

## Foreign Exchange Developments

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

AD Category-I banks are advised that a further revision has taken place on September 24, 2012 and accordingly, the Rupee value of the Special Currency Basket has been fixed at Rs.75.037184 with effect from September 27, 2012.

[A.P. (DIR Series) Circular No.38 dated October 4, 2012 ]

### 2. Trade Credits for Imports into India – Review of all-in-cost ceiling

AD Category-I banks' attention is invited to A.P. (DIR Series) Circular No. 100 dated March 30, 2012 and A.P. (DIR Series) Circular No. 28 dated September 11, 2012 relating to trade credits for imports into India.

It has been decided that the all-in-cost ceiling as specified under paragraph 4 of A.P. (DIR Series) Circular No. 28 dated September 11, 2012 will continue to be applicable for trade credits for imports into India until further review.

All other aspects of Trade Credit policy remain unchanged.

[A.P. (DIR Series) Circular No. 39 dated October 09, 2012]

### 3. External Commercial Borrowings (ECB) Policy – Review of all-in-cost ceiling

Further to A.P. (DIR Series) Circular No. 99 dated March 30, 2012 relating to EC, it has been decided that the all-in-cost ceiling as specified in A.P. (DIR Series) Circular No. 99 dated March 30, 2012 will continue to be applicable until further review. All other aspects of ECB policy remain unchanged

[ A.P. (DIR Series) Circular No. 40 dated October 09, 2012]

### 4. Foreign investment in NBFC Sector – Amendment to the Foreign Direct Investment (FDI) Scheme

Attention of Authorised Dealer Category – I (AD Category-I) banks is invited to Schedule 1 to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 notified by the Reserve Bank vide Notification No. FEMA 20/2000-RB dated 3rd May 2000, as amended from time to time, read with Sr.No.24.2 of Annex B to A.P. (DIR Series) Circular No. 137 dated June 28, 2012 pertaining to sector specific conditions for FDI in NBFCs.

It has now been decided, in consultation with the Government, to amend certain conditions in the aforesaid circular as stated below:

NBFCs (i) having foreign investment more than 75% and up to 100%, and (ii) with a minimum capitalisation of US\$ 50 million, can set up step down subsidiaries for specific NBFC activities, without any restriction on the number of operating subsidiaries and without bringing in additional capital. **The minimum capitalisation condition as mandated by para 3.10.4.1 of DIPP Circular 1 of 2012 dated April 10, 2012 on Consolidated FDI Policy, therefore, shall not apply to downstream subsidiaries.**

All other conditions contained in Sr. No. 24.2 in the A.P. (DIR Series) Circular No. 137 dated June 28, 2012 shall remain unchanged.

You may also refer to Press Note No.9 (2012 Series) dated October 3, 2012 issued in this regard by Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce and Industry, Government of India.

[ A. P. (DIR Series) Circular No. 41 dated October 10, 2012]

## 5. Uploading of Reports in 'Test Mode' on FINnet Gateway

Please refer to F-Part-III of Annex to A.P.(DIR Series) Circular No.17 [ A.P.(FL/RL Series) Circular No.04] dated November 27, 2009, prescribing reporting formats for Authorised Persons as required under provisions of PML Rules 2005. In this connection, we invite your attention to FIU-IND's letter F.No.9-29/2011-FIU-IND dated March 31, 2011 advising Authorised Persons to go through reporting formats *viz.*, Cash Transaction Reports (CTRs) and Suspicious Transaction Reports (STRs) and initiate urgent steps to develop capacity to generate reports compliant with the XML format specifications and be in readiness to implement the new format as and when advised by the FIU-IND.

FIU-IND have now advised vide their letter F.No.9-29/2011-FIU-IND dated August 28, 2012 (contents of the letter given in the Annex ), that all Authorised Persons should initiate submission of reports on the FINnet Gateway in 'Test Mode' from August 31, 2012 to test their ability to upload the report electronically. Such submission in 'Test Mode' would continue till FIU-IND informs the Authorised Persons about 'go-live' of the project. Authorised Persons are also required to continue to submit the existing reports in CD as presently required till further notice. All Authorised Persons are accordingly advised to take action as required by FIU-IND.

All other instructions issued vide A.P. (DIR Series) Circular No. 17 dated November 27, 2009, as amended from time to time shall remain unchanged.

[ A.P. (DIR Series) Circular No.42  
dated October 12, 2012]

## 6. Uploading of Reports in 'Test Mode' on FINnet Gateway

Please refer to Annex-III to A.P.(DIR Series) Circular No.18 [ A.P.(FL/RL Series) Circular No. 05 ] dated November 27, 2009, prescribing reporting formats for Authorised Persons (Indian Agents) as required under provisions of PML Rules 2005. In this connection, we

invite your attention to FIU-IND's letter F.No.9-29/2011-FIU-IND dated March 31, 2011 advising Authorised Persons (Indian Agents) to go through reporting formats *viz.*, Cash Transaction Reports (CTRs) and Suspicious Transaction Reports (STRs) and initiate urgent steps to develop capacity to generate reports compliant with the XML format specifications and be in readiness to implement the new format as and when advised by the FIU-IND.

FIU-IND have now advised vide their letter F.No.9-29/2011-FIU-IND dated August 28, 2012 (contents of the letter given in the Annex ), that all Authorised Persons (Indian Agents) should initiate submission of reports on the FINnet Gateway in 'Test Mode' from August 31, 2012 to test their ability to upload the report electronically. Such submission in 'Test Mode' would continue till FIU-IND informs the Authorised Persons (Indian Agents) about 'go-live' of the project.

Authorised Persons (Indian Agents) are also required to continue to submit the existing reports in CD as presently required till further notice. All Authorised Persons (Indian Agents) are accordingly advised to take action as required by FIU-IND.

All other instructions issued vide A.P.(DIR Series) Circular No. 18 [ A.P.(FL/RL Series) Circular No. 05 ] dated November 27, 2009, as amended from time to time will remain unchanged.

[A.P. (DIR Series) Circular No. 43  
dated October 12, 2012 ]

## 7. Foreign Exchange Management (Deposit) Regulations, 2000 - Loans to Non Residents/third parties against security of Non Resident (External) Rupee Accounts [NR (E) RA]/Foreign Currency Non Resident (Bank) Accounts [FCNR (B)] Deposits

Attention of Authorised Dealer Category-I banks and Authorised banks (the banks) is invited to Para 6 of Schedule 1 and Para 9 of Schedule 2 to Foreign Exchange Management (Deposit) Regulations, 2000 notified vide Notification No.FEMA 5/2000-RB dated

May 3, 2000, as amended from time to time regarding loans against security of funds held in deposit accounts. Further, attention of the banks is also invited to A. P. (DIR Series) Circular No.66 dated April 28, 2009 in terms of which it was decided to enhance the then existing cap of ₹20 lakh to ₹100 lakh on loans against security of funds held in NR(E)RA and FCNR(B) deposits either to the depositors or third parties.

The Committee to review the facilities for individuals under FEMA, 1999 (Chairperson: Smt. K.J.Udeshi) has recommended that the banks may sanction Rupee loans in India or foreign currency loans outside India to either the account holder or a third party to the extent of the balance in the NRE/FCNR (B) account subject to margin requirements. The existing position in this regard has been reviewed and it has been decided, in exercise of powers under paragraph 6(d) of Schedule-1 read with para 9(1) of Schedule-2 of the Foreign Exchange Management (Deposit) Regulations, 2000, that the banks may now grant loans against NR(E)RA and FCNR(B) deposits either to the depositors or the third parties as under:-

	Existing provision	Proposed provision
<b>Rupee loans* in India</b>		
Loans against NRE/FCNR(B) Fixed Deposits	₹100 lakhs ceiling applicable	Rupee loans to be allowed to depositor/third party without any ceiling subject to usual margin requirements**
<b>Foreign Currency loan** in India/outside India</b>		
Loans against NRE/FCNR(B) Fixed Deposits	₹100 lakhs ceiling applicable	Foreign Currency loans to be allowed to depositor/third party without any ceiling subject to usual margin requirements **
* The term 'loan' shall include all types of fund based/non-fund based facilities. ** In case of FCNR deposits, the margin requirement shall be notionally calculated on the rupee equivalent of the deposits in accordance with para 9(2) of Schedule-2 of Foreign Exchange Management (Deposit) Regulations, 2000.		

Further, the facility of premature withdrawal of NRE/FCNR deposits shall not be available where loans against such deposits are to be availed of. This requirement may specifically be brought to the notice of the deposit holder at the time of sanction of the loan. The existing loans which are not in conformity with the above instructions shall continue for their existing term and shall not be rolled over/renewed. Other conditions as regards grant of loan against NRE/FCNR deposits shall remain unchanged. The above instructions shall come into force with immediate effect.

[ A. P. (DIR Series) Circular No. 44  
dated October 12, 2012 ]

## 8. Facilities for Persons Resident outside India – FIIs

Attention of Authorised Dealers Category – I (AD Category – I) banks is invited to the Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000 dated May 3, 2000 [Notification No. FEMA/25/RB-2000] and A.P. (DIR Series) Circular No.32 dated December 28, 2010, as amended from time to time.

As per the extant guidelines, only designated branches of AD Category I banks maintaining accounts of FIIs are allowed to act as market makers to FIIs for hedging their currency risk on the market value of entire investment in equity and/or debt in India as on a particular date.

It has now been decided to allow FIIs to approach any AD Category I bank for hedging their currency risk on the market value of entire investment in equity and/or debt in India as on a particular date subject to the following conditions:

- i. The eligibility for cover may be determined on the basis of a valuation certificate provided by the designated AD category bank along with a declaration by the FII to the effect that its global outstanding hedges plus the derivatives contracts cancelled across all AD category

banks is within the market value of its investments.

- ii. The FII should also provide a quarterly declaration to the custodian bank that the total amount of derivatives contract booked across AD Category banks are within the market value of its investments.
- iii. The hedges taken with AD banks, other than designated AD banks, have to be settled through the Special Non-Resident Rupee A/c maintained with the designated bank through RTGS/NEFT. All other instructions issued vide A.P.(DIR Series) Circular No. 17 [ A.P.(FL/RL Series) Circular No.04 ] dated November 27, 2009, as amended from time to time will remain unchanged.

[A.P. (DIR Series) Circular No.45  
dated October 22, 2012]

## 9. Supply of Goods and Services by Special Economic Zones (SEZs) to Units in Domestic Tariff Areas (DTAs) against payment in foreign exchange

Attention of the Authorised Dealer (AD) Category – I banks is invited to A.P. (Dir Series) Circular No.105 dated June 16, 2003, in terms of which units in the Domestic Tariff Areas (DTAs) have been permitted to purchase foreign exchange from ADs for making payment towards goods supplied to them by units in the Special Economic Zones (SEZs).

The matter has since been reviewed in consultation with the Ministry of Commerce and Industry, Government of India and it has been decided to allow ADs to sell foreign exchange to a unit in the DTA for making payment in foreign exchange to a unit in the SEZ for the services rendered by it (*i.e.*, a unit in SEZ) to a DTA unit. It may, however, be ensured that there is an enabling provision of supplying these goods/services by the SEZ unit to the DTA unit and for payment in foreign exchange for such goods/services to the SEZ unit, in the Letter of Approval (LoA) issued

to the SEZ unit by the Development Commissioner(DC) of the SEZ.

[A. P. (DIR Series) Circular No.46  
dated October 23, 2012]

## 10. Export of Goods and Services – Simplification and Revision of Softex Procedure

Attention of the Authorised Dealers is invited to Regulation 6 of the Notification No. FEMA 23/2000-RB dated May 3, 2000 *viz.*, Foreign Exchange Management (Export of Goods and Services) Regulations, 2000, as amended by the Notification No.FEMA.36/2001-RB dated February 27, 2001, in terms of which designated officials of the Ministry of Information Technology, Government of India at the Software Technology Parks of India (STPIs) or at Free Trade Zones (FTZs) or Export Processing Zones (EPZs) or Special Economic Zones (SEZs), had been authorised to certify exports declared through SOFTEX Forms.

Considering the spurt in the volume of software exports from India in recent times, the complexity of work contracts involved, the voluminous nature of contract agreements and the duration involved in execution of each contract as well as the time-consuming process involved in the certification of SOFTEX forms, simplified and revised Softex procedure was introduced vide A.P. (DIR Series) Circular No.80 dated February 15, 2012. Initially the revised procedure was applicable in STPI at Bangalore, Hyderabad, Chennai, Pune and Mumbai with effect from April 01, 2012.

Since the revised procedure is running successfully at the 5 designated centres, it has been decided to implement the revised procedure in all the STPIs in India with immediate effect.

As per the revised procedure, a software exporter, whose annual turnover is at least Rs.1000 crore or who files at least 600 SOFTEX forms annually on all India basis, will be eligible to submit a statement in excel format as detailed in our A.P. (DIR Series) Circular No.80 dated February 15, 2012.

[A. P. (DIR Series) Circular No. 47  
dated October 23, 2012]