident Rupee(NRO) Accounts upto USD one million per calendar year, including sale proceeds of immovable property, subject to production of an undertaking by the remitter and a certificate by a Chartered Accountant in the formats prescribed by the Central Board of Direct Taxes (CBDT) (enclosed to A.P. (DIR Series) Circular No.56 dated November 26, 2002).

5. Prohibition on acquisition or transfer of immovable property in India by citizens of certain countries.

No person being a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal or Bhutan shall acquire or transfer immovable property in India, other than on lease, not exceeding five years, without prior permission of the Reserve Bank.

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

dated June 9, 2003

**Foreign Exchange Management
(Acquisition and Transfer of Immovable Property in India)
(Amendment) Regulations, 2003**

In exercise of the powers conferred by clause (i) of sub-section (3) of Section 6, sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999) and in partial modification of its Notification No.FEMA 21/2000-RB dated May 3, 2000, the Reserve Bank of India makes the following amendments in the Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations 2000, namely :-

1. Short title and Commencement :

- (i) These Regulations may be called the Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) (Amendment) Regulations, 2003.
- (ii) They shall come into force on the date of their publication in the Official Gazette.

2. Amendment of the Regulations

In the Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations 2000, after Regulation 5, the following Regulation shall be inserted namely :

“5A. Purchase / sale of Immovable Property by Foreign Embassies / Diplomats / Consulate Generals

A Foreign Embassy / Diplomat / Consulate General may purchase / sell immovable property in India other than agricultural land / plantation property / farm house provided (i) clearance from Government of India, Ministry of External Affairs is obtained for such purchase / sale, and (ii) the consideration for acquisition of immovable property in India is paid out of funds remitted from abroad through banking channel”.

Sd/-

**(K.J. Udeshi)
Executive Director**