

## *Foreign Exchange Developments*

May 2010

### **i) Foreign Direct Investment (FDI) in India - Transfer of Shares / Preference Shares / Convertible Debentures by way of Sale - Revised pricing guidelines**

The extant pricing guidelines in respect of issue of shares including preferential allotment guidelines have been reviewed and revised in consultation with the Government of India. A copy of the Notification No. FEMA 205/2010-RB dated April 7, 2010, notified *vide* G.S.R. No.341 (E) dated April 21, 2010, amending the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000 (Notification No. FEMA 20/2000-RB dated May 3, 2000) issued in this regard is enclosed with the Circular.

Further, the pricing guidelines for transfer of equity instruments from a resident to a non-resident and vice versa issued vide A. P. (DIR Series) Circular No.16 dated October 4, 2004 have also been reviewed and the paragraph Nos. 2.2 and 2.3 of the Annex to the circular have been accordingly amended. The revised instructions applicable to transfer of shares of an Indian company in all sectors are given in the Annex to the Circular.

[A.P. (DIR Series) Circular No.49  
dated May 04, 2010]

### **ii) Release of Foreign Exchange for Visits Abroad – Currency Component**

Authorised Dealers and Full Fledged Money Changers have been permitted to

sell foreign exchange in the form of foreign currency notes and coins up to USD 3000 (from USD 2000) to the travellers proceeding to countries other than Iraq, Libya, Islamic Republic of Iran, Russian Federation and other Republics of Commonwealth of Independent States, without the prior permission from the Reserve Bank, out of the overall foreign exchange released.

[A.P. (DIR Series) Circular No.50  
A.P. (FL Series) Circular No. 7 dated  
May 04, 2010]

### iii) External Commercial Borrowings (ECB) Policy

As a measure of liberalisation of the existing procedures, Infrastructure Finance Companies (IFCs), *i.e.* Non Banking Financial Companies (NBFCs) categorised as IFCs by the Reserve Bank, have been permitted to avail of ECBs, including the outstanding ECBs, up to 50 per cent of their owned funds under the automatic route, subject to their compliance with the prudential guidelines already in place. ECBs by IFCs above 50 per cent of their owned funds would require the approval of the Reserve Bank and will, therefore, be considered under the approval route. Designated Authorised Dealer banks should ensure compliance with the extant norms while certifying the ECB application both under the automatic and approval routes.

[A.P. (DIR Series) Circular No.51  
dated May 11, 2010]

### iv) Foreign Exchange Management Act (FEMA), 1999 - Current Account Transactions – Liberalisation

In terms of Rule 4 of the Foreign Exchange Management (Current Account Transactions) Rules 2000, prior approval of the Ministry of Commerce and Industry, Government of India, was required for drawing foreign exchange for remittances under technical collaboration agreements where payment of royalty exceeded 5 per cent on local sales and 8 per cent on exports and lump-sum payment exceeded USD 2 million [item 8 of Schedule II to the Foreign Exchange Management (Current Account Transactions) Rules, 2000]. The Government of India reviewed the extant policy with regard to liberalisation of foreign technology agreement and it was decided to omit item number 8 of Schedule II to the Foreign Exchange Management (Current Account Transaction) Rules, 2000, and the entry relating thereto. Accordingly, AD Category-I banks may permit drawal of foreign exchange by persons for payment of royalty and lump-sum payment under technical collaboration agreements without the approval of Ministry of Commerce and Industry, Government of India.

[A.P. (DIR Series) Circular No.52  
dated May 13, 2010]

### v) Exim Banks' Line of Credit to Government of the Republic of Sierra Leone

Export-Import Bank of India (Exim Bank) has concluded an Agreement dated February 19, 2010 with the Government of

the Republic of Sierra Leone making available to the latter, a Line of Credit (LoC) of USD 30 million (USD Thirty million) for financing eligible goods and services including machinery and equipment for the purpose of financing rehabilitation of six potable water projects which includes rehabilitation of existing facilities and addition of new infrastructure to supply potable water to Lungi International Airport, Kailahun District, White Water Community-Freetown, Allen Town Community-Freetown, Wellington-Freetown and Tender Hill Community-Freetown, and consultancy services from India.

The Credit Agreement under the LoC is effective from April 07, 2010 and date of execution of Agreement is February 19, 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 case of project exports and 72 months (February 18, 2016) from the execution date of the Credit Agreement in case of supply contracts.

[A.P. (DIR Series) Circular No.53  
dated May 18, 2010]

**vi) Remittance towards participation in lottery, money circulation schemes, other fictitious offers of cheap funds, etc.**

It has been observed that there has been a spate of fictitious offers of cheap funds in recent times from the fraudsters through letters, e-mails, mobile phones, SMS, etc. Communications on fake letterheads of the Reserve Bank and purportedly signed by its top executives /

senior officials are also being sent to targeted people. Many residents have been victims of such teasing offers and lost huge money in the process. The Reserve Bank has already alerted the public on several occasions about such fictitious schemes/offers, through the print and the electronic media and more such public education campaigns are being planned.

It has been brought to the notice of the Reserve Bank that fraudsters are seeking money from the gullible people, under different heads, such as, processing fees/transaction fees/tax clearance charges/conversion charges, clearing fees, etc. The victims of the fraud have also been persuaded to deposit the amount in accounts with banks in India, and such amounts have been withdrawn immediately. It is also observed that multiple accounts are being opened in the name of individuals or proprietary concerns, at different bank branches for collecting the transaction charges, etc. AD Category - I banks have been, therefore, advised to exercise due caution and to be extra vigilant while opening or allowing transactions in such accounts. It was clarified that any person resident in India collecting and effecting / remitting such payments directly /indirectly outside India would make himself/ herself liable to be proceeded against with, for contravention of the Foreign Exchange Management Act, 1999 besides being liable for violation of regulations relating to Know Your Customer (KYC) norms / Anti Money Laundering (AML) standards.

[A.P. (DIR Series) Circular No.54  
dated May 26, 2010]