



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

RBI/2013-14/230
A.P. (DIR Series) Circular No.37

September 05, 2013

To,

All Category - I Authorised Dealer banks

Madam / Sir,

Issue of Bank Guarantee on behalf of person resident outside India for FDI transactions

Attention of the Authorised Dealer Category – I (AD Category - I) banks is invited 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, read with Regulation 5(2A) of the Foreign Exchange Management (Deposit) Regulations notified vide [Notification No. FEMA. 5/2000-RB dated May 3, 2000](#), as amended from time to time permitting AD Category – I banks to open Escrow account and Special account on behalf of non-resident acquirer for acquisition/transfer of shares/convertible debentures of an Indian company through open offers/delisting/ exit offers, subject to compliance with the relevant SEBI [Substantial Acquisition of Shares and Takeovers (SAST)] Regulations, 1997, as amended from time to time and other applicable SEBI Regulations and subject to terms and conditions stipulated in Schedule 8 to the Notification *ibid*.

Further, attention of AD Category – I banks is also invited to the Foreign Exchange Management (Guarantee) Regulations, notified vide [Notification No. FEMA. 8/2000-RB dated May 3, 2000](#), as amended from time to time, in terms of which, AD Category-I banks are allowed to give guarantees for specified purposes as stated therein.

2. In order to provide operational flexibility and ease the procedures, it has been decided to permit AD Category –I bank to issue bank guarantee, without prior

approval of the Reserve Bank, on behalf of a non-resident acquiring shares or convertible debentures of an Indian company through open offers/ delisting/exit offers, provided :

- a) the transaction is in compliance with the provisions of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeover) [SEBI(SAST)] Regulations;
- b) the guarantee given by the AD Category –I bank is covered by a counter guarantee of a bank of international repute.

It may be noted that the guarantee shall be valid for a tenure co-terminus with the offer period as required under the SEBI (SAST) Regulations.

3. In case of invocation of the guarantee, the AD Category-I bank is required to submit to the Chief General Manager-in-Charge, Foreign Exchange Department, Reserve Bank of India, Central Office, Mumbai 400 001, a report on the circumstances leading to the invocation of the guarantee.

4. AD Category - I banks may bring the contents of the circular to the notice of their customers/constituents concerned.

5. Reserve Bank of India has since amended the relevant Regulations vide [Notification No.FEMA.265/2013-RB dated March 05, 2013](#), notified vide G.S.R.No.532(E) dated August 05, 2013 and [Notification No. FEMA.267/2013-RB dated March 5, 2013](#) notified vide G.S.R. 573(E) dated August 27, 2013.

6. 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,

(Rudra Narayan Kar)
Chief General Manager-in-Charge