

July 12, 2005

To

All Banks Authorised to Deal in Foreign Exchange

Madam/Sir,

**Import of Goods of Value USD 100,000 and Less -
Clarification on Follow up for Evidence of Import**

Attention of Authorised Dealer (AD) banks is invited to para A.10.1 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 ADs to follow up with the importers for submission of evidence of import where the value of foreign exchange remitted for import exceeds USD 100,000.

2. References have been received from ADs regarding follow up of submission of evidence of import where the amount of remittance is USD 100,000 or less. It is clarified that ADs need not follow up submission of evidence of import involving amount of USD 100,000 or less provided they are satisfied about the genuineness of the transaction and the bonafides of the remitter. A suitable policy may be framed by the bank's Board of Directors and the ADs may set their own internal guidelines to deal with such cases.

3. The directions contained in this circular have been issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

(Vinay Baijal)
General Manager-in-Charge

July 18, 2005

To
All Banks Authorised to Deal in Foreign Exchange

Madam/Sir,

Exim Bank's Line of Credit of USD 2 Million
to Trade and Investment Development Corporation of the Philippines -
TIDCORP (also known as Philippine Export-Import Credit Agency –
PhilEXIM)

The Export-Import Bank of India (Exim Bank) has concluded an agreement with the Trade and Investment Development Corporation of the Philippines (TIDCORP) on March 7, 2003 and an Amendatory Credit Line Agreement dated February 28, 2005 making available to the latter a Line of Credit (LOC) upto an aggregate sum of USD 2 Million (US Dollar Two Million only). The credit agreement has become effective on June 10, 2005. The credit is available for financing capital goods, plant and machinery, consumer durables and any other items eligible for being exported from India to buyers in Philippines under the Foreign Trade Policy of the Government of India.

2. The last dates for opening letters of credit and disbursement of credit are December 10, 2006 and June 10, 2007, respectively.

3. Shipments under the credit will have to be declared on GR / SDF Forms as per instructions issued from time to time.

4. No agency commission is ordinarily payable under the above line of credit. However, if necessary, the exporter can use his own resources for payment of commission in free foreign exchange. Further, 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 which require after sales service. In such cases, commission will have to be paid in Philippines 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 such payment of commission should be obtained before the relevant shipment is effected.

5. Authorised Dealer Banks may bring the contents of this circular to the notice of their exporter constituents. Full details of the Line of Credit are available from the Exim Bank's office or its website.

6. The direction contained in this circular has been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act (FEMA), 1999 (42 of 1999) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

Vinay Baijal
Chief General Manager

RBI/2005-06/75

A.P. (DIR Series) Circular No. 03

July 23, 2005

To

All Banks Authorised to Deal in Foreign Exchange

Madam / Sir,

Risk Management and Inter- bank Dealings - Commodity Hedging

Attention of Authorised Dealer (AD) banks is invited to paragraph 6 of Notification No. FEMA25/RB-2000 dated May 3, 2000, as amended from time to time. At present, Reserve Bank, on case by case basis, permits residents in India to enter into contracts in commodity exchanges or markets outside India to hedge the price risk on import/export of a commodity, subject to certain terms and conditions.

2. It has now been decided to delegate the authority to select commercial bank ADs to grant permission to **companies listed on a recognized stock exchange** to hedge the price risk in respect of any commodity (except gold, silver, petroleum and petroleum products) in the international commodity exchanges/markets. Commercial bank ADs satisfying the minimum norms as given below and interested in extending this facility to their customers may forward the application for approval, to the Chief General Manager, Reserve Bank of India, Foreign Exchange Department, Central Office, Forex Markets Division, Amar Building, 5th Floor, Mumbai – 400 001.

Minimum norms which are required to be satisfied by the ADs:

- i) Continuous profitability for at least three years
- ii) Minimum CRAR of 9%
- iii) Net NPAs at reasonable level but not more than 4 per cent of net advances
- iv) Minimum net worth of Rs 300 crore.

ADs may grant permission to corporates **only after** obtaining approval from the Reserve Bank. Reserve Bank retains the right to withdraw the permission granted to the bank, if considered necessary.

3. Before permitting corporates to undertake hedge transactions, authorized dealer would require them to submit a Board resolution indicating (i) that the Board understands the risks involved in these transactions, (ii) nature of hedge transactions that the corporate would undertake during the ensuing year, and (iii) the company would undertake hedge transaction only where it is exposed to price risk. Authorised

Dealers may refuse to undertake any hedge transaction if it has a doubt about the bonafides of the transaction or the corporate is not exposed to price risk. The conditions subject to which ADs would grant permission to hedge and the guidelines for monitoring of the transactions are given in the Annex to this circular. It is clarified that hedging the price risk on domestic sale/purchase transactions in the international exchanges/markets, even if the domestic price is linked to the international price of the commodity, is not permitted. Necessary advice may be given to the customers before they start their hedging activity.

4. Banks which have been granted permission to approve commodity hedging may submit an annual report to the Chief General Manager, Reserve Bank of India, Foreign Exchange Department, Central Office, Forex Markets Division, Amar Building, 5th Floor, Mumbai – 400 001 as on March 31 every year, within one month, giving the names of the corporates to whom they have granted permission for commodity hedging and the name of the commodity hedged.

5. Applications from customers to undertake hedge transactions not covered under the delegated authority may continue to be forwarded to Reserve Bank by the Authorised Dealers, for approval.

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

7. Commercial bank ADs may bring the contents of this circular to the notice of their constituents and customers concerned.

8. 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) and is without prejudice to permissions/approvals, if any, required under any other law.

Yours faithfully

(Vinay Baijal)
Chief General Manager

[A. P. (DIR Series) Circular No. 03 dated July 23, 2005]

Conditions/ Guidelines for undertaking hedging transactions in the international commodity exchanges/ markets

1. The focus of hedge transactions shall be on risk containment. Only off-set hedge is permitted.
2. All standard exchange traded futures and options (purchases only) are permitted. If the risk profile warrants, the corporate/firm may also use OTC contracts. It is also open to the Corporate/firm to use combinations of option strategies involving a simultaneous purchase and sale of options as long as there is no net inflow of premium direct or implied. Corporates/firms are allowed to cancel an option position with an opposite transaction with the same broker.
3. The corporate/firm should open a Special Account with the authorised dealer. All payments/receipts incidental to hedging may be effected by the authorised dealer through this account without further reference to the Reserve Bank.
4. A copy of the Broker's Month-end Report(s), duly confirmed/countersigned by the corporate's Financial Controller should be verified by the bank to ensure that all off-shore positions are/were backed by physical exposures.
5. The periodic statements submitted by Brokers, particularly those furnishing details of transactions booked and contracts closed out and the amount due/payable in settlement, should be checked by the corporate/firm. Unreconciled items should be followed up with the Broker and reconciliation completed within three months.
6. The corporate/firm should not undertake any arbitraging/speculative transactions. The responsibility of monitoring transactions in this regard will be that of the authorised dealer.
7. An annual certificate from Statutory Auditors should be submitted by the company/firm to the authorised dealer. The certificate should confirm that the prescribed terms and conditions have been complied with and that the corporate/firm's internal controls are satisfactory. These certificates may be kept on record for internal audit/inspection.

July 29, 2005

To

All Banks Authorised to Deal in Foreign Exchange

Madam / Sir,

**Foreign Direct Investment in
Petroleum Sector and Air Transport Services**

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

2. The foreign direct investment (FDI) limit in the Petroleum sector and Air Transport Services (Domestic Airlines) under the Automatic Route, has been further liberalised by Government of India. Accordingly, FDI upto 100 per cent has been permitted under the Automatic Route in Petroleum Product Marketing, Oil Exploration in both small and medium sized fields and Petroleum Product Pipelines. In Air Transport Services (Domestic Airlines) sector, FDI upto 100 per cent has been permitted under the Automatic Route by Non-Resident Indians (NRIs) and upto 49 per cent by others. However, no direct or indirect equity participation by foreign airlines would be allowed.

3. Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Amendment) Regulations, 2005, Notification No. FEMA 130/2005-RB dated March 17, 2005 has been notified by Government vide G.S.R. No.201(E) dated April 01, 2005 (copy enclosed).

4. Authorised Dealer banks may bring the contents of this circular to the notice of their constituents and customers concerned.

5. The direction contained in this circular has been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully

(Vinay Baijal)
Chief General Manager

**RESERVE BANK OF INDIA
(FOREIGN EXCHANGE DEPARTMENT)
CENTRAL OFFICE
MUMBAI 400 001**

Notification No.FEMA.130/2005-RB

dated March 17, 2005

**Foreign Exchange Management (Transfer or issue of Security
by a Person Resident outside India) (Amendment) Regulations, 2005**

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:

Short Title & Commencement:-

- (i) These Regulations may be called the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) (Amendment) Regulations, 2005
- (ii) They shall come into force from the date of their publication in the official gazette.

Amendment of the Regulations:-

In the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000,

- a) in Annexure A to Schedule 1, in para (A),
 - (i) Item No.1 shall be deleted and the existing items 2 to 12 may be renumbered as 1 to 11
 - (ii) in existing item No.2 the following may be added, namely:
"Natural Gas/LNG Pipelines"
- b) in the table shown in Annexure B to Schedule 1,
 - (i) existing item No.5 shall be renumbered as item No. 5(i) and (ii) the following sub-items shall be inserted under the headings Sector, Investment Cap, Description of Activity / Items / Conditions respectively, namely:

(ii) Petroleum Product Marketing	100%	Subject to the existing sectoral policy and regulatory framework in the oil marketing sector.
(iii) Oil Exploration in both small and medium sized fields	100%	Subject to and under the policy of Government on private participation in - (a) exploration of oil and (b) the discovered fields of national oil companies.
(iv) Petroleum Product Pipelines	100%	Subject to and under the Government Policy and regulations thereof.

(iii) after item No.21, under the headings Sector, Investment Cap, Description of Activity /items / Conditions, the following shall be inserted respectively, namely:

22. Air Transport Services (Domestic Airlines)	100% for NRIs 49% for others	No direct or indirect equity participation by foreign airlines is allowed
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(F. R. Joseph)
Chief General Manager

Footnote: The Principal Regulations were published in the Official Gazette vide G.S.R.No.406 (E) dated May 8,2000 in Part II, Section 3, sub-section(i) and subsequently amended as under:

G.S.R.No.158 (E) dated 02.03.2001
G.S.R.No.175(E) dated 13.03.2001
G.S.R.No.182(E) dated 14.03.2001
G.S.R.No.4(E) dated 02.01.2002
G.S.R.No.574(E) dated 19.08.2002
G.S.R.No.223(E) dated 18.03.2003
G.S.R.No.225(E) dated 18.03.2003
G.S.R.No.558 (E) dated 22.07.2003
G.S.R.No.835(E) dated 23.10.2003
G.S.R.No.899(E) dated 22.11.2003
G.S.R.No.12(E) dated 07.01.2004
G.S.R.No.278(E) dated 23.04.2004
G.S.R.No.625(E) dated 21.09.2004
G.S.R.No.799(E) dated 08.12.2004
G.S.R.No.201(E) dated 01.04.2005

August 1, 2005

To

All banks authorised to deal in foreign exchange

Madam/Sirs,

External Commercial Borrowings (ECB)

Attention of Authorised Dealers is invited to the A.P. (DIR Series) Circular No.40 dated April 25, 2005 and A.P. (DIR Series) Circular No.60 dated January 31, 2004 in connection with External Commercial Borrowings (ECB). A review of the ECB guidelines has been undertaken keeping in view the current macroeconomic situation, the experience gained so far by the Reserve Bank in administering the ECB policy and requests received from certain sectors.

2. Accordingly, it has been decided to liberalise/modify the ECB policy as indicated below:

- (i) ECB with minimum average maturity of 5 years by non-banking financial companies (NBFCs) from multilateral financial institutions, reputable regional financial institutions, official export credit agencies and international banks to finance import of infrastructure equipment for leasing to infrastructure projects would be considered by the Reserve Bank under the Approval Route;
- (ii) Foreign Currency Convertible Bonds (FCCB) by housing finance companies satisfying specific criteria would be considered by the Reserve Bank under the Approval Route;
- (iii) Minimum holding of equity by the foreign equity holder in the borrower's company (which would qualify the foreign equity holder as a recognised lender for ECB) has been clarified;
- (iv) Prepayment of ECB up to USD 200 million (as against the existing limit up to USD 100 million) may be allowed by Authorised Dealers without prior approval of RBI subject to compliance of applicable minimum average maturity period for the loan. Pre-payment of ECB for amounts exceeding USD 200 million would be considered by the Reserve Bank under the Approval Route.
- (v) Currently, domestic rupee denominated structured obligations are permitted by the Government of India to be credit enhanced by international banks/international financial institutions/joint venture partners. Such applications would henceforth be considered by the Reserve Bank under the Approval Route.

3. The amended ECB policy will come into force with immediate effect and is subject to review.

4. Comprehensive and revised ECB guidelines are set out in the Annex to this circular.

5. Necessary amendments to the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000 dated May 3, 2000 are being issued separately.

6. Authorised Dealer banks may bring the contents of this circular to the notice of their constituents and customers.

7. The direction contained in this circular has been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,
(Vinay Baijal)
Chief General Manager

External Commercial Borrowings (ECB)

1. 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. ECB can be accessed under two routes, viz., (i) Automatic Route outlined in paragraph 1(A) and (ii) Approval Route indicated in paragraph 1(B).

(A) AUTOMATIC ROUTE

Under the extant policy, ECB for investment in real sector -industrial sector, especially infrastructure sector-in India, are under Automatic Route, i.e. do 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

(a) Corporates registered under the Companies Act except financial intermediaries (such as banks, financial institutions (FIs), housing finance companies and NBFCs) are eligible. Individuals, Trusts and Non-Profit making Organisations are not eligible to raise ECB.

(b) Non-Government Organisations (NGOs) engaged in micro finance activities are eligible to avail ECB. Such NGO (i) should have a satisfactory borrowing relationship for at least 3 years with a scheduled commercial bank authorised to deal in foreign exchange and (ii) would require a certificate of due diligence on 'fit and proper' status of the board/committee of management of the borrowing entity from the designated Authorised Dealer (AD).

ii) Recognised Lenders

(a) Borrowers can raise ECB from internationally recognised sources such as (i) international banks, (ii) international capital markets, (iii) multilateral financial institutions (such as IFC, ADB, CDC etc.), (iv) export credit agencies, (v) suppliers of equipment, (vi) foreign collaborators and (vii) foreign equity holders. Furthermore, overseas organisations and individuals complying with following safeguards may provide ECB to NGOs engaged in micro finance activities.

(b) **Overseas organisations** planning to extend ECB would have to furnish a certificate of due diligence from an overseas bank which in turn is subject to regulation of host-country regulator and adheres to Financial Action Task Force (FATF) guidelines to the designated AD. The certificate of due diligence should comprise the following (i) that the lender maintains an account with the bank for at least a period of two years, (ii) that the lending entity is organised as per the local law and held in good esteem by the business/local community and (iii) that there is no criminal action pending against it.

(c) **Individual Lender** has to obtain a certificate of due diligence from an overseas bank indicating that the lender maintains an account with the bank for at least a period of two years. Other evidence /documents such as audited statement of account and income tax return which the overseas lender may furnish need to be certified and forwarded by the overseas bank. Individual lenders from countries wherein banks are not required to adhere to Know Your Customer (KYC) guidelines are not permitted to extend ECB.

(d) The key operative part in the credential of the overseas lender is that ECB should be availed from an internationally recognised source and one of the recognized categories is "foreign equity holder" as indicated above. It is clarified that for a "foreign equity holder" to be eligible as "recognized lender" under the automatic route would require minimum holding of equity in the borrower's company as under:

- (d. i) ECB up to USD 5 million – minimum equity of 25 per cent held directly by the lender,
- (d. ii) ECB more than USD 5 million – minimum equity of 25 per cent held directly by the lender and debt-equity ratio not exceeding 4:1(i.e. the proposed ECB not exceeding four times the direct foreign equity holding).

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) The maximum amount of ECB which can be raised by a corporate is USD 500 million during a financial year.
- (d) NGOs engaged in micro finance activities can raise ECB up to USD 5 million during a financial year.
- (e) 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 are indicated from time to time. The following ceilings are valid till reviewed.

Average Maturity Period	All-in-cost Ceilings over 6 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) ECB proceeds can be utilised for overseas direct investment in Joint Ventures (JV)/Wholly Owned Subsidiaries (WOS) subject to the existing guidelines on Indian Direct Investment in JV/WOS abroad.
- (c) 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.
- (d) NGOs engaged in micro finance activities may utilise ECB proceeds for lending to self-help groups or for micro-credit or for bonafide micro finance activity including capacity building.
- (e) Utilisation of ECB proceeds is not permitted for on-lending or investment in capital market or acquiring a company (or a part thereof) in India by a corporate.
- (f) 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).
- (g) End-uses of ECB for working capital, general corporate purpose and repayment of existing Rupee loans are not permitted.

vi) Guarantees

Issuance of guarantee, standby letter of credit, letter of undertaking 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, as amended from time to time, respectively.

viii) Parking of ECB proceeds overseas

ECB proceeds should be parked overseas until actual requirement in India. It is clarified that ECB proceeds parked overseas can be invested in the following liquid assets (a) deposits or Certificate of Deposit or other products offered by banks rated not less than AA(-) by Standard and Poor/Fitch IBCA or Aa3 by Moody's; (b) deposits with overseas branch of an authorised dealer in India; and (c) Treasury bills and other monetary instruments of one year maturity having minimum rating as indicated above. The funds should be invested in such a way that the investments can be liquidated as and when funds are required by the borrower in India.

ix) Prepayment

Prepayment of ECB up to USD 200 million may be allowed by ADs without prior approval of RBI subject to compliance with the stipulated minimum average maturity period as applicable to the loan.

x) Refinance of existing ECB

Refinancing of existing ECB by raising fresh ECB 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 complying with ECB guidelines with recognised lender for raising ECB under Automatic Route without prior approval of RBI. The borrower may note to comply with the reporting arrangement under paragraph 1(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 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.

(B) APPROVAL ROUTE

The following types of proposals for ECB are covered under the Approval Route.

i) **Eligible borrowers**

- a) Financial institutions dealing exclusively with infrastructure or export finance such as IDFC, IL&FS, Power Finance Corporation, Power Trading Corporation, IRCON and EXIM Bank are 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 are also 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 are deducted from their entitlement.
- c) Cases falling outside the purview of the automatic route limits and maturity period indicated at paragraphs 1A(iii) (a) and 1A(iii) (b).
- d) ECB with minimum average maturity of 5 years by **non-banking financial companies** (NBFCs) from multilateral financial institutions, reputable regional financial institutions, official export credit agencies and international banks to finance import of infrastructure equipment for leasing to infrastructure projects.
- e) Foreign Currency Convertible Bonds (FCCB) by **housing finance companies** satisfying the following minimum criteria: (i) the minimum net worth of the financial intermediary during the previous three years shall not be less than Rs. 500 crore, (ii) a listing on the BSE or NSE, (iii) minimum size of FCCB is USD 100 million, (iv) the applicant should submit the purpose / plan of utilization of funds.

ii) **Recognised Lenders**

- (a) Borrowers can raise ECB from internationally recognised sources such as (i) international banks, (ii) international capital markets, (iii) multilateral financial institutions (such as IFC, ADB, CDC etc.), (iv) export credit agencies, (v) suppliers of equipment, (vi) foreign collaborators and (vii) foreign equity holders.
- (b) From 'foreign equity holder', where the minimum equity held directly by the foreign equity lender is 25 per cent but debt-equity ratio exceeds 4:1(i.e. the proposed ECB exceeds four times the direct foreign equity holding).

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 are indicated from time to time. The following ceilings are valid till reviewed.

Average Maturity Period	All-in-cost Ceilings over 6 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) ECB proceeds can be utilised for overseas direct investment in Joint Ventures (JV)/Wholly Owned Subsidiaries (WOS) subject to the existing guidelines on Indian Direct Investment in JV/WOS abroad.
- (c) 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.
- (d) Utilisation of ECB proceeds is not permitted for on-lending or investment in capital market or acquiring a company (or a part thereof) in India by a corporate except for banks and financial institutions eligible under paragraph 1B(i)(a) and 1B(i)(b).
- (e) Utilisation of ECB proceeds in real estate is not permitted. 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).
- (f) End-uses of ECB for working capital, general corporate purpose and repayment of existing Rupee loans are not permitted.

v) Guarantees

Issuance of guarantee, standby letter of credit, letter of undertaking 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, as amended from time to time, respectively.

vii) Parking of ECB proceeds overseas

ECB proceeds should be parked overseas until actual requirement in India. It is clarified that ECB proceeds parked overseas can be invested in the following liquid assets (a) deposits or Certificate of Deposit or other products offered by banks rated not less than AA(-) by Standard and Poor/Fitch IBCA or Aa3 by Moody's; (b) deposits with overseas branch of an authorised dealer in India; and (c) Treasury bills and other monetary instruments of one year maturity having minimum rating as indicated above. The funds should be invested in such a way that the investments can be liquidated as and when funds are required by the borrower in India.

viii) Prepayment

(a) Prepayment of ECB up to USD 200 million may be allowed by ADs without prior approval of RBI subject to compliance with the stipulated minimum average maturity period as applicable to the loan.

(b) Pre-payment of ECB for amounts exceeding USD 200 million would be considered by the Reserve Bank under the Approval Route.

ix) Refinance of existing ECB

Refinancing of outstanding ECB by raising fresh ECB 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 through designated AD to the Chief General Manager, Foreign Exchange Department, Reserve Bank of India, Central Office, External Commercial Borrowings Division, Mumbai – 400 001 along with necessary documents.

xii) Empowered Committee

RBI has 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, 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 certified by the designated AD on monthly basis 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 under both Automatic Route and Approval Route are put on the RBI website on a monthly basis with a lag of one month to which it relates.

2. Foreign Currency Convertible Bonds (FCCB)

The policy for ECB is also applicable to FCCB in all respects.

3. Structured Obligations

In order to enable corporates to raise resources domestically and hedge exchange rate risks, domestic rupee denominated structured obligations are permitted by the Government to be credit enhanced by international banks / international financial institutions/joint venture partners. Such applications would henceforth be considered by the Reserve Bank under the Approval Route.

August 11, 2005

To,

All Banks Authorised to Deal in Foreign Exchange

Madam/Sir,

Foreign Investment in Print media sector

Attention of the Authorised Dealer (AD) banks is invited to Regulation 5 (2), 5 (3) (i), (ii) and 5 (5) of Notification No. FEMA 20/2000-RB dated May 3, 2000, as amended from time to time, which prohibits investment in the shares or convertible debentures of an Indian company engaged in print media sector by Foreign Institutional Investors (FIIs), Non-Resident Indians (NRIs) and Foreign Venture Capital Investors (FVCIs).

2. On a review, it has been decided by Government of India to permit Foreign Direct Investment (FDI) and portfolio investment within the composite ceiling of 26 per cent of the paid-up capital of an Indian company publishing newspapers and periodicals dealing with news and current affairs. Accordingly, Reserve Bank has issued a Notification withdrawing the prohibition placed on FIIs, NRIs and FVCIs to purchase shares of an Indian company engaged in print media sector. Further, the Indian company accepting FDI would have to comply with the guidelines issued on July 13, 2005 by the Ministry of Information and Broadcasting in this regard, available on <http://mib.nic.in/informationb/CODES/FDI2130705.htm> .

3. A copy of Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) (Fifth Amendment) Regulations 2005, Notification No. FEMA 138/2005-RB dated July 22, 2005, has been notified by Government vide G.S.R. No. 505(E) dated July 25, 2005 is annexed.

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) and are without prejudice to permissions/approvals, if any, required under any other law.

Yours faithfully,

(Vinay Baijal)
Chief General Manager

Annex

[A. P. (DIR) Circular No. 06 dated August 11, 2005]

Notification No.FEMA.138/2005-RB

dated July 22, 2005

Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) (Fifth Amendment) Regulations, 2005

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) the Reserve Bank of India hereby makes the following amendments in the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 (Notification No. FEMA 20/2000-RB dated 3rd May 2000) namely:-

1. Short Title & Commencement:-

- (i) These Regulations may be called the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) (Fifth Amendment) Regulations, 2005.
- (ii) They shall come into force from the date of its 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 Regulation 5,

- i. in sub-regulation (2), the provisio shall be omitted.
- ii. in sub-regulation (3), in clause (i), the existing provisio and the coma preceding thereto shall be omitted.
- iii. in sub-regulation (3), in clause (ii), the existing provisio and the coma preceding thereto shall be omitted.
- iv. in sub-regulation (5), the existing provisio shall be omitted."

-sd/-
(Vinay Baijal)
Chief General Manager

Foot Note: The Principal Regulations were published in the Official Gazette vide G.S.R.No. 406 (E) dated May 3, 2000 in Part II, Section 3, sub-section (i) and subsequently amended as under:

G.S.R.No. 158(E) dated 02.03.2001
G.S.R.No. 175(E) dated 13.03.2001
G.S.R.No. 182(E) dated 14.03.2001
G.S.R.No. 4(E) dated 02.01.2002
G.S.R.No. 574(E) dated 19.08.2002
G.S.R.No. 223(E) dated 18.03.2003
G.S.R.No. 225(E) dated 18.03.2003
G.S.R.No. 558(E) dated 22.07.2003
G.S.R.No. 835(E) dated 23.10.2003
G.S.R.No. 899(E) dated 22.11.2003
G.S.R.No. 12(E) dated 07.01.2004
G.S.R.No. 278(E) dated 23.04.2004
G.S.R.No. 454(E) dated 16.07.2004
G.S.R.No. 625(E) dated 21.09.2004
G.S.R.No. 799(E) dated 08.12.2004
G.S.R.No. 201(E) dated 01.04.2005
G.S.R.No. 202(E) dated 01.04.2005

G.S.R.No. 505(E) dated 25.07.2005

August 17, 2005

To,
All Banks Authorised to Deal in Foreign Exchange

Madam/Sir,

Foreign Direct Investment (FDI) in Construction Development Sector

Attention of Authorised Dealer (AD) banks is invited to Schedule I of Notification No. FEMA 20/2000-RB dated May 3, 2000, as amended from time to time.

2. With a view to catalyzing FDI in townships, housing, built-up infrastructure and construction development projects, Government of India, (Ministry of Commerce & Industry), vide Press Note 2 (2005) dated March 3, 2005, has decided to permit FDI upto 100 per cent under the automatic route, in townships, housing, built-up infrastructure and construction development projects (which would include, but not be restricted to, housing, commercial premises, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional level infrastructure), subject to the guidelines mentioned therein.

3. Accordingly, Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations 2000 notified vide Reserve Bank Notification No. FEMA 20/2000-RB dated May 3, 2000, has been amended vide Notification No. FEMA 136/2005-RB dated July 19, 2005 [Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) (Third Amendment) Regulations 2005]. A copy of the Government Notification G.S.R. No. 513(E) dated July 29, 2005 incorporating the amendment is annexed.

4. Authorised Dealer banks 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) and are without prejudice to permissions/approvals, if any, required under any other law.

Yours faithfully,

(Vinay Baijal)
Chief General Manager

[A.P. (DIR) Series Circular No. 07 dated August 17, 2005]

Notification No.FEMA. 136 /2005-RB dated July 19, 2005**Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) (Third Amendment) Regulations, 2005**

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. 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) (Third Amendment) Regulations, 2005.
- 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 Annexure B the following shall be added :

Sector	Investment Cap	Description of Activity / Items / Conditions
(1)	(2)	(3)
23. Townships, housing, built-up infrastructure and construction – development projects. The sector would include, but not be restricted to, housing, commercial premises, hotels, resorts, hospitals, educational institutions, recreational	100%	The investment shall be subject to the following guidelines : (a) Minimum area to be developed under each project shall be as under : (i) In case of development of serviced housing plots – 10 hectares. (ii) In case of construction – development project - 50,000 sq.mtrs. (iii) In case of combination project, any one of the above two conditions.

facilities, city and
regional level
infrastructure.

(b) The investment shall be subject to the following conditions :

- (i) Minimum capitalization of US \$ 10 Million for wholly owned subsidiaries and US \$ 5 Million for joint ventures with Indian partners. The funds would have to be brought in within six months of commencement of business of the Company.
- (ii) Original investment cannot be repatriated before a period of three years from completion of minimum capitalization. However, the investor may be permitted to exit earlier with prior approval of the Government through the FIPB.
- (c) At least 50% of the project must be developed within a period of five years from the date of obtaining all statutory clearances. The investor shall not be permitted to sell undeveloped plots.
- (d) The project shall conform to the norms and standards, as laid down in the applicable building control regulations, bye-laws, rules, and other regulations of the State Government / Municipal / Local Body concerned.
- (e) The investor shall be responsible for obtaining all necessary approvals, including those of the building / layout plans, developing internal and peripheral areas and other infrastructure facilities, payment of development, external development and other charges and complying with all other requirements as prescribed under applicable rules / bye-laws / regulations of the State Government / Municipal / Local Body concerned.
- (f) The State Government / Municipal / Local Body concerned, which approves the building / development plans, shall monitor compliance of the above conditions by the developer.

Note: For the purpose of these guidelines, “undeveloped plots” will mean where roads, water supply, street lighting,

drainage, sewerage, and other conveniences, as applicable under prescribed regulations, have not been made available. It will be necessary that the investor provides this infrastructure and obtains the completion certificate from the concerned local body / service agency before he would be allowed to dispose of serviced housing plots.

-sd/-

(Vinay Baijal)
Chief General Manager

Footnote : The Principal Regulations were published in the Official Gazette vide G.S.R. No.406 (E) dated May 8, 2000 in Part II, Section 3, Sub-section (i) and subsequently amended as under::

G.S.R.No. 158(E) dated 02.03.2001

G.S.R.No. 175(E) dated 13.03.2001

G.S.R.No. 182(E) dated 14.03.2001

G.S.R.No. 4(E) dated 02.01.2002

G.S.R.No. 574(E) dated 19.08.2002

G.S.R.No. 223(E) dated 18.03.2003

G.S.R.No. 225(E) dated 18.03.2003

G.S.R.No. 558(E) dated 22.07.2003

G.S.R.No. 835(E) dated 23.10.2003

G.S.R.No. 899(E) dated 22.11.2003

G.S.R.No. 12(E) dated 07.01.2004

G.S.R.No. 278(E) dated 23.04.2004

G.S.R.No. 454(E) dated 16.07.2004

G.S.R.No. 625(E) dated 21.09.2004

G.S.R.No. 799(E) dated 08.12.2004

G.S.R.No. 201(E) dated 01.04.2005

G.S.R.No. 202(E) dated 01.04.2005

G.S.R.No. 513(E) dated 29.07.2005

August 25, 2005

To,
All Banks Authorised to Deal in Foreign Exchange

Madam/Sir,

Foreign Investments in India Transfer of security by way of gift - Procedure

Attention of the Authorised Dealer (AD) banks is invited Regulation 10 A (a) of the Reserve Bank Notification No. FEMA 20/2000-RB dated 3rd May 2000, as amended from time to time, in terms of which a person resident in India who proposes to transfer any security, by way of gift, to a person resident outside India, is required to make an application to Reserve Bank.

2. On a review, the procedure for obtaining the approval from Reserve Bank has been modified. As hitherto, a person resident in India who proposes to transfer, **by way of gift**, to a person resident outside India any security including shares/convertible debentures is required to obtain prior approval of the Reserve Bank. However, the application is now required to be submitted along with certain information/documents, a list of which is annexed (Annex 1). Applications in this regard may be submitted to the Chief General Manager, Reserve Bank of India, Foreign Exchange Department, Foreign Investment Division, Central Office, 11th floor, Fort, Mumbai 400 001.

3. Reserve Bank would, henceforth, consider the following factors while considering such applications :

- a) The transferee (donee) is eligible to hold such security under Schedule 1, 4 and 5 of the Notification *ibid*.
- b) The gift does not exceed 5 per cent of the paid-up capital of the Indian company/each series of debentures/each mutual fund scheme.
- c) The applicable sectoral cap/foreign direct investment (FDI) limit in the Indian company is not breached.
- d) The transferor (donor) and the transferee (donee) are close relatives as defined in section 6 of the Companies Act, 1956.

- e) The value of security to be transferred together with any security transferred by the transferor, as gift, to any person residing outside India does not exceed the rupee equivalent of USD 25,000 **during a calendar year.**
- f) Such other conditions as considered necessary in public interest by the Reserve bank.

4. Accordingly, Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations 2000 notified vide Reserve Bank Notification No. FEMA 20/2000-RB dated May 3, 2000, has been amended vide Notification No. FEMA 137/2005-RB dated July 22, 2005 [Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) (Fourth Amendment) Regulations 2005]. A copy of the Government Notification G.S.R. No. 504(E) dated July 25, 2005 incorporating the amendment is annexed (Annex 2).

5. Authorised Dealer banks may bring the contents of this circular to the notice of their constituents/customers 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) and are without prejudice to permissions/approvals, if any, required under any other law.

Yours faithfully,
(Vinay Baijal)
Chief General Manager

Annex 1

[A. P. (DIR Series) Circular No. 08 dated August 25, 2005]

Information/Documents to be submitted along with the application to Reserve Bank of India by a person resident in India who proposes to transfer to a person resident outside India any security including shares/convertible debentures, by way of gift

1. Name and address of the transferor (donor) and the transferee (donee).
2. Relationship between the transferor and the transferee.
3. Reasons for making the gift.
4. In case of Government dated securities and treasury bills and bonds, a certificate issued by a Chartered Accountant on the market value of such security.
5. In case of units of domestic mutual funds and units of Money Market Mutual Funds, a certificate from the issuer on the Net Asset Value of such security.
6. In case of shares and debentures, a certificate from a Chartered Accountant on the value of such securities according to the guidelines issued by the Securities & Exchange Board of India or the erstwhile CCI for listed companies and unlisted companies, respectively.
7. Certificate from the concerned Indian company certifying that the proposed transfer of shares/convertible debentures by way of gift from resident to the non-resident shall not breach the applicable sectoral cap/ FDI limit in the company and that the proposed number of shares/convertible debentures to be held by the non-resident transferee shall not exceed 5 per cent of the paid up capital of the company.

Annex 2

[A. P. (DIR Series) Circular No. 08 dated August 25, 2005]

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

Notification No. FEMA. 137/2005- RB

Dated 22 July, 2005

Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) (Fourth Amendment) Regulations, 2005

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), the Reserve Bank of India hereby makes the following amendments in the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) Regulations, 2000 (Notification No. FEMA 20/2000-RB dated 3rd May 2000) namely:-

1. Short Title & Commencement:-

- (i) These Regulations may be called the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) (Fourth Amendment) Regulations, 2005.
- (ii) They shall come into force from the date of its 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 Regulation 10, in sub-Regulation A, for the clause (a) the following shall be substituted:

- "(a) (i) any security, by way of gift, shall make an application to the Reserve Bank for its approval.
- (ii) The Reserve Bank may grant such approval on being satisfied of the following conditions:

- a) The donee is eligible to hold such a security under Schedules 1, 4 and 5 of these Regulations.
- b) The gift does not exceed 5% of the paid up capital of the Indian company/each series of debentures/each mutual fund scheme.
- c) The applicable sectoral cap/foreign direct investment limit in the Indian company is not breached.
- d) The donor and the donee are relatives as defined in section 6 of the Companies Act, 1956.
- e) The value of security to be transferred by the donor together with any security transferred to any person residing outside India as gift in the calendar year does not exceed the rupee equivalent of USD 25,000.
- f) Such other conditions as considered necessary in public interest by the Reserve Bank.

(iii) The application for approval referred to in sub clause (i) shall contain the following information/documents:

- (a) Name and address of the donor and the donee.
- (b) Relationship between the donor and the donee.
- (c) Reasons for making the gift.
- (d) In case of Government dated securities and treasury bills and bonds, a certificate issued by a Chartered Accountant on the market value of such securities.
- (e) In case of units of domestic mutual funds and units of Money Market Mutual Funds, a certificate from the issuer on the Net Asset Value of such security.
- (f) In case of shares and debentures, a certificate from a Chartered Account on the value of such securities according to the guidelines issued by the Securities & Exchange Board of India or the erstwhile CCI with regard to listed companies and unlisted companies respectively.

- (g) Certificate from the concerned Indian company certifying that the proposed transfer of shares/convertible debentures, by way of gift, from resident to the non-resident shall not breach the applicable sectoral cap/FDI limit in the company and that the proposed number of shares/convertible debentures to be held by the non-resident transferee shall not exceed 5% of the paid up capital of the company."

-sd/-
(Vinay Baijal)
Chief General Manager

Foot Note: The Principal Regulations were published in the Official Gazette vide G.S.R.No. 406 (E) dated May 3, 2000 in Part II, Section 3, sub-section (i) and subsequently amended as under:

G.S.R.No. 158(E) dated 02.03.2001
G.S.R.No. 175(E) dated 13.03.2001
G.S.R.No. 182(E) dated 14.03.2001
G.S.R.No. 4(E) dated 02.01.2002
G.S.R.No. 574(E) dated 19.08.2002
G.S.R.No. 223(E) dated 18.03.2003
G.S.R.No. 225(E) dated 18.03.2003
G.S.R.No. 558(E) dated 22.07.2003
G.S.R.No. 835(E) dated 23.10.2003
G.S.R.No. 899(E) dated 22.11.2003
G.S.R.No. 12(E) dated 07.01.2004
G.S.R.No. 278(E) dated 23.04.2004
G.S.R.No. 454(E) dated 16.07.2004
G.S.R.No. 625(E) dated 21.09.2004
G.S.R.No. 799(E) dated 08.12.2004
G.S.R.No. 201(E) dated 01.04.2005
G.S.R.No. 202(E) dated 01.04.2005

G.S.R.No.504(E) dated 25.07.2005

RBI/2005/ 146

A. P. (DIR Series) Circular No. 09

August 29, 2005

To,

All Banks Authorised to Deal in Foreign Exchange

Madam/Sir,

Overseas Direct Investment in Bhutan

Attention of Authorised Dealer (AD) Banks is invited to 'Explanation' to sub clause (i) of clause (2) of Regulation 6 of Notification No.FEMA.120/RB-2004 dated 7th July 2004 (Transfer or Issue of any Foreign Security), as amended from time to time, in terms of which overseas direct investment in Bhutan and Nepal is permitted in Indian Rupees only.

2. It has now been decided by the Reserve Bank, in consultation with Government of India, to allow direct investments **in Bhutan** in freely convertible currencies. This facility will be in addition to the existing facility of making investments in Indian Rupees. It is clarified that all dues receivable on such investments as well as their sale / winding up proceeds are required to be repatriated to India in freely convertible currencies only. As hitherto, direct investments in Nepal can only be made in Indian Rupees.

3. Accordingly, Foreign Exchange Management (Transfer or issue of any Foreign Security) notified vide Reserve Bank Notification No. FEMA 120/RB-2004 dated July 7, 2004, has been amended vide Notification No. FEMA 135/2005-RB dated May 17, 2005 [Foreign Exchange Management (Transfer or issue of any Foreign Security) (Second Amendment) Regulations, 2005]. A copy of the Government Notification G.S.R. No. 337(E) dated May 27, 2005 incorporating the amendment is annexed.

4. Authorised Dealer Banks 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) and are without prejudice to permissions/approvals, if any, required under any other law.

Yours faithfully,

(Vinay Baijal)
Chief General Manager

NOTIFICATION No. FEMA 135/2005-RB dated May 17, 2005

**Foreign Exchange Management (Transfer or Issue of any Foreign Security
(Second Amendment) Regulations, 2005**

In exercise of the powers conferred by clause (a) 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 120/RB-2004 dated 7th July, 2004, the Reserve Bank of India makes the following amendments in the Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004, namely :-

1. Short title and Commencement: -

- (i) These Regulations may be called the Foreign Exchange Management (Transfer or Issue of any Foreign Security)(Second Amendment) Regulations, 2005.
- (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 (Transfer or Issue of any Foreign Security) Regulations, 2004 :-

- (i) In Regulation 6, in sub-regulation 2, in the Explanation to clause (i) the following shall be substituted :-

(a) "Explanation: For the purpose of determining 'total financial commitment' within the limit of 100% of the net worth, the following shall be reckoned, namely :-"

- (b) For sub clause (a), the following shall be substituted :

"(a) remittance by market purchases, namely in freely convertible currencies; in case of Bhutan, investment made in freely convertible currencies or equivalent Indian Rupees; in case of Nepal investment made only in Indian Rupees."

- (ii) In Regulation 15, after clause (ii) the following proviso may be added.

"Provided that in the case of investment in securities in Bhutan made in freely convertible currency, all dues receivable thereon as are repatriable, including those on account of disinvestment/dissolution/winding up, shall be realised and repatriated in freely convertible currency only."

-sd/-

F.R. Joseph
Chief General Manager

FOOT NOTE :-

The Principal Regulations were published in the Official Gazette vide G.S.R.No.456(E) dated May 8, 2000 in Part II, Section 3, Sub-section (i) which has been superseded vide G.S.R.No.757(E) published in the Official Gazette dated November 19, 2004 and subsequently amended vide G.S.R. No. 220(E) dated 7 April, 2005.

G.S.R.337(E) dated 27.05.2005

August 30, 2005

To,

All Banks Authorised to Deal in Foreign Exchange

Madam/Sir,

Foreign Direct Investment in India
Transfer of Shares/Convertible Debentures by way of Sale - Clarification

Attention of the Authorised Dealer (AD) banks is invited to A. P. (DIR Series) Circular No.16 dated October 04, 2004, wherein Authorised Dealer banks have been delegated powers to deal with transfer of shares/convertible debentures from resident to non-resident and vice-versa, subject to the conditions stipulated therein.

2. We have been receiving queries from banks on whether the general permission also includes transfer of shares/convertible debentures which earlier required FIPB/SIA approval but now falls under Automatic route and transfer of shares through buy-back or capital reduction. It is, therefore, clarified that the transactions detailed below are also covered under the powers delegated to AD banks vide A. P. (DIR Series) Circular No.16 dated October 04, 2004 subject to the terms and conditions stipulated therein :

(a) Transfer of shares/convertible debentures of an Indian company, engaged in an activity earlier covered under FIPB/SIA route but now falling under Automatic Route of RBI, but not engaged in any activity in the financial service sector (i.e. Banks, NBFCs and Insurance), by a resident to a non-resident.

(b) Transfer of shares by a non-resident to an Indian company under buy-back and/or capital reduction scheme of the company.

The requirements stipulated in the Annex to the aforementioned circular will also be applicable in these cases.

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 has been issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and is without prejudice to permissions/approvals, if any, required under any other law.

Yours faithfully,

(Vinay Baijal)

Chief General Manager

September 05, 2005

To,

All Banks Authorised to Deal in Foreign Exchange

Madam/Sir,

Amendment to the "Issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) Scheme, 1993"

Attention of Authorised Dealer (AD) banks is invited to the paragraph 2 of the Annex to the A.P. (DIR Series) Circular No.5 dated August 1, 2005 regarding issue of Foreign Currency Convertible Bonds (FCCB) and Regulations 4 and 5A of Schedule 1 to Notification No. FEMA 20/2000-RB dated May 3, 2000, as amended from time to time, for issue of American Depositary Receipts (ADRs) / Global Depositary Receipts (GDRs).

2. In order to bring the ADR/GDR guidelines in alignment with guidelines on domestic capital issues framed by the Securities and Exchange Board of India (SEBI), the Government of India has brought about certain changes to the guidelines on GDR/ADR guidelines by amending the Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) Scheme, 1993.

3. A copy of the Press Note F.No.15/4/2004-NRI dated August 31, 2005 issued by the Government of India, Ministry of Finance and the Government Notification dated August 31, 2005 is annexed (Annex 1 and 2, respectively).

4. Necessary amendments to the Foreign Exchange Management (Transfer or issue of Security by a Person Resident outside India) are being issued separately.

5. Authorised Dealer banks may bring the contents of this circular to the notice of their constituents and customers 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) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

Vinay Baijal
Chief General Manager

Annex-1

[A.P. (DIR Series) Circular No. 11 dated September 5, 2005]

No.15/4/2004-NRI
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF ECONOMIC AFFAIRS
CAPITAL MARKETS DIVISION

Press Note

Amendment to the “Issue of Foreign Currency Convertible Bonds and Ordinary Shares (through Depositary Receipt Mechanism) Scheme, 1993”.

A Scheme for issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) Scheme was notified by the Government of India on 12th November, 1993. Revisions/modifications in the operative guidelines of the Scheme have been made from time to time.

In order to bring the ADR/GDR guidelines in alignment with SEBI's guidelines on domestic capital issues, it has been decided by the Government to incorporate the following changes to the GDR/ADR guidelines by amending the Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) Scheme:-

A. For listed companies

- a) **Eligibility of issuer:** An Indian Company, which is not eligible to raise funds from the Indian Capital Market including a company which has been restrained from accessing the securities market by the Securities and Exchange Board of India (SEBI) will not be eligible to issue (i) Foreign Currency Convertible Bonds and (ii) Ordinary Shares through Global Depositary Receipts under the Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) Scheme, 1993.
- b) **Eligibility of subscriber:** Erstwhile Overseas Corporate Bodies (OCBs) who are not eligible to invest in India through the portfolio route and entities prohibited to buy, sell or deal in securities by SEBI will not be eligible to subscribe to (i) Foreign Currency Convertible Bonds and (ii) Ordinary Shares through Global Depositary Receipts under the Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) Scheme, 1993.
- c) **Pricing:** The pricing of Global Depositary Receipt and Foreign Currency Convertible Bond issues should be made at a price not less than the higher of the following two averages:
 - (i) The average of the weekly high and low of the closing prices of the related shares quoted on the stock exchange during the six months preceding the relevant date;

- (ii) The average of the weekly high and low of the closing prices of the related shares quoted on a stock exchange during the two weeks preceding the relevant date.

The "relevant date" means the date thirty days prior to the date on which the meeting of the general body of shareholders is held, in terms of section 81 (IA) of the Companies Act, 1956, to consider the proposed issue.

d) **Voting rights:** The voting rights shall be as per the provisions of the Companies Act, 1956 and in a manner in which restrictions on voting rights imposed on Global Depositary Receipt issues shall be consistent with the Company Law provisions. RBI regulations regarding voting rights in the case of banking companies will continue to be applicable to all shareholders exercising voting rights.

B. For unlisted companies

Unlisted companies, which have not yet accessed the Global Depositary Receipt / Foreign Currency Convertible Bond route for raising capital in the international market would require prior or simultaneous listing in the domestic market, while seeking to issue (i) Foreign Currency Convertible Bonds and (ii) Ordinary Shares through Global Depositary Receipts under the Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) Scheme, 1993.

It is clarified that unlisted companies, which have already issued Global Depositary Receipts / Foreign Currency Convertible Bonds in the international market, would now require to list in the domestic market on making profit beginning financial year 2005-06 or within three years of such issue of Global Depositary Receipts / Foreign Currency Convertible Bonds, whichever is earlier.

F.No.15/4/2004-NRI

New Delhi, dated the 31st August, 2005

The Press Information Bureau is requested to give wide publicity to this Press Note.

(U.K.SINHA)
JOINT SECRETARY TO THE GOVERNMENT OF INDIA

Press Information Officer,
Press Information Bureau
Shastri bhawan,
New Delhi

[A. P. (DIR Series) Circular No. 11 dated September 5, 2005]

**F.No.15/4/2004-NRI
Ministry of Finance
(Department of Economic Affairs)**

New Delhi, Dated the 31st August, 2005

NOTIFICATION

Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) (Amendment) Scheme, 2005.

G.S.R.No. 553(E), Central Government hereby amend the Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) Scheme, 1993, namely :-

1. This Scheme may be called the issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) (Amendment) Scheme, 2005.
2. The Scheme shall be deemed to have come into force from the date of publication of Notification; and
3. In the Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) Scheme, 1993;

After paragraph 3(1), the following sub-paragraph shall be inserted; namely:-

3(1)(A). An Indian company, which is not eligible to raise funds from the Indian capital market including a company which has been restrained from accessing the securities market by the Securities and Exchange Board of India (SEBI) will not be eligible to issue (i) Foreign Currency Convertible Bonds and (ii) Ordinary Shares through Global Depositary Receipts under the Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) Scheme, 1993.

3(1)(B). Unlisted Indian Companies issuing Global Depositary Receipts/Foreign Currency Convertible Bonds shall be required to simultaneously list in the Indian Stock Exchange(s).

3(1)(C) Erstwhile Overseas Corporate Bodies (OCBs) who are not eligible to invest in India through the portfolio route and entities prohibited to buy, sell or deal in securities by SEBI will not be eligible to subscribe to (i) Foreign Currency Convertible Bonds and (ii) Ordinary Shares through Global Depositary Receipts under the Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) Scheme, 1993.

In Paragraph 5 sub-paragraph (4) (c) shall read as follows :-

5(4) (ca) Listed Companies – The pricing should not be less than the **higher of the following two averages:**

- (i) The average of the weekly high and low of the closing prices of the related shares quoted on the stock exchange during the six months preceding the relevant date;

(ii) The average of the weekly high and low of the closing prices of the related shares quoted on a stock exchange during the two weeks preceding the relevant date.

The "relevant date" means the date thirty days prior to the date on which the meeting of the general body of shareholders is held, in terms of section 81(IA) of the Companies Act, 1956, to consider the proposed issue.

5(4) c(b) Unlisted Companies – The pricing should be in accordance with Reserve Bank of India Regulations notified under Foreign Exchange Management Act, 1999.

In Paragraph 5 (sub-paragraph (4) (e) (i) and (4) (e) (ii) shall be inserted, namely :-
5(4)(e)(i) Listed Companies - The conversion price of the Foreign Currency Convertible Bonds should be in accordance with para 5(4)(ca) ibid.

5(4)(e)(ii) Unlisted Companies - The conversion price of the Foreign Currency Convertible Bonds should be in accordance with Reserve Bank of India Regulations notified under Foreign Exchange Management Act, 1999.

(F.No.15/4/2004-NRI)

(U.K.SINHA)

JOINT SECRETARY TO THE GOVERNMENT OF INDIA

Foot Note :

(1). The Principal Scheme, viz., Issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism Scheme, 1993), was published in the Gazette of India, Extraordinary, Part II – Section 3 – Sub-section (i) on the 12th November 1993/Kartika 21, 1915). (Notification GSR No. 700 (E) dated 12th November, 1993).

(2) Amendment in the Original Scheme carried in Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) (Amendment) Scheme. 1999 was published in the Gazette of India, Extraordinary, Part II – Section 3 – Sub-section (i) on the 11th November 1999/Kartika 20, 1921. (Notification GSR.No.764(E), dated 10th November 1999).

(3) Amendment in the Original Scheme carried in Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) (Amendment) Scheme. 1999 was published in the Gazette of India, Extraordinary, Part II – Section 3 – Sub-section (i) on the 19th June 2000/Jyaistha 29, 1922. (Notification GSR.No.544(E), dated 16th June 2000).

(4) Amendment in the Original Scheme carried in Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) (Amendment) Scheme II, 2000 was published in the Gazette of India, (Extraordinary), under Part II – Section 3 – Sub-section (i) on the 14th November, 2000 /Kartika 23, 1922. (Notification GSR.No.865 (E), dated 10th November 2000).

(5) Amendment in the Original Scheme carried in Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) (Amendment) Scheme-III, 2000 was published in the Gazette of India, (Extraordinary), under Part II – Section 3 – Sub-section (i) on 14th November 2000/Kartika 23, 1922. (Notification GSR.No.866 (E), dated 10th November 2000).

(6) Amendment in the Original Scheme carried in Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) (Amendment) Scheme 2001 was published in the Gazette of India, (Extraordinary), under Part II – Section 3 – Sub-section (i) on 21st September, 2001/Bhadra 30, 1923. (Notification GSR.No.687 (E), dated 18th September, 2001).

(7) Amendment in the Original Scheme carried in Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) (Amendment) Scheme, 2002 was published in the Gazette of India, (Extraordinary), under Part II – Section 3 – Sub-section (i) on 13th February 2002/Magha 24, 1923. (Notification GSR.No.100(E), dated 13th February 2002).

(8) Amendment in the Original Scheme carried in Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) (Amendment) Scheme-II, 2002 was published in the Gazette of India, (Extraordinary), under Part II – Section 3 – Sub-section (i) on the 30th July 2002/Sravana 8, 1924. (Notification GSR.No.532(E), dated 29th July 2002).

(9) Amendment in the Original Scheme carried in Foreign Currency Convertible Bonds and Ordinary Shares (Through Depositary Receipt Mechanism) (Amendment) Scheme III, 2002 was published in the Gazette of India, (Extraordinary), under Part II – Section 3 – Sub-section (i) on 2nd December 2002/Agrahayana 11,1924 (Notification GSR.No.789(E), dated 2nd December 2002).

September 19, 2005

To
All Banks Authorised to Deal in Foreign Exchange

Madam/Sir,

Exim Bank's Line of Credit of USD 10 Million to
Banque Marocaine du Commerce Extérieur (BMCE Bank), Morocco

The Export-Import Bank of India (Exim Bank) has concluded an agreement with Banque Marocaine du Commerce Extérieur (BMCE Bank), Morocco on July 4, 2005 making available to the latter a Line of Credit (LOC) upto an aggregate sum of USD 10 Million (US Dollar Ten Million only). The credit agreement has become effective from July 22, 2005. The credit is available for financing any items that may be agreed upon between Exim Bank and BMCE Bank and which are eligible for being exported from India to buyers in Morocco under the Foreign Trade Policy of the Government of India. Full details of the Line of Credit are available at Exim Bank's office or it's website (www.eximbankindia.com).

2. The last dates for opening letters of credit and disbursement of credit are July 21, 2007 and January 21, 2008, respectively.
3. Shipments under the credit will have to be declared on GR / SDF Forms as per instructions issued from time to time.
4. No agency commission is ordinarily payable under the above line of credit. However, if necessary, the exporter can either use his own resources or utilise balances in his EEFC account for payment of commission in free foreign exchange. Authorised dealer banks may allow such remittance after realisation of full payment of contract value, subject to compliance of prevailing instructions on payment of agency commission. Further, Reserve Bank may consider on merit, requests for payment of agency 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 which require after sales service. In such cases, commission will have to be paid in Morocco 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 such payment of commission should be obtained before the relevant shipment is effected.

5. Authorised Dealer Banks may bring the contents of this circular to the notice of their exporter constituents.

6. The direction contained in this circular has been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act (FEMA), 1999 (42 of 1999) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

Vinay Baijal
Chief General Manager

September 27, 2005

To
All Banks Authorised to Deal in Foreign Exchange

Madam/Sir,

Import of Aircraft on Operating Lease - Security Deposits

Attention of Authorised Dealer banks (ADs) is invited to the A.P. (DIR Series) Circular No.24 dated March 1, 2002 wherein ADs have been permitted to remit lease rentals and open letter of credit (LC) towards security deposit for acquisition of aircraft by airline companies on operating lease.

2. Airline companies in India have been approaching the Reserve Bank to allow remittances towards security deposit with lessor for payment of lease rentals without a standby letter of credit / guarantee from a reputed international bank abroad / guarantee of an AD in India against the counter-guarantee of a reputed international bank abroad [cf: para A.6 (a) of the Master Circular dated July 01, 2005 on Import of Goods and Services].

3. It has now been decided that ADs may permit airline companies (other than a Public Sector company or a Department/Undertaking of the Government of India/State Government/s) to remit up to USD 1,000,000 (US Dollar one million only) per aircraft towards security deposit (for payment of lease rentals) with lessor for import of aircraft / aircraft engine / helicopter on operating lease without a standby letter of credit or a guarantee from a reputed international bank abroad or a guarantee of an AD in India against the counter-guarantee of a reputed international bank abroad subject to following conditions:

- (i) The AD is satisfied about the bona fides of the transaction.
- (ii) The airline company has obtained necessary approval from appropriate authority like Ministry of Civil Aviation/Director General of Civil Aviation, Government of India for importing the aircraft/helicopter on operating lease.
- (iii) Remittance is permitted as per the Policy on Advance Remittances approved by the Board of Directors of the bank or with the specific approval of the Board of Directors of the bank.
- (iv) The final maturity of the security deposit should not be beyond the date of the last instalment towards lease rental or date of return of the aircraft / helicopter to the lessor, whichever is later. If required, the deposit amount may be adjusted towards lease rentals. However, the balance security deposit, if any, should be repatriated before expiry of the lease period.

4. In case of an airline company in the Public Sector or a Department/Undertaking of the Government of India/State Government/s, ADs may permit remittance of amount exceeding USD 1,00,000 (US Dollar one hundred thousand only) per aircraft towards security deposit (for payment of lease rentals) with lessor subject to conditions (i) to (iv) in paragraph 3 above and a specific waiver of bank guarantee from the Ministry of Finance, Government of India.

5. Authorised Dealer banks may bring the contents of this circular to the notice of their constituents and customers 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) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

(Vinay Baijal)
Chief General Manager

October 27, 2005

To

All Banks Authorised to Deal in Foreign Exchange

Madam/Sir,

**Exim Bank's Line of Credit of USD 50 Million to
The Government of the Republic of Chad**

The Export-Import Bank of India (Exim Bank) has concluded an agreement with the Government of the Republic of Chad making available to the latter a Line of Credit (LOC) upto an aggregate sum of USD 50 Million (US Dollar Fifty Million only). The credit agreement has become effective on September 27, 2005. The credit is available for financing equipment, goods and services eligible for being exported from India under the Foreign Trade Policy of the Government of India for four projects in Chad viz.(a) cotton yarn plant valued at USD 24.5 million (b) steel billet plant and rolling mill valued at USD 11.5 million, (c) plant for assembly of agricultural equipment valued at USD 10 million and (d) bicycle plant valued at USD 4 million. Full details of the Line of Credit are available at the Exim Bank's office or its website (www.eximbankindia.com).

2. The terminal utilization period will expire at the end of 48 months from the completion date in case of project exports and 72 months from the date of execution of the Agreement i.e. August 29, 2011 in case of other supply contracts.

3. Shipments under the credit will have to be declared on GR / SDF Forms as per instructions issued from time to time.

4. No agency commission is payable under the above line of credit. However, if required the exporter may use his own resources or utilize balances of his EEFC account for payment of commission in free foreign exchange. The ADs may allow such remittance after realisation of full payment of contract value subject to compliance of prevailing instructions on payment of agency commission.

5. Authorised Dealers may bring the contents of this circular to the notice of their exporter constituents. Full details of the Line of Credit are available at the 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) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

B. P. Kanungo
General Manager- in - Charge

November 4, 2005

To
All Banks Authorised to deal in Foreign Exchange

Madam/Sir,

External Commercial Borrowings (ECB)

Attention of Authorised Dealer banks is invited to paragraphs 1(B)(i)(a) and 1(B)(v) in the Annex to A.P.(DIR Series) Circular No.5 dated August 1, 2005 regarding eligible borrowers and issuance of guarantee, standby letter of credit, letter of undertaking or letter of comfort relating to External Commercial Borrowings (ECB), under the Approval Route.

2. It has been decided to clarify/modify the ECB policy as indicated below:
 - (i) Currently, ECB proposals of financial institutions dealing exclusively with infrastructure or export finance are considered by the Reserve Bank on a case by case basis under the Approval Route. This practice will continue. However, it is clarified that Special Purpose Vehicles (SPVs) or any other entity, notified by the Reserve Bank, set up to finance infrastructure companies/projects exclusively will also be treated as financial institutions and ECB by such entities will be considered under the Approval Route on a case by case basis.
 - (ii) With a view to facilitating capacity expansion and technological upgradation in the Indian textile industry after the phasing out of Multi-Fibre Agreement, banks will be allowed to issue guarantees, standby letters of credit, letters of undertaking or letters of comfort in respect of ECB by textile companies for modernization or expansion of their textile units. Such applications will be considered under the Approval Route subject to prudential norms.
3. The amended ECB policy will come into force with immediate effect. This is subject to review.

4. Necessary amendments to the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000 dated May 3, 2000 are being issued separately.

5. Authorised Dealer banks may bring the contents of this circular to the notice of their constituents and customers.

6. The direction contained in this circular has been issued under section 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

Vinay Baijal
Chief General Manager

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

RBI/2005-06/203

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

November 11, 2005

To

All Banks Authorised to Deal in Foreign Exchange

Madam/Sir,

Foreign Investments in Asset Reconstruction Companies (ARC)

Attention of Authorized 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.20 dated 3rd May 2000 as amended from time to time.

2. Foreign Direct Investments in Asset Reconstruction Companies (ARCs)

In consultation with Government of India, it has been decided to permit persons/ entities eligible under the Foreign Direct Investment (FDI) route, other than FIIs to invest in the equity capital of Asset Reconstruction Companies (ARCs) registered with the Reserve Bank of India. A copy of the press release dated November 8, 2005 issued by the Government is enclosed.

It is clarified that in the ARCs, only Foreign Direct Investment will be permitted. However, investments by Foreign Institutional Investors (FIIs) will not be permitted.

Accordingly, Foreign Investment Promotion Board (FIPB) would henceforth consider applications from eligible persons/entities under the FDI route to invest in the paid up equity capital of Asset Reconstruction Companies which are registered with the Reserve Bank of India subject to the following conditions:

- (a) Maximum foreign equity shall not exceed 49% of the paid up equity capital of the ARC.

- (b) Where investment by any individual entity exceeds 10% of the paid up equity capital, ARC should comply with the provisions of Section 3(3) (f) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act).

3. Investments in Security Receipts issued by ARCs

It has also been decided to grant general permission to Foreign Institutional Investors (FIIs) registered with Securities and Exchange Board of India (SEBI) to invest in Security Receipts (SRs) issued by Asset Reconstruction Companies (ARCs) registered with RBI. FIIs can invest upto 49 per cent of each tranche of scheme of Security Receipts subject to condition that investment of a single FII in each tranche of scheme of SRs shall not exceed 10 per cent of the issue.

4. The policy on FDI in ARCs would be subject to review after two years and that of FII investment in SRs would be reviewed after one year.

5. Necessary amendments to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) are being issued separately.

6. Authorised Dealer banks may bring the contents of this circular to the notice of their constituents and customers concerned.

7. The direction contained in this circular has been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and is without prejudice to permissions/approvals, if any, required under any other law.

Yours faithfully,

(Vinay Baijal)
Chief General Manager

RBI/2005-06/223

A. P. (DIR Series) Circular No. 17

December 02, 2005

To

All Banks Authorised to Deal in Foreign Exchange

Madam/Sir,

**Exim Bank's Line of Credit of US\$ 27 Million to
The Government of the Republic of Ghana**

The Export-Import Bank of India (Exim Bank) has concluded an agreement with the Government of the Republic of Ghana making available to the latter a Line of Credit (LOC) upto an aggregate sum of USD 27 Million (US Dollar Twenty Seven Million only). The credit agreement has become effective on November 16, 2005. The credit is available for financing exports of goods and services to Ghana for projects in agriculture, rural electrification, transportation and communication and which are eligible for export under the Foreign Trade Policy of the Government of India. Full details of the Line of Credit are available at the Exim Bank's office or its website (www.eximbankindia.com).

2. The terminal date for opening of Letters of Credit is November 15, 2007 (24 months from effective date of Credit Agreement). The last date for disbursement is 48 months from the scheduled completion date of contract in case of project exports and 60 months from the date of execution of the Agreement i.e. August 23, 2010 in case of other supply contracts.

3. Shipments under the credit will have to be declared on GR/SDF Forms as per instructions issued from time to time.

4. No agency commission is payable under the above line of credit. However, if required, the exporter may use his own resources or utilize balances in his EEFC account for payment of commission in free foreign exchange. Authorised Dealer banks (ADs) may allow such remittance after realisation of full payment of contract

value subject to compliance of prevailing instructions on payment of agency commission.

5. ADs may bring the contents of this circular to the notice of their exporter constituents.

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) and is without prejudice to permissions/approvals, if any, required under any other law.

Yours faithfully,

(Vinay Baijal)
Chief General Manager

December 02, 2005

To,

All Authorized Money Changers

Madam / Sir,

Anti-Money Laundering Guidelines for Authorized Money Changers

Attention of the Authorized Money Changers (AMCs) is invited to the Memorandum of Instructions containing the procedural instructions for adherence by AMCs while undertaking money changing transactions.

2. In view of the increased concerns regarding money laundering activities and to prevent AMCs from being misused for such activities, it is necessary for all AMCs to formulate suitable policies and procedures in this regard. The Anti-Money Laundering (AML) measures so formulated should include (i) Customer Identification procedure - "Know Your Customer" norms (ii) Recognition, handling and disclosure of suspicious transactions (iii) Appointment of Money Laundering Reporting Officer (MLRO) (iv) Staff Training (v) Maintenance of records (vi) Audit of transactions.
3. To enable AMCs to put in place the policy framework and systems for prevention of money laundering while undertaking money changing transactions, the Reserve Bank has brought out detailed Anti-Money Laundering (AML) guidelines. All AMCs are, therefore, advised to ensure that a proper policy framework on "Know Your Customer" and Anti Money Laundering measures, in accordance with the annexed guidelines, is formulated with the approval of the Board of Directors and put in place before **March 31, 2006**.
4. AMCs may bring the contents of this circular to the notice of their constituents concerned.
5. The AML guidelines would be applicable mutatis mutandis to all franchisees of AMCs and it will be the sole responsibility of the AMC concerned to ensure that their franchisees also adhere to the AML guidelines.
6. Necessary amendments to the Memorandum of Instructions to AMCs 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). Non-compliance with the guidelines would attract penal provisions of Section 11(3) of the Act *ibid*.

Yours faithfully,

(Vinay Baijal)
Chief General Manager

Anti-Money Laundering Guidelines for Authorised Money Changers

1. Money Laundering

The offence of Money Laundering has been defined in Section 3 of the Prevention of Money Laundering Act, 2002 (PMLA) as “whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property shall be guilty of offence of money-laundering“. In common man’s language, Money Laundering can be called a process by which money or other assets obtained as proceeds of crime are exchanged for “clean money” or other assets with no obvious link to their criminal origins.

2. Anti-Money Laundering Guidelines

The purpose of prescribing Anti-Money Laundering Guidelines is to prevent the system of Authorised Money Changers (AMCs) engaged in the purchase and / or sale of foreign currency notes/Travelers cheques from being used for money laundering. Therefore, Anti-Money Laundering (AML) measures should include

- a) Identification of Customer according to “Know Your Customer” norms,
- b) Recognition, handling and disclosure of suspicious transactions,
- c) Appointment of Money Laundering Reporting Officer (MLRO),
- d) Staff Training,
- e) Maintenance of records,
- f) Audit of transactions.

The following paragraphs contain broad guidelines to enable AMCs to formulate and put in place a proper policy framework for AML measures.

3. Know Your Customer (KYC) – Identification of Customers

All transactions should be undertaken only after proper identification of the customer. **Photocopies of proof of identification should invariably be retained by the AMC after verifying the document in original.** Full details of name and address as well as the details of the identity document provided should also be kept on record. If a transaction is being undertaken on behalf of another person, identification evidence of all the persons concerned should be obtained and kept on record.

4. Purchase of Foreign Exchange

- a) For encashment of foreign currency notes and/or Travelers Cheques upto USD 500 or its equivalent, production of passport need not be insisted upon and any other suitable document of identification like ration card, driving licence etc. can also be accepted.
- b) For verification of the identity of customer for encashment in excess of USD 500 or its equivalent, a photo identity document such as passport, driving licence, PAN Card, voter identity card issued by the Election Commission, etc. should be obtained
- c) Requests for payment of sale proceeds in cash may be acceded to the extent of USD 1000 or its equivalent per transaction. All encashment within one month may be treated as single transaction for the purpose. In all other cases AMCs should make payment by way of "Account Payee" cheque / demand draft only.

d) Where the amount of forex tendered for encashment by a non-resident or a person returning from abroad exceeds the limits prescribed for Currency Declaration Form (CDF), the AMC should invariably insist for production of declaration in CDF.

5. In all cases of sale of foreign exchange, irrespective of the amount involved, for identification purpose the passport of the customer should be insisted upon. The sale of forex should be made only on personal application and identification. Payment in excess of Rs. 50,000/- towards sale of foreign exchange should be received only by account payee cheque / demand draft. All purchases by a person within one month may be treated as single transaction for the purpose. Encashment Certificate, wherever required, should also be insisted upon.

6. Establishment of business relationship

Relationship with a business entity like a company / firm should be established only after obtaining and verifying suitable documents in support of name, address and business activity such as certificate of incorporation under the Companies Act, 1956, MOA and AOA, registration certificate of a firm (if registered), partnership deed, etc. A list of employees who would be authorised to transact on behalf of the company/ firm and documents of their identification together with their signatures, should also be called for.

Copies of all documents called for verification should be kept on record.

7. Suspicious Transactions

The AMC must ensure that its staff is vigilant against money laundering transactions at all times. An important part of the AML measures is determining whether a transaction is suspicious or not. A transaction may be of suspicious nature irrespective of the amount involved.

Some possible suspicious activity indicators are given below:

- Customer is reluctant to provide details/documents on frivolous grounds.
- The transaction is undertaken by one or more intermediaries to protect the identity of the beneficiary or hide their involvement.
- Large cash transactions.
- Size and frequency of transactions is high considering the normal business of the customer.
- Change in the pattern of business transacted.

The above list is only indicative and not exhaustive.

8. Appointment of a Money Laundering Reporting Officer (MLRO)

- (a) An MLRO may be appointed by every AMC for monitoring transactions and ensuring compliance with the AML Guidelines issued by the Reserve Bank from time to time. The MLRO will also be responsible for reporting of suspicious transaction/s to the Financial Intelligence Unit (FIU). Any suspicious transaction/s, if undertaken, should have prior approval of MLRO.
- (b) The MLRO shall have reasonable access to all the necessary information/ documents, which would help him in effective discharge of his responsibilities.
- (c) The responsibility of the MLRO may include :

- Putting in place necessary controls for detection of suspicious transactions.
- Receiving disclosures related to suspicious transactions from the staff or otherwise.
- Deciding whether a transaction should be reported to the appropriate authorities
- Training of staff and preparing detailed guidelines / handbook for detection of suspicious transactions.
- Preparing annual reports on the adequacy or otherwise of systems and procedures in place to prevent money laundering and submit it to the Top Management within 3 months of the end of the financial year.

9. Reporting of Suspicious Activity

- To the extent possible, all suspicious transactions should be reported to the MLRO before they are undertaken.
- Full details of all suspicious transactions, whether put through or not, should be reported, in writing, to the MLRO.
- Any transaction which seems suspicious may be undertaken only with prior approval of MLRO.
- If the MLRO is reasonably satisfied that the suspicious transaction has / may have resulted in money laundering, he should make a report to the appropriate authority viz. the FIU.

10. Staff Training

All the managers and staff of the AMC must be trained to be aware of the policies and procedures relating to prevention of money laundering, provisions of the PMLA and the need to monitor all transactions to ensure that no suspicious activity is being undertaken under the guise of money changing. The steps to be taken when the staff come across any suspicious transactions (such as asking questions about the source of funds, checking the identification documents carefully, reporting immediately to the MLRO, etc.) should be carefully formulated by the AMC and suitable procedure laid down. The AMCs should have an ongoing training programme for consistent implementation of the AML measures

11. Audit/Compliance

The concurrent auditor should check all transactions to verify that they have been done in compliance with the anti-money laundering guidelines and have been reported as required. Compliance on the lapses, if any, recorded by the concurrent auditor should be put up to the Board. A certificate from the Statutory Auditor on the compliance with AML guidelines should be obtained at the time of preparation of the Annual Report and kept on record.

12. Maintenance of records

The following documents should be preserved for a minimum period of five years.

- Records including identification obtained in respect of all transactions.
- Statements / Registers prescribed by the Reserve Bank from time to time.
- All Inspection / Audit / Concurrent Audit Reports.
- Annual reports of the MLRO submitted to the Top Management in terms of paragraph 8 above.
- Details of all suspicious transactions reported in writing or otherwise to the MLRO.
- Details of all transactions involving purchase of foreign exchange against payment in cash exceeding **Indian Rupees 10,00,000** from inter-related persons during one month.

- All correspondence/ reports with the appropriate authority in connection with suspicious transactions.
- References from Law Enforcement Authorities, including FIU, should be preserved until the cases are adjudicated and closed.

January 2, 2006

To,

All Banks Authorised to Deal in Foreign Exchange

Madam / Sir,

Exim Bank's Line of Credit of US\$ 27 Million to The Government of the Republic of Mali

The Export-Import Bank of India (Exim Bank) has concluded an agreement with the Government of the Republic of Mali making available to the latter a Line of Credit (LOC) upto an aggregate sum of USD 27 Million (US Dollar Twenty-Seven Million only). The credit agreement has become effective on December 5, 2005. The credit is available for financing exports from India, under the Foreign Trade Policy of the Government of India, of equipment, goods and services for rural electrification (USD 15 million) and setting up of agro-machinery and tractor assembly plant (USD 12 million) in Mali. Full details of the Line of Credit are available at the Exim Bank's office or its website (www.eximbankindia.com).

2. The terminal utilization period is 48 months from the scheduled completion date of contract in case of project exports and 72 months from the date of execution of the Agreement i.e. August 07, 2011 in case of other supply contracts.
3. Shipments under the credit will have to be declared on GR/SDF Forms as per instructions issued from time to time.
4. No agency commission is payable under the above line of credit, however, if required the exporter may use his own resources or utilize balances of his EEFC account for payment of commission in free foreign exchange. Authorised Dealer (AD) banks may allow such remittance after realisation of full payment of contract value subject to compliance of prevailing instructions on payment of agency commission.
5. AD banks may bring the contents of this circular to the notice of their exporter constituents.

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) and is without prejudice to permissions/approvals, if any, required under any other law.

Yours faithfully,

(Vinay Baijal)
Chief General Manager

January 05, 2006

To,

All Banks Authorised to Deal in Foreign Exchange

Madam / Sir,

Exim Bank's Line of Credit of US\$26.8 Million
to the Government of Cote d'Ivoire

The Export-Import Bank of India (Exim Bank) has concluded an agreement with the Government of Cote d'Ivoire making available to the latter a Line of Credit (LOC) upto an aggregate sum of USD 26.8 Million (US Dollar Twenty Six million Eight Hundred Thousand only). The credit agreement has become effective on December 5, 2005. The credit is available for financing exports from India, under the Foreign Trade Policy of the Government of India, of goods and services for renewal of urban transport system in Abidjan with procurement of buses from India (US\$ 21.8 million) and setting up of agricultural projects in the field of vegetable oil extraction, fruits and vegetables chips production, production of cocoa, coffee etc. (US\$ 5 million). Full details of the Line of Credit are available at the Exim Bank's office or its website (www.eximbankindia.com)

2. The terminal utilization period is 48 months from scheduled completion date of contract in case of project exports and 60 months from the date of execution of the Agreement i.e. August 02, 2010 in case of other supply contracts

3. Shipments under the credit will have to be declared on GR/SDF Forms as per instructions issued from time to time.

4. No agency commission is payable under the above line of credit. However, if required, the exporter may use his own resources or utilize balances in his EEFC account for payment of commission in free foreign

exchange. The Authorised Dealer (AD) banks may allow such remittance after realisation of full payment of contract value subject to compliance of prevailing instructions on payment of agency commission.

5. AD banks may bring the contents of this circular to the notice of their exporter constituents.

6. 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) and is without prejudice to permissions/approvals, if any, required under any other law.

Yours faithfully,

(Vinay Baijal)
Chief General Manager

January 10, 2006

To,
All Banks Authorised to Deal in Foreign Exchange
Madam / Sir,

Export of Goods and Services - Liberalisation - GR Approval for export

Attention of Authorised Dealer (AD) banks is invited to A.P. (DIR Series) Circular No.30 dated March 26, 2002 in terms of which AD banks have been delegated powers to approve GR form for export of items for display or display-cum-sale in trade fairs / exhibitions outside India subject to the conditions specified therein.

2. With a view to further liberalise the facilities available to exporters and simplify the procedure for export, it has been decided to delegate powers to AD banks for grant of GR approval in cases where goods are being exported for re-import after repairs / maintenance / testing / calibration, etc. Accordingly, AD banks may, henceforth, consider grant of GR approval, in cases where goods are being exported for repairs, maintenance, calibration, testing etc. and subsequently re-imported after necessary repairs / maintenance / calibration / testing, etc. subject to the condition that the exporter shall produce relative Bill of Entry within one month of re-import of the exported item from India.

3. It is clarified that in cases where the goods being exported for testing are destroyed during testing, AD banks may obtain a certificate issued by the testing agency that the goods have been destroyed during testing, in lieu of Bill of Entry for import.

4. AD banks 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) and is without prejudice to permissions/approvals, if any, required under any other law.

Yours faithfully,

(Vinay Baijal)
Chief General Manager

RBI/2005-06/277

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

January 19, 2006

To,

All Banks Authorised to Deal in Foreign Exchange

Madam / Sir,

**Exim Bank's Line of Credit of US\$ 10 Million
to Absolut Bank, Russia.**

The Export-Import Bank of India (Exim Bank) has concluded an agreement with Absolut Bank, Russia making available to the latter a Line of Credit (LOC) upto an aggregate sum of USD 10 Million (US Dollar Ten Million only). The credit agreement has become effective on December 15, 2005. The credit is available for financing exports from India of any item that might be agreed upon between Exim Bank and the borrower which is eligible for export under the Foreign Trade Policy of the Government of India. Full details of the Line of Credit are available at the Exim Bank's office or its website (www.eximbankindia.com).

2. The terminal utilization period is 24 months from the effective date of Credit Agreement i.e. December 14, 2007 which may be extended depending on utilisation. The period of disbursement is 30 months from effective date of Credit Agreement i.e. June 14, 2008 which may be extended depending on utilisation.

3. Shipments under the credit will have to be declared on GR/SDF Forms as per instructions issued from time to time.

4. Reserve Bank will consider on merit, requests for payment of agency 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 which require after sales service. In such cases, commission will have to be paid in Russia 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 such payment of commission should be obtained before the relevant shipment is effected. In addition, the exporter can either use his own resources or

utilize balances in his EEFC account for payment of commission in free foreign exchange and Authorised Dealer (AD) banks may allow such remittance after realisation of full payment of contract value subject to compliance of prevailing instructions on payment of agency commission.

5. AD banks may bring the contents of this circular to the notice of their exporter constituents.

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) and is without prejudice to permissions/approvals, if any, required under any other law.

Yours faithfully,

(Vinay Baijal)
Chief General Manager

January 23, 2006

To

All Banks Authorised to Deal in Foreign Exchange

Madam / Sir,

External Commercial Borrowings (ECB) by Multi-State Co-operative Societies

Attention of Authorised Dealer banks is invited to paragraph 1(B) (i) of the Annex to A. P. (DIR Series) Circular No.5 dated August 1, 2005 regarding borrowers eligible to access External Commercial Borrowings (ECB) under the Approval Route.

2. Keeping in view recent developments and representations received from various organisations, it has been decided to allow Multi-State Co-operative Societies engaged in manufacturing activity to raise ECB. The proposals for ECB by Multi-State Co-operative Societies engaged in manufacturing activity would be considered by the Reserve Bank under the Approval Route, provided :

- (i) the Co-operative Society is financially solvent,
- (ii) the Co-operative Society submits its up-to-date audited balance sheet and
- (iii) the proposal complies with all other parameters of ECB guidelines such as recognised lender, permitted end-use, average maturity period, all-in-cost ceiling etc. as mentioned in paragraph 1 (B) of the circular dated August 01, 2005, referred to above.

3. Authorised Dealer banks 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 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

Vinay Bajjal
Chief General Manager

January 25, 2006

To

All Banks Authorised to Deal in Foreign Exchange

Madam / Sir,

Foreign Investment in Tier I and Tier II instruments issued by banks in India

Attention of Authorized Dealer (AD) banks 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.20 dated 3rd May 2000, as amended from time to time. Regulation 5 of the said Notification read with Schedule 2, 3 and 5 specifies the capital market instruments which can be subscribed to by Foreign Institutional Investors (FIIs) registered with Securities and Exchange Board of India (SEBI) and by Non-Resident Indians (NRIs).

2. With a view to permit banks in India to augment their capital through issue of Perpetual Debt instruments eligible for inclusion as Tier I capital and Debt capital instruments as upper Tier II capital, it has been decided to permit the following category of foreign investors to subscribe to these instruments:

- (i) Foreign Institutional Investors (FIIs) registered with SEBI, and
- (ii) Non-Resident Indians (NRIs)

3. The foreign investments in these instruments will be subject to the following conditions.

- a) The investment by all FIIs in Perpetual Debt instruments (Tier I) should not exceed an aggregate ceiling of 49 per cent of each issue, and investment by individual FII should not exceed the limit of 10 per cent of each issue.

- b) The investments by all NRIs in Perpetual Debt instruments (Tier I) should not exceed an aggregate ceiling of 24 per cent of each issue and investments by a single NRI should not exceed 5 percent of the issue.
 - c) The investment by FIIs in Debt capital instruments (Tier II) shall be within the limits stipulated by SEBI for FII investment in corporate debt.
 - d) Investment by NRIs in Debt capital instruments (Tier II) shall be in accordance with the extant policy for investment by NRIs in other debt instruments.
4. The issuing banks will be required to ensure compliance with the conditions stipulated in paragraph 3 above at the time of issue.
5. The issue-wise details of amount raised as Perpetual Debt Instruments qualifying for Tier I capital by the bank from FIIs/NRIs are required to be reported within 30 days of the issue in the annexed proforma to the Chief General Manager, Reserve Bank of India, Foreign Exchange Department, Foreign Investment Division, Central Office, Mumbai 400 001. The details of the secondary market sales / purchases by FIIs and the NRIs in these instruments on the floor of the stock exchange shall be reported by the custodians and designated banks, respectively to the Reserve Bank of India through the soft copy of the LEC Returns, on a daily basis, as prescribed in Schedule 2 and 3 of the Notification under reference.
6. The banks issuing Perpetual Debt instruments and Debt capital instruments shall also comply with the guidelines notified by the Department of Banking Operations and Development (DBOD), Reserve Bank of India, from time to time.
7. Necessary amendments to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations are being issued separately.
8. Authorised Dealer banks may bring the contents of this circular to the notice of their constituents and customers concerned.
9. The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

Vinay Baijal
Chief General Manager

Annex

**Details of Investments by FIIs and NRIs in
Perpetual Debt instruments qualifying as Tier-I capital**

a) Name of the bank :

b) Total issue size/
amount raised (in Rupees) :

c) Date of issue :

FIIs			NRIs		
No of FIIs	Amount raised		No. of NRIs	Amount raised	
	in Rupees	as a percentage of the total issue size		in Rupees	as a percentage of the total issue size

It is certified that

- (i) the aggregate investment by all FIIs does not exceed 49 percent of the issue size and investment by no individual FII exceeds 10 percent of the issue size.
- (ii) It is certified that the aggregate investment by all NRIs does not exceed 24 percent of the issue size and investment by no individual NRI exceeds 5 percent of the issue size.

Authorised Signatory

Date

Seal of the bank

RBI/2005-06/314

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

A.P. (FL Series) Circular No. 02

March 6, 2006

To,

All banks Authorised to Deal in Foreign Exchange
All Authorised Money Changers (AMCs) / Full-Fledged Money Changers (FFMCs)

Dear Madam / Sir,

Authorised Persons- Categorisation

In terms of Section 10 (1) of the Foreign Exchange Management Act, 1999, the Reserve Bank, on an application, may authorise any person to be known as an authorised person, to deal in foreign exchange as an authorised dealer, money changer or off-shore banking unit or in any other manner as it deems fit.

2. Currently, Reserve Bank issues licences to authorised dealers (banks authorised to deal in foreign exchange) and Full Fledged Money Changers. Licences are also granted to financial and other institutions to carry out specific foreign exchange transactions related to their business / activities.

3. With the progressive liberalisation in foreign exchange related transactions, a large segment of the population can now undertake a variety of current account transactions on their individual accounts, without approaching the Reserve Bank. With a view to providing adequate foreign exchange facilities to common persons, to widen the scope of activities which the Authorised Persons are eligible to undertake, to increase the number of entities that are eligible to sell foreign exchange to the public for their day-to-day current account transactions and to ensure efficient customer service through competition, an internal group was constituted to study the related issues. The Group was required to make recommendations keeping in view the enhanced as well as wider access and accompanying safeguards, especially reporting requirements. The Report "Licensing Policy for Authorised Persons - Liberalisation" was placed on the Reserve Bank website on December 1, 2005, inviting feedback from the public.

4. Taking into account the feedback received on the Report, Reserve Bank has decided to issue authorisation to select entities as given below, for undertaking release / remittance of foreign exchange for various current account non-trade related transactions. Consequently, all entities issued authorisation under sub-section (i) of Section 10 of the Foreign Exchange Management Act, 1999 will be categorised / re-categorised as under:

(a) Banks currently authorised to deal in foreign exchange.	Authorised Dealers (ADs) Category I
(b) (i) Upgraded FFMCS } (ii) Select RRBs } (iii) Select UCBs } (iv) Other entities }	Authorised Dealers (ADs) Category II
(c) Select Financial and other Institutions	Authorised Dealers (ADs) Category III
(d) FFMCS	No change

5. The details of the scheme for issue of authorisation as Authorised Dealers - Category II are given in Annex I to this circular.

6. The contents of this circular may be brought to the notice of all your 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) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

(Vinay Baijal)
Chief General Manager

[Annexure to A. P. (DIR Series) Circular No. 25 dated March 6, 2006]

Authorised Person- - Authorisation as Authorised Dealer (AD) - Category II

Scheme

With a view to providing adequate foreign exchange facilities to common persons for efficient customer service through competition there was a need to widen the scope of activities which the Authorised Persons are currently eligible to undertake and also to increase the number of entities that are eligible to sell foreign exchange to public for their day-to-day current account transactions. The Reserve Bank has, therefore, decided to grant licences to certain entities to undertake more transactions, in addition to what Full Fledged Money Changers (FFMCs) are currently permitted, by authorising them to undertake release / remittance of foreign exchange for certain non-trade related current account transactions. Such entities will be called Authorised Dealers – Category II (ADs - Category II).

2. Classification of Persons Authorised to deal in the foreign exchange

Sr. No.	Present category	Entities	Revised category	Major Activities
1.	Authorised Dealer	<ul style="list-style-type: none"> Commercial Banks State Co-op Banks Urban Co-op Banks 	Authorised Dealer - Category - I	All current and capital account transactions according to RBI directions issued from time-to-time. (No Change).
2.	-	<ul style="list-style-type: none"> Upgraded FFMCs Co-op. Banks Regional Rural Banks (RRBs) Others 	Authorised Dealer - Category - II	Specified non-trade related current account transactions as at paragraph 3 below as also all the activities permitted to Full Fledged Money Changers. Any other activity as decided by the Reserve Bank.
3.	-	<ul style="list-style-type: none"> Select Financial and other Institutions 	Authorised Dealer - Category - III	Transactions incidental to the foreign exchange activities undertaken by these institutions. (No Change)
4.	Full Fledged Money Changers (FFMCs)	<ul style="list-style-type: none"> Dept. of Posts Urban Co-op. Banks Other FFMCs 	FFMCs	Purchase of foreign exchange and sale for private and business visits abroad. (No Change)

3. Enhanced Activities permitted to ADs - Category II

ADs-Category II will be permitted to release / remit foreign exchange for the following transactions:

- (a) Private Visits,
- (b) Remittance by tour operators / travel agents to overseas agents / principals / hotels,
- (c) Business Travel,
- (d) Fee for participation in global conferences and specialized training,
- (e) Remittance for participation in international events / competitions (towards training, sponsorship and prize money).
- (f) Film shooting,
- (g) Medical Treatment abroad,
- (h) Disbursement of crew wages,
- (i) Overseas Education,
- (j) Remittance under educational tie up arrangements with universities abroad,
- (k) Remittance towards fees for examinations held in India and abroad and additional score sheets for GRE, TOEFL etc.,
- (l) Employment and processing, assessment fees for overseas job applications,
- (m) Emigration and Emigration Consultancy Fees,
- (n) Skills / credential assessment fees for intending migrants,
- (o) Visa fees,
- (p) Processing fees for registration of documents as required by the Portuguese / other Governments,
- (q) Registration / Subscription / Membership fees to International Organizations.

ADs - Category II may also be permitted to undertake additional activities as decided by the Reserve Bank, on case by case basis.

4. Eligibility Criteria for grant of AD Category II licence

In view of the current dispensation available to various categories of authorised persons and in the light of regulatory framework under which each category of institutions is functioning, the issue of granting them licence as an AD-Category II has been considered. The eligibility criteria primarily depend on strong financials, good governance, regulatory / prudential comfort and adequate internal control mechanism. It has been decided that the following category of institutions could be considered for the purpose.

A. Existing Full-fledged Money Changers (FFMCs)

Reserve Bank will consider granting AD-Category II licence to the existing, well functioning FFMCs, with strong financials, that demonstrate good governance while providing regulatory / prudential comfort. The criteria for upgradation of existing FFMCs to AD-Category II include minimum net owned funds of Rs. 10 crores; satisfactory functioning as FFMC for at least two years and satisfactory credit report from their bankers.

B. Urban Co-operative Banks (UCBs)

With the adoption of the road map as outlined in the “vision document” for Cooperative sector many of the supervisory concerns of the sector are being addressed. AD Category- II are not permitted to undertake any open position risk and the activities permitted under these licences only allow conversion from one currency to another currency. Therefore, Urban Co-operative Banks with strong financials, good governance and providing regulatory / prudential comfort will be considered, on case by case basis, for licencing as AD-Category II

C. Regional Rural Banks (RRBs)

In view of the wide branch network of RRBs and with a view to providing foreign exchange services at the doorstep of the common person, RRBs with strong financials, good governance and providing regulatory/supervisory comfort and having requisite skills and capabilities will be considered for granting licences as AD-Category II.

5. Opening of Foreign Currency Accounts (Nostro) abroad

The entities proposed to be licensed as AD-Category II are being permitted to undertake the transactions that involve conversion of one currency into another. Such transactions may not necessarily require opening and maintaining foreign currency denominated (NOSTRO) account with a bank outside India. However, to facilitate issuance of foreign currency draft, etc. for such transactions, the AD-Category II may enter into arrangements with banks authorised to deal in foreign exchange in India.

6. Reporting

The ADs-Category II are required to submit the following monthly statements of transactions:

A. Category-wise statement of transactions where the amount exceeds USD 5,000 per transaction initially, so that a review could be made of the threshold in six months and a firmer threshold may be arrived at.

B. Category-wise, transaction-wise statement where the amount exceeds US \$ 25,000 per transaction.

The formats of the reports are given in Annex II to this circular.

7. Inspection / Audit

For ADs-Category II, an auditor's certificate confirming compliance with the Rules / Regulations / Directions will be adequate. However, the Reserve Bank reserves the right to inspect them when considered necessary. Reserve Bank may also require a special audit of the ADs-Category II, depending on the nature of the transactions, by an auditor from the approved list of the Reserve Bank/ Institute of Chartered Accountants of India.

8. Anti-Money Laundering / Know Your Customer (KYC) Norms

KYC and Anti-Money Laundering norms prescribed for FFCs will be applicable to ADs-Category II also.

Annex II**[Annexure to A. P. (DIR Series) Circular No. 25 dated March 6, 2006]****Monthly Report to be submitted by the AD-Category II for the month of _____**

The reports should be sent to the Chief General Manager, Foreign Exchange Department, Forex Markets Division, Central Office, Amar Bhawan, Mumbai-400 001 by the 15th of the following month. The report may be e-mailed in EXCEL spreadsheet on fedcofmd@rbi.org.in.

Name of the AD Category - II**Address:****Part - A**

(Category-wise transaction where the amount exceeds USD 5000 per transaction)

Sl.No.	Purpose of Remittance	No. of transactions	Total amount
a)	Private Visits		
b)	Remittance by tour operators/travel agents to Overseas agents/principals/hotels		
c)	Business Travel		
d)	Fee for participation in global conferences and Specialized training		
e)	Remittance for participation in international events/competitions (towards training sponsorship and prize money)		
f)	Film shooting		
g)	Medical Treatment abroad		
h)	Disbursement of crew wages		
i)	Overseas Education		
j)	Remittance under educational tie up arrangements with universities abroad		
k)	Remittance towards fees for examinations held in India and abroad and additional score sheets for GRE, TOEFL etc.		
l)	Employment and processing assessment fees for overseas job applications		
m)	Emigration and Emigration Consultancy Fees		
n)	Skills/credential assessment fees for intending migrants		
o)	Visa fees		
p)	Processing fees for registration of documents as required by the Portuguese/other Governments.		
q)	Registration/Subscription/Membership fees to International Organizations		

Part – B

(Category-wise, transaction-wise details
where the amount exceeds USD 25000 per transaction)

a) Private Visits		
Sl.No.	Name	Amount
1		
2		
3		
...		
...		

b) Remittance by tour operators/travel agents to overseas agents/principals/hotels		
Sl.No.	Name	Amount
1		
2		
3		
...		
...		

c) Business Travel		
Sl.No.	Name	Amount
1		
2		
3		
...		
...		

(The report should contain details of each category of transactions from (a) to (q) as mentioned in paragraph 3 of Annex I).

March 24, 2006

To,
All Banks Authorised to deal in Foreign Exchange

Madam / Sir,

**Exim Bank's Line of Credit of USD 5 Million to
Eastern and Southern African Trade & Development Bank (PTA)Bank**

The Export-Import Bank of India (Exim Bank) has concluded an agreement with the Eastern and Southern African Trade & Development Bank (PTA Bank) making available to the latter a Line of Credit (LOC) upto an aggregate sum of USD 5 Million (US Dollar Five Million only). The credit agreement has become effective on February 17, 2006.

2. The credit is available for financing export of eligible goods and services from India under the "Foreign Trade Policy" of the Government of India to 17 member countries of PTA Bank viz. Burundi, Comoros, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Malawi, Mauritius, Rwanda, Seychelles, Somalia, Sudan, Tanzania, Uganda, Zambia & Zimbabwe in Eastern and Southern Africa. Full details of the Line of Credit are available at Exim Bank's office or it's website (www.eximindia.com).

3. The last dates for opening letters of credit and disbursement of credit are August 16, 2007 and February 16, 2008, respectively.

4. Shipments under the credit will have to be declared on GR / SDF Forms as per instructions issued from time to time.

5. Exporters can either use their own resources or utilise the balances in their EEFC account for payment of agency commission in free foreign exchange, for export of goods under the LOC. However, no reimbursement will be available to the exporter from Exim Bank for payment of agency commission under the LOC. Authorised Dealer banks may allow remittance towards agency commission after realisation of full payment of contract value subject to compliance of prevailing instructions on payment of agency commission.

In addition, Reserve Bank may, on merit, consider requests for payment of commission upto a maximum limit of 5 per cent of the f.o.b./ c&f / c.i.f. value in respect of goods exported which require after sales service. In such cases, commission will have to be paid in member countries of PTA Bank 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 of Reserve Bank of India for such payment of commission should be obtained before the relevant shipment is effected.

6. Authorised Dealer banks may bring the contents of this circular to the notice of their exporter constituents.

7. The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act (FEMA), 1999 (42 of 1999) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

Vinay Baijal
Chief General Manager

March 24, 2006

To,

All Banks Authorised to Deal in Foreign Exchange

Madam / Sir,

Exim Bank's Line of Credit of US\$ 60 Million
to the Government of Ghana

The Export-Import Bank of India (Exim Bank) has concluded an agreement with the Government of Ghana making available to the latter a Line of Credit (LOC) upto an aggregate sum of USD 60 million (US Dollar Sixty million only). The credit agreement has become effective on February 27, 2006. The credit is available for financing exports from India, of equipment, goods and services for rural electrification Project (USD 30 mn) and construction of Presidential Office (USD 30 mn) in Ghana, which are eligible for export under the Foreign Trade Policy of the Government of India. Full details of the Line of Credit are available at the Exim Bank's office or its website (www.eximbankindia.com)

2. The terminal utilization period under the LOC is 48 months from scheduled completion date of contract in case of project exports and 60 months from the date of execution of the Agreement i.e. August 23, 2010 in case of other supply contracts
3. Shipments under the credit will have to be declared on GR/SDF Forms as per instructions issued from time to time.
4. No agency commission is payable under the above line of credit. However, if required the exporter may use his own resources or utilize balances in his EEFC account for payment of commission in free foreign exchange. Authorised Dealer banks may allow such remittance after realisation of full payment of contract value subject to compliance of prevailing instructions on payment of agency commission.

5. Authorised Dealer banks may bring the contents of this circular to the notice of their exporter constituents.

6. 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) and is without prejudice to permissions/approvals, if any, required under any other law.

Yours faithfully,

Vinay Baijal
Chief General Manager

March 24, 2006

To,

All Banks Authorised to Deal in Foreign Exchange

Madam / Sir,

Exim Bank's Line of Credit of US\$ 33.5 Million
to the Government of Democratic Republic of Congo (DR Congo)

The Export-Import Bank of India (Exim Bank) has concluded an agreement with the Government of Democratic Republic of Congo (DR Congo) making available to the latter a Line of Credit (LOC) upto an aggregate sum of USD 33.5 million (US Dollar Thirty three million five hundred thousand only). The credit agreement has become effective on February 20, 2006. The credit is available for financing export from India, of 228 Buses (US\$ 12.5 mn), equipments for Miniere de Bakwanga (MIBA) (US\$ 2 mn) and other equipment, goods and services including consultancy services for setting up a cement factory (US\$13 mn) and rehabilitation of mine in Idsenge Manganse (US\$ 6 mn), in Congo, which are eligible for export under the Foreign Trade Policy of the Government of India. Full details of the Line of Credit are available at the Exim Bank's office or its website (www.eximbankindia.com)

2. The terminal utilization period is 48 months from scheduled completion date of contract in case of project exports and 72 months from the date of execution of the Agreement i.e. August 23, 2011 in case of other supply contracts.

3 Shipments under the credit will have to be declared on GR/SDF Forms as per instructions issued from time to time.

4. No agency commission is payable under the above line of credit. However, if required the exporter may use his own resources or utilize balances in his EEFC account for payment of commission in free foreign exchange. Authorised Dealer banks may allow such remittance after realisation of full payment of contract value subject to compliance of prevailing instructions on payment of agency commission.

5. Authorised Dealer banks may bring the contents of this circular to the notice of their exporter constituents.

6. 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) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

Vinay Baijal
Chief General Manager

March 27, 2006

To,

All Banks Authorised to Deal in Foreign Exchange

Madam /Sir,

Overseas Investment - Liberalisation

Attention of Authorised Dealer (AD) Banks is invited to Notification No. FEMA120/RB-2004 dated 7th July 2004, as amended, from time to time. With a view to grant more operational flexibility to the corporates in India it has been decided to further liberalise the various Regulations as under:

2. Guarantees

Presently, only promoter corporates are permitted to offer guarantees on behalf of their Wholly Owned Subsidiaries (WOSs) / Joint Ventures (JVs), under the Automatic Route and issue of personal, collateral and third party guarantees requires prior approval of Reserve Bank and is considered by RBI, on a case by case basis.

With a view to simplify the procedure, it has now been decided to enlarge the scope of guarantees covered under the Automatic Route. Accordingly, Indian entities may offer any forms of guarantee - corporate or personal / primary or collateral / guarantee by the promoter company / guarantee by group company, sister concern or associate company in India, provided that :

a) All "financial commitments" including all forms of guarantees are within the overall prescribed ceiling for overseas investment of the Indian party i.e. currently within 200% of the networth of the investing company (Indian party).

b) No guarantee is 'open ended' i.e. the amount of the guarantee should be specified upfront, and

c) As in the case of corporate guarantees, all guarantees are required to be reported to RBI, in Form ODR.

It is clarified that **Guarantees issued by banks in India** in favour of WOSs / JVs outside India, would be outside this ceiling and would be subject to prudential norms issued by RBI from time to time.

3. General Permission for disinvestment

Currently, in terms of Regulation 16 of Notification No. FEMA120/RB-2004 dated 7th July 2004, as amended from time to time, all disinvestments that involve a 'write off' i.e. where the amount repatriated on disinvestment is less than the amount of the original investment, need prior approval of the Reserve Bank.

In order to enable companies to have operational flexibility according to their commercial judgment, it has been decided to further liberalise the Automatic Route of disinvestment. Accordingly, Indian parties may disinvest without prior approval of the Reserve Bank, in the undernoted categories.

- i) in cases where the JV / WOS is listed in the overseas stock exchange.
- ii) in cases where the Indian promoter company is listed on a stock exchange in India and has a networth of not less than Rs.100 crore.
- iii) where the Indian promoter is an unlisted company and the investment in overseas venture does not exceed USD 10 million.

The Indian party is required to submit details of the disinvestment through its designated Authorised Dealer bank **within 30 days** from the date of disinvestment.

4. **Overseas Investments - Proprietorship concerns**

In terms of Notification No.FEMA120/RB-2004 dated 7th July 2004, as amended from time to time, only a company incorporated in India, or a body created under an Act of Parliament or a partnership firm registered under Indian Partnership Act, 1932, or any other entity as may be notified by the Reserve Bank is eligible to invest in a JV/WOS abroad.

With a view to enabling recognised star exporters with a proven track record and a consistently high export performance to reap the benefits of globalization and liberalisation, it has been decided to allow proprietary / unregistered partnership firms to set up a JV/WOS outside India with prior approval of Reserve Bank. Proprietary / unregistered partnership firms satisfying the eligibility criteria as detailed in Annexure may submit an application in form ODI to the Chief General Manager, Reserve Bank of India, Foreign Exchange Department, Overseas Investment Division, Central Office, Amar Bhawan, 3rd floor, Fort, Mumbai 400 001, through their Authorised Dealer bank. Authorised Dealer banks may accordingly, forward such investment proposals from the eligible parties, with their comments / recommendations, to the Reserve Bank for

consideration. Approval of such investment would be subject to the usual reporting mechanism.

5. Necessary amendments to the Foreign Exchange Management (Transfer or Issue of Any Foreign Security), Regulations, 2004 are being issued separately.

6. Authorised Dealer banks may bring the contents of this circular to the notice of their constituents and customers concerned.

7. The directions contained in this circular have been issued under Sections 10 (4) and 11 (1) of the Foreign Exchange Management Act (FEMA), 1999 (42 of 1999) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

Vinay Baijal
Chief General Manager

[Annex to A. P. DIR (Series) Circular No.29 dated March 27, 2006]

Criteria for considering investment proposals outside India by established proprietorship or unregistered partnership exporter firms

- i) The Partnership / Proprietorship firm is a DGFT recognised Star Export House (export exceeding Rs.15 crore) per annum.
- ii) The Authorised Dealer bank is satisfied that the exporter is KYC (Know Your Customer) compliant, is engaged in the proposed business and has turnover as indicated.
- iii) Exporter has proven track record i.e. export outstanding does not exceed 10 per cent of the average export realisation of preceding three years.
- iv) The exporter has not come under adverse notice of any Government agency like Enforcement Directorate, CBI and does not appear in the exporters' caution list of the Reserve Bank or in the list of defaulters to the banking system in India.
- v) The amount of investment outside India does not exceed 10 per cent of the average of three year export realisation or 200 per cent of the net owned funds of the firm, whichever is lower.

April 05, 2006

To,

All Banks Authorised to Deal in Foreign Exchange

Madam / Sir,

Overseas Investment – Liberalisation under ESOP scheme

Attention of Authorised Dealer (AD) banks is invited to Notification No.FEMA.120/RB-2004 dated 7th July 2004, as amended from time to time.

2. With a view to rationalize the Regulations for investment outside India, it has been decided to bring about the following changes to the existing Regulations :

3. Employees Stock Option Schemes (ESOPs) Automatic Route

3.1 Presently, in terms of Regulation 22 (2) of Notification No.FEMA.120 / RB-2004 dated 7th July 2004, as amended from time to time, Authorised Dealer banks have been delegated authority to allow remittances, without any monetary limit, for ESOPs provided that the foreign company offering ESOPs holds not less than 51% stake in the Indian Company either directly or indirectly (i.e. through a SPV or step down subsidiary). Such remittances are, however, allowed directly to the Company offering shares under ESOP scheme. However, the foreign company requires prior permission of the Reserve Bank to repurchase the shares from the employees, issued under ESOP scheme.

3.2 As a measure of rationalization, it has been decided that Authorised Dealer banks may allow remittance for acquiring shares under ESOP Schemes, irrespective of the method of the operationalisation of the scheme. It would,

therefore, be in order for Authorised Dealer banks to allow remittance for acquiring shares under ESOP scheme, where the shares under the scheme are offered directly by the issuing company or indirectly through a trust / a Special Purpose Vehicle (SPV) / step down subsidiary, provided (i) the company issuing the shares effectively, directly or indirectly, holds in the Indian company, whose employees / directors are being offered shares, not less than 51% of its equity, (ii) the shares under the ESOP Scheme are offered by the issuing company globally on uniform basis, and (iii) An Annual Return is submitted by the Indian company to the Reserve Bank through the Authorised Dealer banks giving details of remittances / beneficiaries / etc., as per Annex I to this circular.

3.3 It has further been decided to grant General Permission to foreign companies to repurchase the shares issued to residents in India under any ESOP scheme provided (i) the shares were issued in accordance with the Rules / Regulations framed under Foreign Exchange Management Act, 1999, (ii) the shares are being repurchased in terms of the initial offer document and, (iii) An Annual Return is submitted through the Authorised Dealer banks giving details of remittances / beneficiaries / etc., as per Annex II to this circular.

4. Reporting through Designated branches

4.1 Presently, an eligible Indian entity making investment in a Joint Venture (JV) / Wholly Owned Subsidiary (WOS) outside India, is required to route all its transactions relating to the investment through one branch of an Authorised Dealer bank designated by it. However, the Indian investor / promoter have freedom to designate different Authorised Dealer banks / branches of Authorised Dealer banks for different JV / WOS outside India promoted by them.

4.2 In order to keep the designated branches of Authorised Dealer banks aware of the progress in the investment / disinvestment outside India routed through them, it has been decided that all communications from the Indian parties, to the Reserve Bank, relating to the investment outside India should be routed through the branch of the Authorised Dealer bank that has been designated by the Indian investor for the investment. The Authorised Dealer

bank while forwarding the request from their customers to the Reserve Bank, shall also forward its comments / recommendations on the request.

5. Necessary amendments to the Foreign Exchange Management (Transfer or issue of Any Foreign Security), Regulations, 2004 are being issued separately.

6. Authorised Dealer banks may bring the contents of this circular to the notice of their constituents and customers.

7. The directions contained in this circular has been issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act (FEMA), 1999 (42 of 1999) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

Vinay Baijal
Chief General Manager-in-Charge

ANNEX I

[Annex to A. P. (DIR Series) Circular No. 30 dated April 05, 2006]

**Statement of shares allotted to Indian employees / directors under ESOP
Schemes for the year ended March _____**

(to be submitted on the letterhead of the company through their Authorised Dealer bank)

We, M/s, (Indian company) hereby declare that :

a) M/s (foreign company) has issued shares to our employees under ESOP Scheme during the year as under

(i) No. of shares allotted :

(ii) Number of employees / directors who accepted shares :

(iii) Amount remitted :

b) effective holding of the foreign company M/s in the Indian company, as on March 31, _____, is not less than 51%; and

c) the information furnished above is true and correct to the best of our knowledge and belief.

Signature of the Authorised Official :

Name :

Designation :

Date :

To,

The Chief General Manager
Reserve Bank of India,
Foreign Exchange Department,
Overseas Investment Division,
Central Office, Amar Bldg., 3rd floor,
Sir. P. M. Road, Fort,
Mumbai 400 001.

ANNEX II

[Annex to A. P. (DIR Series) Circular No. 30 dated April 05, 2006]

**Statement of shares repurchased by the issuing company from Indian
employees / directors under ESOP Schemes
for the year ended March _____**

(to be submitted on the letterhead of the company through their Authorised Dealer bank)

We, M/s, (Indian company) hereby declare that :

a) M/s (foreign company) has repurchased shares issued to our employees under ESOP Scheme during the year,

(i) Number of shares repurchased :

(ii) Number of employees / directors who sold shares :

(iii) Amount of remittance (inward) :

b) effective holding of the foreign company M/s in the Indian company, as on March 31, _____, is not less than 51%; and

c) the information furnished above is true and correct to the best of our knowledge and belief.

Signature of the Authorised Official :

Name :

Designation :

Date :

To;

The Chief General Manager
Reserve Bank of India,
Foreign Exchange Department,
Overseas Investment Division,
Central Office, Amar Bldg., 3rd floor,
Sir. P. M. Road, Fort,
Mumbai 400 001.

April 21, 2006

To

All Banks Authorised to Deal in Foreign Exchange

Madam / Sirs,

Export of Goods and Services – Extension of period of realization

Attention of Authorised Dealer (AD) banks is invited to AP(DIR Series) Circular No.20 dated January 28, 2002, in terms of which AD banks have been permitted to grant extension of time for realization of export proceeds beyond the prescribed period from the date of export, where invoice value does not exceed US\$ 100,000 subject to the conditions prescribed therein.

2. As a measure of further liberalization, it has now been decided to increase the invoice value limit to US\$ 1 million from **existing** US\$ 100,000 with immediate effect. Accordingly, AD banks may henceforth grant extension of time for realization of export proceeds beyond prescribed period from the date of export up to the invoice value of US\$ 1 million subject to **existing** terms and conditions.

3. AD banks may bring the contents of this Circular to the notice of their constituents concerned.

4. The directions contained in the Circular have been issued under Section 10(4) and Section 11(1) of Foreign Exchange Management Act, 1999 (42 of 1999) and without prejudice to permissions/approvals, if any, required under any other law.

Yours faithfully,

(M. Sebastian)
Chief General Manager

April 21, 2006

To

All Banks Authorised to Deal in Foreign Exchange

Madam / Sirs,

**Remittance of initial and recurring expenses for
Branch offices opened abroad**

Attention of Authorised Dealer (AD) banks is invited to sub-regulation 4A of Notification No.FEMA 47/2001-RB dated December 5, 2001 enclosed to the AP(DIR Series) Circular No.54 dated June 29, 2002, in terms of which AD banks were permitted to allow remittance up to two and one percent of average annual sales/income or turnover during last two accounting years of the Indian entity for initial and recurring expenses respectively of the branch or office or representative abroad.

2. With a view to further liberalise the procedure, it has been decided to increase the existing limit to ten percent and five percent for initial and recurring expenses respectively subject to the existing terms and conditions as mentioned in the above Notification.

3. Accordingly, AD banks may allow remittance up to ten percent for initial and up to five percent for recurring expenses of the average annual sales/income or turnover during last two accounting years subject to the existing terms and conditions.

4. Necessary amendments to the Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2000 are being issued separately.

5. AD banks may bring the contents of this circular to the notice of their constituents and customers.

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) and is without prejudice to permissions/approvals, if any, required under any other law.

Yours faithfully,
(M. Sebastian)
Chief General Manager

RBI/2005-06/377

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

April 27, 2006.

To

All Banks Authorised to Deal in Foreign Exchange

Madam / Sir,

**Exim Bank's Line of Credit of US\$50.40 Million
to the Fiji Sugar Corporation Ltd., Fiji Islands.**

The Export-Import Bank of India (Exim Bank) has concluded an agreement with the Fiji Sugar Corporation Ltd., Fiji Islands making available to the latter a Line of Credit (LOC) upto an aggregate sum of USD 50.40 Million (US Dollar Fifty million Four Hundred Thousand only). The credit agreement has become effective on January 12, 2006. The credit is available for financing exports from India of equipment, goods and services which are eligible for export under the Foreign Trade Policy of the Government of India, for modernization, upgradation and capacity expansion of Sugar Plants of the Fiji Sugar Corporation Limited, in the Fiji Islands. Full details of the Line of Credit are available at the Exim Bank's office or its website (www.eximbankindia.com).

2. The terminal utilization period is 48 months from scheduled completion date of contract in case of project exports and 72 months from the date of execution of the Credit Agreement in case of other supply contracts.
3. Shipments under the credit will have to be declared on GR/SDF Forms as per instructions issued from time to time.
4. No agency commission is payable under the above line of credit. However, if required the exporter may use his own resources or utilize balances of his EEFC account for payment of commission in free foreign exchange. Authorised Dealer banks may allow such remittance after realisation of full payment of contract value subject to compliance of prevailing instructions on payment of agency commission.

5. Authorised Dealer banks may bring the contents of this circular to the notice of their exporter constituents,

6. 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) and is without prejudice to permissions/approvals, if any, required under any other law.

Yours faithfully,

(M. Sebastian)
Chief General Manager

May 12, 2006

To

All Banks Authorised to Deal in Foreign Exchange

Madam / Sir,

**External Commercial Borrowing -
clarification on Overseas Corporate Bodies (OCBs) as recognised lenders**

Attention of Authorised Dealer (AD) banks is invited to A. P. (DIR Series) Circular No.14 dated September 16, 2003, in terms of which Overseas Corporate Bodies (OCBs) were derecognised as an eligible 'class of investor' under various routes / schemes available under the extant Foreign Exchange Management Regulations. Attention is also invited to A. P. (Dir Series) Circular No.44 dated December 8, 2003 and 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.

2. In terms of Para V, Q.27 of the FAQs appended to A. P. (Dir Series) Circular No.44 dated December 8, 2003, "no person resident in India can 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." Despite this restriction, it is observed that borrowers have availed External Commercial Borrowing from OCBs post derecognition of the OCBs as investor class, on grounds that the OCBs are their foreign equity holders.

3. It is, therefore, reiterated that **OCBs not being recognized as investors cannot be recognized lenders.**

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

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) and is without prejudice to permissions/approvals, if any, required under any other law.

Yours faithfully,
(M. Sebastian)
Chief General Manager

RBI/2005 – 06/401

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

June 07, 2006

To,

All Banks Authorised to Deal in Foreign Exchange

Madam / Sir,

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

Attention of Authorised Dealer (AD) banks is invited to A. P. (DIR Series) Circular No.45 dated June 08, 2005, wherein the rupee value of the special currency basket was indicated as Rs. 56.9296 effective from May 19, 2005.

2. Authorised Dealer banks are advised that a further revision has taken place on May 1, 2006 and accordingly the rupee value of the special currency basket has been fixed at Rs. 58.7054 with effect from May 4, 2006.

3. Authorised Dealer banks 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) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

(M. Sebastian)
Chief General Manager

June 15, 2006

To,

All Category I Authorised Dealer Banks

Madam / Sir,

Exim Bank's Line of Credit of USD 6.70 million
to the Government of Gambia

The Export-Import Bank of India (Exim Bank) has concluded an agreement with the Government of Gambia making available to the latter a Line of Credit (LOC) up to an aggregate sum of USD 6.70 Million (US Dollar Six Million and Seven Hundred Thousand only). The credit agreement has become effective on May 26, 2006. The credit is available for financing export of goods and services which are eligible for export from India under the Foreign Trade Policy of Government of India to Gambia for setting up an assembly plant for tractors project in Gambia.

2. The terminal dates for opening Letters of Credit and disbursement of credit are 48 months from scheduled completion date of contract in case of project exports and 72 months from execution date of the Credit Agreement i.e. November 7, 2011, in case of other supply contracts .
3. Shipments under the credit will have to be declared on GR / SDF Forms as per instructions issued by the Reserve Bank from time to time.
4. No agency commission is payable under the above line of credit. However, if required, the exporter may use his own resources or utilize balances of his EEFC account for payment of commission in free foreign exchange. Authorised Dealer banks may allow such remittance after realisation of full payment of contract value subject to compliance with the prevailing instructions on payment of agency commission.

5. Authorised Dealer banks 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 (www.eximbankindia.com).

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6. The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act (FEMA), 1999 (42 of 1999) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

(M. Sebastian)
Chief General Manager

RBI/2005-06/413

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

June 15, 2006

To,

All Category I Authorised Dealer Banks

Madam / Sir,

Exim Bank's Line of Credit of USD 27 million
to the Government of Senegal

The Export-Import Bank of India (Exim Bank) has concluded an agreement with the Government of Senegal making available to the latter a Line of Credit (LOC) up to an aggregate sum of USD 27 Million (US Dollar Twenty Seven million only). The Credit Agreement has become effective on May 10, 2006. The credit is available for financing export of equipments, goods and services which are eligible for export from India, under the Foreign Trade Policy of Government of India, to Senegal for setting up Irrigation projects in Senegal.

2. The terminal dates for opening Letters of Credit and disbursement of credit are 48 months from scheduled completion date of contract in case of project exports and 72 months from execution date of the Credit Agreement i.e. February 7, 2012 in case of other supply contracts.

3. Shipments under the credit will have to be declared on GR / SDF Forms as per instructions issued by the Reserve Bank from time to time.

4. No agency commission is payable under the above line of credit. However, if required, the exporter may use his own resources or utilize balances of his EEFC account for payment of commission in free foreign exchange. Authorised Dealer banks may allow such remittance after realisation of full payment of contract value subject to compliance with the prevailing instructions on payment of agency commission.

5. Authorised Dealer banks 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 (www.eximbankindia.com).

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6. The directions contained in this circular have been issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act (FEMA), 1999 (42 of 1999) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

(M. Sebastian)
Chief General Manager

June 15, 2006

To,

All Category I Authorised Dealer Banks

Madam / Sir,

Exim Bank's Line of Credit of USD 27.7 million to the Government of the Republic of Mali and Senegal (Mali- USD 20.62 mn. Senegal - USD 7.08 mn.)

The Export-Import Bank of India (Exim Bank) has concluded an agreement with the Government of Mali and Senegal making available to the latter a Line of Credit (LOC) up to an aggregate sum of USD 27.7 Million (US Dollar Twenty Seven million seven hundred thousand only) [Government of the Republic of Mali - USD 20.62 mn. and Government of the Republic of Senegal - USD 7.08 mn.] . The Credit Agreement has become effective on April 27, 2006. The credit is available for financing export of equipment, goods and services which are eligible for export under the Foreign Trade Policy of Government of India from India for acquisition of railway coaches and locomotives by Senegal and Mali.

2. The terminal dates for opening Letters of Credit and disbursement of credit are 48 months from scheduled completion date of contract in case of project exports and 72 months from execution date of the Credit Agreement i.e. August 7, 2011 in case of other supply contracts.

3. Shipments under the credit will have to be declared on GR / SDF Forms as per instructions issued by the Reserve Bank from time to time.

4. No agency commission is payable under the above line of credit. However, if required, the exporter may use his own resources or utilize balances of his EEFC account for payment of commission in free foreign exchange. Authorised Dealer banks may allow such remittance after realisation of full payment of contract value subject to compliance with the prevailing instructions on payment of agency commission.

5. Authorised Dealer banks 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 (www.eximbankindia.com).

6. The directions contained in this circular have been issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act (FEMA), 1999 (42 of 1999) and is without prejudice to permissions / approvals, if any, required under any other law.

Yours faithfully,

(M. Sebastian)
Chief General Manager

June 26, 2006

To,

All Authorised Persons in Foreign Exchange,

Madam/Sir,

Anti-Money Laundering Guidelines

Attention of Authorised Persons is invited the Anti-Money Laundering guidelines for Authorised Money Changers issued vide A. P. (DIR Series) Circular No.18 {A.P. (FL Series) Circular No.01} dated December 2, 2005. In view of the difficulties expressed by Authorised Money Changers (AMCs) in implementing some of the guidelines, it has been decided to amend certain instructions of the aforementioned circular. The amended instructions are given in the Annex.

2. The Anti-Money Laundering Guidelines issued to Authorised Money Changers vide the above A.P. (DIR Series) Circular No.18 dated December 02, 2005 and any subsequent amendments thereto would be applicable, mutatis mutandis, to Authorised Dealers - Category I and II in respect of their money changing transactions.

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

4. Necessary amendments to the Memorandum of Instructions to Authorised Money Changers are being issued separately.

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). Non-compliance with the guidelines would attract penal provisions of Section 11(3) of the Act *ibid*.

Yours faithfully,

M. Sebastian
Chief General Manger

Annex

[Annex to A. P. (DIR Series) Circular No. 39 dated June 26, 2006]

Paragraph No. [cf. A. P. (DIR Series) Circular No.18 {A.P. (FL Series) Circular No.01} dated December 2, 2005]	Existing Instructions	Amended Instructions
3	All transactions should be undertaken only after proper identification of the customer. Photocopies of proof of identification should invariably be retained by the AMC after verifying the document in original. Full details of name and address as well as the details of the identity document provided should also be kept on record. If a transaction is being undertaken on behalf of another person, identification evidence of all the persons concerned should be obtained and kept on record.	<p>For purchase of foreign exchange less than US \$ 200 or its equivalent, photocopies of the identification document need not be kept on record. However, full details of the identification document should be maintained.</p> <p>For encashment of foreign exchange between US \$ 200 and US \$ 2000 or its equivalent, the photocopies of the identification document should be maintained for one year and completion of statutory audit.</p> <p>For encashment in excess of US \$ 2000 or its equivalent, the photocopies of the identification document should be maintained for a minimum period of five years.</p>
4(c)	Requests for payment of sale proceeds in cash may be acceded to the extent of US \$ 1000 or its equivalent per transaction. All encashment within one month may be treated as a single transaction for the purpose. In all other cases, AMCs should make payment by way of Account Payee cheque / demand draft only.	Requests for payment in cash by foreign visitors / Non-Resident Indians may be acceded to the extent of US \$ 2000 or its equivalent. All other provisions of this paragraph remain unchanged.