

## *Foreign Exchange Developments*

May 2007

### Liberalised Remittance Scheme for Resident Individuals- Enhancement of limit from USD 50,000 to USD 100,000

The existing limit of USD 50,000 per financial year for remittances by resident Individuals under the Liberalised Remittance Scheme was enhanced to USD 100,000 per financial year (April- March) [para 137 of the Annual Policy Statement for the year 2007-08], for any permitted current or capital account transactions or a combination of both. All other transactions which are otherwise not permissible under FEMA and those in the nature of remittance for margins or margin calls to overseas exchanges/ overseas counterparty are not allowed under the Scheme. Banks are not permitted to extend any kind of credit facilities to resident individuals to facilitate remittances under the Scheme.

[A. P. (DIR Series) Circular No. 51 dated May 8, 2007]

### Booking of Forward Contracts Based on Past Performance

AD Category - I banks are permitted to allow importers and exporters to book forward contracts on the basis of a declaration of an exposure and based on past performance up to the average of the previous three financial years' (April to March) actual import/export turnover or the previous year's actual import / export turnover, whichever is higher, subject to specified conditions. Further, forward contracts booked in excess of 50 per cent of the eligible limit shall be on a deliverable basis and cannot be cancelled. The aggregate forward contracts booked during the

year and outstanding at any point of time should not exceed the eligible limit. The eligible limits are to be computed separately for import/export transactions.

As announced in the Annual Policy Statement for the year 2007-08, with a view to facilitate dynamic hedging of foreign exchange exposures of exporters and importers, the above facility has been further liberalised by raising the eligible limit of 50 per cent to 75 per cent. Accordingly, forward contracts booked on the basis of declaration of an exposure by importers/exporters and based on past performance in excess of 75 per cent of the eligible limit shall be on a deliverable basis and cannot be cancelled.

[A. P. (DIR Series) Circular No. 52 dated  
May 8, 2007]

### Overseas Investment by Mutual Funds - Liberalisation

With a view to providing greater opportunity for investment overseas, the aggregate ceiling for overseas investment by Mutual Funds registered with SEBI, has been increased from USD 3 billion to USD 4 billion [para 135 of Annual Policy Statement for the year 2007-08] The investments would be subject to the terms and conditions and operational guidelines as issued by SEBI.

[A. P. (DIR Series) Circular No. 53 dated  
May 8, 2007]

### Foreign Exchange Management (Deposit) Regulations, 2000- Repatriation of Maturity Proceeds of FCNR(B) Deposits

AD Category – I banks and authorised banks are now permitted to allow remittance

of the maturity proceeds of FCNR (B) deposits to third parties outside India, provided the transaction is specifically authorised by the account holder and the authorised dealer is satisfied about the bonafides of the transaction [Annual Policy Statement for the year 2007-08.

[A. P. (DIR Series) Circular No. 57 dated  
May 18, 2007]

### Foreign Exchange Management (Realisation, Repatriation and Surrender of Foreign Exchange) Regulations, 2000

As announced in the Annual Policy Statement for the Year 2007-08, a uniform period of 180 has been prescribed for resident individuals for surrender of received/realised/unspent/unused foreign exchange from the date of receipt/realisation/purchase/acquisition/date of return of the traveler, as the case may be. In all other cases, the regulations/directions on surrender requirement shall remain unchanged.

[A. P. (DIR Series) Circular No. 58 dated  
May 18, 2007]

### Investment by Navratna Public Sector Undertakings (PSUs) in Unincorporated Entities in Oil Sector Abroad

As per the existing provisions of FEMA, investment in the oil sector *i.e.*, for exploration and drilling for oil and natural gas, *etc.* in an unincorporated entity overseas by an Indian party requires prior approval of the Reserve Bank. Such proposals of Navratna PSUs (status given by

the Department of Public Enterprises, Ministry of Heavy Industries and Public Enterprises, Government of India) are cleared by the competent authority, depending on the amount involved, viz. by (1) Board of Directors of the respective PSU, (2) Empowered Committee of the Secretaries (ECS), and (3) Cabinet Committee on Economic Affairs (CCEA).

In view of the existing controls in place, the procedures have been further liberalised to allow Navaratna PSUs to invest in unincorporated entities in oil sector abroad, under the automatic route. Accordingly, AD Category - I banks have been permitted to allow the remittances by Navaratna PSUs towards investment in the oil sector (*i.e.* for exploration and drilling for oil and natural gas, *etc.*) in an unincorporated entity overseas after ensuring that the proposal has been approved by the appropriate competent authority, as stated above and is duly supported by a certified copy of the Board Resolution approving such investment.

[A. P. (DIR Series) Circular No. 59 dated  
May 18, 2007]

### External Commercial Borrowings (ECB)-End-use and All-in-cost Ceilings – Revised

The ECB policy was modified in view the current macroeconomic situation and the experience gained so far by the Reserve Bank in administering the ECB policy. The modifications are as below :

**(a) End-use** - As per the extant ECB policy, utilisation of ECB proceeds is not permitted in real estate. The term 'real

estate' excludes development of integrated township as defined by Press Note 3 (2002 Series) dated January 4, 2002. It has now been decided to withdraw the exemption accorded to the 'development of integrated township' as a permissible end-use of ECB. Accordingly, utilisation of ECB proceeds is not permissible in real estate, without any exemption.

**(b) All-in-cost Ceilings** - With the sovereign credit ratings of India enhanced to investment grade, the all-in-cost ceilings for ECB are modified as follows:

Average Maturity Period	All-in-Cost Ceilings over 6 Months LIBOR*	
	Existing	Revised
Three years and up to five years	200 basis points	150 basis points
More than five years	350 basis points	250 basis points

\* for the respective currency of borrowing or applicable benchmark.

The above changes will apply to ECB both under the automatic route as well as approval route.

[A. P. (DIR Series) Circular No. 60 dated  
May 21, 2007]

### Payment towards Cash Calls for the Purpose of Oil Exploration in India

As per the extant guidelines, the payment to Operators towards Cash Calls for the purpose of exploration of oil and natural gas in India requires prior approval of the Reserve Bank. As announced in the Annual Policy Statement for the year 2007-08, with

a view to liberalise the procedure, AD Category - I banks are now allowed to permit payment towards cash calls to the Operator for the purpose of oil exploration in India, either by credit to the foreign currency or Rupee account in India as approved by the Reserve Bank wherever applicable, or by remittance overseas, subject to conditions

[A. P. (DIR Series) Circular No. 61 dated  
May 24, 2007]

### Opening of Escrow/Special Accounts by Non-Resident Corporates for open Offers/ Delisting/Exit Offers

In terms of existing FEMA Regulations, opening of Escrow account and Special account for transfer of shares/convertible debentures of an Indian company through open offer/delisting/exit offer in accordance with the provisions of SEBI [Substantial Acquisition of Shares and Takeovers (SAST)] Regulations, 1997 or any other applicable SEBI Regulations requires prior approval of the Reserve Bank.

As announced in the Annual Policy Statement for the year 2007-08, with a view to provide operational flexibility to non-resident acquirers, AD Category – I banks are now permitted to open Escrow account and Special account in such cases, subject to the relevant SEBI (SAST) Regulations or any other applicable SEBI Regulations/provisions of the Companies Act, 1956 and other terms and conditions.

[A. P. (DIR Series) Circular No. 62 dated  
May 24, 2007]

### (x) Import of Equipments by BPO Companies in India for International Call Centre

In terms of the existing provisions of FEMA, it is obligatory on the part of the AD Category - I banks through whom the remittance for imports has been made, to ensure that the importer submits the Exchange Control copy of the Bill of Entry for home consumption as evidence of import. However, in the case of Business Process Outsourcing (BPO) Companies, remittances towards import and installation of equipments at overseas sites in connection with setting up of their International Call Centres (ICCs) requires prior approval of the Reserve Bank since in such cases, the equipments are installed at overseas sites without physical import taking place in India.

As announced in the Annual Policy Statement for the year 2007-08, with the objective of rationalising and simplifying the Foreign Exchange Regulations and providing greater flexibility to such transactions, prior approval of the Reserve Bank has been dispensed with and AD Category – I banks are now permitted to allow BPO companies in India to make remittances towards the cost of equipment to be imported and installed at their overseas sites, subject to certain conditions.

[A. P. (DIR Series) Circular No. 63 dated  
May 25, 2007]

### Foreign Exchange Management (Deposit) Regulations, 2000- Operation of NRO account by Power of Attorney Holder

In terms of the provisions of FEMA, a person resident outside India is allowed to

open a Non-Resident Ordinary Rupee (NRO) account, jointly with residents, with an AD Category – I/authorised bank. As announced in the Annual Policy Statement for the year 2007-08, the facility of operation of NRO account has been extended to a Power of Attorney granted in favour of a resident by the non-resident individual account holder. However, such operations are restricted to all local payments in rupees including payments for eligible investments subject to compliance with relevant regulations made by the Reserve Bank; and remittance outside India of current income in India of the non-resident individual account holder, net of applicable taxes. Further, the resident Power of Attorney holder is not permitted to repatriate outside India funds held in the account other than to the non-resident individual account holder nor to make payment by way of gift to a resident on behalf of the non-resident account holder or transfer funds from the account to another NRO account.

[A. P. (DIR Series) Circular No. 64 dated  
May 25, 2007]

### Remittance on Winding up of Companies

As per the existing FEMA provisions, remittance of out of the assets of Indian companies under liquidation requires prior approval of the Reserve Bank. As announced in the Annual Policy Statement for the year 2007-08, as a measure of simplification of procedure, powers have been delegated to AD Category – I banks to permit remittance out of assets of Indian companies under liquidation under the provisions of the Companies Act, 1956 subject to any order issued by the court winding up the company

or the official liquidator or the liquidator in case of voluntary winding up and also subject to tax compliance.

[A. P. (DIR Series) Circular No. 65 dated  
May 31, 2007]

### Risk Management and Inter-Bank Dealings – Commodity Hedging

Currently, residents in India are permitted, with prior approval of the Reserve Bank, to enter into contracts in commodity exchanges or markets outside India to hedge the price risk in a commodity, subject to certain terms and conditions. Further, companies listed on a recognised stock exchange can be permitted by select AD Category – I banks to hedge the price risk in respect of any commodity (except gold, silver, petroleum and petroleum products) in international commodity exchanges/markets. However, hedging the price risk on domestic sale/purchase transactions in the international exchanges/markets is not permitted, even if the domestic price is linked to the international price of the commodity.

In order to enable domestic producers and users of certain metals to take advantage of greater depth and liquidity in international exchanges, like London Metal Exchange (LME), and to hedge the price risk on domestic purchases and sales, AD Category – I banks, which have specifically been authorised by the Reserve Bank in this regard, are now allowed to permit domestic producers/users to hedge their price risk on aluminium, copper, lead, nickel and zinc in international commodity exchanges, based on their underlying economic exposures. Hedging would be permitted up to the average of previous three financial years'

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(April to March) actual purchases/sales or the previous year's actual purchases/sales turnover, whichever is higher, of the above commodities. Further, only standard exchange traded futures and options (purchases only) may be permitted. (announcement made in the Annual Policy Statement for the year 2007-08)

Further, AD Category – I banks, which have specifically been authorised by Reserve Bank in this regard, are now allowed to permit actual users of aviation turbine fuel (ATF) to hedge their economic exposures in

the international commodity exchanges based on their domestic purchases. If the risk profile warrants, the actual users of ATF may also use OTC contracts. AD Category – I banks should ensure that permission for hedging ATF is granted only against firm orders and the necessary documentary evidence should be retained by them. Companies who are exposed to systemic international price risk are required to approach the Reserve Bank.

[A. P. (DIR Series) Circular No. 66 dated  
May 31, 2007]