

Foreign Exchange Developments

1. Overseas Direct Investments – Liberalisation/Rationalisation

To provide operational flexibility to the Indian party, it was decided to liberalise the regulations pertaining to opening/holding/maintaining the Foreign Currency Account by Indian party outside India as under:

An Indian party will be allowed to open, hold and maintain Foreign Currency Account (FCA) abroad for the purpose of overseas direct investments subject to the following terms and conditions:

- I. The Indian party is eligible for overseas direct investments in terms of Regulation 6 (Regulation 7, if applicable) of Notification No. FEMA 120/RB-2004 dated July 7, 2004, as amended from time to time.
- II. The host country Regulations stipulate that the investments into the country is required to be routed through a designated account.
- III. FCA shall be opened, held and maintained as per the regulation of the host country.
- IV. The remittances sent to the FCA by the Indian party should be utilised only for making overseas direct investment into the JV / WOS abroad.
- V. Any amount received in the account by way of dividend and/or other entitlements from the subsidiary shall be repatriated to India within 30 days from the date of credit.
- VI. The Indian party should submit the details of debits and credits in the FCA on yearly basis to the designated AD bank with a certificate from the Statutory Auditors of the Indian party certifying that the FCA was maintained as per the host country laws and the extant FEMA regulations/provisions as applicable.
- VII. The FCA so opened shall be closed immediately or within 30 days from the date of disinvestment from JV/WOS or cessation thereof.

[A.P. (DIR Series) Circular No. 101
dated April 2, 2012]

2. Use of International Debit Cards/Store Value Cards/Charge Cards/Smart Cards by Resident Indians while on a visit outside India

As per the practice followed by issuers, resident Indians who purchase their travel cards were permitted refund of the unutilised foreign exchange balance only after 10 days from the date of last transaction and accordingly, this condition was stated in the 'user guide'. Since these cards are expected to act as substitutes for cash/Travellers Cheques, the facilities available to the user will have to be similar.

Accordingly, all Authorised Persons shall redeem the unutilised balance outstanding in the International Debit Cards/Store Value Cards/Charge Cards/Smart Cards immediately upon request by the resident Indians to whom the cards are issued subject to retention of:-

- a. The amounts that are authorised and remain unclaimed/not settled by the acquirers as of the date of redemption till the completion of the respective settlement cycle;
- b. A small balance not exceeding US\$ 100, for meeting any pipeline transactions till the completion of the respective settlement cycle; and
- c. Transaction fees/service tax payable in India in Rupees.

For the amounts that are authorised but unclaimed/not settled by the acquirer, the issuer of such cards can hold such amounts until such transactions are processed/settled by the acquirers within the prescribed settlement timeframe. All the other instructions contained in the above circular dated June 14, 2005, as amended from time to time, shall remain unchanged.

[A.P. (DIR Series) Circular No. 102
dated April 2, 2012]

3. Data on import of Gold – Statements – Modification

It has been decided to further rationalise the entire reporting system on import of gold. Accordingly, A.D. Category-I banks shall henceforth submit the following statements to the Chief General Manager, Reserve Bank of India, Foreign Exchange Department, Central Office, Trade Division, Amar Building, Fort, Mumbai-400001:

- (i) Statement on **half yearly** basis (end March/end September) showing the quantity and value of gold imported by the nominated banks/agencies/EOUs/SEZs in Gem & Jewellery sector, mode of payment-wise;
- (ii) Statement on **monthly basis** showing the quantity and value of gold imports by the nominated agencies (other than the nominated banks)/ EOUs/ SEZs in Gem & Jewellery sector during the month under report as well as the cumulative position as at the end of the said month beginning from the 1st month of the Financial Year.

Both the statements shall be submitted, even if there is 'Nil' position and they should reach the aforesaid office of RBI by the 10th of the following month / half year to which it relates. The statements may also be submitted by e-mail.

The other terms & conditions mentioned in the A.P. (DIR Series) Circular No. 2 dated July 9, 2004 remain unchanged.

[A.P. (DIR Series) Circular No. 103
dated April 3, 2012]

4. Authorised Dealer Category II – Permission for additional activity and opening of Nostro account

To ensure greater flexibility in sending remittances, it has now also been decided to allow Authorised Dealers Category-II to open Nostro accounts subject to following terms and conditions:

- i) Only one Nostro account for each currency may be opened;

- ii) Balances in the account should be utilised only for the settlement of remittances sent for permissible purposes and not for the settlement in respect of forex prepaid cards;
- iii) No idle balance shall be maintained in the said account; and
- iv) They will be subject to reporting requirements as prescribed from time to time.

All the other instructions contained in the A.P.(DIR Series) Circular No.25 {A.P.(FL/RL Series) Circular No.2} dated March 6, 2006 shall remain unchanged.

[A.P. (DIR Series) Circular No. 104
dated April 4, 2012]

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

In terms of A.P. (DIR Series) Circular No. 91 dated March 13, 2012, the Rupee value of the Special Currency Basket was indicated as Rs. 68.838139 effective from February 9, 2012. A further revision has taken place on March 7, 2012 and accordingly, the Rupee value of the Special Currency Basket has been fixed at Rs.70.965327 with effect from March 13, 2012.

[A.P. (DIR Series) Circular No. 105
dated April 10, 2012]

6. Exim Bank's Line of Credit of USD 150 million to the Ecowas Bank for Investment and Development (EBID)

Export-Import Bank of India (Exim Bank) has concluded an Agreement dated July 21, 2011 with the Ecowas Bank for Investment and Development (EBID), making available to the latter, a Line of Credit (LOC) of USD 150 million (USD one hundred and fifty million) for financing eligible goods, services and equipments including project exports and consultancy services, to be exported from India to the 15 member countries of EBID in West African region *viz.* Benin, Burkina Faso, Cape Verde, Cote d'Ivoire, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo.

The Credit Agreement under the LOC is effective from March 12, 2012 and the date of execution of Agreement is July 21, 2011. Under the LOC, the last date for opening of Letters of Credit and Disbursement will be 48 months from the scheduled completion date(s) of contract(s) in the case of project exports and 72 months (July 20, 2017) from the execution date of the Credit Agreement in the case of supply contracts.

[A.P. (DIR Series) Circular No. 106
dated April 12, 2012]

7. Anti-Money Laundering (AML)/ Combating the Financing of Terrorism (CFT) Standards – Money changing activities

Financial Action Task Force (FATF) has issued a further Statement on February 16, 2012 on the risks arising from the deficiencies in AML/CFT regime of certain jurisdiction. Authorised Persons are accordingly advised to consider the information contained in the statement. This, however, does not preclude Authorised Persons from legitimate transactions with these countries and jurisdictions. These guidelines are also applicable mutatis mutandis to all agents/ franchisees of Authorised Persons and it will be the sole responsibility of the franchisers to ensure that their agents / franchisees also adhere to these guidelines.

[A.P. (DIR Series) Circular No. 107
dated April 17, 2012]

8. Anti-Money Laundering (AML)/ Combating the Financing of Terrorism (CFT) Standards – Cross Border Inward Remittance under Money Transfer Service Scheme

Financial Action Task Force (FATF) has issued a further Statement on February 16, 2012 on the risks arising from the deficiencies in AML/CFT regime of certain jurisdictions. Authorised Persons (Indian Agents) are accordingly advised to consider the information contained in the statement. This, however, does not preclude Authorised Persons (Indian Agents) from legitimate transactions with these countries and

jurisdictions. These guidelines would also be applicable mutatis mutandis to all Sub-Agents of the Indian Agents under MTSS and it will be the sole responsibility of the APs (Indian Agents) to ensure that their Sub-agents also adhere to these guidelines.

[A.P. (DIR Series) Circular No. 108
dated April 17, 2012]

9. Authorised Dealer Category II – Permission for additional activity and opening of Nostro account

Authorised Dealer Category-II entities desirous of opening Nostro accounts may approach the Reserve Bank for a one time approval to open and operate Nostro accounts. All other instructions contained in the A.P. (DIR Series) Circular No. 104 dated April 4, 2012 shall remain unchanged.

[A.P. (DIR Series) Circular No. 109
dated April 18, 2012]

10. Exim Bank's Line of Credit of USD 15 million to the Government of the Republic of Togo

Export-Import Bank of India (Exim Bank) has concluded an Agreement dated November 23, 2011 with the Government of the Republic of Togo, making available to the latter, a Line of Credit (LOC) of USD 15 million (USD fifteen million) for financing export of eligible goods, services, machinery and equipment including consultancy services for the purpose of financing Rural Electrification Project in Togo.

The Credit Agreement under the LOC is effective from March 30, 2012 and the date of execution of Agreement is November 23, 2011. Under the LOC, the last date for opening of Letters of Credit and Disbursement will be 48 months from the scheduled completion date(s) of contract(s) in the case of project exports and 72 months (November 22, 2017) from the execution date of the Credit Agreement in the case of supply contracts.

[A.P. (DIR Series) Circular No. 110
dated April 20, 2012]

11. External Commercial Borrowings (ECB) Policy – Liberalisation and Rationalisation

On a review of the policy related to ECB and keeping in view the announcements made in the Union Budget for the Year 2012-13, it has been decided to further rationalise and liberalise the extant guidelines as under:-

(i) Enhancement of Refinancing limit for Power Sector

Indian companies in the **power sector** will be allowed to utilise 40 per cent of the fresh ECB raised towards refinancing of the Rupee loan/s availed by them from the domestic banking system, **under the approval route**, subject to the condition that at least 60 per cent of the fresh ECB proposed to be raised should be utilised for fresh capital expenditure for infrastructure project(s). All other terms and conditions relating to refinancing of Rupee loans mentioned in A.P. (DIR Series) Circular No. 25 dated September 23, 2011 remain unchanged.

(ii) ECB for Maintenance and Operation of Toll systems for Roads and Highways

ECBs would also be allowed for **capital expenditure** under **the automatic route** for the purpose of maintenance and operations of toll systems for roads and highways provided they form part of the original project.

[A.P. (DIR Series) Circular No. 111 dated April 20, 2012]

12. External Commercial Borrowings (ECB) Policy – Refinancing/ Rescheduling of ECB

On a review, it has been decided that the borrowers desirous of refinancing/rescheduling an existing ECB can raise fresh ECB at a higher all-in-cost **under the approval route** subject to the condition that the enhanced all-in-cost does not exceed the all-in-cost ceiling prescribed as per the extant guidelines.

[A.P. (DIR Series) Circular No. 112 dated April 20, 2012]

13. External Commercial Borrowings (ECB) for Civil Aviation Sector

On a review of the policy related to ECB and keeping in view the announcement made in the Union Budget for the Year 2012-13, it has been decided to allow ECB for working capital as a permissible end-use for the civil aviation sector, under the approval route, subject to the following conditions:

- i. Airline companies registered under the Companies Act, 1956 and possessing scheduled operator permit license from DGCA for passenger transportation are eligible to avail of ECB for working capital;
- ii. ECB will be allowed to the airline companies based on the cash flow, foreign exchange earnings and its capability to service the debt;
- iii. The ECB for working capital should be raised within 12 months from the date of issue of the circular;
- iv. The ECB can be raised with a minimum average maturity period of three years; and
- v. The overall ECB ceiling for the entire civil aviation sector would be **USD one billion** and the maximum permissible ECB that can be availed by an individual airline company will be **USD 300 million**. This limit can be utilised for working capital as well as refinancing of the outstanding working capital Rupee loan(s) availed of from the domestic banking system. Airline companies desirous of availing of such ECBs for refinancing their working capital Rupee loans may submit the necessary certification from the domestic lender/s regarding the outstanding Rupee loan/s.

ECB availed for working capital/refinancing of working capital as above will not be allowed to be rolled over. The application for such ECB should be accompanied by a certificate from a chartered accountant confirming the requirement of the working capital loan and the projected foreign exchange cash flows/earnings which would be used for servicing the loan. Authorised Dealer should ensure that the foreign exchange for repayment of ECB is not accessed from Indian markets and the liability is extinguished only out of the foreign exchange earnings of the borrowing company.

[A.P. (DIR Series) Circular No. 113 dated April 24, 2012]