



## **Issue of Indian Depository Receipts ('IDR') operationalised by the Reserve Bank of India ('RBI') under foreign exchange regulations**

The RBI through its A.P. (DIR Series) Circular No. 05 dated 22 July 2009 has operationalised the IDR Rules / Scheme under the Foreign Exchange Management Act 1999 ('FEMA') and its Rules / Regulations. The IDR Rules / Scheme facilitates eligible foreign companies to issue IDRs through a Domestic Depository and permit persons (resident in India / outside India) to purchase, possess, transfer and redeem IDRs.

### **Framework for issue of IDRs**

Pursuant to the RBI Circular:

- Eligible companies' resident outside India can issue IDRs through a Domestic Depository subject to compliance with the Companies (Issue of Depository Receipts) Rules 2004 and SEBI (Disclosure and Investor Protection) Guidelines 2000.
- Financial or banking companies having presence in India either through a Branch or Subsidiary are required to obtain prior approval of the sectoral regulator(s) for raising funds through issuance of IDRs.

### **Investment by Persons resident in India / FIIs / NRIs in IDRs**

Pursuant to the RBI Circular:

- Foreign Exchange Regulations would not apply to persons resident in India investing in IDRs and their subsequent transfer arising out of a transaction on a Recognized Stock Exchange in India.
- Foreign Institutional Investors ('FIIs') / their approved sub-accounts can invest / divest in IDRs within the permissible ceilings / compliance framework i.e. FEMA Inbound Regulation (Notification No. 20/ 2000-RB dated 3 May 2000)

- NRIs can invest in IDRs within the permissible ceiling / compliance framework under FEMA (Notification No. 20/ 2000-RB dated 3 May 2000) including out of funds held in their NRE / FCNR(B) bank accounts.

#### **Other salient features**

- Automatic fungibility of IDRs is not permitted.
- IDRs cannot be redeemed into underlying equity shares before the expiry of one year from the date of issue.
- For Listed Indian Companies and Indian Mutual Funds, Redemption / conversion of IDRs into underlying shares and its holding will need to fall in line with the FEMA Outbound Regulations (Notification No. 120/ 2000-RB dated 7 July 2004). For other residents / entities (excluding FIIs / their approved sub-accounts), holding of shares on conversion of IDRs allowed only for 30 days for the purpose of sale.
- IDRs to be denominated in Indian Rupees and its proceeds are to be immediately repatriated outside India.

***RBI Circular No. 05 dated 22 July 2009***

#### **Disclaimer**

*The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.*

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