



RESERVE BANK OF INDIA
Mumbai - 400 001

RBI/2015-16/377

April 21, 2016

A.P. (DIR Series) Circular No. 63

To
All Category – I Authorised Dealer Banks

Madam/ Sir,

**Foreign Investment in units issued by Real Estate Investment Trusts,
Infrastructure Investment Trusts and Alternative Investment Funds
governed by SEBI regulations**

Attention of Authorised Dealers Category – I (AD Category - I) banks is invited to the Foreign Exchange Management (Permissible Capital Account Transactions) Regulations 2000, notified vide [Notification No. FEMA 1/2000-RB dated May 3, 2000](#), as amended from time to time and 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 (Principal Regulations).

2. With a view to rationalising foreign investment regime for Alternative Investment vehicles and to facilitating foreign investment in collective investment vehicles for real estate and infrastructure sectors, it has been decided, in consultation with the Government of India, to allow foreign investment in the units of Investment Vehicles registered and regulated by SEBI or any other competent authority. At present, Investment Vehicle will include the following:

- Real Estate Investment Trusts (REITs) registered and regulated under the SEBI (REITs) Regulations 2014;

- Infrastructure Investment Trusts (InvITs) registered and regulated under the SEBI (InvITs) Regulations, 2014;
- Alternative Investment Funds (AIFs) registered and regulated under the SEBI (AIFs) Regulations 2012.

Further, unit shall mean beneficial interest of an investor in the Investment Vehicle and shall include shares or partnership interests.

3. The salient features of the new investment regime are:

- i) A person resident outside India including a Registered Foreign Portfolio Investor (RFPI) and a Non-Resident Indian (NRI) may invest in units of Investment Vehicles.
- ii) The payment for the units of an Investment Vehicle acquired by a person resident or registered / incorporated outside India shall be made by an inward remittance through the normal banking channel including by debit to an NRE or an FCNR account.
- iii) A person resident outside India who has acquired or purchased units in accordance with the regulations may sell or transfer in any manner or redeem the units as per regulations framed by SEBI or directions issued by RBI.
- iv) Downstream investment by an Investment Vehicle shall be regarded as foreign investment if either the Sponsor or the Manager or the Investment Manager is not Indian 'owned and controlled' as defined in Regulation 14 of the Principal Regulations.
- v) In case the sponsors or managers or investment managers are organized in a form other than companies or LLPs, SEBI shall determine whether the sponsor or manager or investment manager is foreign owned and controlled.
- vi) The extent of foreign investment in the corpus of the Investment Vehicle will not be a factor to determine as to whether downstream investment of the Investment Vehicle concerned is foreign investment or not.

- vii) Downstream investment by an Investment Vehicle that is reckoned as foreign investment shall have to conform to the sectoral caps and conditions / restrictions, if any, as applicable to the company in which the downstream investment is made as per the FDI Policy or Schedule 1 of the Principal Regulations.
- viii) Downstream investment in an LLP by an Investment Vehicle that is reckoned as foreign investment has to conform to the provisions of Schedule 9 of the Principal Regulations as well as the extant FDI policy for foreign investment in LLPs.
- ix) An Alternative Investment Fund Category III with foreign investment shall make portfolio investment in only those securities or instruments in which a RFPI is allowed to invest.
- x) The Investment Vehicle receiving foreign investment shall be required to make such report and in such format to Reserve Bank of India or to SEBI as may be prescribed by them from time to time.

4. Further, in terms of Regulation 4(b) (iv) of [Notification No. FEMA 1/2000-RB dated May 3, 2000](#), foreign investment in any company or partnership firm or proprietary concern or any entity, whether incorporated or not, which is engaged or proposes to engage “in real estate business, or construction of farm houses” is prohibited. However, Explanation (i) *ibid* provides that “real estate business” shall not include development of townships, construction of residential /commercial premises, roads or bridges. It is now clarified that foreign investment in units of REITs registered and regulated under the SEBI (REITs) Regulations, 2014 will not be included in “real estate business” for the purpose of these regulations.

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

6. Reserve Bank has since amended the subject Regulations accordingly through the Foreign Exchange Management (Permissible Capital Account Transactions) (Fourth Amendment) Regulations, 2015, Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Eleventh Amendment) Regulations, 2015 and Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Second Amendment) Regulations, 2016 which have been notified vide [Notification No. FEMA 345/2015-RB dated November 16, 2015](#), vide G.S.R. No.859 (E) dated November 16, 2015, [Notification No. FEMA 355/2015-RB dated November 16, 2015](#), vide G.S.R. No.858 (E) dated November 16, 2015 and [Notification No. FEMA 362/2016-RB dated February 15, 2016](#), vide G.S.R. No.166 (E) dated February 15, 2016 respectively.

7. The directions contained in this circular have been issued under section 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

(Shekhar Bhatnagar)
Chief General Manager-in-Charge