

Exchange Control

SEPTEMBER 2000

1. External Commercial Borrowings (ECBs)

1.1 With a view to liberalising further ECB approvals, the Government in their Press Release F.No.4 (32)-2000 ECB dated September 1, 2000 have decided to operationalise the automatic route for fresh ECB approvals upto US \$ 50 million and all refinancing of existing ECBs with immediate effect.

1.2 Under the automatic route arrangement, any legal entity, registered under the Companies Act, Societies Registration Act, Cooperative Societies Act, including proprietorship/partnership concerns, will be eligible to enter into loan agreements with overseas lender(s) for raising fresh ECB for an amount upto US \$ 50 million with minimum weighted average maturity of 3 years for ECBs upto US \$ 20 million and 5 years for ECBs beyond US \$ 20 million. In case of 100 per cent EOUs, the minimum average maturity is 3 years irrespective of the amount and for all refinancing of existing ECB provided it is in compliance with both the ECB guidelines framed by the Ministry of Finance, Government of India, and the regulations/directions/ circulars issued by the Reserve Bank in this regard. Corporates would not be required to obtain prior approval for raising ECB upto US \$ 50 million and for refinancing of an existing ECB from the Ministry of Finance/Reserve Bank.

The corporate has to ensure that they raise ECB from an internationally acceptable and/or recognised lender, such as export credit agencies, suppliers of equipments, foreign collaborators, foreign equity holders, international capital markets, reputed international banks and financial institutions, etc.

Further, the loan should be organised through a reputed merchant banker registered with the regulatory authorities of the host country, viz., USA, Japan, EU countries, Singapore and such other countries as may be notified from time to time by the Government of India. The lenders should be recognised and registered in the host countries for the purpose of extending international finance.

The corporate has to submit through an authorised dealer of its choice, three copies of the loan agreement to the concerned Regional Office of the Reserve Bank after signing the same with the lender. The Regional Office of the Reserve Bank would acknowledge receipt of the copies of the agreement and will allot a loan identification number to such an agreement. The primary responsibility to ensure that ECBs raised are in conformity with the ECB guidelines and the Reserve Bank regulations/directions/ circulars, will be that of the concerned corporate. If, however, at a later stage, any violation is found, appropriate action will be taken by the Reserve Bank under the Foreign Exchange Management Act, 1999.

Corporate will also be permitted to make necessary draw-downs under the automatic route without prior permission from the Reserve Bank. It will, however, be required to file quarterly returns in a prescribed format through the authorised dealer. The withholding tax exemption

would continue to be granted by the Ministry of Finance (Department of Revenue/Department of Economic Affairs), Government of India.

1.3 Authorised dealers, as hitherto, shall be required to forward all applications to the Chief General Manager, ECB Division, Exchange Control Department, Reserve Bank of India, Central Office, Mumbai - 400 001, to obtain prior permission for prepayment of outstanding ECBs.

1.4 Opening of foreign currency account for parking ECB proceeds temporarily, pending utilisation, will require prior approval of the concerned Regional Office of the Reserve Bank.

2. Commodity Hedging

2.1 In terms of the Regulation 6 of the Notification No. FEMA 25/RB-2000 dated May 3, 2000, the Reserve Bank considers applications, from persons resident in India, for granting permission to enter into contracts for hedging the price risk in a commodity excluding oil and petroleum products. It has been decided that importers/exporters of crude oil and petroleum products may also be permitted to hedge their exposure to price risk.

3. Export of Goods and Services

3.1 Directions under the provisions of Foreign Exchange Management Act, 1999 have been issued to authorised dealers for dealing with applications relating to export of goods and services from India.

3.2 Any export of Indian currency except to the extent permitted under any general permission granted under the Foreign Exchange Management (Export and Import of Currency) Regulations, 2000 vide Notification No. FEMA 6/RB-2000 dated May 3, 2000, will require prior permission of the Reserve Bank.

3.3 In terms of Regulation 4 of the Foreign Exchange Management (Guarantees) Regulations, 2000, notified vide Notification No. FEMA 8/2000-RB dated May 3, 2000, authorised dealers have been permitted to issue guarantees on behalf of exporter clients on account of exports out of India.

3.4 Export-Import Bank of India (EXIM Bank) and authorised dealers have been permitted to undertake forfaiting, for financing of export receivables. It would be in order for authorised dealers to allow remittance of commitment fee/service charges etc. payable by the exporter as approved by the EXIM Bank/the concerned authorised dealer. Such remittance may be permitted in advance in one lumpsum or at monthly intervals as approved by the concerned agency.

4. Export of Goods to Russian Federation on Consignment Basis against Repayment of State Credit

It has been decided to permit export of instant coffee also on consignment basis to the Russian Federation against repayment of State Credits. The procedure for availing of this facility for this item would be the same as applicable to the commodities permitted for such trade.