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TOPICS

» RBI□S GUIDELINES ON OWNERSHIP AND GOVERNANCE OF PRIVATE BANKS AND ROADMAP FOR FOREIGN BANKS

In keeping with the Finance Minister□s announcement in his Union Budget speech, the Reserve Bank of India (□RBI□) has announced guidelines for ownership and governance of private banks and a roadmap for foreign banks in India.

Guidelines on ownership and governance of private banks:

The broad principles underlining the policy and process, which are to be □transparent and fair□ , are as under:

- Ultimate ownership and control of private sector banks to be well diversified. No single entity or group of related entities to have shareholding or control, directly or indirectly, in any bank over 10% of paid up capital. Further, Banks (including foreign banks having branch presence in India) / Financial Institutions ("FIs") should not acquire fresh stake in a bank□s equity shares, if in so doing its holding will exceed 5% of the investee bank□s equity capital. Large industrial houses may strategic investments, not exceeding 10%, subject to prior RBI approval. Higher levels of holding may be permitted in restructuring of problem / weak banks or in the interest of consolidation;

- All Important Shareholders (shareholding of 5% and above, including for Foreign Direct Investment) are □fit and proper□ as per the RBI guidelines dated February 3, 2004. Further, RBI may seek certification from concerned Foreign Institutional Investors (□FIIs□) of all beneficial interest. Fit and proper criteria, to be the over-riding consideration while ensuring adequate investments, appropriate restructuring and consolidation;

- The CEO & directors who manage the bank observe sound corporate governance principles and are fit and proper as per RBI Circular dated June 25, 2004. not more than 1 family member or close relative or associate (partner, employee, director, etc.) should be on the Board; and

- Private sector banks have the minimum prescribed capital / net worth (Rs. 3 billion);
- At all times, aggregate foreign investment in private banks from all sources (FDI, FII, NRI) cannot exceed 74%.

<u>Roadmap for foreign banks in India:</u>

The roadmap is divided into 2 phases.

During the 1st phase (March 2005 to March 2009), foreign banks wishing to establish presence in India for the 1st time may either choose to operate through branch presence or set up a 100% wholly owned subsidiary ("WoS"), following the one-mode presence criterion. Foreign banks already operating may convert existing branches to WoS, following the one-mode presence criterion. A WoS is to have a minimum capital of Rs. 3 billion and maintain a capital adequacy ratio of 10%.

Further, permission for acquisition of holding in Indian private sector banks by eligible foreign banks will be limited to banks identified by RBI for restructuring. In considering an application, for acquisition of 5% or more in a private bank by a foreign bank, RBI will look into the standing and reputation of the foreign bank, globally as well as in India, and the desired level and nature of presence of the foreign bank in India. RBI may also specify, if necessary, that the investor bank make a minimum acquisition of 15% or more and may also specify the period of time for such acquisition.

Notably, amendments are to be made to the Banking Regulation Act, 1949, to provide that the economic ownership of investors is reflected in voting rights.

The 2nd phase will commence in April 2009 after a review of the experience gained and after due consultation with all the stakeholders in the banking sector.

In this phase, there shall be a removal of limitations on operations of the WoS and treating on par with domestic banks. Further, the WoS on completion of a minimum prescribed operation period may list and dilute their stake (by way of Initial Public Offer or offer for sale) so that at least 26% of paid up capital is held by resident Indians. Finally, foreign banks may be allowed to enter into merger and acquisition transactions with any private sector bank in India subject to the overall investment limit of 74%.

For further details please contact the Capital Markets Team.

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