

EXCHANGE CONTROL

SEPTEMBER 2003

1. Derecognition of Overseas Corporate Bodies (OCBs) as an Investor Class

As a follow-up of the review of investment activities of OCBs in India carried out by the Reserve Bank on the basis of the recommendations of the Joint Parliamentary Committee on Security Market Scam, it has been decided, in consultation with the Government that: (a) the ban imposed on OCBs under Portfolio Investment Scheme (PIS) in November 2001 shall continue, (b) **OCBs as a 'class of investor' entity** shall not be allowed to make fresh investments in India under various routes/schemes available under extant Foreign Exchange Management Regulations and facility of opening fresh NRE and FCNR (B) and NR (O) accounts shall be withdrawn and (c) **unincorporated entity** also shall not be allowed to make fresh investments under Foreign Direct Investment Scheme including the Automatic Route.

2. Investment by FIIs/NRIs in Exchange Traded Derivative Contracts (ETDCs)

It has been provided that a registered Foreign Institutional Investor (FII) having valid approval under FERA/FEMA may trade in all exchange traded derivative contracts approved by SEBI from time to time subject to the limits prescribed by SEBI. A Non-Resident Indian (NRI) may also invest in exchange traded derivative contracts approved by SEBI from time to time out of NRI funds held in India on non-repatriable basis subject to the limits prescribed

by SEBI. Such investments will, however, not be eligible for repatriation benefits.

3. Advance Remittance for Imports

With a view to further liberalising and simplifying the procedure for import of goods into India, Authorised Dealers have been permitted to allow advance remittance for import of goods into India as under :

- a) If the amount of advance remittance exceeds USD 100,000 or its equivalent, an unconditional, irrevocable standby Letter of Credit or a guarantee from international bank of repute situated outside India or a guarantee of an Authorised Dealer in India, if such guarantee is issued against the counter guarantee of an international bank of repute situated outside India, is obtained.
- b) In cases where the importer (other than a Public Sector Company or a Department/Undertaking of the Government of India/State Governments) is unable to obtain bank guarantee from overseas suppliers and the Authorised Dealer is satisfied about the track record and bonafides of the importer, the requirement of the bank guarantee/standby Letter of Credit may not be insisted upon for advance remittances

upto USD 1,000,000 (US dollar one million). Authorised Dealers may frame their own internal guidelines to deal with such cases **as per a suitable policy framed by the bank's Board of Directors.**

- c) In the cases of a Public Sector Company or a Department/Undertaking of Central/State Governments, where the requirement of bank guarantee has been specifically waived by the Ministry of Finance, Government of India for advance remittances exceeding USD 100,000 (USD one hundred thousand).

4. Remittance of Salary - Relaxation

The existing facility of remittance of salary available to foreign nationals employed in India has been extended to Indian nationals employed by a foreign company outside India on deputation to India. Accordingly, it will be in order for a national of a foreign state, resident in India being an employee of a foreign company or a citizen of India employed by a foreign company outside India and in either cases on deputation to the office/branch/subsidiary/joint venture in India of such foreign company, to open, hold and maintain a foreign currency account with a bank outside India and receive the salary payable to him for services rendered to the office/branch/subsidiary/joint venture in India of such foreign company, by credit to such account subject to certain specified conditions.

5. Foreign Currency Accounts by non-Diplomatic Staff of Foreign Embassies

Authorised Dealers may now allow the non-diplomatic staff of foreign embassies in India,

who are the nationals of the concerned foreign countries and hold official passport, to maintain foreign currency deposit accounts, subject to the prescribed conditions.

6. Purchase/Sale of Immovable Property by Foreign Embassies/Diplomats/Consulate Generals

Foreign Embassies/Diplomats/Consulate Generals have been allowed to purchase/sell immovable property in India other than agricultural land/plantation property/farm house provided clearance from Government of India, Ministry of External Affairs is obtained for such purchase/sale, and the consideration for acquisition of the immovable property in India is paid out of funds remitted from abroad through banking channel.

7. Opening of Foreign Currency Account in India by Project/Service Exporter for Execution of Contract Abroad

A person resident in India being a project/service exporter, has been allowed to open, hold and maintain Foreign Currency Account with a bank in or outside India. The Approving Authority of the overseas contract, *i.e.*, Authorised Dealer / Exim Bank / Working Group may approve the proposal of the exporter, to open, hold and maintain Foreign Currency Account in India subject to certain specified terms and conditions. The Approving Authority may also allow, on request, such of the project/service exporters, as have been permitted to open foreign currency accounts in India, to pay their Indian suppliers/service providers in foreign currency from their Foreign Currency Accounts subject to certain conditions.

8. Foreign Exchange Management Act, 1999 - EEFC / RFC (D) Account - Clarification

It has been clarified that the balances in the EEFC and RFC (D) Accounts may be allowed to be credited to NRE/FCNR-B Account, at the option/request of the account holders consequent upon change of their residential status from resident to non-resident.

9. Export of Goods and Services - Payment of Claims by ECGC

Authorised Dealers can now write off the export bill on an application received from an exporter supported by a documentary evidence from the ECGC confirming that the relative claim in respect of the outstanding bill has been settled by them.

It has, however, been clarified that the claims settled in rupees by ECGC should not be construed as export realisation in foreign exchange and claim amount should not be allowed to be credited to Exchange Earner's Foreign Currency Account.

10. Borrowing from Close Relatives Abroad

An individual resident can now borrow a sum upto USD 2,50,000 or its equivalent from close relatives residing outside India, subject to the conditions that (i) the loan is free of interest (ii) its minimum maturity period is one year and (iii) the amount of loan is received by way of inward remittances in free foreign exchange through normal banking channels or by debit to the NRE/FCNR(B) account of the non-resident lender.