RESERVE BANK OF INDIA
(EXCHANGE CONTROL DEPARTMENT)
CENTRAL OFFICE
MUMBAI 400 001

Notification No.FEMA 1 /2000-RB dated 3rd May 2000

In exercise of the powers conferred by sub-section (2) of Section 6, sub-section (2) of Section 47 of the Foreign Exchange Management Act 1999 (42 of 1999), the Reserve Bank of India makes, in consultation with the Central Government, following regulations relating to capital account transactions, namely :

1. Short title and commencement :-

(i) These Regulations may be called the "Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2000".

(ii) They shall come into force on the 1st day of June, 2000.

2. Definitions :-

In these Regulations, unless the context requires otherwise, -

(a) 'Act' means, the Foreign Exchange Management Act, 1999 (42 of 1999);

(b) "Drawal " means drawal of foreign exchange from an authorised person and includes opening of Letter of Credit or use of International Credit Card or International Debit Card or ATM card or any other thing by whatever name called which has the effect of creating foreign exchange liability.

(c) 'Schedule' means a schedule to these Regulations;

(d) 'Transferable Development Rights' means certificates issued in respect of category of land acquired for public purpose either by Central or State Government in consideration of surrender of land by the owner without monetary compensation, which are transferable in part or whole;

(e) The words and expressions used but not defined in these Regulations shall have the same meanings respectively assigned to them in the Act.

3. Permissible Capital Account Transactions :-

(1) Capital account transactions of a person may be classified under the following heads, namely :-

(A) transactions, specified in Schedule I, of a person resident In India;

(B) transactions, specified in Schedule II, of a person resident outside India.

(2) Subject to the provisions of the Act or the rules or regulations or direction or orders made or issued thereunder, any person may sell or draw foreign exchange to or from an authorised person for a capital account transaction specified in the Schedules;

Provided that the transaction is within the limit , if any, specified in the regulations relevant to the transaction.

4. Prohibition :-

Save as otherwise provided in the Act, rules or regulations made thereunder,

a) no person shall undertake or sell or draw foreign exchange to or from an authorised person for any capital account transaction,

b) no person resident outside India shall make investment in India , in any form, in any company or partnership firm or proprietary concern or any entity, whether incorporated or not, which is engaged or proposes to engage -

(i) in the business of chit fund, or

(ii) as Nidhi Company , or

(iii) in agricultural or plantation activities or

(iv) in real estate business, or construction of farm houses or

(v) in trading in Transferable Development Rights (TDRs).

Explanation:

For the purpose of this regulation, “real estate business” shall not include development of townships, construction of residential/commercial premises, roads or bridges.

5. Method of payment for investment :-

The payment for investment shall be made by remittance from abroad through normal banking channels or by debit to an account of the investor maintained with an authorised person in India in accordance with the regulations made by the Reserve Bank under the Act.

6. Declaration to be furnished :-

Every person selling or drawing foreign exchange to or from an authorised person for a capital account transaction shall furnish to the Reserve Bank , a declaration in the form and within the time specified in the regulations relevant to the transaction.

(JAGDISH CAPOOR)
Deputy Governor

Schedule I

[See Regulation 3 (1) (A)]

Classes of capital account transactions of Persons resident in India

a) Investment by a person resident in India in foreign securities

b) Foreign currency loans raised in India and abroad by a person resident in India

c) Transfer of immovable property outside India by a person resident in India

d) Guarantees issued by a person resident in India in favour of a person resident outside India

e) Export, import and holding of currency/currency notes

f) Loans and overdrafts (borrowings) by a person resident in India from a person resident outside India

g) Maintenance of foreign currency accounts in India and outside India by a person resident in India

h) Taking out of insurance policy by a person resident in India from an insurance company outside India

i) Loans and overdrafts by a person resident in India to a person resident outside India

j) Remittance outside India of capital assets of a person resident in India

k) Sale and purchase of foreign exchange derivatives in India and abroad and commodity derivatives abroad by a person resident in India.

Schedule II

[See Regulation 3 (1) (B)]

Classes of capital account transactions of persons resident outside India

a) Investment in India by a person resident outside India, that is to say,

   i) issue of security by a body corporate or an entity in India and investment therein by a person resident outside India; and

   ii) investment by way of contribution by a person resident outside India to the capital of a firm or a proprietorship concern or an association of persons in India.

b) Acquisition and transfer of immovable property in India by a person resident outside India.

c) Guarantee by a person resident outside India in favour of, or on behalf of, a person resident in India.

d) Import and export of currency/currency notes into/from India by a person resident outside India.

e) Deposits between a person resident in India and a person resident outside India.

f) Foreign currency accounts in India of a person resident outside India.

g) Remittance outside India of capital assets in India of a person resident outside India.