

**Exim Bank's Line of Credit of US \$ 5 Million
to Hatton National Bank Ltd. (HNB), Sri Lanka
A.P.(DIR Series) Circular No.1 (July 2, 2003)**

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai 400 001**

A.P.(DIR Series) Circular No.1

July 2, 2003

To
All Authorised Dealers in Foreign Exchange

Madam / Sirs,

**Exim Bank's Line of Credit of US \$ 5 Million
to Hatton National Bank Ltd. (HNB), Sri Lanka**

Export-Import Bank of India (Exim Bank) has concluded an agreement with Hatton National Bank Ltd. (HNB), Sri Lanka on February 12, 2003, making available to the latter, a line of credit (LOC) upto an aggregate sum of US \$ 5 Million (U.S. Dollar five million only). The credit has become effective from May 20, 2003 and is available for financing export from India of capital goods, plant and machinery, industrial manufactures, consumer durables and other items which are eligible for being exported under the Exim Policy of the Government of India and related services to buyers in the borrower's country, i.e. Sri Lanka.

2. The terminal dates for opening letters of credit and utilization of credit are November 19, 2004 and May 19, 2005, respectively.

3. Shipments under the credit will have to be declared on GR / SDF Forms as usual.

4. No agency commission shall be payable in respect of exports financed under the above line of credit. However, Reserve Bank may consider, on merit, requests for payment of commission upto a maximum extent of 5% of the f.o.b. / c&f / c.i.f. value in respect of goods exported and which require after-sales service. In such cases, commission will have to be paid in Sri Lanka only by deduction from the invoice of the relevant shipment and the reimbursable amount by the Exim Bank to the negotiating bank will be 90 per cent of the f.o.b. / c&f / c.i.f. value minus the commission paid. Approval for payment of commission should be obtained before the relevant shipment is effected.

5. Authorised dealers may bring the contents of this circular to the notice of their exporter constituents and advise them to obtain full details of the Line of Credit from Exim Bank's Office or its web-site.

6. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,
Grace Koshie
Chief General Manager

Exim Bank's Line of credit to overseas banking institutions/ financial institutions
A.P.(DIR series) Circular No.2 (July 14, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai – 400 001

A.P.(DIR series) Circular No.2

July 14, 2003

To

All Authorised Dealers in Foreign Exchange

Madam / Sirs,

Exim Bank's Line of credit to overseas banking
institutions/ financial institutions

Attention of authorised dealers is invited to the A.P.(DIR Series) Circulars listed below, regarding Lines of Credit extended by Export Import Bank of India (EXIM Bank) to foreign institutions.

Sr. No.	A.P.(DIR Series) Circular No.	Date	Subject
1.	30	11.10.2002	Line of credit of USD 10 million to Banca Comerciala Romana(BCR),Romania.
2.	47	12.11.2002	Line of credit of USD 10 million to Eastern and Southern African Trade and Development Bank (PTA Bank)
3.	80	18.02.2003	Line of credit of USD 25 million to Vneshtorgbank, Russia.
4.	86	04.03.2003	Line of credit of USD 5 million to Seychelles Marketing Board(SMB)

2. It is now clarified that the list of eligible goods for finance out of the credit annexed to the above mentioned circulars are only illustrative and indicative in nature. Capital goods, plant and machinery, industrial manufactures, consumer durables and other items which are eligible for being exported under the Exim Policy of the Government of India will be eligible for being financed under the Line of Credit facility.

3. Authorised dealers may bring the contents of this circular to the notice of their exporter constituents.

4. The directions contained in this circular have been issued under Section 10(4) and Section 11(I) of the Foreign Exchange Management Act,1999 (42 of 1999).

Yours faithfully,

Grace Koshie
Chief General Manager

Current Account Transactions - Liberalisation
A.P.(DIR Series) Circular No.3 (July 17, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai – 400 001

A.P.(DIR Series) Circular No.3

July 17, 2003

To
All Authorised Dealers in Foreign Exchange

Madam/Sirs,

Current Account Transactions - Liberalisation

Attention of authorised dealers is invited to the existing limits for release of foreign exchange under Schedule III to Rule 5 of Foreign Exchange Management (Current Account Transactions) Rules, 2000 as amended from time to time. As a step towards further liberalisation, it has been decided to raise the present limits as detailed below :

Sr. No.	Item No. of the Schedule III	Purpose	Existing limit (in USD)	Proposed limit (in USD)
1	5	Employment abroad	5,000	100,000
2	6	Emigration	5,000	100,000
3	7(ii)	Maintenance of close relatives abroad	5,000	100,000
4	10	Education abroad	30,000	100,000

2. Accordingly, authorised dealers may allow remittances for amounts upto the limits mentioned above for each category, without insisting on any supporting documents but on the basis of self declaration incorporating the basic details of the transaction and submission of Application in Form A2. Authorised dealers should also ensure that payment for purchase of foreign exchange is made by the applicant by means of cheque or demand draft or by debit to his/her account.

Medical Treatment

3. Attention of authorised dealers is also invited to A.P. (DIR Series) Circular No.17 dated September 12, 2002, in terms of which foreign exchange upto USD 50,000 or its equivalent, can be released for medical treatment abroad, without insisting on any estimate from a hospital/doctor. It has since been decided that authorised dealers may henceforth release foreign exchange upto USD 100,000 or its equivalent, to resident Indians for medical treatment abroad, without insisting on any estimate from a hospital/doctor in India/abroad. The other conditions, as stated in paragraph 3 thereof, will remain unchanged.

Consultancy Services

4. Further, it has also been decided to raise the limit for remittance towards consultancy services procured from outside India to USD 1 million per project, as against the present limit of USD 100,000, stipulated at item 15 of Schedule III *ibid*. Authorised dealers may allow the remittance upto USD 1 million subject to the applicant submitting documents to their satisfaction.

5. Necessary amendments to the Foreign Exchange Management (Current Account Transactions) Rules, 2000 are being notified separately.

6. Authorised dealers may bring the contents of the circular to the notice of their constituents concerned.

7. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

Grace Koshie
Chief General Manager

Merchanting Trade Transactions – Clarifications - Short term credit
A.P. (DIR Series) Circular No.4 (July 19, 2003)

Reserve Bank Of India
Exchange Control Department
Central Office
Mumbai - 400 001

A.P. (DIR Series) Circular No.4

July 19, 2003

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

Merchanting Trade Transactions – Clarifications - Short term credit

Attention of authorised dealers is invited to the provisions of A.P.(DIR Series) circular No.25 dated September 27, 2002 regarding simplification of procedure for financing imports into India by way of Suppliers' or Buyers' Credit. It is clarified that short term credit either by way of suppliers' credit or buyers' credit, as envisaged in the aforementioned circular is not available for merchanting trade or intermediary trade transactions.

2. While undertaking bonafide merchanting trade transactions on behalf of their trader clients, authorised dealers should ensure that the terms of payment for the import leg and the export leg of the transactions are such that :

- i) the liability for the import leg of the transaction is extinguished by the payment received for the export leg of the transaction **without any delay**; and
- ii) the entire merchant trade transaction is completed within a period of 6 months.

3. Authorised dealers may bring the contents of this circular to the notice of their constituents concerned.

4. The directions contained in this circular have been issued under section 10(4) and section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

Grace Koshie
Chief General Manager

Foreign Technology Collaboration – Royalty Payment – Liberalisation
A.P. (DIR Series) Circular No.5 (July 21, 2003)

Reserve Bank of India
Exchange Control Department
Central office
Mumbai - 400 001

A.P. (DIR Series) Circular No.5

July 21, 2003

To
All Authorised Dealers in Foreign Exchange

Madam / Sirs,

Foreign Technology Collaboration –
Royalty Payment – Liberalisation

Attention of authorised dealers is drawn to the Government policy on payment of royalty under Foreign Technology Collaboration. Presently, only wholly owned subsidiaries are allowed to pay royalty to offshore parent companies abroad without any restriction on the duration of payment under the automatic route.

2. With a view to further liberalising the foreign technology collaboration agreement policy and extending a uniform policy dispensation, Government of India has issued a Press Note No.2 (2003 Series) dated June 24, 2003 (copy enclosed), in terms of which all companies, irrespective of the extent of foreign equity in the shareholding, who have entered into foreign technology collaboration agreements may henceforth be permitted on the automatic approval route to make royalty payments at 8% on exports and 5% on domestic sales without any restriction on the duration of royalty payments.

3. All cases of payment of royalty under the automatic route will continue to require prior registration with Reserve Bank in terms of Rule 5 read with item 14 of Schedule III of the Foreign Exchange Management (Current Account Transactions) Rules, 2000 as notified under the Notification No.G.S.R.381(E) dated May 3, 2000 of the Government of India.

4. The ceiling on payment of lumpsum fee/royalty on the automatic route would continue to apply in all cases.

5. Authorised dealers may bring the contents of this circular to the notice of their constituents concerned.

6. The directions contained in the circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

Grace Koshie
Chief General Manager

Resurgent India Bonds - Forward Contracts – Clarification
A.P. (DIR Series) Circular No.6 (July 23, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai - 400 001

A.P. (DIR Series) Circular No.6

July 23, 2003

To
All Authorised Dealers in Foreign Exchange
Madam / Sirs,

Resurgent India Bonds - Forward Contracts - Clarification

Attention of authorised dealers is invited to paragraph 2 of Schedule II to Notification No. FEMA 25/RB-2000 dated May 3, 2000, which lists out the exposure for which forward cover can be offered by authorised dealers to Non-Resident Indians/Overseas Corporate Bodies.

2. As investments in Resurgent India Bonds are not covered by the above provisions and since original terms and conditions of the Resurgent India Bonds issue as prescribed in offer document, had not envisaged the availability of forward cover for the maturing bonds, banks are advised that no forward cover should be offered to Non-Resident Indians/Overseas Corporate Bodies holding Resurgent India Bonds.
3. Authorised dealers may bring the contents of this circular to the notice of their constituents concerned.
4. The directions contained in this circular have been issued under section 10(4) and section 11(1) of the Foreign Exchange Management Act 1999 (42 of 1999).

Yours faithfully,

Grace Koshie
Chief General Manager

Current Account Transactions - Liberalisation – Clarifications
A.P. (DIR Series) Circular No.7 (August 12, 2003)

Reserve bank of india
Exchange control department
Central office
Mumbai 400 001

A.P. (DIR Series) Circular No.7

August 12, 2003

To
All Authorised Dealers in Foreign Exchange

Madam/Sirs,

Current Account Transactions - Liberalisation - Clarifications

Attention of Authorised dealers is invited to paragraphs 1, 2 and 3 of A.P. (DIR Series) Circular No.3 dated July 17, 2003, conveying liberalisation in the remittance facilities for employment, emigration, education, maintenance of close relatives and medical treatment abroad. It has come to our notice that at the branch level, authorised dealers continue to insist on documents in support of the request for above remittances, rather than relying on self declaration of essential information, as envisaged in the circular under reference.

2. It is, therefore, reiterated that remittances may be allowed for the purposes detailed in our circular, based on self certification of the purposes, as also other basic details of the transaction, while ensuring that the payment for purchase of the foreign exchange by the applicant, is by means of cheque or demand draft or by debit to his account.

3. It is further clarified that the onus of furnishing the correct details in the application, will remain with the applicant who has certified the details relating to the purpose of such remittance.

4. As regards consultancy services, the directions contained in paragraph 4 of our A.P. (DIR Series) Circular No.3 dated July 17, 2003 remain unchanged.

5. The above clarifications may be brought to the notice of all the dealing staff to ensure that the liberalised measures are implemented in letter and spirit.

6. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

F.R.Joseph
Chief General Manager

Foreign Exchange Management Act, 1999
A.P. (DIR Series) Circular No.8 (Aug 16 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai - 400 001

A.P. (DIR Series) Circular No.8

August 16, 2003

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

Foreign Exchange Management Act, 1999

Attention of authorised dealers is invited to A.P.(DIR Series) circulars indicated in the Annexure. It was mentioned therein that necessary amendments to the Foreign Exchange Management Regulations, 2000 were being issued separately. The relevant amendments issued by Reserve Bank and notified by the Government, in the Official Gazette, are indicated in the Annexure.

2. A copy each of these Notifications mentioned in the Annexure is enclosed to enable authorised dealers to carry out the amendments in the relevant notifications.
3. Authorised dealers may bring the contents of this circular to the notice of their constituents concerned.
4. The directions contained in this circular have been issued under section 10(4) and section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

Grace Koshie
Chief General Manager

Annexure

[A.P.(DIR Series) Circular No.8
dated August 16, 2003]

I. Reserve Bank Notifications – Amendment to Foreign Exchange Management

Regulations, 2000 issued under the Foreign Exchange Management Act, 1999

Sr. No.	A.P. DIR (Series) Circular		FEMA Notification	
	No. and date	Subject	No./date/subject	G.S.R. No.
1.	2.	3.	4.	5.
1.	34/1.4.2002	Facility to Status Holder Exporters – Credit to the EEFC account	FEMA.No.58/RB-2002/ 1.4.2002 / Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) (Second Amendment) Regulations, 2002	474 (E)
2.	35/1.4.2002	Export of Goods and Services – Facilities to Status Holder Exporters	FEMA.No.57/ RB-2002 /1.4.2002 / Foreign Exchange Management (Export of Goods and Services) (Amendment) Regulations, 2002	473(E)
3.	40/29.4.2002	Investment in and Borrowing from Overseas Markets	FEMA.No.60/ RB-2002 / 29.4.2002 / Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) (Amendment) Regulations, 2002	476(E)
4.	58/2.12.2002	Indian Direct Investment in SAARC countries and Myanmar	FEMA.No.79/ RB-2003 / 15.1.2003 / Foreign Exchange Management (Transfer or issue of any Foreign Security) (Amendment) Regulations, 2003	34 (E)
5.	62/17.12.2002	Exchange Earners' Foreign Currency (EEFC) Account Scheme	FEMA.No.77/ RB-2002 / 25.11.2002 / Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) (Sixth Amendment) Regulations,	224(E)

			2002	
6.	64/24.12.2002	Resident Foreign Currency (Domestic) Account – Facility for Resident Individuals	FEMA.No.90/ RB-2003 / 23.5.2003 / Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) (Third Amendment) Regulations, 2003	453(E)
7.	66/13.1.2003	Overseas Investments	FEMA.No.88/ RB-2003 / 1.4.2003 / Foreign Exchange Management (Transfer or Issue of any Foreign Security) (Second Amendment) Regulations, 2003	399(E)
8.	75/3.2.2003	Sponsored ADRs/GDRs – Receipt of Disinvestment Proceeds	FEMA.No.90/ RB-2003 / 23.5.2003 / Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) (Third Amendment) Regulations, 2003	453(E)

II. Government Notification – amendments to Foreign Exchange Management (Current Account Transactions) Rules, 2000

Sr. No.	No. and date of A.P. (DIR Series) Circular	Subject	Subject/No/ date of Notification in the Gazette of India
1.	2.	3.	4.
1.	51/18.11.2002	Increase in release of foreign exchange for private visits abroad	G.S.R.No.831 (E) dated 17.12.2002 Foreign Exchange Management (Current Account Transactions) Rules, 2002.

Evidence of Import – Liberalisation
A.P.(DIR Series) Circular No.9 (Aug 18, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai- 400 001

A.P.(DIR Series) Circular No.9

August 18, 2003

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

Evidence of Import – Liberalisation

Attention of authorised dealers is invited to paragraph A10.1(i) of the Annexure to A.P (DIR Series) Circular No.106 dated June 19, 2003 in terms of which, it is obligatory on the part of the authorised dealers making import remittance to ensure that the importer submits the documentary evidence of import if the value of foreign exchange remitted/paid for import into India exceeds USD 25,000 or its equivalent.

2. On a review of the position and against the background of extant “Know Your Customer” Guidelines, it is decided to enhance the limit of USD 25000 prescribed in paragraph A10.1(i) referred to above to USD 100,000 (USD one hundred thousand) for all imports made into India. Consequently, authorised dealers should ensure rigorous follow-up for non-submission of documentary evidence, as prescribed in paragraph A.11(i) of the Annexure to the aforementioned circular, for import remittances exceeding USD 100,000. Further, the authorised dealers should henceforth forward to Reserve Bank of India details of only those import transactions exceeding USD 100,000 in Form BEF in terms of paragraph A.11(ii) of the circular *ibid*.

3. Attention of authorised dealers is also invited to paragraph A10.2(i) of the Annexure to the aforementioned circular in terms of which authorised dealers may accept either Exchange Control copy of Bill of Entry for home consumption or a certificate from the Chief Executive Officer (CEO) or Auditor of the company that the goods for which remittance was made have actually been imported into India provided the amount of foreign exchange remitted is less than USD 100,000 or its equivalent. It has now been decided to enhance the said amount of USD 100,000 to USD 1,000,000 (USD one million).

4. Authorised Dealers may bring the contents of this Circular to the notice of their constituents concerned.

5. The directions contained in this Circular have been issued under Section 10 (4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999)

Yours faithfully,
Grace Koshie
Chief General Manager

**Issue of shares to NRIs/OCBs on rights basis
A.P.(Dir Series) Circular No.10 (August 20, 2003)**

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai – 400 001.**

A.P.(Dir Series) Circular No.10

August 20, 2003

To

All Authorised Dealers in Foreign Exchange

Madam/Sir,

Issue of shares to NRIs/OCBs on rights basis

Attention of authorised dealers is invited to sub-regulation (2) of Regulation 6 of Notification No.FEMA.20/2000-RB dated 3rd May 2000 in terms of which Indian companies are permitted to offer to a person resident outside India, equity or preference shares or convertible debentures on right basis subject to conditions stipulated therein.

2. With a view to extending to non-resident shareholders the facility to subscribe to additional equity or preference shares or convertible debentures over and above their entitlement on rights basis, on par with the resident shareholders, Reserve Bank has issued Notification No.FEMA.76/2002-RB dated 12th November 2002 (copy enclosed) amending Regulation No.6 of Notification No.FEMA.20/2000-RB dated 3rd May 2000. Accordingly, the existing non-resident shareholders may apply for issue of additional equity shares or preference shares or convertible debentures over and above their rights entitlements and the investee company may allot the same subject to the condition that the overall issue of shares to non-residents in the total paid-up capital of the company does not exceed the sectoral cap.

3. All other terms and conditions stipulated in Regulation No.6 of the Notification No.FEMA.20/2000-RB dated 3rd May 2000 as amended from time to time shall remain unchanged.

4. Authorised dealers may bring the contents of this circular to the notice of their constituents concerned.

5. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

Grace Koshie

Chief General Manager

Indo-Suriname Credit Agreement
dated March 17, 2003, for USD 10 Million
A.P. (DIR Series) Circular No.11 (August 20, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai 400 001.

A.P. (DIR Series) Circular No.11

August 20, 2003

To

All Authorised Dealers in Foreign Exchange

Madam/ Sirs,

Indo-Suriname Credit Agreement
dated March 17, 2003, for USD 10 Million

The Government of India have extended a line of credit of an amount of USD 10 million (US Dollar Ten Million only) to the Government of Suriname under a credit agreement entered into between the two Governments on March 17, 2003. The credit will be available to the Government of Suriname, for importing from India capital goods of Indian manufacture including original spare parts and accessories purchased along with the capital goods and included in the original contract as also consultancy services and project exports including services as mentioned in the Annexure. The contents of Annexure may be modified by way of additions, deletions or substitutions from time to time as may be mutually agreed upon between the two Governments. The credit will not cover third country imports. The export of goods and services from India and their import into Suriname under the line of credit shall take place through normal commercial channels and will be subject to the laws and regulations in force in both the countries. The broad terms and conditions of the line of credit are as under :-

- i) All contracts will be subject to the approval of the Government of India and the Government of Suriname and shall contain a clause to that effect. All contracts should be sent to the Ministry of Finance, Department of Economic Affairs, Government of India, New Delhi for approval. After each contract has been approved, intimation thereof will be sent to the Government of Suriname and to the State Bank of India, New Delhi, by the Ministry of Finance, Government of India.
- ii) The credit will be available for 90 per cent of the f.o.b. value of the eligible goods and services to be exported from India. The 10 per cent of the f.o.b. value shall be paid by the importer in freely convertible foreign currency at the time of opening of the letter of credit. Accordingly, letters of credit should specify that 10 per cent f.o.b. value shall be met out of the remittances from Suriname while the balance 90 per cent shall be financed from the credit. The value of the contract should be expressed in US Dollars.
- iii) All disbursements under the credit shall be made under letters of credit opened by the banks in Suriname. All letters of credit will be advised by banks in Suriname to the State Bank of India, New Delhi for onward transmission to the exporter/s either direct or through another bank in India, if any, nominated by the exporter/s.

Normal commercial practices followed in respect of advising payments under letters of credit will be adopted to ensure that the remaining 10 per cent of the amount of letter of credit is received in US Dollars. All claims to the State Bank of India for payment of 90 per cent of the f.o.b. value will need to be supported by a certificate of the negotiating bank that the 10 per cent amount directly payable has been received. The letters of credit should be supported by a copy of the contract and should contain the following reimbursement clause :-

“Reimbursement for 90 per cent of the f.o.b. value of the contract shall be provided by the State Bank of India, New Delhi from USD 10 million credit extended by the Government of India to the Government of Suriname. The letter of credit is negotiable after the State Bank of India has issued an advice that it is operative. The letter of credit will be made operative by the State Bank of India after verifying that the reimbursement from the credit is sought for 90 per cent of the f.o.b. value only and it will be the responsibility of the negotiating bank to ensure that the remaining 10 per cent of the amount of the letter of credit is received in US Dollar. All claims to the State Bank of India for payment of 90 per cent of the f.o.b. value will need to be supported by a certificate of the negotiating bank to the effect that the 10 per cent directly payable has been received.”

2. Contracts to be financed under the credit agreement for items specified in paragraph 1 of the Annexure should be signed and relative letters of credit established by April 1, 2006, and the full amount be drawn under the credit by April 1, 2006. Contracts to be financed under the credit agreement for items specified in paragraph 2 of the Annexure should be signed and letters of credit be opened and the full amount be drawn by April 1, 2004. If the full amount is not drawn by the aforesaid date, the balance will be cancelled and the final instalment of the repayment to be made by the Government of Suriname shall be reduced accordingly, except as may otherwise be agreed to by the Government of India.

3. Shipments of goods and export of consultancy services covered by the credit agreement should be declared on GR/SDF/SOFTEX Forms with prominent superscription reading “Exports to Suriname under Credit Agreement dated March 17, 2003 between the Government of India and the Government of Suriname.” The number and date of this circular should be recorded on the GR/SDF/SOFTEX Forms in the space provided therefor. On receipt of the full payment of the bills in the manner indicated above, authorised dealers should certify duplicate copies of the relative GR/SDF/SOFTEX Form.

4. Ordinarily, no agency commission shall be payable in respect of exports financed under the line of credit. However, Reserve Bank may consider on merit, requests for payment of commission upto a maximum extent of 5 per cent of the f.o.b. value in respect of capital goods which require after sales service. In such cases, commission will have to be paid in Suriname by deduction from the invoice value of the relevant shipment and the reimbursable amount will be 90 per cent of the f.o.b. value minus the commission paid. Approval for payment of commission should be obtained before the relevant shipment is effected.

5. Authorised Dealers may bring the contents of this circular to the notice of their constituents engaged in exports to Suriname.

6. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999)

Yours faithfully,
Grace Koshie
Chief General Manager

ANNEXURE

[A.P.(DIR Series) Circular No.11
dated August 20, 2003]

**Nature of goods referred to in India-Suriname
Credit Agreement of 2003**

1. Capital goods (along with original spare parts and accessories purchased with the capital goods and included in the original contract) and project exports including services required for, in the areas of technical cooperation, research, purchase of goods such as heavy equipment and strengthening of institutional capability and capacity.
2. Items eligible for coverage under this credit also include consultancy in the area of strengthening of institutional capability and capacity.

Export of Goods and Services
A.P. (DIR Series) Circular No.12 (Aug 20, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai – 400 001

A.P. (DIR Series) Circular No.12

August 20, 2003

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

Export of Goods and Services

Attention of authorised dealers is invited to A.P.(DIR Series) Circular No.12 dated August 28, 2002, in terms of which the facility for realisation and repatriation of full value of goods/software exported to the countries included in the list annexed to the above circular was extended for a period of one year from September 1, 2002. On a review, it has been decided to extend the above facility for a further period of one year with effect from September 1, 2003 to August 31, 2004, subject to review, for export of goods/software to the countries included in the list annexed.

2. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

3. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

Grace Koshie
Chief General Manager

Annexure

[A.P.(DIR Series) Circular No.12
dated August 20, 2003]

List of Countries

1. Antigua and Barbuda
2. Argentina
3. Bahama
4. Barbados
5. Belige
6. Bermuda
7. Bolivia
8. Brazil

9. Chile
10. Colombia
11. Costa Rica
12. Cuba
13. Cyprus
14. Dominica
15. Dominican Republic
16. El Salvador
17. Faeroe Islands
18. Falkland Islands
19. French Guiana
20. Gibraltar
21. Greenland
22. Grenada
23. Guadeloupe(French West Indies)
24. Guatemala
25. Guyana
26. Haiti
27. Honduras
28. Jamaica
29. Malta
30. Martinique
31. Mexico
32. Montserrat
33. Netherlands Antilles
34. Nicaragua
35. Panama excluding Canal Zone Rep
36. Paraguay
37. Peru
38. St.Lucia
39. St.Pierre & Miqueion
40. St.Vincent
41. Suriname
42. Trinidad & Tobago
43. Uruguay

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai-400 001**

Notification No. FEMA 85/2003-RB

dated January 17, 2003

**Foreign Exchange Management (Transfer or Issue of Security by a
Person Resident outside India)(First Amendment) Regulations, 2003**

In exercise of the powers conferred by clause(b) of sub-section(3) of Section 6 and Section 47 of the Foreign Exchange Management Act,1999 (42 of 1999) and in partial modification of its Notification No.FEMA 20/2000-RB dated 3rd May 2000, the Reserve Bank of India makes the following Regulation to amend the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000, namely:-

1. Short title and commencement

- (i) These Regulations may be called the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (First Amendment) Regulations, 2003.
- (ii) They shall come into force on their publication in the Official Gazette.

2. Amendment of the Regulation

In the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations 2000, (herein after referred to as "the Principal Regulations") in Regulation 5, after Sub-Regulation (5), the following Sub-Regulations shall be added, namely- "(6) A registered Foreign Institutional Investor (FII) having valid approval under FERA,1973 or under FEMA, 1999 may trade in all exchange traded derivative contracts approved by SEBI from time to time subject to the limits as prescribed in by SEBI. (7) A Non-Resident Indian (NRI) may invest in exchange traded derivative contracts approved by SEBI from time to time out of INR funds held in India on non-repatriable basis subject to the limits prescribed by SEBI. Such investments will not be eligible for repatriation benefits."

**K.J.Udeshi
Executive Director**

Published in the Official Gazette of Government of India - Extraordinary - Part-II, Section 3, Sub-Section (i) dated 18.03.2003 - G.S.R.No.225(E)
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Derecognition of Overseas Corporate Bodies as an Investor Class
A.P.(DIR Series) Circular No.14 (Sep 16, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai-400 001

A.P.(DIR Series) Circular No.14

September 16, 2003

To

All Authorised Dealers in Foreign Exchange

Dear Sirs / Madam

Derecognition of Overseas Corporate Bodies as an Investor Class

It has been decided in consultation with the Government, to derecognise Overseas Corporate Bodies (OCBs) in India as an eligible 'class of investor' under various routes/schemes available under extant Foreign Exchange Management Regulations.

2. This decision is a follow up of the review of investment activities of OCBs in India, carried out by Reserve Bank on the basis of the recommendations of the Joint Parliamentary Committee on Security Market Scam. On the basis of the said review, it has been decided in consultation with the Government that: (a) the ban imposed on OCBs under Portfolio Investment Scheme (PIS) in November 2001 shall continue, (b) **OCBs as a 'class of investor' entity** shall not be allowed to make fresh investments in India under various routes/schemes available under extant Foreign Exchange Management Regulations and facility of opening fresh NRE and FCNR (B) and NR(O) accounts shall also be withdrawn and (c) **unincorporated entity** also shall not be allowed to make fresh investments under Foreign Direct Investment Scheme including the Automatic Route.

3. Accordingly, it has been decided that with immediate effect -

- a) An unincorporated entity and OCB shall not make fresh investment under FDI Scheme (including Automatic Route). However, the unincorporated entities and OCBs may continue to hold shares and convertible debentures till they are sold / redeemed.
- b) OCBs shall not undertake purchase of shares / convertible debentures on non-repatriation basis. However, the OCBs may continue to hold the shares / convertible debentures purchased on non-repatriation basis till they are sold / redeemed.
- c) OCBs shall not undertake purchase of Government dated securities or treasury bills or units of domestic mutual funds or units of Money Market Mutual Funds in India or National Plan / Savings Certificates both on repatriation and non-repatriation basis. However, the OCBs may continue to hold these securities till they are sold.

- d) A person resident outside India including OCBs shall not transfer by way of sale or gift, the shares or convertible debentures held by them to another OCB.
- e) OCBs shall not purchase equity or preference shares or convertible debentures offered on right basis by an Indian company.
- f) A person resident in India shall not borrow in foreign currency from OCBs.
- g) An Indian company shall not borrow in rupees on repatriation and non-repatriation basis from OCBs by way of investment in Non-convertible Debentures (NCDs).
- h) An Indian company, a proprietorship concern or a firm in India shall not accept deposits from OCBs on non-repatriation basis.
- i) OCBs shall not open and maintain Non-Resident (External) Rupee Account (NRE), Foreign Currency (Non-Resident) Account (Banks) [FCNR(B)] Accounts and Non-Resident Ordinary Rupee (NRO) Deposit Account with Authorised Dealers in India.

All existing NRE (Savings, Current) Accounts of the OCBs (other than the accounts referred to in para 4 below) shall be closed forthwith and balances repatriated strictly as originally authorised, expeditiously. The existing NRE Deposits (Recurring or Fixed), FCNR (B) Accounts and Non-Resident Ordinary Rupee (NRO) Deposit (Recurring or Fixed) Account may be permitted to continue till original maturity. The maturity proceeds of NRE Deposits and FCNR (B) shall be repatriated expeditiously.

No new NRE / FCNR / NRO Accounts in the name of OCBs shall be opened and no renewal of deposits shall be made.

4. It may be noted that instructions given by the Reserve Bank not to allow operations in the accounts of specific OCBs without prior permission of the Bank, shall continue to be operative.
5. As regards investment on repatriation basis (including investment related income which is repatriable) ADs may allow repatriation as authorised. As regards investment on non-repatriation basis, ADs shall arrange to obtain requests for disposal of funds from their OCB clients and seek the specific approval of the Reserve Bank in this regard, on a case to case basis.
6. In terms of AP (DIR Series) Circular No.13 dated November 29, 2001, the ban imposed on OCBs under PIS will continue. However, they shall continue to hold the shares and convertible debentures purchased under PIS till such time these are sold on Stock Exchange in India.
7. Notifications amending the relevant Foreign Exchange Management Regulations are being issued separately.
8. Authorised Dealers may bring the contents of the Circular to the notice of their constituents and customers concerned.

9. The directions contained in this Circular have been issued under Section 10 (4) and Section 11 (1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

Grace Koshie
Chief General Manager

Advance Remittance for Imports
A.P.(DIR Series) Circular No.15 (Sept 17, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai - 400 001

A.P.(DIR Series) Circular No.15

September 17, 2003

To
 All Authorised Dealers in Foreign Exchange

Madam/Sirs,

Advance Remittance for Imports

Attention of Authorised Dealers is invited to paragraph A.6 of the Annexure to A.P. (DIR Series) Circular No.106 dated June 19, 2003 in terms of which authorised dealers have been permitted to make advance remittance upto USD 100,000 (USD one hundred thousand) or its equivalent without Bank Guarantee for import of goods into India.

2. With a view to further liberalising and simplifying the procedure for import of goods into India, it has now been decided that Authorised Dealers may henceforth allow advance remittance for import of goods into India as under :

- a) If the amount of advance remittance exceeds USD 100,000 or its equivalent, an unconditional, irrevocable standby Letter of Credit or a guarantee from international bank of repute situated outside India or a guarantee of an Authorised Dealer in India, if such guarantee is issued against the counter guarantee of an international bank of repute situated outside India, is obtained.
- b) In cases where the importer (other than a Public Sector Company or a Department/Undertaking of the Government of India/State Governments) is unable to obtain bank guarantee from overseas suppliers and the Authorised Dealer is satisfied about the track record and bonafides of the importer, the requirement of the bank guarantee/ standby Letter of Credit may not be insisted upon for advance remittances upto USD 1,000,000 (US dollar one million). Authorised Dealers may frame their own internal guidelines to deal with such cases **as per a suitable policy framed by the bank's Board of Directors.**
- c) In the case of a Public Sector Company or a Department/Undertaking of Central/State Governments the requirement of bank guarantee has been specifically waived by the Ministry of Finance, Government of India for advance remittances exceeding USD100,000 (USD one hundred thousand) .

3. The other conditions stipulated in paragraph A.6(b) and (c) of the Annexure to the above circular shall remain unchanged.

4. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

5. The directions contained in this circular have been issued under Section 10(4) and Section 11 (1) of the Foreign Exchange Management Act 1999 (42 of 1999).

Yours faithfully,

Grace Koshie
Chief General Manager

**Reserve Bank Of India
(Exchange Control Department)
Central Office
Mumbai 400 001**

Notification No.FEMA.89/2003-RB

dated April 29, 2003

**Foreign Exchange Management (Foreign Currency Account by
a Person Resident in India)(Second Amendment) Regulations, 2003**

In exercise of the powers conferred by clause (b) of Section 9 and clause (e) of sub-section (2) of Section 47 and in partial modification of its Notification No.FEMA 10/2000-RB dated 3rd May 2000 the Reserve Bank of India makes the following amendments in the Foreign Exchange Management (Foreign Currency Account by a Person Resident in India) Regulations 2000 namely:

1. Short title and commencement

(a) These Regulations may be called the Foreign Exchange Management (Foreign Currency Account by a Person Resident in India) (Second Amendment) Regulations, 2003.

(b) They shall come into force from the date of their publication in the Official Gazette.

2. Amendment of the Regulation

In the Foreign Exchange Management (Foreign Currency Account by a Person Resident in India) Regulations 2000, in sub-regulation 8 of Regulation 7, for the words "A national of a foreign State resident in India being an employee of a foreign company on deputation", the words "A national of a foreign State resident in India being an employee of a foreign company or a citizen of India employed by a foreign company outside India and in either case on deputation" shall be substituted.

**(K.J. Udeshi)
Executive Director**

Published in the Official Gazette of Government of India - Extraordinary - Part-II, Section 3, Sub-Section (i) dated 03.06.2003 - G.S.R.No.452(E)
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**Deferred Payments Protocols dated 30th April 1981 and
23rd December 1985 between the Government of India and erstwhile USSR
A.P.(DIR Series) Circular No.16 (Sept 20, 2003)**

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai - 400 001

A.P.(DIR Series) Circular No.16

September 20, 2003

To
All Authorised Dealers in Foreign Exchange

Madam / Sirs,

**Deferred Payments Protocols dated 30th April 1981 and
23rd December 1985 between the Government of India
and erstwhile USSR**

Attention of Authorised Dealers is invited to AP(DIR Series) Circular No.89 dated March 28, 2003 wherein the rupee value of the special currency basket effective from March 11, 2003 was indicated.

2. Authorised Dealers are advised that a further change has taken place on August 15, 2003 and accordingly the rupee value of the special currency basket effective from August 19, 2003 has been fixed at Rs.55.7865.
3. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.
4. The directions contained in this circular have been issued under Section 10(4) and section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,
Grace Koshie
Chief General Manager

**RESERVE BANK OF INDIA
EXCHANGE CONTROL DEPARTEMENT
CENTRAL OFFICE
MUMBAI-400 001**

Notification No.FEMA.78/2002-RB

November 27, 2002

Foreign Exchange Management (Deposit) (Amendment) Regulations, 2002

In exercise of the powers conferred by clause (f) of sub-section (3) of Section 6 and sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), and in partial modification of its Notification No.FEMA 5/2000-RB dated 3rd May, 2000, the Reserve Bank of India makes the following Regulations to amend the Foreign Exchange Management (Deposit) Regulations 2000, namely :-

1. Short title and Commencement

- (i) These Regulations may be called the Foreign Exchange Management (Deposit) (Third Amendment) Regulations, 2002.
- (ii) They shall come into force on their publication in the Official Gazette.

2. Amendment of the Regulations

In the Foreign Exchange Management (Deposit) Regulations 2000, in Regulation 4, in sub-regulation (3)

- (i) For the words "diplomatic missions and personnel", the words "diplomatic missions, diplomatic personnel and non-diplomatic staff, who are the nationals of the concerned foreign countries and hold official passport of foreign embassies" shall be substituted.
- (ii) In Clause (c) the words "and non-diplomatic staff" shall be inserted after the words "diplomatic personnel".

**(K. J. Udeshi)
Executive Director**

Published in the Official Gazette of Government of India - Extraordinary - Part-II, Section 3, Sub-Section (i) dated 31.12.2002 - G.S.R.No.855(E)
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**Purchase/Sale of Immovable Property by
Foreign Embassies/Diplomats/Consulate Generals
A.P. (DIR Series) Circular No.19 (Sept 23, 2003)**

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai - 400 001**

A.P. (DIR Series) Circular No.19

September 23, 2003

To
All Authorised Dealers in Foreign Exchange

Madam/Sirs,

**Purchase/Sale of Immovable Property by
Foreign Embassies/Diplomats/Consulate Generals**

Attention of Authorised Dealers is invited to Regulation 5 of Notification No.FEMA.21/2000-RB dated May 3, 2000 regarding acquisition of immovable property in India by a person resident outside India for carrying on a permitted activity.

2. The matter has been reviewed in consultation with Government and it has been decided to allow a Foreign Embassy/Diplomat/Consulate General to purchase/sell immovable property in India other than agricultural land/plantation property/farm house provided (i) clearance from Government of India, Ministry of External Affairs is obtained for such purchase/sale, and (ii) the consideration for acquisition of immovable property in India is paid out of funds remitted from abroad through banking channel. Accordingly, Reserve Bank has issued [Notification No.FEMA.93/2003-RB dated June 9, 2003](#) (copy enclosed) amending the existing Regulation by inserting Regulation 5A in the said Notification.

3. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

4. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

**Grace Koshie
Chief General Manager**

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai 400 001.**

Notification No.FEMA. 93 /2003-RB

dated June 9, 2003

Foreign Exchange Management
(Acquisition and Transfer of Immovable Property in India)
(Amendment) Regulations, 2003

In exercise of the powers conferred by clause (i) of sub-section (3) of Section 6, sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999) and in partial modification of its Notification No.FEMA 21/2000-RB dated May 3, 2000, the Reserve Bank of India makes the following amendments in the Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations 2000, namely :-

1. Short title and Commencement :

- (i) These Regulations may be called the Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) (Amendment) Regulations, 2003.
- (ii) They shall come into force on the date of their publication in the Official Gazette.

2. Amendment of the Regulations

In the Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations 2000, after Regulation 5, the following Regulation shall be inserted namely :

“5A. Purchase / sale of Immovable Property by Foreign
Embassies / Diplomats / Consulate Generals .

A Foreign Embassy / Diplomat / Consulate General may purchase / sell immovable property in India other than agricultural land / plantation property / farm house provided (i) clearance from Government of India, Ministry of External Affairs is obtained for such purchase / sale, and (ii) the consideration for acquisition of immovable property in India is paid out of funds remitted from abroad through banking channel”.

Sd/-

(K.J. Udeshi)
Executive Director

**Opening of Foreign Currency Account in India by Project /
Service Exporter for Execution of Contract Abroad
A.P.(DIR Series) Circular No.20 (Sept 23, 2003)**

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai 400 001**

A.P.(DIR Series) Circular No.20

September 23, 2003

**To
All Authorised Dealers in Foreign Exchange**

Madam / Sirs,

**Opening of Foreign Currency Account in India by Project /
Service Exporter for Execution of Contract Abroad**

Attention of Authorised Dealers is invited to Regulation 7(5) of Notification No.FEMA. 10/2000-RB dated May 3, 2000 relating to opening, holding and maintaining Foreign Currency Accounts outside India by project/service exporters. The relevant provisions have been amended by [Notification No.FEMA.87/2003-RB dated March 20, 2003](#) (copy enclosed).

2. In terms of the aforesaid amendment, a person resident in India being a project/service exporter may open, hold and maintain Foreign Currency Account with a bank outside or in India. Accordingly, the Approving Authority of the overseas contract, i.e., Authorised Dealer / Exim Bank / Working Group may approve the proposal of exporter, to open, hold and maintain Foreign Currency Account in India subject to the terms and conditions indicated in the annexure and the conditions mentioned below.

- i) Exporter will have to open, hold and maintain a separate Foreign Currency Account for each project under execution abroad.
- ii) Authorised Dealers shall not avail of rupee loans against the security of balances held in such accounts and no overdraft in the account shall be permitted.
- iii) The balance in the account will be subject to SLR / CRR requirement as prescribed by Reserve Bank (DBOD) from time to time.

3. Presently, project/service exporters are required to obtain specific approval of Reserve Bank for making payment to their Indian suppliers of goods/services in foreign currency in India out of Foreign Currency Accounts opened/maintained in India for execution of projects abroad. It has since been decided that Project Approving Authority may on request allow such of the project/service exporters, as have been permitted to open foreign currency accounts in India, to pay their Indian suppliers/service providers in foreign currency from their Foreign Currency Accounts subject to the following conditions :

- i) Project / service exporter should not claim export benefits on the payment made to Indian supplier / service provider.
 - ii) Indian supplier of goods / services should comply with export procedure as per provisions / requirements of FEMA 1999.
4. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.
5. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

Grace Koshie
Chief General Manager

ANNEXURE

[A.P.(DIR Series) Circular No.20
dated September 23, 2003]

**Standard conditions to be stipulated by Authorised Dealer / Exim Bank
for opening of foreign currency account in India at the time of
conveying post-award approval for projects / service contracts**

- 1. The account may be maintained in any convertible foreign currency.
- 2. The following credits / debits will be permitted.

(a) **Credits**

- (i) Payment in foreign currency received from the client.
- (ii) Interest earned on surplus funds parked in short term deposits.

(b) **Debits**

- i) Payment to overseas suppliers of goods and services to the extent approved by the approving authority.
- ii) Transfer of funds to the project site.
- iii) Bank charges.
- iv) Project related expenses in rupees.
- v) Transfer of funds to rupee account in case payment made by the client for supply of material/equipment from India has to be temporarily credited to the account.
- vi) Conversion of balance in the account into Indian rupees at the end of the contract.

All other credits/debits would require prior approval of the approving authority/Reserve Bank of India.

3. The account shall be closed immediately after completion of the project and the entire balance transferred to rupee account and/or EEFC account, as the case may be, as per the prevailing guidelines.

4. Project funds temporarily rendered surplus may be invested in short-term deposits not exceeding one year and on maturity, they should be transferred to the project foreign currency account. However, the maturity period of the fixed deposit should not, in any case, go beyond the date of completion of the project in question.

5. No forward cover facility would be available on these balances.

☆☆☆☆☆☆☆☆

**Reserve Bank of India
(Exchange Control Department)
Central Office
Mumbai 400 001**

Notification No.FEMA.87 / 2003-RB

dated March 20, 2003

**Foreign Exchange Management (Foreign Currency Account by
a Person Resident in India)(Amendment) Regulations, 2003**

In exercise of the powers conferred by clause (b) of Section 9 and clause (e) of sub-section (2) of Section 47 and in partial modification of its Notification No.FEMA 10/2000-RB dated 3rd May 2000 the Reserve Bank of India makes the following amendments in the Foreign Exchange Management (Foreign Currency Account by a Person Resident in India) Regulations 2000 namely:

1. Short title and commencement

- (a) These Regulations may be called the Foreign Exchange Management (Foreign Currency Account by a Person Resident in India) (Amendment) Regulations, 2003.
- (b) They shall come into force from the date of their publication in the Official Gazette.

2. Amendment of the Regulation

In the Foreign Exchange Management (Foreign Currency Account by a Person Resident in India) Regulations 2000, in Regulation 7, in clause (5), for the words "Foreign Currency Account with a bank outside India", the words, "Foreign Currency Account with a bank outside or in India" shall be substituted.

Sd/-
(**K.J. Udeshi**)
Executive Director

**Foreign Exchange Management Act, 1999 – EEFC/RFC(D) Account – Clarification
A.P. (DIR Series) Circular No.21 (Sept 23, 2003)**

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai - 400 001**

A.P. (DIR Series) Circular No.21

September 23, 2003

To
All Authorised Dealers in Foreign Exchange

Madam/Sirs,

**Foreign Exchange Management Act, 1999 –
EEFC/RFC(D) Account - Clarification**

Attention of Authorised Dealers is invited to Regulations 4 and 5A of Notification No.FEMA 10/2000-RB dated May 3, 2000, as amended from time to time, in terms of which a person resident in India may hold, open and maintain with an Authorised Dealer in India, Exchange Earner's Foreign Currency (EEFC) Account and Resident Foreign Currency (Domestic) [RFC(D)] Account, respectively, subject to the conditions stipulated therein.

2. Reserve Bank has been receiving requests from the account holders seeking clarification whether the balances in the EEFC and RFC (D) Accounts mentioned above could be credited to their Non-Resident (External) Rupee Accounts (NRE) and/or Foreign Currency Non-Resident (Bank) Accounts (FCNR-B) consequent upon change of the residential status of the account holder from resident to non-resident. The matter has been examined and it is clarified that the balances in the EEFC and RFC (D) Accounts may be allowed to be credited to NRE/FCNR-B Account, at the option/request of the account holders consequent upon change of their residential status from resident to non-resident.

3. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

4. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

**Grace Koshie
Chief General Manager**

Export of Goods and Services - Payment of Claims by ECGC
A.P.(DIR Series) Circular No.22 (Sept 24, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai 400 001

A.P.(DIR Series) Circular No.22

September 24, 2003

To
All Authorised Dealers in Foreign Exchange

Madam / Sirs,

Export of Goods and Services - Payment of Claims by ECGC

Attention of Authorised Dealers is invited to Paragraph C.17 of the annexure to A.P.(DIR Series) Circular No.12 dated September 9, 2000 in terms of which exporter is not absolved of the statutory obligation undertaken by him on the GR/SDF/PP/SOFTEX forms, to realise proceeds of the exports within prescribed period, even if the claim is settled by Export Credit Guarantee Corporation of India Ltd. (ECGC), under the policy issued by them. Further, Authorised Dealers are required to continue to hold the duplicate copies of GR/SDF/PP/SOFTEX forms in their custody and initiate follow-up measures in the normal manner.

2. It has now been decided that Authorised Dealers shall, on an application received from the exporter supported by a documentary evidence from the ECGC confirming that the claim in respect of the outstanding bills has been settled by them, write off the relative export bills and delete them from the XOS statement. Such write-off will not be restricted to the limit of 10 per cent indicated in paragraph C.18(b) of the circular *ibid*.

3. It is clarified that the claims settled in rupees by ECGC should not be construed as export realisation in foreign exchange and claim amount should not be allowed to be credited to Exchange Earner's Foreign Currency Account maintained in terms of Regulation 4 of FEMA Notification No.FEMA 10/2000-RB dated May 3, 2000.

4. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

5. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

Grace Koshie
Chief General Manager

**Submission of Consolidated A1/A2 Forms
A.P.(DIR Series) Circular No.23 (Sept 24, 2003)**

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai - 400 001**

A.P.(DIR Series) Circular No.23

September 24, 2003

To
All Authorised Dealers in Foreign Exchange

Madam/Sirs,

Submission of Consolidated A1/A2 Forms

As per the extant instructions, residents while making remittances exceeding USD 500 towards imports are required to apply in Form A1 and for other remittances in Form A2.

2. With a view to streamlining the procedure and reducing paperwork associated with payment transactions, it has been decided that software exporters and other entities required to make recurring remittances may be permitted to file consolidated A1/A2 forms giving complete details of the transactions for which the remittances are being made. These consolidated A1/A2 forms may be accepted by Authorised Dealers on a fortnightly basis from their constituents and the periodicity would be co-terminus with the periodicity of the R>Returns. Authorised Dealers may accordingly permit their constituents to exercise the option of filing these consolidated A1/A2 forms in a file format transmitted electronically online or in a floppy.

3. Authorised Dealers should however ensure that by making available this facility to their constituents, submission of FET ERS is not affected in any way.

4. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

5. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

**Grace Koshie
Chief General Manager**

**Reserve Bank Of India
Exchange Control Department
Central Office
Mumbai 400 001.**

Notification No.FEMA/ 75 /2002-RB

November 1, 2002

In exercise of the powers conferred by clause (d) of sub-section (3) of Section 6 and sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999) and in partial modification of its Notification No.FEMA 3/2000-RB dated May 3, 2000, as amended from time to time, the Reserve Bank of India makes the following amendments in the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000, namely :-

1. (1) These Regulations may be called the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) (Second Amendment) Regulations, 2002.

(2) They shall come into force with effect from their publication in the Official Gazette.
2. In the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulation, 2000.
 - (i) In Regulation 5, after sub-regulation (5), the following sub-regulation shall be added, namely : -

"(6) An individual resident in India may borrow a sum not exceeding US\$.250,000/- or its equivalent from his close relatives outside India, subject to the conditions that -
 - a. the minimum maturity period of the loan is one year;
 - b. the loan is free of interest; and
 - c. the amount of loan is received by inward remittance in free foreign exchange through normal banking channels or by debit to the NRE/FCNR account of the non-resident lender.

Explanation :

'Close relative' means relative as defined in Section 6 of the Companies Act, 1956".

- (ii) In the Schedule, clause (iv) with the heading "Scheme for raising loans from NRIs on repatriation basis", shall be omitted.

**K.J. UDESHI
Executive Director.**

Published in the Official Gazette of Government of India - Extraordinary - Part-II, Section 3, Sub-Section (i) dated 31.12.2002 - G.S.R.No.854(E)
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**Import of gold against letter of authority issued by Nominated Agency
A.P.(DIR Series) Circular No. 25 (Oct 1, 2003)**

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai 400 001**

A.P.(DIR Series) Circular No. 25

October 1, 2003

To
All Authorised Dealers in Foreign Exchange

Madam / Sirs,

Import of gold against letter of authority issued by Nominated Agency

As you are aware, under the Government's Nominated Agency Scheme for import of gold, MMTC/ HHEC, STC & PEC, designated as nominated agency by Government and banks permitted by RBI are authorised to import gold for supply to exporters with an export obligation imposed thereon. Accordingly, only these nominated agencies are permitted to open Letters of Credit for import of gold under the Nominated Agency Scheme.

2. It has, however, been reported that entities other than the Nominated agencies referred to above are establishing import Letters of Credit for import of gold against a letter of authority issued by these Nominated agencies. Authorised Dealers are advised that Letters of Credit for import of gold under the Nominated Agency Scheme must be established only on behalf of the Nominated Agency themselves and under no circumstances should the Letter of Credit be issued on behalf of any other entity even if a letter of authority issued by the Nominated Agency is furnished by these entities.

3. Authorised dealers may bring the contents of this circular to the notice of their constituents concerned.

4. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

**Grace Koshie
Chief General Manager**

Export of Goods and Services - Export of Books on Consignment Basis

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai 400 001**

A.P.(DIR Series) Circular No.26

October 3, 2003

To
All Authorised Dealers in Foreign Exchange

Madam / Sirs,

**Export of Goods and Services -
Export of Books on Consignment Basis**

Attention of Authorised Dealers is invited to paragraph A.11 of the Annexure to A.P.(DIR Series) Circular No.12 dated September 9, 2000 in terms of which the exporters intending to export goods on elongated credit terms may submit their proposals giving full particulars through their banks to Reserve Bank for consideration.

2. With a view to liberalising the procedure for export of books, it has been decided that henceforth the Authorised Dealers may approve proposals for export of books on consignment basis for realisation of export proceeds upto 360 days from the date of shipment. The exporters may also be allowed to abandon the books which remain unsold at the expiry of the period of the sale contract. Accordingly, the value of the unsold books may be shown by the exporters as deduction from the export proceeds in the Account Sales.

3. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

4. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

**Grace Koshie
Chief General Manager**

**FEMA 1999 – Grant of Rupee Loans to
NRI/PIO Employees of Indian Body Corporate
A.P.(DIR Series) Circular No.27 (October 10, 2003)**

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai**

A.P.(DIR Series) Circular No.27

October 10, 2003

To

All Authorised Dealers in Foreign Exchange
Madam/Sirs,

**FEMA 1999 – Grant of Rupee Loans to
NRI/PIO Employees of Indian Body Corporate**

Attention of Authorised Dealers is invited to Regulation 8 of Notification No.FEMA 4/2000 RB dated May 3, 2000, in terms of which an Authorised Dealer or a housing finance institution in India approved by the National Housing Bank may provide housing loan to a Non-Resident Indian or a Person of Indian Origin resident outside India for acquisition of a residential accommodation in India subject to conditions indicated therein.

2. On a review, it has been decided to grant general permission to Indian companies, viz. a body corporate registered or incorporated in India, to grant rupee loans to its employees who are Non-Resident Indians or Persons of Indian Origin, subject to the following conditions :

- (i) The loan shall be granted only for personal purposes including purchase of housing property in India;
- (ii) The loan shall be granted in accordance with the lender's Staff Welfare Scheme/Staff Housing Loan Scheme and subject to other terms and conditions applicable to its staff resident in India;
- (iii) The lender shall ensure that the loan amount is not used for the purposes specified in sub-clauses (i) to (iv) of clause (1) and in clause (2) of Regulation 6 of Notification No.FEMA.4/2000-RB dated May 3, 2000, referred to above;
- (iv) The lender shall credit the loan amount to the borrower's NRO account in India or shall ensure credit to such account by specific indication on the payment instrument;

- (v) The loan agreement shall specify that the repayment of loan shall be by way of remittance from outside India or by debit to NRE/NRO/FCNR Account of the borrower and the lender shall not accept repayment by any other means.

Accordingly, Notification No.FEMA.67/2000-RB dated August 20, 2002 has been issued. A copy of the said Notification is enclosed. Necessary amendments to Notification No.FEMA.4/2000 RB dated May 3, 2000 may please be made.

3. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

4. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the FEMA, 1999 (42 of 1999).

Yours faithfully,
Grace Koshie
Chief General Manager

Reserve Bank of India
(Exchange Control Department)
Central Office
Mumbai 400 001

Notification No.FEMA.67/2002-RB

dated August 20, 2002

Foreign Exchange Management (Borrowing and Lending in Rupees) (Amendment) Regulations, 2002

In exercise of the powers conferred by clause (e) of sub-section (3) of Section 6 and sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999) and in partial modification of its Notification No.FEMA.4/RB-2000, dated May 3, 2000, Reserve Bank of India makes the following Regulations to amend the Foreign Exchange Management (Borrowing and Lending in Rupees) Regulations, 2000, as amended from time to time namely :

Short title and commencement

1. (a) These Regulations may be called the Foreign Exchange Management (Borrowing and Lending in Rupees) (Amendment) Regulations, 2002.
- (b) They shall come into force from the date of their publication in the Official Gazette.

Amendment of the Regulations

2. In the Foreign Exchange Management (Borrowing and Lending in Rupees) Regulations, 2000, after Regulation 8, the following Regulation shall be inserted, namely :

"8A Rupee Loans to NRI/PIO employees of Indian body corporate

A body corporate registered or incorporated in India may grant rupee loan to its employees who is a non-resident Indian or a Person of Indian Origin, subject to the following conditions, namely :

- (i) The loan shall be granted only for personal purposes including purchase of housing property in India;
- (ii) The loan shall be granted in accordance with the lender's Staff Welfare Scheme/Staff Housing Loan Scheme and other terms and conditions applicable to its staff resident in India;
- (iii) The lender shall ensure that the loan amount is not used for the purposes specified in sub-clauses (i) to (iv) of clause (1) and in clause (2) of Regulation 6;
- (iv) The lender shall credit the loan amount to the borrower's NRO Account in India or shall ensure credit to such Account by specific indication on the payment instrument;
- (v) It shall be a term of the loan agreement that the repayment of loan shall be made by way of remittance from outside India or from NRE/NRO/FCNR Account of the borrower; and the lender shall not accept repayment made from any other source.

Sd/-
K.J.Udeshi
Executive Director

Forward contracts – Investments of Non-Residents in Indian companies
A.P.(DIR Series) Circular No.28 (October 17, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai 400001

A.P.(DIR Series) Circular No.28

October 17, 2003

To
All Authorised Dealers in Foreign Exchange
Madam / Sirs,

**Forward contracts – Investments of
Non-Residents in Indian companies**

Attention of Authorised Dealers is invited to Regulation 5 of Notification No.FEMA 25/RB-2000 dated May 3, 2000 read with A.P. (DIR Series) Circular No.50 dated November 16, 2002.

2. It has been decided to permit persons resident outside India having Foreign Direct Investments in India to enter into forward contracts with Authorised Dealers with rupee as one of the currencies to hedge the currency risk on dividend receivable by them on their investments in Indian companies. The forward cover shall be taken only after the rate of dividend has been approved by the Board of Directors of the concerned company.

3. Necessary amendments to the Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000 are being issued separately.

4. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

5. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act 1999 (42 of 1999).

Yours faithfully,

Grace Koshie
Chief General Manager

External Commercial Borrowings (ECBs) by Units in Special Economic Zones (SEZs)
A.P.(DIR Series) Circular No.29 (October 18, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai 400001

A.P.(DIR Series) Circular No.29

October 18, 2003

To
All Authorised Dealers in Foreign Exchange

Madam / Sirs,

External Commercial Borrowings (ECBs)
by Units in Special Economic Zones (SEZs)

Attention of Authorised Dealers is invited to the Guidelines on ECBs Policies & Procedures (1999-2000) and Press Release F.No.4(2)/2002-ECB dated September 15, 2002 issued by Government of India, Ministry of Finance (MOF) wherein units in Special Economic Zones (SEZs) are permitted to raise External Commercial Borrowings (ECBs).

2. It has been decided that the units in SEZs shall raise the ECBs, in compliance with the Government of India guidelines and the Press Release, referred to above and subject to the following conditions :

- a) Units in SEZ shall raise ECBs for its own requirement, and
- b) It shall not transfer or on-lend any borrowed funds to its sister concern or any other unit in Domestic Tariff Area (DTA).

This is consistent with ECB guidelines at para VI(b) of Government of India Press Release referred to above.

3. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

4. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act 1999 (42 of 1999).

Yours faithfully,
Grace Koshie
Chief General Manager

Export of Goods and Services
A.P. (DIR Series) Circular No.30 (October 21, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai 400 001

A.P. (DIR Series) Circular No.30

October 21, 2003

To
All Authorised Dealers in Foreign Exchange

Madam/Sirs,

Export of Goods and Services

Attention of Authorised Dealers is invited to A.P. (DIR Series) Circulars No.6 dated September 24, 2001, No.2 dated July 4, 2002 and No.33 dated October 23, 2002, in terms of which manufacturer exporters/merchant exporters/traders of certain products and having export contracts of Rs.100 crore and above in value terms in one year, have been allowed a period upto 365 days from the date of shipment for realisation and repatriation of full value of the export of products specified therein.

2. On a review, it has been decided to extend this facility for realisation of export proceeds upto 365 days from the date of shipment, for a further period of one year i.e. for shipment made **upto September 30, 2004** of the products listed in the [Annexure](#).

3. Authorised Dealers may please bring the contents of this circular to the notice of their constituents concerned.

4. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,
Grace Koshie
Chief General Manager

Annexure

[A.P.(DIR Series) Circular No.30
dated October 21, 2003]

**Products eligible for exports with extended
period of realisation by manufacturer
exporters/merchant exporters/traders**

1. Pharmaceuticals (including drugs, fine chemicals)
2. Agro-chemicals (including inorganic and organic chemicals)

3. Transport equipment (including commercial vehicles, two and three wheelers, tractors, railway wagons, locomotives)
4. Cement (including glass, glassware, ceramics and refractories)
5. Iron & Steel (including iron & steel bars/rods and primary and semi-finished iron & steel)
6. Electrical machinery (including transmission line towers, switch gear, transformers)
7. Leather and leather products
8. Textiles
9. Products of aluminium
10. Petroleum products
11. Sugar
12. Foodgrains

**Import of Silver/Platinum against
Letter of Authority issued by Nominated Agency
A.P.(DIR Series) Circular No.31 (October 24, 2003)**

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai 400001**

A.P.(DIR Series) Circular No.31

October 24, 2003

To
All Authorised Dealers in Foreign Exchange

Madam / Sirs,

**Import of Silver/Platinum against
Letter of Authority issued by Nominated Agency**

Attention of Authorised Dealers is invited to paragraph 2 of A.P. (DIR Series) Circular No.25 dated October 1, 2003, in terms of which they have been advised to issue letters of credit for import of gold under the **Nominated Agency Scheme**, only on behalf of the nominated agency themselves and not on behalf of any other entity, even if, a letter of authority issued by the nominated agency is furnished by these entities.

2. It is advised that the instructions contained in the circular referred to above are also applicable in respect of **import of silver and platinum** under the **Nominated Agency Scheme**.
3. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.
4. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act 1999 (42 of 1999).

Yours faithfully,
Grace Koshie
Chief General Manager

Export of Goods and Services - Project Exports
A.P.(DIR Series) Circular No.32 (Oct 28, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai - 400 001

A.P.(DIR Series) Circular No.32

October 28, 2003

To
All Authorised Dealers in Foreign Exchange

Madam / Sirs,

Export of Goods and Services - Project Exports

Attention of Authorised Dealers is invited to Regulation 18 of Notification No.FEMA 23/2000-RB dated 3^d May 2000 viz. Foreign Exchange Management (Export of Goods and Services) Regulations, 2000 in terms of which export of goods or services on deferred payment terms or in execution of a turnkey project or a civil construction contract requires prior approval of the approving authority, which shall consider the proposal in accordance with the guidelines issued by Reserve Bank from time to time.

2. With a view to simplifying and rationalising procedures, the Memorandum of Instructions on Project and Service Exports (PEM) has been revised. A copy of the revised Memorandum is enclosed. The major changes incorporated in the revised Memorandum are [annexed](#).

3. Authorised Dealers may bring the revised guidelines in the Memorandum to the notice of their constituents concerned.

4. The directions contained in the Memorandum have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

Grace Koshie
Chief General Manager

ANNEXURE

(A.P.(DIR Series) Circular No.32
dated October 28, 2003)

Major Changes incorporated in the Revised Memorandum of Instructions on Project and Service Exports (PEM)

Sr.No.	Subject Matter	Changes
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1.	Limits for Clearance of Proposals	<p>(i) Monetary limits for clearance of project export contracts by the approving authority have been denominated in USD. Uniform monetary limit of USD 100 million has been prescribed for authorised dealers and Exim Bank. Project export contracts exceeding USD 100 million will need to be cleared by the Working Group. Prior to this change, these limits were Rs.50 crore for authorised dealers and Rs.200 crore for Exim Bank. Proposals in excess of Rs.200 crore in value were required to be cleared by the Working Group.</p> <p>(ii) Monetary limits for clearance of service export contracts have also been revised from Rs.5 crore for authorised dealers and Rs.10 crore for Exim Bank to USD 100 million uniformly for authorised dealers and Exim Bank. Service export contracts exceeding USD 100 million (revised from the present limit of Rs.10 crore) will need to be cleared by the Working Group.</p>
2.	Buyer's Credit Scheme of Exim Bank	Authorisation granted to Exim Bank to extend Buyer's credit under its Buyer's Credit Scheme has been revised from Rs.50 crore to USD 20 million.
3.	Periods of Deferred Credit	Period for which deferred credit may be offered by the exporter was linked to the value and type of the contract. The period of deferred credit can now be determined by the exporter and his banker in mutual consultation on merits of each case and on the basis of their commercial judgement. However, consumer durables and miscellaneous engineering goods (Part B of the list in Annexure I) should ordinarily continue to be exported on "cash" terms.
4.	Conditions necessary for clearance of proposals by authorised dealers / Exim Bank.	<p>At present, proposals which deviate from the stipulated conditions regarding advance / down payment, type of security for the contract etc. are referred to Exim Bank by authorised dealers and where necessary, by Exim Bank to the Working Group. Authorised dealers / Exim Bank may now relax these conditions based on their commercial judgement.</p> <p>Proposals involving Bridge Finance in excess of 25 per cent of contract value can also be considered by the approving authority (viz. authorised dealer/Exim Bank/Working Group). Exporters were earlier required to approach Reserve Bank for approval in such cases.</p>

5.	Export of Consumables	Powers to grant permission to project exporters to export consumables and raise invoices on their own site offices have been delegated to authorised dealers subject to certain conditions. Hitherto, exporters were required to approach Reserve Bank for such permission.
6.	Liaison Office	At present, number of liaison offices which can be opened by the exporter is restricted to one in a country where more than one project export contract is executed. This restriction has been removed. Exporters can now be permitted by the approving authority viz. authorised dealer/Exim Bank/Working Group to open more than one liaison office in one country, if required.
7.	Initial Remittance	<p>Remittance for meeting initial / mobilisation expenses from India in the absence of adequate advance payment or an overdraft / loan arrangement abroad by the exporter required approval of Reserve Bank where the amount of remittance exceeded 5 per cent of contract value and / or period of repatriation of such amount to India exceeded one year from the date of such remittance.</p> <p>Approving authority viz. authorised dealer/Exim Bank/Working Group can now allow such remittance even if it exceeds 5 per cent of the contract value on the basis of cash flow position of the project / service export proposal. The period of repatriation can also be determined by the approving authority. Concerned exporter will however, be required to submit an undertaking to the authorised dealer to repatriate the amount within the period determined by the approving authority. Fulfilment of the undertaking by the exporter will need to be monitored by the authorised dealer who allows remittance and he is also required to monitor the project.</p>
8.	Third Country Purchases	<p>Authorised dealers could open letters of credit in India in favour of third country suppliers provided they were on back-to-back basis. Availability of letters of credit opened by foreign client in favour of the Indian exporters with similar terms and conditions need not be insisted upon. However, the amount of such letter of credit should not exceed the value of third country imports approved by the approving authority while according post award clearance to the project export proposal and payment under such letters of credit should be made from out of the project receipts.</p> <p>Authorised dealers can now grant waiver for submission of the exchange control copy of the bill of entry subject to certain conditions where third country purchases are directly transported by the overseas supplier to the</p>

		project site and for which payment is made under letter of credit opened in India. Exporters were earlier required to approach Reserve Bank for grant of such waiver.
9.	Export of Equipment on Re-import Basis	Export of equipment on re-import basis was being allowed by Reserve Bank and necessary GR approval was being accorded. Exporter was required to submit an undertaking that he will re-import the equipment or if sold abroad, repatriate the sale proceeds. The exporter will now be required to make an application to the authorised dealer for permission, citing a reference to the post award approval granted by the approving authority. He will submit the undertaking to the authorised dealer. Requisite GR/SDF Form approval may be granted by authorised dealer. Fulfilment of the undertaking by the exporter will need to be monitored by the authorised dealer.
10.	Intimation Regarding Approval of the Contract	<p>Copies of approval letters in respect of Project and Service Export contracts cleared by authorised dealers were required to be forwarded by the concerned authorised dealer to the concerned Regional Office of Reserve Bank and all the members of the Working Group.</p> <p>Copies of such approvals may henceforth be sent to the Regional Office of Reserve Bank and in addition, to Exim Bank and ECGC only if their participatory interest by way of funded / non-funded facilities, insurance / risk cover, etc. is involved.</p>
11.	Progress Report on Execution of Contract.	Progress of the execution of the contract in Form DPX 5 (now renumbered as DPX 3) was being submitted on a half-yearly basis by the exporter to all the institutions constituting the Working Group and the concerned Regional Office of Reserve Bank through the exporter's bank. Such report may now be sent to the authority approving the project export contract and the concerned Regional Office of Reserve Bank. It will however, be necessary to forward the report to Exim Bank / ECGC also in all cases where their financial / non-financial assistance / risk cover has been obtained. In the case of project export proposals approved by the Working Group, the report in Form DPX 3 may be sent to Exim Bank, ECGC and the concerned Regional Office of Reserve Bank. The final DPX 3 report may clearly indicate the fact of completion of the project and full compliance with closing procedures laid down in para B.10 of the revised Memorandum.
12.	Inter-Project Transfer of Funds	Presently, copies of applications for inter-project transfer of funds together with the approval accorded by

		authorised dealers are required to be forwarded to all the members of the Working Group, the banker of the lending project and the concerned Regional Office of Reserve Bank. Such copies together with the approval may now be forwarded to the concerned approving authority (which has approved the project export proposal) and the banker of the lending project. Copies may also be forwarded to Exim Bank / ECGC in all cases where their participation in the project finance / facilities, risks, etc. is involved. In the case of project export proposals approved by the Working Group, copies of the application, etc. may be forwarded to Exim Bank and ECGC.
13.	Sale of Equipment Exported on Re-import Basis, etc.	Equipment taken out of the country on reimport basis is required to be reimported to the country. However, if the equipment is sold abroad / given on hire basis, documentary evidence showing repatriation of entire sale proceeds or hire charges of equipment given on hire basis to other contractors abroad is required to be submitted to Reserve Bank. Such evidence will now be submitted to the authorised dealer who is monitoring the project.
14.	Completion of Projects	On completion of the Project, the exporter is required to submit a report giving full account of the various steps taken by him to Reserve Bank and all the members of the Working Group. Such report will now be sent within one month from the completion of the Project, by the exporter through his banker to the approving authority which had cleared the project export contract at the post award stage and in addition, to ECGC / Exim Bank if they have participatory interest in the facilities / risks. Where the project export proposal was cleared by the Working Group, the report may be sent to Exim Bank and ECGC.
15.	Single Foreign Currency Account -Monitoring	Exporter can maintain a single foreign currency account for more than one project being executed in the same country. He is however, required to submit project-wise statements of accounts to the project monitoring authority including concerned Regional Office of Reserve Bank. Such statements may now be sent only to the authorised dealer monitoring the project.
16.	Foreign Currency Account - Opening of	<p>As regards the foreign currency account/s opened abroad, the exporter may submit the following information/statement to the concerned authorised dealer which was hitherto being submitted to the regional office of Reserve Bank. The periodicity of the statement at item (ii) below has been made on half-yearly basis.</p> <p>(i) Intimate the account number, name of the bank,</p>

		<p>place and country where such account is opened within 15 days from the date of opening of such account.</p> <p>(ii) Statement of operations on the account should be on half yearly basis.</p> <p>(iii) Bank certificates evidencing the amount repatriated, periodically.</p> <p>(iv) Closure of foreign currency account with bank certificates evidencing transfer of balance to India immediately on completion of the relevant contract.</p>
17.	Foreign Currency Account in India	<p>Approving authority of the overseas contract i.e. Authorised Dealer/Exim Bank/Working Group can now allow project/service exporters to open, hold and maintain foreign currency account in India subject to certain terms and conditions. Hitherto, project/service exporters were required to approach Reserve Bank for permission to open such account in India.</p>
18.	Details of Site / Liaison Office, Payment of Agency Commission on Overseas Borrowings.	<p>The exporter may submit the following information/statements to the concerned authorised dealer which was hitherto being submitted to the regional office of Reserve Bank.</p> <p>(i) Details regarding opening of liaison office/site office (expenses on these offices, closure of offices) etc. within 15 days from the date of opening of such office.</p> <p>(ii) Expenditure of site/liaison office within one month from the expiry of the relevant half year.</p> <p>(iii) The account number, name of the bank, etc. of overdraft / loan account of the exporter within 15 days from the date of grant of financial accommodation.</p> <p>(iv) Statement of operations on the overdraft/loan account should be on half-yearly basis.</p> <p>(v) Submission of details regarding agency payment has been dispensed with.</p>
19.	Application Forms	<p>Since pre-bid clearance has been dispensed with, remaining forms have been modified and renumbered as indicated in the Memorandum annexed.</p>

**Foreign Exchange Management Act, 1999 - Current Account Transactions – Liberalisation
A.P.(DIR Series) Circular No.33 (Nov 13, 2003)**

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai – 400 001**

A.P.(DIR Series) Circular No.33

November 13, 2003

To
All Authorised Dealers in Foreign Exchange

Madam/Sirs,

**Foreign Exchange Management Act, 1999 -
Current Account Transactions – Liberalisation**

Attention of Authorised Dealers is invited to A.P.(DIR Series) Circular No.3 dated July 17, 2003 permitting them to allow remittances upto USD 100,000 each for various purposes viz. (i) employment abroad (ii) emigration (iii) maintenance of close relatives abroad and (iv) education abroad. Authorised Dealers were also permitted to allow remittance upto USD 1 million per project, towards consultancy services procured from outside India subject to the applicant furnishing documents to the Authorised Dealers' satisfaction. The necessary amendments to the Foreign Exchange Management (Current Account Transactions) Rules, 2000 have since been notified by the Government, in the Official Gazette, vide Notification No.G.S.R. 731(E) dated September 5, 2003, a copy of which is enclosed.

2. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

3. The directions contained in this circular have been issued under Section 10(4) and Section 11 (1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

**Grace Koshie
Chief General Manager**

[Part II – Sec. 3(i)]

THE GAZETTE OF INDIA : EXTRAORDINARY

**MINISTRY OF FINANCE
(Department of Economic Affairs)**

**NOTIFICATION
New Delhi, the 5th September, 2003**

G.S.R. 731(E). – In exercise of the powers conferred by Section 5 and Sub-section (1) and clause (a) of Sub-section (2) of Section 46 of the Foreign Exchange Management Act, 1999 (42 of 1999) and in consultation with the Reserve Bank, the Central Government having considered it necessary in the public interest, makes the following amendments in the Foreign Exchange Management (Current Account Transactions) Rules, 2000, namely:-

1. Short title and commencement –

(1) These Rules may be called the Foreign Exchange Management (Current Account Transactions) (Third Amendment) Rules 2003.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Foreign Exchange Management (Current Account Transactions) Rules, 2000, in Schedule, III -

- (a) in item Numbers 5, 6 and 7, for the word and figure “US \$ 5000” the word and figure “US \$ 100,000” shall be substituted;
- (b) in item Number 10 for the word and figure “US \$ 30,000” the word and figure “US \$ 100,000” shall be substituted; and
- (c) in item Number 15 for the word and figure “US \$ 100,000” the word and figure “US \$ 1,000,000” shall be substituted;

[F.No.1/5/EC/2000-Vol.II]

U. K. SINHA, Jt. Secy.

Foot Note:- The Principal rules were published in the Official Gazette vide G.S.R.381(E) dated 3rd May, 2000 in part II, Section 3, Sub-section(i) and subsequently amended last vide G.S.R.397(E) dated 1st May, 2003.

Capitalisation of Lumpsum Fee / Royalty / ECB – Liberalisation
A.P. (DIR Series) Circular No.34 (Nov 14, 2003)

Reserve Bank of India
Exchange Control Department
Central office
Mumbai - 400 001

A.P. (DIR Series) Circular No.34

November 14, 2003

To
All Authorised Dealers in Foreign Exchange

Madam / Sirs,

Capitalisation of Lumpsum Fee / Royalty / ECB – Liberalisation

Attention of Authorised Dealers is invited to Regulation 5(1) of Notification No.FEMA.20/2000-RB dated May 3, 2000 and paragraph 8 of Schedule I thereto, in terms of which issue of shares or convertible debentures under Foreign Direct Investment Scheme by a company in India to a person resident outside India (other than a citizen of Bangladesh or Pakistan or Sri Lanka) is permitted only against inward remittance through normal banking channels or by debit to NRE/FCNR account of the person concerned maintained with an Authorised Dealer.

2. With a view to further liberalising the foreign investment policy, Government of India has issued Press Note No.3 (2003 Series) dated July 29, 2003 (copy enclosed), in terms of which issue of equity shares against Lump-sum fee, Royalty and External Commercial Borrowings (ECBs) in convertible foreign currency already due for payment/repayment has been permitted, subject to meeting all applicable tax liabilities and compliance with the procedures prescribed.

3. The issue of shares against lump-sum technical know-how fee, royalty and ECB due for payment/repayment, whether under automatic route or SIA/FIPB route, is subject to the pricing guidelines of Reserve Bank/SEBI.

4. It has been clarified by the Government that the words 'import payables' appearing in the Press Note refer only to payables towards import of technical know-how and other items mentioned under paragraph 2 above. Import dues by Indian companies, which are deemed as Trade (buyers'/suppliers') Credit or ECBs in terms of Reserve Bank guidelines, are not permitted for conversion into equity shares.

5. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

6. Necessary amendments to the relevant Notifications are being issued separately.

7. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

Grace Koshie

Chief General Manager

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)

PRESS NOTE NO.3(2003 SERIES)

Subject : Capitalisation of import payables – liberalisation of policy

At present, issue of shares by a company in India to a person resident outside India is permitted only against inward remittance of convertible foreign exchange through normal banking channels or by debit to NRE / FCNR account of the person concerned maintained with an authorised foreign exchange dealer / bank.

2. As a part of the ongoing process of liberalisation, it has been decided to permit issue of equity shares against lumpsum fee, royalty and External Commercial Borrowings (ECBs) in convertible foreign currency already due for payment / repayment, subject to meeting all applicable tax liabilities and procedures.

(R.S.JULANIYA)
Director

F.No.5(4)/2003-FC dated 29th July 2003.

Issue of Units of Mutual Funds
A.P.(DIR Series) Circular No.35 (Nov 14, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai – 400 001

A.P.(DIR Series) Circular No.35

November 14, 2003

To

All Authorised Dealers in Foreign Exchange

Madam / Sirs,

Issue of Units of Mutual Funds

At present, Indian Asset Management Companies (AMCs) which launch off-shore funds abroad have to obtain SEBI's approval for such schemes. They are also required to obtain RBI's prior approval for issue of units, remittance of dividend and redemption of units to the overseas investors in such funds. In order to provide single window clearance, it has been decided that AMCs may issue units, remit dividend and redeem the units in such funds issued abroad to the overseas investors, once SEBI's approval is obtained for launching off-shore funds, subject to reporting requirements at the end of each quarter in the format enclosed.

2. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

3. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

Grace Koshie
Chief General Manager

Format for Reporting of Inflow/Outflow Details in respect of Mutual Fund

(for the quarter ended _____)

1. Date of launch of the off-shore funds
2. No. & Date of SEBI Approval letter
3. Amount authorized to be raised by SEBI
4. No. of Units issued to the Off-shore fund
5. Amount of inflow in USD
6. Amount of Dividend remitted, if any upto the current quarter

7. No. of units redeemed
8. Amount repatriated in USD
9. No. of Units Outstanding
10. Value of Fund in USD & NAV per Unit
11. Management fees received / other out of pocket expenses reimbursed

(Report to be submitted to Reserve Bank of India, Exchange Control Department,
Foreign Investment Division, Central Office, Mumbai)

External Commercial Borrowings (ECBs)
A.P. (DIR Series) Circular No.36 (Nov 14, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai 400 001

A.P. (DIR Series) Circular No.36

November 14, 2003

To
All Authorised Dealers in Foreign Exchange

Madam / Sirs,

External Commercial Borrowings (ECBs)

Attention of Authorised Dealers is invited to A.P. (DIR Series) Circulars Nos.10 and 23 dated September 5, 2000 and September 17, 2002 respectively and Press Release F.No.4(35)/2003-ECB dated November 12, 2003 issued by Government of India (Ministry of Finance).

2. Accordingly, we advise the following revisions in the existing ECB Policy for a temporary period, until further review.

i) **Eligibility of borrowers**

- a) In terms of paragraph 3 of the A.P. (DIR Series) Circular No.10 dated 5th September 2000, under the Automatic Route, ECBs can be raised by any legal entity registered under the Company's Act, Societies Registration Act, Co-operative Society's Act, including proprietorship/partnership concerns. Individuals, Trusts and all non-profit making organisations irrespective of their legal status continue to be ineligible for raising ECBs (cf. A.P.(DIR Series) Circular No.23 dated September 17, 2002). It is further clarified that only those co-operative societies which are commercial in nature and whose books of accounts are upto date and have complied with the statutory audit provisions without any qualifications would be eligible to raise ECBs.
- b) No financial intermediary viz. a bank, DFI or NBFC will be allowed access to ECBs, either under Automatic Route, or RBI Route or Government Route.

ii) **Guarantees**

No financial intermediary (viz. a bank, DFI or NBFC) will be allowed to provide guarantees in favour of overseas lenders, on behalf of their constituents for ECBs being raised by them.

iii) Revisions in all-in-cost ceiling

All ECBs shall be subject to the following revised maximum spreads over six months LIBOR, for the respective currency in which the loan is being raised or the applicable benchmark(s), as the case may be :

Type of Projects	Existing (All-in-cost)	Revised (All-in-cost)
Normal Project	300	150
Infrastructure	400	250
Long Term	450	300

iv) End use

ECBs exceeding USD 50 million will be permitted for the following end uses only :

- a) Financing import of equipment
- b) to meet foreign exchange needs of infrastructure projects.

It is clarified that the following sectors will qualify as ‘infrastructure sectors’ under the ECB guidelines (cf. Government Press Release F.No.4(32)/2000-ECB dated June 14, 2000) :

- a) Power
- b) Telecommunication
- c) Railways
- d) Road including Bridges
- e) Ports
- f) Industrial Parks
- g) Urban infrastructure – Water Supply, Sanitation and Sewage Projects

Existing guidelines on end-use will be applicable for ECBs under the Automatic Route.

v) Hedging

In cases where ECBs have been raised for meeting rupee expenditure under Automatic Route the Authorised Dealer has to ensure at the time of draw down that the forex exposure of the borrower is hedged unless there is a natural hedge in the form of uncovered foreign exchange receivables.

vi) Parking of ECB proceeds overseas

ECB proceeds pending utilisation would need to be parked overseas. In this regard, Authorised Dealers' attention is invited to A.P. (DIR Series) Circular No.70 dated January 13, 2003 and A.P. (DIR Series) Circular No.104 dated May 31, 2003, governing parking of funds abroad.

3. The above amendments to ECB Policy will come into force with immediate effect.
4. Necessary amendments to the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000 are being issued separately.
5. Authorised Dealers may bring the contents of this Circular to the notice of their constituents concerned.
6. The directions contained in this circular have been issued under Section 10 (4) and Section 11 (1) of the Foreign Exchange Management Act 1999 (42 of 1999).

Yours faithfully,

F.R.Joseph
Chief General Manager

**Permission to open Project Office in India and Remittance of Assets - Project Office
A.P.(DIR Series) Circular No. 37 (Nov 15, 2003)**

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai 400 001**

A.P.(DIR Series) Circular No. 37

November 15, 2003

To

All Authorised Dealers in Foreign Exchange

Madam / Sirs,

**Permission to open Project Office in India
and Remittance of Assets - Project Office**

Attention of Authorised Dealers is invited to Notification No. FEMA 22/2000-RB dated May 3, 2000 [Foreign Exchange Management (Establishment in India of Branch or Office or other Place of Business) Regulations, 2000] regarding establishment in India of a branch or office or other place of business by a person resident outside India and Notification No. FEMA 13/2000-RB dated May 3, 2000 [Foreign Exchange Management (Remittance of Assets) Regulations, 2000] regarding remittance outside India by a person whether resident in India or not, of assets in India. In terms of the Notification No.FEMA.22, the foreign entities intending to set up Project Offices were required to submit an application in Form FNC-1 to the concerned Regional Office of the Reserve Bank and such approvals would be granted by the Reserve Bank on a case-to-case basis.

2. With a view to liberalising and simplifying the procedures for establishment of Project Offices, the Reserve Bank has issued Notification No. FEMA 95/2003-RB dated July 2, 2003 (copy enclosed) amending certain provisions of Notification No. FEMA 22/ 2000-RB dated May 3, 2000 and granting general permission to a foreign entity for setting up a Project Office in India subject to the following conditions :

- (a) It has secured from an Indian company a contract to execute a project in India; and
- (b) the project is funded by inward remittance from abroad; or
- (c) the project is funded by a bilateral or multilateral International Finance Agency; or
- (d) the project has been cleared by an appropriate authority; or
- (e) a company or entity in India awarding the contract has been granted Term Loan by a Public Financial Institution or a bank in India for the project.

3. The foreign company shall furnish a report to the concerned Regional Office of Reserve Bank of India under whose jurisdiction the Project Office is set up comprising the following details :

- (a) Name and address of the Foreign Company

- (b) Reference Number and date of letter awarding the contract referred to in clause (ii) of Regulation 5 of Notification No. FEMA 22/2000-RB dated May 3, 2000
- (c) Particulars of authority awarding the projects/contract
- (d) Total amount of contract
- (e) Address and tenure of Project Office
- (f) Nature of Project undertaken

4. Further, the Project Office established in terms of the above mentioned provisions may approach Regional Offices of Reserve Bank of India for granting permission for opening Foreign Currency Accounts, if required. Such applications may be accompanied by the following details:

- (a) The reasons for opening a foreign currency account.
- (b) The excerpts of contract of the concerned project office to ascertain whether it provides for payment / receipt of Funds in foreign currency.
- (c) The total amount involved therein.

5. The Reserve Bank has also issued Notification No.96/2003-RB dated July 2, 2003 (copy enclosed) amending the provisions of Regulation 6 (iii) of Notification No. FEMA 13/2000-RB dated May 3, 2000 granting general permission to foreign entities to remit the surplus on winding up/completion of projects through Authorised Dealers. Authorised Dealers may allow such remittances on receipt of requests from their respective constituents subject to the conditions prescribed in Regulation 7 II of RBI Notification FEMA No. 22 dated May 3, 2000. It is further advised that in case of request by the Project Office for intermittent remittance of temporary surplus, Authorised Dealers may approach the concerned Regional Office of the Reserve Bank for necessary approval.

6. The above instructions come into force with immediate effect.

7. The directions contained in this Circular have been issued under Sections 10 (4) and 11 (1) of the FEMA 1999 (42 of 1999).

Yours faithfully,

F.R. Joseph
Chief General Manager

Foreign Investments in India
A.P. (DIR Series) Circular No.38 (December 3, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai - 400 001

A.P. (DIR Series) Circular No.38

December 3, 2003

To

All Authorised Dealers in Foreign Exchange

Madam/ Sirs,

Foreign Investments in India

- **Recent liberalisation measures relating to Foreign Direct Investment – FEMA No.94/2000-RB**
- **Summary of Regulatory Provisions covering Foreign Investments in India**

Attention of Authorised Dealers is invited to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 notified by the Reserve Bank of India vide Notification No.FEMA.20/2000-RB dated May 3, 2000 as amended from time to time.

2. The Reserve Bank has issued FEMA Notification No. FEMA 94/2003-RB dated June 18, 2003 (Second Amendment) covering certain modifications and measures for liberalisation, in consultation with the Government in the area of Foreign Direct Investment. A copy of the Notification is enclosed.

3. A gist of the current regulatory provisions (as amended from time to time) relating to foreign investment is given in the [Annexure](#) for guidance.

4. Authorised Dealers may bring the contents of this circular to the notice of their constituents 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).

Yours faithfully,
Grace Koshie
Chief General Manager

Foreign Investments in India**1. Statutory Provisions**

Foreign Investments in India are governed by the provisions of Section 6 of the Foreign Exchange Management Act (FEMA) 1999 and are subject to the Regulations issued by the Reserve Bank of India under FEMA 1999. The Regulations have been notified vide Notification No.FEMA 20/2000-RB dated May 3, 2000. An Indian entity cannot issue any security to a person resident outside India or shall not record in its books any transfer of security from or to such person save as otherwise provided in the Act or the Rules or Regulations framed thereunder or with the specific permission of the Reserve Bank.

2. Foreign Direct Investment Policy

2.1 Foreign Investments in India are not permissible in the following cases

- (i) in the business of chit fund, or
- (ii) Nidhi Company , or
- (iii) in agricultural or plantation activities or
- (iv) in real estate business, or construction of farm houses, or
- (v) In trading in Transferable Development Rights (TDRs).

2.2 In addition, the Government has also notified the following activities where Foreign Direct Investment is not permissible.

- 1. Retail Trading
- 2. Atomic Energy
- 3. Lottery Business
- 4. Gambling and Betting
- 5. Housing and Real Estate business
- 6. Agriculture (excluding Floriculture, Horticulture, Development of Seeds, Animal Husbandry, Pisciculture and Cultivation of Vegetables, Mushrooms etc. under controlled conditions and services related to Agro and allied sectors) and Plantations(Other than Tea plantations).

2.3 In other cases, investments can be made either with the specific prior approval of the Government i.e the Secretariat for Industrial Assistance/Foreign Investment Promotion Board (SIA/FIPB) or under the Automatic Route. A list of the Activities requiring the approval of the Government is given in Annexure-A to Schedule 1 to FEMA Notification No 20 while details of the Industries which are covered under the Automatic Route are given as Annexure-B to the said Schedule. The Automatic Route is not open to those foreign investors who have/had a previous financial/technical/ trademark collaboration in an existing domestic company engaged in the same or allied activity. Also, if the activity of the issuer company requires an Industrial Licence under the provisions of the Industries (Development and Regulation) Act 1951 or under locational policy notified by Government of India under the Industrial Policy 1991, Automatic Route is not available.

2.4 Eligibility for Investment in India

A person resident outside India (other than a citizen of Pakistan, Bangladesh, Sri Lanka) or an incorporated entity outside India (other than an entity in Bangladesh or Pakistan) has general permission to purchase shares or convertible debentures or preference shares of an Indian company subject to certain terms and conditions.

2.5 Nature of Investments

2.5.1 The Indian companies have also got the general permission to issue partly convertible debentures/ partly convertible preference shares provided the terms of issue are in accordance with the Schedule for convertible portion and in accordance with Regulation 5 of Notification No. FEMA 4/2000-RB dated May 3, 2000 for the non-convertible portion. Companies can issue NCDs only to NRIs and that too by means

of a public Issue. The coupon rate on partly convertible preference shares/partly convertible debentures should not exceed State Bank of India's prime lending rate plus 300 basis points.

2.5.2 Trading is permitted under Automatic Route with FDI upto 51 % provided it is primarily towards export activities, and the undertaking is an export house/trading house/super trading house/star trading house. The Government also permits certain trading activities under FIPB route.

2.5.3 A company which is a small scale industrial unit and not engaged in any activity or in manufacture of items included in Annexure A to Notification No.20 may issue shares or convertible debentures to a non-resident , to the extent of 24% of its paid-up capital if,

- a) It has given up its small scale status;
- b) It is not engaged or does not propose to engage in manufacture of items reserved for small scale sector; and
- c) It complies with the ceilings specified in Annexure B to Notification No.20.

3. Issue of Shares

3.1 Issue of Rights/Bonus Shares

General permission is also available to Indian companies to issue Bonus/Rights Shares. The rights shares or debentures purchased by the person resident outside India shall be subject to the same conditions including restrictions in regard to repatriability as are applicable to the original shares against which rights shares or debentures are issued. Further, the existing non-resident share holders may apply for issue of additional shares and the investee company may allot the same subject to the condition that the overall issue of shares to non-residents in the total paid-up capital does not exceed the sectoral cap. In other words, non-residents may subscribe for additional shares over and above shares offered on rights basis by the company and renounce the shares offered either in full or part thereof in favour of a person named by them. Residents may subscribe for additional shares over and above the shares offered on rights basis by the company and also renounce the shares offered either in full or part thereof in favour of a person named by them. However, as clarified in terms of AP DIR circular No. 14 dated September 16, 2003, this facility would not be available to investors who have been allotted such shares as OCBs.

3.2 Acquisition of shares under a Scheme of Amalgamation/Merger

Where a Scheme of merger or amalgamation of two or more Indian companies has been approved by a court in India, the transferee company may issue shares to the shareholders of the transferor company, resident outside India subject to ensuring that the percentage of shareholding of persons resident outside India, in the transferee or new company does not exceed the percentage specified in the approval granted by the Central Government or the Reserve Bank. In case the percentage is likely to exceed the percentage specified in the approval or the Regulations, the transferor company or the transferee or new company may, after obtaining an approval from the Central Government, apply to the Reserve Bank for its approval under these Regulations. Further, the transferor company or the transferee or new company shall not engage in agriculture, plantation or real estate business or trading in TDRs.

3.3 Issue of shares under the Employees Stock Option Scheme (ESOPS)

A company may issue shares under the ESOPS to its employees or employees of its joint venture or wholly-owned subsidiary abroad who are resident outside India, directly or through a Trust subject to the conditions that the scheme has been drawn in terms of regulations issued under the Securities Exchange Board of India Act, 1992, and face value of the shares to be allotted under the scheme to the non-resident employees does not exceed 5% of the paid-up capital of the issuing company. The Trust and the issuing company should ensure that value of shares held by persons resident outside India under the scheme does not exceed the limit specified in clause (b) of sub-regulation (1) thereof.

3.4 Issue of shares by Indian companies under ADR/GDR

3.4.1 An Indian company may issue its rupee denominated shares to a person resident outside India being a depository for the purpose of issuing Global Depository Receipts(GDRs) and/ or American Depository Receipts(ADRs). The company issuing these shares should ensure that it has:

- a) approval from the Ministry of Finance, Government of India to issue such ADRs and /or GDRs or is eligible to issue ADRs/GDRs in terms of the relevant scheme in force or notification issued by the Ministry of Finance, and
- b) is not otherwise ineligible to issue shares to persons resident outside India in terms of these Regulations, and
- c) the ADRs/GDRs are issued in accordance with the provisions of the Foreign Currency Convertible Bonds and Ordinary Shares (through Depository Receipt Mechanism) Scheme, 1993 and guidelines issued by the Central Government.

3.4.2 A registered broker may purchase shares of an Indian company on behalf of a person resident outside India for purpose of converting the shares into ADRs/GDRs subject to compliance with provisions of the Foreign Currency Convertible Bonds and Ordinary Shares (through Depository Receipt Mechanism) Scheme, 1993. The operative guidelines for the limited two way fungibility under the issue "Issue of Foreign Currency Convertible bonds and Ordinary shares (through Depository Receipt Mechanism) Scheme, 1993 has been issued vide A.P.(DIR Series) Circular No. 21 dated February 13, 2002.

An Indian company may sponsor issue of ADRs/GDRs with an overseas depository against shares held by its shareholders at a price to be determined by the Lead Manager.

3.4.3 Utilising the proceeds – Retention of proceeds abroad

Pending repatriation or utilisation of the foreign exchange resources raised, the Indian company may invest the foreign currency funds in deposits with or in Certificate of Deposits or other instruments of banks which have been rated not less than A+1 by Standard and Poor or P1 by Moody's for short-term obligations or in deposits with branch outside India of an Authorised Dealer in India and in treasury bills and other monetary instruments with a maturity of one year or less.

3.4.4 In order to encourage Indian companies to list ADRs/GDRs on the overseas exchanges, through the schemes of sponsored ADRs/GDRs, resident shareholders of Indian companies have been permitted to offer their shares for conversion to ADRs/GDRs and to receive the sale proceeds in foreign currency with FIPB approval.

3.4.5 The ADR/GDR/FCCB proceeds may be utilised in the first stage acquisition of shares in the disinvestment process and also in the mandatory second stage offer to the public in view of their strategic importance.

ADs have been permitted to allow Indian companies to prepay the existing FCCB subject to certain conditions.

3.5 Reporting of such Issues

The Indian company issuing shares shall furnish to the Reserve Bank full details of such issue in the form specified in Annexure C to Notification No.FEMA 20/2000-RB dated 3rd May 2000 within 30 days from the date of closing of the issue .The company should also furnish a quarterly return in the form specified in Annexure D to the Reserve Bank within 15 days of the close of the calendar quarter.

3.6 General Permissions to the Indian companies

Indian companies receiving subscription from non-residents for issue of shares have also got the general permission for the following:-

- (a) Refund of funds received towards allotment of shares under Regulation 5(1) of the Reserve Bank's Notification No.FEMA 20/2000-RB dated 3rd May 2000;
- (b) Remittance of surplus funds received for purchase of shares offered on rights basis;
- (c) Remittance on account of surplus funds received for purchase of shares or on account of cancellation of trade, under two-way fungibility of ADRs/GDRs.

4.1 Transfer of Shares and convertible debentures

General permission has been granted to non-residents/NRIs for transfer of shares and convertible debentures of an Indian company as under:-

- ◆ A person resident outside India (other than NRI and OCB) may transfer by way of sale or gift the shares or convertible debentures to any person resident outside India (including NRIs/OCBs) provided transferee has obtained prior permission of Central Government to acquire the shares if he has previous venture or tie-up in India through investment in shares or convertible debentures or a technical collaboration or a trade mark agreement or investment in the same field or allied field in which the Indian company whose shares are being transferred, is engaged.
- ◆ NRI or OCB may transfer by way of sale or gift the shares or convertible debentures held by him or it to another non-resident Indian.
- ◆ The person resident outside India may transfer any security to a person resident in India by way of gift.

4.2 Prior permission of RBI in certain cases for transfer of Security

A person resident in India who proposes to transfer any share or convertible debenture of an Indian company by way of sale or gift to a person resident outside India will have to obtain prior approval of Secretariat for Industrial Assistance, Govt of India, followed by permission from the RBI. The above two-stage approval is applicable even when the transfer is made on non-repatriation basis. A person resident outside India holding shares/convertible debentures of an Indian company may transfer by way of sale to a person resident in India by obtaining prior permission from RBI in form TS 1.

4.3 Issue Price.

Prices of shares issued to persons resident outside India under Schedule I, shall not be less than the price worked out in accordance with the SEBI guidelines, where the issuing company is listed on any recognised stock exchange in India, and fair valuation of shares is done by a Chartered Accountant as per the guidelines issued by the erstwhile Controller of Capital Issues, in all other cases.

4.4 Reporting by Indian companies

An Indian company issuing shares or convertible debentures in accordance with these Regulations shall submit to the Reserve Bank the details of advance remittance, not later than 30 days from the date of receipt of the amount of consideration , giving details regarding :-

- ◆ Name and address of the foreign investors
- ◆ Date of receipt of funds and their rupee equivalent
- ◆ Name and address of the Authorised Dealer through whom the funds have been received, and
- ◆ Details of the Government approval, if any,

5. Report in Form FC-GPR

After the Issue of shares, the company should file a report in Form FC-GPR not later than 30 days from the date of issue of shares, The report should contain the following details,

- ◆ A certificate from the Company Secretary of the company accepting investment from persons resident outside India certifying that
 - All the requirements of the Companies Act, 1956 have been complied with;
 - Terms and conditions of the Government approval, if any, have been complied with;
 - The company is eligible to issue shares under these Regulations, and
 - The company has all original certificates issued by Authorised Dealers in India evidencing receipt of amount of consideration.
- ◆ A certificate from Statutory Auditors or a Chartered Accountant indicating the manner of arriving at the price of the shares issued to the persons resident outside India.

6. Permission for retaining share subscription money received from persons resident outside India in a foreign currency account.

The Reserve Bank may permit an Indian company issuing shares to persons resident outside India under this Schedule to retain the subscription amount in a foreign currency account, subject to such terms and conditions as it may stipulate.

7. Portfolio Investment Scheme (PIS)

7.1 Foreign Institutional Investors registered with SEBI and Non-resident Indians are eligible to purchase shares and convertible debentures under the PIS. The concerned companies should apply to the RBI for permission through a designated bank which is granted along with permission for opening foreign currency account and/or a Rupee account with a designated branch of an Authorised Dealer.

Investment by Foreign Institutional Investors (FIIs)(Schedule 2)

7.2 In the case of FIIs, the total holding of each FII/SEBI approved Sub A/C shall not exceed 10% of the total paid-up equity capital or 10% of the paid-up value of each series of convertible debentures issued by an Indian company and the total holdings of all FIIs/sub-accounts of FIIs put together shall not exceed 24% of the paid-up equity capital or paid-up value of each series of convertible debentures. This limit of 24% can be increased to the sectoral cap/statutory limit as applicable to the Indian company concerned by passing of a resolution by its Board of Directors, followed by passing of a special resolution to that effect by its General Body.

The FIIs are also permitted to trade in all exchange traded derivative contracts subject to certain limits. ADs can also offer forward cover to FIIs to the extent of total inward remittance net of liquidated investments. FIIs are not permitted to invest in Print Media Sector without prior approval of Government of India, Foreign Investment Promotion Board and Ministry of Information & Broadcasting.

Registered FIIs have been permitted to purchase shares/convertible debentures of an Indian company through offer / private placement. This is subject to applicable ceiling as indicated in Schedule 2 to Notification No. FEMA 20/2000-RB dated 3rd May 2000. It is clarified that a FII may invest in a particular issue of an Indian company either under Schedule 1 or Schedule 2. It cannot, however, avail of both the routes simultaneously for a particular issue. The ADs have to ensure that the FIIs which are purchasing the shares by debit to the special rupee accounts report these details separately in the LEC (FII) returns. The company which has issued the shares to the FIIs under Schedule 1 (FDI) (for which the payment has been received directly into company's account) and under Schedule 2 (for which the payment has been received from FIIs' account maintained with Authorised Dealer in India) should report these figures separately under item 4(b) of the FC-GPR return so that the details could be suitably reconciled for statistical / monitoring purposes.

The FII shall restrict allocation of its total investment between equities and debt including dated Government Securities and Treasury Bills in the Indian Capital Market in the ratio of 70:30. The FII can form a 100% Debt Fund and get registered with SEBI for investment in debt investments (Schedule 5).

Investments by NRIs

7.3 In the case of NRIs it is to be ensured that the paid-up value of shares/ convertible debentures purchased by an NRI both on repatriation and non-repatriation basis does not exceed 5% of the paid-up capital / paid-up value of each series of debentures. The aggregate paid-up value of shares/ convertible debentures purchased by all NRIs should not exceed 10% of the paid-up capital of the company/paid-up value of series of debentures of the company provided that the NRI shall not purchase shares or convertible debentures of an Indian company which is engaged in Print Media. The aggregate ceiling of 10% can be raised to 24%, if the General Body of the Indian company concerned passes a special resolution to that effect. The NRI investor takes delivery of the shares purchased and gives delivery of shares sold. Payment for purchase of shares and/or debentures is made by inward remittance in foreign exchange through normal banking channels or out of funds held in NRE/FCNR account maintained in India if the shares are purchased on repatriation basis and by inward remittance or out of funds held in NRE/FCNR/NRO account of the NRI concerned, maintained in India where shares/debentures are purchased on non-repatriation basis. The link office of the designated branch of an AD shall furnish to the Chief General Manager, Reserve Bank of India, Exchange Control Department, Central Office,

Mumbai a report on a daily basis on PIS transactions undertaken by it, such report to be furnished on-line or on a floppy or in a hard copy in a format supplied by RBI.

NRIs have also the general permission to purchase on repatriation basis Govt dated securities, Treasury bills, units of domestic Mutual funds bonds issued by public sector undertakings and shares in public sector enterprise being divested by the Govt of India (Schedule 5).

With effect from 29th November 2001, OCBs are not permitted to invest under the PIS in India. Further, the OCBs that have already made investments under the PIS, may continue to hold such shares/convertible debentures till such time these are sold on the stock exchange.

8. Purchase of other securities

Foreign Institutional Investor can buy with repatriation benefits dated securities/ treasury bills, non-convertible debentures /bonds issued by Indian companies and units of domestic mutual funds either directly from the issuer of such securities or through a registered stock broker on a recognised stock exchange in India.

A non-resident Indian (NRI) can invest on non-repatriation basis in the shares or convertible debentures of Indian companies which are not engaged in Chit Fund or Nidhi Company or in agricultural/plantation activities or real estate business or construction of farm houses or dealing in Transferable Development rights and Print Media. There is no limit on NRI purchasing shares/convertible debentures issued by an Indian company whether by public issue or private placement. Amount of consideration for such purchase shall be paid by inward remittance through normal Banking channels from abroad or out of funds held in NRE/FCNR/NRO account maintained with the AD. In the case of NRIs resident in Nepal and Bhutan the amount of consideration for such purchase shall be paid only by way of inward remittance in foreign exchange through normal banking channels. The sale proceeds shall be credited to NRO account. The amount invested under the scheme and the capital appreciation thereon shall not be allowed to be repatriated abroad.

9. Investments in other securities on non-repatriation basis

NRI can also, without any limit, purchase on non-repatriation basis dated Government securities, treasury bills, units of domestic mutual funds, units of Money Market Mutual Funds or National Plan / Savings certificates.

10. Investments by Venture Capital Funds (Schedule 6)

A SEBI registered Foreign Venture Capital Investor (FVCI) with general permission from RBI under FEMA regulations can invest in Indian Venture Capital Undertaking (IVCU) or in a Venture Capital Fund(VCF) or in a Scheme floated by such VCFs. They can purchase equity/equity linked instruments/debt instruments, debentures of an IVCU or of a VCF through initial public offer or private placement or in units of schemes/ funds set up by a VCF. The Reserve Bank, on application, may permit a FVCI to open a foreign currency account or rupee account with a designated branch of an Authorised Dealer. The purchase/ sale of shares, debentures, units can be at a price that is mutually acceptable to the buyer and the seller /issuer. ADs are also authorised to offer forward cover to FVCIs to the extent of total inward remittance net of liquidated investments.

Annexure A

(A) List of Activities for which Automatic Route of RBI for investment from person resident outside India is not available

1. Domestic Airlines
2. Petroleum Sector (except for private sector oil refining)
3. Investing companies in Infrastructure & Services Sector
4. Defence and Strategic Industries
5. Atomic Minerals
6. Print Media
7. Broadcasting
8. Postal services
9. Courier Services
10. Establishment and Operation of satellite
11. Development of Integrated Township
12. Tea Sector

(B) List of activities or items for which FDI is prohibited.

1. Retail Trading
2. Atomic Energy
3. Lottery Business
4. Gambling and Betting
5. Housing and Real Estate business
6. Agriculture (excluding Floriculture, Horticulture, Development of seeds, Animal Husbandry, Pisciculture and Cultivation of vegetables, mushrooms etc. under controlled conditions and services related to agro and allied sectors) and Plantations (Other than Tea plantations)

Annexure B

Sectoral cap on Investments by persons resident outside India

Sector	Investment Cap	Description of Activity / Items / Conditions
1. Private Sector Banking	49%	Subject to guidelines issued by RBI from time to time
2. Non-Banking Financial Companies	100%	<p>FDI /NRI/OCB investments allowed in the following 19 NBFC activities shall be as per the levels indicated below :</p> <p>a) Activities covered :</p> <ol style="list-style-type: none">1. Merchant Banking2. Under writing3. Portfolio Management Services4. Investment Advisory Services5. Financial Consultancy6. Stock-broking7. Asset Management8. Venture Capital9. Custodial Services10. Factoring11. Credit Reference Agencies12. Credit Rating Agencies13. Leasing & Finance14. Housing Finance15. Forex-broking16. Credit Card Business17. Money-changing Business18. Micro-credit19. Rural credit <p>b) Minimum Capitalisation norms for fund based NBFCs</p> <p>i) for FDI upto 51%, US \$ 0.5 million to be brought in upfront</p> <p>ii) If the FDI is above 51 % and upto 75 %, US \$ 5 million to be brought upfront</p> <p>iii) If the FDI is above 75 % and upto 100 %, US \$ 50 million out of which \$ 7.5 million to be brought in upfront and the balance in 24 months</p> <p>c) Minimum Capitalisation norms for non-fund based activities.</p> <p><u>Minimum Capitalisation norm of US\$0.5 million is applicable in respect of non-fund based NBFCs with foreign investment.</u></p> <p>d) Foreign investors can set up 100% operating subsidiaries without the condition to disinvest a minimum of 25% of its equity to Indian entities, subject to bringing in US \$ 50 million as at b) (iii) above (without any restriction on number of operating subsidiaries without bringing in additional capital)</p> <p>e) Joint Venture operating NBFCs that have 75% or less than 75% foreign investment will also be allowed to set up subsidiaries for undertaking other NBFC activities , subject to the subsidiaries also complying with the applicable minimum capital inflow i.e, (b)(i) and (b)(ii) above.</p> <p>f) FDI in the NBFC sector is put on automatic route subject to compliance with guidelines of the Reserve Bank of India. RBI would issue appropriate guidelines in this regard</p>

3. Insurance	26%	FDI upto 26% in the Insurance sector is allowed on the automatic route subject to obtaining licence from Insurance Regulatory & Development Authority(IRDA)
4. Telecommunications	49 %	<p>i) In basic, Cellular, Value Added Services, and Global Mobile Personal Communications by Satellite, FDI is limited to 49% subject to licencing and security requirements and adherence by the companies (which are investing and the companies in which the investment is being made) to the license conditions for foreign equity cap and lock-in period for transfer and addition of equity and other license provisions.</p> <p>ii) ISPs with gateways, radio paging and end-to-end bandwidth, FDI is permitted upto 74% with FDI, beyond 49% requiring Government approval. These services would be subject to licensing and security requirements</p> <p>iii) No equity cap is applicable to manufacturing activities.</p> <p>iv) FDI upto 100% is allowed for the following activities in the telecom sector:</p> <ul style="list-style-type: none"> a) ISPs not providing gateways (both for satellite and submarine cables) b) Infrastructure Providers providing dark fibre (IP Category 1) c) Electronic Mail, and d) Voice Mail <p>The above would be subject to the following conditions; FDI upto 100% is allowed subject to the condition that such companies would divest 26% of their equity in favour of Indian public in 5 years, if these companies are listed in other parts of the world. The above services would be subject to licencing and security requirements, wherever required Proposal for FDI beyond 49% shall be considered by FIPB on case-to-case basis.</p>
5. Petroleum Refining (Private Sector)	100%	FDI permitted upto 100 % in case of private Indian companies.
6. Housing and Real Estate	100 %	<p>Only NRIs/OCBs are allowed to invest upto 100 % in the areas listed below :</p> <ul style="list-style-type: none"> a) Development of serviced plots and construction of built-up residential premises b) Investment in real estate covering construction of residential and commercial premises including business centres and offices c) Development of townships d) City and regional level urban infrastructure facilities, including both roads and bridges e) Investment in manufacture of building materials f) Investment in participatory ventures in (a) to (e) above g) Investment in Housing finance institutions which is also opened to FDI as an NBFC
7. Coal & Lignite		i) Private Indian companies setting up or operating power projects as well as coal and lignite mines for

		<p>captive consumption are allowed FDI upto 100%.</p> <p>ii) 100% FDI is allowed for setting up coal processing plants subject to the condition that the company shall not do coal mining and shall not sell washed coal or sized coal from its coal processing plants in the open market and shall supply the washed or sized coal to those parties who are supplying raw coal to coal processing plants for washing or sizing.</p> <p>iii) FDI upto 74% is allowed for exploration or mining of coal or lignite for captive consumption.</p> <p>iv) In all the above cases, FDI is allowed upto 50% under the automatic route subject to the condition that such investment shall not exceed 49% of the equity of a PSU.</p>
8. Venture Capital Fund (VCF) and Venture Capital Company(VCC)		<p>Offshore Venture Capital Funds/ companies are allowed to invest in domestic venture capital undertaking as well as other companies through the automatic route, subject only to SEBI regulations and sector specific caps on FDI.</p>
9. Trading		<p>Trading is permitted under automatic route with FDI upto 51% provided it involves primarily export activities, and the undertaking is an export house/ trading house / super trading house/ star trading house. However, under the FIPB route:</p> <p>(i) 100% FDI is permitted in case of trading companies for the following activities:</p> <ol style="list-style-type: none"> exports; bulk imports with export/ ex-bonded warehouse sales; cash and carry wholesale trading; other import of goods or services provided at least 75% is for procurement and sale of the same group and not for third party use or onward transfer/ distribution/sales. <p>ii) The following kinds of trading are also permitted , subject to provisions of Exim Policy.</p> <ol style="list-style-type: none"> Companies for providing after sales services(that is not trading per se) Domestic trading of products of JVs is permitted at the wholesale level for such trading companies who wish to market manufactured products on behalf of their Joint ventures in which they have equity participation in India Trading of hi-tech items/ items requiring specialised after sales service Trading of items for social sector Trading of hi-tech, medical and diagnostic items. Trading of items sourced from the small scale sector under which, based on technology provided and laid down quality specifications, a company can market that item under its brand name Domestic sourcing of products for exports Test marketing of such items for which a company has approval for manufacture provided such test marketing facility will be for a period of two years, and investment in setting up manufacturing facilities commences simultaneously with test marketing. <p>i) FDI upto 100% permitted for E-commerce activities subject to the condition that such companies would divest 26% of their equity in favour of the Indian public in five years, if these</p>

		companies are listed in other parts of the world. Such companies would engage only in business to business (B2B) e-commerce and not in retail trading.
10. Power	100%	FDI allowed upto 100 % in respect of projects relating to electricity generation, transmission and distribution, other than atomic reactor power plants. There is no limit on the project cost and quantum of foreign direct investment.
11. Drugs & Pharmaceuticals	100 %	FDI permitted upto 100 % for manufacture of drugs and pharmaceuticals provided the activity does not attract compulsory licensing or involve use of recombinant DNA technology and specific cell/tissue targeted formulations. FDI proposals for the manufacture of licensable drugs and pharmaceuticals and bulk drugs produced by recombinant DNA technology and specific cell/tissue targeted formulations will require prior Govt. approval.
12. Road and highways, Ports and harbours	100%	In projects for construction and maintenance of roads, highways, vehicular bridges, toll roads, vehicular tunnels, ports and harbours.
13. Hotel & Tourism	100 %	The term hotels include restaurants, beach resorts and other tourist complexes providing accommodation and/ or catering and food facilities to tourists. Tourism related industry include travel agencies, tour operating agencies and tourist transport operating agencies, units providing facilities for cultural, adventure and wild life experience to tourists, surface, air and water transport facilities to tourists, leisure, entertainment, amusement, sports and health units for tourists and Convention/Seminar units and organisations. For foreign technology agreements, automatic approval is granted if (i) Upto 3% of the capital cost of the project is proposed to be paid for technical and consultancy services including fees for architects, design, supervision, etc. (ii) Upto 3% of the net turnover is payable for franchising and marketing/publicity support fee, and Upto 10% of gross operating profit is payable for management fee, including incentive fee.
14. Mining	74 % 100 %	(i) For exploration and mining of diamonds and precious stones FDI is allowed upto 74 % under automatic route (ii) For exploration and mining of gold and silver and minerals other than diamonds and precious stones, metallurgy and processing FDI is allowed upto 100 % under automatic route (iii) Press Note 18 (1998 series) dated 14/12/98 would not be applicable for setting up 100 % owned subsidiaries in so far as the mining sector is concerned, subject to a declaration from the applicant that he has no existing joint venture for the same area and/or the particular mineral.
15. Advertising	100 %	Advertising Sector FDI upto 100 % allowed on the automatic route
16. Films	100 %	Film Sector (Film production, exhibition and distribution including related services/products)

		FDI upto 100 % allowed on the automatic route with no entry-level condition
17. Airports	74 %	Govt approval required beyond 74 %
18. Mass Rapid Transport Systems	100 %	FDI upto 100% is permitted on the automatic route in mass rapid transport system in all metros including associated real estate development
19. Pollution Control & Management	100 %	In both manufacture of pollution control equipment and consultancy for integration of pollution control systems is permitted on the automatic route
20. Special Economic Zones	100 %	<p>All manufacturing activities except:</p> <ul style="list-style-type: none"> (i) Arms and ammunition , Explosives and allied items Of defence equipments, Defence aircrafts and warships, (ii) Atomic substances, Narcotics and Psychotropic Substances and hazardous Chemicals, (iii) Distillation and brewing of Alcoholic drinks and (iv) Cigarette/cigars and manufactured tobacco substitutes.

“FORM FC-GPR”

(To be filed with the Regional Office of the RBI under whose jurisdiction the registered office of the company making the declaration is situated)

We (Name of the Company)-----

Declare that, being eligible to issue shares to non-residents under the permission granted under Notification No.FEMA 20/2000-RB dated 3rd May 2000, furnish the following information in connection with shares issued.

- 1. Name and address (Registered office)
Of the Indian company issuing shares
to non-residents
- 2. Whether existing company or new
company recently formed
- 3. Activities of the company

<u>NIC Code</u>	<u>Description</u>
------------------------	---------------------------

(In case no NIC code has been allotted to the activity, the company may classify in the nearest broad category. In case it is not at all possible to classify the activity under the NIC Code, only description may be given).

- 4. Particulars of shares/convertible debentures issued
 - (a) Name and country of the foreign investor
 - (b) Category of investor (Foreign National/NRI/OCB/FII/Foreign Company, Foreign Venture Capital Fund, Foreign Venture Capital Company etc.)
 - (c) Whether the shares are issued under Automatic Route/Government Approval or on rights/bonus basis (Please quote SIA/FIPB approval number where applicable)
 - (d) Details of shares/convertible debentures issued (Please furnish details for equity shares, preference shares and convertible debentures separately)

No. of shares/value convertible debentures case Issue Price shares	Face value of shares At par (RS.)/premium of Rs. - per share, control premium non-competition fee etc	Total face Ratio in of bonus
---	--	-------------------------------------

Total inflow on account of	}	
issue of shares to non-residents	}	Rs.
(including premium if any)	}	

(d)(i) We are a listed company, price in terms of SEBI guidelines per share is Rs.

OR

(ii) The company is not listed, fair value of the share in terms of guidelines issued by the erstwhile CCI is Rs.

OR

(iii) Shares are issued on rights basis

OR

(iv) Shares have been issued as a result of merger/de-merger/amalgamation

5. Capital structure of the company

(after issue of shares as per item 4)

		Equity	(Rupees) Preference
I	Paid up capital		
II	(a) Non-resident Investment		
	(i) NRI/OCB		
	(ii) Others (specify)		
	(b) Resident investment		
		Total	-----
III	Existing percentage of	} NRIs/OCBs	-----%
	non-resident investment	} Others	-----%
	in the paid up capital	}	
	[II a as a percentage of I]	Total	----- %

Declaration

We hereby declare that :

1. We have carefully followed the procedure for issue of shares as laid down under the Automatic Route as indicated in the Notification No. FEMA 20/2000-RB dated 3rd May 2000.
2. Foreign equity(ies)(other than individuals) to whom we have issued shares does/do not have any previous joint venture or technical collaboration or trade mark agreement in India in the same or allied field.
1. We don't require an Industrial Licence under the Industries (Development and Regulation) Act, 1951 or in terms of locational policy notified by the Government under the new Industrial Policy of 1991.
2. We are an SSI unit & the investment limit of 24 % has been observed, **OR** we are not an SSI unit.
(Delete whichever is not applicable under signature)
5. Our proposal is within the sectoral policy/cap permissible under the automatic route of RBI.

OR

II Shares have been issued in terms of SIA/FIPB approval No. ----- dated -----
-----.

OR

III Shares have been issued on rights basis and the shares are issued to non-residents at a price that is not lower than that at which shares issued to residents.

OR

IV Shares issued are bonus shares.

OR

V Shares have been issued under a scheme of merger and amalgamation of two or more Indian companies or reconstruction by way of demerger or otherwise of an Indian company, duly approved by a court in India.

For-----
(Name of the company /seal)

Signature

Name : _____

*Designation : _____

Date :

Place :

(* To be signed by senior official/responsible person in the company)

Foreign Investments in India – Investment in Proprietorship Concern/ Partnership Firm

A.P. (DIR Series) Circular No.39 (December 3, 2003)

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai-400 001**

A.P. (DIR Series) Circular No.39

December 3, 2003

To

All Authorised Dealers in Foreign Exchange

Madam/ Sirs,

**Foreign Investments in India – Investment in Proprietorship Concern/
Partnership Firm**

Attention of Authorised Dealers is invited to the Foreign Exchange Management (Investment in Firm or Proprietary concern in India) Regulations, 2000 notified by the Reserve Bank of India vide Notification No.FEMA.24/2000-RB dated May 3, 2000 as amended from time to time giving effect to the provisions of the Foreign Exchange Management Act (FEMA), 1999 relating to Foreign Direct Investments in India.

2. The provisions of the abovesaid Notification are as under:-

**A. Investment in a firm or proprietary concern in India
by a person resident outside India on non-repatriation basis**

A Non-Resident Indian (NRI) or a Person of Indian Origin (PIO) resident outside India may invest by way of contribution to the capital of a firm or a proprietary concern in India on non-repatriation basis, i.e., the amount invested shall not be eligible for repatriation outside India, provided :

- a) the amount is invested by inward remittance or out of NRE/FCNR/NRO account maintained with Authorised Dealer,
- b) the firm or proprietary concern is not engaged in any agricultural/plantation or real estate business, i.e. dealing in land and immovable property with a view to earning profit or earning income therefrom.

**B. Investment in sole proprietorship concern /
partnership firm with repatriation benefits**

NRIs/PIOs may invest in sole proprietorship concerns/ partnership firms with repatriation benefits only with the prior approval of Secretariat for Industrial Assistance (SIA), Government of India/RBI.

C. Investment by non-residents other than NRIs/PIOs

No person resident outside India other than NRIs/PIOs shall make any investment by way of contribution to the capital of a firm or a proprietorship concern or any association of persons in India provided that the Reserve Bank may, on an application made to it, permit a person resident outside India subject to such terms and conditions as may be considered necessary.

3. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

4. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign exchange Management Act, 1999 (42 of 1999).

Yours faithfully,
Grace Koshie
Chief General Manager

Export of Goods and Services – Liberalisation
A.P.(DIR Series) Circular No.40 (December 5, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai

A.P.(DIR Series) Circular No.40

December 5, 2003

To
All Authorised Dealers in Foreign Exchange

Madam / Sirs,

Export of Goods and Services – Liberalisation

Attention of Authorised Dealers is invited to A.P (DIR Series) Circular No.12 dated September 9, 2000, as amended from time to time, relating to Export of Goods and Services and Part C of the said circular wherein directions have been issued for allowing write-off, reduction in invoice value and extension of time limit for realisation of export proceeds to exporters in respect of outstanding / overdue export bills

2. With a view to simplifying and liberalising the procedure, providing full flexibility to all exporters and reducing the paper work associated with seeking extension of time or reduction in invoice value or write-off, it has been decided to **allow all exporters (including Status Holder)** to : -

- (i) write-off (including reduction in invoice value) outstanding export dues, and
- (ii) extend the **prescribed** period of realisation beyond 180 days or further period as applicable,

provided, the aggregate value of such export bills written-off (including reduction in invoice value) and bills extended for realisation does not exceed 10 per cent of the export proceeds due during the calendar year and such export bills are not a subject of investigation by Enforcement Directorate / Central Bureau of Investigation or any other Investigating Agencies. This facility will be available in respect of export proceeds falling due from January 1, 2004. In other words, the new facility will be available for exports made after July 1, 2003 and proceeds due for realisation on January 1, 2004 (ie., within the prescribed period of 180 days). In the case of exports where Reserve Bank has prescribed longer period of realisation, the said facility would be available for exports made prior to July 2003, but proceeds of which are due for realisation within the prescribed period of one year.

3. Exporters dealing with more than one Authorised Dealer can avail of this facility through each AD, i.e., the limit of 10 per cent for self write-off (including reduction in invoice value) and extension of time for realisation of export proceeds would be applicable for export bills lodged for realisation with that Authorised Dealer. However, exporters operating under a consortium of banks or with multiple banks will also have the option of computing the 10 per cent limit on an aggregate basis with all the banks, provided the lead bank of the consortium or

in case of multiple banking, a **nodal bank** undertakes to verify the exporters' annual performance on behalf of all the banks.

4. Within a month from the close of the calendar year, exporters should submit a statement, as per enclosed format, giving details of export proceeds due, realised and not realised to the concerned Authorised Dealer. Export bills due in the year 2004, for which exporter has extended the period of realisation on his own (within the 10 per cent limit) or sought extension of time from the Authorised Dealer but unrealised as at the end of calendar year 2004, will be computed for export proceeds due in the following year. The Authorised Dealer will be required to verify the statement with his records and review the export performance of the exporter during the calendar year to ascertain that in cases where the 10 per cent limit of self extension, write-off (including reduction in invoice value) and non-realisation has been breached, exporter has sought necessary approval for write-off, reduction in invoice value or extension of time, as the case may be, for the excess over the 10 per cent limit before the end of the calendar year. In cases where exporters have failed to comply with this requirement, Authorised Dealers may promptly advise the said exporter to seek extension of time/reduction in invoice value/write-off in respect of non-realisation in excess of the 10 per cent limit, failing which, the Authorised Dealers may inform the exporter about the withdrawal of this facility of self write-off / extension of time, **within a month**, under advice to the concerned Regional Office of the Reserve Bank.

5. Requests received from exporters in terms of Paragraph 4 above may be dealt with by the Authorised Dealers as per the existing instructions relating to extension of time for realisation of export proceeds, reduction in invoice value and write-off issued by the Reserve Bank.

6. Regarding disposal of GR/SOFTEX/SDF/PP forms under the above facility, Authorised Dealers may release the respective forms relating to the write-off (including reduction in invoice value) by the exporter himself, provided the **exporter submits evidence to the Authorised Dealer for surrender of export incentives** availed of, if any, along with the annual statement. In the case of export bills extended for realisation by the exporter within the 10 per cent limit, Authorised Dealers may report such bills as outstanding in the XOS statement with the remark "extended by the exporter".

7. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

8. The directions in this circular have been issued under Sections 10 (4) and 11(1) of the FEMA, 1999 (42 of 1999).

Yours faithfully,
Grace Koshie
Chief General Manager

Annual statement

Word

Pdf

**Indian Direct Investment in JVs/WOSs Abroad
A. P (DIR Series) Circular No. 41 (Dec 06, 2003)**

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai 400 001**

A. P (DIR Series) Circular No. 41

December 6, 2003

To
All Authorised Dealers in Foreign Exchange

Madam/ Sirs,

Indian Direct Investment in JVs/WOSs Abroad

Attention of Authorised Dealers is invited to the following Notifications on Foreign Exchange Management (Transfer or issue of any foreign security) Regulations, 2000 amending the provisions of the original Notification No. FEMA.19/RB-2000 dated May 3, 2000.

1. FEMA.40/RB-2000 dated March 2, 2001
2. FEMA.48/2002-RB dated January 1, 2002
3. FEMA.49/2002-RB dated January 19, 2002
4. FEMA.53/2002-RB dated March 1, 2002
5. FEMA.55/2002-RB dated March 5, 2002

2. With a view to simplifying and liberalising the present policy of overseas direct investment, the existing guidelines have been modified as under :

2.1 Investment by Firms in India

It has been decided to permit firms in India registered under the Indian Partnership Act, 1932 and having a good track record, to make direct investments outside India in an entity engaged in any bonafide business activity under the Automatic Route upto 100% of its net worth or USD 10 mn. or its equivalent, whichever is less, in one financial year. Firms intending to undertake financial services activities would, however, have to satisfy the additional requirements prescribed in Regulation 7 of Notification ibid.

2.2 Investment through Special Purpose Vehicle (SPV) under the Automatic Route

Attention of Authorised Dealers is also invited to AP (Dir Series) Circular No.23 dated February 19, 2002, in terms of which investments in JV/WOS abroad through the medium of a Special Purpose Vehicle (SPV) has been prohibited under the Automatic Route. On a review, it has been decided to cover such investments also under the Automatic Route in terms of Regulation 6 of Notification No. FEMA.19/ RB-2000 dated May 3, 2000 as amended subject to the following:

In terms of clause (v) of Sub-regulation (2) of Regulation 6, Indian parties included in the Reserve Bank's Caution List or under investigation by the Enforcement Directorate are not eligible to make overseas investments under the Automatic Route. It is clarified that this

restriction is also applicable to Indian parties which are defaulters to the banking system in India and whose names appear in the Defaulters' List published/circulated by the Reserve Bank. Authorised Dealers may, while allowing remittances under the Automatic Route, satisfy themselves that the Indian party proposing to make the investment is not included in the Defaulters' List. Indian parties whose names appear in the Defaulters' List may be advised to apply to the Reserve Bank for prior approval for the investment.

2.3 **Investment by way of share swap**

At present, all proposals for investment by way of swap of shares require prior approval of the Reserve Bank. It has now been decided to permit such investments also under the Auto Route as per the conditions specified in Regulation 6 of Notification No. FEMA.19/RB-2000 dated May 3, 2000 as amended. However, Authorised Dealers may note that all share swap transactions require prior approval of the Foreign Investment Promotion Board (FIPB) for the inward leg of investment.

Such swap transactions would have to be in accordance with the valuation norms prescribed vide Sub-Regulation 7(b) of Regulation 6 of Notification *ibid*, i.e., by a Category I Merchant Banker registered with the Securities and Exchange Board of India (SEBI) or an Investment Banker/Merchant Banker outside India registered with the appropriate Regulatory Authority in the host country.

Authorised Dealers may accordingly obtain and consider the investment proposals from the Indian parties in respect of cases under 2.1, 2.2 and 2.3 above in Form ODA alongwith the prescribed enclosures and immediately after making the remittance, forward the report of remittance / transaction in form ODR to the Reserve Bank of India, Exchange Control Department, Central Office, Overseas Investment Division, Mumbai 400 001.

In the case of investment by way of share swap, Authorised Dealers are additionally required to submit to Reserve Bank the details of transactions such as number of shares received /allotted, premium paid/ received, brokerage paid/ received etc., and also confirmation to the effect that the inward leg of transaction has been approved by FIPB and the valuation has been done as per laid-down procedure and that the overseas company's shares are issued / transferred in the name of the Indian investing company. Authorised Dealers may also obtain from the applicants an undertaking to the effect that future sale/transfer of shares so acquired by Non-Residents in the Indian Company shall be in accordance with the provisions of Notification No. FEMA 20/2000-RB dated May 3, 2000 as amended from time to time.

2.4 **Direct Investment Abroad in Financial Services Sector Activities**

At present only Indian companies engaged in financial sector activities in India and complying with additional norms prescribed in Regulation 7 of Notification No. FEMA.19/RB-2000 dated May 3, 2000 as amended are permitted to invest abroad in the financial sector. In partial modification of the said Regulation, the stipulation of the minimum net worth of Rs.15 crores prescribed therein has been dispensed with. However, henceforth any Indian entity engaged in the financial services sector and wishing to undertake financial sector activities abroad should also obtain approval for doing so **from the concerned Regulatory Authorities both in India and abroad** before venturing into such activity. All other conditions stipulated in the Regulation 7 remain unchanged. While forwarding the report of remittance in respect of the above category in form ODR to the Reserve Bank, Authorised Dealers may forward details of such regulatory approvals also.

3. **Diversification of activity/step down investments by JV/WOS established by an Indian party**

As Authorised Dealers are aware, in terms of Regulation 13 of Notification No. FEMA.19/RB-2000 dated May 3, 2000 as amended, an Indian party, which holds 50% or more of the paid up capital of the overseas entity, has to apply to the Reserve Bank for permission to

- (a) diversify activity
- (b) set up a step down subsidiary
- (c) alter the shareholding pattern in the overseas entity, if it does not satisfy the conditions stipulated therein.

These restrictions were not applicable in case the Indian party is a minority shareholder or the investment has been made entirely out of balances held in EEFC account or through ADR/GDR issue. It has now been decided to remove the existing restrictions and provide a level playing field for all.

Authorised Dealers may accordingly consider the proposals for diversifications /step down investments by the Indian parties having JV/WOS abroad and allow remittance within the limits applicable for investments under the automatic route.

The Indian Party shall report to the Reserve Bank the details of decisions taken by the JV/WOS within 30 days of the approval of those decisions by the share holders/promoters/directors of the JV/WOS in terms of the local laws of the host country and include the same in the Annual Performance Reports (APR) required to be forwarded annually to the Reserve Bank.

4. **Transfer by way of sale of shares of a JV/WOS outside India**

Hitherto, in terms of Regulation 16 of Notification No. FEMA.19/RB-2000 dated May 3, 2000 as amended, prior permission of Reserve Bank was required for transfer by way of sale of shares of a JV/WOS. It has now been decided to permit Indian party to transfer by way of sale to another Indian party, which complies with the provisions of Regulation 6 of the said Notification or to a person resident outside India, any share or security held by it in a joint venture or wholly owned subsidiary outside India subject to the conditions and reporting requirements indicated in the **Annexure** to this circular.

An Indian party, which does not satisfy the eligibility norms and proposals and seek “write-off” of the investment, shall have to apply to the Reserve Bank for prior permission.

Authorised Dealers may accordingly consider proposals for disinvestment which fulfill the said norms.

5. Necessary amendments to the Foreign Exchange Management (Transfer or issue of any foreign security) Regulations, 2000 are being notified separately.

6. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

7. 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).

Yours faithfully,

Grace Koshie
Chief General Manager

Annexure

Transfer by way of sale of shares of a JV/WOS outside India

I. Terms and conditions governing transfer by way of sale of shares of a JV /WOS outside India :

- (i) the sale is to be effected through a stock exchange where the shares of the overseas joint venture or wholly owned subsidiary are listed;
- (ii) if the shares are not listed on the stock exchange, and the disinvestment is by private arrangement, the sale price of the share is not less than the value certified by a Chartered Accountant/Certified Public Accountant/Category I Merchant Banker registered with SEBI;
- (iii) The Indian promoter does not have any outstanding dues by way of dividend, technical know-how fees, royalty, consultancy, commission or other entitlements, and/or export proceeds from the joint venture or wholly owned subsidiary ;
- (iv) The overseas concern has been in operation for at least one full year and the annual performance report together with the audited accounts for that year has been submitted to the Reserve Bank;
- (v) The Indian party is not under investigation by CBI/ED/ SEBI/IRDA or any other regulatory authority in India;

Sale proceeds of shares/securities shall be repatriated to India immediately on receipt thereof and in any case not later than 90 days from the date of sale of the shares/securities.

II. Authorised Dealers may obtain following documents in order to process an application for disinvestment from an Indian party having JV/ WOS abroad.

- (i) Latest Annual Performance Report on the working of the JV/WOS including financial statements
- (ii) Certified true copy of the Board Resolution approving the disinvestment and indicating the amount of disinvestment approved
- (iii) Letter of offer from the purchaser
- (iv) Consent letter from the partners in case of disinvestment of share in a JV abroad
- (v) Valuation certificate

- (vi) Certificate from a Chartered Accountant certifying that no dues are outstanding to the Indian party or indicating the details of dues, if any, from the JV/WOS to the Indian party

III. Report regarding disinvestment to the Regional Office of the Reserve Bank, inter alia, should indicate the following:

- (i) Identification No.
- (ii) Name of Indian company
- (iii) Name of the country and amount of investment approved
- (iv) Amount of disinvestment
- (v) Date of repatriation of the disinvestment proceeds
- (vi) Certificate that all documents as above have been obtained

Overseas Direct Investment - Liberalisation
A.P. (DIR Series) Circular No. 42 (December 6, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai 400 001

A.P. (DIR Series) Circular No. 42

December 6, 2003

To
All Authorised Dealers in Foreign Exchange

Madam / Sirs,

Overseas Direct Investment - Liberalisation

Attention of Authorised Dealers is invited to AP (DIR Series) Circular No.41 dated December 6, 2003 permitting Indian companies to transfer shares of their JV/WOS abroad by way of sale under Automatic Route. As Authorised Dealers are aware, such disinvestment is permitted only in case of full repatriation of investment made and other entitlements, if any.

2. As a further measure of liberalisation, it has been decided to permit Indian listed companies to disinvest their investment in a JV/WOS abroad even in case where such disinvestment may result in a write-off of the capital invested to the extent of 10% of the previous year's export realisation. Other terms and conditions and reporting requirements listed in the annexure to our AP (DIR) Circular mentioned above remain unchanged.
3. Necessary amendments to the Foreign Exchange Management (Transfer or issue of any foreign security) Regulations, 2000 vide Notification No.FEMA.19/RB-2000 dated May 3, 2000 and other relevant Notifications are being issued separately.
4. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.
5. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act 1999 (42 of 1999).

Yours faithfully,

Grace Koshie
Chief General Manager

Foreign Investments in India – Acquisition of Immovable Property
A.P. (DIR Series) Circular No.43 (Dec 8, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai-400 001

A.P. (DIR Series) Circular No.43

December 8 , 2003

To

All Authorised Dealers in Foreign Exchange

Madam/ Sirs,

Foreign Investments in India – Acquisition of Immovable Property

Attention of Authorised Dealers is invited to the Foreign Exchange Management (Acquisition and transfer of immovable property in India) Regulations, 2000 notified by the Reserve Bank of India vide Notification No.FEMA.21/2000-RB dated May 3, 2000 as amended from time to time giving effect to the provisions of the Foreign Exchange Management Act (FEMA), 1999 relating to acquisition and transfer of immovable property by foreign companies/persons resident outside India.

2. The Reserve Bank has issued Notification No.[FEMA.93/2003-RB dated June 9, 2003](#) covering further modifications and measures for liberalisation with regard to acquisition of immovable property (copy enclosed). The updated instructions are summarised in the [Annexure](#) for ready reference.

3. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

4. 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)

Yours faithfully,

Grace Koshie
Chief General Manager

Annexure

[A.P.(DIR Series) Circular No.43
dated December 8, 2003]

Foreign Investments in India – A summary of updated instructions regarding acquisition of immovable property

1 Acquisition and Transfer of Immovable Property in India

(i) Acquisition by a person resident outside India

A person resident outside India who is a citizen of India can acquire any immovable property in India other than agricultural/ plantation /farm house.

(ii) Acquisition by way of transfer

A person resident outside India may transfer any immovable property other than agricultural or plantation property or farm house to a person resident outside India who is a citizen of India or to a person of Indian origin (PIO) resident outside India or a person resident in India. He may however transfer agricultural land/ plantation property/ farm house only to Indian citizens permanently residing in India. A PIO can transfer any immovable property in India other than agricultural land/ farm house/ plantation property by way of sale to a person resident in India and agricultural land/plantation/farm house by way of gift or sale to only an Indian citizen permanently residing in India. He may also transfer residential or commercial property in India by way of gift to a person resident in India or to a person resident outside India who is a citizen of India or to a person of Indian origin resident outside India.

(iii) Acquisition by way of Gift

A PIO resident outside India can acquire any immovable property other than agricultural land/ farm house/ plantation property in India by purchase or by way of gift and any immovable property by way of inheritance. For acquiring the property, the funds should come from abroad or by debit to any non-resident account, viz., NRE/FCNR/NRO account of the investor. The gift can be received from a person resident in India or from a person resident outside India who is a citizen of India or from a PIO resident outside India.

(iv) Acquisition by way of inheritance

The immovable property can be acquired by PIO by way of inheritance from a person resident in India or a person resident outside India provided he has in turn acquired such property in accordance with Foreign Exchange Law/Regulations in force at the time of acquisition.

2 Purchase/ Sale of immovable Property by Foreign Embassies/Diplomats/ Consulate Generals

Foreign Embassy/Diplomat/Consulate General has been allowed to purchase/ sell immovable property in India other than agricultural land/ plantation property / farm house provided (i) clearance from Government of India, Ministry of External Affairs is obtained for such purchase/ sale, and (ii) the consideration for acquisition of immovable property in India is paid out of funds remitted from abroad through banking channel.

3. Acquisition of Immovable Property for carrying on a permitted activity

A person resident outside India who has a branch, office or other place of business (excluding a liaison office) for carrying on his business activity with requisite approvals in India may acquire an immovable property in India which is necessary for or incidental to carrying on such activity provided that all applicable laws, rules, regulations or directions for the time being in force are duly complied with. The entity/concerned person would have to file a declaration in form IPI with the Reserve Bank, within ninety days from the date of such acquisition. The non-resident is eligible to transfer by way of mortgage the said immovable property to an Authorised Dealer as a security for any borrowing.

4. Repatriation of sale proceeds.

In the event of sale of immovable property other than agricultural land/ farm house/ plantation property in India, Authorised Dealer may allow repatriation of sale proceeds outside India provided;

- i) the immovable property was acquired by the seller in accordance with the provisions of the Foreign Exchange Law in force at the time of acquisition by him or the provisions of FEMA Regulations;
- ii) the amount to be repatriated does not exceed (a) the amount paid for acquisition of the immovable property in foreign exchange received through normal banking channels or out of funds held in Foreign Currency Non-Resident Account or (b) the foreign currency equivalent as on the date of payment, of the amount paid where such payment was made from the funds held in Non-Resident External Account for acquisition of the property.
- iii) In the case of residential property, the repatriation of sale proceeds is restricted to not more than two such properties.
- iv) Authorised Dealers may allow to NRIs/PIOs the facility of repatriation of funds out of balances held in their Non-resident Rupee(NRO) Accounts upto USD one million per calendar year, including sale proceeds of immovable property, subject to production of an undertaking by the remitter and a certificate by a Chartered Accountant in the formats prescribed by the Central Board of Direct Taxes (CBDT) (enclosed to A.P. (DIR Series) Circular No.56 dated November 26, 2002).

5. Prohibition on acquisition or transfer of immovable property in India by citizens of certain countries.

No person being a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal or Bhutan shall acquire or transfer immovable property in India, other than on lease, not exceeding five years, without prior permission of the Reserve Bank.

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai 400 001**

dated June 9, 2003

**Foreign Exchange Management
(Acquisition and Transfer of Immovable Property in India)
(Amendment) Regulations, 2003**

In exercise of the powers conferred by clause (i) of sub-section (3) of Section 6, sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999) and in partial modification of its Notification No.FEMA 21/2000-RB dated May 3, 2000, the Reserve Bank of India makes the following amendments in the Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations 2000, namely :-

1. Short title and Commencement :

- (i) These Regulations may be called the Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) (Amendment) Regulations, 2003.
- (ii) They shall come into force on the date of their publication in the Official Gazette.

2. Amendment of the Regulations

In the Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations 2000, after Regulation 5, the following Regulation shall be inserted namely :

**“5A. Purchase / sale of Immovable Property by Foreign
Embassies / Diplomats / Consulate Generals**

A Foreign Embassy / Diplomat / Consulate General may purchase / sell immovable property in India other than agricultural land / plantation property / farm house provided (i) clearance from Government of India, Ministry of External Affairs is obtained for such purchase / sale, and (ii) the consideration for acquisition of immovable property in India is paid out of funds remitted from abroad through banking channel”.

Sd/-

**(K.J. Udeshi)
Executive Director**

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai**

A.P (DIR Series) Circular No. 44

December 8, 2003
(Updated as on September 25, 2014)

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs

Derecognition of Overseas Corporate Bodies (OCBs)

Attention of Authorised Dealers is invited to [A.P.\(DIR Series\) Circular No. 14 dated September 16, 2003](#) conveying the decision to derecognise the Overseas Corporate Bodies (OCBs) in India as an eligible 'class of investor' under various routes/schemes available under extant Foreign Exchange Management Regulations.

2. In this connection, in exercise of the powers conferred under Section 6 read with Section 47 of the Foreign Exchange Management Act, 1999, the Reserve Bank has issued Foreign Exchange Management [Withdrawal of General Permission to Overseas Corporate Bodies (OCBs)] Regulations, 2003 which are notified vide [Notification No. FEMA 101/2003-RB dated October 3, 2003](#). The facilities for OCBs under various Foreign Exchange Management Regulations thus stand withdrawn. A copy of the said Notification is enclosed.

3. In order to address various operational issues associated with the exit arrangements for OCBs, [FAQs](#) to illustratively deal with these issues has been placed on RBI web-site for the information of all concerned (copy enclosed).

4. Authorised Dealers 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.

Yours faithfully

**Grace Koshie
Chief General Manager**

Derecognition of OCBs

Exchange Control Department Foreign Investment Division

Overseas Corporate Bodies (OCBs) have been derecognised as a class of investor entity in India with effect from September 16, 2003. In this connection, Reserve Bank has issued directions to the Authorised Dealers in terms of [A.P \(DIR Series\) Circular No. 14 dated 16th September 2003](#) and has made Foreign Exchange Management [Withdrawal of General Permission to Overseas Corporate Bodies (OCBs)] Regulations, 2003, which have been notified vide Notification No. FEMA 101/2003-RB dated October 3, 2003.

In order to address various operational issues associated with the transitional arrangements for OCBs, for the information of all concerned, FAQ has been prepared on the following topics:

I. General

II. Investment in shares/convertible debentures and other securities

III. Portfolio Investment Scheme

IV. Deposits

V. Borrowing or Lending in foreign currency or in Rupees

VI. Hedging of certain transactions

While these FAQs seek to cover the broad spectrum of operational issues, in case there are other issues to be resolved a reference may be made to the Chief General Manager, Foreign Investment Division, Exchange Control Department Reserve Bank of India Central Office Mumbai.

I. General

Q.1. What is meant by OCB?

A.1. Overseas Corporate Body (OCB) means a company, partnership firm, society and other corporate body owned directly or indirectly to the extent of at least sixty per cent by Non-Resident Indians and includes overseas trust in which not less than sixty percent beneficial interest is held by Non-resident Indians directly or indirectly but irrevocably, which was in existence as on September 16, 2003 and was eligible to undertake transactions pursuant to the general permission granted under Foreign Exchange Management Regulations.

Q.2 Which OCBs are governed by the regulations notified under Notification No. FEMA 101/2003-RB dated October 3, 2003?

A.2. These regulations are applicable to those OCBs who as on September 16, 2003 were availing of facilities under various Foreign Exchange Management Regulations to invest in India under various schemes/routes. Illustratively, an OCB could have -

- a) invested in shares/convertible debentures of an Indian company under Foreign Direct Investment Scheme through Government Route/Automatic Route of RBI on repatriation and non-repatriation basis, or
- b) invested in shares/convertible debentures of an Indian company on repatriation and non-repatriation basis under Portfolio Investment Scheme, or
- c) invested in securities other than shares and convertible debentures of an Indian company on repatriation and non-repatriation basis, or

- d) held Savings/Current/Recurring/Fixed Deposit account under NRO Account Scheme, NRE Scheme, FCNR(B) Account Scheme with authorised dealer/authorised bank, or
- e) held in deposits with a company incorporated in India (including a non-banking finance company registered with RBI), or a proprietorship concern, or a partnership firm on non-repatriation basis, or
- f) invested in Non Convertible Debentures (NCDs) on repatriation and non-repatriation basis of a company incorporated in India, or
- g) lent in foreign currency to a person resident in India.

Q.3. A non-resident incorporated entity having major holdings by NRIs, as on September 16, 2003 did not avail of any of the facilities as indicated at (a) to (g) in answer (2) above. Can such an entity invest in Indian companies in terms of Regulation 5(1) of RBI Notification No.20/2000-RB dated May 3, 2000 under FDI Scheme through Government Route/Automatic Route of RBI?

A.3. Yes. Such non-resident incorporated entity is treated like any other foreign incorporated company. An eligible non-resident incorporated entity having major holdings by NRIs, which as on September 16, 2003 did not avail of any of the facilities as indicated at (a) to (g) in answer (2) above, may invest in Indian companies in terms of Regulation 5(1) of RBI Notification No.20/2000-RB dated May 3, 2000 under FDI Scheme through Government Route / Automatic Route of RBI..

Q. 4. Can unincorporated entities/ventures such as trusts, Mutual funds etc invest under FDI Scheme after September 16, 2003?

A. 4. No. Only those entities which are incorporated or registered under the relevant statutes, laws of the host country would be eligible for investment under FDI Scheme after September 16, 2003.

II. Investment in shares/convertible debentures and other securities

(A) Issue of shares/convertible debentures

Q.5 Are OCBs permitted to make fresh investments in Indian companies after September 16, 2003?

A.5. OCBs who as on September 16, 2003 availed of any of the facilities as indicated at (a) to (g) in answer no. 2 above are not permitted to make fresh investments in terms of [Notification No. FEMA 101/2003-RB dated October 3, 2003](#). However, such of those entities which are incorporated and are not under adverse notice of RBI will be considered, for undertaking fresh investments, as incorporated non-resident entities in terms of Regulation 5(1) of RBI [Notification No.20/2000-RB dated May 3, 2000](#) under FDI Scheme. No prior approval from RBI is necessary except obtaining a NOC to the effect that the OCB is not in the RBI's adverse list; in case the investee company is under automatic route. Where the investee company is under Government approval route, besides NOC from RBI, FIPB approval would be required.

Q. 6. Under FDI Scheme (Automatic Route) if the advance remittance towards allotment of shares has been received by an Indian company from the OCBs prior to 16.9.2003 can the Indian company allot shares/convertible debentures to OCBs subsequent to 16.9.2003?

A. 6. Yes; as the amount has been received in the country prior to 16.9.2003 OCBs may be allotted the shares/convertible debentures but the matter should be reported top the RBI by the Indian company through a separate report. On a scrutiny if the RBI were to find that the entity is ineligible from the FDI angle or is in the adverse notice of RBI or SEBI or any other regulator, suitable action could be initiated by the RBI.

Q. 7. If the balance amount of the committed investment is received by the Indian company from the OCBs after 16.9.2003 can the shares be allotted?

A. 7. Yes and the matter reported to the RBI by the Indian company. On a scrutiny if the RBI were to find that the entity is ineligible from the FDI angle or is in the adverse notice of RBI or SEBI or any other regulator, suitable action could be initiated by the RBI.

Q. 8. If the percentage of share holding by the OCB in an Indian company has been approved by FIPB/SIA (Govt Route) prior to 16.9.2003 can the Indian company receive the remittance towards allotment of shares from the OCB after 16.9.2003?

A. 8. Yes, provided the Indian company obtains the FIPB/SIA specific approval for receiving the remittance from the OCB towards allotment of shares.

(B) Transfer of shares

Q. 9. Can the shares be transferred to OCBs against the

(i) permission granted by FIPB/SIA prior to 16.9.2003;

(ii) in-principle approval granted by RBI prior to 16.9.2003.

A. 9. Yes, with the specific approval of FIPB/SIA followed by RBI approval.

Q. 10. Can the shares held by an OCB, other than under Portfolio Investment Scheme be transferred by way of sale?

A. 10. OCB may transfer the shares held by it by way of sale to NRIs in terms of Regulation 5(2) (b)(i) of RBI Notification No. FEMA 101/2003-RB dated October 3, 2003. OCB may seek prior permission of FIPB/SIA and RBI for transfer of shares held by it by way of sale to a person resident outside India, other than a NRI. OCB may transfer the shares held by it by way of sale to a Resident in terms of Regulation 10 of RBI Notification No. FEMA 20/2000-RB dated May 3, 2000, as amended from time to time.

Q. 11. Can one OCB transfer shares by way of sale to another OCB after September 16, 2003?

A. 11. No. OCB cannot transfer shares by way of sale to another OCB.

Q. 12. Can OCB holding ADRs/ GDRs convert them into underlying shares?

A. 12. Yes. On conversion of the existing holdings of ADR/GDR into underlying shares, the same may be treated as continuance of OCB's existing right to hold the shares. (RBI has already prohibited OCBs from accessing the Two-way fungibility route).

Q. 13. Whether there can be a fresh issue of ADRs/GDRs to OCB?

A. 13. No fresh issue of ADRs/GDRs to OCB is permitted as they are derecognised as a class of investor.

(C) Shares issued on Rights basis prior to September 16, 2003

Q. 14. Can OCB renounce the shares offered on rights basis prior to September 16, 2003 in favour of a person resident in India?

A. 14. Yes.

Q. 15. Can existing shareholders including OCBs renounce the shares offered on rights basis prior to September 16, 2003 in favour of a person resident outside India who is otherwise eligible to invest an Indian company under the FDI policy?

A. 15. Yes. However, if the renouncee is an entity reckoned as OCB (refer to Answer No.2) the Indian company may seek specific approval of the FIPB/SIA in case of investments under the Govt Route or specific approval of RBI in case of investments under Automatic route.

(D) Bonus issue

Q. 16. Whether Bonus issues to OCB after September 16, 2003 is prohibited?

A. 16. No. Bonus shares are deemed as deferred dividend and since OCBs are permitted to hold their existing investments; bonus shares accruing to them can be allotted, in terms of Regulation 6A of Notification No. FEMA20/2000-RB dated May 3, 2000, as amended from time to time.

(E) Securities other than shares/convertible debentures issued by an Indian company

Q. 17. Can OCBs continue to hold Government dated securities, treasury bills, units of domestic mutual funds, units of Money Market Mutual Funds in India or National Plan/Savings Certificates both on repatriation and non-repatriation basis?

A. 17. Yes. OCBs can continue to hold Government dated securities, treasury bills, units of domestic mutual funds, units of Money Market Mutual Funds in India or National Plan/Savings Certificates both on repatriation and non-repatriation basis till they are sold/redeemed. On redemption of the proceeds, the amounts may be repatriated abroad if the investments were held on repatriation basis while in case of investments held on non-repatriation basis, the amount may be credited to NRO current account.

(F) Mergers/de-mergers

Q. 18. Is issue of shares to OCBS consequent to mergers/de-mergers after September 16, 2003 prohibited?

A. 18. A merger or de-merger or restructuring proposal which impacts on the capital structure of a company could be on account of (a) merger of two companies, (b) de-merger of an existing company and (c) restructuring of the capital of company under rehabilitation scheme approved by BIFR/Court/under CDR mechanism.

These cases may lead to acquisition of fresh shares by the existing OCBs. In case of (a) and (b) there may not be fresh inward remittance and therefore such acquisition may be treated as existing holding which OCBs may continue to hold. In case of (c) there may be fresh inflows and therefore OCBs may seek approval of Govt./RBI (for investment as the non-resident company).

Q. 19. Under rehabilitation scheme approved by BIFR/Court/under CDR mechanism (i) if the advance remittance, with the approval of RBI, has been received in full by an Indian company from the OCBs prior to 16.9.2003 can the Indian company allot shares/convertible debentures to OCBs after 16.9.2003 and (ii) if the advance remittance, with the approval of RBI, has been received partly by an Indian company from the OCBs prior to 16.9.2003 can the Indian company receive the balance amount after 16.9.2003 and allot shares/convertible debentures to OCBs?

A. 19. Since the amount has already been received in full/partly in the country prior to 16.9.2003 OCBs may be allotted the shares/convertible debentures, subject to report to RBI.

III. Portfolio Investment Scheme (PIS)

Q. 20. What is the status of shares held by an OCB under PIS?

A. 20. An OCB may continue to hold the shares purchased under PIS till such time they are sold on a recognised stock exchange.

IV. Deposits

Q. 21. Whether banks should follow due process for closing the accounts i.e. issue of notice for closure of accounts etc?

A. 21. Due process should be followed in closing the accounts expeditiously. Some amount of time for clearing of cheques in transit especially for statutory payments would be required. However, no fresh transaction shall be permitted.

Q. 22. What is the status of existing NRE Term Deposit/Recurring Deposit /FCNR(B) /NRO Term Deposit accounts i.e. can they be held till maturity?

A. 22. Yes. The existing NRE Term Deposit/Recurring Deposit /FCNR(B) deposit accounts can be held till maturity. On maturity, the maturity proceeds shall be repatriated only to the OCB concerned. The existing NRO term deposit can be held till maturity and on maturity, the maturity proceeds should be transferred to NRO Current Account.

Q. 23. What will be the status of existing NRO (Savings) Accounts of OCBs?

A. 23. The existing NRO (Savings) Account of OCBs shall be converted into NRO (Current) Account.

Q. 24. Can ADs open a fresh NRO (Current) account in the name of an OCB for unwinding their existing investments?

A. 24. No. However, ADs may with the specific prior permission of RBI open a new NRO (Current) Account for OCBs for specific purpose of unwinding of the existing investments.

Q.25. Can any loan or other facility granted against the security of a Recurring/Fixed Deposit Account held in the name of an OCB be renewed?

A.25. No. Any loan or any other facility granted against the security of a Recurring/Fixed Deposit Account held in the name of an OCB cannot be renewed and shall be closed by adjustment of the proceeds on maturity of the deposit. If the balance of the deposit proceeds is inadequate to adjust the loan outstanding, a fresh inward remittance /local credits will be required to close the same

Q.26. Can a deposit accepted on non-repatriation basis by an Indian company (including NBFC registered with RBI), or a proprietorship concern, or a partnership firm in India from an OCB be renewed?

A. 26. No. A deposit accepted on non-repatriation basis by an Indian company (including NBFC registered with RBI), or a proprietorship concern, or a partnership firm in India from an OCB shall not be renewed on becoming due, and no interest thereon shall accrue after it falls due for repayment.

V. Borrowing or lending in foreign currency or in Rupees

Q. 27. Can a person resident in India borrow from or lend to an OCB in foreign currency or in Rupees?

A.27. No person resident in India shall borrow from or lend to an OCB in foreign currency or in Rupees. Further, where any borrowing from or loan to an OCB, whether in foreign exchange or in Rupees made in accordance with Foreign Exchange Management Regulations as applicable was outstanding on September 16, 2003, such borrowing or loan shall not be renewed on becoming due, and no interest thereon shall accrue after it falls due for repayment.

VI. Hedging of certain transactions

Q. 28. Can an OCB enter into a forward contract with rupee as one of the currencies with an AD in India to hedge (i) the amount of dividend due to it on an existing investment in the form of shares of an Indian company, (ii) the balances held in an existing FCNR(B) account or NRE (Term

Deposit) account and (iii) the amount of existing investment made under Portfolio Investment Scheme?

A. 28. An OCB may enter into a forward contract with rupee as one of the currencies with an AD in India to hedge (i) the amount of dividend due to it on an existing investment in the form of shares of an Indian company, (ii) the balances held in an existing FCNR(B) account or NRE (Term Deposit) account, (iii) the amount of existing investment made under Portfolio Investment Scheme and (iv) the amount of investments made under Foreign Direct Investment Scheme since January 1, 1993.

**Foreign Exchange Management [Withdrawal of General Permission to
Overseas Corporate Bodies (OCBs)] Regulations, 2003
Reserve Bank of India
Exchange Control Department
Central Office
Mumbai-400 001**

Notification No. FEMA 101 /2003-RB

Dated October 3rd , 2003

In exercise of the powers conferred by clauses (b), (d), (e) and (f) of sub-section (3) of Section 6 read with Section 47 of the FEMA, 1999 (42 of 1999) and all other powers available to it in this behalf, the Reserve Bank of India makes the following Regulations:-

Short title and commencement

1. (1) These Regulations may be called Foreign Exchange Management (Withdrawal of General Permission to Overseas Corporate Bodies (OCBs)) Regulations, 2003.

(2) They shall come into force from the date of their publication in the Official Gazette.
2. For the purpose of these Regulations -
 - i. 'Act' means the Foreign Exchange Management Act 1999;
 - ii. 'Account' means Savings, Current, Recurring, Fixed Deposit opened and maintained under Non-Resident (External) Account Scheme (NRE Account), Foreign Currency (Non-Resident) Account Banks Scheme (FCNR-B Account) or Non-Resident (Ordinary) Account Scheme (NRO Account);
 - iii. 'Deposit' includes deposit of money with a bank, company, proprietary concern, partnership firm, corporate body, trust or any other person;
 - iv. 'Existing account' means an account maintained on the date of commencement of these Regulations;
 - v. 'Existing investment' means an investment made pursuant to the general permission granted under the Foreign Exchange Management (Transfer and Issue of Security by a Person Resident outside India) Regulations, 2000 provided that
 - a. in case of Portfolio Investment Scheme, the investment was held as on November 29, 2001 and
 - b. in other cases, held on the date of commencement of these Regulations;
 - vi. 'Overseas Corporate Body (OCB) ' means and includes an entity defined in Clause (xi) of Regulation 2 of the Foreign Exchange Management (Deposit) Regulations, 2000 and which was in existence on the date of commencement of these Regulations and immediately prior to such commencement was eligible to undertake transactions pursuant to the general permission granted under the Regulations;
 - vii. ' Regulations' means the Regulations made under the Act;

viii. 'Schedule' means Schedule to these Regulations.

Object and construction of these Regulations

3. These Regulations seek to withdraw the general permission to Overseas Corporate Bodies (OCBs) to undertake transactions in terms of such permission granted under the Regulations and shall be construed accordingly.

Overriding effect

4. Notwithstanding anything contained in any other Regulations, these Regulations shall prevail.

Withdrawal of general permission and unwinding of investments and transactions

5. On the commencement of these Regulations -

1.
 - a) no fresh account by whatever name called shall be opened or maintained in the name of an OCB.
 - b) the Regulations specified in column 1 of the Schedule shall be amended as mentioned in Column 2.
 - c) an existing NRE (Saving and Current) Account held or maintained in the name of an OCB shall be closed and balances repatriated forthwith;
 - d) an existing NRO (Saving) Account held or maintained in the name of an OCB shall be closed and balances transferred to non-interest bearing NRO (Current) Account. The disposal of balances in such NRO (Current) account shall require specific approval of the Reserve Bank except in the following cases:
 - i. all local payments in rupees;
 - ii. remittance outside India of current income in India of the account holder net of applicable taxes;
 - e) an existing NRE (Recurring/Fixed Deposit) Account or FCNR (B) Account held in the name of an OCB, may be continued till original maturity and on maturity the proceeds shall be repatriated forthwith;
 - f) an existing NRO (Recurring/Fixed) Account held or maintained in the name of an OCB may be continued till original maturity and on maturity the proceeds shall be credited to NRO (Current) Account;
 - g) no facility of any nature whatsoever shall be granted on the security of an account held in the name of an OCB;
 - h) any loan or other facility granted against the security of a Recurring/Fixed Deposit Account held in the name of an OCB, shall not be renewed and shall be closed by adjustment of the proceeds on maturity of the deposit;
2.
 - a) no investment in any security shall be made by an OCB;
 - b) an OCB may -
 - i. transfer an existing investment in the form of shares or convertible debentures held by it, by sale or gift to any non-resident Indian (NRI);

- ii. dispose of the existing investment in the form of shares held by it, by sale at a rate not exceeding the prevailing market rate through a registered stock broker on a recognised stock exchange in India;
 - c) an OCB shall not be eligible to purchase equity or preference shares or convertible debentures offered on right basis by an Indian company, and no Indian company shall offer equity or preference shares or convertible debentures on right basis to an OCB;
 - d) where any offer on right basis made to an OCB before the date of commencement of these Regulations, is existing on that date, the OCB may renounce it in favour of any person resident in India or a person resident outside India who is eligible to invest in a security of an Indian company under the Regulations;
3. a) no person resident in India shall borrow from, or lend to, an OCB either in foreign exchange or in Rupees;
- b) where any borrowing from or loan to an OCB, whether in foreign exchange or in Rupees made in accordance with the Regulations as applicable, is outstanding on the date of commencement of these Regulations, such borrowing or loan shall not be renewed on becoming due, and no interest thereon shall accrue after it falls due for repayment;.

Permission to hedge certain transactions:-

6. An OCB may enter into a forward contract with rupee as one of the currencies with an Authorised Dealer (AD) in India to hedge -

- i. the amount of dividend due to it on an existing investment in the form of shares of an Indian company;
- ii. the balances held in an existing Foreign Currency Non-Resident (FCNR) account or Non-resident External Rupee (NRE- Rupee) Term Deposit account;
- iii. the amount of existing investment made under Portfolio Investment Scheme in accordance with the provisions of the Foreign Exchange Regulation Act, 1973 or under the notifications issued there under or made in accordance with the provisions of the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000, and in both cases subject to the terms and conditions specified in the proviso to paragraph 1 of Schedule II to The Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000, as amended from time to time. -

(Usha Thorat)
Executive Director

Schedule

Amendments to the existing provisions of the FEMA Regulations ;

1	2
Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000	In the Schedule, in paragraph 3, the word 'OCB' shall be deleted.
Foreign Exchange Management (Borrowing or Lending in Rupees) Regulations, 2000	In Regulation 5, the words 'or an overseas corporate body (OCB),' '/Overseas Corporate Bodies(OCBs)' shall be deleted.
Foreign Exchange Management (Deposit) Regulations, 2000	In Regulation 5 (1)(i) and (ii), in Regulation 8(2), in Schedule 1, in Schedule 2, in Schedule 7, the words 'or an overseas corporate body', 'and Overseas Corporate Bodies (OCBs)', 'and OCBs', '/OCBs' shall be deleted
Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000	In Regulation 5(3)(ii) and (4), in Regulation 9(2)(ii), in item Nos 2 and 6 of Annexure 'B' to Schedule 1, in Schedule 3 (paragraph 3), in Schedule 4, in Schedule 5 the words '/OCBs', 'or an Overseas Corporate Body', 'and Overseas Corporate Body', 'or OCB' shall be deleted.
Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000	In Schedule II, the words 'or Overseas Corporate Body' shall be deleted.

Indian Students Studying Abroad – Revision in the Residential Status
A.P.(DIR Series) Circular No. 45 (Dec 8, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai-400 001

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

December 8, 2003

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

Indian Students Studying Abroad –
Revision in the Residential Status

The Reserve Bank of India has been receiving representations from Indian students studying abroad putting forth various difficulties on account of their residential status. The matter has been reexamined by us keeping in view the definition of residential status in terms of Section 2(v)(i) of Foreign Exchange Management Act (FEMA). Under Section 2(v)(i) of the FEMA, “person resident in India’ means- (i) a person residing in India for more than one hundred and eighty-two days during the course of the preceding financial year but does not include –

- (A) a person who has gone out of India or who stays outside India, in either case –
- (a) for or on taking up employment outside India, or
 - (b) for carrying on outside India a business or vocation outside India, or
 - (c) for any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period;”

2. It is observed from the representations that when students leave India for prosecuting a course of specified duration, such stay outside India exceeds the period officially intended for various reasons. While taking up studies, or further advance courses, students may have to take up job or seek scholarships to supplement income to meet their financial requirements abroad. As they have to earn and learn, their stay for educational purposes gets prolonged than what is intended while leaving India.

3. Furthermore, the purport of their argument is that though they are students, they are, in reality, not dependent for a dominant part of their expenses on remittances

from their households in India. Often they are permitted to work and have to undertake certain related financial transactions. They urge, therefore, that the definition needs to be revised.

4. Having regard to the circumstances stated above, it is clear that on both counts viz. their stay abroad for more than 182 days in the preceding financial year and their intention to stay outside India for an uncertain period when they go abroad for their studies, they can be treated as Non-Resident Indians (NRIs).

5. As non-residents, they will in any case be eligible for receiving remittances from India, as follows : (i) up to USD 100,000 from close relatives from India on self-declaration towards maintenance, which could include remittances towards their studies also, (ii) up to USD 1 million out of sale proceeds/balances in their account maintained with an AD in India, (iii) all other facilities available to NRIs under FEMA, (iv) educational and other loans availed of by students as resident in India which can be allowed to continue as per provisions of Notification No. 4/2000-RB dated May 3, 2000.

6. It is clarified that these instructions do not dilute in any way the utilisation of the existing foreign exchange remittance facilities to students in regard to their academic pursuits.

7 Necessary amendments to the Foreign Exchange Management Regulations, 2000 are being issued separately.

8. Authorised Dealers may bring the contents of their circular to the notice of their constituents concerned.

9. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

Grace Koshie
Chief General Manager

Booking of Forward Contracts Based on Past Performance
A.P.(DIR Series) Circular No. 46 (Dec 9, 2003)

Reserve Bank of India
Exchange Control Department
Central Office

A.P.(DIR Series) Circular No. 46

December 9, 2003

To
All Authorised Dealers in Foreign Exchange

Madam / Sirs,

Booking of Forward Contracts Based on Past Performance

Attention of Authorised Dealers is invited to paragraph A.2 of our Master Circular No.1 dated July 1, 2003 on Risk Management and Inter-bank Dealings, in terms of which importers/exporters are permitted to book forward contracts on the basis of declaration of an exposure based on past performance, subject to the condition that at any point of time the forward contracts so booked and outstanding shall not exceed 25% of the limit worked out on the basis of last three years' average import/ export performance, within a cap of USD 100 million.

2. It has now been decided that the eligible limit for this facility would be the average of the past three years' export/import turnover or the previous year's turnover, whichever is higher. The forward contracts so booked and outstanding at any point of time shall not exceed 50% (raised from 25%) of the eligible limit **without any cap**, provided that any amount in excess of 25% of the eligible limit shall be only on a deliverable basis. These limits shall be computed separately for export/import transactions. All other conditions prescribed for this facility remain the same.

3. Importers/exporters desirous of availing limits higher than the overall cap of 50% may forward their applications through their Authorised Dealer to the Chief General Manager, Exchange Control Department (Forex Markets Division), Reserve Bank of India, Central Office, Mumbai-400001 as per paragraph A.2 (e) of the Master Circular.

4. Authorised Dealers may bring the contents of this circular to the notice of their constituents 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).

Yours faithfully,

Grace Koshie
Chief General Manager

Hedging of Overseas Direct Investments
A.P.(DIR Series) Circular No.47 (Dec 12, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai

A.P.(DIR Series) Circular No.47

December 12, 2003

To
All Authorised Dealers in Foreign Exchange

Madam/Sirs,

Hedging of Overseas Direct Investments

It has been decided that henceforth resident entities having overseas direct investments may be permitted to hedge the exchange risk arising out of such investments. Accordingly, Authorised Dealers may enter into forward/option contracts with residents who wish to hedge their overseas direct investments (in equity and loan), subject to verification of such exposure and provided further that the contracts are completed by delivery or rolled over on the due date.

2. If a hedge becomes naked in part or full owing to shrinking of the market value of the overseas direct investment, the hedge may continue to the original maturity. Roll-overs on the due date shall be permitted upto the extent of market value as on that date.

3. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

4. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

(Grace Koshie)
Chief General Manager

**Deferred Payments Protocols dated 30th April 1981 and 23rd December 1985
between the Government of India and erstwhile USSR
A.P. (DIR Series) Circular No.48 (Dec 15, 2003)**

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai 400 001.**

A.P. (DIR Series) Circular No.48

December 15, 2003

To
All Authorised Dealers in Foreign Exchange

Madam/Sirs,

**Deferred Payments Protocols dated 30th April 1981 and
23rd December 1985 between the Government of India and erstwhile USSR**

Attention of Authorised Dealers is invited to AP (DIR Series) Circular No.16 dated September 20, 2003 wherein the rupee value of the special currency basket effective from August 19, 2003 was indicated.

2. Authorised Dealers are advised that a further change has taken place on November 18, 2003 and accordingly the rupee value of the special currency basket effective from November 21, 2003 has been fixed at Rs.57.5082.
3. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.
4. The directions contained in this circular have been issued under Section 10(4) and section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999)

Yours faithfully,

**Grace Koshie
Chief General Manager**

Advance Remittance for Imports
A.P. (DIR Series) Circular No.49 (Dec 15, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai – 400 001

A.P. (DIR Series) Circular No.49

December 15, 2003

To
All Authorised Dealers in Foreign Exchange

Madam/Sirs,

Advance Remittance for Imports

Attention of Authorised Dealers is invited to paragraph 2 of A.P. (DIR Series) Circular No.15 dated September 17, 2003 regarding advance remittance for imports.

2. It is clarified that a Public Sector Company or a Department/Undertaking of the Central/State Government/s which is not in a position to obtain a guarantee from an international bank of repute against an advance payment, is required to obtain a specific waiver for the bank guarantee from the Ministry of Finance, Government of India before making advance remittance exceeding USD 100, 000.

3. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

4. 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).

Yours faithfully,

Grace Koshie
Chief General Manager

Exim Bank's Line of Credit of USD 200 million to seven Iranian Banks
A.P.(DIR Series) Circular No.50 (Dec 15, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai - 400 001

A.P.(DIR Series) Circular No.50

December 15, 2003

To
All Authorised Dealers in Foreign Exchange

Madam / Sirs,

**Exim Bank's Line of Credit of USD 200 million to
seven Iranian Banks**

The Export-Import Bank of India (Exim Bank) has concluded an agreement with seven Iranian banks designated by Bank Markazi Jomhouri Islami Iran, viz Bank Mellat, Bank Melli Iran, Bank Saderat Iran, Bank Sepah, Bank Tejarat, Bank of Industry and Mine and Export Development Bank of Iran on January 25, 2003 making available to these banks in Iran a Line of Credit (LOC) upto an aggregate sum of USD 200 million (U.S.Dollar Two hundred million only). The credit agreement has become effective from September 15, 2003 and is available for financing export from India of eligible capital goods and related services of Indian origin to buyers in Iran.

2. The terminal date for conclusion of Individual Letters of Agreement is December 31, 2005.
3. Shipments under the credit will have to be declared on GR/SDF Forms as usual.
4. No agency commission shall be payable in respect of exports financed under the above line of credit.
5. Authorised Dealers may bring the contents of this circular to the notice of their exporter constituents and advise them to obtain full details of the Line of Credit from Exim Bank's Office or its web-site.
6. 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).

Yours faithfully,

Grace Koshie
Chief General Manager

**Foreign Exchange Management (Insurance)
Regulations, 2000 – Life Insurance Memorandum (LIM)
A.P. (DIR Series) Circular No.51 (December 15, 2003)**

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai – 400 001**

A.P. (DIR Series) Circular No.51

December 15, 2003

To
All Authorised Dealers in Foreign Exchange

Madam / Sirs,

**Foreign Exchange Management (Insurance) Regulations, 2000 –
Life Insurance Memorandum (LIM)**

Attention of Authorised Dealers is invited to A.P.(DIR Series) Circular No.72 dated January 17, 2003 enclosing the Memorandum of Exchange Control Regulations relating to Life Insurance in India (LIM). In terms of paragraph 5(iii) of the Memorandum relating to settlement of claims, Authorised Dealers were advised that Resident beneficiaries of insurance claims/maturity/ surrender value settled in foreign currency may be permitted to credit the proceeds thereof to Resident Foreign Currency (RFC) Account, if so desired.

2. On a review, it has been decided that :

- (i) Resident beneficiaries of the insurance claims/ maturity/ surrender value settled in foreign currency may be permitted to open and credit the proceeds thereof to their **RFC (Domestic) Account** instead of RFC Account as advised earlier.
- (ii) Non-Resident Indian Policy Holders who are beneficiaries of insurance claims/maturity or surrender value settled in foreign currency in respect of policies issued by Insurance Companies in India and registered with Insurance Regulatory and Development Authority to conduct insurance business may be permitted to credit the proceeds to the RFC Account opened by them on their becoming residents.

3. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

4. 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)

Yours faithfully,
Grace Koshie
Chief General Manager

**Delhi High Court Order in Civil Writ Petition No.460 of 2003 –
World Cup 2003 – Remittance of Foreign Exchange
A.P.(DIR Series) Circular No.52 (Dec 17, 2003)**

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai – 400 001**

A.P.(DIR Series) Circular No.52

December 17, 2003

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

**Delhi High Court Order in Civil Writ Petition No.460 of 2003 –
World Cup 2003 – Remittance of Foreign Exchange**

Attention of Authorised Dealers is invited to A.P.(DIR Series) Circular No.74 dated January 24, 2003, directing them not to release any foreign exchange to Pepsi Foods Limited, Hero Honda Motors Limited and LG Electronics India Pvt. Ltd. in connection with the World Cup event, without prior clearance from the Reserve Bank of India.

2. The Hon'ble High Court of Delhi, while disposing of the said Writ Petition vide its orders dated October 1, 2003, has observed as under:

“ Considering the submissions made at the bar, this Court is of the opinion that essentially a writ petition was filed to ensure that the Indian Cricket Team is able to play and it was observed too that it was in public interest. Once they were permitted to participate in the tournament, the petition must be disposed of having become infructuous. So far as the other prayers are concerned, matter is in the realm of contract and it is between the parties individually for which these petitioners are not concerned and therefore, we do not find any reason to entertain the petition.”

3. In view of the disposal of the writ petition by the Hon'ble High Court of Delhi vide its order dated October 1, 2003, the A.P.(DIR Series) Circular No.74 dated January 24, 2003 is hereby withdrawn.

4. Accordingly, all Authorised Dealers are now free to dispose of pending applications relating to the World Cup event, subject to usual conditions.

5. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

6. The directions contained in this circular have been issued in exercise of powers conferred under Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,
Grace Koshie
Chief General Manager

**Purchase/Sale of Shares and/or Convertible Debentures by SEBI registered
Foreign Institutional Investors (FIIs) under Portfolio Investment Scheme (PIS)
A.P.(DIR Series) Circular No. 53 (December 17, 2003)**

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai 400 001**

A.P.(DIR Series) Circular No. 53

December 17, 2003

To
All Authorised Dealers in Foreign Exchange

Madam / Sirs

**Purchase/Sale of Shares and/or Convertible Debentures by SEBI registered
Foreign Institutional Investors (FIIs) under Portfolio Investment Scheme (PIS)**

Attention of Authorised Dealers is invited to Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 issued vide Notification No. FEMA.20/2000-RB dated May 3, 2000. In terms of Regulation 5(2) read with clause 1 (1) of Schedule 2 thereof, a SEBI registered FII may apply to the Reserve Bank for grant of permission to purchase shares or convertible debentures of an Indian company under Portfolio Investment Scheme (PIS).

2. It has now been decided to permit SEBI registered FIIs/ sub- accounts of FIIs to buy/sell equity shares/debentures of Indian companies (excluding companies engaged in the print media sector), units of domestic mutual funds, dated Government Securities and Treasury Bills through stock exchanges in India at the ruling market price, invest / trade in exchange traded derivative contracts, and also to buy/sell shares and debentures etc. of listed/unlisted companies otherwise than on stock exchange at a price approved by SEBI/ Reserve Bank as per terms and conditions prescribed in the [Annexure](#). For the purpose of FII investment, Government Securities would include dated securities of both Government of India and State Governments of all maturities and Treasury Bills of Government of India. Investment in Government dated securities and Treasury Bills by FIIs may be made either in the primary market (at the auction/floatation) or in the secondary market. The

investments will be made subject to SEBI (FIIs) Regulations, 1995 modified by SEBI/Government of India from time to time as published in the official Gazette of India.

3. The permission granted may also be treated as Reserve Bank's permission under Section 6 of the Foreign Exchange Management Act, 1999 to the investee company/ies for (a) registering the transfer of shares / debentures etc., in favour of the SEBI registered FIIs/ sub-accounts of FIIs, and (b) for issue of shares on account of conversion of debentures purchased by the SEBI registered FIIs/sub-accounts of FIIs.

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

5. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

6. 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).

Yours faithfully

F.R.Joseph

Chief General Manager

ANNEXURE

{AP (DIR Series) Circular No. 53
dated December 17, 2003}

1. A SEBI registered FII / approved sub-account is permitted to open a Foreign Currency denominated Account and / or a Special Non-Resident Rupee Account and to transfer sums from the foreign currency account to the rupee account for making genuine investments in the securities in terms of the SEBI (FIIs) Regulations, 1995. The sums may be transferred from foreign currency account to rupee account at the prevailing market rate and the Authorised Dealer may transfer repatriable proceeds (after payment of tax) from the rupee account to the foreign currency account.

2. The Special Non-Resident Rupee Account may be credited with the proceeds of sale of shares / debentures, dated Government securities, Treasury Bills etc., dividend, income received by way of interest, forward contracts booked etc., by compensation received towards sale / renouncements of right offerings of shares and income earned on securities lent under SEBI's Securities Lending Scheme, 1997 after deduction of appropriate tax, if any subject to the condition that the Authorized Dealer should obtain confirmation from the investee company/FII concerned that tax at source, wherever necessary, has been deducted from the gross amount of dividend / interest payable/ approved income to the share / debenture / Government securities holder at the applicable rate, in accordance with the Income Tax Act.

3. The Special Non-Resident Rupee Account may be debited for purchase of shares / debentures, dated Government securities, Treasury Bills etc., and for payment of fees to applicant FIIs' local Chartered Accountant/Tax Consultant where such fees constitute an integral part of their investment process.

4. The SEBI registered FII/sub-account is/are permitted to purchase shares/convertible debentures of an Indian company through offer/private arrangement subject to the applicable ceiling and the Indian company is permitted to issue such shares provided that:

- (i) in the case of public offer, the price of shares to be issued is not less than the price at which shares are issued to residents and
- (ii) in the case of issue by private placement, the price is not less than the price arrived at in terms of SEBI guidelines or guidelines issued by the erstwhile Controller of Capital Issues, as applicable. Purchases can also be made of PCDs/FCDs/Right Renunciations/Warrants/Units of Domestic Mutual Fund Schemes.

5. FII shall not engage in short selling and shall take delivery of securities purchased and give delivery of securities sold. There shall be no squaring off of transactions during the no-delivery period of a security.

6. The SEBI registered FII shall restrict allocation of its total investment between equities and debt in the Indian capital market in the ratio of 70:30. The FII may form a 100% debt fund and get such fund registered with SEBI.

7. The purchase of equity shares by a single SEBI registered FII/sub-account in each company shall not exceed 10% (ten percent) of the paid-up equity capital of the company. The purchase of equity shares by each foreign corporate and foreign individual shall not exceed 5% of the paid-up equity capital of the company within the overall aggregate limit of 24% or the sectoral cap / statutory ceiling, as applicable. These limits shall include acquisition of shares in primary / secondary market.

8. SEBI registered FII may trade in all exchange traded derivative contracts on the stock exchanges in India subject to the position limits as prescribed by SEBI from time to time. The SEBI registered FII/sub-account may open a separate sub-account of their Special Non-Resident Rupee Account through which all receipts and payments pertaining to trading/investment in exchange traded derivative contracts including initial margin and mark to market settlement, transaction charges, brokerage etc., will be made. Further transfer between the Special Non-Resident Rupee Account and the sub account maintained for the purpose of trading in exchange traded derivative contracts can be freely effected. However, repatriation of the rupee amount will be effected only through their Special Non-Resident Rupee Account subject to payment of relevant taxes. The Authorised Dealer may keep proper records of the sub account and submit them to Reserve Bank as and when required.

9. SEBI registered FIIs/sub-accounts may keep with the Trading Member/ Clearing Member amount sufficient to cover the margins prescribed by the Exchange / Clearing House and such amounts as may be considered necessary to meet the immediate needs.

10. A daily statement in respect of all transactions (except derivative trade) should be submitted in floppy/soft copy in the prescribed format directly to the Chief General Manager, Exchange Control Department, Reserve Bank of India, Foreign Investment Division, Central Office, Central Office Building, Mumbai 400 001 to monitor the overall ceiling/sectoral cap/statutory

ceiling. When the total holdings of FIIs reach within 2% of the applicable limit, Reserve Bank will issue a notice to all designated branches of Authorised Dealers stating that any further purchases of shares of the said company require prior approval of Reserve Bank. No purchases shall be made once the prescribed overall ceiling/sectoral cap/statutory limit is reached.

**Investment by an unincorporated entity under
Foreign Direct Investment (FDI) Scheme
A.P.(DIR Series) Circular No. 54 (Dec 20, 2003)**

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai**

A.P.(DIR Series) Circular No. 54

December 20, 2003

To

All Authorised Dealers in Foreign Exchange

Madam / Sirs,

**Investment by an unincorporated entity
under Foreign Direct Investment (FDI) Scheme**

Attention of Authorised Dealers is invited to Regulation 5(1) of Notification No. FEMA 20/2000-RB dated May 3, 2000, in terms of which, besides a person resident outside India (other than a citizen of Bangladesh or Pakistan or Sri Lanka), an entity outside India, whether incorporated or not, (other than an entity in Bangladesh or Pakistan), may purchase shares or convertible debentures of an Indian company under FDI Scheme, subject to the terms and conditions specified in Schedule 1 thereto.

2. In this connection, in terms of A.P.(DIR Series) Circular No.14 dated September 16, 2003, a decision has been conveyed, among others, that an unincorporated entity shall not be allowed to make fresh investments under FDI Scheme including the Automatic Route.

3. Accordingly, necessary amendments to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 have been notified vide Notification No. FEMA 100/2003-RB dated October 3, 2003 (copy enclosed). It is clarified that only an entity incorporated/registered under the relevant statutes, laws of the host country (other than an entity in Bangladesh or Pakistan) is allowed to invest as per the amended Regulation.

4. Authorised Dealers may bring the contents of this circular to the notice of their constituents 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).

Yours faithfully,
Grace Koshie
Chief General Manager

RESERVE BANK OF INDIA
EXCHANGE CONTROL DEPARTMENT
CENTRAL OFFICE
MUMBAI 400 001

A.P.(DIR Series) Circular No. 55

December 23, 2003

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

Release of Foreign Exchange for Miscellaneous Remittances

Attention of Authorised Dealers is drawn to A.P.(DIR Series) Circular No 16 dated September 12, 2002. In terms of this circular, Authorised Dealers were advised to release amounts up to USD 500 or its equivalent for all permissible transactions on the basis of a simple letter from the applicant containing the basic information, viz., names and the addresses of the applicant and the beneficiary, amount to be remitted and the purpose of remittance. It was clarified in the circular that Authorised Dealers need not insist upon submission of A2 Forms in such cases.

2. With a view to further liberalizing the availability of foreign exchange to residents, the limit for foreign exchange remittance for miscellaneous purposes without documentation formalities, has been raised from USD 500 to USD 5000 with immediate effect.

3. It is clarified that Authorised Dealers need not obtain any document, including Form A-2, except a simple letter as stated above as long as the exchange is being purchased for a current account transaction (not included in the Schedules I and II of Government Notification on Current Account Transactions), and the amount does not exceed USD 5000 or its equivalent and the payment is made by a cheque drawn on the applicant's bank account or by a Demand Draft.

4. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

5. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

F.R.Joseph

Chief General Manager

**RESERVE BANK OF INDIA
EXCHANGE CONTROL DEPARTMENT
CENTRAL OFFICE
MUMBAI - 400 001**

A.P.(DIR Series) Circular No. 56

December 23, 2003

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

**Indo-Sri Lanka Credit Agreement dated
October 15, 2003 for USD 30 Million**

The Government of India have made available the second tranche of USD 30 million (U.S .Dollar Thirty Million only) out of the line of credit of USD 100 Million extended to the Government of the Republic of Sri Lanka under the credit agreement entered into between the two Governments on January 29, 2001. An agreement to this effect has been signed by the two Governments on October 15, 2003. The credit of USD 30 million will be available to the Government of Sri Lanka for importing from India capital goods of Indian manufacture including original spare parts and accessories purchased together with the capital goods and included in the original contract as also consultancy services, consumer durables and food items - sugar, wheat flour, rice, red split lentils, wheat grains, which may be modified by way of additions, deletions or substitutions from time to time as may be mutually agreed to between the two Governments. The credit will not cover third country imports. The export of goods and services from India and their import into Sri Lanka under the line of credit shall take place through normal commercial channels and will be subject to the laws and regulations in force in both the countries.

2. The broad terms and conditions of the line of credit are as under:

- (a) All contracts will be subject to the approval of the Government of India and the Government of Sri Lanka or any agency authorised for this purpose by the Government of Sri Lanka and shall contain a clause to that effect. All contracts shall be sent to the Ministry of Finance, Department of Economic Affairs, Government of India, for approval. After each contract has been approved, intimation thereof will be sent to the Government of Sri Lanka and to State Bank of India, New Delhi, by the Ministry of Finance, Government of India.
- (b) The credit will cover 100 per cent f.o.b. value of the eligible goods, services and food items to be exported from India as mentioned in the Annexure. The value of the contract should be expressed in USD.

- (c) All disbursements under the credit agreement shall be made under letters of credit opened by banks in Sri Lanka. All letters of credit shall be advised by banks in Sri Lanka to State Bank of India, New Delhi for onward transmission to the exporters, either directly or through another bank in India, if any, nominated by the exporters. Normal commercial practices followed in respect of advising payments under letters of credit will be adopted. The letters of credit should be supported by a copy of the contract and should contain the following reimbursement clause:

"Reimbursement for 100 per cent of the f.o.b. value of the contract shall be provided by the State Bank of India, New Delhi from USD 30 million credit extended by the Government of India to the Government of Sri Lanka. The Letter of Credit is negotiable after the State Bank of India has issued an advice that it is operative."

3. Contracts to be financed under the agreement dated October 15, 2003 for export of eligible goods and services mentioned in the Annexure should be signed and letters of credit established by December 31, 2004 and the full amount be drawn under the credit on or before December 31, 2005. If the full amount is not drawn by the aforesaid date, the balance will be cancelled and the final instalments of the repayment to be made by the Government of Sri Lanka shall be reduced accordingly, except as may otherwise be agreed to by the Government of India.
4. No agency commission should be allowed in respect of exports under this credit.
5. Shipments under the credit agreement should be declared on GR/SDF/SOFTEX Form with prominent superscription reading "Exports to Sri Lanka under Credit Agreement dated October 15, 2003, between the Government of India and the Government of Sri Lanka". The number and date of this circular should be recorded on the GR/SDF/SOFTEX Form in the space provided therefor.
6. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.
7. 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).

Yours faithfully,

F.R.Joseph

Chief General Manager

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai 400 001**

A. P.(DIR Series) Circular No.57

January 13, 2004

To

All Authorised Dealers in Foreign Exchange

Madam / Sirs,

Overseas Investment by Indian Companies/Partnership Firms –

- **Liberalisation of the Automatic Route**
 - **Facilities for Investment in Agriculture**
-

Attention of Authorised Dealers is invited to the Foreign Exchange Management (Transfer or issue of any foreign security) Regulations, 2000 notified by the Reserve Bank vide Notification No. FEMA 19/RB-2000 dated May 3, 2000 as amended from time to time.

a) Liberalisation - Removal of Monetary Ceiling for Overseas Investment

Under the existing FEMA Regulations, resident corporates are allowed to invest overseas upto 100 per cent of their net worth or USD 100 million in an overseas Joint Venture (JV) or Wholly Owned Subsidiary (WOS) (USD 10 million in the case of registered partnership firms).

As a part of the ongoing liberalisation process, it has been decided to allow resident corporates and registered partnership firms to invest upto 100 per cent of their net worth in overseas JV/WOS without any separate monetary ceiling, subject to reporting in form ODR.

b) Liberalisation - Investment in Agriculture

At present resident corporates and registered partnership firms are permitted to invest in agricultural activity overseas including purchase of land incidental to this activity only through a Joint Venture (JV) / Wholly Owned Subsidiary (WOS) abroad. In order to enable the Indian companies to take advantage of global opportunities and also to acquire technological and other skills for adoption in India, it has now been decided to allow resident corporates and registered partnership firms to undertake agricultural activities overseas including purchase of land incidental to this activity either directly or through their overseas offices (i.e. other than through JV/WOS) within the overall limit available for investment overseas under the Automatic Route viz. upto 100 per cent of their net worth, subject to reporting in form ODR.

2. Necessary amendments to the Foreign Exchange Management (Transfer or issue of any foreign security) Regulations, 2000 are being issued separately.
3. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.
4. 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).

Yours faithfully,

Grace Koshie

Chief General Manager

**RESERVE BANK OF INDIA
EXCHANGE CONTROL DEPARTMENT
CENTRAL OFFICE
MUMBAI-400001**

RBI/2004/17/

A.P (DIR Series) Circular No.58

January 16 , 2004

To

All Authorised Dealers in Foreign Exchange

Madam / Sirs,

Establishment of Branch Offices/Units in Special Economic Zones

Attention of Authorised Dealers is invited to A. P. (DIR Series) Circulars Nos. 28 dated March 30, 2001, 91 dated April 1, 2003 and 29 dated October 18, 2003, extending various facilities to units in Special Economic Zones.

2. It has been decided to grant General Permission to foreign companies to establish Branch Offices/Units in Special Economic Zones to undertake manufacturing and service activities, subject to the following conditions:

- i. such units are functioning in those sectors where 100% FDI is permitted,
- ii. such units comply with part XI of the Companies Act (Section 592 to 602),
- iii. such units function on a **stand-alone basis**,
- iv. in the event of winding-up of business and for remittance of winding-up proceeds, the branch/unit shall approach an Authorised Dealer with the following documents prescribed under Regulation 6 (1) (iii) of Notification No. FEMA 13/2000-RB dated 3rd May 2000, viz.
 - Auditor's certificate,-
 - i) Indicating the manner in which the remittable amount has been arrived and supported by a statement of assets and liabilities of the applicant, and indicating the manner of disposal of assets;
 - ii) Confirming that all liabilities in India including arrears of gratuity and other benefits to employees etc. of the branch/office have been either fully met or adequately provided for;
 - iii) Confirming that no income accruing from sources outside India (including proceeds of exports) has remained unrepatriated to India;
 - No-objection or Tax clearance certificate from Income-Tax authority for the remittance; and
 - Confirmation from the applicant that no legal proceedings in any Court in India are pending and there is no legal impediment to the remittance.

“Stand alone basis” means such branch offices would be isolated and restricted to the Special Economic Zone alone and no business activity/transaction will be allowed outside the Special Economic Zones in India, which includes branches/subsidiaries of its parent office in India.

3. Necessary amendments to the Foreign Exchange Management (Establishment in India of Branch or Office or other Place of Business) Regulations, 2000 notified vide Notification No.FEMA.22/2000-RB dated May 3, 2000, have been issued vide Notification No. FEMA 102/2003-RB dated October 3, 2003 (copy enclosed).

4. Authorised Dealers may bring the contents of this Circular to the notice of their constituents 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).

Yours faithfully,

Grace Koshie

Chief General Manager

Encl : As above

**RESERVE BANK OF INDIA
EXCHANGE CONTROL DEPARTMENT
CENTRAL OFFICE
MUMBAI – 400 001**

RBI/2004/22
A.P. (DIR Series) Circular No. 59

January 19, 2004

To

All Authorised Dealers in Foreign Exchange

Madam / Sirs,

**Deferred Payment Protocols dated 30th April 1981 and
23rd December 1985 between the Government of India
and erstwhile USSR**

Attention of Authorised Dealers is invited to A.P.(DIR Series) Circular No.48 dated December 15, 2003, wherein the rupee value of the special currency basket was indicated as Rs.57.5082 effective from November 21, 2003.

2. Authorised Dealers are advised that a further revision has taken place on December 29, 2003 and accordingly the rupee value of the special currency basket has been fixed at Rs.59.3395 with effect from January 1, 2004.

3. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

4. 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).

Yours faithfully,

F.R.Joseph

Chief General Manager

**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
Central Office
Mumbai 400 001**

RBI/2004/34
A.P.(DIR Series) Circular No.60

January 31, 2004

To
All Authorised Dealers in Foreign Exchange

Madam / Sirs,

External Commercial Borrowings (ECB)

1. Preamble

With a view to replace temporary measures relating to External Commercial Borrowings (ECB) announced on November 14, 2003 with more transparent and simplified policies and procedures, a review of the ECB guidelines has been undertaken. This review is based on the current macro-economic situation, challenges faced in external sector management and the experience gained so far in administering ECB policy.

ECB are a key component of India's overall external debt which includes, *inter alia*, external assistance, buyers' credit, suppliers' credit, NRI deposits, short-term credit and Rupee debt. ECB guidelines, therefore, need to be assessed in the backdrop of various external debt sustainability indicators relevant to emerging economies in order to explore the head-room available for more external debt. An analysis of various indicators of external debt (e.g. short-term debt, debt to GDP ratio, debt servicing ratio, vis-à-vis the proportion of debt to non-debt capital flows) indicates that there is some head-room for increase in the magnitude of debt especially for real investment activity. As a part of overall management of the external sector, there is a case for putting in place a liberalised ECB policy provided there is no bunching of residual maturity of ECB in any particular year and the option of restricting the capital flows in future, if need be, is kept open.

ECB refer to commercial loans, [in the form of bank loans, buyers' credit, suppliers' credit, securitised instruments (e.g. floating rate notes and fixed rate bonds)] availed from non-resident lenders with minimum average maturity of 3 years. Until November 14, 2003, any legal entity such as a corporate /financial intermediary was an eligible borrower. In view of its implication for potential systemic risks, ECB availed by financial intermediaries need to be distinguished from those availed by corporates. Furthermore, banks have the facility (i) to borrow from its head office or branch or correspondents outside India up to 25 per cent of its unimpaired Tier-I Capital or US\$ 10 million, whichever is higher, (ii) to borrow from its head office or branch or correspondents outside India without limit for the purpose of replenishing Rupee resources (not for investment in call money or other markets) and (iii) to avail lines of credit from a bank / financial institution outside India without any limit for the purpose of granting pre-shipment / post-shipment credit to its constituents.

2. Accordingly, the **revised ECB guidelines** are set out below. ECB can be accessed under two routes, viz., (i) Automatic Route outlined in paragraph 2(A) and (ii) Approval Route indicated in paragraph 2(B).

(A) AUTOMATIC ROUTE

ECB for investment in real sector -industrial sector, especially infrastructure sector-in India, will be under Automatic Route, i.e. will not require RBI/Government approval. In case of doubt as regards eligibility to access Automatic Route, applicants may take recourse to the Approval Route.

i) Eligible borrowers

Corporates registered under the Companies Act except financial intermediaries (such as banks, financial institutions (FIs), housing finance companies and NBFCs) are eligible.

ii) Recognised Lenders

Borrowers can raise ECB from internationally recognised sources such as (i) international banks, international capital markets, multilateral financial institutions (such as IFC, ADB, CDC etc.), (ii) export credit agencies and (iii) suppliers of equipment, foreign collaborators and foreign equity holders.

iii) Amount and Maturity

- a) ECB up to USD 20 million or equivalent with minimum average maturity of three years
- b) ECB above USD 20 million and up to USD 500 million or equivalent with minimum average maturity of five years
- c) ECB up to USD 20 million can have call/put option provided the minimum average maturity of 3 years is complied before exercising call/put option.

iv) All-in-cost ceilings

All-in-cost includes rate of interest, other fees and expenses in foreign currency except commitment fee, pre-payment fee, and fees payable in Indian Rupees. Moreover, the payment of withholding tax in Indian Rupees is excluded for calculating the all-in-cost.

The all-in-cost ceilings for ECB will be indicated from time to time. The following ceilings will have immediate effect and will be valid till reviewed.

Minimum Average Maturity Period	All-in-cost Ceilings over six month LIBOR*
Three years and up to five years	200 basis points
More than five years	350 basis points

* for the respective currency of borrowing or applicable benchmark.

v) End-use

- a) ECB can be raised only for investment (such as import of capital goods, new projects, modernization/expansion of existing production units) in real sector - industrial sector including small and medium enterprises (SME) and infrastructure sector - in India. Infrastructure sector is defined as (i) power, (ii) telecommunication, (iii) railways, (iv) road including bridges, (v) ports, (vi) industrial parks and (vii) urban infrastructure (water supply, sanitation and sewage projects);
- b) Utilisation of ECB proceeds is permitted in the first stage acquisition of shares in the disinvestment process and also in the mandatory second stage offer to the public under the Government's disinvestment programme of PSU shares.
- c) Utilisation of ECB proceeds is not permitted for on-lending or investment in capital market by corporates
- d) Utilisation of ECB proceeds is not permitted in real estate. The term 'real estate' excludes development of integrated township as defined by Ministry of Commerce and Industry, Department of Industrial Policy and Promotion, SIA (FC Division), Press Note 3 (2002 Series, dated 04.01.2002).

vi) Guarantees

Guarantee/standby letter of credit or letter of comfort by banks, financial institutions and NBFCs relating to ECB is not permitted.

vii) Security

The choice of security to be provided to the lender/supplier is left to the borrower. However, creation of charge over immovable assets and financial securities, such as shares, in favour of overseas lender is subject to Regulation 8 of Notification No. FEMA 21/RB-2000 dated May 3, 2000 and Regulation 3 of Notification No. FEMA 20/RB-2000, dated May 3, 2000, respectively.

viii) Parking of ECB proceeds overseas

ECB proceeds should be parked overseas until actual requirement in India.

ix) Prepayment

Prepayment of ECB up to USD 100 million is permitted without prior approval of RBI, subject to compliance with the stipulated minimum average maturity period as applicable for the loan.

x) Refinance of existing ECB

Refinancing of existing ECB by raising fresh loans at lower cost is permitted subject to the condition that the outstanding maturity of the original loan is maintained.

xi) Debt Servicing

The designated Authorised Dealer (AD) has the general permission to make remittances of instalments of principal, interest and other charges in conformity with ECB guidelines issued by Government / RBI from time to time.

xii) Procedure

Borrower may enter into loan agreement with recognised overseas lender for raising ECB under Automatic Route without prior approval of RBI. The borrower may note to comply with the reporting arrangement under paragraph 2(C)(i). The primary responsibility to ensure that ECB raised / utilised are in conformity with the ECB guidelines and the Reserve Bank regulations/directions/circulars is that of the concerned borrower.

(B) APPROVAL ROUTE

The following types of proposals for ECB will be covered under the Approval Route.

i) Eligible borrowers

- a) Financial institutions dealing exclusively with infrastructure or export finance such as IDFC, ILFS, Power Finance Corporation, Power Trading Corporation, IRCON and EXIM Bank will be considered on a case by case basis.
- b) Banks and financial institutions which had participated in the textile or steel sector restructuring package as approved by the Government will also be permitted to the extent of their investment in the package and assessment by RBI based on prudential norms. Any ECB availed for this purpose so far will be deducted from their entitlement.
- c) Cases falling outside the purview of the automatic route limits and maturity period indicated at paragraph 2 (A)(iii) (a) and 2 (A)(iii) (b).

ii) Recognised Lenders

Borrowers can raise ECB from internationally recognised sources such as (i) international banks, international capital markets, multilateral financial institutions (such as IFC, ADB, CDC etc.), (ii) export credit agencies and (iii) suppliers of equipment, foreign collaborators and foreign equity holders.

iii) All-in-cost ceilings

All-in-cost includes rate of interest, other fees and expenses in foreign currency except commitment fee, pre-payment fee, and fees payable in Indian Rupees. Moreover, the payment of withholding tax in Indian Rupees is excluded for calculating the all-in-cost.

The all-in-cost ceilings for ECB will be indicated from time to time. The following ceilings will have immediate effect and will be valid till reviewed.

Minimum Average Maturity Period	All-in-cost Ceilings over six month LIBOR*
Three years and up to five years	200 basis points
More than five years	350 basis points

* for the respective currency of borrowing or applicable benchmark.

iv) End-use

- a) ECB can be raised only for investment (such as import of capital goods, new projects, modernization/expansion of existing production units) in real sector-industrial sector including small and medium enterprises (SME) and infrastructure sector-in India. Infrastructure sector is defined as (i) power, (ii) telecommunication, (iii) railways, (iv) road including bridges, (v) ports, (vi) industrial parks and (vii) urban infrastructure (water supply, sanitation and sewage projects);
- b) Utilisation of ECB proceeds is permitted in the first stage acquisition of shares in the disinvestment process and also in the mandatory second stage offer to the public under the Government's disinvestment programme of PSU shares.
- c) Utilisation of ECB proceeds is not permitted for on-lending or investment in capital market by corporates except for banks and financial institutions eligible under paragraph 2(B)(i)(a) and 2(B)(i)(b);
- d) Utilisation of ECB proceeds is not permitted in real estate. The term 'real estate' excludes development of integrated township as defined by Ministry of Commerce and Industry, Department of Industrial Policy and Promotion, SIA (FC Division), Press Note 3 (2002 Series, dated 04.01.2002).

v) Guarantees

Guarantee/standby letter of credit or letter of comfort by banks, financial institutions and NBFCs relating to ECB is not normally permitted. Applications for providing guarantee/standby letter of credit or letter of comfort by banks, financial institutions relating to ECB in the case of SME will be considered on merit subject to prudential norms.

vi) Security

The choice of security to be provided to the lender/supplier is left to the borrower. However, creation of charge over immovable assets

and financial securities, such as shares, in favour of overseas lender is subject to Regulation 8 of Notification No. FEMA 21/RB-2000 dated May 3, 2000 and Regulation 3 of Notification No. FEMA 20/RB-2000, dated May 3, 2000, respectively.

vii) Parking of ECB proceeds overseas

ECB proceeds should be parked overseas until actual requirement in India.

viii) Prepayment

Prepayment of ECB up to USD 100 million is permitted without prior approval of RBI, subject to compliance with the stipulated minimum average maturity period as applicable for the loan.

ix) Refinance of existing ECB

Refinancing of outstanding ECB by raising fresh loans at lower cost is permitted subject to the condition that the outstanding maturity of the original loan is maintained.

x) Debt Servicing

The designated AD has the general permission to make remittances of instalments of principal, interest and other charges in conformity with ECB guidelines issued by Government / RBI from time to time.

xi) Procedure

Applicants are required to submit an application in form ECB (format in Annex I) through designated AD to the Chief General Manager-in-Charge, Foreign Exchange Department, Reserve Bank of India, Central Office, External Commercial Borrowings Division, Mumbai – 400 001 along with necessary documents.

xii) Empowered Committee

RBI will set up an Empowered Committee to consider proposals coming under the approval route.

(C) REPORTING ARRANGEMENTS AND DISSEMINATION OF INFORMATION

i) Reporting Arrangements

- a) With a view to simplify the procedure, submission of copy of loan agreement is dispensed with.
- b) Borrowers are required to submit Form 83 (format in Annex II), in duplicate, certified by the Company Secretary (CS) or Chartered Accountant (CA) to the designated AD. One copy is to be forwarded

by the designated AD to the Director, Balance of Payments Statistics Division, Department of Statistical Analysis and Computer Services (DESACS), Reserve Bank of India, Bandra-Kurla Complex, Mumbai – 400 051 for allotment of loan registration number.

- c) The borrower can draw-down the loan only after obtaining the loan registration number from DESACS, RBI.
- d) Borrowers are required to submit ECB-2 Return (format in Annex III) on monthly basis certified by the designated AD so as to reach DESACS, RBI within seven working days from the close of month to which it relates.

ii) Dissemination of Information

For providing greater transparency, information with regard to the name of the borrower, amount, purpose and maturity of ECB will be put on the RBI website by the next working day of the approval under Approval Route and on a monthly basis with a lag of one month to which it relates under Automatic Route.

3. Foreign Currency Convertible Bonds (FCCB)

The liberalisation made for ECB is also extended to FCCB in all respects.

4. Necessary amendments to the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000 dated May 3, 2000 and the Foreign Exchange Management (Transfer or issue of any foreign security) Regulations, 2000 dated May 3, 2000 are being issued separately.

5. The above amendments to ECB Policy will come into force with effect from February 1, 2004. These instructions superseding earlier instructions on ECB issued by RBI would be reviewed from time to time.

6. Authorised Dealers may bring the contents of this Circular to the notice of their constituents concerned.

7. The directions contained in this circular have been issued under Section 10 (4) and Section 11 (1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

F. R. Joseph

Chief General Manager

**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI 400 001**

RBI/2004/35
A.P.(DIR Series) Circular No.61

January 31, 2004

To

All Authorised Dealers in Foreign Exchange

Madam / Sirs,

**Exemption from Declaration of Export
of Goods and Software**

Attention of Authorised Dealers is invited to Regulation 3 of Notification No. FEMA 23/2000-RB dated May 3, 2000, in terms of which every exporter of goods or software in physical form or through any other form shall furnish a Declaration in GR/SDF/PP/Softex form affirming that the full export value of goods or the software has been or will be paid in the specified manner. Further, vide clause (d) of Regulation 4 ibid, submission of this Declaration is waived if the exporter declares that the goods/software is not more than Rs.25,000/- in value.

2. With a view to further liberalising and simplifying the procedures for exporters, the above limit has been revised to **USD 25,000** and accordingly it has been decided **to waive the submission of Declaration in Form GR/SDF/PP/SOFTEX in respect of export of goods and software of value not exceeding USD 25,000 or its equivalent.** The exporters shall, however, be liable to realise the amount of foreign exchange, which becomes due or accrues on account of such exports, and to repatriate the same to India in accordance with the provisions of FEMA Regulations.

3. In this connection, the Authorised Dealers are advised to exercise caution in dealing with inward remittances by ensuring adherence to the 'Know Your Customer' (KYC) norms and fully satisfy themselves about the source of funds before certifying the proceeds as export receipts for different purposes.

4. The upward revision in the limit for mandatory submission of the Declaration will come into force from **April 1, 2004**.
5. The Authorised Dealers may please note that all outstanding exports of value up to USD 25000 or its equivalent shall not be reported in the XOS half yearly statements falling due on 31 December 2004 and thereafter.
6. Necessary amendments to the Foreign Exchange Management (Export of Goods and Services) Regulations, 2000, vide Notification No.FEMA 23/2000-RB dated May 3, 2000, are being notified separately.
7. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.
8. 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).

Yours faithfully,

Grace Koshie

Chief General Manager

**RESERVE BANK OF INDIA
EXCHANGE CONTROL DEPARTMENT
CENTRAL OFFICE
MUMBAI- 400 001.**

Notification No. FEMA.97/2003-RB

dated July 8, 2003

Foreign Exchange Management (Remittance of Assets) (Second Amendment) Regulations, 2003

In exercise of the powers conferred by Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999) and in partial modification of Notification No. FEMA.13/2000-RB dated 3rd May 2000 and Notification No. FEMA 62/2002-RB dated 13th May 2002, the Reserve Bank of India makes the following amendments in the Foreign Exchange Management (Remittance of Assets) Regulations, 2000, namely :-

Short title and commencement :-

1. (i) These Regulations may be called the “Foreign Exchange Management (Remittance of Assets) (Second Amendment) Regulations, 2003”.

(ii) They shall come into force from the date of their publication in the Official Gazette.

Amendment of the Regulations :-

1. In the Foreign Exchange Management (Remittance of Assets) Regulations, 2000, in Regulation 4,

(a) (i) in sub-regulation (2), for the words and figures,

“US\$ 1,00,000 (US Dollar One lakh only)” shall be substituted with the words and figures, “US\$ 1,000,000 (US Dollar One million only)”,

(ii) for clause (a), the following clause shall be substituted, namely:-

“(a) documentary evidence in support of acquisition, inheritance or legacy of assets by the remitter and”

(b) for sub-regulation (3) the following sub-regulation shall be substituted, namely:-

“(3) A Non-resident Indian (NRI)/Person of Indian Origin (PIO), may remit an amount, not exceeding US\$ 1,000,000 (US Dollar One million only) per calendar year, out of the balances held in NRO accounts/sale proceeds of assets/the assets in India acquired by him by way of inheritance/legacy, on production of the documents detailed in sub-regulation (2)(a) and (b);

Provided that in respect of remittance of sale proceeds of immovable property, the property/sale proceeds were held/retained as deposits cumulatively for a minimum period of 10 years;

Provided further that where the remittance is made in more than one instalment, the remittance of all instalments shall be made through the same authorised dealer.”

3. In Regulation 6, in sub-regulation (1), for clause (i) the following clause shall be substituted, namely: -

“(i) Remittance exceeding US\$ 1,000,000 (US Dollar One million only) per calendar year –

(a) on account of legacy, bequest or inheritance to a citizen of foreign state, permanently resident outside India and

(b) by a Non-Resident Indian (NRI)/Person of Indian Origin (PIO), out of the balances held in NRO accounts/sale proceeds of assets/the assets in India acquired by way of inheritance/legacy.”

(Usha Thorat)
Executive Director

**Published in the Official Gazette of Government
of India - Extraordinary - Part-II, Section 3,
Sub-Section (i) dated 04.08.2003 - G.S.R.No.630(E)**

**Reserve Bank of India
Foreign Exchange Department
Central Office
Mumbai – 400 001**

RBI/2004/37
A.P.(Dir Series) Circular No.63

February 3, 2004

To

All Authorised Dealers in Foreign Exchange

Madam/Sir,

Investment by International Financial Institutions in Govt. Securities

Attention of Authorised Dealers is invited to paragraphs 1 and 2 of Schedule 5 to Notification No. FEMA 20/2000-RB dated May 3, 2000 as amended from time to time whereby, FIIs and NRIs have been allowed to purchase Govt. Securities on repatriation basis without limit.

2. As part of measures for further liberalisation, it has been decided that Multilateral Development Banks like International Finance Corporation (IFC), Asian Development Bank (ADB), etc. which are specifically permitted by the Government of India to float rupee bonds in India, may purchase Govt. dated securities. The payment shall be made either by inward remittance through normal banking channels or out of funds held in the fund account opened with the specific approval of Reserve Bank.

3. In the case of sale of Government dated Securities by a Multilateral Development Bank, the net maturity proceeds after payment of taxes, may be either remitted abroad or credited to the fund account which has been opened with the specific approval of Reserve Bank.

The necessary amendments to the Foreign Exchange Management Act (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 has been made vide Notification No. FEMA.106/2003-RB dated October 27, 2003 (copy enclosed).

4. Authorised Dealers may bring the contents of this circular to the notice of their constituents 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).

Yours faithfully,

Grace Koshie

Chief General Manager



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI - 400 001**

RBI/ 2004/39

A.P. (DIR Series) Circular No. 64

February 4, 2004

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

Liberalised Remittance Scheme of USD 25,000 for Resident Individuals

As you are aware, we have been closely monitoring the macro-economic developments of the country and initiating suitable policy changes in tune with the changing scenario. As a step towards further simplification and liberalization of the foreign exchange facilities available to residents, it has been decided **that resident individuals may freely remit upto USD 25,000 per calendar year for any purpose** for which a Scheme has been formulated as detailed below:

2. Eligibility

All resident individuals are eligible to avail of the facility under the scheme. The facility will not be available to corporates, partnership firms, HUF, Trusts, etc.

3. Purpose

3.1 This facility is available for making remittance up to USD 25,000 per calendar year for any current or capital account transactions or a combination of both.

3.2 Under this facility, resident individuals will be free to acquire and hold immovable property or shares or any other asset outside India without prior approval of the Reserve Bank. Individuals will also be able to open, maintain and hold foreign currency accounts with a bank outside India for making remittances under the scheme without prior

approval of Reserve Bank. The foreign currency account may be used for putting through all transactions connected with or arising from remittances eligible under this scheme.

3.3 It is further clarified that the facility under the scheme is in addition to those already available for private travel, business travel, gift remittances, donations, studies, medical treatment etc as described in Schedule III of Foreign Exchange Management (Current Account Transactions) Rules, 2000. (Annexure B).

3.4 The remittance facility under the scheme is not available for the following:

- i) Remittance for any purpose specifically prohibited under Schedule-I (like purchase of lottery/sweep stakes, tickets proscribed magazines etc) or any item restricted under Schedule II of Foreign Exchange Management (Current Account Transactions) Rules, 2000. (Annexure B).
- ii) Remittances made directly or indirectly to Bhutan, Nepal, Mauritius or Pakistan.
- iii) Remittances made directly or indirectly to countries identified by the Financial Action Task Force (FATF) as “non co-operative countries and territories” viz Cook Islands, Egypt, Guatemala, Indonesia, Myanmar, Nauru, Nigeria, Philippines and Ukraine.
- iv) Remittances directly or indirectly to those individuals and entities identified as posing significant risk of committing acts of terrorism as advised separately by the Reserve Bank to the banks.

4. Remittance Procedure

Requirements to be complied with by the remitter

4.1 To avail of this facility, the individual will have to designate a branch of an AD through which all the remittances under the scheme will be made.

4.2 The resident individual seeking to make the remittance should furnish an application letter cum declaration in the format as indicated in Annexure–A regarding the purpose of the remittance and declaration that the funds belong to the remitter and will not be used for the purposes as detailed above.

Requirements to be complied with by the Authorised Dealers

4.3 While allowing the facility to resident individuals, Authorised Dealers are required to ensure that the **"Know Your Customer"** Guidelines have been implemented in respect of these accounts. They should also comply with the **Anti-Money Laundering Rules** in force while allowing the facility.

4.4 The applicants should have maintained the bank account with the bank for a minimum period of one year prior to the remittance. If the applicant seeking to make the remittance is a new customer of the bank, Authorised Dealers should carry out due diligence on the opening, operation and maintenance of the account. Further the AD should obtain bank statement for the previous year from the applicant to satisfy themselves regarding the source of funds. If such a bank statement is not available, copies of the latest Income Tax Assessment Order or Return filed by the applicant may be obtained.

4.5 The AD should ensure that the payment is received out of funds belonging to the person seeking to make the remittance, by a cheque drawn on the applicant's bank account or by debit to his account or by Demand Draft / Pay Order.

4.6 Authorised dealer should certify that the remittance is not being made directly or indirectly by /or to ineligible entities and that the remittances are made in accordance with the instructions contained herein.

5. Reporting of the transactions

The remittances made under this Scheme will be reported in the R-Return in the normal course. The ADs may also prepare and keep on record dummy Form A2, in respect of remittances exceeding USD 5000. Authorised Dealers may arrange to furnish on a quarterly basis, information on the number of applicants and total amount remitted to the Chief General Manager, External Payment Division, Foreign Exchange Department, Reserve Bank of India, Central Office, Mumbai-400001.

6. Necessary amendments to the relevant Foreign Exchange Management Regulations, 2000 as also the relevant Notifications, issued under FEMA, 1999 are being issued separately.

7. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

8. 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).

Yours faithfully,

Grace Koshie

Chief General Manager

Encls.: As above

Annexure A

[A.P. (DIR.Series) Circular No.64
dated February 4, 2004]

Application cum Declaration for purchase of foreign exchange under the scheme

(To be completed by the applicant)

I Details of the applicant

- a. Name
- b. Address.....
- c. Account No.....
- d. PAN No.....

II Details of the foreign exchange required

1. Amount (Specify currency).....
2. Purpose

III Source of funds:**IV Nature of instrument**

Draft.....

Direct remittance.....

V Details of the remittance made under the scheme in the calendar year

.....

Date	Amount
------	--------

VI Details of the Beneficiary

1. Name
2. Address
-
- * 3. Name and address of the bank.....
- * 4. Account No.....

(* Required only when the remittance is to be directly credited to the bank account of the beneficiary)

This is to authorize you to debit my account and effect the foreign exchange remittance/issue a draft as detailed above. (strike out whichever is not applicable).

Declaration

*I, , hereby declare that the total amount of foreign exchange
(Name)*

exchange purchased from or remitted through, all sources in India during the current calendar year as per item No. V of the Application, is within the limit of USD 25,000/- (US Dollar Twenty Five Thousand only), which is the limit prescribed by the Reserve Bank for the purpose and certify that the source of funds for making the said remittance belongs to me and will not be used for prohibited purposes.

Signature of the applicant
(Name)

Certificate by the authorised dealer

This is to certify that the remittance is not being made by/ to ineligible entities and that the remittance is in conformity with the instructions contained in Reserve Bank A.P.(DIR Series) Circular No.64 dated February 4, 2004.

Name and designation of the authorized official:

Place:
Date:

Signature
Stamp and seal of the AD branch

Annexure- B
[A.P. (DIR.Series) Circular No.64
dated February 4, 2004]

**Foreign Exchange Management (Current Account Transactions)
Rules, 2000**

Schedule I

(See Rule 3)

1. Remittance out of lottery winnings.
2. Remittance of income from racing/riding etc. or any other hobby
3. Remittance for purchase of lottery tickets, banned/proscribed magazines, football pools, sweepstakes, etc.
4. Payment of commission on exports made towards equity investment in Joint Ventures/ Wholly Owned Subsidiaries abroad of Indian companies.
5. Remittance of dividend by any company to which the requirement of dividend balancing is applicable.
6. Payment of commission on exports under Rupee State Credit Route.
7. Payment related to "Call Back Services" of telephones.
8. Remittance of interest income on funds held in Non-Resident Special Rupee (Account) Scheme.

Schedule II
(See Rule 4)

Purpose of Remittance	Ministry/Department of Govt. of India whose approval is required
1. Cultural Tours	Ministry of Human Resources Development, (Department of Education and Culture)
2. Advertisement in foreign print media for the purposes other than promotion of tourism, foreign investments and international bidding (exceeding USD 10,000) by a State Government and its Public Sector Undertakings	Ministry of Finance, (Department of Economic Affairs)
3. Remittance of freight of vessel chartered by a PSU	Ministry of Surface Transport, (Chartering Wing)
4. Payment of import by a Govt.	Ministry of Surface Transport,

Department or a PSU on c.i.f. basis (i.e. other than f.o.b. and f.a.s. basis)	(Chartering Wing)
5. Multi-modal transport operators making remittance to their agents abroad	Registration Certificate from the Director General of Shipping
6. Remittance of container detention charges exceeding the rate prescribed by Director General of Shipping	Ministry of Surface Transport (Director General of Shipping)
7. Remittances under technical collaboration agreements where payment of royalty exceeds 5per cent on local sales and 8per cent on exports and lump-sum payment exceeds USD 2 million	Ministry of Industry and Commerce
8. Remittance of prize money/sponsorship of sports activity abroad by a person other than International / National / State Level sports bodies, if the amount involved exceeds USD 100,000	Ministry of Human Resources Development (Department of Youth Affairs and Sports)
9. Payment for securing Insurance for health from a company abroad	Ministry of Finance, (Insurance Division)
10. Remittance for membership of P&I Club	Ministry of Finance, (Insurance Division)

Schedule III (See Rule 5)

1. Remittance by artiste e.g. wrestler, dancer, entertainer etc. (This restriction is not applicable to artistes engaged by tourism related organizations in India like ITDC, State Tourism Development Corporations etc. during special festivals or those artistes engaged by hotels in five star categories, provided the expenditure is met out of EEFC account).
2. Release of exchange exceeding USD 10,000 or its equivalent in one calendar year, for one or more private visits to any country (except Nepal and Bhutan).
3. Gift remittance exceeding USD 5,000 per remitter/donor per annum.
4. Donation exceeding USD 5,000 per remitter/donor per annum.
5. Exchange facilities exceeding USD 100,000 for persons going abroad for employment.
6. Exchange facilities for emigration exceeding USD 100,000 or amount prescribed by country of emigration.
7. Remittance for maintenance of close relatives abroad,
 - i. exceeding net salary (after deduction of taxes, contribution to provident fund and other deductions) of a person who is resident but not permanently resident in India and is a citizen of a foreign state other than Pakistan.
 - ii. exceeding USD 100,000 per year, per recipient, in all other cases.

Explanation: For the purpose of this item, a person resident in India on account of his employment of a specified duration (irrespective of length thereof) or for a specific job or assignment; the duration of which does not exceed three years, is a resident but not permanently resident.

8. Release of foreign exchange, exceeding USD 25,000 to a person, irrespective of period of stay, for business travel, or attending a conference or specialised training or for maintenance expenses of a patient going abroad for medical treatment or check-up abroad, or for accompanying as attendant to a patient going abroad for medical treatment/check-up.
9. Release of exchange for meeting expenses for medical treatment abroad exceeding the estimate from the doctor in India or hospital/doctor abroad.
10. Release of exchange for studies abroad exceeding the estimate from the institution abroad or USD 100,000, per academic year, whichever is higher.
11. Commission to agents abroad for sale of residential flats/ commercial plots in India, exceeding 5 per cent of the inward remittance.
12. Short term credit to overseas offices of Indian companies.
13. Remittance for advertisement on foreign television by a person whose export earnings are less than Rs.10 lakhs during each of the preceding two years.
14. Remittance of royalty and payment of lump-sum fee under the technical collaboration agreement which has not been registered with Reserve Bank.

15. Remittance exceeding USD 1,000,000 per project, for any consultancy service procured from outside India.
16. Remittances for use and/or purchase of trade mark/franchise in India.
17. Remittance exceeding USD 100,000 by an entity in India by way of reimbursement of pre-incorporation expenses.
18. Remittance of hiring charges of transponder.



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI - 400 001**

RBI/2004/43

A.P. (DIR Series) Circular No. 65

February 5, 2004

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

**Foreign Exchange Management Act, 1999 –
Amendments to Foreign Exchange Management Regulations**

Attention of authorised dealers is invited to A.P.(DIR Series) circulars relating to :

- i) Risk Management and Indian Bank Dealings
- ii) Forward cover for Foreign Institutional Investors
- iii) Foreign Currency Loan in India to holders of FCNR (B) Deposits
- iv) Overseas Direct Investment – Liberalisation of Automatic Route
- v) Acquisition of immovable property outside India – Branches/Trading Offices overseas
- vi) Forward Contracts – Enlargement of scope of transactions

The relevant amendments to the Foreign Exchange Management Regulations, 2000 issued by Reserve Bank have been notified by the Government, in the Official Gazette, as indicated in the Annexure. (Copies of the Notifications are enclosed).

2. Authorised dealers may bring the contents of this circular to the notice of their constituents concerned.

3. The directions contained in this circular have been issued under section 10(4) and section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

(Grace Koshie)

Chief General Manager

Annexure

[A.P.(DIR Series) Circular No.65
dated February 5, 2004]

**Reserve Bank Notifications – Amendment to Foreign Exchange Management
Regulations, 2000 issued under the Foreign Exchange Management Act, 1999**

Sr. No.	A.P. DIR (Series) Circular		FEMA Notification	
	No. and date	Subject	No./date/subject	G.S.R. No.
1.	2.	3.	4.	5.
1.	63/21.12.2002	Risk Management and Inter-Bank Dealings	Notification No.FEMA.70/2003-RB dated 26.8.2002 - Foreign Exchange Management (Foreign Exchange Derivative Contract) (Third Amendment) Regulations, 2002.	222 (E) dated 26.8.2002
2.	50/16.11.2002	Forward cover for Foreign Institutional Investors	Notification No.FEMA.81/ 2003-RB dated 8.1.2003 - Foreign Exchange Management (Foreign Exchange Derivative Contract) (Amendment) Regulations, 2003.	532(E) dated 8.1.2003
3.	24/25.9.2002	Foreign Currency Loan in India to holders of FCNR (B) Deposits	Notification No.FEMA.82/ 2003-RB dated 10.1.2003 - Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) (Second Amendment) Regulations, 2003.	533(E) dated 10.1.2003
4.	83/1.3.2003	Overseas Direct Investment – Liberalisation of Automatic Route	Notification No.FEMA.86/ 2003-RB dated 1.3.2003 – Foreign Exchange Management (Transfer or issue of any Foreign Security) (Amendment) Regulations, 2003.	629 (E) dated 1.3.2003
5.	71/13.1.2003 104/31.5.2003	Acquisition of immovable property outside India – Branches/Trading Offices overseas	Notification No.FEMA.103/ 2003-RB dated 13.10.2003 - Foreign Exchange Management (Acquisition and Transfer of immovable property outside India) (Amendment) Regulations, 2003.	848(E) dated 13.10.2003
6.	98/29.4.2003	Booking Forward Contracts	Notification No.FEMA..104/ 2003-RB dated 21.10.2003 - Foreign Exchange Management (Foreign Exchange Derivative Contract) (Third Amendment) Regulations, 2003.	880(E) dated 21.10.2003

**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI - 400 001**

RBI/2004/45
A.P.(DIR Series) Circular No.66

February 6, 2004

To

All Authorised Dealers in Foreign Exchange

Madam / Sirs,

**FEMA 1999 - Imports into India –
Direct Receipt of Import Bills/Documents - Liberalisation**

Attention of Authorised Dealers is invited to paragraph A.12 of the Annexure to A.P.(DIR Series) Circular No. 106 dated June 19, 2003 permitting Authorised Dealers to make remittances in respect of certain import bills/documents which have been directly received by the importers from the overseas suppliers.

2. With a view to simplifying and liberalising the procedure for imports, it has been decided to raise the prescribed limits of USD 10,000/- and USD 25,000/- for such direct receipt of import bills/documents under the facility, mentioned at paragraph A.12 of the said circular, **uniformly to USD 100,000/-** or its equivalent. A table containing the eligible import bills/documents covered by this circular indicating the original and revised position is annexed for ready reference.

3. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

4. 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).

Yours faithfully,

Grace Koshie

Chief General Manager

Encl: As above

Original	Revised
<p>Paragraph A-12 of A.P. (DIR Series) Circular No.106 dated June 19, 2003</p> <hr/> <p>Receipt of import Bills/Documents</p> <p>i. Import bills and documents should be received from the banker of the supplier by the banker of the importer in India. Authorised dealers should not, therefore, make remittances where import bills have been received directly by the importers from the overseas supplier, except in the following cases:</p> <p>a. Where the value of import bill does not exceed USD 10,000.</p> <p>b. Import bills received by wholly-owned Indian subsidiaries of foreign companies from their principals.</p> <p>c. Import bills received by Super Star Trading Houses, Star Trading Houses, Trading Houses, Export Houses, 100% Export Oriented Units/ Units in Free Trade Zones, Public Sector Undertakings and Limited Companies.</p> <p>d. Where the value of import bill does not exceed USD 25,000 in respect of import of -</p> <p>i. books and magazines</p> <p>ii. life saving drugs/equipments by Hospitals, etc. and</p> <p>iii. imports by reputed research and other development institutions like Tata Institute of Fundamental Research, C-DOT, Indian Institute of Technology, Indian Institute of Science and Universities.</p> <p>e. Import bills received by all limited companies viz. public limited, deemed public limited and private limited companies.</p> <p>ii. In all other cases, at the request of importer clients, authorised dealers may receive bills direct from the overseas supplier up to USD 25,000 (U.S. Dollars Twenty five thousand only), provided the authorised dealer is fully satisfied about the financial standing/status and track record of the importer customer. Before extending the facility, authorised dealer should obtain report on each individual overseas supplier from the overseas banker or reputed credit agency.</p>	<p>Paragraph A-12 of A.P. (DIR Series) Circular No. 106 dated June 19, 2003 revised vide A.P. (DIR Series) Circular No. 66 dated February 6, 2004</p> <hr/> <p>Receipt of import Bills/Documents</p> <p>i. Import bills and documents should be received from the banker of the supplier by the banker of the importer in India. Authorised dealers should not, therefore, make remittances where import bills have been received directly by the importers from the overseas supplier, except in the following cases:</p> <p>a. Where the value of import bill does not exceed USD 100,000.</p> <p>b. Import bills received by wholly-owned Indian subsidiaries of foreign companies from their principals.</p> <p>c. Import bills received by Super Star Trading Houses, Star Trading Houses, Trading Houses, Export Houses, 100% Export Oriented Units/ Units in Free Trade Zones, Public Sector Undertakings and Limited Companies.</p> <p>d. Where the value of import bill does not exceed USD 100,000 in respect of import of -</p> <p>i. books and magazines</p> <p>ii. life saving drugs/equipments by Hospitals, etc. and</p> <p>iii. imports by reputed research and other development institutions like Tata Institute of Fundamental Research, C-DOT, Indian Institute of Technology, Indian Institute of Science and Universities.</p> <p>e. Import bills received by all limited companies viz. public limited, deemed public limited and private limited companies.</p> <p>ii. In all other cases, at the request of importer clients, authorised dealers may receive bills direct from the overseas supplier up to USD 100,000 (U.S. Dollars one lakh only), provided the authorised dealer is fully satisfied about the financial standing/status and track record of the importer customer. Before extending the facility, authorised dealer should obtain report on each individual overseas supplier from the overseas banker or reputed credit agency.</p>

**Reserve Bank of India
Foreign Exchange Department
Central Office
Mumbai – 400 001**

RBI/2004/46
A.P.(Dir Series) Circular No.67

February 6, 2004

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

**Clarification regarding Automatic Route for
Residual Activities under Foreign Direct Investment (FDI)**

Attention of Authorised Dealers is invited to A.P. (DIR Series) Circular No.38 dated December 3, 2003 forwarding therewith the Summary of Regulatory Provisions covering Foreign Investments in India and the Notification No. FEMA 94/2003-RB dated June 18, 2003.

2. It may be observed that in the amended Notification No. FEMA 94/2003-RB dated June 18, 2003 there is no mention in the Annexure B about the investment in respect of **residual activities** viz. "Any other Sector/Activity (other than included in Annexure A)" previously classified under item No.9 of Annexure B to Schedule I of FEMA.20/2000-RB dated May 3, 2000. Government have since clarified that Automatic Route for FDI upto 100 per cent would continue to be available for residual activities as was previously available.

3. The necessary amendments to the Foreign Exchange Management Act (Transfer or issue of security by a Person Resident outside India) Regulations, 2000 are being issued separately.

4. Authorised Dealers may bring the contents of this circular to the notice of their constituents 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).

Yours faithfully,

Grace Koshie

Chief General Manager



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI – 400 001**

RBI/2004/54
A.P.(DIR Series) Circular No.68

February 11, 2004

To
All Authorised Dealers in Foreign Exchange

Madam / Sirs,

Export of Goods and Services – Liberalisation

Attention of Authorised Dealers is invited to paragraph C 20 of Part C to the Annexure to AP(Dir Series) Circular No.12 of September 9, 2000 in terms of which they were prohibited from either accepting for negotiation/collection shipping documents from caution listed exporters concerning exports declared on GR / SDF / PP / Softex forms or countersigning PP forms completed by them unless these forms bear approval of the Reserve Bank.

2. It has now been decided that any declaration to be furnished to the specified authority by the caution listed exporters should be submitted to the Authorised Dealer for prior approval. Accordingly, GR / PP / SDF and Softex forms of exporters who have been placed on the caution-list may be approved by Authorised Dealers, if the exporters concerned produce evidence of having received an advance payment or a valid irrevocable letter of credit in their favour covering the full value of the proposed exports. Such approval may be given even in cases where usance bills are to be drawn for the shipment, provided the relative letter of credit covers the full export value and also permits such drawings and the usance bills mature for payment within six months from the date of shipment.

3. A Notification amending the relevant provisions of Foreign Exchange Management (Export of Goods and Services) Regulations, 2000 notified vide Notification No.FEMA.23/ RB-2000 dated May 3, 2000 is being issued separately.

4. Authorised Dealers may bring the contents of this circular to the notice of their constituents 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 (42of 1999).

Yours faithfully,

Grace Koshie

Chief General Manager



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI**

RBI/2004/55
A.P. (DIR Series) Circular No.69

February 12, 2004

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

FEMA, 1999 - Grant of Rupee loan to NRIs - Liberalisation

Under the provisions of the Foreign Exchange Management (Borrowing and Lending in Rupees) Regulations, 2000 notified vide Notification No. FEMA 4/2000-RB dated May 3, 2000, Authorised Dealers are allowed to grant loans in rupees to Non-Resident Indians (NRIs) (i) against the security of shares or immovable property in India for personal or business purposes (Regulation 7) and (ii) housing loans against the security of houses/flats to be acquired for acquisition of residential accommodation in India (Regulation 8).

2. We have been receiving representations from various Authorised Dealers seeking our approval for grant of rupee loans against acceptable security to Non-Resident Indians for purposes other than specifically prohibited.

3. On a review, it has been decided to allow Authorised Dealers to grant rupee loans to NRIs as per policy laid down by the bank's Board of Directors, other than for purposes specified in para 4 below. The repayment of the loan may be made by debit to NRE/FCNR/NRO accounts of the non-resident borrowers or out of inward remittances by the borrowers. The quantum of loan, rate of interest, margins etc. on such loans may be decided by the Authorised Dealers based on relevant directives issued by the Department of Banking Operations and Development in this regard.

4. Authorised Dealers may ensure that the proceeds of rupee loan are not utilised for any of the following activities:

- a) The business of chit fund, or
- b) Nidhi Company, or
- c) Agricultural or plantation activities or in real estate business, or construction of farm houses, or
- d) Trading in Transferable Development Rights (TDRs), or
- e) Investment in capital market including margin trading and derivatives.

5. Necessary amendments to the Foreign Exchange Management (Borrowing and Lending in Rupees) Regulations, 2000 notified vide Notification No. FEMA 4/2000-RB dated May 3, 2000 are being issued separately.

6. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

7. 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).

Yours faithfully,

Grace Koshie

Chief General Manager



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI - 400 001**

RBI/2004/63

A.P. (DIR Series) Circular No.70

February 20, 2004

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

**Exim Bank's Line of Credit of USD 10 million
to ABSA Bank Ltd., South Africa.**

Export-Import Bank of India (Exim Bank) has concluded an agreement with ABSA Bank Ltd., South Africa on July 4, 2003 making available to the latter, a Line of Credit (LOC) upto an aggregate sum of USD 10 million (U.S. Dollar ten million only). The Credit Agreement has become effective from December 30, 2003 and is available for financing export from India of Category 'A' and Category 'B' goods as per Memorandum of Instructions on Project & Service Exports (Memorandum PEM) and any other item including raw materials and commodities that may be agreed upon between Exim Bank and ABSA Bank Ltd. to buyers in South Africa.

2. The terminal dates for opening letters of credit and utilisation of credit are June 29, 2005 and December 29, 2005, respectively.

3. Shipments under the credit will have to be declared on GR / SDF Forms as per instructions issued from time to time.

4. While no agency commission shall be payable in respect of exports financed under the above line of credit, Reserve Bank may consider, on merit, requests for payment of commission upto a maximum extent of 5 per cent of the f.o.b. / c&f / c.i.f. value in respect of goods exported and which require after-sales service. In such cases, commission will have to be paid in South Africa only by deduction from the invoice of the relevant shipment and the reimbursable amount by the Exim Bank to the negotiating bank will be 90 per cent of the f.o.b./c &f / c.i.f. value minus the commission paid. Approval for payment of commission should be obtained before the relevant shipment is effected.

In other cases (i.e. exports not involving after sales service), if the exporter is required to pay agency commission, he will have to use his own resources for such payments.

5. Authorised Dealers may bring the contents of this circular to the notice of their exporter constituents and advise them to obtain full details of the Line of Credit from Exim Bank's office or its website.

6. 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).

Yours faithfully,

Grace Koshie

Chief General Manager



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI - 400 001**

RBI/ 2004/64

A.P. (DIR Series) Circular No.71

February 20, 2004

To

All Authorised Dealers in Foreign Exchange

Madam / Sirs,

**Export of Goods to Russia against Repayment of State Credits
in Rupees – Payment of Agency Commission**

Attention of Authorised Dealers is invited to A.D (MA Series) Circular No.11 dated May 16, 2000 forwarding therewith, inter-alia, a copy of Notification No.GSR 381(E) dated May 3, 2000 regarding Foreign Exchange Management (Current Account Transactions) Rules, 2000. Item 6 of Schedule I thereto prohibits payment of agency commission on exports under Rupee State Credit Route.

2. It has now been decided to permit payment of commission in free foreign exchange for exports of tea and tobacco to Russia against repayment of State Credits upto 10 per cent of the invoice value. Accordingly, Authorised Dealers may permit payment of commission in free foreign exchange upto 10 per cent of invoice value for export of tea and tobacco only.

3. Necessary amendments to the Foreign Exchange Management (Current Account Transactions) Rules, 2000 have since been notified by the Government in the Official Gazette, vide Notification No.G.S.R.397 (E) dated May 1, 2003 (copy enclosed).

4. Authorised Dealers may bring the contents of this circular to the notice of their constituents 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).

Yours faithfully,

Grace Koshie

Chief General Manager

Encl : As above

MINISTRY OF FINANCE AND COMPANY AFFAIRS
(Department of Economic Affairs)

NOTIFICATION

New Delhi, the 1st May 2003

G.S.R.397(E) – In exercise of the powers conferred by Section 5 and sub-section (1) and clause (a) of Sub-section (2) of Section 46 of the Foreign Exchange Management Act, 1999 (42 of 1999), and in consultation with Reserve Bank, the Central Government having considered it necessary in the public interest, makes the following amendment to the Foreign Exchange Management (Current Account Transactions) Rules, 2000, namely :-

1. **Short title and commencement** (1) These rules may be called the Foreign Exchange Management (Current Account Transaction) (Second Amendment) Rules, 2003.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Foreign Exchange Management (Current Account Transaction) Rules, 2000,

(a) in Schedule 1, for item 6, the following shall be substituted, namely:-

“6 Payment of commission on exports under Rupee State Credit Route, except commission upto 10% of invoice value of exports of tea and tobacco.” ;

(b) in Schedule III, in item 7,

(A) for clause (i), the following clause shall be substituted, namely:-

“(i) exceeding net salary (after deduction of taxes, contribution to provident fund and other deductions) of a person who is resident but not permanently resident in India and –

(a) is a citizen of a foreign State other than Pakistan; or

(b) is a citizen of India, who is on deputation to the office or branch or subsidiary or joint venture in India of such foreign company”,

(B) in the explanation, for the words “employment of”, the words “employment or deputation of” shall be substituted.

(F.No.1/5/EC/2000 Vol.II)

G.S.DUTT,
Joint Secretary

Foot note : The Principal rules were published in the official gazette vide G.S.R.381(E) dated 3rd May, 2000 in part II, Section 3, Sub-section (i) and subsequently amended vide S.O.301(E) dated 30th March, 2001.



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI - 400 001**

RBI/ 2004/ 65

A.P. (DIR Series) Circular No.72

February 20, 2004

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

**Foreign Exchange Management Act, 1999
Import of Goods into India – Evidence of Import**

Attention of Authorised Dealers is invited to (a) para A.11 of A.P.(DIR Series) Circular No.106 dated June 19, 2003 and (b) item iv of the Notes to BEF statement in the Annexure thereto, whereby they have been permitted to accept "Into-Bond Bill of Entry" as provisional evidence of import. Authorised Dealers, however, have to ensure that the importer submits Exchange Control copy of the Bill of Exchange for home consumption within a reasonable period of time.

2. Consequent upon implementation of the EDI system by the Customs Authorities, a revised procedure has been introduced for issue of Bill of Entry for ex-bond clearance of goods. Under the revised procedure, Exchange Control copy of the Bill of Entry for home consumption is no longer being issued and only two copies of "ex-Bond Bill of Entry" are generated; one copy is required to be submitted for clearance of goods from the warehouse and the other copy is given to the importer.

3. It has, therefore, been decided that where EDI system has been implemented by customs and the importer receives only one copy of the "ex-Bond Bill of Entry" from the customs, Authorised Dealers may advise importer to submit a photocopy of the "ex-Bond Bill of Entry" for home consumption after clearance of the goods from the warehouse / bond, which may be duly verified by the Authorised Dealer and accepted as final evidence of import.

4. Authorised Dealers may bring the contents of this circular to the notice of their constituents 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)

Yours faithfully,

Grace Koshie

Chief General Manager



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI**

RBI/2004/ 66
A.P. (DIR Series) Circular No.73

February 20, 2004

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

Export of Goods by way of Gifts - Liberalisation

Attention of Authorised Dealers is invited to A. D. (M.A. Series) Circular No.11 dated May 16, 2000. In terms of Clause (e) of Regulation 4 of Foreign Exchange Management (Export of Goods and Services) Regulations, 2000 vide Notification No. FEMA 23/2000-RB dated May 3, 2000 contained thereat, export of goods by way of gift is permissible subject to declaration by the exporter that goods are not more than one lakh rupees in value.

2. With a view to further liberalising the procedure it has been decided to raise the above limit to five lakh rupees per annum with immediate effect.

3. Necessary amendments to the Foreign Exchange Management (Export of Goods and Services) Regulations, 2000, vide Notification No. FEMA 23/2000-RB dated May 3, 2000, are being notified separately.

4. Authorised Dealers may bring the contents of this circular to the notice of their constituents 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).

Yours faithfully,

Grace Koshie

Chief General Manager



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI**

RBI/2004/67

A.P. (DIR Series) Circular No.74

February 20, 2004

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

**FEMA 1999 - Grant of Loans by Indian Companies
to the Employees of their Branches Outside India**

Attention of Authorised Dealers is invited to A. D. (M. A. Series) Circular No. 11 dated May 16, 2000. In Regulation 5 of Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000 vide Notification No. FEMA 3/2000-RB dated May 3, 2000 contained thereat, borrowing and lending in foreign currency by persons other than Authorised Dealers is envisaged.

2. At present loans granted by the Indian companies to the employees of their branches outside India require permission of the Reserve Bank since such loans are treated as loans by a resident to a non-resident.

3. It is clarified that though branches of Indian companies outside India are treated as residents as per the definition, the employees of such branches are treated as persons resident outside India.

4. As a further measure of liberalisation and procedural simplification, it has been decided to grant general permission to the Indian Companies in India to grant loans in foreign currency to the employees of their branches outside India for personal purposes in accordance with the lender's Staff Welfare Scheme/Loan Rules and other terms and conditions as applicable to its staff resident in India and abroad.

5. A copy of Notification No.FEMA 80/2003-RB dated January 8, 2003 which has been issued, amending the provisions of Notification No.FEMA 3/2000-RB dated May 3, 2000 is enclosed (Sub-regulation 6 of the amended Notification may please be read as No.7. A **Corrigendum** is being issued separately).

6. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

7. The directions contained in this circular have been issued under Sections 10(4) and 11(1) of FEMA 1999 (42 of 1999).

Yours faithfully,

Grace Koshie

Chief General Manager

Encl : As above

**RESERVE BANK OF INDIA
EXCHANGE CONTROL DEPARTMENT
CENTRAL OFFICE
MUMBAI 400 001**

NOTIFICATION No.FEMA. 80 /2003-RB

January 8, 2003

**Foreign Exchange Management (Borrowing or Lending
in Foreign Exchange) (Amendment) Regulations, 2003**

In exercise of the powers conferred by clause (d) of sub-section (3) of Section 6 and sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), and in partial modification of its Notification No.FEMA.3/2000-RB dated May 3, 2000, the Reserve Bank of India makes the following Regulations to amend the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000, namely:

1. Short title and commencement:

- i) These Regulations may be called the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) (Amendment) Regulations, 2003.
- ii) They shall come into force from the date of their publication in the Official Gazette.

2. Amendment of the Regulations:

In the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000 in Regulation 5, after sub-Regulation (5), the following Sub-Regulation shall be inserted, namely:-

“(6) Indian companies in India may grant loans in foreign currency to the employees of their branches outside India for personal purposes provided that the loan shall be granted for personal purposes in accordance with the lender’s Staff Welfare Scheme/Loan Rules and other terms and conditions as applicable to its staff resident in India and abroad,”

(K. J. Udeshi)
Executive Director

G.S.R.531(E) dated January 8, 2003

**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
Central Office
Mumbai 400 001**

RBI/2004/72

A.P.(DIR Series) Circular No. 75

February 23, 2004

To

All Authorised Dealers in Foreign Exchange

Madam / Sirs,

**External Commercial Borrowings (ECB)
for Overseas Direct Investment/
Mergers and Acquisitions**

Authorised Dealers' attention is invited to the revised External Commercial Borrowings (ECB) guidelines issued vide A.P. (DIR Series) Circular No.60 dated January 31, 2004.

2. With a view to enable Indian corporates to become global players by facilitating their overseas direct investment, **permitted end-use for ECB is enlarged to include overseas direct investment in Joint Ventures (JV)/Wholly Owned Subsidiaries (WOS). This would facilitate corporates to undertake fresh investment or expansion of existing JV/WOS including mergers and acquisitions abroad** by harnessing resources at globally competitive rates.

3. ECB for overseas direct investment shall be in conformity with other parameters of the ECB guidelines issued vide A.P. (DIR Series) Circular No.60 dated January 31, 2004 and the existing guidelines on Indian Direct Investment vide Master Circular No.2/2003-2004 dated July 1, 2003 on Indian Direct Investment in JVs/WOSs abroad read with A. P. (DIR Series) Circulars Nos. 41 and 42 dated December 06, 2003 and No. 57 dated January 13, 2004.

4. It may be noted that the ECB proceeds should be parked overseas until its utilisation for investment abroad.
5. The above amendments to ECB Policy will come into force with immediate effect.
6. Authorised Dealers may bring the contents of this Circular to the notice of their constituents concerned.
7. The directions contained in this circular have been issued under Section 10 (4) and Section 11 (1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

Grace Koshie

Chief General Manager

Press Release

External Commercial Borrowings (ECB) for Overseas Direct Investment/ Mergers and Acquisitions

It has been decided to permit eligible resident corporates to raise external commercial borrowings (ECB) for overseas direct investment in Joint Ventures (JV) /Wholly Owned Subsidiaries (WOS). This will include mergers and acquisitions of overseas companies.

2. With a view to enable Indian corporates to become global players by facilitating their overseas direct investment, **permitted end-use for ECB is enlarged to include overseas direct investment in Joint Ventures (JV)/Wholly Owned Subsidiaries (WOS). This would facilitate corporates to undertake fresh investment or expansion of existing JV/WOS including mergers and acquisitions abroad** by harnessing resources at globally competitive rates.

3. Operational guidelines are being issued to Authorised Dealers.



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI**

RBI/2004/74

A.P. (DIR Series) Circular No.76

February 24, 2004

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

**Foreign Exchange Management Act (FEMA), 1999 –
Current Account Transactions – Liberalisation**

Attention of Authorised Dealers (ADs) is invited to Annexure I of A.D. (M.A. Series) Circular No.11 dated May 16, 2000 with regard to Rules relating to Current Account Transactions.

2. As a step towards further liberalisation, it has been decided to remove the following restrictions on remittances by residents.

**(i) Remittance for securing Insurance for Health
from a Company Abroad**

In terms of item No.10 of Schedule II, payment for securing insurance for health from a company abroad requires the approval of Ministry of Finance (Insurance Division). It has since been decided that Government's approval would not be required and Authorised Dealers(ADs) may freely allow such remittances.

(ii) Remittance by Artiste

In terms of item No.1 of Schedule III remittance by artistes e.g. wrestler, dancer, entertainer, etc., requires prior approval of RBI. Henceforth, ADs may freely allow such remittances.

**(iii) Commission to Agents abroad for Sale of
Residential Flats/ Commercial Plots in India**

In terms of item No.11 of Schedule III, remittance by way of commission to agents abroad for sale of residential flats/commercial plots in India, exceeding 5 per cent of the inward remittance requires RBI's approval. ADs may freely allow such remittances upto USD 25,000 or 5 per cent of the inward remittance, per transaction, whichever is higher.

(iv) Short-term Credit to Overseas Offices of Indian Companies

In terms of item No.12 of Schedule III, short term credit to overseas offices of Indian companies requires prior approval of RBI. Henceforth, ADs may allow such facility without RBI's approval.

(v) Remittance for Advertisement on Foreign Television Channels

In terms of item No.13 of Schedule III, RBI's prior approval is required in cases where the export earnings of the advertiser are less than Rs.10 lakhs during each of the preceding 2 years. Henceforth, ADs may freely allow remittances for advertisement on foreign television channels.

(vi) Remittance of Royalty and Payment of lump-sum fee

In terms of item No.14 of Schedule III, RBI's prior approval is required if the agreement for technical collaboration has not been registered with RBI. Henceforth, ADs may allow remittances for royalty and payment of lump-sum fee provided the payments are in conformity with the norms as per item No.8 of Schedule II i.e. royalty does not exceed 5 per cent on local sales and 8 per cent on exports and lump-sum payment does not exceed USD 2 million.

(vii) Remittance for Use and/or Purchase of Trademark/Franchise in India.

In terms of item No.16 of Schedule III, RBI's prior approval is required for remittance towards use and/or purchase of trademark/franchise in India. Henceforth, ADs may freely allow remittances for use of trade mark/franchise in India. However, RBI's prior approval will continue to be required for remittance towards purchase of trademark/franchise.

(viii) Remittance of Hiring Charges of Transponders.

In terms of item No.18 of Schedule III, RBI's prior approval is required for remittance of hiring charges of transponders. This item stands shifted to Schedule II of the Foreign Exchange Management (Current Account Transactions) Rules, 2000 and henceforth, the proposal for hiring of transponders by TV Channels and internet service providers will require prior approval of the Ministry of Information & Broadcasting.

3. Necessary amendments to the Foreign Exchange Management (Current Account Transactions) Rules, 2000 are being notified separately.

4. Authorised Dealers may bring the contents of this circular to the notice of their constituents 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).

Yours faithfully,

Grace Koshie

Chief General Manager



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
Central Office
Mumbai 400 001**

RBI/2004/ 95
A.P.(DIR Series) Circular No.77

March 13 , 2004

To

All Authorised Dealers in Foreign Exchange

Madam / Sirs,

Foreign Exchange Management Act, 1999 - Guidelines for Compilation of R-Returns

Attention of Authorised Dealers (ADs) is invited to A.P.(DIR Series) Circular No.76 dated February 3, 2003, in terms of which they are required to submit R-Return (NOSTRO) and R-Return (VOSTRO) in hard copy together with transaction details in (FET-ERS - Version 5.0) in floppy.

2. The R-Return formats have been updated and enclosed as Annexures I (NOSTRO) and IA (VOSTRO). Authorised Dealers may please note the changes involving the deletion of Items Nos. I-H & II-H - Notional sale & Notional purchase and Item No. V - Aggregate Balance in R-Return (NOSTRO). They may also note that on crystallisation/cancellation of Export Bills Purchased/Negotiated/Discounted, the transaction has to be included under Item IC (i)/(ii). The list of revised purpose codes for purchase, sale transactions and also a list of purpose codes to be used for filling up the cover page of R-Return are enclosed as Annexures II,III & IV.

3. It has also been decided to simplify the procedures and documentation formalities in respect of non-import remittances. Accordingly, in consultation with FEDAI, the A-2 form has been modified to incorporate the application form and the declaration in terms of Section 10(5) of FEMA, 1999 and the specimen form is enclosed as Annexure V. The customer will be required to submit only this form in respect of permissible transactions pertaining to individuals up to a limit of USD 5000 as per our AP DIR circular No 55 dated 23 Dec 2003. The AD will fill up the reverse of the form which contains purpose-wise codes. For undertaking transactions under the Liberalised Remittance Scheme of USD 25000 for resident individuals, ADs may be guided by the instructions conveyed in our AP DIR No 64 dated February 4, 2004. As regards other transactions, apart from Form A2 as at Annexure V, the AD may call for additional information and documents as may be required. In respect of regular corporate customers, the bank may like to obtain one-time declaration under FEMA as per the proforma given in Annexure VI. The objective behind these steps is to extend hassle-free service to all customers.

4. Authorised Dealers are required to submit R-Return (NOSTRO) and R-Return (VOSTRO) as per the updated formats in hard copy along with FET-ERS floppy on fortnightly basis with effect from April 1, 2004.

5. The officials of the Authorised Dealers have been imparted training by the Reserve Bank on the new FET-ERS (Version 6.1) package, which has been revised comprehensively incorporating new purpose codes for various foreign exchange transactions. The package containing the new version will be made available / distributed to all ADs by the Bank shortly. Authorised Dealers may please arrange for training the officials of the remaining branches so that the foreign exchange transactions may be reported with new purpose codes through the revised FET-ERS (Version 6.1) from April 1, 2004.

6. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

Grace Koshie

Chief General Manager

Encl.: As above



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI-400 001**

RBI/2004/96
A.P.(DIR Series) Circular No.78

March 13, 2004

To

All Authorised Dealers in Foreign Exchange

Dear Sirs/Madam,

**Foreign Inward Remittance Payment System (FIRPS) Instrument –
Withdrawal of**

Attention of Authorised Dealers is invited to Annexure V to A.D. (M.A. Series) Circular No.11 dated May 16, 2000. It is indicated thereat that pending issue of further directions, Authorised Dealers are to be guided by the provisions of para 3A.5 of the Exchange Control Manual regarding Foreign Inward Remittance Payment System (FIRPS).

2. The relevance of the FIRP system has been reviewed in consultation with FEDAI and it has been decided to withdraw the FIRPS instrument as it is no longer used by banks in the wake of electronic credits and online transfer of funds.
3. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.
4. 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).

Yours faithfully,

Grace Koshie

Chief General Manager



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI - 400 001**

RBI/ 2004/ 99
A.P. (DIR Series) Circular No.79

March 15, 2004

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

**Exim Bank's Line of Credit of USD 10 Million
to Central Bank of Djibouti, Djibouti**

Export-Import Bank of India (Exim Bank) has concluded an agreement with Central Bank of Djibouti, Djibouti on July 24, 2003 making available to the latter, a Line of Credit (LOC) upto an aggregate sum of USD 10 Million (U.S.Dollar ten million only). The Credit Agreement has become effective from January 14, 2004 and is available for financing export from India of Category 'A' and Category 'B' goods and services as per Memorandum of Instructions on Project and Service Exports (Memorandum PEM) and any other item including raw materials and commodities that may be agreed upon between Exim Bank and Central Bank of Djibouti to buyers in Djibouti.

2. The terminal dates for opening letters of credit and utilisation of credit are January 13, 2006 and July 13, 2006 respectively.

3. Shipments under the credit will have to be declared on Forms GR / SDF as usual.

4. While no agency commission shall be payable in respect of exports financed under the above LOC, Reserve Bank may consider, on merit, requests for payment of commission up to a maximum extent of 5 per cent of the f.o.b./c&f/c.i.f. value in respect of goods exported and which require after sales service. In such cases, commission will have to be paid in Djibouti only by deduction from the invoice of the relevant shipment. The reimbursable amount by the Exim Bank to the negotiating bank will be 90 per cent of the f.o.b./c&f/c.i.f. value minus the commission paid. Approval for the payment of commission should be obtained from the Reserve Bank before the relevant shipment is effected.

In other cases (i.e. exports not involving after sales service) if the exporter is required to pay agency commission, he will have to use his own resources for such payments.

5. Authorised Dealers may bring the contents of this circular to the notice of their exporter constituents and advise them to obtain full details of the Line of Credit from Exim Bank's Office or its web-site.

6. 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).

Yours faithfully,

Grace Koshie

Chief General Manager



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI-400001**

RBI/ 2004/105

A.P. (DIR Series) Circular No. 80

March 18, 2004

To all Authorised Dealers in Foreign Exchange

Madam/Sirs,

**Liberalised Remittance Scheme of USD 25,000 for Resident Individuals- Investor
Protection – Disclosure Requirements**

Attention of the Authorised Dealers is invited to the instructions contained in A.P. DIR (Series) Circular No. 64 dated February 4, 2004, whereby Reserve Bank announced a Scheme permitting resident individuals to make remittance for an amount not exceeding USD 25,000 per calendar year. This facility is available for making remittance up to USD 25,000 per calendar year for any current or capital account transaction or a combination of both.

2. A number of foreign banks operating in India as well as Indian banks have been subsequently soliciting foreign currency deposits from residents under the above Scheme. It has been observed that several advertisements/ news items have appeared soliciting foreign currency funds/deposits at certain interest rates to be placed at overseas centers or on behalf of overseas mutual funds. These advertisements do not contain appropriate disclosures to guide potential depositors. In the case of banks operating in India concerns arise regarding adequate disclosures from the point of view of protecting the interest of the resident individuals. Further, marketing in India of schemes soliciting foreign currency deposits by foreign entities, not having operational presence in India, also raises supervisory concerns.

3. It has therefore been decided in public interest, that all banks, both Indian and foreign, including those not having an operational presence in India, should seek prior approval from RBI for the schemes being marketed by them in India to residents either for soliciting foreign currency

deposits for their foreign/overseas branches or for acting as agents for overseas mutual funds or any other foreign financial services company. The applications in this regard may be addressed to the Chief General Manager-in-Charge, Department of Banking Operations and Development, Reserve Bank of India, Central Office, Centre-1, World Trade Center , Cuffe Parade, Mumbai - 400005.

4. The above instructions do not restrict the freedom of resident individual from investing in permissible capital account transactions under the Scheme.

5. Reserve Bank has issued a press release in this regard, a copy of which is enclosed for the guidance of the Authorised Dealers.

6. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

7. 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).

Yours faithfully,

Grace Koshie
Chief General Manager



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI – 400 001**

RBI/2004/113

A.P.(DIR Series) Circular No.81

March 24, 2004

To

All Authorised Dealers in Foreign Exchange

Madam / Sirs,

**Overseas Foreign Currency Borrowings by
Authorised Dealers – Rationalisation and Monitoring**

Authorised Dealers (ADs) are allowed to borrow in foreign currency in the circumstances and subject to such conditions as mentioned under Regulation 4(2) of Notification No.FEMA 3/2000-RB dated May 3, 2000.

2. Accordingly, in terms of paragraph No.C.5(i) of RBI Master Circular on Risk Management and Inter-Bank Dealings dated July 1, 2003, ADs may avail of loans/overdrafts from their head offices, overseas branches and correspondents up to 25 per cent of their unimpaired Tier-I capital or USD 10 million (or its equivalent), whichever is higher. In terms of paragraph No.C.5(ii) of the above circular, ADs may avail of loans in excess of the limits prescribed above solely for replenishing their rupee resources in India subject to certain conditions. Further, ADs may also borrow under lines of credit from a bank or a financial institution outside India for the purpose of granting pre-shipment or post-shipment credit in foreign currency to their exporter constituents in terms of and subject to the conditions prescribed in IECD Master circular dated July 1, 2003 on Export Credit in Foreign Currency.

3. In addition, ADs may also avail of external commercial borrowings (ECBs) for specific purposes under the ECB Policy against specific approval from the Reserve Bank of India.

4. It has now been decided to rationalise the existing facilities for overseas borrowings and introduce a monitoring and reporting system for all ADs. Accordingly, the facilities available under paragraph Nos.C.5(i) and (ii) of the Master Circular dated July 1, 2003 will now be replaced by a single facility in terms of which all categories of overseas foreign currency borrowings including existing ECBs and overdrafts in Nostro accounts not adjusted within five days, shall not exceed 25 per cent of their unimpaired Tier-I capital as at the close of the previous quarter, or

USD 10 million (or its equivalent), whichever is higher. Any fresh borrowing above this limit shall only be with the prior approval of the Reserve Bank of India. Applications for fresh ECBs will be made as per the ECB policy vide A.P.(DIR Series) Circular No.60 dated January 31, 2004.

5. The following transactions would continue to be outside the limit of 25 per cent of unimpaired Tier-I Capital or USD 10 million (or its equivalent), whichever is higher :

- (i) Overseas borrowings by ADs for the purposes of financing export credit subject to the conditions prescribed in IECD Master Circular dated July 1, 2003 on Export Credit in Foreign Currency.
- (ii) Subordinated debt placed by head offices of foreign banks with their branches in India as Tier-II capital.

6. All ADs are advised to report their total outstanding overseas foreign currency borrowings under all categories as on March 20, 2004 to the Chief General Manager, Foreign Exchange Department, (Forex Markets Division, Amar Building) Central Office, RBI, by March 31, 2004, as per format appended (Annex). Reports may be sent in Excel format by e-mail to ecdcofmd@rbi.org.in. Similar report may be furnished as on the last Friday of every month in order to reach Reserve Bank of India by the 10th of the following month.

7. Necessary amendments to the Foreign Exchange Management Regulations 2000, shall be issued separately.

8. 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).

Yours faithfully,

Grace Koshie

Chief General Manager

Annex

[A.P.(DIR Series) Circular No.81
dated March 24, 2004]

Overseas Foreign Currency Borrowings as on

Amount (in equivalent[#] USD)

Sr. No.	Item	Amount
A	Tier-I capital as at the close of previous quarter.....	
Category of Borrowing		
1	Borrowings in terms of Para C.5 (i) of Master Circular on Risk Management and Inter-Bank Dealings dated July 1, 2003	
2	Borrowings in excess of the above limit for replenishment of rupee resources (Para C.5 (ii) *	
3	External Commercial Borrowings	
4	Borrowings under following scheme as per IECD Master Circular on Export Credit in Foreign Currency dated July 1, 2003 & Regulation 4.2(iv) of Notification no. FEMA 3/2000-RB dated May 3, 2000	
	(a) Lines of Credit for extending Pre-Shipment Credit in Foreign Currency (PCFC)	
	(b) Bankers Acceptance Facility (BAF) / Loan from overseas for extending Rediscounting of Export Bills Abroad Scheme (EBR)	
5	Subordinated debt for inclusion in Tier-II capital	
6	Any other category (please specify)	
7	Total	
8	Borrowings under categories (1+2+3+6) expressed as a percentage of Tier-I capital at A	

Note: 1. [#] RBI reference rate and New York closing rates on the date of report may be used for conversion purpose.

2. * Facility since withdrawn vide para 4 of this circular.

**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
Central Office
Mumbai 400 001**

RBI/2004/128

A.P.(DIR Series) Circular No. 82

April 1, 2004

To

All Authorised Dealers in Foreign Exchange

Madam / Sirs,

**External Commercial Borrowings (ECB) –
Clarifications**

The External Commercial Borrowings (ECB) guidelines were revised vide A.P. (DIR Series) Circular No.60 dated January 31, 2004. The Reserve Bank has been receiving a number of queries relating to various aspects of the ECB guidelines. Our clarifications on these issues are set out below :

2. **End-use** - Prior to February 1, 2004, eligible borrowers were permitted to raise ECB under the Automatic Route equivalent to USD 50 million per financial year for general corporate purpose. **Under the revised ECB guidelines, however, end-uses of ECB for working capital, general corporate purpose and repayment of existing Rupee loans are not permitted.**
3. **Amount of ECB under the Automatic Route** - It is clarified that the maximum amount of ECB which can be raised by an eligible borrower under the Automatic Route is USD 500 million or equivalent during a financial year.
4. **Submission of ECB - 2 Return** - Borrowers availing ECB since February 1, 2004 are required to submit ECB -2 Return on a monthly basis certified by the designated Authorised Dealer (AD) so as to reach the Director, Balance of Payments Statistics Division, Department of Statistical Analysis and Computer Services (DESACS), Reserve Bank of India, Bandra-Kurla Complex, Bandra (East), Mumbai – 400 051 within seven working days from the close of month to which it relates. It is clarified that all existing borrowers are also required to

submit ECB -2 Return on a monthly basis from January 2004 onwards as mentioned above.

5. **Compliance with ECB Guidelines** - The primary responsibility to ensure that ECB raised/utilised are in conformity with the Reserve Bank instructions is that of the concerned borrower and any contravention of the ECB guidelines will be viewed seriously and may invite penal action. The designated AD is also required to ensure that raising/utilisation of ECB is in compliance with ECB guidelines at the time of certification.

6. **ECB under erstwhile USD 5 Million Scheme** - At present, borrowers, who had availed ECB under erstwhile USD 5 Million Scheme with specific approval of Reserve Bank, approach the Reserve Bank for elongation of repayment period. It has been decided to delegate general permission to the designated AD to approve such elongation provided there is a consent letter from the overseas lender for such reschedulement without any additional cost. Such approval with existing and revised repayment schedule along with the Loan Key/Loan Registration Number should be initially communicated to the Chief General Manager, Foreign Exchange Department, Reserve Bank of India, Central Office, ECB Division, Mumbai within seven days of approval and subsequently in ECB - 2.

7. Authorised Dealers may bring the contents of this Circular to the notice of their constituents concerned.

8. The directions contained in this circular have been issued under Section 10 (4) and Section 11 (1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

F R Joseph

Chief General Manager



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI - 400 001**

RBI/ 2004/ 141
A.P. (DIR Series) Circular No.83

April 12 , 2004

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

**Exim Bank's Letter of Credit Refinancing Facility
of USD 20 Million to Bank Markazi Jomhouri Islami Iran**

The Export-Import Bank of India (Exim Bank) has concluded an agreement with Bank Markazi Jomhouri Islami Iran (the Central Bank of the Islamic Republic of Iran) on February 28, 2004 making available to the latter, a refinancing facility of USD 20 Million (U.S.Dollar twenty million only). The Credit Agreement has become effective from February 28, 2004 and is available for financing export from India to Iran for a period of 24 months i.e. upto February 27, 2006.

2. While Bank Markazi has designated Bank Mellat, Bank Melli, Bank Sepah, Bank Saderat, Bank Tejarat and Bank of Industry & Mine as Issuing Banks for the above credit, Exim Bank has designated Bank of Maharashtra, Union Bank of India and UTI Bank as advising/negotiating banks from the Indian side.

3. Shipments under the credit will have to be declared on GR/SDF Forms as per extant instructions.

4. No agency commission shall be payable in respect of exports financed under the above line of credit. Hence, if the exporter is required to pay agency commission, he will have to use his own resources for such payments.

5. Authorised Dealers may bring the contents of this circular to the notice of their exporter constituents and advise them to obtain full details of the refinancing facility from Exim Bank's Office or its web-site.

6. 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).

Yours faithfully,

(Grace Koshie)

Chief General Manager



**Reserve Bank Of India
Foreign Exchange Department
Central Office
Mumbai - 400 001**

RBI/2004/148

A.P.(DIR Series) Circular No.84

April 16, 2004.

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

**Exim Bank's Line of Credit for USD 10 million to
Bank TuranAlem, Kazakhstan**

The Export-Import Bank of India (Exim Bank) has concluded an agreement with Bank TuranAlem , Kazakhstan on February 27, 2004 making available to the latter a Line of Credit (LOC) upto an aggregate sum of USD 10 Million (U.S.Dollar ten million only). The Credit Agreement has become effective from March 24, 2004 and is available for financing export of equipment, goods and services and any other items eligible for being exported under the 'Exim Policy' of Government of India that may be agreed upon between Exim Bank and Bank TuranAlem to buyers in Kazakhstan.

2. The last dates for opening Letters of Credit and disbursement of credit are March 23, 2006 and September 23, 2006 respectively.

3. Shipments under the credit will have to be declared on GR/SDF Forms as per instructions issued from time to time.

4. While no agency commission shall be payable in respect of exports financed under the above line of credit, Reserve Bank may consider, on merit, requests for payment of commission upto a maximum extent of 5 per cent of the f.o.b./c&f/c.i.f. value in respect of goods exported and which require after sales service. In such cases, commission will have to be paid in Kazakhstan only by deduction from the invoice of the relevant shipment and the reimbursable amount by the Exim Bank to the negotiating bank will be 90 per cent of the f.o.b./c&f/c.i.f. value minus commission paid. Approval for the payment of commission should be obtained before the relevant shipment is effected. In other cases (i.e. exports not involving after sales service), requiring payment of agency commission, the exporter will have to use his own resources for such payments.

5. Authorised Dealers may bring the contents of this circular to the notice of their constituents and advise them to obtain full details of the Line of Credit from Exim Bank's office or its website.

6. 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).

Yours faithfully,

Grace Koshie

Chief General Manager



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI-400 001**

RBI/2004/149

A.P.(DIR Series) Circular No.85

April 16, 2004

To

All Authorised Dealers in Foreign Exchange

Dear Sirs/Madam,

**Exim Bank's Lines of Credit of USD 10 Million each
to Government of Zambia and to
Bank Gospodarstwa Krajowego
(National Economy Bank - BGK Bank), Poland**

Export-Import Bank of India (Exim Bank) has concluded agreements with Ministry of Finance, Government of Zambia on December 20, 2003 and BGK Bank, Poland on January 20, 2004 making available Lines of Credit (LOCs) upto an aggregate sum of USD 10million (U.S.Dollar ten million) each. The Credit Agreements have become effective from March 18, 2004 and March 15, 2004 respectively and are available for financing export of eligible Indian goods and services to Zambia and Poland under the respective LOCs.

2. The last dates for opening Letters of Credit and disbursements are March 17, 2006 and September 17, 2006, respectively in respect of the LOC extended to Government of Zambia. In respect of LOC extended to BGK Bank, Poland, the last dates for opening letters of credit and for disbursements are March 14, 2006 and September 14, 2006 respectively.

3. Shipments under the credit will have to be declared on GR/SDF Forms as per instructions issued from time to time.

4. While no agency commission shall be payable in respect of exports financed under the above lines of credit, Reserve Bank may consider, on merit, requests for payment of commission up to a maximum extent of 5 per cent of the f.o.b./c&f/c.i.f. value in respect of goods exported and which require after sales service. In such cases, commission will have to be paid in Zambia and Poland only for the exports under the respective LOCs, by deduction from the invoice of the relevant shipment and the reimbursable amount by the Exim Bank to the negotiating bank will be 90 per cent of the f.o.b./c&f/c.i.f. value minus the commission paid. Approval for payment of commission should be obtained before the relevant shipment is

effected. In other cases (i.e. exports not involving after sales service), requiring payment of agency commission, the exporter will have to use his own resources for such payments.

5. Authorised Dealers may bring the contents of this circular to the notice of their exporter constituents and advise them to obtain full details of the Lines of Credit from Exim Bank's office or its website.

6. 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).

Yours faithfully,

Grace Koshie

Chief General Manager



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI – 400 001**

RBI/2004/ 153
A.P.(DIR Series) Circular No.86

April 17, 2004

To

All Authorised Dealers in Foreign Exchange

Madam / Sirs,

**FEMA 1999 – Current Account Transactions –
Remittance for maintenance of close relatives abroad-
Requests of Indian Nationals on deputation to India from
Overseas Companies**

Attention of Authorised Dealers is invited to item 7 of Schedule III of Government of India Notification No.GSR.381 (E) dated May 3, 2000 as amended by the Notification No.S.O.301(E) dated March 30, 2001 in terms of which, foreign nationals (other than Pakistani nationals) who are resident but not permanently resident in India may remit net salary (after deduction of taxes, contribution to provident fund and other deductions) for maintenance of close relatives abroad. At present similar requests in respect of Indian nationals employed by overseas companies, on deputation to India, are required to be referred to the Reserve Bank.

2. On a review, it has been decided to extend the same facility of remittance of salary already available to foreign nationals (other than Pakistani nationals) to Indian nationals employed by an overseas company, on deputation to India. Accordingly, it will be in order for the Authorised Dealers to allow remittance of net salary (after deductions of taxes, contribution to provident fund and other deductions) of a citizen of India, who is on deputation to the office or branch or subsidiary or joint venture in India of such overseas company, for the maintenance of close relatives residing abroad. A copy of Government of India Notification No.GSR 397 (E) dated May 1, 2003 issued in this regard is enclosed.

3. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

4. The directives contained in this circular have been issued under Sections 10(4) and 11(1) of FEMA 1999 (42 of 1999).

Yours faithfully,

Grace Koshie

Chief General Manager

MINISTRY OF FINANCE AND COMPANY AFFAIRS
(Department of Economic Affairs)

NOTIFICATION

New Delhi, the 1st May 2003

G.S.R.397(E) – In exercise of the powers conferred by Section 5 and sub-section (1) and clause (a) of Sub-section (2) of Section 46 of the Foreign Exchange Management Act, 1999 (42 of 1999), and in consultation with Reserve Bank, the Central Government having considered it necessary in the public interest, makes the following amendment to the Foreign Exchange Management (Current Account Transactions) Rules, 2000, namely :-

1. **Short title and commencement** (1) These rules may be called the Foreign Exchange Management (Current Account Transaction) (Second Amendment) Rules, 2003.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Foreign Exchange Management (Current Account Transaction) Rules, 2000,

(a) in Schedule 1, for item 6, the following shall be substituted, namely:-

“6 Payment of commission on exports under Rupee State Credit Route, except commission upto 10% of invoice value of exports of tea and tobacco.”;

(b) in Schedule III, in item 7,

(A) for clause (i), the following clause shall be substituted, namely:-

“(i) exceeding net salary (after deduction of taxes, contribution to provident fund and other deductions) of a person who is resident but not permanently resident in India and –

- (a) is a citizen of a foreign State other than Pakistan; or
- (b) is a citizen of India, who is on deputation to the office or branch or subsidiary or joint venture in India of such foreign company”,

(B) in the explanation, for the words “employment of”, the words “employment or deputation of” shall be substituted.

(F.No.1/5/EC/2000 Vol.II)

G.S.DUTT,
Joint Secretary

Foot note : The Principal rules were published in the official gazette vide G.S.R.381(E) dated 3rd May, 2000 in part II, Section 3, Sub-section (i) and subsequently amended vide S.O.301(E) dated 30th March, 2001.

**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
Central Office
Mumbai 400 001**

RBI/2004/154
A.P.(DIR Series) Circular No. 87

April 17, 2004

To

All Authorised Dealers in Foreign Exchange

Madam / Sir, Trade Credits for Imports into India – Review and Simplification

As Authorised Dealers (ADs) are aware, effective September 27, 2002, ADs have been permitted to approve Short-Term Credit (STC) up to USD 20 million per import transaction for a period less than three years (vide A.P. (DIR Series) Circular No. 25 dated September 27, 2002). STC exceeding USD 20 million per import transaction requires prior approval of the Reserve Bank.

2. The present instructions have been reviewed in the light of experience gained and recent developments. Consequently, it is clarified that the extant guidelines covering such credits for imports of all items up to USD 20 million per import transaction with a maturity period up to one year remain unchanged. Credits up to USD 20 million per import transaction with a maturity period exceeding one year but less than three years would now be permitted only for import of capital goods. The reporting arrangements for such credits have been further simplified. The revised guidelines are set out below.

3. It is clarified that credit extended for imports directly by the overseas supplier, bank and financial institution for original maturity of less than three years is hereinafter referred to as 'trade credit' for imports. Depending on the source of finance, such trade credit will include suppliers' credit or buyers' credit. It may be noted that buyers' credit and suppliers' credit for three years and above come under the category of External Commercial Borrowings (ECB) which are governed by ECB guidelines issued vide A. P. (DIR Series) Circular No. 60 dated January 31, 2004 and modified from time to time.

4. It has been decided that ADs may henceforth approve trade credits for imports into India up to USD 20 million per import transaction for import of all items (permissible under the EXIM Policy) with a maturity period (from the date of shipment) up to one year. For import of capital goods, ADs may approve trade credits up to USD 20 million per import transaction with a maturity period of more than one year and less than three years. No roll-over/extension will be permitted by the AD beyond the permissible period.

5. As hitherto, ADs shall not approve trade credit exceeding USD 20 million per import transaction.

6. The all-in-cost ceilings will continue as under:

Maturity period	All-in-cost ceilings over 6 months LIBOR*
Up to one year	50 basis points
More than one year but less than three years	125 basis points

* for the respective currency of credit or applicable benchmark.

The all-in-cost ceilings include arranger fee, upfront fee, management fee, handling / processing charges, out of pocket and legal expenses, if any. The all-in-cost ceilings will be reviewed from time to time.

7. As hitherto, ADs shall not issue guarantee, letter of undertaking or letter of comfort in favour of overseas lender on behalf of their importer constituent for trade credit without prior approval of the Reserve Bank.

8. As regards reporting arrangements, ADs are required to furnish details of approvals, drawal, utilisation, and repayment of trade credit granted by all its branches, in a consolidated statement, during the month, in form TC (format in Annex) from April 2004 onwards to the Director, Division of International Finance, Department of Economic Analysis and Policy, Reserve Bank of India, Central Office Building, 8th floor, Fort, Mumbai – 400 001 (and in MS-Excel file through email to deapdif@rbi.org.in) so as to reach not later than 10th of the following month. Each trade credit may be given a unique identification number by the AD.

9. Necessary amendments to the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000 dated May 3, 2000 are being issued separately.

10. These amendments to trade credit policy will come into force immediately. These instructions supersede earlier instructions on trade credit issued by the Reserve Bank and will be subject to review from time to time.

11. Authorised Dealers may bring the contents of this Circular to the notice of their constituents concerned.

12. The directions contained in this circular have been issued under Section 10 (4) and Section 11 (1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

Grace Koshie

Chief General Manager

		Form – TC				Annex to A.P. (DIR Series) Circular No. 87 dated April 17, 2004				
Part I : Approvals of Trade Credit granted by all branches during the (Month / Year).....										
		Name of the AD :				Contact Person:				
		Address :				Tel :				
						Fax :				
Sr. No	Date of Approval	Loan Identification No.	Category of Borrower	Name of Lender*	Country of Lender*	Currency	Amount	Equiv. Amt.inUSD	Rate of Interest	Other charges in USD
1	2	3	4	5	6	7	8	9	10	11
Total										

Form – TC		Annex to A.P. (DIR Series) Circular No. 87 dated April 17, 2004				
Part I : Approvals of Trade Credit granted by all branches during the (Month / Year).....						
e-mail:						
	Period of credit		Type of Credit**		Item of Import / proposed Import	
All-in-cost	No. of Days/Mon./Yr	Unit of time period	SC / BC	STC / LTC	Description	Category***
12	13	14	15	16	17	18

I. Supplier's Credit (SC)

II. Buyer's Credit (BC)

III. Short-term Trade Credit (STC) (maturity period up to one year)

IV. Long-term Trade Credit (LTC) (maturity period more than one year & less than three years)

V. Total Trade Credit (TC) (I+II)

*: or Supplier

** : Please type respective code such as SC or BC; STC or LTC.

***: Petroleum Oil Lubricants (POL), Capital Goods (CG), Others (OT)

Note 1: The format of the loan identification number is : TC/(Name of the Bank/branch)/(Identification No.)

Note 2: Information in column nos. 8 to 13 should be numeric only. No alphabets should be entered in those columns.

Note 3: Date format in col. No 2 is YYYY/MM/DD. For example, December 31, 2003 should be entered as 2003/12/31

Note 4: Data on rate of interest (col. No 10) & all-in-cost (col no 12) should be entered as follows: 3 per cent per annum is to be typed as '3.00' without any % sign.

Note 5: In the Col. No 13, no. of days/month/year under period of credit may be entered as follows: '90' for 90 days.

Note 6: In the case of unit of time period (Col. No 14), only unit of time period such as days (DD), months (MM), year (YY) to be entered.

Note 7: Codes for Category of Borrower (in Col. 4) may be entered as follows: PUB: Public Sector, BKG: Banking, PVT: Private

Form – TC

Part II : Disbursement, Utilisation and Debt Servicing of Trade Credit during (month) / (year)											
					Repayments (USD)					Date of	
Sr. No.	Loan Identification No.	Amount Approved (USD)	Disbursement (USD)	Utilisation (USD)	Principal	Interest	Other charges	Total (6+7+8)	Outstanding (4-6)	Shipment	Final Repayment
1	2	3	4	5	6	7	8	9	10	11	12

Note 1: Information in column nos.1, 3 to 10 should be numeric only. No alphabets should be entered in those columns.

Note 2: Date format in col. No 11, 12 is YYYY/MM/DD. For example, December 31, 2003 should be entered as 2003/12/31

Certificate by the Authorised Dealer

1. All trade credits for imports approved by all our branches during the month----- have been included in this statement.
2. Related import documents (including EC copy of Bill of Entry) towards utilisation of such trade credits have been verified and found in order.
3. The drawal, utilisation and repayment of all trade credits approved by our branches have been scrutinised and it is certified that such drawal, utilisation and repayments of trade credits

Place:-----

Date: -----

Signature of Authorised Dealer
[Stamp]

RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI-400 001

RBI/2004/174
A.P. (DIR Series) Circular No.88

April 22, 2004

To,

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

**Deferred Payment Protocols dated 30th April 1981 and
23rd December 1985 between the Government of India
and erstwhile USSR**

Attention of Authorised Dealers is invited to A.P.(DIR Series) Circular No.59 dated January 19, 2004, wherein the rupee value of the special currency basket was indicated as Rs.59.3395 effective from January 01, 2004.

2. Authorised Dealers are advised that a further revision has taken place on March 29, 2004 and accordingly the rupee value of the special currency basket has been fixed at Rs. 56.8476 with effect from April 02, 2004.

3. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

4. 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).

Yours faithfully,

Grace Koshie

Chief General Manager



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI**

RBI/2004/179
A.P. (DIR Series) Circular No.89

April 24, 2004

To

All Authorised Dealers in Foreign Exchange

Sir/Madam,

**Foreign Exchange Management (Deposit)
Regulations, 2000 - Acceptance of Deposits - Revised Guidelines**

In terms of Regulation 7 (1) and (2) of the Foreign Exchange Management (Deposit) Regulations, 2000, (issued vide Notification No. FEMA 5/2000-RB dated May 3, 2000) persons other than Authorised Dealers/Authorised Banks are permitted to accept deposits from Non-Resident Indians (NRIs). This includes a company registered under Companies Act, 1956 (including a non-banking finance company registered with Reserve Bank) or a body corporate created under an Act of Parliament or State Legislature who has accepted deposits from NRIs on repatriation basis or a company or a proprietorship concern or a firm in India which has accepted deposits from NRIs on non-repatriation basis. The interest earned on such deposits, being current income, is eligible to be repatriated outside India.

2. The issue relating to acceptance of deposits from NRIs by persons other than Authorised Dealers/Authorised Banks has been reviewed in the light of current developments. It has been decided that deposits by NRIs with persons other than Authorised Dealers/Authorised Banks by debit to NRO Accounts may continue as hitherto provided that the amount deposited with such entities does not represent inward remittances or transfer from NRE/FCNR(B) Accounts into the NRO account .

3. Deposits by NRIs with persons other than Authorised Dealers/Authorised Banks out of inward remittances from overseas or by debit to NRE/FCNR (B) Accounts shall henceforth not be permissible.

4. All persons other than Authorised Dealers/Authorised Banks may continue to hold and renew existing deposits held in their books in the name of NRIs on repatriation or non-repatriation basis, as the case may be. The interest earned on such deposits will continue to be eligible for repatriation.

5. The revised instructions shall be applicable with immediate effect .

6. Necessary amendments to the Foreign Exchange Management (Deposit) Regulations, 2000 are being notified separately.

7. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

8. The directions contained in this circular have been issued under
11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Sections 10(4) and

Yours faithfully,

Grace Koshie

Chief General Manager

[A.P.(DIR Series) Circular No.89, dated April 24, 2004]



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI**

PRESS RELEASE

Acceptance of Deposits by persons other than Authorised Dealers and Authorised Banks -

Reserve Bank has reviewed the issue relating to acceptance of deposits from Non Resident Indians (NRIs) by persons other than Authorised Dealers/Authorised Banks in the light of current developments. Persons other than Authorised Dealers/ Authorised Banks include a company registered under Companies Act, 1956 (including a non-banking finance company registered with Reserve Bank) or a body corporate created under an Act of Parliament or State Legislature who has accepted deposits from NRIs on repatriation basis or a company or a proprietorship concern or a firm in India which has accepted deposits from NRIs on non- repatriation basis. The interest earned on such deposits, being current income, is eligible to be repatriated outside India.

It has been decided that such deposits by NRIs may continue as hitherto provided that the amount deposited with these entities does not represent inward remittances or transfer from NRE/FCNR (B) Accounts into the NRO account. **In future, deposits by NRIs with the above entities out of inward remittances from overseas or by debit to NRE/FCNR (B) Accounts shall not be permissible.** However, such entities may continue to hold and also renew existing deposits held in their books in the name of NRIs on repatriation or non-repatriation basis, as the case may be. The interest earned on such deposits will continue to be eligible for repatriation.

The revised instructions shall be applicable with immediate effect.

Authorised Dealers have been advised to bring the revised instructions to the notice of their constituents concerned.

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**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI - 400 001**

RBI/2004/188
A.P. (DIR Series) Circular No.90

May 3, 2004

To

All Authorised Dealers in Foreign Exchange

Sirs / Madam,

**Acquisition of Foreign Securities by Resident Individuals
under ESOP Scheme**

Attention of Authorised Dealers is invited to Regulation 19 of Notification No.FEMA.19/2000-RB dated May 3, 2000 and subsequent AP (DIR Series) Circulars No.32 dated April 28, 2001, No.16 dated December 15, 2001 and No.68 dated January 13, 2003 in terms of which, a resident individual who is an employee or director of an Indian office or branch of a foreign company in which the foreign holding is not less than 51% is permitted to acquire foreign securities under ESOP Scheme, without any monetary limit, provided the shares under ESOP are offered at a concessional price.

2. As a measure of further liberalisation, it has now been decided to dispense with the condition that the shares should be offered at a concessional price. It has also been decided to permit sale of the shares so acquired, without obtaining prior permission of the Reserve Bank, provided the proceeds thereof are repatriated to India.

Authorised Dealers may accordingly allow remittances for acquisition of shares under ESOP Schemes as per the terms of the offer.

3. Necessary amendments to the Foreign Exchange Management (Transfer or issue of any foreign security) Regulations, 2000 are being issued separately.

4. Authorised Dealers may bring the contents of this Circular to the notice of their constituents 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).

Yours faithfully,

Grace Koshie

Chief General Manager

**Reserve Bank of India
Foreign Exchange Department
Central Office
Mumbai - 400 001**

RBI/2004/198
A.P.(DIR Series) Circular No.91

May 14, 2004

To
All Authorised Dealers in Foreign Exchange

Madam/Sirs,

**Exim Bank's Line of Credit for USD 10 million
(or equivalent Euro) to Banque Ouest Africaine
De Developpement (BOAD -West African Development Bank)**

The Export-Import Bank of India (Exim Bank) has concluded an agreement with Banque Ouest Africaine De Developpement (BOAD- West African Development Bank) making available to the BOAD's member states in the West African Economic and Monetary Union, i.e, Burkino Faso, Benin, Cote D'Ivoire, Guinea Bissau, Mali, Niger, Senegal and Togo a Line of Credit (LOC) upto an aggregate sum of USD 10 million (U.S.Dollar ten million only) or equivalent Euro. The credit agreement has become effective from April 1, 2004 and is available for financing export of equipment, goods and services from India to buyers in BOAD's member states in the West African Economic and Monetary Union.

2. The last dates for opening letters of credit and disbursement of credit are September 30, 2005 and March 31, 2006 respectively.
3. Shipments under the credit will have to be declared on GR/SDF Forms as per instructions issued from time to time.
4. While no agency commission shall be payable in respect of exports financed under the above line of credit, Reserve Bank may consider, on merit, requests for payment of commission upto a maximum extent of 5 percent of the f.o.b./c&f/c.i.f. value in respect of goods exported and which require after sales service. In such cases, commission will have to be paid in BOAD's member states only by deduction from the invoice of relevant shipment and the reimbursable amount by the Exim Bank to the negotiating bank will be 90 percent of the f.o.b./c&f/c.i.f value minus commission paid. Approval for the payment of commission should be obtained before the relevant shipment is effected. In other cases (i.e. exports not involving after sales service), if the exporter is required to pay agency commission, he will have to use his own resources for such payments.
5. Authorised Dealers may bring the contents of this circular to the notice of their exporter constituents and advise them to obtain full details of the Line of Credit from Exim Bank's office or its website.
6. 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).

Yours faithfully,

Grace Koshie
Chief General Manager



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI – 400 001**

RBI/2004/208
A.P.(DIR Series) Circular No. 92

May 19, 2004

To
All Authorised Dealers in Foreign Exchange

Madam / Sirs,
Exim Bank's Line of Credit for USD 8 million to Republic Bank, Trinidad and Tabago

The Export-Import Bank of India (Exim Bank) has concluded an agreement with Republic Bank, Trinidad and Tobago making available to the latter a Line of Credit (LOC) upto an aggregate sum of USD 8 million (US Dollar eight million only). The credit agreement has become effective from May 14, 2004 and is available for financing export of eligible Indian goods and services to buyers in Trinidad and Tobago.

2 The last dates for opening letters of credit and disbursement of credit are May 14, 2005 and November 14, 2005 respectively.

3 Shipments under the credit will have to be declared on GR/SDF Forms as per instructions issued from time to time.

4 While no agency commission shall be payable in respect of exports financed under the above line of credit, Reserve Bank may consider, on merit, requests for payment of commission upto a maximum extent of 5 per cent of the f.o.b./c&f/c.i.f. value in respect of goods exported and which require after sales service. In such cases, commission will have to be paid in Trinidad and Tobago only by deduction from the invoice of relevant shipment and the reimbursable amount by the Exim Bank to the negotiating bank will be 90 per cent of the f.o.b./c&f/c.i.f value minus commission paid. Approval for the payment of commission should be obtained before the relevant shipment is effected. In other cases (i.e. exports not involving after sales service), if the exporter is required to pay agency commission, he will have to use his own resources for such payments.

5 Authorised Dealers may bring the contents of this circular to the notice of their exporter constituents and advise them to obtain full details of the Line of Credit from Exim Bank's office or its website.

6 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).

Yours faithfully,

Grace Koshie

Chief General Manager



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI-400 001**

RBI/2004/219
A.P.(DIR Series) Circular No. 93

May 25, 2004

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

**Foreign Exchange Management (Borrowing and Lending in Rupees) Regulations, 2000 -
Housing Loan in Rupees to NRIs/PIO**

Attention of Authorised Dealers is invited to the Foreign Exchange Management (Borrowing and Lending in Rupees) Regulations, 2000 notified vide Notification No. FEMA 4/2000-RB dated May 3, 2000. In terms of Regulation 8 of the Notification *ibid*, an authorised dealer or a housing finance institution in India approved by the National Housing Bank is allowed to provide housing loan to a non-resident Indian or a person of Indian origin resident outside India, for acquisition of a residential accommodation in India. The instalment of such loans, interest and other charges, if any, are required to be paid by the borrower either by way of inward remittance through normal banking channel or by debit to his NRE/FCNR (B)/NRO/NRNR/NRSR account or out of rental income derived from renting out the property acquired by utilisation of the loan.

2. As a further measure of liberalisation, it has been decided to allow the close relatives (as defined under Section 6 of the Companies Act, 1956) of the borrower in India to repay the instalment of such loans, interest and other

charges, if any, through their bank account directly to the borrower's loan account with the authorised dealer/housing finance institution.

3. Necessary amendments to the Foreign Exchange Management (Borrowing and Lending in Rupees) Regulations, 2000, are being issued separately.
4. Authorised Dealers may bring the contents of this circular to the notice of their constituents/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).

Yours faithfully,

Grace Koshie

Chief General Manager



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI-400 001**

RBI/2004/233

A.P.(DIR Series) Circular No.94

June 7, 2004

To

All Authorised Dealers in Foreign Exchange

Dear Sirs/Madam,

**Exchange Earners' Foreign Currency (EEFC) Account Scheme –
Trade Related Loans/Advances**

Attention of Authorised Dealers is invited to A.P.(DIR Series) Circulars Nos.78 and 104 dated February 14, 2003 and May 31, 2003 in terms of which, exporters have been permitted to grant trade related loans / advances from their EEFC Account to their overseas importer customer without any ceiling, subject to compliance with terms of sub-regulation (4) of regulation 5 of Notification No.FEMA 3/2000-RB dated May 3, 2000, viz. Foreign Exchange Management Act (Borrowing or Lending in Foreign Exchange) Regulations,2000. Further, as per Notification No.FEMA.3/2000-RB, where the amount of loan exceeds USD 25,000 a guarantee of a bank of international repute situated outside India is required to be provided by the overseas borrower in favour of the lender.

2. As a measure of further liberalisation, it has now been decided to raise the above limit to USD 1,00,000 from USD 25,000. Accordingly, guarantee of a bank of international repute situated outside India will be required to be provided by the overseas borrower in favour of the lender where the amount of trade related loan / advance by exporter out of his EEFC Account exceeds USD 1,00,000.

3. The reporting requirement will continue as per A.P. (DIR Series) Circular 78 dated February 14, 2003.

4. The necessary amendment to the Foreign Exchange Management Act (Borrowing or Lending in Foreign Exchange) Regulations,2000 has been issued vide Notification No.FEMA 112/2004-RB dated March 6,2004 (copy enclosed).

5. Authorised Dealers may bring the contents of the circular to the notice of their constituents concerned.

6. 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).

Yours faithfully,

Grace Koshie

Chief General Manager

Encl : One

**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI - 400 001**

Notification No.FEMA 112 /2004-RB

Dated : 6th March 2004

**Foreign Exchange Management (Borrowing or Lending in
Foreign Exchange) (Amendment) Regulations 2004**

In exercise of the powers conferred by clause (d) of sub-section 3 of Section 6 of sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999) and in partial modification of Notification No.FEMA 3/2000-RB dated May 3, 2000, as amended from time to time, the Reserve Bank of India makes the following Regulations to amend the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000, namely:-

1. Short title and commencement :-

- (i) These Regulations may be called the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) (Amendment) Regulations, 2004.
- (ii) They shall come into force on their publication in the Official Gazette.

2. Amendment to the Regulations :-

In the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000, for the proviso in sub-regulation 4 of regulation 5, the following proviso shall be substituted :

"Provided that where the amount of loan exceeds US \$ 100,000, a guarantee of a bank of international repute situated outside India is provided by the overseas borrower in favour of the lender".

**Sd/-
(Shyamala Gopinath)
Executive Director**





**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI - 400 001**

RBI/2004/238

A.P. (DIR Series) Circular No.95

June 9, 2004

To

All Authorised Dealers in Foreign Exchange

Madam/Sirs,

**Exim Bank's Line of Credit for USD 10 million
to Bank TuranAlem, Kazakhstan**

Attention of Authorised Dealers is invited to A.P. (DIR Series) Circular No.84 dated April 16, 2004 (RBI/2004/148) regarding Line of Credit (LOC) for USD 10 million extended by Exim Bank to Bank TuranAlem, Kazakhstan. It is advised that the LOC is available for exports from India to all the twelve CIS (Commonwealth of Independent States) countries including Kazakhstan, viz. Russia, Azerbaijan, Uzbekistan, Turkmenistan, Kyrgyzstan, Kazakhstan, Belarus, Ukraine, Tajikistan, Georgia, Moldova and Armenia.

2. The other terms and conditions mentioned in the AP (DIR Series) Circular No.84 dated April 16, 2004 remain unchanged.
3. Authorised Dealers may bring the contents of this circular to the notice of their constituents and advise them to obtain full details of the Line of Credit from Exim Bank's office or its website.
4. The directions contained in this circular have been issued under Section 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

Grace Koshie

Chief General Manager



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI-400 001**

RBI/2004/246

A.P.(DIR Series) Circular No.96

June 15, 2004

To

All Authorised Dealers in Foreign Exchange

Dear Sirs/Madam,

**Exchange Earners' Foreign Currency
(EEFC) Account Scheme - Liberalisation**

In terms of Regulation No.4, of the Notification No.FEMA 10/2000-RB dated May 3, 2000, a person resident in India may open, hold and maintain with an Authorised Dealer in India, a Foreign Currency Account to be known as Exchange Earners' Foreign Currency (EEFC) Account, subject to the terms and conditions of the Exchange Earners' Foreign Currency (EEFC) Account Scheme specified in the Schedule to the said notification.

2. Subsequently, as a part of continuous process of rationalisation and simplification of procedures and further liberalisation of the existing regulations relating to exports, the Reserve Bank of India issued two Press Releases (copies enclosed) as detailed under to announce rationalisation/liberalisation of EEFC Account Scheme.

- i) **Press Release : 2002-2003/172 dated August 15, 2002 :** The Reserve Bank has permitted individual professionals to keep up to 100 per cent of their foreign exchange earnings from consultancy and other services rendered to persons or bodies outside India, in their foreign exchange earners' foreign currency (EEFC) account. The facility has been permitted for the benefit and convenience of individual professionals, lawyers, doctors, artists, architects, engineers, consultants, cost/chartered accountants, directors on boards of overseas companies, etc.
- ii) **Press Release : 2002-2003/265 dated September 6, 2002 :** As a further measure towards giving boost to the export oriented units and rationalisation of the EEFC Account Scheme, it was decided that there would only be two categories of EEFC Account holders. One, those who can retain upto 100 per cent of their receipt in foreign exchange

and others who can retain upto 50 per cent of their receipt in foreign exchange. Accordingly, a 100 per cent Export Oriented Unit (EOU) or a unit situated in (a) Export Processing Zone (EPZ) or (b) Software Technology Park (STP) or (c) Electronic Hardware Technology Park (EFTP), are eligible to credit upto 100 per cent of their foreign exchange receipts to their EEFC Account, against the existing eligibility of credit upto 70 per cent.

3. Pending issue of the notification amending the existing Regulations framed under Foreign Exchange Management Act, 1999, Authorised Dealers were advised to forward the applications in respect of (i) and (ii) above, to the regional offices of the Foreign Exchange Department of the Reserve Bank.

4. Government of India has since notified the above liberalisations, vide Notifications No.FEMA.69/2002-RB dated August 26, 2002 [G.S.R.755(E) dated November 8, 2002] and No.FEMA.92/2002-RB dated June 7, 2003 [G.S.R.11(E) dated January 7, 2004] (copies enclosed). Accordingly, it will be in order for Authorised Dealer to extend the facility of opening, holding and maintaining EEFC Accounts as stated in the notifications, without reference to the Reserve Bank.

5. It is also brought to the notice of the Authorised Dealers that in "Amendment of the Regulations" in Notification No.FEMA.92/2003-RB dated June 7, 2003, item No. has been erroneously stated as "2" instead of "3". Authorised Dealer may, therefore, read the item No. as "3". Necessary corrigendum to effect this change is being issued separately.

6. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

7. 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)

Yours faithfully,

Grace Koshie

Chief General Manager

प्रेस सम्पर्क प्रभाग, केंद्रीय कार्यालय, पोस्ट बॉक्स 406, मुंबई 400 001
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प्रेस प्रकाशनी PRESS RELEASE



भारतीय रिज़र्व बैंक
RESERVE BANK OF INDIA
RBI On Internet: <http://www.rbi.org.in>
हिन्दी वेबसाइट <http://www.rbi.org.in/hindi>
Email: helpprd@rbi.org.in

EEFC Accounts for Professionals

August 15, 2002

The Reserve Bank of India has now decided to permit individual professionals to keep up to 100 per cent of their foreign exchange earnings from consultancy and other services rendered to persons or bodies outside India, in their foreign exchange earners' foreign currency (EEFC) account. The facility is permitted for the benefit and convenience of individual professionals, such as, scientists, professors of Indian universities/institutions, economists, lawyers, doctors, artists, architects, engineers, consultants, cost/chartered accountants, directors on boards of overseas companies, etc. This would enable the professionals to use the funds from these accounts to meet their foreign exchange requirements without any prior approval of the Reserve Bank.

Currently, residents in India are permitted to maintain exchange earner' foreign currency (EEFC) accounts with banks in India, out of a portion of their earnings in foreign exchange. Exchange earners' foreign currency accounts can be opened and maintained with any branch of a bank dealing in foreign exchange. Cheque facilities are also available for operations in the EEFC accounts.

The Reserve Bank has stated that applications from professionals for availing this facility, may be forwarded by the concerned bank branches to the regional offices of its exchange control department.

Alpana Killawala
General Manager

Press Release No. 2002-2003/172



EEFC Account Scheme for EOUs further liberalised

As a part of continuous process of rationalisation and simplification of procedures and further liberalisation of the existing regulations relating to exporters, the Reserve Bank of India has announced rationalisation of the Exchange Earners' Foreign Currency (EEFC) Account Scheme.

As a further measure towards giving boost to the export oriented units and rationalisation of the EEFC Account Scheme, there will now be only two categories of EEFC account holders. One, those who can retain upto 100% of their receipt in foreign exchange and others who can retain upto 50% of their receipt in foreign exchange.

Accordingly, a 100% Export Oriented Unit (EOU) or a unit situated in (a) Export Processing Zone (EPZ) or (b) Software Technology Park (STP) or (c) Electronic Hardware Technology Park (EHTP), will now, be eligible to credit upto 100% of their foreign exchange receipts to their EEFC Account, against the existing eligibility of credit upto 70%. So far, the facility of crediting upto 100% of receipts was available only to Status Holder Exporters and Professionals who rendered services in their individual capacity, to entities outside India. As a result of this liberalisation, the facility of crediting upto 100% of foreign exchange receipts to their EEFC account will now also be available to Status Holder Exporters, Professionals, 100% EOUs and units in EPZ/STP/EHTP.

Pending issue of the notification amending the existing Regulations framed under Foreign Exchange Management Act, 1999 (FEMA), the Regional Offices of the Reserve Bank will expeditiously deal with applications received with regard to the change.

Alpana Killawala
General Manager

**RESERVE BANK OF INDIA
EXCHANGE CONTROL DEPARTMENT
CENTRAL OFFICE
MUMBAI 400 001.**

Notification No.FEMA 69/2002-RB

August 26,2002

**Foreign Exchange Management(Foreign Currency Account
by a Person Resident in India) (Amendment) Regulations,2002**

In exercise of the powers conferred by clause (b) of Section 9 and clause(e) of sub-section(2) of Section 47 of the Foreign Exchange Management Act,1999(42 of 1999) and in partial modification of its Notification No.FEMA 10/2000-RB dated May 3, 2000, Reserve Bank of India makes the following amendments to Foreign Exchange Management(Foreign Currency Accounts by a Person Resident in India) Regulations, 2000 namely:

1. Short title and commencement

- (i) These Regulations may be called the Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) (Fourth Amendment) Regulations,2002.
- (ii) They shall come into force on the date of their publication in the official Gazette.

2. Amendment to the Regulations

In the Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) Regulations, 2000 in the Schedule.

- (i) for paragraph(1), the following paragraph shall be substituted, namely;
- (1) An entity or a person specified in column 1 of the Table below may credit to the EEFC Account an amount upto the limit specified in column 2 thereof from out of the foreign exchange earnings specified in sub-paragraph(1A) namely;

<u>Entity/person</u>	<u>Limit(per cent)</u>
1. A Status Holder Exporter (as defined in EXIM Policy in force)	100
2. A resident in India for professional Services rendered in his individual capacity	100
3. 100 per cent Export Oriented Unit/s. Unit/s in EPZs/STPs/EHTPs	70
4. Any other person resident in India	50

Provided that the Reserve Bank may, on an application made to it and on being satisfied that it is necessary to do so, grant permission to hold higher percentage of inward remittance/payments in foreign exchange in the EEFC account.

Explanation: For the purpose of category(2) in column 1, "professional" shall mean:

- (i) Director on Board of overseas company
- (ii) Scientist/Professor in Indian University/Institution
- (iii) Economist
- (iv) Lawyer
- (v) Doctor
- (vi) Architect
- (vii) Engineer
- (viii) Artist
- (ix) Cost/Chartered Accountant
- (x) Any other person rendering professional services in his individual Capacity, as may be specified by the Reserve Bank from time to time".

- (ii) In sub-paragraph (1A) after clause (v) , the following clause shall be added, namely:

"(vi) Professional earnings including director's fees, consultancy fees, lecture fees, honorarium and similar other earnings received by a professional by rendering services in his individual capacity"

Sd/-
(K.J.Udeshi)
Executive Director



**RESERVE BANK OF INDIA
EXCHANGE CONTROL DEPARTMENT
CENTRAL OFFICE
MUMBAI 400 001**

Notification No.FEMA 92/2003-RB

dated June 7,2003

**Foreign Exchange Management(Foreign Currency Account by a
Person Resident in India) (Fourth Amendment)Regulations, 2003**

In exercise of powers conferred by clause(b) of Section 9 and clause(e) of sub-section 2 of Section 47 of the Foreign Exchange Management Act,1999(42 of 1999) and in partial modification of its Notification No.FEMA 10/2000-RB dated May 3, 2000, Reserve Bank of India makes the following amendments to Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) Regulations, 2000 namely:

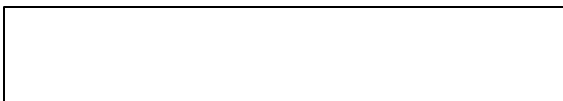
1. Short title and commencement :-

- i) These Regulations may be called the Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) (Fourth Amendment) Regulations, 2003.
- ii) They shall come into force from the date of their publication in the Official Gazette.

2. Amendment of the Regulations

In the Foreign Exchange Management(Foreign Currency Accounts by a Person Resident in India) Regulations, 2000, in the Schedule; in paragraph 1, in subparagraph (1) in the table, in item 2, for the figure “70”, the figure “100” shall be substituted.

Sd/-
(K.J.Udeshi)
Executive Director



**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI – 400 001**

RBI/2004/258

A.P.(DIR Series) Circular No.97

June 21, 2004

To

All Authorised Dealers in Foreign Exchange

Madam / Sirs,

Foreign Exchange Management Act, 1999

Attention of Authorised Dealers is invited to the list of A.P.(DIR Series) circulars Annexed.

2. It was mentioned in these circulars that necessary amendments to the Foreign Exchange Management Regulations, 2000 were being issued separately. The relevant amendments have since been issued by Reserve Bank and notified by the Government, in the Official Gazette, as indicated in the Annex. A copy each of these Notifications is enclosed.
3. Authorised Dealers may bring the contents of this circular to the notice of their constituents and customers concerned.
4. The directions contained in this circular have been issued under section 10(4) and section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

Yours faithfully,

Grace Koshie

Chief General Manager

Annex

[A.P.(DIR Series) Circular No.97
dated June 21, 2004]

I. Reserve Bank Notifications – Amendment to Foreign Exchange Management Regulations, 2000 issued under the Foreign Exchange Management Act, 1999

Sr. No.	A.P. DIR (Series) Circular		FEMA Notification	
	No. and date	Subject	No./date/subject	G.S.R. No.
1.	2.	3.	4.	5.
1.	38/3.12.2003	Foreign Investment in India – Recent liberalisation measures relating to Foreign Direct Investment – Summary of Regulations/Provisions covering Foreign Investment in India.	FEMA.No.45/2001-RB dated 20.9.2001 Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Amendment) Regulations, 2001	574 (E) 19.8.2002
2.	47/17.5.2002	Foreign Exchange Management Act 1999 - Insurance	FEMA.No.61/2002-RB dated 2.5.2002 Foreign Exchange Management (Issuance) (Amendment) Regulations, 2002	477(E) 8.7.2002
3.	91/1.4.2003	Export of Goods and Services – Facilities to Units in Special Economic Zones (SEZs)	FEMA.No.98/2003-RB dated 27.8.2003 Foreign Exchange Management (Manner of Receipt and Payment) (Amendment) Regulations, 2003	772(E) 29.9.2003
4.	91/1.4.2003	Export of Goods and Services – Facilities to Units in Special Economic Zones (SEZs)	FEMA.No.99/2003-RB dated 27.8.2003 Foreign Exchange Management (Export of Goods and Services) (Amendment) Regulations, 2003	773 (E) 29.9.2003
5.	21/16.9.2002	Disposal of Duplicate Copies of Export Declaration Forms	FEMA.No.107/2003-RB dated 29.10.2003 Foreign Exchange Management (Export of Goods and Services) (Second Amendment) Regulations, 2003	900(E) 22.11.2003

1.	2.		4.	5.
6.	53/17.12.2003	Purchase/sale of share and/or Convertible Debentures by SEBI registered Foreign Institutional Investors (FIIs) under Portfolio Investment Scheme (PIS)	FEMA.No.108/2003-RB dated 22.12.2003 Foreign Exchange Management (Transfer or Issue of Security by a Person resident outside India) (Fifth Amendment) Regulations, 2003	12(E) 7.1.2004
7.	64/4.2.2004	Liberalised Remittance Scheme of USD 25,000 for Resident Individuals	FEMA.No.110/2004-RB dated 5.2.2004 Foreign Exchange Management (Permissible Capital Account Transaction) (Amendment) Regulations, 2004	207(E) 23.3.2004
8.	78/14.2.2003	Exchange Earners' Foreign Currency (EEFC) Account Scheme	FEMA.No.113/2004-RB dated 6.3.2004 Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) (Amendment) Regulations, 2004	209(E) 23.3.2004

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai-400 001**

Notification No. FEMA. 45 /2001-RB

dated September 20, 2001

In exercise of the powers conferred by clause (b) of sub-section (3) of Section 6 and Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999) and in partial modification of its Notification No. FEMA 20/2000-RB dated 3rd May 2000, the Reserve Bank of India makes the following amendments in the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000, as amended from time to time, namely:-

1. (1) These Regulations may be called the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Amendment) Regulations, 2001.

(2) They shall come into force with immediate effect.
2. In the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000, in Schedule 2, in paragraph (1), in sub-paragraph (4), for the proviso, the following proviso shall be substituted, namely:

"Provided that the limit of 24% referred to in this paragraph may be increased up to the sectoral cap/statutory ceiling, as applicable, by the Indian company concerned by passing a resolution by its Board of Directors followed by passing of a special resolution to that effect by its General Body."

**(K. J. Udeshi)
Executive Director**

G.S.R.No.574(E) dated 19.8.2002

**Reserve Bank of India
Exchange Control Department
Central Office
Mumbai**

Notification No.FEMA.61 /2002-RB

dated May 02, 2002

**Foreign Exchange Management (Insurance)
(Amendment) Regulations, 2002**

In exercise of the powers conferred by sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999, (42 of 1999), and in partial modification of its Notification No.FEMA.12/2000-RB, dated May 3, 2000, the Reserve Bank of India makes the following Regulations to amend the Foreign Exchange Management (Insurance) Regulations, 2000, namely :

1. (a) These Regulations may be called the Foreign Exchange Management (Insurance) (Amendment) Regulations, 2002.

(b) They shall come into force from the date of their publication in the Official Gazette.

2. In the Foreign Exchange Management (Insurance) Regulations, 2000, in Regulation 3, after the proviso, the following proviso shall be added, namely:

“Provided further that the prohibition against taking general insurance policy issued by an insurer outside India shall not apply to a unit located in Special Economic Zone.”

**K.J. Udeshi
Executive Director**

G.S.R.No.477(E) dated 8.7.2002

[A.P.(DIR Series) Circular No.97
dated June 21, 2004]

**RESERVE BANK OF INDIA
EXCHANGE CONTROL DEPARTMENT
CENTRAL OFFICE
MUMBAI-400 001**

Notification No.FEMA.98/2003-RB

dated August 27, 2003

**Foreign Exchange Management (Manner of Receipt & Payments)
(Amendment) Regulations, 2003**

In exercise of the powers conferred by Section 47 of the Foreign Exchange Management Act, 1999 (Act 42 of 1999) and in partial modification of Notification No.FEMA.14/2000-RB dated May 3, 2000, the Reserve Bank makes the following amendment in the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2000, as amended from time to time, namely :

1. Short title and commencement

- (i) These Regulations may be called the Foreign Exchange Management (Manner of Receipt and Payment) (Amendment) Regulations, 2003.
- (ii) They shall come into force from the date of their publication in the Official Gazette.

2. Amendment to the Regulations

In the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2000, in Regulation 4, after sub-regulation (v), the following sub-regulation shall be added, namely :

"(vi) in the form of precious metals i.e. gold / silver / platinum equivalent to value of jewellery exported by Gem & Jewellery units in Special Economic Zones and Export Oriented Units on the condition that the sale contract provides for the same and the value is declared in the relevant GR / SDF/ PP forms."

**(Usha Thorat)
Executive Director**

G.S.R.No.772(E) dated 29.9.2003

**RESERVE BANK OF INDIA
EXCHANGE CONTROL DEPARTMENT
CENTRAL OFFICE
MUMBAI 400 001**

Notification No.FEMA.99/2003-RB

dated August 27, 2003

**Foreign Exchange Management (Export of Goods & Services)
(Amendment) Regulations, 2003**

In exercise of the powers conferred by clause (a) of sub-section (1), sub-section (3) of Section 7 and sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999) and in partial modification of its Notification No.FEMA.23/2000-RB dated May 3, 2000 and Notification No.FEMA.36/2001-RB dated February 27, 2001, Reserve Bank makes the following amendment in the Foreign Exchange Management (Export of Goods and Services) Regulations, 2000, as amended from time to time, namely :

1. Short title and commencement

- (i) These Regulations may be called the Foreign Exchange Management (Export of Goods and Services) (Amendment) Regulations, 2003.
- (ii) They shall come into force from the date of their publication in the Official Gazette.

2. Amendment to the Regulations

In the Foreign Exchange Management (Export of Goods and Services) Regulations, 2000, in Regulation 9,

- (i) in sub-regulation (1), before the existing first proviso, the proviso shall be added as under, namely :

"Provided that where the goods or software are exported by the units in Special Economic Zones, the stipulation of period of realisation and repatriation to India of full export value of goods or software shall not apply".
- (ii) In sub-regulation (2), in clause (a), the words, "by a unit situated in a Special Economic Zone or" may be deleted.
- (iii) In sub-regulation (2), in clauses (b) and (c), for the words "unit", the word, "the said exporter/s" shall be substituted.

**(Usha Thorat)
Executive Director**

G.S.R.No.773(E) dated 29.9.2003

**RESERVE BANK OF INDIA
EXCHANGE CONTROL DEPARTMENT
CENTRAL OFFICE
MUMBAI 400 001**

Notification No.FEMA.107/2003-RB

dated October 29, 2003

**Foreign Exchange Management (Export of Goods
and Services) (Second Amendment) Regulations, 2003**

In exercise of the powers conferred by clause (a) of sub-section (1) and sub-section (3) of Section 7, sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999) and in partial modification of its Notification No.FEMA.23/2000-RB dated 3rd May 2000, the Reserve Bank of India makes the following amendment in the Foreign Exchange Management (Export of Goods and Services) Regulations, 2000, namely :

1. Short title and commencement

- (i) These Regulations may be called the Foreign Exchange Management (Export of Goods and Services) (Second Amendment) Regulations, 2003.
- (ii) They shall come into force from the date of their publication in the Official Gazette of Government of India.

2. Amendment to the Regulations

In the Foreign Exchange Management (Export of Goods and Services) Regulations, 2000, in Regulation 6, the sub-regulation 'D' shall be substituted with the following, namely;

"D. Duplicate Declaration Forms to be retained with Authorised Dealers

On the realisation of the export proceeds, the duplicate copies of export declaration forms viz. GR, PP and SOFTEX and Exchange Control copies of the shipping bills together with related Statutory Declaration Forms shall be retained by the Authorised Dealers."

**(Usha Thorat)
Executive Director**

G.S.R.No.900(E) dated 22.11.2003

**RESERVE BANK OF INDIA
EXCHANGE CONTROL DEPARTMENT
CENTRAL OFFICE
MUMBAI-400 001**

Notification No.FEMA. 108/2004-RB

Dated January 1, 2004

**Foreign Exchange Management
(Transfer or Issue of Security by a person Resident outside India)
(First Amendment) Regulations, 2004**

In exercise of the powers conferred by clause (b) of sub-section (3) of Section 6 and Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999) and in partial modification of its Notification No. FEMA 20/2000-RB dated 3rd May 2000, the Reserve Bank of India makes the following amendments in the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000, namely:

1. Short title and Commencement

- (i) These Regulations may be called the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India)(First Amendment) Regulations, 2004.
- (ii) They shall come into force from the date of their publication in the Official Gazette.

2.Amendment of the Regulations

In the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000, in Schedule 2.

- (i) In paragraph 1
 - (a) For sub- paragraphs 1 and 2, the following sub- paragraphs shall be substituted, namely:

"(1) A registered Foreign Institutional Investor (FII) may purchase the shares and convertible debentures of an Indian company under Portfolio Investment Scheme.

(2) The purchase of shares /convertible debentures under sub-paragraph (1) shall be made through registered broker on recognized stock exchange in India.

- (ii) For paragraph 2, the following paragraph shall be substituted, namely:

" A registered Foreign Institutional Investor may open a Foreign Currency Account and/or a Special Non-Resident Rupee Account with a designated branch of an authorized dealer for routing the receipt and payment for transaction relating to purchase and sale of shares/convertible debentures under this Scheme, subject to the following conditions:

- (i) The Account shall be funded by inward remittance through normal banking channels or by credit of sale proceeds (net of taxes) of the shares/convertible debentures sold on stock exchange.

- (ii) The funds in the account shall be utilized for purchase of shares convertible debentures in accordance with the provisions of paragraph 1 of this Scheme or for remittance outside India.
- (iii) The funds from Foreign Currency Account of the registered FII may be transferred to Special Non-Resident Rupee account of the same FII and vice-versa."

(iii) In paragraph 4,

(a) for sub-paragraph (1), the following sub-paragraph shall be substituted, namely:

"A domestic asset management company or portfolio manager, who is registered with SEBI as a foreign institutional investor for managing the fund of a sub-account may make investment under the Scheme on behalf of

- (i) a person resident outside India who is a citizen of a foreign state, or
- (ii) a body corporate registered outside India;

Provided such investment is made out of funds raised or collected or brought from outside through normal banking channel."

- (b) sub-paragraph (2) shall be deleted.
- (c) sub-paragraph (3) shall be re-numbered as sub-paragraph(2).

(Usha Thorat)
Executive Director

G.S.R.No.12(E) dated 7.1.2004

**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI 400 001**

Notification No. FEMA. 110/2004-RB

dated February 5, 2004

**Foreign Exchange Management (Permissible Capital
Account Transactions) (Amendment) Regulations, 2004**

In exercise of the powers conferred by sub-section (2) of Section 6, Sub-Section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999) and in partial modification of its Notification No.FEMA.1/2000-RB dated May 3, 2000, the Reserve Bank of India makes, in consultation with Central Government, the following Regulations to amend the Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2000, namely :

1. Short title and commencement :-

- (i) These Regulations may be called the Foreign Exchange Management (Permissible Capital Account Transactions) (Amendment) Regulations, 2004.
- (ii) They shall come into force from the date of their publication in the Official Gazette.

2. Amendment to the Regulations

In the Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2000 (hereinafter referred to as "the said Regulations") after Regulation 4 (a), the following proviso shall be inserted ; namely :-

"Provided that –

- (a) subject to the provisions of the Act or the rules or regulations or directions or orders made or issued thereunder, a resident individual may draw from an authorized person foreign exchange not exceeding USD 25000 per calendar year for a capital account transaction specified in Schedule I ;
- (b) where the drawal of foreign exchange by a resident individual for any capital account transaction specified in Schedule I exceeds USD 25,000 per calendar year, the limit specified in the regulations relevant to the transaction shall apply with respect to the drawal.

Provided further that no part of the foreign exchange of USD 25,000 drawn under clause (a) of the first proviso shall be used for remittance directly or indirectly to countries notified as non-co-operative countries and territories by Financial Action Task Force (FATF) from time to time and communicated by the Reserve Bank of India to all concerned."

**(Shyamala Gopinath)
Executive Director**

G.S.R.No.207(E) dated 23.3.2004

**RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI 400 001.**

Notification No.FEMA.113/ 2004-RB

Dated 6 March 2004

**Foreign Exchange Management (Foreign Currency Accounts
by a person Resident in India) (Amendment) Regulations, 2004**

In exercise of the powers conferred by clause (b) of Section 9 and clause (e) of sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999) and in partial modification of Notification No.FEMA 10/2000-RB dated May 3, 2000 as amended from time to time, Reserve Bank of India makes the following Regulations to amend the Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) (Amendment) Regulations, 2004 namely:-

1. Short title and commencement :-

- (i) These Regulations may be called the Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) (Amendment) Regulations,2004.
- (ii) They shall come into force from the date of their publication in the Official Gazette.

2. Amendment to the Regulations :-

In the Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) Regulations, 2000 in sub-para (iv) of para 3 of the Schedule, the words "not exceeding US \$ 3 million" shall be deleted.

**(Shyamala Gopinath)
Executive Director**

G.S.R.No.209(E) dated 23.3.2004