

Foreign Exchange Developments

June 2007

Deferred Payment Protocols dated April 30, 1981 and December 23, 1985 between Government of India and erstwhile USSR

The rupee value of the special currency basket was fixed at Rs. 56.8292 with effect from April 19, 2007.

[A.P. (DIR Series) Circular No.67
dated June 1, 2007]

Overseas Direct Investment - Rationalisation of Forms

As announced in the Annual Policy Statement for the Year 2007-08, the reporting system for overseas investment was revised with a view to improving the coverage and to ensure monitoring of the flows in a dynamic environment. As per the new reporting package, all the forms have been subsumed into one form, viz., ODI, comprising of four parts. The revised reporting system came into effect from June 1, 2007.

[A.P. (DIR Series) Circular No.68 dated
June 1, 2007]

Exim Bank's Line of Credit (LOC) of USD 8 million to the Government of Seychelles

Export-Import Bank of India (Exim Bank) has concluded an agreement dated July 10, 2006 with Government of Seychelles, making available to the latter, a Line of Credit (LOC) for USD 8 million (USD Eight million only), for financing purchase of essential commodities, which are eligible for export under the Foreign Trade Policy of the Government of India and the purchase of

goods which may be agreed to be financed by Exim Bank under this Agreement.

[A.P. (DIR Series) Circular No.69 dated
June 5, 2007]

Deferred Payment Protocols dated April 30, 1981 and December 23, 1985 between Government of India and erstwhile USSR

The rupee value of the special currency basket was fixed at Rs.54.9580 with effect from May 3, 2007.

[A.P. (DIR Series) Circular No.70 dated
June 7, 2007]

Data on Project Export Finance

Powers have been delegated to Authorised Dealers / EXIM Bank to accord post award approval for projects not exceeding USD 100 million, subject to the fulfillment of the conditions stipulated therein. Proposals exceeding USD 100 million are considered by the Working Group. At present, consolidated data in respect of the project exports by the Indian banking system is not available at one place as the data on post-award approval is maintained by the concerned Project Approving Authority. In order to facilitate compilation of consolidated data on project export contracts / supply contracts on deferred payments on an all India basis, AD Category-I banks have been advised to henceforth send a copy of post award approvals for project export contracts / supply contracts on deferred payment basis, as and when such approvals are accorded by them, to the Export-Import Bank of India.

[A.P. (DIR Series) Circular No.71 dated
June 8, 2007]

Investment by Mutual Funds in Overseas Securities - Liberalisation

Presently, Mutual Funds, registered with SEBI, are permitted to invest in ADRs/GDRs of Indian companies, rated debt instruments and also in the equity of overseas companies listed on a recognised stock exchange overseas. To enable Mutual Funds to tap a larger investible stock overseas, it has been decided that they may also invest in i) Overseas mutual funds that make nominal investments (say to the extent of 10 per cent of net asset value) in unlisted overseas securities; ii) Overseas exchange traded funds that invest in securities; and iii) ADRs/GDRs of foreign companies, subject to monthly reporting.

[A.P. (DIR Series) Circular No.72 dated
June 8, 2007]

Foreign Investments in Preference Shares—Revised Guidelines

In terms of existing provisions of FEMA, a person resident outside India can purchase equity / preference / convertible preference shares and convertible debentures issued by an Indian company. Government of India, Ministry of Finance vide Press Note dated April 30, 2007, has notified the following guidelines for foreign investment in preference shares, which have come into effect from that date :

- (a) Foreign investment coming as fully convertible preference shares would be treated as part of share capital. This would be included in calculating foreign equity for purposes of sectoral caps on foreign equity, where such caps have been prescribed.

- (b) Foreign investment coming as any other type of preference shares (non-convertible, optionally convertible or partially convertible) would be considered as debt and shall require conforming to ECB guidelines / ECB caps.
- (c) Any foreign investment as non-convertible or optionally convertible or partially convertible preference shares as on and up to April 30, 2007 would continue to be outside the sectoral cap till their current maturity.
- (d) Issue of preference shares of any type would continue to conform to the guidelines of RBI/SEBI and other statutory bodies and would be subject to all statutory requirements.

Accordingly, with effect from May 1, 2007, only preference shares which are fully and mandatorily convertible into equity within a specified time would be reckoned as part of share capital and eligible to be issued to persons resident outside India under the Foreign Direct Investment Scheme. Foreign investments in other types of preference shares (*i.e.* non-convertible, optionally convertible or partially convertible) for issue of which, funds have been received on or after May 1, 2007 would be considered as debt and shall conform to External Commercial Borrowings (ECB) guidelines / caps. It is further clarified that companies which have received funds from outside India for issue of partially/optionally convertible or redeemable preference shares on or up to April 30, 2007 may issue such instruments. Further, the existing investments in such preference shares which are not fully convertible may continue till their current maturity.

[A.P. (DIR Series) Circular No.73 dated
June 8, 2007]

(viii) Foreign Investments in Debentures – Revised Guidelines

In terms of existing provisions of FEMA, a person resident outside India can purchase equity/preference/convertible preference shares and convertible debentures issued by an Indian company.

It has been noticed that some Indian companies are raising funds under the FDI route through issue of hybrid instruments such as optionally convertible/partially convertible debentures which are intrinsically debt-like instruments. Routing of debt flows through the FDI route circumvents the framework in place for regulating debt flows into the country. It is clarified that henceforth, only instruments which are fully and mandatorily convertible into equity, within a specified time would be reckoned as part of equity under the FDI Policy and eligible to be issued to persons resident outside India under the Foreign Direct Investment Scheme. FIIs, registered with SEBI, would be eligible to invest as hitherto in listed non-convertible debentures / bonds issued by Indian companies in terms of RBI/SEBI norms on investment in rupee debt instruments, including the ceilings prescribed from time to time.

It is further clarified that companies which have already received funds from outside India for issue of partially/optionally convertible instruments on or before June 7, 2007 may issue such instruments. Further, the existing investments in instruments which are not fully and mandatorily convertible into equity may continue till their current maturity

[A.P. (DIR Series) Circular No. 74 dated
June 8, 2007]

Overseas Direct Investment- Liberalisation

As announced in the Annual Policy Statement for the Year 2007-08, the Regulations governing overseas investments have further been liberalised as under:

1. *Enhancement of Limit for Overseas Direct Investment*

In order to provide greater flexibility to Indian parties (companies incorporated in India or created under an Act of Parliament) for investments abroad, the existing limit of 200 per cent of the net worth of the Indian party has been enhanced to 300 per cent of the net worth. However, the limit applicable to registered partnership firms for overseas investment will continue to be 200 per cent of their net worth.

2. *Financial Commitment for Overseas investment – Guarantees Issued by an Indian Party to or on Behalf of the JV WOS*

As a measure of rationalisation of the extant norms, it has been decided to reckon 100 per cent of the amount of guarantees issued by an Indian party instead of earlier 50 per cent, for determining the 'financial commitment' for overseas investment by an Indian party. Accordingly, 'financial commitment' for overseas investment by an Indian party would, henceforth, mean direct investment by way of contribution to equity, loan and the total amount of guarantees by the investing company/promoter company/group company/sister concern or associate company/partnership firm in India.

3. *Portfolio Investment by Listed Indian Companies*

Listed Indian companies were permitted to invest up to 25 per cent of their

net worth in the equity of foreign companies, listed on a recognised stock exchange and having shareholding of at least 10 per cent in Indian companies listed on a recognised stock exchange in India and rated bonds / fixed income securities issued by overseas companies, under the portfolio investment scheme. In order to provide greater opportunities to listed Indian companies for portfolio investments, the existing limit of 25 per cent has been enhanced to 35 per cent of the net worth of the investing company as on the date of its last audited balance sheet.

[A.P. (DIR Series) Circular No. 75 dated
June 14, 2007]

Hedging of Overseas Direct Investments by Residents - Liberalisation

Resident entities having overseas direct investments (in equity and loan) were permitted to hedge the exchange risk arising out of such investments by entering into forward / option contracts with AD Category – I banks, subject to verification of such exposure. Such contracts must be completed by delivery or rolled over on the due date and not cancelled.

As announced in the Annual Policy Statement for the Year 2007-08, with a view to provide greater flexibility to residents with overseas direct investments (in equity and loan), AD Category – I banks have been allowed to cancel of such forward contracts. for hedging the exchange risk. Further, 50 per cent of the cancelled contracts have been allowed to be rebooked.

[A.P. (DIR Series) Circular No. 76 dated
June 19, 2007]

Advance Remittance for Import of Aircrafts/Helicopters/Other Aviation Related Purchases

AD Category - I banks were permitted to make advance remittance up to USD 1,000,000 (USD one million) or its equivalent, without bank guarantee or an unconditional, irrevocable stand by Letter of Credit, for import of goods into India, subject to specified conditions. With a view to further liberalising and simplifying the procedure for import of goods into India, it has been decided, as a sector specific measure, to allow airline companies, which have been permitted by the Directorate General of Civil Aviation to operate as a

schedule air transport service, to make advance remittance without bank guarantee, up to USD 50 million. Accordingly, AD Category – I banks have been permitted to allow advance remittance, without bank guarantee or an unconditional, irrevocable standby Letter of Credit, up to USD 50 million, for direct import of each aircraft / helicopter / other aviation related purchases, subject to certain terms and conditions. Prior approval of the concerned Regional Office of the Reserve Bank will be required for cases which are not covered under the above relaxatin.

[A.P. (DIR Series) Circular No. 77 dated
June 29, 2007]