

# AMENDMENT TO THE ISSUE OF FOREIGN CURRENCY CONVERTIBLE BONDS AND ORDINARY SHARES (THROUGH DEPOSITORY RECEIPT MECHANISM) SCHEME, 1993

## A.P. (DIR SERIES 2013-14) CIRCULAR NO. 69, DATED 8-11-2013

Attention of Authorized Dealer Category-I (AD Category-I) banks is invited to [A.P. \(DIR Series\) Circular No.11 dated September 5, 2005s](#) regarding issue of American Depository Receipts (ADRs)/ Global Depository Receipts (GDRs) read with Paragraph 4 of Schedule 1 to the Foreign Exchange Management (Transfer or 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, in terms of which unlisted Indian companies which have not yet accessed Global Depository Receipts/ Foreign Currency Convertible Bond route for raising capital in the international market were required to have prior or simultaneous listing in the domestic market.

2. On a review, it has now been decided to allow unlisted companies incorporated in India to raise capital abroad, without the requirement of prior or subsequent listing in India, initially for a period of two years, subject to conditions mentioned below. This scheme will be implemented from the date of the Government Notification of the scheme, subject to review after a period of two years. The investment shall be subject to the following conditions:

- (a) Unlisted Indian companies shall list abroad only on exchanges in IOSCO/FATF compliant jurisdictions or those jurisdictions with which SEBI has signed bilateral agreements;
- (b) The ADRs/ GDRs shall be issued subject to sectoral cap, entry route, minimum capitalisation norms, pricing norms, etc. as applicable as per FDI regulations notified by the Reserve Bank from time to time;
- (c) The pricing of such ADRs/GDRs to be issued to a person resident outside India shall be determined in accordance with the captioned scheme as prescribed under paragraph 6 of Schedule 1 of Notification No. FEMA. 20 dated May 3, 2000, as amended from time to time;
- (d) The number of underlying equity shares offered for issuance of ADRs/GDRs to be kept with the local custodian shall be determined upfront and ratio of ADRs/GDRs to equity shares shall be decided upfront based on applicable FDI pricing norms of equity shares of unlisted company;
- (e) The unlisted Indian company shall comply with the instructions on downstream investment as notified by the Reserve Bank from time to time;
- (f) The criteria of eligibility of unlisted company raising funds through ADRs/GDRs shall be as prescribed by Government of India;
- (g) The capital raised abroad may be utilised for retiring outstanding overseas debt or for bona fide operations abroad including for acquisitions;
- (h) In case the funds raised are not utilised abroad as stipulated above, the company shall repatriate the funds to India within 15 days and such money shall be parked only with AD Category-1 banks recognised by RBI and shall be used for eligible purposes ;
- (i) The unlisted company shall report to the Reserve Bank as prescribed under sub-paragraphs (2) and (3) of Paragraph 4 of Schedule 1 to FEMA Notification No. 20.

3. A copy of the Press Release dated September 27, 2013 issued by Ministry of Finance, Government of India and the Government Notification dated October 11, 2013 are annexed (Annex 1 and 2, respectively).

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

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.

[Annex 1](#)

[Annex 2](#)