

May 12, 2006

To

All Banks Authorised to Deal in Foreign Exchange

Madam / Sir,

**External Commercial Borrowing -
clarification on Overseas Corporate Bodies (OCBs) as recognised lenders**

Attention of Authorised Dealer (AD) banks is invited to A. P. (DIR Series) Circular No.14 dated September 16, 2003, in terms of which Overseas Corporate Bodies (OCBs) were derecognised as an eligible 'class of investor' under various routes / schemes available under the extant Foreign Exchange Management Regulations. Attention is also invited to A. P. (Dir Series) Circular No.44 dated December 8, 2003 and Foreign Exchange Management [Withdrawal of General Permission to Overseas Corporate Bodies (OCBs)] Regulations, 2003, which have been notified vide Notification No. FEMA 101/2003-RB dated October 3, 2003.

2. In terms of Para V, Q.27 of the FAQs appended to A. P. (Dir Series) Circular No.44 dated December 8, 2003, "no person resident in India can borrow from or lend to an OCB in foreign currency or in rupees. Further, where any borrowing from or loan to an OCB, whether in foreign exchange or in Rupees made in accordance with Foreign Exchange Management Regulations as applicable was outstanding on September 16, 2003, such borrowing or loan shall not be renewed on becoming due and no interest thereon shall accrue after it falls due for repayment." Despite this restriction, it is observed that borrowers have availed External Commercial Borrowing from OCBs post derecognition of the OCBs as investor class, on grounds that the OCBs are their foreign equity holders.

3. It is, therefore, reiterated that **OCBs not being recognized as investors cannot be recognized lenders.**

4. AD banks may bring the contents of this circular to the notice of their constituents and customers.

5. The directions contained in this Circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and is without prejudice to permissions/approvals, if any, required under any other law.

Yours faithfully,
(M. Sebastian)
Chief General Manager