

Foreign Exchange Developments

July 2008

(i) Security for External Commercial Borrowings - Liberalisation

Under the extant ECB guidelines, the choice of security to be provided to the overseas lender / supplier for securing ECB is left to the borrower. However, creation of charge over immoveable assets and financial securities and issue of corporate or personal guarantees, on behalf of the borrower in favour of the overseas lender, to secure the ECB under automatic / approval route, are considered by the Reserve Bank.

AD Category - I banks have now been permitted to convey 'no objection' under the Foreign Exchange Management Act (FEMA), 1999 for creation of charge on immovable assets, financial securities and issue of corporate or personal guarantees in favour of overseas lender / security trustee, to secure the ECB to be raised by the borrower, subject to certain conditions. The 'no objection' is issued from the foreign exchange angle only. If further approval or permission is required from any other regulatory / statutory authority or Government under the relevant laws / regulations, the applicant should take the approval of the authority concerned before undertaking the transaction. Further, the 'no objection' should not be construed as regularising or validating any irregularities, contravention or other lapses, if any, under the provisions of FEMA or any other laws or regulations.

[A.P. (DIR Series) Circular No. 01 dated July 11, 2008]

*(ii) Project Offices - Foreign
Currency Accounts in India*

At present, foreign companies having Project Offices in India are permitted to open only one foreign currency account for each project, subject to certain terms and conditions. With a view to avoid currency exposures, AD Category - I banks have been allowed to open an additional foreign currency account for each

Project Office (established under the general/specific approval of Reserve Bank) subject to the same terms and conditions as applicable to the existing foreign currency account provided that both the foreign currency accounts are maintained with the same AD Category - I bank.

[A.P. (DIR Series) Circular No. 02
dated July 31, 2008]