



India, other than to the citizens of Pakistan. ESOPs can be issued to the citizens of Bangladesh with the prior approval of the FIPB.

- iii) The issuing company is required to report the details of such issues to the Regional Office concerned of the Reserve Bank, within 30 days from the date of issue of shares.

18. Reporting of FDI

(i) Reporting of inflow

- (a) An Indian company receiving investment from outside India for issuing shares / convertible debentures / preference shares under the FDI Scheme, should report the details of the amount of consideration to the Regional Office concerned of the Reserve Bank not later than 30 days from the date of receipt in the Advance Reporting Form enclosed in Annex - 6.

The form can also be downloaded from the Reserve Bank's website

<http://www.rbi.org.in/Scripts/BSViewFemaForms.aspx>.

- (b) Indian companies are required to report the details of the receipt of the amount of consideration for issue of shares / convertible debentures, through an AD Category - I bank, together with a copy/ies of the FIRC/s evidencing the receipt of the remittance along with the KYC report (enclosed as Annex – 7) on the non-resident investor from the overseas bank remitting the amount. The report would be acknowledged by the Regional Office concerned, which will allot a Unique Identification Number (UIN) for the amount reported.

(ii) Time frame within which shares have to be issued

The equity instruments should be issued within 180 days from the date of receipt of the inward remittance or by debit to the NRE/FCNR (B) account of the non-resident investor. In case, the equity instruments are not issued within 180 days from the date of receipt of the inward remittance or date of debit to the NRE/FCNR (B) account, the amount of consideration so received should be refunded immediately to the non-resident investor by outward remittance through normal banking channels or by credit to the NRE/FCNR (B) account, as the case may be. Non-compliance with the above provision would be reckoned as a contravention under FEMA and could attract penal provisions. In exceptional cases, refund of the



amount of consideration outstanding beyond a period of 180 days from the date of receipt may be considered by the Reserve Bank, on the merits of the case.

(iii) Reporting of issue of shares

- (a) After issue of shares (including bonus and shares issued on rights basis) and shares issued under ESOP)/fully and mandatorily convertible debentures / fully and mandatorily preference shares, the Indian company has to file Form FC-GPR, enclosed in Annex - 8, not later than 30 days from the date of issue of shares. The form can also be downloaded from the Reserve Bank's website http://www.rbi.org.in/Scripts/BS_ViewFemaForms.aspx.
- (b) Part A of Form FC-GPR has to be duly filled up and signed by Managing Director/Director/Secretary of the Company and submitted to the Authorised Dealer of the company, who will forward it to the Reserve Bank. The following documents have to be submitted along with Part A:
- (i) A certificate from the Company Secretary of the company certifying that:
 - a) all the requirements of the Companies Act, 1956 have been complied with;
 - b) terms and conditions of the Government's approval, if any, have been complied with;
 - c) the company is eligible to issue shares under these Regulations; and
 - d) the company has all original certificates issued by authorised dealers in India evidencing receipt of amount of consideration.
 - (ii) A certificate from Statutory Auditors or Chartered Accountant indicating the manner of arriving at the price of the shares issued to the persons resident outside India.
- (c) The report of receipt of consideration as well as form FC-GPR have to be submitted by the AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the registered office of the company is situated.
- (d) Part- B of form FC-GPR should be filed on an annual basis by the Indian company, directly with the Reserve Bank⁶. This is an annual return to be submitted by 31st of July every year, pertaining to all investments by way of

⁶ Addressed to the Advisor, Balance of Payment Statistical Division, Department of Statistics and Information Management, Reserve Bank of India, C9, 8th Floor, Bandra-Kurla Complex, Bandra (E), Mumbai – 400051.



direct/portfolio investments/re-invested earnings/others in the Indian company made during the previous years (i.e. the information in Part B submitted by 31st July 2009 will pertain to all the investments made in the previous years up to March 31, 2009). The details of the investments to be reported would include all foreign investments made into the company which is outstanding as on the balance sheet date. The details of overseas investments in the company both under direct / portfolio investment may be separately indicated.

- (e) Issue of bonus/rights shares or stock options to persons resident outside India directly or on amalgamation / merger with an existing Indian company, as well as issue of shares on conversion of ECB / royalty / lumpsum technical know-how fee / import of capital goods by units in SEZs has to be reported in FC-GPR form.

19. Issue Price

Price of shares issued to persons resident outside India under the FDI Scheme, shall be on the basis of SEBI guidelines in case of listed companies. In case of unlisted companies, valuation of shares has to be done by a Chartered Accountant in accordance with the guidelines issued by the erstwhile Controller of Capital Issues (CCI).

20. Foreign Currency Account

Indian companies which are eligible to issue shares to persons resident outside India under the FDI Scheme will be allowed to retain the share subscription amount in a Foreign Currency Account, with the prior approval of Reserve Bank.

21. Transfer of Shares and convertible debentures

- (i) Foreign investors can also invest in Indian companies by purchasing / acquiring existing shares from Indian shareholders or from other non-resident shareholders. General permission has been granted to non-residents / NRIs for acquisition of shares by way of transfer subject to the following:
- a. A person resident outside India (other than NRI and OCB) may transfer by way of sale or gift, the shares or convertible debentures to any person resident outside India (including NRIs).