

### Banking Policy

#### Bank Credit to NBFCs

The Reserve Bank of India (RBI) has removed the ceiling on bank credit prescribed for all registered Non-Banking Financial Companies (NBFCs), engaged in principal business of equipment leasing, hire purchase, loan and investment activities. Banks may now assess and provide need-based finance to NBFCs, as per the loan policy laid down by them with the approval of their boards.

Earlier, in cases of NBFCs, other than Residuary Non-Banking Companies (RNBCs) which have not satisfied the requirements of registration with the Reserve Bank, credit rating and prudential norms, bank credit was restricted to a certain multiple of their net owned funds (NOF), i.e., two or three times the NOF for NBFCs and equal to NOF for loan and investment companies and RNBCs.

As regards bank finance to the NBFCs which do not require to be registered with the Reserve Bank, banks may take their credit decisions on the basis of other usual factors, such as, the purpose of credit, nature and quality of underlying assets, repayment capacity of borrowers as also risk perception. NBFCs which do not require registration with the Reserve Bank include, insurance companies registered under Section 3 of the Insurance Act, 1938, nidhi companies under Section 620A of the Companies Act, 1956, chit fund companies, stock broking companies/ merchant banking companies, registered with the Securities and Exchange Board of India and housing finance companies.

In respect of RNBCs registered with the Reserve Bank, bank finance would continue to be restricted to the extent of their NOF. Banks are also not allowed to give bank credit to NBFCs, engaged in:

- bills discounted/rediscounted by NBFCs except for rediscounting of bills discounted by NBFCs arising from sale of commercial vehicles;
- investments made by NBFCs in shares, debentures of a current nature, i.e. stock-in-trade except to stock broking companies;
- investments of NBFCs in and advances to subsidiaries, group companies or other entities; and
- investments of NBFCs in other companies and inter-corporate loans/deposits to/in other companies.

There will, however, be no change in the instructions prohibiting grant of bridge loans to NBFCs/RNBCs or loans of a bridging nature in any form to these companies including against capital/debenture issues.

### **Hedging of Commodity Price Exposure**

The Reserve Bank of India (RBI) has, in a circular issued to all authorised dealers in foreign exchange, informed that it would consider requests from Indian corporates for:

- using Over-The-Counter (OTC) futures contracts based on average prices,
- cancelling an option contract by entering into an opposite transaction with the same broker,
- using products involving simultaneous purchase and sale of options provided there is no receipt of premium either direct or implied, and
- hedging exposures to bullion prices arising from export commitments in the London Bullion Market (through London Bullion Market Association approved brokers) besides recognised international exchanges.

### **Commencement of Commercial Production**

The Reserve Bank has decided to entrust the board of directors of each bank with the responsibility of formulating guidelines for determining the date of 'commencement of commercial production'. The Reserve Bank has stated that the financing bank, in charge of monitoring the implementation of the project, will be in a better position to judge the stability of the unit's commercial production and the need for rescheduling of the loan.

In order to arrive at a decision as to whether the unit/project has achieved regular commercial production, the main guiding factor would be whether the unit has achieved cash break-even in order to service the loan. If, in the opinion of the bank, the bottleneck in achieving regular commercial production is of a temporary nature, not indicative of any long-term impairment of the unit's economic viability, and it is likely to achieve cash break-even if some time is allowed, the bank may reschedule the loan and treat the asset as standard. The lead time would, however, normally not exceed one year from the schedule of commencement of commercial production as indicated in the terms of sanction.

Banks, financial institutions and borrowers had represented that detailed prescription by the Reserve Bank regarding 'commencement of commercial production' creates operational difficulties, especially in infrastructure and services sectors. The Reserve bank had, after reviewing the position, announced in the Monetary and Credit Policy for the year 1999-2000 that it will be left to the board of directors of each bank to prescribe detailed rules for determining the date of commencement of commercial production of units.

### **'Cheque Writing Facility' for Investors of MMMFs**

In order to provide more liquidity in the interest of savers, the Reserve Bank has decided to permit Money Market Mutual Funds (MMMFs) to offer 'cheque writing' facility to their investors. Since MMMFs are non-banks and cannot provide this facility directly, the cheque writing facility will have to be in the nature of a tie-up arrangement with a bank. The decision was announced in the monetary and credit policy for the year 1999-2000.

In a circular issued to operationalise this facility, the Reserve Bank has advised all commercial banks and financial institutions to follow certain safeguards while offering this facility. Accordingly, in the case an MMMF/Money Market Deposit Account (MMDA) is set up by a bank, the tie-up arrangement should be with the sponsor bank/bank of which the MMDA forms a division. In case an MMMF is set up by a financial institution/mutual fund, the tie-up arrangement should be with a designated bank.

The name of the bank should be clearly indicated in the offer document of the scheme. The offer document should also clearly indicate that the tie-up arrangement for cheque writing facility is purely a commercial arrangement between the MMMF and the designated bank and as such, servicing of the MMMF units will not in any way be the direct obligation of the bank concerned.

The facility can be permitted to any MMMF investor at his/her option, but after the lock-in period of 15 days in only one of the branches of the designated bank.

It should be in the nature of a drawing account with clear limits for drawals, the number of cheques that can be drawn, etc., as prescribed by the MMMF. No deposits can be made in the account. Each drawal made by the investor under the facility should be treated as redemption of the holdings in the MMMF to that extent.

The bank should ensure pre-funding of the drawing account by the MMMF at all times and review the funds position on a daily basis.

### **Advances to Sugar Industry**

The Reserve Bank of India has decided, as a special case, to allow all state and central co-operative banks to finance the deficit in the accounts of the sugar mills on delivery of free-sale sugar against the initial payment at levy price, as a clean advance upto the end of June 1999.

The decision is in the context of the Government of India's decision to purchase upto 12 lakh tonnes of free-sale sugar from sugar units at a rate to be decided on the basis of Cabinet Committee on Economic Affairs (CCEA) approved formula. The government decided to purchase sugar in order to meet the commitments under the Public Distribution System (PDS). Although the government proposes to pay the sugar units at CCEA approved rate, the units will be paid only levy price at the time of lifting the sugar. The difference between the levy price and the price as per the approved formula will be paid by the government by the end of June 1999.

The Reserve Bank has asked banks to segregate such unsecured credit, if they so desire, to facilitate its monitoring. They have, however, been asked to ensure that a margin of 15 percent will continue to be maintained against other stocks of free-sale sugar. Banks are advised to

refrain from granting clean advances to borrowers enjoying credit facilities against commodities covered by Selective Credit Control.

### **Revising/Updating of Operational Manual**

The Reserve Bank has advised the banks to bring out revised operational manuals and check list as per the guidelines issued by the Reserve Bank and other agencies for procedures to be followed and precautions to be taken in putting through various activities and transactions. Further, banks have been asked to update the manual of instructions and check list regularly and also arrange periodical training programmes for the staff so that the instructions contained in the manual and check list are understood and meticulously followed in day-to-day operations. The banks have been advised to report compliance to the Reserve Bank by September 30, 1999.

The Narasimhan Committee on Banking Sector Reforms, had recommended that banks should bring out revised operational manuals and update them regularly keeping in view the emerging needs.

### **Exchange Control**

#### **Agency Commission on Exports**

All authorised dealers in foreign exchange have been allowed to remit commission on exports within the prescribed limit of 12.5 per cent of the invoice value even in cases where the amount of commission has not been declared on Export Declaration Forms by the exporters. The authorised dealers need not insist on a no-objection-certificate from customs authorities or the Department of Electronics, as the case may be. They should, however, satisfy themselves about the reasons adduced by the exporter for not declaring the amount of commission on relative Export Declaration Form. They should also ensure that a valid agreement/written understanding subsists between the exporter and the overseas agent/beneficiary for payment of commission.

#### **Foreign Currency Accounts of Embassies/Missions/Diplomats**

It has been decided that foreign embassies/missions/diplomats may open foreign currency accounts with any authorised dealer in India without any approval of Reserve Bank subject to the following conditions:

- (i) The accounts are funded by inward remittance in convertible currencies;
- (ii) Funds from such accounts can be utilised for payments for import of goods, purchases from bonded stores, payment of passage fare, etc.;
- (iii) Funds held in these accounts, if converted in rupees cannot be reconverted into foreign currency for credit to the accounts;
- (iv) The balances in the account can be repatriated/transferred abroad without the approval of the Government of India/the Reserve Bank;
- (v) While the accounts of diplomatic missions may be maintained in the form of current/fixed deposit accounts, foreign diplomats may maintain current/savings

bank/fixed deposit accounts subject to usual terms and conditions of operating these accounts.

Earlier, foreign embassies/missions/diplomats could open foreign currency accounts only with the main offices of State Bank of India.

### **Overseas Protection and Indemnity Clubs**

The authorised dealers may, henceforth, allow remittances by shipping companies, which are their constituents towards subscription to Protection & Indemnity (P & I) Clubs in accordance with the approval granted to shipping companies by the Ministry of Finance, Government of India under the General Insurance Business (Nationalisation) Act, 1972.

### **Income on Investments on Non-repatriation Basis**

As the authorised dealers have been delegated the powers of allowing remittances of income on investments on non-repatriation basis, non-resident persons of Indian nationality/origin (NRIs) and overseas corporate bodies (OCBs) predominantly owned by NRIs are, henceforth, not required to submit Form RCI in duplicate.

### **Import of Drawings/Designs through E-Mail/Fax**

Besides allowing remittance towards import of software through datacom channels/internet, it has now been decided that authorised dealers may also allow remittances towards import of drawings and designs received by e-mail/fax subject to production of documents prescribed for import of software.

### **Import by Post**

Authorised dealers may allow remittances up to U.S.\$ 250 or its equivalent per transaction in respect of imports by post parcel, without insisting on the relative parcel receipt/postal wrapper. The import, however, should be in accordance with the current EXIM policy and a declaration to the effect that the goods have been received through post is submitted by the applicant.

### **EEFC Account**

The Reserve Bank clarified that Exchange Earners' Foreign Currency (EEFC) accounts may be maintained in any convertible foreign currency and in any form viz., current, savings or term deposit accounts. Savings bank accounts should, however, not be maintained in the names of firms, companies, etc.

In case of liabilities representing the balances in the EEFC accounts, authorised dealers should also comply with Cash Reserve Ratio (CRR)/Statutory Liquidity Ratio (SLR) requirements as prescribed by the Reserve Bank from time to time.

### **Casual Gift Remittances**

The Reserve Bank has allowed authorised dealers to remit casual gifts up to U.S.\$1,000 per calendar year not only to the overseas relatives/friends of the applicant but also to their corporate clients.

### **Project Exports**

In the context of operational freedom given to authorised dealers in extending export credit to project exporters, the Reserve Bank has decided that the working group for the purpose of granting package approval for project/service export proposals will now consist of representatives of only the Reserve Bank (Exchange Control Department), Exim Bank and Export Credit Guarantee and Corporation (ECGC). Earlier, the working group also had a member from the Industrial Exports and Credit Department of the Reserve Bank. It will not be necessary now for the project exporters/bankers to forward a copy of the application/approval in respect of the project/service export proposals to the Industrial and Export Credit Department of the Reserve Bank.

The Exim Bank will now directly receive, consider and approve project export proposals up to a value of Rs. 100 crore provided all facilities are required for execution of such contracts are provided by the Exim Bank. Exim Bank would, however, monitor such projects till their completion and make the necessary arrangement with an authorised dealer to handle exchange control matters like GR formality, etc., in connection with execution of such contracts. Exim Bank would also advise the details of these arrangements to the concerned Regional Office of the exchange control department of the Reserve Bank.

Earlier, the exporters desiring to submit bids/proposals for supply contracts on deferred payment terms, turn-key projects or construction contracts where the value of bid/offer lied between Rs.25 crore and Rs.100 crore, were required to submit applications to the Exim Bank through their bankers.

### **Sports Activities held in India /Abroad**

Authorised dealers have now been empowered to allow remittances by recognised international/national/state level sports organisations towards prize, sponsorship money for sports events up to U.S. \$ 100,000 in each case. Earlier, authorised dealers were permitted to remit for recognised international/national/state level sports organisations up to U.S.\$ 25000 or its equivalent.

### **Subscription to Shares of Overseas Software JVs/WOS**

The Reserve Bank has amended the condition for remittances towards acquisition of shares of the overseas joint ventures (JVs)/ wholly owned subsidiaries (WoS) by employees of Indian promoter companies to the effect that the percentage of shares held by the Indian promoter company together with the aggregate number of shares allotted to the employees will not be less than the percentage of shares held by the Indian promoter company prior to such allotment of shares under the Employees Stock Option.

### **Domestic Credit Cards to NRIs/PIOs**

It has been decided that the rupee credit cards valid in India, Nepal and Bhutan may be issued to non-resident Indians (NRIs) /persons of Indian origin (PIOs) also. Remittance from India will, however, not be allowed in settlement of bills in the event of use of such cards in other countries.

### **ICC to Residents**

It has been decided to permit residents in India to hold International Credit Cards (ICC), provided by overseas organisations subject to the condition that the liabilities arising from the use of such cards in India as well as outside India are met by the organisation issuing the card. Under no circumstances any remittance will be allowed from India to meet the liabilities arising out of use of such cards.

### **Sale of Foreign Exchange against BTQ**

The Reserve Bank of India (RBI) has, in a circular issued to all authorised dealers in foreign exchange/all authorised full-fledged money-changers informed that now, it has dispensed with the requirement of forwarding to the Reserve Bank, a copy of the letter submitted by the applicant giving particulars of name, address, etc., while applying for exchange under basic travel quota (BTQ) along with a statement in form FLM 8.

Earlier, full-fledged money-changers were required to forward to the Reserve Bank a copy of such letters along with form FLM 8.

### **General Permissions**

#### *Portfolio investments*

Authorised dealers have now been permitted to renew the general permission granted by the Reserve Bank not only to the non-resident Indians (NRIs) but also to overseas corporate bodies (OCBs) under the Portfolio Investment Scheme. The permission may be renewed for a period of five years at a time. Authorised dealers may, however, note to obtain the latest certificate in form OAC/OAC1 from the OCB concerned before renewing the general permission.

#### *Domestic mutual funds*

The Reserve Bank has granted general permission to domestic mutual funds to issue units or any other similar instrument under the schemes floated by them to NRIs/PIOs/OCBs on non-repatriation/repatriation basis. Mutual funds, may, however, obtain the approval of Securities and Exchange Board of India, where required. The general permission has been given subject to certain conditions.

#### *Acceptance of deposits*

The Reserve Bank has granted general permission to a proprietorship concern or a firm in India to accept deposits from NRIs/PIOs on non-repatriation basis. It has also granted general permission to Indian companies (including non-banking finance companies registered with the Reserve Bank) to accept deposits from NRIs/PIOs/OCBs on non-repatriation basis or with repatriation benefits subject to certain conditions.

#### *Air Taxi operations*

The Reserve Bank has granted general permission to Indian companies holding approval issued by the Director General of Civil Aviation or any competent authority specified by the Government of India from time to time for carrying on Air Taxi operation in India to issue shares/convertible debentures up to 100 per cent of paid-up capital to NRIs/PIOs/OCBs subject to certain conditions.

#### *Security transfer*

The Reserve Bank has granted general permission to NRIs/PIOs to transfer by way of gift any rupee security, share, bond or debenture of a company registered in India held by them to a registered charitable trust/organisation subject to the condition that provisions of any other laws, as applicable, including Foreign Contribution (Regulation) Act, 1976 are duly complied with.

#### *Grant for interest-free loans*

The Reserve Bank has now granted general permission to resident individuals/proprietorship concerns/partnership firms to avail of interest free loans from NRIs/PIOs on non-repatriation basis subject to certain conditions.

#### *Immovable property*

The Reserve Bank has granted general permission to non-resident persons (foreign citizens) of Indian origin (PIOs) to transfer immovable property held by them in India to relatives and registered charitable trusts/organisations by way of gift subject to the condition that the provisions of any other law, including Foreign Contribution (Regulation) Act, 1976, as applicable, are duly complied with.

#### *ADRs/GDRs*

The Reserve Bank has granted (a) general exemption to the non-resident holders from the operation of provision of Section 29(1)(b) of FERA 1973 to acquire the underlying shares released by Indian custodians of ADRs/GDRs upon surrender of ADRs/GDRs and (b) general permission to the company/depository concerned under Section 19(4) of FERA 1973 for entering an address outside India in its register or books in respect of such shares.

#### *Sale of shares on stock exchanges*



The Reserve Bank has granted exemption to NRIs/PIOs/OCBs for sale/transfer of shares, bonds or debentures of Indian companies through stock exchanges in case where such transfers are made in favour of Indian citizens or persons of Indian origin or in favour of a company or body corporate incorporated under any law in force in India. The transferor, should have, however, purchased/acquired such shares/bonds/debentures in accordance with the terms and conditions of the permission granted under clause (d) of sub- section (1) of Section 19 of the Act by the Reserve Bank.

Accordingly, NRIs/PIOs/OCBs are allowed to sell/transfer shares acquired by them under the Direct Investment Scheme, on stock exchanges in India without prior permission of the Reserve Bank.

It will also be in order for authorised dealer to allow remittance of net sale proceeds of such shares sold by NRIs/PIOs/OCBs on stock exchange subject to certain conditions.

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