Forthcoming Programmes

- 2 Day Non-residential National Workshop on Diligence Report for Banks at New Delhi on May 08-09, 2009
  Similar programmes are being organised at CCRT, Navi Mumbai (May 01, 2009); Kolkata (May 15-16, 2009); Coimbatore (May 22-23, 2009); Chennai (May 29-30, 2009).

- 10th National Conference Of Company Secretaries In Practice

MCA Updates

- Companies (Issue of Indian Depository Receipts) (Second Amendment) Rules, 2009

SEBI Updates

- SEBI approves 540 applications under Consent and Compounding Scheme

RBI Updates

- Foreign Exchange Management (Deposit) Regulations, 2000
- Buyback / Prepayment of Foreign Currency Convertible Bonds (FCCBs)
- Interest Rate Ceiling on Rupee Export Credit
- Foreign Direct Investment in India - Transfer of Shares / Preference Shares / Convertible Debentures by way of Sale - Modified Reporting Mechanism

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FORTHCOMING PROGRAMMES

- 2 Day Non-residential National Workshop on Diligence Report for Banks at New Delhi on May 08-09, 2009
- 10th National Conference Of Company Secretaries In Practice
Two Day Non-residential National Workshop

On

Diligence Report for Banks

The Reserve Bank of India vide its Circular dated September 19, 2008 has advised all Scheduled Commercial Banks to obtain Diligence Report by a professional, preferably a company secretary, regarding compliance of various statutory prescriptions that are in vogue, as per the specimen given in the said circular and the subsequent circular(s).

With a view to enable Practicing Company Secretaries to obtain a thorough understanding of the background, scope and the detailed knowledge level required for undertaking assignments of Diligence Report for Banks, the Institute is organizing a workshop on Diligence Report for Banks as per the following details:-

Day(s) & Date(s)  Friday & Saturday, May 08-09, 2009
Timing  9:30 am to 5:00 pm
Venue  Mirza Galib Hall, SCOPE Complex, Lodi Road, New Delhi
Proposed Coverage  • Background, Scope & Professional Responsibility
  • Format of Diligence Report
  • Methodology
  • Compliance Inputs & Checklists • Competency Building
Fees  Rs. 2500 for members of ICSI
  Rs. 1500 for Corporate Members of NIRC of ICSI
  (to cover cost of Backgronder, Lunch and other organizational expenses)
Programme Director  Shri Sanjay Grover, Chairman, Practicing Company Secretaries Committee, The ICSI
Programme Co-ordinator  Shri Atul Mittal, Chairman, NIRC of The ICSI

For registration, please send a Bank Draft favouring The Institute of Company Secretaries of India payable at New Delhi to Shri Saurabh Jain, Education Officer, ICSI HOUSE, 22, Institutional Area, Lodi Road, New Delhi – 110 003 (email: saurabh@icsi.edu)

Members attending the workshop would be entitled to 8 Programme Credit Hours & a Certificate of Participation.

Note : Similar programmes are being organised at Kolkata (May 15-16, 2009) ; Coimbatore (May 22-23, 2009) ; Chennai(May 29-30, 2009).
ATTENTION MEMBERS

10TH NATIONAL CONFERENCE OF COMPANY SECRETARIES IN PRACTICE

SUGGESTIONS ON THEME AND SUB-THEMES

The 10th National Conference of Company Secretaries in Practice is tentatively scheduled to be held on July 31-August 01, 2009. Suggestions are invited for the theme and sub-themes of the Conference.

Suggestions may please be sent by **April 30, 2009** to:

Shri Sutanu Sinha
(Director Academics)
The Institute of Company Secretaries of India
‘ICSI HOUSE’,
22, Institutional Area,
Lodi Road,
NEW DELHI – 110 003
Fax: 011-24645045
E-mail: ssinha@icsi.edu
Companies (Issue of Indian Depository Receipts) (Second Amendment) Rules, 2009
MCA Updates


The notification is placed at the MCA website under ‘MCA News’. The link is as under:

SEBI approves 540 applications under Consent and Compounding Scheme

HOME
SEBI approves 540 applications under Consent and Compounding Scheme

SEBI settles the pending enforcement actions through consent and compounding in terms of its Circular dated April 20, 2007. The Circular provides the process for different kinds of enforcement actions such as prosecution, adjudication, section 11B proceedings, etc. The process broadly followed is as under:

On receipt of an application from the concerned entity for settlement, an internal Committee of Division Chiefs after meeting the applicant examines if the terms offered by it are appropriate for settlement. The terms finally offered by the applicant are placed before the High Powered Advisory Committee (HPAC), which is headed by a former Judge of a High Court, to ascertain if the terms are fair and reasonable. The HPAC, after taking into account facts and circumstances of the case and the factors specified in the Circular, makes its recommendations accepting, declining or suggesting modifications in the terms offered by the applicant. A panel of two Whole Time Members considers the recommendations of the HPAC and takes a decision whether to settle the enforcement action on the said terms or decline the settlement. On compliance of the terms of settlement, as approved by the panel, a consent order is passed by SEBI, if the matter is pending before it. The agreed consent terms are placed before the Securities Appellate Tribunal or Courts, as the case may be, for appropriate orders. In case of compounding, the approved compounding terms are submitted before the Court for its consideration.

Till March 2009, SEBI has approved 540 applications settling various kinds of enforcement actions. These include 45 consent applications where after the consent terms were placed before the Securities Appellate Tribunal and the Supreme Court, consent orders were passed by the Securities Appellate Tribunal and the Supreme Court respectively. The number (540) also includes 58 compounding applications where the compounding orders were passed by the respective criminal courts. SEBI has also rejected 264 applications and declined to pass consent orders for various reasons including the reason that the terms of settlement proposed by the applicants were not found adequate (in 228 cases) by the HPAC. The details of disposal of applications under the said scheme till March 31, 2009 are as under:
The above amount of Rs. 47.82 crore received through consent and compounding comprises of Rs. 8.28 crore towards disgorgement, Rs. 38.59 crore towards settlement charges and Rs. 0.95 crore towards administrative and legal charges. The amount received towards settlement charges is remitted to the Consolidated Fund of India.

Besides the amount, the settlement in 51 cases includes debarment from dealing in securities market / suspension of certificate of registration for different periods.

As a part of its enforcement actions, SEBI has also been conducting adjudication proceedings. During 1995-96 to 2008-09, it has realized a total sum of Rs.14.64 crore as monetary penalty through adjudication. The money realized through adjudication is also remitted to the Consolidated Fund of India.

Mumbai

April 21, 2009
Subject: “Handling of Cargo in Customs Areas Regulations, 2009”– regarding.

A reference is invited to Notification No.26/2009-Customs (N.T.) dated 17.3.2009 bringing into effect the “Handling of Cargo in Customs Areas Regulations, 2009” (referred in short as ‘regulations’). The regulations provide for the manner in which the imported goods/ export goods shall be received, stored, delivered or otherwise handled in a customs area. The regulations also prescribe the responsibilities of persons engaged in the aforesaid activities. It may be recalled that the Public Accounts Committee (2005-06) in its twenty-seventh report had recommended for formulating appropriate legal provisions and guidelines to control the activities of custodians. In pursuance of the recommendations made by the Public Accounts Committee (PAC), the Government had inserted a new sub - section (2) to section 141 of the Customs Act, 1962. These Regulations have been framed by the Department in pursuance of the recommendations of the PAC and consequent to the amendment of the Customs Act, 1962 as aforesaid. The salient features of the regulations are indicated in the following paragraphs.

2.1. The regulations shall be applicable to all ‘Customs cargo service providers’ (CCSPs) that is to say all persons operating in a customs area and engaged in the handling of import/export goods. These include the Custodians holding custody of import / export goods and handling such goods and all persons working on behalf of such custodians such as fork lift or material handling equipment operators, etc. The regulations would also cover consolidators/ break bulk agents and other persons handling imported / export goods in any capacity in a customs area. The regulations provide for various responsibilities and conditions for different kinds of CCSPs. The conditions prescribed under Regulation 5 would apply to the CCSPs who desire to be approved as custodians of imported / export cargo and thus handle goods in customs areas. These conditions shall not apply to those persons who only provide certain services on their own or on behalf of the custodians referred above.

2.2. Responsibilities prescribed in Regulation 6 on the other hand apply to both categories of persons i.e. all Custodians and persons who provide various services as above. Certain responsibilities specifically apply to one of the category. For example,

the responsibility for safety and security, pilferage of goods under their custody, disposal of uncleared, unclaimed or abandoned goods within the prescribed time limit, payment of cost recovery charges of the customs officers posted in the facility are applicable to the persons who handle imported or export goods in the capacity of an approved custodian. On the other hand, responsibilities for publishing or display of the schedule of charges for the activities undertaken in respect of imported/ export goods shall apply to both categories of persons. These responsibilities have been specified with the overall objective of expeditious clearance of goods, reduction of dwell time, transaction cost and to safeguard revenue.

3. As specified in Regulation 3, these regulations shall apply to handling of imported goods and export goods in customs area specified under section 8 of the Customs Act, 1962. This would cover all customs facilities such as ports, airports, Inland Container Depots (ICDs), Container Freight Stations (CFSS) and Land Customs Stations (LCSs). Imported goods would cover goods under transshipment and all goods held under the custody of CCSP.
However, these regulations shall not apply to Customs bonded warehouse or to the warehoused goods which are covered under Chapter IX of the Customs Act, 1962.

4.1. It may be noted that in view of the transitional provisions under Regulation 4, the existing appointments of custodians under section 45 of the Customs Act, 1962 shall continue and there would be no disruption in their operations. However, the existing custodians would be required to provide facilities and fulfill the conditions mentioned in Regulation 5 and 6, as applicable, within the specified time period. On fulfillment of the prescribed conditions, approval letters shall be issued to the existing custodians approving the facility for a period of five years and its renewal thereafter, as per Regulation 13.

4.2. Further, major ports notified under the Major Port Trusts Act, 1963 and airports notified under the Airports Authority of India Act, 1994 will continue to be authorised to function as custodians under their respective Acts and these regulations shall not impact their approval as a custodian. In this regard, it may be noted that section 45 of the Customs Act, 1962, which provides for approval of custodians makes an exception to these custodians who are otherwise approved under any law for the time being in force. Accordingly, the Port Trusts of the notified major ports and the Airports Authority of India shall not be required to make an application under Regulation 4 or 9 for approval or renewal under these regulations. However, they would be required to discharge the responsibilities cast upon them as specified in Regulation 6.

4.3. It is clarified that the normal time within which the existing custodians are required to comply with the conditions of these regulations has been stipulated as three months from the date of coming into force of these regulations. However, this can be extended by the Jurisdictional Commissioner of Customs in deserving cases for a further period not exceeding nine months. Thus, the total period within which the custodians are required to comply with the requirements of these regulations shall not exceed a total period of one year.

5.1. Regulation 5 provides the conditions to be fulfilled by an applicant who wishes to be appointed as a custodian of the imported/ export goods in a customs area (ICD/CFS etc.). An exhaustive list of infrastructure and operational requirements for efficient handling of imported or export goods has been provided. Further, it may be noted that sufficient discretion has also been provided for the Commissioner of Customs to decide on the nature of infrastructure and equipments required to be installed at the premises of CCSP. Hence, it may be ensured that all the facilities provided by the custodians are sufficient for efficient handling of cargo. It is clarified that the facilities required for handling cargo at a particular ICD/ CFS etc. need not be the same as at any other ICDs/ CFSs/ other customs areas at another place in the country. However, the facilities should be sufficient to enable efficient handling of the cargo having regard to the volume of containers/ cargo and its nature, etc. required to be handled at the particular ICD/CFS/ customs area. In some of the conditions in the regulations where it has been so specified, the Commissioner of Customs can lay down certain general standards or requirements such as height of boundary wall, quantum and specifications of material handling and other equipments etc., to ensure that the facilities are adequate for effective and efficient handling of cargo.

5.2. As regards the requirement of the Customs EDI Systems under Regulation 5(1)(j), the infrastructure required to be provided by the custodian shall include the Civil and electrical infrastructure including properly air-conditioned office space, cabins with proper furniture, power backup facilities, hardware, networking and secure connectivity to customs data centres for customs officers and service centres specified by Customs. Facilities required for secure exchange of electronic information between the custodian and Customs shall also be provided. The technical requirements shall be as per the specifications prescribed by the Directorate General of Systems & Data Management. In addition to the above, the requirements as specified vide Board’s Circular No.94/2003-Customs dated 31.10.2003 to bring uniformity in automation and to expedite automation process at ICDs / CFSs, shall continue to apply.
5.3. The charges in respect of the Customs officers deployed at the customs clearance facility (ICD/CFS/port/airport etc.) are required to be paid by the Custodian, unless these have been exempted for an individual custodian by an order issued by the Ministry of Finance or by a circular or instructions issued by the Ministry of Finance [Regulation 5(2)]. Payment of cost recovery charges in respect of ports and airports has been exempted for three categories of custodians specified in Circular No.27/2004-Customs dated 6.4.2004. It is clarified that these specified categories of custodians at ports / airports would continue to be exempt from the payment of charges for the customs officers deployed therein.

5.4. In terms of the Greenfield Airports Policy framed by the Government and notified by the Ministry of Civil Aviation for setting up of private greenfield airports, it has been specified that in case of an international airport, the applicant for setting up of a greenfield airport will obtain clearance from the Department of Revenue for provision of Custom services. The cost of providing these services will have to be borne by the Airport Company. Hence, such custodians shall also be required to pay cost recovery charges in terms of the extant policy.

5.5. As regards ICDs / CFSs, Government had taken a decision to waive the requirement of cost recovery charges to be paid by ICD / CFS, if they fulfill the laid down norms and are in existence for a consecutive period of two financial years. These norms include parameters such as the total number of import or export containers handled, the customs declarations filed for import or export, etc. Board’s instructions vide D.O. letter F.No.A.11018/12/2008-Ad.IV dated 2.7.2008 refer in this regard. Accordingly, the eligible ICDs / CFSs which fulfill the laid down criteria are being considered for exemption from payment of cost recovery charges and specific orders in individual cases are issued by Ad.IV Section. These orders are being referred to as the orders issued by the Ministry of Finance under the Regulation 5(2).

5.6. Imported or export goods lying unclaimed, uncleared or abandoned in ICDs / CFSs / customs area shall be disposed of within the specified time by the CCSP who is holding custody of the such goods. [Regulation 6(1)(m)]. Accordingly, it may be ensured that the existing Board’s instructions for proper and timely disposal of unclaimed, uncleared or abandoned goods as per Circular No.50/2005-Customs dated 1.12.2005 as amended, are properly followed.

6.1. The power to exempt from the conditions required to be fulfilled by CCSP provided under Regulation 7 is required to be exercised by the Commissioner of Customs carefully. For example, the requirement of sufficient facilities for installation of scanning equipment may not be an immediate requirement in respect of ICD / CFS who have established their operations as new custodian. However, when the requirement of scanning becomes a necessity at such places, then these conditions may have to be fulfilled by such custodian at that point of time. Hence, the Commissioner of Customs needs to examine individual cases where exemptions are sought to be given to the custodian and record the reasons in writing before providing exemptions.

6.2. In order to overcome situations where clearances of imported/ export goods are getting affected by congestion at a particular customs facility (e.g. CFS), it has been provided that the Commissioner of Customs may consider regulating the entry of goods in that particular CFS for a temporary period, say, 15 days, in terms of Regulation 7(2). In such cases, the Commissioner of Customs may not allow any import/ export cargo to be received and handled in the facility or may allow such reduced quantity as considered sufficient for being handled efficiently for such temporary period till the congestion is cleared and the delay in clearance of goods is sorted out.

7. In terms of Regulation 9, at the time of submission of applications for acquiring custody and handling of import / export goods, the applicant shall provide complete details of the facility such as extent of the area, equipment, infrastructure etc. for receiving, unloading / loading, stacking, storage, delivery of imported/ export goods including the map. As regards the projected capacity of the cargo or container proposed to be handled at the premises,
adequate care should be taken to see that the specific details are obtained as this would form
the basis for determining the adequacy of the infrastructural facilities and for determination of
bond or bank guarantee, wherever applicable. For example, in respect of containers, the
volume in terms of Twenty feet Equivalent Units (TEUs) may be ascertained. In so far as X-
Ray scanning equipment is concerned, the customs are expected to provide for suitable
land and other site requirements, but the actual scanning equipments would be installed by
the customs department subject to conditions as may be prescribed.

8. Only such of CCSPs who wish to be appointed as custodian of imported/ export goods
need to take approval as specified in Regulation 10. Other CCSPs who either operate on
behalf of the custodian or with his permission, do not require any approval under these
regulations. It may however be clarified that custodian will be responsible for fulfillment of
the conditions of these regulations even in respect of CCSPs working on their behalf or with their
permission.

9.1. The procedure for approval of appointment, renewal, suspension or revocation of
CCSP has been given in detail under Regulations 10 to 13, so as to provide for transparent
and objective procedure in the appointment and cancellation. Cases involving outright
transfer of custodianship, leasing of premises without informing Customs, subletting, sub-
contracting, outsourcing, gift or lease of any of the services of CFS/ICD have to be dealt by
the jurisdictional Commissioner of Customs. In case of violations of the conditions or
obligations prescribed under the regulations, necessary action may be taken against the
erring CCSP including imposition of penalty. Board’s instructions issued vide
F.No.450/105/2008-Cus.IV dated 25.7.2008 may also be referred to in this regard. Further,
action would also need be initiated against the CCSP, wherever lack of infrastructure facilities
is noticed leading to deterioration in services or damage of imported or export goods, loss of
its value and loss of revenue etc.

9.2. The provisions for suspension etc., apply prospectively with effect from the date of
implementation of the regulations. These regulations also provide for levy of penalty in case
the CCSP contravenes any of the provisions of the regulations or fails to comply with the
regulations. However, these provisions do not interfere with the proceedings against the
custodian, in respect of past cases where necessary action to be taken against erring
custodians, has already been initiated by the field formations.

10. These regulations notified vide Notification No.26/2009-Customs (N.T.) dated
17.3.2009 are issued in exercise of the powers conferred to the Board under sub section (2)
of section 141 read with section 157 of the Customs Act, 1962. It supersedes the instructions
issued vide Board’s Circular No.128/95-Customs dated 14.12.1995 and Circular No.34/2002-
Customs dated 26.6.2002 as amended. Other circulars and the instructions on the subject
which are not inconsistent with the provisions of these regulations would, however, continue
to apply.

11. The Commissioner of Customs may issue a Public Notice bringing to the notice of the
trade and industry about the publication of these regulations and the need to comply with the
provisions of these regulations by the existing custodian within a period of three months as
provided in Regulation 4. In this regard, the Commissioner of Customs shall issue individual
letters to the respective custodians in his jurisdiction for initiating action and seeking
compliance of the regulations within the stipulated time.

12. Any difficulties in implementation of these Regulations may be brought to the notice of
the Board immediately.

Yours faithfully,

(M.M. Parthiban)
Director (Customs)
RBI Updates

- Foreign Exchange Management (Deposit) Regulations, 2000
- Buyback / Prepayment of Foreign Currency Convertible Bonds (FCCBs)
- Interest Rate Ceiling on Rupee Export Credit
- Foreign Direct Investment in India - Transfer of Shares / Preference Shares / Convertible Debentures by way of Sale - Modified Reporting Mechanism
A. P. (DIR Series) Circular No.66 April 28, 2009

To,

All Category - I Authorised Dealer banks and Authorised Banks

Madam / Sir,

Foreign Exchange Management (Deposit) Regulations, 2000-
Loans to Non Residents / third party against security of Non
Resident (External) Rupee Accounts [NR (E) RA / Foreign
Currency Non Resident (Bank) Accounts [FCNR(B)]] -Deposits

Attention of Authorised Dealer Category - I banks and Authorised banks (the banks) is invited to Para 6 (a), (b), (c) and (d) of Schedule 1 and Para 9 of Schedule 2 to Foreign Exchange Management (Deposit) Regulations, 2000 notified vide Notification No. FEMA 5 / 2000-RB dated May 3, 2000, as amended from time to time regarding loans against security of funds held in deposit accounts. Further, attention of the banks is also invited to A. P. (DIR Series) Circular No.29 dated January 31, 2007 prohibiting banks from granting fresh loans or renewing existing loans in excess of Rs.20 lakh against NR(E)RA and FCNR(B) deposits either to the depositors or third parties. The banks were also advised not to undertake artificial slicing of the loan amount to circumvent the ceiling.

2. As announced in Para 111 of the Annual Policy Statement 2009-10, it has been decided to enhance the existing cap of Rs.20 lakh to Rs.100 lakh on loans against security of funds held in NR(E)RA and FCNR(B) deposits either to the depositors or third parties.

3. Accordingly, the banks may now grant loans against NR(E)RA and FCNR(B) deposits either to the depositors or third parties up to a maximum limit of Rs.100 lakh. The banks are also advised not to undertake artificial slicing of the loan amount to circumvent the aforesaid ceiling.

4. The above instructions shall come into force with immediate effect.

5. The banks may bring the contents of this circular to the notice of their constituents and customers concerned.
6. The directions contained in this circular have been issued under sections 10(4) and 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,
(Salim Gangadharan)
Chief General Manager-in-Charge
RBI/2008-09/461

A. P. (DIR Series) Circular No 65 April 28, 2009

To, All Category - I Authorised Dealer Banks

Madam / Sir,

Buyback / Prepayment of Foreign Currency Convertible Bonds (FCCBs)

Attention of Authorised Dealer Category - I (AD Category - I) banks is invited to A.P.(DIR Series) Circular No. 39 dated December 8, 2008 and A.P. (DIR Series) Circular No. 58 dated March 13, 2009 on the captioned subject. In terms of Para 4 B of A.P (DIR Series) Circular No. 39 dated December 8, 2008, Reserve Bank has been considering proposals from Indian companies for buyback of FCCBs out of their internal accruals, under the approval route up to a total amount of USD 50 million of the redemption value per company, subject to a minimum discount of 25 per cent on the book value.

2. As announced in Para 110 of the Annual Policy Statement 2009-10 and keeping in view the benefits accruing to the Indian companies, the current policy has been reviewed and it has been decided to increase the total amount of permissible buyback of FCCBs, out of internal accruals, from USD 50 million of the redemption value per company to USD 100 million, under the approval route by linking the higher amount of buyback to larger discounts. Accordingly, Indian companies may henceforth be permitted to buyback FCCBs up to USD 100 million of the redemption value per company, out of internal accruals, with the prior approval of the Reserve Bank, subject to a:

i) minimum discount of 25 per cent of book value for redemption value up to USD 50 million;

ii) minimum discount of 35 per cent of book value for the redemption value over USD 50 million and up to USD 75 million; and

iii) minimum discount of 50 per cent of book value for the redemption value of USD 75 million and up to USD 100 million.

3. All other terms and conditions stipulated in A.P. (DIR Series) Circular No. 39 dated December 8, 2008 will continue to be applicable. This facility shall come into force with immediate effect.

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

5. The directions contained in this circular have been issued under sections 10(4) and 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
(Salim Gangadharan)
Chief General Manager –in – Charge
RBI/2008-09/459
MPD.BC.323 /07.01.279/2008-09 April 28, 2009
Vaishakha 7, 1931(S)

All Scheduled Commercial Banks

Dear Sir/Madam,

Interest Rate Ceiling on Rupee Export Credit

Please refer to our circulars No.MPD.BC.307/07.01.279/2008-09 dated October 24, 2008, DBOD.Dir.(Exp).BC.No.80/04.02.01/2008-09 dated November 15, 2008 and DBOD.Dir.(Exp).BC.No.88/04.02.01/2008-09 dated November 28, 2008 in terms of which the ceiling on interest rates on pre-shipment rupee export credit up to 270 days and post-shipment rupee export credit up to 180 days has been stipulated at BPLR minus 2.5 per cent, valid up to April 30, 2009.

2. It has been decided to extend the validity of the above dispensation up to October 31, 2009 (Annex).


Yours faithfully,

(Janak Raj)
Adviser-in-Charge

Encl: as above.

Annex

<table>
<thead>
<tr>
<th>Category</th>
<th>With effect from May 1, 2009 (up to October 31, 2009)</th>
</tr>
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<tbody>
<tr>
<td><strong>Pre-shipment Rupee Export Credit</strong></td>
<td></td>
</tr>
<tr>
<td>Up to 270 days.</td>
<td>Not exceeding BPLR minus 2.5 percentage points.</td>
</tr>
<tr>
<td><strong>Post-shipment Rupee Export Credit</strong></td>
<td></td>
</tr>
<tr>
<td>(a) On demand bills for transit period (as specified by (FEDAI)).</td>
<td>Not exceeding BPLR minus 2.5 percentage points.</td>
</tr>
<tr>
<td>(b) Usance bills up to 180 days.</td>
<td>Not exceeding BPLR minus 2.5 percentage points.</td>
</tr>
</tbody>
</table>
BPLR: Benchmark Prime Lending Rate.

Note: 1. Since these are ceiling rates, banks would be free to charge any rate below the ceiling rates.

2. Interest rates for the above-mentioned categories beyond the tenors as prescribed above are free.

A.P. (DIR Series)
Circular No. 64 April 28, 2009

External Commercial Borrowings (ECB) Policy – Liberalisation

Attention Authorised Dealer Category – 1 (AD Category – 1) banks is invited to the A.P. (DIR Series) Circular No. 46 dated January 2, 2009 relating to External Commercial Borrowings (ECB) and in terms of Para 2 of the circular, it was decided to dispense with the requirement of all-in-cost ceilings on ECB, under the approval route, until June 30, 2009. Accordingly, eligible borrowers, proposing to avail of ECB beyond the prescribed all-in-cost ceilings could approach the Reserve Bank, under the approval route.

2. As announced in para 107 of the Annual Policy Statement 2009 – 10 and considering the continuing pressure on credit spreads in the international markets, it has been decided to extend the relaxation in all-in-cost ceilings, under the approval route, until December 31, 2009. This relaxation will be reviewed in December 2009.

3. The modification to the ECB guidelines shall come into force with immediate effect. All other aspects of ECB policy, such as USD 500 million limit per company per financial year under the Automatic Route, eligible borrower, recognised lender, end-use, average maturity period, prepayment, refinancing of existing ECB and reporting arrangements remain unchanged.

4. Necessary amendments to the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000 dated May 3, 2000 are being issued separately.

5. AD Category - I banks may bring the contents of this circular to the notice of their constituents and customers concerned.
6. The directions contained in this circular have been issued under sections 10(4) and 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

(Salim Gangadharan)
Chief General Manager in-Charge
RBI/2008-09/447
A. P. (DIR Series) Circular No.63        April 22, 2009

To

All Category-I Authorised Dealer Banks

Madam / Sir,

Foreign Direct Investment in India -
Transfer of Shares / Preference Shares / Convertible
Debentures by way of Sale - Modified Reporting Mechanism

Attention of the Authorised Dealer Category – I (AD Category - I) banks is invited to paragraph 6 of the Annex to A. P. (DIR Series) Circular No.16 dated October 4, 2004, wherein, it has been stipulated that in case of transfer of shares from a resident to a non-resident / non-resident Indian and vice versa, the transferee / his duly appointed agent is required to approach the investee company to record the transfer in their books along with the certificate in form FC-TRS from the designated AD branch that the remittances have been received by the transferor / payment has been made by the transferee. In addition, the designated AD branch is also required to submit two copies of the form FC-TRS received from their constituents / customers together with the statement of inflows / outflows on account of remittances received / made in connection with transfer of shares, by way of sale, to IBD/FED or the nodal office designated for the purpose by the AD Category – I bank. The IBD/FED or the nodal office of the AD Category – I bank in turn submits a consolidated monthly statement in respect of all the transactions reported by the branches to the Reserve Bank, in the prescribed proforma. Further, it may be noted that in term of Regulation 2 of Notification No. FEMA 20/2000-RB dated 3rd May 2000, as amended from time to time, "preference shares" mean compulsorily and mandatorily convertible preference shares and "debenture" means compulsorily and mandatorily convertible debentures.

2. In order to capture the details of investment received by way of transfer of the existing shares / compulsorily and mandatorily convertible preference shares (CMCPS) / debentures [hereinafter referred to as equity instruments], of an Indian company, by way of sale, in a more comprehensive manner, the form FC-TRS has been revised (format in Annex I). Accordingly, the proforma for reporting of inflows / outflows on account of remittances received / made in
connection with the transfer of equity instruments by way of sale, submitted by IBD/FED/nodal branch of the AD Category – I bank to the Reserve Bank has also been modified (format in Annex III).

3. The sale consideration in respect of equity instruments purchased by a person resident outside India, remitted into India through normal banking channels, shall be subjected to a KYC check (format in Annex II) by the remittance receiving AD Category – I bank at the time of receipt of funds. In case, the remittance receiving AD Category – I bank is different from the AD Category - I bank handling the transfer transaction, the KYC check should be carried out by the remittance receiving bank and the KYC report be submitted by the customer to the AD Category – I bank carrying out the transaction along with the form FC-TRS.

4. Further, in order to ensure that the form FC-TRS is submitted within a reasonable timeframe, it has been decided that henceforth, the form FC-TRS should be submitted to the AD Category – I bank, within 60 days from the date of receipt of the amount of consideration. The onus of submission of the form FC-TRS within the given timeframe would be on the transferor / transferee, resident in India.

5. In case of transfer of equity instruments where the non-resident acquirer proposes deferment of payment of the amount of consideration, prior approval of the Reserve Bank would be required, as hitherto. Further, in case approval is granted for a transaction, the same should be reported in form FC-TRS, duly certified by the AD Category – I bank, within 60 days from the date of receipt of the full and final amount of consideration.

5. These directions will become operative with immediate effect.

6. AD Category – I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

7. The directions contained in this circular have been issued under sections 10(4) and 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,

Salim Gangadharan
Chief General Manager-in-Charge