

RBI/2014-2015/419  
A.P. (DIR Series) Circular No.59

January 22, 2015

To  
All Category-I Authorised Dealer Banks

Madam / Sir,

**Overseas Direct Investments by proprietorship concern / unregistered partnership firm in India - Review**

Attention of the Authorised Dealer (AD - Category I) banks is invited to the provisions of the Notification No. FEMA.120/RB-2004 dated July 7, 2004 [Foreign Exchange Management (Transfer or Issue of any Foreign Security) (Amendment) Regulations, 2004] (the Notification), as amended from time to time.

2. Keeping in view the changes in the definition / classification of the exporters as per the Foreign Trade Policy of the Ministry of Commerce and Industry issued from time to time, it has been decided to review the policy framework for Overseas Direct Investments (ODI) by a proprietorship concern / unregistered partnership firm in India. Accordingly, henceforth, the following revised terms and conditions are required to be complied with for considering the proposal of ODI, by a proprietorship concern / unregistered partnership firm in India, by the Reserve Bank under the approval route:

- a. The proprietorship concern / unregistered partnership firm in India is classified as 'Status Holder' as per the Foreign Trade Policy issued by the Ministry of Commerce and Industry, Govt. of India from time to time;
- b. The proprietorship concern / unregistered partnership firm in India has a proven track record, i.e., the export outstanding does not exceed 10% of the average export realisation of the preceding three years and a consistently high export performance;
- c. The Authorised Dealer bank is satisfied that the proprietorship concern / unregistered partnership firm in India is KYC (Know Your Customer) compliant, engaged in the proposed business and has turnover as indicated;
- d. The proprietorship concern / unregistered partnership firm in India has not come under the adverse notice of any Government agency like the Directorate of Enforcement, Central Bureau of Investigation, Income Tax Department, etc. and does not appear in the exporters' caution list of the Reserve Bank or in the list of defaulters to the banking system in India; and
- e. The amount of proposed investment outside India does not exceed 10 per cent of the average of last three years' export realisation or 200 per cent of the net owned funds of the proprietorship concern / unregistered partnership firm in India, whichever is lower.

3. Necessary amendments to the Notification *ibid* has been issued vide Notification No. FEMA.325/RB-2014 dated November 12, 2014 (copy enclosed), which is effective from the date of publication in the Gazette i.e. January 05, 2015.

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

---

This document has been compiled as service to our clients. We recommend that you seek professional advise prior to initiating action on specific issues.

**Lunawat & Co.**

Chartered Accountants

E-mail: [ca@lunawat.com](mailto:ca@lunawat.com), [lunawat@vsnl.com](mailto:lunawat@vsnl.com).

Website: [www.lunawat.com](http://www.lunawat.com).

5. The directions contained in this Circular have been issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act (FEMA), 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

Please Note:

Status Holder as per clause 2(a) above means an exporter recognized as Export House/Trading House etc. by DGFT/Development Commissioner. Under the present Foreign Trade Policy, Government recognizes exporters based on their export performance and they are called 'status holders'. As per FTP 2009-14, Chapter-3 (Promotional Measures) Applicants are categorized depending on his total FOB (FOR - for deemed exports) export performance during current plus previous three years (taken together) upon exceeding limit below. For Export House (EH) Status, export performance is necessary in at least two out of four years (i.e., current plus previous three years). The Status categories are as under:

Status Category	Export Performance FOB / FOR Value (Rupees in Crores)
Export House (EH)	20
Star Export House (SEH)	100
Trading House (TH)	500
Star Trading House (STH)	2500
Premier Trading House (PTH)	7500

This document has been compiled as service to our clients. We recommend that you seek professional advise prior to initiating action on specific issues.

**Lunawat & Co.**

Chartered Accountants

E-mail: [ca@lunawat.com](mailto:ca@lunawat.com), [lunawat@vsnl.com](mailto:lunawat@vsnl.com).

Website: [www.lunawat.com](http://www.lunawat.com).