

Corpsec Hotline

August 26, 2005

GIFT OF INDIAN SECURITIES TO PERSONS RESIDENT OUTSIDE INDIA - PROCEDURE NOTIFIED BY RBI

As per the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations 2000 ("**FEMA Regulations**"), any person resident in India, ("**Donor**"), proposing to transfer any security, by way of gift, to a person resident outside India, ("**Donee**"), is required to make an application to Reserve Bank India ("**RBI**") seeking its approval for making the gift. The RBI, vide its circular dated August 25, 2005 ("**Circular**"), has notified the factors that would be taken into consideration for grant of its approval to the Donor. These are:

1. Eligibility of the Donee to hold these securities
2. Such holding by Donee not to breach the sector caps stipulated for the Indian company whose securities are being gifted ("**Company**")
3. Consideration for the gift not to exceed 5% of the paid up capital of the Company / each series of debentures / each mutual fund scheme
4. Donor and Donee to be close "relatives" as defined in section 6 of the Companies Act, 1956 and
5. Total value of security(ies) to be transferred in a calendar year not to exceed Indian Rupee equivalent of US \$ 25,000.

The Circular also stipulates a host of information and documents to be attached alongwith the application, such as, relationship between the Donor and Donee, reasons for making gift, valuation certificate certifying the value of the securities being transferred and certificate from the Company certifying that the gift shall not breach the sectoral cap and that the consideration for the gift does not exceed 5% of its paid up capital. Accordingly, the Regulation 10 of FEMA Regulations has been amended to incorporate the provisions of the Circular.

-Vyapak Desai & Kishore Joshi

You can direct your queries or comments to the authors

Source:

1. Circular dated August 25, 2005 bearing no. RBI/2005/143/ A.P. (DIR Series) Circular No.08 issued by Reserve Bank of India
2. Notification No. FEMA 137/2005-RB dated July 22, 2005 [Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) (Fourth Amendment) Regulations 2005 issued by Reserve Bank of India

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

Research Papers

The Tour d'Horizon of Data Law Implications of Digital Twins

May 29, 2025

Global Capability Centers

May 27, 2025

Fintech

May 05, 2025

Research Articles

2025 Watchlist: Life Sciences Sector India

April 04, 2025

Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

Audio

CCI's Deal Value Test

February 22, 2025

Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

Vyapak Desai speaking on the danger of deepfakes | Legally Speaking with Tarun Nangia | NewsX

April 01, 2025

**SIAC 2025 Rules: Key changes &
Implications**

February 18, 2025