

## Foreign Exchange Developments

### 1. External Commercial Borrowings (ECB)

The ECB limit for eligible borrowers under the automatic route was enhanced to US\$ 750 million or equivalent per financial year per borrower for permissible end-uses under the automatic route vide A.P. (DIR Series) Circular No. 27 dated September 23, 2011. Consequent to the enhancement in limits, the revised average maturity guidelines under the automatic route are as follows:-

- a) ECB up to US\$ 20 million or equivalent in a financial year with minimum average maturity of three years; and
- b) ECB above US\$ 20 million and up to US\$ 750 million or equivalent with minimum average maturity of five years.

Accordingly, the requirement of average maturity period, prepayment and call/put options specified vide A.P. (DIR Series) Circular No.17 dated December 4, 2006 (for additional amount of US\$ 250 million) have been dispensed with.

It was also clarified that the eligible borrowers under the automatic route can raise Foreign Currency Convertible Bonds (FCCBs) up to US\$ 750 million or equivalent per financial year for permissible end-uses. Similarly, corporates in specified service sectors, *viz.* hotel, hospital and software, can raise FCCBs up to US\$ 200 million or equivalent for permissible end-uses during a financial year subject to the condition that the proceeds of the ECB should not be used for acquisition of land.

Consequent to the enhancement in the limits under the automatic route, it was clarified that the ECB / FCCB availed of for the purpose of refinancing the existing outstanding FCCB will be reckoned as part

of the limit of US\$ 750 million available under the automatic route as per the extant norms.

[A.P. (DIR Series) Circular No.64  
dated January 5, 2012]

### 2. Foreign Exchange Management Act, 1999 – Export of Goods and Services - Forwarder's Cargo Receipt

It has been decided that authorized dealers may accept Forwarder's Cargo Receipts (FCR) issued by IATA approved agents, in lieu of bill of lading, for negotiation/collection of shipping documents, in respect of export transactions backed by letters of credit, if the relative letter of credit specifically provides for negotiation of this document in lieu of bill of lading even if the relative sale contract with the overseas buyer does not provide for acceptance of FCR as a shipping document, in lieu of bill of lading.

Further, authorized dealers may, at their discretion, also accept FCR issued by Shipping companies of repute/IATA approved agents (in lieu of bill of lading), for purchase/discount/collection of shipping documents even in cases, where export transactions are not backed by letters of credit, provided their 'relative sale contract' with overseas buyer provides for acceptance of FCR as a shipping document in lieu of bill of lading. However, the acceptance of such FCR for purchase/discount would purely be the credit decision of the bank concerned who, among others, should satisfy itself about the bona fides of the transaction and the track record of the overseas buyer and the Indian supplier since FCRs are not negotiable documents. It would be advisable for the exporters to ensure due diligence on the overseas buyer, in such cases.

[A.P. (DIR Series) Circular No.65  
dated January 12, 2012]

### **3. I) Scheme for Investment by Qualified Foreign Investors in equity shares (II) Scheme for Investment by Qualified Foreign Investors in Rupee Denominated Units of Domestic Mutual Funds – Revision**

#### ***(I) Scheme for Investment by Qualified Foreign Investors (QFIs) in equity shares***

In terms of A.P. (DIR Series) Circular No.8 dated August 9, 2011 and A.P. (DIR Series) Circular No. 42 dated November 3, 2011, Qualified Foreign Investors (QFIs as defined therein to mean non-resident investors, other than SEBI registered FIIs and SEBI registered FVCIs, who meet the KYC requirements of SEBI) were allowed to invest in rupee denominated units of domestic Mutual Funds subject to the terms and conditions mentioned therein.

It has been decided to allow QFIs to purchase on repatriation basis equity shares of Indian companies subject to the terms and conditions contained in the Circular.

[A.P. (DIR Series) Circular No.66  
dated January 13, 2012]

### **4. Foreign Investment in Single – Brand Retail Trading - Amendment to the Foreign Direct Investment (FDI) Scheme**

The extant FDI policy was reviewed and it was decided that FDI up to 100 per cent would be permitted in Single Brand product trading under the Government route subject to the terms and conditions as stipulated in Press Note No. 1 (2012 Series) dated January 10, 2012 issued by Department of Industrial Policy & Promotion, Ministry of Commerce & Industry, Government of India.

[A.P. (DIR Series) Circular No.67  
dated January 13, 2012]

### **5. Risk Management and Inter-Bank Dealings - Commodity Hedging**

It was decided to permit all AD Category-I banks to grant permission to companies to hedge the price risk in respect of any commodity (except gold, silver, platinum) in the international commodity exchanges/markets as specified under the delegated route. Further, AD Category-I banks can also grant permission to unlisted companies to hedge price risk on import/export in respect of any commodity (except gold, silver, platinum) in the international commodity exchanges/markets subject to the specified guidelines.

AD Category-I banks may submit an annual report to the Chief General Manager-in-Charge, 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 (before April 30th), giving the names of the corporate to whom they have granted permission for commodity hedging and the name of the commodity hedged.

Applications from customers to undertake hedge transactions not covered under the delegated route would continue to be forwarded to the Reserve Bank by the Authorised Dealers for approval, as hitherto.

[A.P. (DIR Series) Circular No.68  
dated January 17, 2012]

### **6. External Commercial Borrowings – Simplification of procedure**

As a measure of simplification of the existing procedures, it was decided to delegate powers to the designated AD category-I banks to approve the following requests from the ECB borrowers, subject to specified conditions:

#### ***a) Cancellation of LRN***

The designated AD Category-I bank may directly approach Department of Statistics and Information Management (DSIM) for cancellation of LRN for ECBs availed, both under the automatic and approval

routes, subject to fulfillment of the following conditions:-

- i. no draw down for the said LRN has taken place; and
- ii. the monthly ECB-2 returns till date in respect of the LRN have been submitted to DSIM.

### ***b) Change in the end-use of ECB proceeds***

The designated AD Category-I bank may approve requests from ECB borrowers for change in end-use in respect of ECBs availed under the **automatic route**, subject to the following conditions:-

- i. the proposed end-use is permissible under the automatic route as per the extant ECB guidelines;
- ii. there is no change in the other terms and conditions of the ECB;
- iii. the ECB is in compliance with the extant guidelines; and
- iv. the monthly ECB-2 returns till date in respect of the LRN have been submitted to DSIM.

The AD Category – I bank shall continue to monitor the utilization of end-use proceeds and changes in the end-use should be promptly reported to DSIM, RBI in Form 83. However, change in the end-use of ECBs availed under the **approval route** will continue to be referred to the Foreign Exchange Department, Central Office, Reserve Bank of India, as hitherto.

[A.P. (DIR Series) Circular No.69  
dated January 25, 2012]

## **7. External Commercial Borrowings (ECB) Policy – Infrastructure Finance Companies (IFCs)**

It has now been decided that the designated AD Category – I banks should certify the leverage ratio (i.e. outside liabilities/owned funds) of Infrastructure Finance Companies (IFCs) desirous of availing External Commercial Borrowings (ECBs) under the

approval route while forwarding such proposals to the Reserve Bank of India.

[A.P. (DIR Series) Circular No.70  
dated January 25, 2012]

## **8. Memorandum of Instructions governing money changing activities**

In view of the recent measures adopted to provide more flexibility to the Authorised Persons in selecting the location for their branches, it was decided to remove the criteria relating to increase in outreach and locational advantage while considering the applications for issuance of fresh licenses for Full Fledged Money Changers (FFMC).

All the other instructions contained in the A.P. (DIR Series) Circular No.57 {A.P. (FL/RL Series) Circular No.4} dated March 9, 2009 shall remain unchanged.

[A.P. (DIR Series) Circular No.71  
dated January 30, 2012]

## **9. Memorandum of Instructions for Opening and Maintenance of Rupee/ Foreign Currency Vostro Accounts of Non-resident Exchange Houses**

With a view to give more operational leeway to the AD Category-I banks, it was decided to dispense with the requirement of prior approval of the Reserve Bank for opening and maintaining each Rupee Vostro account in India of non-resident Exchange Houses in connection with the Rupee Drawing Arrangements (RDAs) that banks enter into with them. Accordingly, AD Category-I banks may take approval of the Reserve Bank the first time they enter into the above arrangement with non-resident Exchange Houses from Gulf countries, Hong Kong, Singapore and Malaysia. Subsequently, they may enter into RDAs, subject to the prescribed guidelines and inform the Reserve Bank immediately.

Once the total number of Rupee Drawing Arrangements (RDAs) reaches twenty, the AD Category-I bank may cause a detailed external Audit of

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their internal system to ensure that it is working satisfactorily. Based on the satisfactory report, the Board of AD Category-I banks may authorise more such arrangements. A copy of the Board Note together with Board Resolution in the matter may be filed with the Reserve Bank and new arrangements informed to the Reserve Bank as indicated above.

All other instructions contained in the A.P.(DIR Series) Circular No. 28 [A.P. (FL/RL Series) Circular No. 02] dated February 6, 2008, as amended from time to time, remain unchanged.

[A.P. (DIR Series) Circular No.72  
dated January 30, 2012]