



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

RBI/2011-12/259

A.P. (DIR Series) Circular No. 45

November 16, 2011

To,

All Category – I Authorised Dealer banks

Madam / Sir,

**Foreign Direct Investment – Reporting of issue / transfer of
'participating interest/right' in oil fields to a non resident as an
Foreign Direct Investment transaction**

Attention of Authorized Dealers Category –I (AD Category-I) banks is invited to Regulations 9 and 10 and para 9 of Schedule I to the Foreign Exchange Management (Transfer of 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. Attention is also invited to [A.P. \(DIR Series\) Circular No.63 dated April 22, 2009](#). In terms of the said regulations, transfer of equity shares / fully and mandatorily convertible debentures/ fully and mandatorily convertible preference shares (hereinafter referred to as 'shares') of an Indian company, from a person resident outside India (non-resident) to a person resident in India (resident) or vice versa, has to be reported to an Authorized Dealer bank within 60 days of transactions. Further, the receipt of consideration for issue of shares as well as the issue of shares of an Indian company, to a non-resident has to be reported to the Reserve Bank of India through an Authorized Dealer bank within 30 days of the transaction (receipt of consideration for issue of shares to a non resident or issue of shares to the non-resident).

2. It has now been decided, in consultation with the Government, to treat the issue / transfer of 'participating interest/ rights' in oil fields to a non- resident as Foreign Direct Investment (FDI) transaction under the extant FDI policy and the FEMA regulations. Accordingly, these transactions have to be reported as FDI transactions in terms of the provisions of Regulations 9 and 10 of the Foreign Exchange Management (Transfer of 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 A.P. (DIR Series) Circular No.63 dated April 22, 2009 as well as paragraph 9 of Schedule I to the Foreign Exchange Management (Transfer of 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. Accordingly, transfer of 'participating interest/ rights' will be reported as 'other' category under Para 7 of revised Form FC-TRS as given in the Annex and issuance of 'participating interest/ rights' will be reported as 'other' category of instruments under Para 4 of Form FC-GPR.

3. Necessary amendments to the Foreign Exchange Management (Transfer of Issue of Security by a Person Resident outside India) Regulations, 2000 notified vide Notification No. FEMA 20/2000-RB dated May 3, 2000 are being notified separately.

4. AD Category – I banks may bring the contents of the circular to the notice of their constituents.

5. 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,

(Meena Hemchandra)
Chief General Manager-in-Charge

Annex
[Annex to A. P. (DIR Series) Circular No. 45
dated November 16, 2011]

Form FC-TRS					
Declaration regarding transfer of shares / compulsorily and mandatorily convertible preference shares (CMCPS) / debentures / other by way of sale from resident to non resident / non-resident to resident					
	(to be submitted to the designated AD branch in quadruplicate within 60 days from the date of receipt of funds)				
	<p>The following documents are enclosed</p> <p><i>For sale of shares / compulsorily and mandatorily convertible preference shares / debentures / other by a person resident in India</i></p> <ol style="list-style-type: none"> i. Consent Letter duly signed by the seller and buyer or their duly appointed agent and in the latter case the Power of Attorney Document. ii. The shareholding pattern of the investee company after the acquisition of shares by a person resident outside India. iii. Certificate indicating fair value of shares from a Chartered Accountant. iv. Copy of Broker's note if sale is made on Stock Exchange. v. Declaration from the buyer to the effect that he is eligible to acquire shares / compulsorily and mandatorily convertible preference shares / debentures under FDI policy and the existing sectoral limits and Pricing Guidelines have been complied with. vi. Declaration from the FII/sub account to the effect that the individual FII / Sub account ceiling as prescribed has not been breached. <p><i>Additional documents in respect of sale of shares / compulsorily and mandatorily convertible preference shares / debentures / other by a person resident outside India</i></p> <ol style="list-style-type: none"> vii. If the sellers are NRIs/OCBs, the copies of RBI approvals, if applicable, evidencing the shares held by them on repatriation/non-repatriation basis. viii. No Objection/Tax Clearance Certificate from Income Tax Authority/ Chartered Account. 				
1	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;">Name of the company</td> <td></td> </tr> <tr> <td>Address (including e-mail , telephone Number, Fax no)</td> <td></td> </tr> </table>	Name of the company		Address (including e-mail , telephone Number, Fax no)	
Name of the company					
Address (including e-mail , telephone Number, Fax no)					

	Activity	
	NIC Code No.	
2	Whether FDI is allowed under Automatic route	
	Sectoral Cap under FDI Policy	
3	Nature of transaction <i>(Strike out whichever is not applicable)</i>	Transfer from resident to non resident / Transfer from non resident to resident
4	Name of the buyer	
	Constitution / Nature of the investing Entity Specify whether <ol style="list-style-type: none"> 1. Individual 2. Company 3. FII 4. FVCI 5. Foreign Trust 6. Private Equity Fund 7. Pension/ Provident Fund 8. Sovereign Wealth Fund (SWF^π) 9. Partnership / Proprietorship firm 10. Financial Institution 11. NRIs / PIOs 12. others 	
	Date and Place of Incorporation	
	Address of the buyer <i>(including e-mail, telephone number. Fax no.)</i>	
5	Name of the seller	
	Constitution / Nature of the	

^π SWF means a Government investment vehicle which is funded by foreign exchange assets, and which manages those assets separately from the official reserves of the monetary authorities.

	disinvesting entity Specify whether 1. Individual 2. Company 3. FII 4. FVCI 5. Foreign Trust 6. Private Equity Fund 7. Pension/ Provident Fund 8. Sovereign Wealth Fund (SWF [¶]) 9. Partnership/ Proprietorship firm 10. Financial Institution 11. NRIs/PIOs 12. others				
	Date and Place of Incorporation				
	Address of the seller (<i>including e-mail, telephone Number Fax no</i>)				
6	Particulars of earlier Reserve Bank / FIPB approvals				
7	Details regarding shares / compulsorily and mandatorily convertible preference shares (CMCPS) / debentures/ others (such as FDI compliant instruments like participating interest/ rights in oil fields, etc.) to be transferred				
	<i>Date of the transaction</i>	<i>Number of shares CMCPS / debentures /other</i>	<i>Face value in Rs.</i>	<i>Negotiated Price for the transfer**in Rs.</i>	<i>Amount of consideration in Rs.</i>
8	Foreign Investments in the company		<i>No. of shares</i>	<i>Percentage</i>	
	Before the transfer				
	After the transfer				
9	Where the shares / CMCPS / debentures / other are listed on Stock Exchange				
	<i>Name of the Stock exchange</i>				
	<i>Price Quoted on the Stock</i>				

[¶] SWF means a Government investment vehicle which is funded by foreign exchange assets, and which manages those assets separately from the official reserves of the monetary authorities.

<i>exchange</i>	
Where the shares / CMCPs / debentures /other are Unlisted	
<i>Price as per Valuation guidelines*</i>	
<i>Price as per Chartered Accountants</i>	
<i>* / ** Valuation report (CA Certificate to be attached)</i>	

Declaration by the transferor / transferee

I / We hereby declare that :

- i. The particulars given above are true and correct to the best of my/our knowledge and belief.
- ii. I/ We, was/were holding the shares compulsorily and mandatorily convertible preference shares / debentures/ other as per FDI Policy under FERA/ FEMA Regulations on repatriation/non repatriation basis.
- iii. I/ We, am/are eligible to acquire the shares compulsorily and mandatorily convertible preference shares / debentures /other of the company in terms of the FDI Policy. It is not a transfer relating to shares compulsorily and mandatorily convertible preference shares / debentures /other of a company engaged in financial services sector or a sector where general permission is not available.
- iv. The Sectoral limit under the FDI Policy and the pricing guidelines have been adhered to.

**Signature of the Declarant or
his duly authorised agent**

Date:

Note:

In respect of the transfer of shares / compulsorily and mandatorily convertible preference shares / compulsorily and mandatorily convertible debentures/ other from resident to non resident the declaration has to be signed by the non resident buyer, and in respect of the transfer of shares / compulsorily and mandatorily convertible preference shares / compulsorily and mandatorily convertible debentures/ other from non-resident to resident the declaration has to be signed by the non-resident seller.

Certificate by the AD Branch

It is certified that the application is complete in all respects.

The receipt /payment for the transaction are in accordance with FEMA Regulations / Reserve Bank guidelines.

Signature

Name and Designation of the Officer

Date: Name of the AD Branch

AD Branch Code

Know Your Customer (KYC) Form in respect of the non-resident investor

Registered Name of the Remitter / Investor (Name, if the investor is an Individual)	
Registration Number (Unique Identification Number* in case remitter is an Individual)	
Registered Address (Permanent Address if remitter Individual)	
Name of the Remitter's Bank	
Remitter's Bank Account No.	
Period of banking relationship with the Remitter	

*Passport No., Social Security No, or any Unique No. certifying the bonafides of the remitter as prevalent in the remitter's country.

We confirm that all the information furnished above is true and accurate as provided by the overseas remitting bank of the non-resident investor.

(Signature of the Authorised Official
of the AD bank receiving the remittance)

Date:

Place:

Stamp :

Proforma

Statement of inflows/outflows on account of remittance received/made in connection with transfer of shares / compulsorily and mandatorily convertible preference shares / debentures/others/other, by way of sale

Category-wise

Part A - NRI/erstwhile OCB

Part B - Foreign National/non-resident incorporated entity

Part C - Foreign Institutional Investors

Inflow -Transfer from resident to non-resident

[Amount in Rs.]

Date of Transaction	Name of the Company	Activity	NIC Code	Name of the Buyer	Constitution/ Nature of Business of the Buyer	Name of the Seller	Constitution/ Nature of Business of the Seller	No. of Shares transferred	Face Value	Sale price per share	Total Inflow
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

Outflow - Transfer from non-resident to resident

[Amount in Rs.]

Date of Transaction	Name of the Company	Activity	NIC Code	Name of the Seller	Constitution/ Nature of Business of the Seller	Name of the Buyer	Constitution/ Nature of Business of the Buyer	No. of Shares transferred	Face Value	Sale price per share	Total Inflow
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)