

Foreign Exchange Developments

October 2009

i) Foreign Exchange Management Act, 1999 – Advance Remittance for import of Services

In terms of A.P.(DIR Series) Circular No. 15 dated September 8, 2008 the limit for advance remittance for all admissible current account transactions for import of services without bank guarantee was raised from USD 100,000 to USD 500,000 or its equivalent.

It is now clarified that the increase in the limit for advance remittance for all admissible current account transactions for import of services without bank guarantee is not applicable for a Public Sector Company or a Department/ Undertaking of the Government of India/ State Governments.

In the case of a Public Sector Company or a Department/ Undertaking of the Government of India/ State Governments, approval from the Ministry of Finance, Government of India for advance remittance for import of services without bank guarantee for an amount exceeding USD 100,000 (USD One hundred thousand) or its equivalent would continue to be required.

[A. P. (DIR Series) Circular No. 10 dated October 5, 2009]

ii) Issue of Bank Guarantee on behalf of service importers

In terms of Regulation 4(3)(iv) of Foreign Exchange Management (Guarantees) Regulations, 2000 notified vide Notification No. FEMA 8/2000-RB dated May 3, 2000 thereof [amended vide Notification No. FEMA 151/2007-RB dated January 4, 2007]

and A.P. (DIR Series) Circular No. 13 dated November 17, 2006, banks were allowed to issue guarantees in favour of a non-resident service provider, on behalf of a resident customer who is a service importer, for an amount up to USD 100,000 or its equivalent, subject to the terms and conditions stipulated in the said circular.

2. With a view to further liberalise the procedure (other than in respect of a Public Sector Company or a Department/ Undertaking of the Government of India/ State Governments) for import of services, it has been decided to increase the limit for issue of guarantee by AD Category-I banks from USD 100,000 to USD 500,000. Accordingly, AD Category-I banks have now been permitted to issue guarantee for amount not exceeding USD 500,000 or its equivalent in favour of a non-resident service provider, on behalf of a resident customer who is a service importer, provided:

- (a) the AD Category-I bank is satisfied about the bonafides of the transaction;
- (b) the AD Category-I bank ensures submission of documentary evidence for import of services in the normal course; and
- (c) the guarantee is to secure a direct contractual liability arising out of a contract between a resident and a non-resident.

3. In the case of a Public Sector Company or a Department/ Undertaking of the Government of India/ State Governments, approval from the Ministry of Finance, Government of India for issue of guarantee for an amount exceeding USD 100,000 (USD

One hundred thousand) or its equivalent would be required.

[A. P. (DIR Series) Circular No. 11
dated October 5, 2009]

iii) Exim Bank's Line of Credit of USD 20 million to the State of Eritrea

Export-Import Bank of India (Exim Bank) has concluded an Agreement dated August 24, 2009 with the State of Eritrea making available to the latter, a Line of Credit (LoC) of USD 20 million (USD twenty million) for financing eligible goods and services, machinery and equipment including consultancy services from India for the purpose of financing multipurpose agricultural projects not exceeding USD 10 million [the proposed projects include Artificial Insemination Development Project, Poultry Waterer and Feeder, Establishment of Milk Collection Centers, Pressurised Irrigation System (Drip Irrigation System), Solar Pumps Project and Soil Survey and Land Evaluation Equipment] and multipurpose educational projects not exceeding USD 10 million [which include purchase of teaching materials including books, laboratory/ educational equipment, chemicals, computers *etc.* for seven Eritrean Institutions of Higher Education established in 2003-04 *viz.* Eritrean Institute of Technology (EIT), CSH, CBE, COMSAT, OROTTA, HAC and CASS, in addition to the National Board of Higher Education], in Eritrea.

[A. P. (DIR Series) Circular No. 12
dated October 23, 2009]

iv) Opening of Diamond Dollar Accounts (DDAs) - Modification

Attention of Authorised Dealer Category - I (AD Category-I) banks is invited to A.P. (DIR Series) Circular No. 51 dated February 13, 2009 delegating powers to AD Category-I banks to open and maintain DDAs by eligible firms and companies subject to certain terms and conditions.

2. The Government has since relaxed the eligibility criteria of the track record of at least 3 years to 2 years and the average annual turnover of Rs.5 crores or above to Rs. 3 crores or above during preceding three licensing years. In this regard, the Government has issued Notification No. 96 (RE-2008)/ 2004-2009 dated March 13, 2009.

3. Authorised Dealer Category-I banks have to note the revised eligibility criteria notified by the Government while permitting eligible firms and companies to open and maintain DDAs with them. They have also been advised to be guided by Foreign Trade Policy (FTP) in force from time to time, in future.

[A. P. (DIR Series) Circular No. 13 dated October 29, 2009]

v) Participants under ACU Mechanism- Inclusion of Maldives Monetary Authority

In the meeting of the Asian Clearing Union (ACU) Board of Directors, held in Colombo, Sri Lanka on June 16, 2009, the Maldives Monetary Authority (MMA) was admitted in the Asian Clearing Union as a Member. The Maldives Monetary Authority will commence ACU operations with effect from January 1, 2010. All the provisions of ACU mechanism, as applicable to ACU member countries, unless otherwise specifically exempted, would be applicable to Maldives Monetary Authority. AD Category - I banks should follow the provisions contained in the Memorandum of Procedure for Channelling Transactions through Asian Clearing Union (ACU) [Memorandum ACM] and the regulations contained in FEMA Notification No. FEMA 14/2000-RB dated May 3, 2000 [Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2000], as amended from time to time, in this regard.

[A. P. (DIR Series) Circular No. 14 dated October 30, 2009]