



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

RBI/2013-14/640
A.P. (DIR Series) Circular No.142

June 12, 2014

To

All Category – I Authorised Dealer Banks

Madam/ Sir,

Transfer of assets of Liaison Office (LO) / Branch Office (BO) / Project Office (PO) of a foreign entity either to its Wholly Owned Subsidiary (WOS) / Joint Venture (JV) / Others in India– Delegation of powers to AD Banks.

Attention of Authorised Dealer Category - I (AD Category - I) banks is invited to the [A.P. \(DIR Series\) Circular No. 88 dated March 01, 2012](#) according to which prior approval of RBI is required for transferring assets of LO/BO to their subsidiaries or other LO/BO or to any other entity.

Presently ADs are delegated with powers to allow closure of the accounts of LO/BO and repatriate the surplus balances subject to submission of prescribed closure documents vide [A.P \(DIR Series\) Circular No.24 dated December 30, 2009](#). The details of opening and closing POs are laid down in Circular No.37 dated November 15, 2003. With a view to smoothen the entire process of closure of LO/BO/PO, it has been decided to delegate the powers relating to transfer of assets of LO/BO/PO to AD Category-I banks subject to compliance with the following stipulations.

- (a) Such proposals will be considered only from LO/BOs who are adhering to the operational guidelines stipulated in our [AP DIR Circular No.23 & 24](#) of December 30, 2009 such as (i) submission of AACs (up to the current financial year) at regular annual intervals with copies endorsed to DGIT (International Taxation) and (ii) obtained PAN from IT Authorities and have

- got registered with ROC under Companies Act 1956. Similarly, proposals from POs should conform to the guidelines issued in [AP DIR Cir.No.44 dated May 17, 2005](#) with regard to initial reporting requirements (para.2.3) and submission of CA certified annual report indicating project status (para.2.4).
- (b) A certificate is to be submitted from the Statutory Auditor furnishing details of assets to be transferred indicating their date of acquisition, original price, depreciation till date, present book value or WDV value and sale consideration to be obtained. Statutory Auditor should also confirm that the assets were not re-valued after their initial acquisition. The sale consideration should not be more than the book value in each case.
 - (c) The assets should have been acquired by the LO/BO/PO from inward remittances and no intangible assets such as good will, pre-operative expenses should be included. AD bank should scrutinise and ensure that no revenue expenses such as lease hold improvements incurred by LO/BOs are capitalised and transferred to JV/WOS.
 - (d) AD bank to ensure payment of all applicable taxes while permitting transfer of assets.
 - (e) Transfer of assets to be allowed by AD banks only when the foreign entity intends to close their LO/BO/PO operations in India. Subsequently, the AD banks should ensure closure of LO/BO in accordance with the stipulations indicated in para.5 (iii) of [A.P \(DIR Series\) Circular No.24 of December 30, 2009](#) and para.5 of [A.P \(DIR Series\) Circular No.37 of November 15, 2003](#) in respect of POs.
 - (f) Credits to the bank accounts of LO/BO/PO on account of such transfer of assets will be treated as permissible credits.

(g) The relevant documents are to be preserved separately for scrutiny by their own auditors and RBI auditors.

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

3. Necessary amendments to the Foreign Exchange Management (Establishment in India of Branch or Office or Other Place of Business) Regulations, 2000 [Notification No. FEMA 22/2000-RB dated May 03, 2000](#) have been issued vide [Notification No.FEMA.295/2014-RB dated February 24, 2014](#), vide G.S.R.No.372(E) dated May 30, 2014.

4. 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,

(C.D. Srinivasan)
Chief General Manager