

May 17, 2005

To

All Banks Authorised to Deal in Foreign Exchange

Madam / Sirs,

**Project Offices—Intermittent remittances and Foreign Currency Accounts in India**

Attention of Authorised Dealer (AD) banks is invited to Foreign Exchange Management (Establishment in India of Branch or Office or other Place of Business) Regulations, 2000; Notification No. FEMA 22/2000-RB dated May 3, 2000 and Foreign Exchange Management (Remittance of Assets) Regulations, 2000; Notification No. FEMA 13/2000-RB dated May 3, 2000, as amended from time to time, as well as AP (DIR Series) Circular no. 37 dated November 15, 2003.

2. At present, AD banks are required to obtain Reserve Bank approval for opening of foreign currency accounts of the Project Offices set up in India by foreign companies. In order to further liberalise the procedure for Project Offices, it has been decided to allow Authorised Dealers to open foreign currency accounts for the Project Offices (established under the general/specific approval of Reserve Bank), as well as to permit intermittent remittances by Project Offices without Reserve Bank approval subject to the conditions stipulated hereunder.

**2.1 Opening of Foreign Currency Account:**

The concerned branch of the AD may open **non-interest** bearing Foreign Currency Account for Project Offices in India subject to the following:

- a) The Project Office has been established in India, with the general/specific permission of Reserve Bank, having the requisite approval from the concerned Project Sanctioning Authority,
- b) The contract under which the project has been sanctioned, specifically provides for payment in foreign currency,
- c) Each Project has only one Foreign Currency Account.

- d) The permissible debits and credits in the account shall be as under:
- ❖ Debits:
    - Payment of project related expenditure.
  - ❖ Credits:
    - Foreign currency receipts from the Project Sanctioning Authority, and
    - Remittances from parent/group company abroad or bilateral/multilateral international financing agency.
- e) The responsibility of ensuring that only the approved debits and credits are allowed in the Foreign Currency Account shall rest solely with the concerned branch of the AD. Further, the Accounts shall be subject to 100 percent scrutiny by the Concurrent Auditor of the respective AD banks.
- f) The Foreign Currency account may be closed at the completion of the Project.

## 2.2 Intermittent remittances:

AD branch may permit intermittent remittances by Project Offices pending winding up / completion of the project provided they are satisfied with the bonafides of the transaction and subject to the following:

- ❖ The Project Office submits an Auditors' /Chartered Accountants' Certificate to the effect that sufficient provisions have been made to meet the liabilities in India including Income-Tax etc.
- ❖ An undertaking from the Project Office that the remittance will not, in any way, affect the completion of the Project in India and that any shortfall of funds for meeting any liability in India will be met by inward remittance from abroad.

## 2.3 Reporting requirements:

The foreign company establishing a Project Office in India is to furnish a report through the concerned AD branch, to the concerned Regional Office of Reserve Bank of India under whose jurisdiction the Project Office is set up, incorporating the following details :

- (a) Name and address of the Foreign Company,

- (b) Reference Number and date of letter awarding the contract referred to in clause (ii) of Regulation 5 of Notification No. FEMA 22/2000-RB dated May 3, 2000,
- (c) Particulars of the authority awarding the projects/contract,
- (d) The total amount of contract,
- (e) Address /e-mail address,/telephone number/fax number of the Project Office,
- (f) Tenure of Project Office ,
- (g) Brief details of the Project undertaken,
- (h) AD branch with whom the account has been opened and the foreign currency in which the account is opened,
- (i) An undertaking to the effect that the Project Office is eligible to avail of the General Permission under Regulation 5(ii) to RBI Notification No 22 / 2000- RB dated 3rd May, 2000 read with Notification No. FEMA 95 dated July 2, 2003 showing the reason thereof.

This Report shall be forwarded through the AD branch to the concerned Regional Office of the Reserve Bank of India within 2 months of establishment of the Project Office.

2.4 The Project Office shall also submit to the AD branch on an annual basis, a Certificate from a Chartered Accountant showing the Project Status and certifying that the accounts of the Project Office has been audited and the activities undertaken are in conformity with the General/Specific permission given by the Reserve Bank.

3. Inter Project transfer of funds will be permitted with the prior permission of the concerned Regional Office of the Reserve Bank under whose jurisdiction the Project Office is situated.

4. In case of disputes between the Project Office and the project sanctioning authority or other Government/Non-Government agencies etc., the balance held in such account shall be converted into INR and credited to a special account which shall be dealt with as per the settlement of the dispute.

5. Project Offices not falling under the General Permission granted vide the Notification mentioned in paragraph 3 may approach the respective Regional Offices under whose jurisdiction it is situated for necessary approvals.

6. The above instructions come into force with immediate effect.

7. ADs may bring the contents of this Circular to the notice of their constituents and customers concerned.

8. 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,

**(F. R. Joseph)**

**Chief General Manager**