



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

Notification No. FEMA 202 /2009- RB

Dated: November 10, 2009

Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) (Amendment) Regulations, 2009

In exercise of the powers conferred by clause (b) of sub-section (3) of Section 6 and 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 Security by a Person Resident Outside India) Regulations, 2000 ([Notification No. FEMA 20/2000-RB dated 3rd May 2000](#)), namely:-

1. Short Title & Commencement:-

- (i) These Regulations may be called the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) (Amendment) Regulations, 2009.
- (ii) Save as otherwise provided in these Regulations, the provisions of these Regulations shall be deemed have come into force with effect from the dates specified hereunder.

2. Amendment - In the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations 2000, (Notification No. FEMA 20/2000-RB dated 3rd May, 2000) (hereinafter referred to as 'the Principal Regulations'), a new Regulation 12 shall be inserted and shall be deemed to have been inserted with effect from 11th day of July 2008, namely:-

“12. Pledge of shares of company Incorporated in India

(i) Any person being a promoter of a company registered in India (borrowing company), which has raised external commercial borrowing, may pledge the shares of the borrowing company or that of its associate resident companies for the purpose of securing the external commercial borrowing (ECB) raised by the borrowing company,

Provided that no person shall pledge any such share unless no-objection has been obtained from a bank which is an authorised dealer.

(ii) A bank which is an authorized dealer may grant 'no objection' for pledge of shares under clause (i) after satisfying itself of the following :

- (a) the underlying ECB is strictly in compliance with the extant ECB guidelines,
- (b) the loan agreement has been signed by both the lender and the borrower,
- (c) there exists a security clause in the Loan Agreement requiring the borrower to create charge on financial securities, and
- (d) the borrower has obtained Loan Registration Number (LRN) from the Reserve Bank : (Amendment) Rules, 2009.

Provided that the 'no objection' may be granted by a bank which is an authorised dealer subject to the following conditions, namely, -

- (a) the period of such pledge shall be co-terminus with the maturity of the underlying external commercial borrowing;

- (b) in case of invocation of pledge, transfer shall be in accordance with the extant FDI Policy and directions issued by the Reserve Bank;
- (c) the Statutory Auditor has certified that the borrowing company will utilized / has utilized the proceeds of the external commercial borrowing for the permitted end –use/s only.”

3. Amendment of Schedule 5 – In Schedule 5 of the Principal Regulations, in paragraph 1, the existing provisos (i) and (ii) shall be deleted and provisos (iii) and (iv) shall be renumbered as (i) and (ii), respectively and shall be deemed to have been deleted and renumbered with effect from the 17th day of October 2008.

(Salim Gangadharan)
Chief General Manager-in-Charge

Foot Note:

(i) The Principal Regulations were published in the Official Gazette vide G.S.R.No. 406 (E) dated May 8, 2000 in Part II, Section 3, sub-section (i) and subsequently amended as under:

- G.S.R.No. 158(E) dated 02.03.2001
- G.S.R.No. 175(E) dated 13.03.2001
- G.S.R.No. 182(E) dated 14.03.2001
- G.S.R.No. 4(E) dated 02.01.2002
- G.S.R.No. 574(E) dated 19.08.2002
- G.S.R.No. 223(E) dated 18.03.2003
- G.S.R.No. 225(E) dated 18.03.2003
- G.S.R.No. 558(E) dated 22.07.2003
- G.S.R.No. 835(E) dated 23.10.2003
- G.S.R.No. 899(E) dated 22.11.2003
- G.S.R.No. 12(E) dated 07.01.2004
- G.S.R.No. 278(E) dated 23.04.2004
- G.S.R.No. 454(E) dated 16.07.2004
- G.S.R.No. 625(E) dated 21.09.2004
- G.S.R.No. 799(E) dated 08.12.2004
- G.S.R.No. 201(E) dated 01.04.2005
- G.S.R.No. 202(E) dated 01.04.2005

G.S.R.No. 504(E) dated 25.07.2005
G.S.R.No. 505(E) dated 25.07.2005
G.S.R.No. 513(E) dated 29.07.2005
G.S.R.No. 738(E) dated 22.12.2005
G.S.R.No. 29(E) dated 19.01.2006
G.S.R.No. 413(E) dated 11.07.2006
G.S.R.No. 712(E) dated 14.11.2007
G.S.R.No. 713(E) dated 14.11.2007
G.S.R.No. 737(E) dated 29.11.2007
G.S.R.No. 575(E) dated 05.08.2008
G.S.R.No. 896(E) dated 30.12.2008

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

**Published in the Official Gazette of Government
of India – Extraordinary – Part-II, Section 3,
Sub-Section (i) dated 01.12.2009 - G.S.R.No.851(E)**