

## Foreign Exchange Developments\*

December 2010

**Know Your Customer (KYC) norms/ Anti-Money Laundering (AML) standards/ Combating the Financing of Terrorism (CFT)/ Obligation of Authorised Persons under Prevention of Money Laundering Act, (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009– Money changing activities**

Authorised Persons (APs) have been advised that in addition to the FATF Statements, issued from time to time, they should also consider using publicly available information for identifying countries, which do not or insufficiently apply the FATF Recommendations. Further, it was clarified that APs should also give special attention to business relationships and transactions with persons (including legal persons and other financial institutions) from or in countries that do not or insufficiently apply the FATF recommendations and jurisdictions included in FATF Statements.

APs were advised that as ongoing monitoring is an essential element of effective KYC procedures, they should examine the background and purpose of transactions with persons (including legal persons and other financial institutions) from jurisdictions included in FATF Statements and countries that do not or insufficiently apply the FATF Recommendations. Further, if the transactions have no apparent economic or visible lawful purpose, the background and purpose of such transactions should, as far as possible, be examined and written findings together with all the documents should be retained and made available to the Reserve Bank/other relevant authorities, on request.

[A.P. (DIR Series) Circular No. 20 dated November 30, 2010]

\* Important policy measures taken during December 2010

**Know Your Customer (KYC) norms/Anti-Money Laundering (AML) standards/ Combating the Financing of Terrorism (CFT)/ Obligation of Authorised Persons under Prevention of Money Laundering Act, (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009– Cross Border Inward Remittance under Money Transfer Service Scheme**

Authorised Persons (Indian Agents) [APs (Indian Agents)] have been advised to take into account the risks arising from the deficiencies in AML/CFT regime of the jurisdictions as identified in the FATF Statement issued from time to time, while dealing with individuals from these jurisdictions. They have been advised that in addition to the FATF Statements issued from time to time, they should also consider using publicly available information for identifying the countries, which do not or insufficiently apply the FATF Recommendations. Further, it is clarified that APs (Indian Agents) should also give special attention to business relationships and transactions with persons (including legal persons and other financial institutions) from or in countries that do not or insufficiently apply the FATF recommendations and jurisdictions included in FATF Statements.

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and made available to the Reserve Bank/other relevant authorities, on request.

[A.P. (DIR Series) Circular No.21 dated November 30, 2010]

### **Exim Bank's Line of Credit of USD 72.55 million to the Government of Lao People's Democratic Republic**

Export-Import Bank of India (Exim Bank) has concluded an Agreement dated September 13, 2010 with the Government of Lao People's Democratic Republic (Lao PDR) making available to the latter, a Line of Credit (LOC) of USD 72.55 million (USD seventy two million five hundred fifty thousand) for financing eligible goods and services including consultancy services from India for the purpose of financing (i) 230 KV double circuit transmission line from Nabon to Thabok and substations (USD 34.68 million) and (ii) Nam Boun 2 hydropower projects (15 MW) (USD 37.86 million) in Lao PDR. The Credit Agreement under the LOC is effective from November 2, 2010 and the date of execution of Agreement is September 13, 2010. Under the LOC, the last date for opening of Letters of Credit and Disbursement will be 48 months from the scheduled completion date(s) of contract(s) in the case of project exports and 72 months (September 12, 2016) from the execution date of the Credit Agreement in the case of supply contracts.

[A.P. (DIR Series) Circular No. 22 dated December 03, 2010]

### **Exim Bank's Line of Credit of USD 42 million to the Government of the Democratic Republic of Congo**

Export-Import Bank of India (Exim Bank) has concluded an Agreement dated August 5, 2010 with the Government of the Democratic Republic of Congo making available to the latter, a Line of Credit (LOC) of USD 42 million (USD forty two million) for financing eligible goods and services including consultancy services from India for the purpose of financing Kakobola Hydroelectric Power Project in Congo. The Credit Agreement under the LOC is effective from November 19, 2010 and the date of execution of Agreement is August 5, 2010. Under the LOC, the last date for opening of Letters of Credit and Disbursement

will be 48 months from the scheduled completion date(s) of contract(s) in the case of project exports and 72 months (August 4, 2016) from the execution date of the Credit Agreement in the case of supply contracts.

[A.P. (DIR Series) Circular No. 23 dated December 10, 2010]

### **Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Second Amendment Rules, 2010–Obligation of Authorised Persons**

The Government of India vide its Notification No. 10/2010-E.S./F.No.6/8/2009-E.S. dated June 16, 2010 had amended the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Rules, 2005. A copy of the Notification is enclosed with the circular for information and necessary compliance.

[A.P. (DIR Series) Circular No. 24 {A.P. (FL/RL Series) Circular No. 05} dated December 13, 2010]

### **Know Your Customer (KYC) norms/Anti-Money Laundering (AML) standards/Combating the Financing of Terrorism (CFT)/Obligation of Authorised Persons under Prevention of Money Laundering Act, (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009–Money changing activities**

In terms of Paragraph 4.10 (b) of F-Part-I, Annex to A.P. (DIR Series) Circular No.17 {A.P. (FL/RL Series) Circular No.4} dated November 27, 2009 all the Authorised Persons were advised to take into account risks arising from the deficiencies in AML/CFT regime

of certain jurisdictions, as identified in FATF Statement (www.fatf-gafi.org), issued from time to time, while dealing with individuals or businesses from these jurisdictions.

The Financial Action Task Force (FATF) had issued a further Statement on June 25, 2010 on the subject, a copy of which was enclosed with the circular.

[A.P. (DIR Series) Circular No. 25 {A.P. (FL/RL Series) Circular No. 06} dated December 22, 2010]

**Know Your Customer (KYC) norms/ Anti-Money Laundering (AML) standards/ Combating the Financing of Terrorism (CFT)/ Obligation of Authorised Persons under Prevention of Money Laundering Act, (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009– Cross Border Inward Remittance under Money Transfer Service Scheme**

In terms of Paragraph 5.10 (b) of Annex-I, Annex to A.P. (DIR Series) Circular No.18 {A.P. (FL Series) Circular No.5} dated November 27, 2009, all Authorised Persons, who are Indian Agents under Money Transfer Service Scheme (MTSS) were advised to take into account risks arising from the deficiencies in AML/CFT regime of certain jurisdictions, as identified in FATF Statement (www.fatf-gafi.org) issued from time to time, while dealing with individuals from these jurisdictions.

The Financial Action Task Force (FATF) had issued a further Statement on June 25, 2010 on the subject, a copy of which was enclosed with the circular.

[A.P. (DIR Series) Circular No. 26 {A.P. (FL/RL Series) Circular No. 07} dated December 22, 2010]

**Know Your Customer (KYC) norms/Anti-Money Laundering (AML) standards/ Combating the Financing of Terrorism (CFT)/ Obligation of Authorised Persons under Prevention of Money Laundering Act, (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009– Money changing activities**

In terms of Paragraph 4.10 (b) of F-Part-I, of the Annex to A.P. (DIR Series) Circular No.17 {A.P. (FL/RL

Series) Circular No. 4} dated November 27, 2009 Authorised Persons were advised to take into account risks arising from the deficiencies in AML/CFT regime of certain jurisdictions, as identified in FATF Statement (www.fatf-gafi.org), issued from time to time, while dealing with individuals or businesses from these jurisdictions.

As part of its ongoing review of compliance with the AML/CFT standards, the Financial Action Task Force (FATF) has identified certain jurisdictions which have strategic AML/CFT deficiencies. FATF, vide its statement dated June 25, 2010 (copy enclosed with the circular) has called upon jurisdictions listed in the statement to complete the implementation of their action plan within the timeframe. The FATF, in the statement, has called upon its members to consider the information given in the statement.

[A.P. (DIR Series) Circular No. 27 {A.P. (FL/RL Series) Circular No. 08} dated December 22, 2010]

**Know Your Customer (KYC) norms/Anti-Money Laundering (AML) standards/ Combating the Financing of Terrorism (CFT)/ Obligation of Authorised Persons under Prevention of Money Laundering Act, (PMLA), 2002, as amended by Prevention of Money Laundering (Amendment) Act, 2009– Cross Border Inward Remittance under Money Transfer Service Scheme**

In terms of Paragraph 5.10 (b) of Annex-I, Annex to A.P. (DIR Series) Circular No.18 {A.P. (FL Series) Circular No.5} dated November 27, 2009, all the Authorised Persons, who are Indian Agents under Money Transfer Service Scheme (MTSS) were advised to take into account risks arising from the deficiencies in AML/CFT regime of certain jurisdictions, as identified in FATF Statement (www.fatf-gafi.org) issued from time to time, while dealing with individuals from these jurisdictions.

As part of its ongoing review of compliance with the AML/CFT standards, the Financial Action Task Force (FATF) has identified certain jurisdictions which have strategic AML/CFT deficiencies. FATF, vide its statement dated June 25, 2010 (copy enclosed with the circular) has called upon jurisdictions listed in the

statement to complete the implementation of their action plan within the timeframe. The FATEF, in the statement, has called upon its members to consider the information given in the statement.

[A.P. (DIR Series) Circular No. 28 {A.P. (FL/RL Series) Circular No. 09} dated December 22, 2010]

### **Use of International Debit Cards/ Store Value Cards/Charge Cards/Smart Cards by resident Indians while on a visit outside India**

In terms of paragraph 4 of the A.P.(DIR Series) Circular No. 46 dated June 14, 2005, all the banks authorised to deal in foreign exchange were required to submit a statement as on December 31, each year in case the aggregate forex utilisation by the International Debit Card holders exceeds USD 100,000 in a calendar year. It has been decided to discontinue the submission of the statement mentioned above to the Reserve Bank. Accordingly, all the banks authorised to deal in foreign exchange have been advised to discontinue the submission of the afore-mentioned statement from the calendar year 2010 onwards.

[A.P. (DIR Series) Circular No. 29 dated December 22, 2010]

### **Asian Clearing Union (ACU) Mechanism – Payments for import of Oil or Gas**

In terms of Regulation 5 of Notification No.FEMA.14/2000-RB dated May 3, 2000 read with items 7(b) and 7(e) of the Memorandum of Procedure for channelling transactions through the Asian Clearing Union (ACU) all eligible current account transactions as defined by the Articles of Agreement of the International Monetary Fund and the export/import transactions between the ACU member countries on deferred payment terms, respectively, are to be routed through the ACU mechanism.

The above provisions have been reviewed and it was decided that payment for import of oil or gas should be settled in any permitted currency outside the ACU mechanism.

[A.P. (DIR Series) Circular No. 30 dated December 23, 2010]

### **Asian Clearing Union (ACU) Mechanism – Indo - Iran trade**

In terms of Regulations 3 and 5 of Notification No.FEMA.14/2000-RB dated May 3, 2000 read with items 7(b) and 7(e) of the Memorandum of Procedure for channelling transactions through Asian Clearing Union (ACU), all eligible current account transactions as defined by the Articles of Agreement of the International Monetary Fund and export/import transactions between ACU member countries on deferred payment terms respectively are to be routed through the ACU mechanism.

In view of the difficulties being experienced by importers/exporters in payments to /receipts from Iran, the extant provisions were reviewed and it has been decided that all eligible current account transactions including trade transactions with Iran should be settled in any permitted currency outside the ACU mechanism until further notice.

[A.P. (DIR Series) Circular No. 31 dated December 27, 2010]

### **Comprehensive Guidelines on Over the Counter (OTC) Foreign Exchange Derivatives and Overseas Hedging of Commodity Price and Freight Risks**

Attention of the Authorised Dealer Category - I (AD Category - I) banks is invited to Notification No. FEMA 25/2000-RB dated May 3, 2000, as amended from time to time, which delineates the rules governing foreign exchange derivative contracts. Further, attention is also invited to the Comprehensive Guidelines on Derivatives issued by the Department of Banking Operations and Development (DBOD), Reserve Bank of India, vide their circular DBOD.No.BP.BC. 86/21.04.157/2006-07 dated April 20, 2007 which, among others, covers the broad principles to be followed for undertaking derivative transactions, appropriateness of the user, suitability of the product and risk management practices to be followed.

In the light of developments in the domestic and international financial markets, the extant guidelines

on OTC foreign exchange derivatives, commodity price and freight risks have been revised in consultation with the banks, corporates and other stake holders. The Comprehensive Guidelines on Foreign Exchange Derivatives and Overseas Hedging of Commodity Price and Freight Risks are furnished in the Annex to this circular. The revised guidelines would be effective from February 01, 2011.

All the guidelines given in the Comprehensive Guidelines on Derivatives issued vide Circular DBOD.No.BP.BC. 86/21.04.157/2006-07 dated April 20, 2007 and subsequent amendments thereto would also apply, *mutatis mutandis*, to the foreign exchange derivatives.

[A.P. (DIR Series) Circular No. 32  
dated December 28, 2010]

