

CHAPTER 8

TIMING AND SEQUENCING OF MEASURES FOR FULLER CAPITAL ACCOUNT CONVERTIBILITY

8.1 The concomitants for a move to FCAC and the need for attendant strengthening of policies, markets and regulation/supervision have been outlined in Chapters 4, 5, 6 and 7. Before discussing the recommended framework on the timing and sequencing of specific capital account liberalisation measures, it would perhaps be useful to refer to a few general issues. First, there are a number of items which straddle the current and capital accounts and items in one account have implication for the other account. Inconsistencies in the regulations of such items need to be ironed out. Secondly, while there is *de jure* current account convertibility, there are time-honoured stipulations which require surrender requirements for export proceeds. Surrender requirements, *per se*, are consistent with current account convertibility, but as part of overall management of the current and capital flows, it would be useful to consider whether the repatriation/surrender requirements could be gradually eased. Thirdly, there are a number of items where there are anomalous stipulations which date back to a very restrictive period. Illustratively, investments by NRIs in CPs are non-repatriable. It is not clear whether the sale proceeds of the CP are non-repatriable or whether they can be credited to a repatriable account; either way, a non-resident can make a remittance out of an NRO account. In other words, regulations of a period of extremely tight current and capital controls continue to remain even though the overall regime has undergone a significant degree of liberalisation. Fourthly, the knots in the forex management system need to be untied before the liberalisation can become meaningful. The Committee recommends that a *RBI Task Force* should be set up immediately to identify the anomalies in the present regulatory framework for the current and capital accounts and the rectification should be undertaken within a period of three months.

8.2 On an examination of the extant regulations relating to the capital account, as set out by the RBI in Annex III, the Committee is of the view that the extant matrix is a mixed bag of policy measures and procedural/operational matters. The

Committee has, therefore, separated the extant regulations into policy issues and procedural/operational matters and a list of items has been prepared by the Committee to be reviewed by the RBI. (List attached at the end of the Tabular Material in this Chapter). The Committee recommends that the items identified as procedural/ operational matters should be reviewed by the RBI Task Force referred to above. The RBI Task Force should also review the delegation of powers on foreign exchange regulation as between the Central Office and the Regional Offices of the RBI and *inter alia*, examine, selectively, the efficacy in the functioning of the delegation of powers by the RBI to ADs.

8.3 As regards the substantive regulations on the capital account, the Committee recommends a five-year roadmap with three phases on the timing and sequencing of measures. Phase I would be the current year 2006-07, while Phase II would be the following two years, 2007-08 and 2008-09, and the last phase would be the last two years, 2009-10 and 2010-11. After each phase there should be a stock taking and the phasing of measures could be modulated. The Committee recommends that at the end of the five-year period, ending in 2010-11, there should be a comprehensive review to chalk out the future course of action.

8.4 The approach of the Committee is to rationalise and gradually liberalise the controls. The process of phased liberalisation, to have meaning, would require that the authorities get out of the mindset of controls while liberalising the capital account. This will greatly facilitate the process under which the capital controls regime would be limited to a few specific areas which are significant from the viewpoint of macro policies.

8.5 The major measures proposed by the Committee relate to the liberalisation for capital outflows by corporates and individuals. As regards inflows by the non-resident, the Committee has recommended that NR and NRIs should be treated on a uniform basis.

8.6 The various measures for relaxing capital controls and the timing and sequencing thereof, recommended by the Committee, are tabulated in this Chapter. Brief notes on some of the significant measures are set out in the paragraphs following the tabulated list of measures.

FULLER CAPITAL ACCOUNT CONVERTIBILITY – TIMING AND SEQUENCING OF MEASURES

(USD indicates US dollars)

Item	Present Position	Committee's Recommendation		
		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
I. CORPORATES/BUSINESSES Corporates/Businesses – Residents				
1. Financial capital transfers abroad including for opening current/cheque-able accounts.	(i) Listed Indian companies are permitted to invest up to 25 per cent of their net worth in overseas listed companies having at least 10 per cent stake in listed Indian companies and in rated bonds/fixed income securities. (AP(DIR).Cir.No.66/ dated 13.01.2003; AP(DIR).Cir.No.97 dated 29.04.2003 & AP(DIR).Cir.No 104 dated 31.05.2003)	This separate facility should be terminated and made a sub-limit of Item I.A.4	--	--
2. External Commercial Borrowings (ECB).	An overall limit is fixed annually for ECB in consultation with GOI. Within this limit entities are eligible to avail of ECBs under the Automatic route and Approval route. ECB upto USD 500 million per financial year can be availed	(i) The current overall limit for ECB of US\$ 18 billion should be retained for 2006-07 but the scheme should be restructured. (ii) The limit for Automatic Approval should be retained at US\$ 500 million.	(i) The overall ceiling for ECB should be raised gradually. (ii) The limit for Automatic Approval could be raised to US\$ 750 million per financial year. (iii) ECBs of over 7 years'	(i) The overall ceiling for ECB should be raised gradually. (ii) The limit for Automatic Approval could be raised to US \$ 1 billion per financial year.

Item	Present Position	Committee's Recommendation		
		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
	<p>by corporates under automatic route. NGOs engaged in microfinance activities are permitted to borrow up to US\$ 5 million under the automatic route. The cases falling outside the purview of automatic route are examined by the Empowered Committee of ECB on the merits of the case, and are placed in public domain.</p> <p>End-use restrictions exist on ECB for</p> <ul style="list-style-type: none"> • working capital, general corporate purpose and repayment of existing rupee loans • Utilisation of ECB proceeds for on-lending or investment in capital market or acquiring a company (or a part thereof) in India by a corporate. • Utilisation of ECB proceeds for investment 	<p>(iii) ECBs of over 10 years' maturity should be outside the overall limit without call/put options upto 10 years.</p> <p>(iv) If an ECB is denominated in rupees (but payable in foreign currency) it should be outside the ECB limit. Furthermore, ECBs of 1-3 years maturity should be allowed if they are denominated in rupees and such borrowing should be outside the overall ECB limit.</p> <p>(v) The end use restriction on ECBs should be removed.</p>	<p>maturity should be outside the ECB ceiling without call/put options upto 7 years.</p> <p>(iv) Rupee denominated foreign currency borrowing as in Phase I.</p>	<p>(iii) ECBs of over 7 years' maturity should be outside the overall ceiling without call/put options upto 7 years, as in Phase II.</p> <p>(iv) Rupee denominated foreign currency borrowing as in Phase I.</p>

Item	Present Position	Committee's Recommendation		
		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
	<p>in real estate (end use relaxation in case of companies where the lender is holding more than 51per cent in the borrower company). (AP(DIR).Cir.No.60 dated 31.01.2004 & AP(DIR).Cir.No. 5 dated 01.08..2005)</p> <p>ECBs can be retained overseas in bank accounts with debits permitted for purposes for which the loan was raised.</p> <p>FCCB are permitted subject to the same terms and conditions as ECBs (AP(DIR).Cir.No. 60 dated 31.01..2004)</p>			
	<p>Prepayment of ECB upto US\$ 200 million may be allowed by ADs without prior approval of the RBI subject to compliance with the minimum average maturity period as applicable to the loan.</p>	<p>Prepayment without RBI approval should be raised to US\$ 300 million.</p>	<p>Prepayment without RBI approval should be raised to US\$ 400 million.</p>	<p>Prepayment without RBI approval should be raised to US\$ 500 million.</p>

Item	Present Position	Committee's Recommendation		
		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
	(AP(DIR) Circular No.5 dated 01.08 2005)			
3. Trade credit	Import linked short term loans (Trade credit) upto US\$ 20 million per transaction for all permissible imports with a maturity period of less than 1 year is allowed. Trade credit upto US\$ 20 million per import transaction with maturity between 1-3 years is allowed for import of capital goods.	Import linked short term loans (trade credit) should be monitored regularly and in a comprehensive manner. The per transaction limit of US\$ 20 million should be reviewed and the scheme revamped to avoid unlimited borrowing.	As in Phase I	As in Phase I
4. Joint ventures/wholly owned subsidiaries abroad.	Proposals for investment overseas by Indian companies/registered partnership firms upto 200 per cent of their net worth as per the last audited balance sheet, in any bonafide business activity are permitted by ADs irrespective of the export/exchange earnings of the entity concerned within this limit loans and guarantees by the parent	The present limit of 200 per cent should be raised to 250 per cent but the separate limit of 25 per cent for financial transfers abroad (including opening current/ chequable accounts) should be a sub-limit (25 per cent of the overall limit of 250 per cent; the stipulation of a 10 per cent stake in an Indian Company should be withdrawn.	The overall limit should be raised to 300 per cent and the sub-limit of 25 per cent raised to 35 per cent.	The overall limit should be raised to 400 per cent and the sub-limit raised to 50 per cent.

Item	Present Position	Committee's Recommendation		
		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
	company and associates are also permitted. The condition regarding dividend balancing has been dispensed with.			
5. Establishment of offices abroad	No prior approval of RBI is required for opening offices abroad. AD banks have been permitted to allow remittance upto 10 per cent for initial and upto 5 per cent for recurring expenses of the average annual sales/income or turnover during last two accounting years. RBI permits remittance of higher percentage based on the merits of the case. Permission to acquire property for the Branch office is accorded by RBI. (AP(DIR).Cir.No.32 dated 21.04.2006 and AP(DIR).Cir.No.71 dated 13.01.2003)	To be subsumed under I.A.4	To be subsumed under I.A.4	To be subsumed under I.A.4
6. Direct investment abroad by partnership	Partnership firms registered under the Indian Partnership Act, 1932 and having a good track record are permitted to	Same as for I.A.4	Same as for I.A.4	Same as for I.A.4

Item	Present Position	Committee's Recommendation		
		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
firms.	make direct investments outside India in any bonafide activity 200 per cent of their net worth under the automatic route. (AP(DIR) Circulars No. 41 dated 06.12.2003, 57 dated 13.01.2004 & 42 dated 12.05.2005)			
7. Investment in agriculture overseas by resident corporates and registered partnership firms other than through JV/WOS abroad.	Resident corporates and registered partnership firms are allowed to undertake agricultural activities including purchasing of land incidental to this activity either directly or through their overseas office (i.e. other than through JV/WOS) within the overall limit available for investment under the automatic route. (AP(DIR) Circular No. 57 dated 13.01.2004)	To be subsumed under I.A.4	To be subsumed under I.A.4	To be subsumed under I.A.4
8. Direct investment overseas by proprietorship/	RBI will consider applications from proprietorship/unregistered partnership concerns which	Same as for I.A.4	Same as for I.A.4	Same as for I.A.4

Item	Present Position	Committee's Recommendation		
		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
unregistered partnership concerns	satisfy eligibility criteria as stated in the circular. (AP(DIR) Circular No. 29 dated 27.03. 2006)			
9. Exchange Earners Foreign Currency (EEFC) accounts for exporters and exchange earners.	EEFC accounts are permitted for any person resident in India who are exporters or exchange earners, subject to the limits indicated below : (i) Status holder Exporter (as defined by Foreign Trade Policy in force) – 100 per cent. (ii) A resident in India for professional services rendered in his individual capacity – 100 per cent. (iii) 100 per cent EOU/units in EPZs/STP/EHPT – 100 per cent. (iv) Any other person resident in India – 50 per cent (AP(DIR).Cir.No. 96 dated 15.06. 2004)	The limit for 'any other person resident in India' should be raised from 50 per cent to 100 per cent. The EEFC holders should be allowed Foreign Currency Current/Savings accounts with cheque writing facilities and interest bearing terms deposits.	As in Phase I	Same as in Phase I

Item	Present Position	Committee's Recommendation		
		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
	EEFC accounts can be opened with banks in India. Cheque writing facility is allowed. EEFC accounts can be maintained only in the form of current account and no interest on EEFC account is allowed. Credit facilities (both fund based and non fund based) against balances in EEFC accounts is not allowed. Use of funds is allowed for permitted current and capital account transactions. (Sch. to Notification No.FEMA 10 dated 03.05. 2000)			
10. Project Exports	Powers have been delegated to ADs/Exim Bank to approve Project/Service export proposals up to contract value of USD 100 mn. Contracts of value more than USD 100 mn are approved by the Working Group. ADs/Exim Bank	(i) Large turnkey project exporters with satisfactory track record may be permitted to operate one account with the facility of inter-project transferability of funds and/or machineries. There should be no stipulation regarding	As in phase I	As in phase I

Item	Present Position	Committee's Recommendation		
		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
	<p>have also been delegated powers to approve various facilities such as initial remittance, overseas borrowing to meet temporary mismatch in cash flow, inter- project transfer etc. (AP(DIR).Cir.No.32 dated 28.10. 2003)</p> <p>Project/service exporters are required to furnish half-yearly progress report to the concerned R.O. Inter-project transfer of funds need prior approval of RBI. Temporary surplus can be brought into India with prior permission of RBI.</p>	<p>recovery of market value of machinery from the transferee project.</p> <p>(ii) Provisions regarding purchase of machinery/equipment by project exporters from third country sources should be permitted.</p> <p>(iii) Project exporters with good track record may be given freedom to deploy temporary cash surpluses either as investments in bank deposits or AAA short-term paper and/or in other projects being executed by them.</p> <p>(iv) Similar facilities should be provided for service exports.</p>		
I. Corporates -				
B. Non -Residents				
1. Foreign Direct Investment	GOI have permitted FDI under the Automatic Route	As a strong signal for encouraging FDI the FIPB/RBI	As in Phase I	As in Phase I

Item	Present Position	Committee's Recommendation		
		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
(FDI)	<p>in items/activities in all sectors up to the sectoral caps except in certain sectors where investment is prohibited. There is no requirement of RBI approval for foreign investments. Investments not permitted under the automatic route require approval from FIPB. The receipt of remittance has to be reported to RBI within 30 days from the date of receipt of funds and the issue of shares has to be reported to RBI within 30 days from the date of issue by the investee company. (Sch.1 to Notification No.FEMA.20 dated 03.05.2000)</p> <p>FDI through the process of acquisition of shares from residents requires prior approval of RBI where such investment is in the financial services sector, where the activity attracts the SEBI [Substantial Acquisition of</p>	<p>regulations/procedures should be liberalised and a sunset clause of two years put on all regulations/procedures unless specifically reintroduced afresh.</p>		

Item	Present Position	Committee's Recommendation		
		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
	<p>Shares and Takeover] (SAST) Regulations.</p> <p>FDI through the process of acquisition of shares from residents requires prior approval of FIPB and RBI where the activity is under the Government Approval route.</p> <p>Investment by capitalisation of imports requires prior approval of FIPB.</p>			
2. Portfolio Investment in India through stock exchanges in shares/debentures.	<p>Investments by non residents is permitted under the Portfolio Investment Scheme to entities registered as FIIs and their sub accounts under SEBI(FII) Regulations and is subject to ceilings indicated therein. No RBI approval is required for registration of FIIs. The transactions are subject to daily reporting by designated ADs to RBI. (Sch. II to Notification No.FEMA 20 dated</p>	<p>(i) Fresh inflows under Participatory Notes (P-Notes) should be banned and existing P-Notes should be phased out over a period of one year.</p> <p>(ii) Corporates should be allowed to invest in Indian stock markets through SEBI registered entities (including Mutual Funds and Portfolio Management Schemes), who will be individually responsible for fulfilling KYC and FATF norms. The</p>	<p>(i) As in Phase I</p> <p>(ii) As in Phase I</p>	<p>(i) As in Phase I</p> <p>(ii) As in Phase I</p>

Item	Present Position	Committee's Recommendation		
		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
	03.05.2000 and AP(DIR).Cir.No 53 dated 17.12.2003).	money should come through bank accounts in India.		
3. Disinvestment	RBI approval for transfer of shares from non-residents to residents has been dispensed with in cases where shares are sold on stock exchange or in case of sale under private arrangements, where it complies with the pricing guidelines. The cases of transfer of shares involving deviation from the pricing guidelines requires to be approved by RBI. (AP(DIR)Cir. No 16 dated 04.10.2004)	The disinvestment procedures, particularly for FDI, should be simplified so as to provide for symmetry between investments and disinvestments.	As in Phase I	As in Phase I
4. Multilateral institutions permitted to raise resources in India	Multilateral institutions like International Finance Corporation (IFC) have been allowed to raise resources in India by way of issue of Rupee Bonds with prior approval of Government/ RBI.	This should be liberalised to allow other institutions/ corporates to raise rupee bonds (with an option for conversion into foreign exchange). The regulator should devise a suitable scheme with overall limits.	As in Phase I but the cap should be gradually raised.	As in Phase I but the cap should be gradually raised.

Item	Present Position	Committee's Recommendation		
		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
II. BANKS				
A. Banks - Residents				
1. Loans and borrowings from overseas banks and correspondents including overdrafts in nostro account.	ADs are allowed to borrow from overseas banks and correspondent banks subject to a limit of 25 per cent of the unimpaired Tier I capital as at the close of the previous quarter or US\$ 10 mio (or its equivalent), whichever is higher. Within this limit, there is no further restriction regarding short-term borrowings. The Overseas borrowings by ADs for the purpose of financing export credit as well as Subordinated debt placed by head offices of foreign banks with their branches in India as Tier-II capital is excluded from the limit. (AP(DIR) Cir.No. 81 dated 24.03.2004)	The limit should be raised to 50 per cent of paid up capital and free reserves of which there should be a sub-limit of one-third of the overall limit for short-term upto less than one year. The stipulation of US\$ 10 million should be withdrawn.	The limit should be raised to 75 per cent of paid up capital plus free reserves with a sub-limit of one-third for short term.	The limit should be raised to 100 per cent of paid up capital plus free reserve with a sub-limit of one-third for short term.
2. Investments in overseas markets	Authorised Dealers are allowed to undertake investments in overseas	No change	As in Phase I	As in Phase I

Item	Present Position	Committee's Recommendation		
		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
	<p>markets up to the limits approved by their Board of Directors within a ceiling in terms of section 25 of BR Act 1949. Such investments may be made in overseas money market instruments and/or debt instruments issued by a foreign state with a residual maturity of less than one year and rated at least as AA (-) by Standard & Poor/FITCH IBCA or Aa3 by Moody's. (AP(DIR).Cir.No 63 dated 21.12.2002 & 90 dated 29.03.2003).</p> <p>Authorised Dealers are also allowed to invest the undeployed FCNR (B) funds in overseas markets in long-term fixed income securities subject to the condition that the maturity of the securities invested in do not exceed the maturity of the underlying FCNR(B) deposits. (AP(DIR).Cir.No.40 dated</p>			

Item	Present Position	Committee's Recommendation		
		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
	29.04.2002 & 38 dated 02.11.2002)			
III. NON BANKS - FINANCIAL				
A. Residents				
1. SEBI registered Indian investors (including Mutual Funds) investments overseas.	The aggregate ceiling on investment overseas by Mutual Funds is US\$ 2 billion with an individual ceiling as decided by SEBI. In terms of SEBI instructions it has been stipulated that limit for individual fund would be 10 per cent of net asset value (NAV) as on 31 st January, subject to US\$ 5 million and maximum of US\$ 50 million.	The aggregate ceiling of US\$ 2 billion should be raised to US\$ 3 billion. This facility should be extended to SEBI registered portfolio management schemes. The individual fund limit and proportion of NAV should be removed.	The aggregate ceiling should be raised to US\$ 4 billion.	The aggregate ceiling should be raised to US\$ 5 billion.
Non-Banks - Financial				
B. Non Residents				
1. FIIs				
(a) Portfolio Investment	Investments by non residents is permitted under	Fresh inflows in P-Notes should be banned and existing P-Notes	As in Phase I	As in Phase I

Item	Present Position	Committee's Recommendation		
		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
	<p>the portfolio investment scheme to entities registered as FIIs and their sub accounts under SEBI(FII) regulations and is subject to ceilings of 10 per cent for each FII, and 10 per cent for each of their sub-accounts, within the overall ceiling for FIIs investment in each company. No RBI approval is required for registration of FIIs. The transactions are subject to daily reporting by designated ADs to RBI. (Sch II to Notification No.FEMA 20 dated 03.05.2000 & AP(DIR).Cir.No 53 dated 17.12.2003).</p>	should be phased out over a period of one year.		
(b) Primary market investment/private placement.	FII investments in primary market is now allowed. The ceiling referred to above is inclusive of primary market investments/private placements.	No Change	No Change	No Change

Item	Present Position	Committee's Recommendation		
		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
(c) Dis-investment	RBI approval for transfer of shares from non-residents to residents has been dispensed with in cases where shares are sold on stock exchange or in case of sale under private arrangements, where it complies with the pricing guidelines. (AP(DIR).Cir.No 16 dated 04.10.2004)	No Change	No Change	No Change
(d) Investments debt instruments	The FII investments in debt permitted subject to a sub ceiling within the overall ECB ceiling as indicated below : (i) Government securities and T-bills –US\$ 2.00 Billion) (ii) Corporate debt – US\$ 1.5 Billion. (Cir IMD/FII/20/2006 dated 05.04.2006 issued by SEBI)	(a) Limit of 6 per cent of total gross issuance by Centre and States in a year. (b) Limit of US\$ 1.5 billion (c) The allocation by SEBI of the limits between 100 per cent debt funds and other FIIs should be discontinued.	(a) Limit of 8 per cent of total gross issuance by Centre and States in a year. (b) Limit of 15 per cent of fresh issuance during a year	(a) Limit of 10 per cent of total gross issuance by Centre and States in a year. (b) Limit of 25 per cent of fresh issuance during a year.

Item	Present Position	Committee's Recommendation		
		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
IV. INDIVIDUALS				
A Individuals – Residents				
1. Financial capital transfers including for opening current/cheque able accounts.	(i) Resident individuals have been permitted to freely remit upto US\$ 25,000 per calendar year for any permissible. current or capital account transactions or a combination of both from February 2004. Residents can use this amount to open foreign currency accounts abroad. (AP(DIR).Cir.No. 64 dated 04.02.2004)	(i) This limit should be raised to US\$ 50,000 per calendar year (where limits for current account transactions are restricted, gifts, donation and travel, this should be raised to an overall ceiling of US\$ 25,000 without any sub-limits).	This limit should be raised to US\$ 100,000 per calendar year	This limit should be raised to US\$ 200,000 per calendar year.
	(ii) They can invest, without limit, in overseas companies listed on a recognised stock exchange and which have the shareholding of at least 10 per cent in an Indian company listed on a recognised stock exchange in India (as on 1 st January of the year of	(ii) This facility should be abolished.	As in Phase I	As in Phase I

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		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
	the investment) as well as in rated bonds/fixed income securities. No current chequable accounts are permitted. (AP(DIR).Cir.No.66 dated 13.01.2003, 97 dated 29.04.2003 & 104 dated 31.05.2003)			
2. RFC Account	Under the RFC scheme, persons of Indian nationality or origin, who, having been resident outside India for a continuous period of not less than one year, have become persons resident in India are eligible to open and maintain the RFC accounts with authorised dealers in India in any freely convertible foreign currency. (The amounts may be retained in a current, savings or term deposit account.)	General permission should be given to RFC Account holders to move their foreign currency balances to overseas banks; those wishing to continue RFC Accounts should be provided Foreign Currency Current/Savings chequable accounts in addition to Foreign Currency term deposits	As in Phase I	As in Phase I
2. RFC(D) Account	Residents are permitted to open, hold and maintain	Merge with RFC Accounts and give General Permission to	As in Phase I	As in Phase II

Item	Present Position	Committee's Recommendation		
		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
	with an AD in India Resident Foreign Currency (Domestic) Account, out of foreign exchange acquired in the form of currency notes, bank notes and travellers cheques from specified sources. The account has to be maintained in the form of current account and shall not bear any interest. Cheque facility is available. There will be no ceiling on the balances held in the account. (AP(DIR) Cir. No. 37 dated 01.11. 2002)	move balances to overseas banks. Holders could be given time to choose either option after which the scheme should be terminated.		
B. Individuals: Non Residents				
1. Capital transfers from non repatriable assets held in India (including NRO and NRNR RD accounts)	Remittance, upto USD one million, per calendar year, out of balances held in NRO accounts/sale proceeds of assets/the assets in India acquired by way of inheritance is permitted. Repatriation of sale proceeds of a House bought out of domestic assets is	RBI should ensure collection of relevant data on outflows under this scheme in view of the large limit for individuals.	As in Phase I	As in Phase I

Item	Present Position	Committee's Recommendation		
		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
	repatriable after 10 years of acquisition. (AP(DIR).Cir.No.67 dated 13.01.2003, 104 dated 31.05.2003 & 43 dated 13.05.2005)			
2. Remittance of assets	ADs have been permitted to allow remittance/s upto US\$ 1 million per calendar year on account of legacy, bequest or inheritance to a citizen of foreign state permanently resident outside India subject to conditions. (AP(DIR).Cir.No . 67 dated 13.01.2003)	RBI should ensure collection of relevant data on outflows under this scheme in view of the large limit for individuals.	As in Phase I	As in Phase I
3. Deposit Schemes for Non-Resident Indians (NRI)	NRIs are permitted two special bank deposit facilities, viz., Non-Resident (External) Rupee Account [NR(E)RA] and Foreign Currency Non-Resident (Banks) Scheme [FCNR(B)]	(i) While the FCRN(B) and NR(E)RA deposit schemes for NRIs could be continued, the present tax benefits on these deposit schemes should be reviewed by the Government. (ii) A separate and distinct deposit facility should be provided to non-residents (other than NRI) to open FCNR(B) Accounts without	(i) As in in Phase I (ii) As in Phase I	(i) As in Phase I (ii) As in Phase I

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		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
		tax benefits and subject to KYC and FATF norms.	(iii) A separate and distinct NR(E)RA deposit scheme, with cheque writing facilities, without tax benefits, should be made available to non-residents, other than NRIs, subject to KYC and FATF norms.	(iii) As in Phase II
4. Portfolio Investment in India through stock exchange.	Individual NRIs can invest upto 5 per cent of the total paid up capital (PUC) of the investee company or 5 per cent of the total paid-up value of each series of the convertible debentures of the company. The aggregate ceiling for NRI investments in a company is 10 per cent of the PUC or 10 per cent of the total paid-up value of the each series of debentures. This ceiling can be raised upto 24 per cent of the PUC by the company.	Individual Non-Residents should be allowed to invest in Indian stock markets through SEBI registered entities including Mutual Funds and Portfolio Management Schemes, who will be individually responsible for fulfilling KYC and FATF norms. The money should come through bank accounts in India.	As in Phase I	As in Phase I

Item	Present Position	Committee's Recommendation		
		Phase I (2006-07)	Phase II (2007-08 and 2008-09)	Phase III (2009-10 and 2010-11)
	NRIs can invest in Perpetual Debt Instruments (Tier-I capital) issued by banks upto an aggregate ceiling of 24 per cent of each issue and investments by individual NRIs can be up to 5 per cent of each issue. NRIs can invest in Debt Capital Instruments (Tier II) of banks without limit. (AP(DIR).Cir.No. 24 dated 25.01.2006)			

List of Items for RBI to Review Separately

<u>Item</u>	<u>Present Position</u>
<u>I. CORPORATE/BUSINESS</u>	
<u>A. Corporates/Business – Residents</u>	
1. Accessing capital markets abroad through GDRs & ADRs other forms of equity issues.	<p>(a) Companies eligible to issue equity in India and falling under the automatic route for FDI are allowed to access the ADR/GDR markets without approval from Govt./RBI subject to reporting to RBI within 30 days from close of issue. GOI considers cases not permitted under the automatic route.</p> <p>(Para 4 of Sch.1 to Notification No. FEMA 20 dated 03.05.2000)</p> <p>(b) Companies eligible to raise ADRs GDRs are permitted to open foreign currency accounts abroad to retain the proceeds and invest the proceeds in rated bonds/fixed income securities pending repatriation of proceeds.</p>
2. Disinvestment from JV/WOS overseas.	<p>General permission for disinvestment has been given to Indian Parties (i) in cases where the JV/WOS is listed in the overseas stock exchange (ii) where the Indian promoter is listed on a stock exchange in India and has a networth of not less than Rs.100 crore and (iii) where the Indian promoter is an unlisted company and the investment in the overseas venture does not exceed US\$ 10 million. Reporting requirements to RBI are prescribed for this purpose.(AP (DIR) Circular No. 29 dated 27.03.2006)</p>
3. Foreign Currency Accounts for Units in SEZs	<p>Units located in a Special Economic Zone have been allowed to open, hold and maintain a Foreign Currency Account with an authorised dealer in India subject to the following conditions:</p> <p>(i) all foreign exchange funds received by the unit in the Special Economic Zone (SEZ) are credited to such account,</p> <p>(ii) no foreign exchange purchased in India against rupees shall be credited to the account without prior permission from the Reserve Bank,</p> <p>(iii) the funds held in the account shall be used for bonafide trade transactions of the unit in the SEZ with the person resident in India or otherwise,</p>

	<p>(iv) the balances in the accounts shall be exempt from the restrictions imposed under Current Account Rules.</p> <p>(AP(DIR) Circular No.28 dated 03.10.2002)</p>
4. Rupee loans to NRI employees	<p>A body corporate registered or incorporated in India, has been permitted to grant rupee loans to its employees who are Non-Resident Indians or Persons of Indian Origin, subject to the following conditions.</p> <p>(i) The loan is to be granted only for personal purposes including purchase of housing property in India;</p> <p>(ii) The loan is to be granted in accordance with the lender's Staff Welfare Scheme/Staff Housing Loan Scheme and subject to other terms and conditions applicable to its staff resident in India;</p> <p>(iii) The lender shall ensure that the loan amount is not used for the following purposes;</p> <ul style="list-style-type: none"> • the business of chit fund, or • as Nidhi Company, or • agricultural or plantation activities or real estate business; or construction of farm houses, or • trading in Transferable Development Rights (TDRs). <p>(iv) The lender shall credit the loan amount to the borrower's NRO account in India or shall ensure credit to such account by specific indication on the payment instrument;</p> <p>(v) The loan agreement shall specify that the repayment of loan shall be by way of remittance from outside India or by debit to NRE/NRO/FCNR Account of the borrower and the lender shall not accept repayment by any other means.</p> <p>(AP(DIR) Circular No.27 dated 10.10.2003)</p>
5. Conversion of ECB and Lumpsum Fee/Royalty into equity	<p>Capitalisation of Lumpsum Fee/Royalty/ECB has been permitted subject to the following conditions :</p> <p>i) The activity of the company is covered under the Automatic Route for FDI or they had obtained Government approval for foreign equity in the company,</p>

	<p>ii) The foreign equity after such conversion of debt into equity is within the sectoral cap, if any,</p> <p>iii) Pricing of shares is as per SEBI and erstwhile CCI guidelines/regulations in the case of listed/unlisted companies as the case may be.</p> <p>iv) Compliance with the requirements prescribed under any other statute and regulation in force.</p> <p>(AP(DIR) Circulars No.34 dated 14.11.2003 and 15 dated 01.10.2004)</p>
<p>I. Corporates – B. Non-Residents</p>	
<p>1. Establishment of project offices in India</p>	<p>ADs have been delegated powers to permit foreign companies to establish project offices in India subject to the following conditions.</p> <p>(a) It has secured from an Indian company a contract to execute a project in India; and</p> <p>(b) the project is funded by inward remittance from abroad; or</p> <p>(c) the project is funded by a bilateral or multilateral International Finance Agency; or</p> <p>(d) the project has been cleared by an appropriate authority; or</p> <p>(e) a company or entity in India awarding the contract has been granted Term Loan by a Public Financial Institution or a bank in India for the project.</p> <p>Banks have been allowed to remit surplus on winding up/completion of the project. (A.P.(DIR) Cir. No. 37 dated 15.11.2003)</p>
<p>2. Buyers' credit/ acceptance for financing goods and services from India. (including financing of overseas projects)</p>	<p>Banks in India are permitted to provide at their discretion Buyer's Credit/Acceptance Finance to overseas parties for facilitating export of goods and services from India, on "Without Recourse" basis and with prior approval of RBI.</p>
<p>3. Lending to non-residents</p>	<p>Banks have been allowed to grant rupee loans to NRIs as per the loan policy laid down by the bank's Board of Directors, barring certain specific purposes. Repayment of the loan may be made by debit to NRE/FCNR/NRO accounts of the non-resident borrowers or out of inward remittances by the borrowers. The quantum of loan, rate of interest,</p>

	<p>margins etc. on such loans to be decided by the Banks based on relevant directives issued by the DBOD.</p> <p>(AP(DIR) Circular No. 69 dated 12.02.2004 & Regulation 7 C of Notification No. FEMA 4 dated 03 05.2000).</p>
B. Banks – Non-Residents	
1. Rupee Accounts of non resident banks	<p>Banks are permitted to allow overdrafts in the rupee accounts of overseas banks. The Overdraft limit has been increased to Rs.500 lakh. However no investments are allowed and no forward cover is permitted.</p> <p>(Para B 8 of the Master Circular on risk management and inter-bank dealings)</p>
III. NON-BANKS – FINANCIAL	
A. Residents	
1. Insurance policies in foreign currency	<p>Insurance companies registered with IRDA have been permitted to issue general insurance policies denominated in foreign currency and receive premium in foreign currency without prior approval of RBI.</p> <p>(AP(DIR) Cir. No.8 dated 13.10.2001 & No. 36 dated 02.04.2002)</p>
IV. NON-BANKS – FINANCIAL	
A. Individuals – Residents	
1. Loans from non residents	<p>Borrowings upto US\$ 250,000 with a minimum maturity of one year permitted from close relatives on interest free basis.</p> <p>(AP(DIR).Cir.No 24 dated 27.09.2003)</p>
2. Diplomatic Missions/Personnel - immovable property.	<p>Foreign Embassy/Diplomat/Consulate General have been allowed to purchase/sell immovable property in India other than agricultural land/plantation property/farm house provided (i) clearance from Government of India, Ministry of External Affairs is obtained for such purchase/sale, and (ii) the consideration for acquisition of immovable property in India is paid out of funds remitted from abroad through banking channel.</p> <p>(AP(DIR) Cir. No.19 dated 23.09.2003)</p>
3. Employees Stock Options (ESOP)	<p>ADs can allow remittance for acquiring shares of a foreign company offered under an ESOP scheme either directly by the issuing company or indirectly through a Trust/SPV/step down subsidiary to employees or directors of the Indian office or branch of a foreign company or of a subsidiary in India of a foreign company or of an Indian company in which</p>

	<p>the company issuing shares effectively holds directly or indirectly at least 51 per cent stake. Foreign companies have been given general permission to repurchase the shares issued to residents in India under any ESOP scheme. (AP(DIR) Cir. No.30 dated 05.04.2006)</p>
B. Individuals – Non-Residents	
1. Foreign Direct Investment (FDI) in India (other than in real estate)	<p>GOI have permitted FDI under the Automatic Route in items/activities in all sectors up to the sectoral caps except in certain sectors where investment is prohibited. There is no requirement of RBI approval for foreign investments. Investments not permitted under the automatic route require approval from FIPB. The receipt of remittance has to be reported to RBI within 30 days from the date of receipt of funds and the issue of shares has to be reported to RBI within 30 days from the date of issue by the investee company.</p> <p>Non-resident individuals are at par with non-resident corporate for the purposes of FDI.</p>
2. Loans from non-residents.	<p>(a) NRIs are permitted to invest in NCDs offered under a public issue subject to conditions regarding end use, minimum tenor and rate of interest:</p> <p>Minimum tenor – 3 years Rate of interest – not exceeding SBI PLR + 300 basis The funds shall be used for the company's own funds. It cannot be used for business of chit fund/nidhi company, agriculture on plantation activities or real estate business or construction of farm house or trading in Transferable development Rights.</p> <p>(b) NRIs are also permitted to subscribe to CPs issued by Indian companies on non-repatriation basis, subject to compliance with the Regulations governing issue of CPs. The CPs are also not transferable.</p>
3. Disinvestment	<p>Sale of shares through private arrangement is allowed. However sale transactions which are not in compliance with pricing guidelines requires approval of RBI. (AP(DIR).Cir.No.16 dated 04.10.2004)</p>
4. Two way fungibility of ADRs/GDRs	<p>A registered broker in India has been allowed to purchase shares of an Indian company on behalf of a person resident outside India for purpose of</p>

	<p>converting the shares into ADRs/GDRs subject to compliance with provisions of the Issue of Foreign Currency Convertible Bonds and Ordinary Shares (through Depository Receipt Mechanism) Scheme, 1993 and guidelines issued by the Central Government from time to time. (AP(DIR).Cir.No 21 dated 13.02.2002)</p>
<p>5. Housing loan to NRI that can be repaid by close relative in India</p>	<p>Close relatives of NRIs or PIOs can repay the loans taken by NRIs or PIOs for acquisition of a residential accommodation in India through their bank account directly to the borrower's loan account with the AD/Housing Finance Institution (AP(DIR).Cir.No ..93 dated 25.05.2004)</p>

(i) **CORPORATES/BUSINESS**

I.A. Residents

I.A.2 *External Commercial Borrowing*

The Committee recommends that the overall ECB ceiling as also the ceiling for automatic approval should be gradually raised. Rupee denominated ECB (payable in foreign currency) should be outside the ECB ceiling. ECBs of over 10-year maturity in Phase I and over 7-year maturity in Phase II should be outside the ceiling. End use restriction should be removed in Phase I.

I.A.3 *Trade Credit*

The Committee has concerns about the volume of trade credit as there could be sudden changes in the availability of such credit. Furthermore, there are concerns as to whether the trade credit numbers are fully captured in the data even while noting that suppliers' credit of less than 180 days are excluded from these data. Import-linked short-term loans should be monitored in a comprehensive manner. The per transaction limit of US\$ 20 million should be reviewed and the scheme revamped to avoid unlimited borrowing.

I.A.4 *Joint Ventures/Wholly Owned Subsidiaries Abroad*

Recognising that Indian industry is successfully building up its presence abroad, there is a strong case for liberalising the present limits for corporate investment abroad. The Committee recommends that the limits for such outflows should be raised in phases from 200 per cent of net worth to 400 per cent of net worth. As part of a rationalisation, these limits should also subsume a number of other categories (detailed in the Matrix); furthermore, for non-corporate businesses, it is recommended that the limits should be aligned with those for corporates.

I.A.9 *EEFC Accounts*

Although EEFC Accounts are permitted in the present framework, these facilities do not effectively serve the intended purpose. The Committee recommends that EEFC Account holders should be provided foreign currency

current/savings accounts with cheque writing facility and interest bearing term deposits. In practice some banks are erroneously providing cheque writing facilities only in rupees.

I.A.10 *Project Exports*

Project exports should be provided greater flexibility and these facilities should be also provided for service exports.

I.B Non-Residents

I.B.2 *Portfolio Investments*

(i) In the case of Participatory Notes (PNs), the nature of the beneficial ownership or the identity is not known unlike in the case of FIIs. These PNs are freely transferable and trading of these instruments makes it all the more difficult to know the identity of the owner. It is also not possible to prevent trading in PNs as the entities subscribing to the PNs cannot be restrained from issuing securities on the strength of the PNs held by them. The Committee is, therefore, of the view that FIIs should be prohibited from investing fresh money raised through PNs. Existing PN-holders may be provided an exit route and phased out completely within one year.

(ii) The Committee recommends that non-resident corporates should be allowed to invest in the Indian stock markets through SEBI-registered entities including mutual funds and Portfolio Management Schemes who will be individually responsible for fulfilling KYC and FATF norms. The money should come through bank accounts in India.

I.B.4 *Multilateral Institutions Raising Resources in India*

At present, only multilateral institutions are allowed to raise rupee bonds in India. To encourage, selectively, the raising of rupee denominated bonds, the Committee recommends that other institutions/corporates should be allowed to raise rupee bonds (with an option to convert into foreign exchange) subject to an overall ceiling which should be gradually raised.

II. BANKS

II.A Residents

II.A.1 *Borrowing Overseas*

The banks' borrowing facilities are at present restrictive though there are various special facilities which are outside the ceiling. The Committee recommends that the limits for borrowing overseas should be linked to paid-up capital and free reserves, and not to unimpaired Tier I capital, as at present, and raised substantially to 50 per cent in Phase I, 75 per cent in Phase II and 100 per cent in Phase III. Ultimately, all types of external liabilities of banks should be within an overall limit.

III. NON BANKS - FINANCIAL

III.A Residents

III.A.1 *SEBI-Registered Indian Investors' Investments Overseas*

At present, only mutual funds are permitted to invest overseas subject to stipulations for each fund. The Committee recommends that the various stipulations on individual fund limits and the proportion in relation to NAV should be abolished. The overall ceilings should be raised from the present level of US\$ 2 billion to US\$ 3 billion in Phase I, to US\$ 4 billion in Phase II and to US\$ 5 billion in Phase III. The Committee further recommends that these facilities should be available, apart from Mutual Funds, to SEBI registered portfolio management schemes.

IV. INDIVIDUALS

IV.A. Residents

IV.A.1 *Financial Capital Transfers*

(i) The present facility for individuals to freely remit US\$ 25,000 per calendar year enables individuals to open foreign currency accounts overseas. The Committee recommends that this annual limit be successively raised to US\$ 50,000 in Phase I, US\$ 100,000 in Phase II and US\$ 200,000 in Phase III. Difficulties in operating this scheme should be reviewed. Since this facility

straddles the current and capital accounts, the Committee recommends that where current account transactions are restricted, i.e., gifts, donations and travel, these should be raised to an overall ceiling of US\$ 25,000 without any sub-limit.

(ii) Residents can at present invest, without any limit, directly in such overseas companies as have a shareholding of at least 10 per cent in an Indian company. This facility is cumbersome to operate and in the context of the large increase in limits for individuals proposed under (i) above, the Committee recommends that this facility should be abolished.

IV.A.2 and 3 *RFC and RFC(D) Accounts*

The Committee recommends that the Resident Foreign Currency (RFC) and Resident Foreign Currency (Domestic) [RFC(D)] Accounts should be merged. The account holders should be given general permission to move the foreign currency balances to overseas banks; those wishing to continue RFC Accounts should be provided foreign currency current/savings chequable accounts in addition to foreign currency term deposits.

IV.B Non-Residents

IV.B.3 *Deposit Schemes for Non-Residents*

At present only NRIs are allowed to maintain FCNR(B) and NR(E)RA deposits. The Committee recommends that non-residents (other than NRIs) should also be allowed access to these deposit schemes. Since NRIs enjoy tax concessions on FCNR(B) and NR(E)RA deposits, it would be necessary to provide FCNR(B)/NR(E)RA deposit facilities as separate and distinct schemes for non-residents (other than NRIs) without tax benefits. In Phase I, the NRs (other than NRIs) could be first provided the FCNR(B) deposit facility, without tax benefits, subject to KYC/FATF norms. In Phase II, the NR(E)RA deposit scheme, with cheque writing facility, could be provided to NRs (other than NRIs) without tax benefits after the system has in place KYC/FATF norms. The present tax regulations on FCNR(B) and NR(E)RA deposits for NRIs should be reviewed by the government.

IV.B.4 *Portfolio Investments*

At present, only NRIs are allowed to invest in companies on the Indian stock exchanges subject to certain stipulations. The Committee recommends that all individual non-residents should be allowed to invest in the Indian stock market through SEBI registered entities including mutual funds and Portfolio Management Schemes who will be responsible for meeting KYC and FATF norms and that the money should come through bank accounts in India.