

## **Exchange Control**

**FEBRUARY 2002**

### **1. Two-Way Fungibility of ADRs/GDRs**

In terms of Regulation 4A of the Reserve Bank Notification FEMA.20/2000-RB dated May 3, 2000 as amended by Notification NO.FEMA.41/ 2001/-RB dated March 2, 2001 a registered broker has been permitted to purchase shares of an Indian company on behalf of a person resident outside India for purpose of converting the shares into ADRs/ GDRs subject to compliance with provisions of the issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 and guidelines issued by the Central Government from time to time.

The Operative Guidelines for the limited two-way fungibility under the “Issue of Foreign Currency Convertible Bonds and Ordinary Shares (Throught Depository Receipt Mechanism) Shceme, 1993” as approved by the Government of India have been issued for guidance of Authorised Persons and their constituents.

### **2. Exim Bank’s Line of Credit of US\$ 5 Millon to Eastern and Southern African Trade and Development Bank (PTA Bank)**

Export Import Bank of India (Exim Bank) has concluded an agreement with the Eastern and Southern African Trade and Development Bank (PTA Bank) on November 12, 2001 making available to the latter, a line of credit upto an aggregate sum of US\$ 5 million (U.S. Dollar Five Million only). The credit has become effective from December 12, 2001, and is available for financing Indian export of eligible goods and related services to buyers in the PTA Bank member countries *viz.* Burundi, Comoros, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Malawi, Mauritius, Rwanda, Somalia, Saudan, Tanzania, Uganda, Zambia and Zimbabwe. The eligible goods will also include initial spares, drawings and designs together with services related thereto. The export of goods from India and their import into the borrowers’ countries shall be subject to the laws and regulations in force in the concerned countries.

### **3. Indian Direct Investment outside India**

In terms of Regulations 6 of the Notification No.FEMA.19/RB-2000, dated May 3, 2000, as amended from time to time, Indian parties have been permitted to make direct investment in Joint Venture (JV) or Wholly Owned Subsidiary (WOS) outside India subject to their complying with the conditions specified therein. In this connection, it was clarified that the general permission under Regulation 6 did not include investment proposals which envisage setting up a holding company or a Special Purpose Vehicle abroad, which would in turn set up one or more step down subsidiaries as operating units. Accordingly, authorised dealers were advised that overseas investment proposals through a two-tier structure, as explained above would require **prior approval** of the Reserve Bank.

In terms of clause (v) of Sub-regulation (2) of Regulation 6, Indian parties included in the

Reserve Bank's Caution List are not eligible to make overseas investments under the automatic route. It was clarified that this restriction was also applicable to Indian parties which were defaulters to the banking system in India and whose names appeared in the Degaulters List published/circulated by the Reserve Bank. Authorised Dealers may, while allowing remittances under the automatic route, satisfy themselves that the Indian party proposing to make the investment is not included in the defaulters' list. Indian parties whose name appear in the defaulters' list may be advised to apply to the Reserve Bank for prior approval for the investment.