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

Notification No. FEMA 101 /2003-RB

Dated October 3rd , 2003

Foreign Exchange Management [Withdrawal of General Permission to Overseas Corporate Bodies (OCBs)] Regulations, 2003

In exercise of the powers conferred by clauses (b), (d), (e) and (f) of sub-section (3) of Section 6 read with Section 47 of the FEMA, 1999 (42 of 1999) and all other powers available to it in this behalf, the Reserve Bank of India makes the following Regulations:-

Short title and commencement

1. (1) These Regulations may be called Foreign Exchange Management (Withdrawal of General Permission to Overseas Corporate Bodies (OCBs)) Regulations, 2003.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. For the purpose of these Regulations -

(i) “Act” means the Foreign Exchange Management Act 1999;

(ii) "Account" means Savings, Current, Recurring, Fixed Deposit opened and maintained under Non-Resident (External) Account Scheme (NRE Account), Foreign Currency (Non-Resident) Account Banks Scheme (FCNR-B Account) or Non-Resident (Ordinary) Account Scheme (NRO Account);

(iii) “Deposit” includes deposit of money with a bank, company, proprietary concern, partnership firm, corporate body, trust or any other person;

(iv) "Existing account" means an account maintained on the date of commencement of these Regulations;

(v) "Existing investment" means an investment made pursuant to the general permission granted under the Foreign Exchange Management (Transfer and Issue of Security by a Person Resident outside India) Regulations, 2000 provided that

a) in case of Portfolio Investment Scheme, the investment was held as on November 29, 2001 and

b) in other cases, held on the date of commencement of these Regulations;

(vi) “Overseas Corporate Body (OCB) “ means and includes an entity defined in Clause (xi) of Regulation 2 of the Foreign Exchange Management (Deposit) Regulations, 2000 and which was in existence on the date of commencement of these Regulations and immediately prior to such commencement was eligible to undertake transactions pursuant to the general permission granted under the Regulations;

(vii)“ Regulations” means the Regulations made under the Act;

(viii)“Schedule” means Schedule to these Regulations.

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Object and construction of these Regulations

3. These Regulations seek to withdraw the general permission to Overseas Corporate Bodies (OCBs) to undertake transactions in terms of such permission granted under the Regulations and shall be construed accordingly.

Overriding effect

4. Notwithstanding anything contained in any other Regulations, these Regulations shall prevail.

Withdrawal of general permission and unwinding of investments and transactions

5. On the commencement of these Regulations -

(1) a) no fresh account by whatever name called shall be opened or maintained in the name of an OCB.

b) the Regulations specified in column 1 of the Schedule shall be amended as mentioned in Column 2.

c) an existing NRE (Saving and Current) Account held or maintained in the name of an OCB shall be closed and balances repatriated forthwith;

d) an existing NRO (Saving) Account held or maintained in the name of an OCB shall be closed and balances transferred to non-interest bearing NRO (Current) Account. The disposal of balances in such NRO (Current) account shall require specific approval of the Reserve Bank except in the following cases:

i) all local payments in rupees;

ii) remittance outside India of current income in India of the account holder net of applicable taxes;

e) an existing NRE (Recurring/Fixed Deposit) Account or FCNR (B) Account held in the name of an OCB, may be continued till original maturity and on maturity the proceeds shall be repatriated forthwith;

f) an existing NRO (Recurring/Fixed) Account held or maintained in the name of an OCB may be continued till original maturity and on maturity the proceeds shall be credited to NRO (Current) Account;

g) no facility of any nature whatsoever shall be granted on the security of an account held in the name of an OCB;

h) any loan or other facility granted against the security of a Recurring/Fixed Deposit Account held in the name of an OCB, shall not be renewed and shall be closed by adjustment of the proceeds on maturity of the deposit;

(2) a) no investment in any security shall be made by an OCB;

b) an OCB may -

i) transfer an existing investment in the form of shares or convertible debentures held by it, by sale or gift to any non-resident Indian (NRI);

ii) dispose of the existing investment in the form of shares held by it, by sale at a rate not exceeding the prevailing market rate through a registered stock broker on a recognised stock exchange in India;

c) an OCB shall not be eligible to purchase equity or preference shares or convertible debentures offered on right basis by an Indian company, and no Indian company shall offer

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equity or preference shares or convertible debentures on right basis to an OCB;

d) where any offer on right basis made to an OCB before the date of commencement of these Regulations, is existing on that date, the OCB may renounce it in favour of any person resident in India or a person resident outside India who is eligible to invest in a security of an Indian company under the Regulations ;

(3) a) no person resident in India shall borrow from, or lend to, an OCB either in foreign exchange or in Rupees;

b) where any borrowing from or loan to an OCB, whether in foreign exchange or in Rupees made in accordance with the Regulations as applicable, is outstanding on the date of commencement of these Regulations, such borrowing or loan shall not be renewed on becoming due, and no interest thereon shall accrue after it falls due for repayment.

Permission to hedge certain transactions:-

6. An OCB may enter into a forward contract with rupee as one of the currencies with an Authorised Dealer (AD) in India to hedge -

(i) the amount of dividend due to it on an existing investment in the form of shares of an Indian company;

(ii) the balances held in an existing Foreign Currency Non-Resident (FCNR) account or Non-resident External Rupee (NRE- Rupee) Term Deposit account;

(.iii) the amount of existing investment made under Portfolio Investment Scheme in accordance with the provisions of the Foreign Exchange Regulation Act, 1973 or under the notifications issued there under or made in accordance with the provisions of the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000, and in both cases subject to the terms and conditions specified in the proviso to paragraph 1 of Schedule II to The Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000, as amended from time to time.

(Usha Thorat)
Executive Director

Schedule

Amendments to the existing provisions of the FEMA Regulations ;

1	2
Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000	In the Schedule, in paragraph 3, the word 'OCB' shall be deleted.
Foreign Exchange Management (Borrowing or Lending in Rupees) Regulations, 2000	In Regulation 5, the words 'or an overseas corporate body (OCB),' '/Overseas Corporate Bodies(OCBs)' shall be deleted.
Foreign Exchange Management (Deposit) Regulations, 2000	In Regulation 5 (1)(i) and (ii), in Regulation 8(2), in Schedule 1, in Schedule 2, in Schedule 7, the words 'or an overseas corporate body', 'and Overseas Corporate Bodies (OCBs)', 'and OCBs', '/OCBs' shall be deleted
Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000	In Regulation 5(3)(ii) and (4), in Regulation 9(2)(ii), in item Nos 2 and 6 of Annexure 'B' to Schedule 1, in Schedule 3 (paragraph 3), in Schedule 4, in Schedule 5 the words '/OCBs', 'or an Overseas Corporate Body', 'and Overseas Corporate Body', 'or OCB' shall be deleted.
Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000	In Schedule II, the words 'or Overseas Corporate Body' shall be deleted.

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