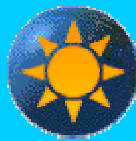




INDIA UPDATE

A monthly Newsletter on business intelligence and opportunities in India

JULY 2006



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INDIAN EXPORTS SHOOTS UP 40% IN JUNE BUT RISE IN CRUDE PRICE INCREASES TRADE DEFICIT

The momentum in the growth of exports in the first two months of the first quarter of the current fiscal year improved significantly in June 2006 when it clocked a growth 40.17 per cent in dollar terms compared to the level achieved during June 2005. Exports in June 2006 touched almost US\$10 billion (US\$9.967 billion) from the level of US\$7.11 billion during June 2005. Exports during the first quarter of the Fiscal Year (April – June 2006) grew by 32.40% compared to the figures for the corresponding quarter of the last fiscal year.

Provisional data released by the Department of Commerce indicates that exports during April-June 2006-07 are valued at US\$27.672 billion, which is 32.40 per cent higher than the level of US\$20.900 billion during April-June 2005. The quick estimates of selected major commodities show a substantial spurt in exports of engineering products, petroleum products, basic chemicals, electronic goods, cotton yarn/fabrics/made-ups, spices, coffee, tobacco, carpets and mica, coal and other minerals, including processed ones, during June 2006.

The country's imports during June 2006 are valued at US\$13.764 billion, representing an increase of 23.98 per cent over the level of imports valued at US\$11.101 billion in June 2005. Total imports during April-June 2006 are valued at US\$40.281 billion, which is 24.48 per cent higher than the level of US\$32.360 billion during April-June 2005.

Trade deficit during the period April-June 2006 is estimated at US\$12.609 billion, which is higher than the revised deficit of US\$10.538 billion during April-June 2005. One of the significant reasons for increase in imports is on account of rise in international crude price since India imports about 76 per cent of its crude oil requirements in a year.

The Indian crude oil basket touched an all-time high of US\$73.96 a barrel. The Indian basket of crude oil comprises Oman-Dubai sour grade of crude and Brent dated sweet crude in 58:42 ratio. In July 2006 so far, the average price of Indian basket of crude oil has been \$71.4 a barrel. If the situation in the Middle East worsens further, there could be further escalation in the international crude oil price which again would have a further negative impact on the balance of payments position.

Views of our Economist:

Significant growth in exports is indeed good news for the economy. However, continued increase in the international crude price is a worrying factor since this is bound to widen the trade deficit. The increase in the international crude price is also expected to have a negative impact on oil sector companies in India (many of them are in the public sector, that is, under the control of the Government). This is because, due to political compulsions, the Government does not want to increase the prices of domestic petroleum products. As per the estimates made by Indian Oil Corporation, India's largest oil company, every US\$1 increase in crude price has Rs 1 to 1.2 billion monthly impact on the four petroleum products. The company loses Rs 143 on sale of 14.2 kg domestic cooking gas cylinder, Rs 18 per litre on kerosene, Rs 7.75 a litre on diesel, and Rs 5.50 a litre on petrol. Similarly, for every increase in the value of US against Indian Rupee by Re.1, there is a need to raise the domestic retail prices of a litre of petrol by 39 paise, diesel by 30 paise, kerosene by 36 paise and cooking gas by 67 paise. It has to be seen whether the Indian Government would have the courage to bite the bullet and increase the domestic prices of petroleum products. If the crude price continues to increase without any increase in domestic prices, the objective of the Government of India to rein in fiscal deficit would suffer a serious setback since oil companies need to be compensated for the losses suffered by them as without this, their sustaining ability would be eroded.

INVESTMENT COMMISSION SUBMITS ITS REPORT TO THE GOVERNMENT

The Investment Commission (which was appointed by the Government of India to promote investment) has submitted its Report to the Government of India. It has identified ten major impediments, including inflexible labour laws to investment in various sectors and recommended promotion of SEZs for boosting flow of money into key sectors.

The report studied 25 key sectors spanning infrastructure, manufacturing, services, natural resources and knowledge economy which would require an aggregate investment of 525-550 billion dollars over the next five years. The commission also identified projects for facilitation and support totalling to a likely investment of about 30 billion dollars.

The other obstacles to investment mentioned by the report include absence of long-term policies, non-implementation, reversal of policy and breach of contract, lack of level playing field especially in PSU-dominated sectors, presence of many agencies for FDI, bureaucratic delays and discretionary interpretation.

The commission recommended promoting SEZs for key sectors, redefining norms on the basis of scale, investment quantum and sector focus, removing or reducing restrictions on sectoral caps and entry route on all sectors other than those considered strategic. It has also called for providing labour-flexibility and allowing contract labour in all areas.

GOVERNMENT ISSUES CLARIFICATION ON FDI POLICY IN RESPECT OF AGRICULTURE & REAL ESTATE SECTORS

The Government of India had rationalized the FDI policy vide Press Note 4 (2006 series) dated 10.2.2006. The Reserve Bank of India had sought a few clarifications in respect of the same in view of contradictory provisions in respect of FDI in Agriculture and Real estate. In view of this, the government of India has issued the following clarification on 12th July 2006 .

It has now been clarified that the existing policy with regard to Agriculture and Plantation sector is as under:

- FDI up to 100% is permitted under the automatic route in the under-mentioned activities viz., floriculture, horticulture, development of seeds; animal husbandry; pisciculture; aqua-culture; cultivation of vegetables; mushrooms under controlled conditions and services related to agro and allied sectors.
- FDI up to 100% with prior Government approval is permitted **in Tea plantation subject to the conditions of divestment of 26% equity of the company in favour of an Indian partner/ Indian public within a period of five years; and prior approval of the State Government concerned in case of any future land use change.**
- **Besides the above two, FDI is not allowed in any other agricultural sector/activity.**

It has been further clarified by the Government that apart from the permitted activities indicated at Sl.No.11 of Section IV of the Annex to Press Note 4 (2006), FDI is not permitted in any other activity in the Real estate sector.

MINIMUM PROCESSING AREA FOR MULTI-PRODUCT SEZ REDUCED TO 25%

The Government of India has decided to allow 75% of the total area of special economic zones (SEZs) to be used for non-export activities like schools, hospitals, banks, housing and entertainment. The Board of Approval, which clears SEZ applications, has been authorised to allow this concession in the case of multi-product SEZs.

The Board of Approval has been informed that it could clear minimum processing area of 25% for multi-product SEZs only on a case-to-case basis. The Board is required to record in writing the reasons for allowing lower processing area.

The flexibility will allow SEZ developers to go in for large-scale plans for developing airports, cargo handling facilities and other support infrastructure for export activities. At the same time, they would get more land area for developing schools, entertainment facilities, hotels and housing facilities for SEZ employees.

The group of ministers (GoM) on SEZs had specified that the processing area for multi-product SEZs should be 35%. This floor-level would be applicable to all cases, while the Board of Approval can now bring it down to 25% if the developer seeks such a concession for a specific reason.

FURTHER EXTENSION OF TIME GRANTED FOR TELECOM COMPANIES TO COMPLY WITH SPECIFIED CONDITIONS

The Government of India vide Press Note 5 (2005 Series) dated 3.11.2005, had notified the enhancement of Foreign Direct Investment (FDI) limits in the Telecom Sector up to 74% subject to specified conditions. In terms of para 4 of the said Press Note, an initial correction time of four months from the date of issue of the Press Note was allowed to the existing licensee companies for adherence of the conditions. The correction time was extended by another four months, i.e., up to 2nd July, 2006 vide Press Note 5 (2006 Series) dated 3.3.2006.

In view of representations received from certain quarters, the Government of India has decided to further extend the time period for the telecom service provider companies to comply with the conditions set out in Press Note 5 (2005 Series) by three months w.e.f. 03.07.2006 up to 02.10.2006.

FURTHER LIBERALIZATION OF SCHEME FOR ISSUE OF FCCB/GDR

A Scheme for issue of Foreign Currency Convertible Bonds (FCCB) and Ordinary Shares (Through Depository Receipt Mechanism) was notified by the Government of India on 12th November, 1993 . Various Revisions/modifications in the operative guidelines of the Scheme have been made by the Government from time to time.

In order to liberalize the Scheme further, the Government has decided to allow unlisted Indian companies to sponsor an issue of ADRs/GDRs with an overseas depository against shares held by its shareholders, subject to the following conditions:-

(i) Such a facility would be available pari-passu to all categories of shareholders of the company whose shares are being sold in the ADR/GDR market overseas.

(ii) Unlisted companies which had issued FCCBs, ADRs/GDRs prior to 31st August, 2005 and are not making profit may be permitted to sponsor issues against existing shares held by its shareholders

and will be permitted to comply with listing conditions on the domestic stock exchanges within three years of having started making profit.

(iii) Unlisted companies which have not issued FCCBs, ADRs/GDRs prior to 31st August, 2005 would require prior or simultaneous listing in the domestic stock exchanges for issuing FCCBs, ADRs/GDRs or sponsor such issues against existing shares under the scheme.

(iv) Such issues would need to conform to the FDI policy and other mandatory statutory requirements. The provisions of paragraph (4B) of Schedule I to Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 as notified by Reserve Bank of India vide Notification No. FEMA 41/2001-RB, dated March 2, 2001, would also need to be adhered to.

DOT SIMPLIFIES PROCEDURE FOR SACFA SITE CLEARANCE

With a view to expedite the faster roll-out and growth of various telecommunications networks, the Department of Telecommunications (DOT) in consultation with Ministry of Defence and Airport Authority of India has taken steps for further simplification of Standing Advisory Committee on radio Frequency Allocation (SACFA) procedures.

As per the new simplified procedure, all antenna towers/masts located beyond 07 kms from the nearest airport and having up to 40 meters above the Above Mean Sea Level (AMSL) of the Airport Reference Point (ARP) of the concerned airport need not undergo the detailed siting clearance procedure. The service providers are only to be "Registered" online on WPC/SACFA website and necessary clearance will be issued by the SACFA Secretariat. Secondly, the Geo-coordinates and AMSL information to be submitted in the SACFA applications can now be obtained using a standard Global Positioning System (GPS) receiver. However, the service providers and other applicants shall have to accept full responsibility on their part for providing the correct information in this regard.

The above simplified procedure is expected to reduce the number of cases for site clearance for SACFA members and would enable the service providers for quicker roll-out of their network/services.

SALIENT FEATURES OF THE DRAFT NATIONAL PHARMACEUTICAL POLICY

The Ministry of Chemicals & Petrochemicals has issued draft National Pharmaceutical Policy. The salient features of the same are summarized hereunder:

- Strengthening of Drug Regulatory System. (By Health Department).
- Strengthening of patent office infrastructure. (By Department of Industrial Policy and Promotion).
- Focus on Research and Development Process Development, Drug Discovery, Drug Development and clinical trials-incentives in the form of higher Maximum Allowable Post-manufacturing Expenses (MAPE). Fiscal concessions have been proposed for R&D.
- Human Resource Development in Pharmaceutical Sciences through more institutes like National Institute of Pharmaceutical Education and Research (NIPER) to meet the growing need of industry for technical manpower.
- Strategies to increase access for anti-cancer and anti-HIV / AIDS drugs.

- Rationalisation of Excise duty on pharmaceuticals (16% to 8%).
- Streamlining the System of Bulk Procurement of Drugs by Government. (like the system of Tamil Nadu, Delhi Government).
- Promotion of Generic Drugs (in purchase by Government hospitals).
- Strengthening of Pharma CPSEs. (separately a new Purchase Preference Policy and Cabinet Note have been prepared for their 102 drugs). Out of the estimated Rs.30 billion the Central Government Pharma PSUs can get a share of about Rs. 3 billion through this Policy to help in making their operations viable.
- Consumer Awareness Campaigns to be organized.
- Schemes for providing accessibility of drugs to the poor, especially BPL families-Health Insurance, National Illness Assistance Fund, State illness Association Funds, Rajasthan Model of Medicare Societies etc.
- Encouraging Production of Critical Bulk Drugs in India.
- Schemes of interest subsidy for implementation of Schedule M (of Drugs and Cosmetics Rules, 1945) for Good Manufacturing Practices.
- Settlement Commission for settling old dues under Drugs (Prices Control) Order 1979.
- Setting up of Drug Price Monitoring Awareness and Accessibility (DPMAA) Fund out of recovery of overcharged amount.
- Scheme for setting up Pharma Parks.
- Greater thrust on Pharma Exports.
- Improving the retail system for efficient pharmaceutical distribution.
- Pharmaceutical Advisory Forum at the National Level.
- Strengthening of NPPA with greater computerization and better monitoring.
- Advisory Committees in NPPA-one at Head Office level and five in different regions. These would be headed by Chairman, NPPA.
- Pricing mechanism-Span of price control-In addition to the existing 74 drugs and their formulations, the 354 drugs with specified strengths mentioned in the National List of Essential Medicines (NLEM) 2003 have also been included. Apart from cost plus method other systems of price control like negotiated prices, differential prices, reference prices for patented drugs, bulk purchase prices etc. have also been proposed.
- Raw material cost would be obtained from the manufacturers, pharma CPSEs, import data and market sources.

Maximum Allowable Post-Manufacturing Expenses (MAPE) which is presently 100% over the cost of manufacture is proposed to be revised as follows:

- 150% in general.
- 50% additional MAPE for R&D intensive companies which fulfill the laid down gold standards.
- For existing 74 drugs under price control MAPE would continue to remain at 100% for one year in order to avoid a sudden increase in prices. It would be increased thereafter in the phased manner.
- Based on the percentage of MAPE, prices would be fixed for all drugs in the cost plus price control system. Wherever possible ceiling prices would be fixed.
- Maximum Retail Price (MRP) would be inclusive of all taxes as in the case of all other packaged commodities. (notification in this regard issued on 26.6.2006).
- New drugs developed in India through product patent, on process patent and new drug delivery systems would be exempted from price control for 5 years. This will give boost to R&D. Also vaccines and biological drugs, drugs for sale to Hospitals only, drugs whose MRP is at Re. 1 per capsule / tablet and generic formulations fulfilling the prescribed norms would be exempted from price control.
- Draft Policy along with Cabinet Note has been circulated to all Departments for their

- comments. After receipt of comments it would be put up before the Cabinet.
- A new Drugs (Prices Control) Order would be issued under the Essential Commodities Act 1955 to replace the existing DPCO, 1995.
 - Re-structuring and strengthening of the National Pharmaceutical Pricing Authority (NPPA).
-
- Price Monitoring Cells in the State Drug Controller Offices with funding from Government of India.
 - Drugs (Price Management and Distribution) Act to be enacted for effective regulation of drug prices and for handling health emergencies. It will also make provision for compounding of minor offences.
 - Trade Margins on generic-generic drugs, would be fixed (15% wholesaler, 35% retailer).
 - Change in the name of Department of Chemicals and Petrochemicals to reflect Pharmaceuticals also. The proposed name is Department of Chemicals, Petrochemicals and Pharmaceuticals.

RBI NOTIFIES PRUDENTIAL NORMS ON CREATION & UTILIZATION OF FLOATING PROVISIONS

In terms of Para (3) of circular DBOD.No.BC.8/21.04.043/94 dated February 4, 1994 on 'Income Recognition, Provisioning and Other Related Matters', the Reserve Bank of India (RBI) has permitted banks to set-off the floating provisions, wherever available, against provisions required to be made as per extant prudential guidelines on provisioning. Further, in terms of Para 5.6 of the Master Circular DBOD No.BP.BC.11/21.04.048/2005-06 dated July 1, 2005 on 'Prudential norms on Income recognition, Asset Classification and Provisioning pertaining to Advances' issued by RBI, banks have been advised to voluntarily set apart provisions much above the minimum prescribed level as a desirable practice due to the fact that higher loan loss provisioning adds to the overall financial strength of the banks and the stability of the financial sector.

As RBI is of the opinion that in some cases, the use of floating provisions to set-off against provisions required to be made, appear to have been used in smoothening of profits, the RBI has reviewed the existing guidelines. Accordingly, RBI has issued the following revised instructions on, utilization, creation, accounting and disclosures of floating provisions, i.e., provisions which are not made in respect of specific non-performing assets or are made in excess of regulatory requirement for provisions for standard assets.

(i) Principle for utilization of floating provisions by banks

The floating provisions should not be used for making specific provisions as per the extant prudential guidelines in respect of non-performing assets or for making regulatory provisions for standard assets. The floating provisions can be used only for contingencies under extraordinary circumstances for making specific provisions in impaired accounts after obtaining board's approval and with prior permission of RBI. The boards of the banks should lay down an approved policy as to what circumstances would be considered extraordinary.

(ii) Principle for creation of floating provisions by banks

The bank's board of directors should lay down approved policy regarding the level to which the

floating provisions can be created. The bank should hold floating provisions for 'advances' and 'investments' separately and the guidelines prescribed will be applicable to floating provisions held for both 'advances' & 'investment' portfolios.

(iii) Accounting

Floating provisions cannot be reversed by credit to the profit and loss account. They can only be utilized for making specific provisions in extra-ordinary circumstances as mentioned above. Until such utilization, these provisions can be netted off from gross NPAs to arrive at disclosure of net NPAs. Alternatively, they can be treated as part of Tier II capital within the over-all ceiling of 1.25 % of total risk-weighted assets.

(iv) Disclosures

Banks should make comprehensive disclosures on floating provisions in the "notes on accounts" to the balance sheet on (a) opening balance in the floating provisions account, (b) the quantum of floating provisions made in the accounting year, (c) purpose and amount of draw down made during the accounting year, and (d) closing balance in the floating provisions account.

(v) Provisions for advances at higher than prescribed rates

A bank may voluntarily make specific provisions for advances at rates which are higher than the rates prescribed under existing regulations provided such higher rates are approved by the Board of Directors and consistently adopted from year to year. Such additional provisions are not to be considered as floating provisions.

RBI: OPERATIONAL GUIDELINES FOR DIVERSIFICATION OF ACTIVITIES BY STAND-ALONE PRIMARY DEALERS

The Reserve Bank of India (RBI) has permitted stand-alone Primary Dealers (PDs) to diversify their activities in addition to their existing business of Government securities, subject to limits. The operational Guidelines issued by RBI in this regard are as follows:

PDs may bifurcate their operations into core activities and non-core activities. The core activities should involve dealing in Government securities and other fixed income securities and the non-core activities of the PDs may include investment / trading in equity / units of equity oriented Mutual Funds / Advisory Services / Merchant Banking and other activities. The details of permitted core and non-core activities are as under:

Core Activities:

The following activities are permitted under core activities:

- Dealing and underwriting in Government securities
- Dealing in Interest Rate Derivatives
- Providing broking services in Government securities
- Dealing and underwriting in Corporate / PSU / FI bonds/ debentures
- Lending in Call/ Notice/ Term/ Repo/ CBLO market
- Investment in Commercial Papers

- Investment in Certificates of Deposit
- Investment in Security Receipts issued by Securitization Companies/ Reconstruction Companies, Asset Backed Securities (ABS), Mortgage Backed Securities (MBS)
- Investment in debt mutual funds where entire corpus is invested in debt securities

Non- Core Activities:

PDs are permitted to undertake the following activities under non-core activities:

a) Activities, which are expected to consume capital such as:

- Investment / trading in equity and equity derivatives market
- Investment in units of equity oriented mutual funds
- Underwriting public issues of equity

b) Services, which do not consume capital or require insignificant capital outlay such as:

- Professional Clearing Services
- Portfolio Management Services
- Issue Management Services
- Merger & Acquisition Advisory Services
- Private Equity Management Services
- Project Appraisal Services
- Loan Syndication Services
- Debt restructuring services
- Consultancy Services
- Distribution of mutual fund units
- Distribution of insurance products
- For distribution of insurance products, the PDs may comply with the guidelines contained in the circular No.DNBS(PD)CC No.35/10.24/2003-04 dated February 10, 2004 issued by the Department of Non-Banking Supervision.
- Further, specific approvals of other regulators, if needed, should be obtained in respect of the activities detailed above.
- PDs are **not** allowed to undertake broking in equity, trading / broking in commodities, gold and foreign exchange.

Pre-dominance in Government Securities business

All PDs are required to ensure predominance by maintaining at least 50 per cent of their total financial investments (both long term and short term) in Government Securities at any point of time. Investment in Government securities will include the PD's Own Stock, Stock with RBI under Liquidity Support / Intra-day Liquidity (IDL)/ Liquidity Adjustment Facility (LAF), Stock with market for repo borrowings and Government Securities pledged with Clearing Corporation of India Ltd. (CCIL).

Regulatory and prudential norms for diversification of activities

The guidelines on regulatory and prudential norms for diversification of activities by stand-alone PDs are as under:

- The minimum Net Owned Fund (NOF) requirement for a PD, proposing to undertake non-core activities, as detailed in para 1.2 (a) of Section 1, should be Rs.1 billion as against Rs.500 million

for a PD, which does not diversify into these activities.

- The exposure to non-core activities, as defined in paragraph 1.2 (a) *ibid*, shall be subject to risk capital allocation as prescribed below.
 - PDs may calculate the capital charge for market risk on the stock positions / underlying stock positions/ units of equity oriented mutual funds using Internal Models (VaR based) based on the guidelines prescribed vide RBI circular No. IDMD.1/ (PDRS) 03.64.00 / 2003-04 dated January 07, 2004 on Capital Adequacy and Risk Management. PDs may continue to provide for credit risk arising out of equity, equity derivatives and equity oriented mutual funds as prescribed in the circular mentioned above.
 - The guidelines for both credit risk and market risk in respect of Commercial Paper, Corporate / PSU / FI bonds / Underwriting are contained in the RBI circular IDMD 1/(PDRS) 03.64.00 /2003-04 dated January 07, 2004.
 - The capital charge for market risk (VaR calculated at 99 per cent confidence interval, 15-day holding period, with multiplier of 3.3) for the activities defined in Section 1.2 a) above should not be more than 20 per cent of the NOF as per the last audited balance sheet. Those PDs, which at present, have taken position beyond this prescribed limit, should ensure adherence to the prescribed limit within a period of six months from the date of the circular. The PDs involved in activities other than those defined above in Section 1, should either fold back or hive-off these activities to other subsidiaries as detailed in paragraph 3 of the circular.

3. It has also been decided that PDs will not be permitted to set up step-down subsidiaries. PDs that already have step-down subsidiaries (in India and abroad) may restructure the ownership pattern of these subsidiaries. If the PD is a subsidiary of a holding company, the step-down subsidiary of the PD may become another direct subsidiary of the holding company. In case the PD itself is a holding company, then the step-down subsidiary may take up the PD activity and the holding entity may take up activities other than those permitted for the PDs. The restructuring, as above, should be completed and compliance with the above guidelines may be reported within a period of six months from the date of this circular together with complete details of organizational structure and activities undertaken by the PD.

RBI AMENDS ANTI-MONEY LAUNDERING GUIDELINES

In view of certain difficulties expressed by Authorised Money Changers (AMCs) in implementing some of the anti-money laundering guidelines, RBI has decided to amend certain instructions of the Anti-Money Laundering guidelines for Authorised Money Changers issued vide A. P. (DIR Series) Circular No.18 {A.P. (FL Series) Circular No.01} dated December 2, 2005. The amended instructions are given hereunder:

In Paragraph No.3 of the aforesaid circular:

Existing instructions:

All transactions should be undertaken only after proper identification of the customer. Photocopies of proof of identification should invariably be retained by the AMC after verifying the document in original. Full details of name and address as well as the details of the identity document provided should also be kept on record. If a transaction is being undertaken on behalf of another person, identification evidence of all the persons concerned should be obtained and kept on record.

Amended Instructions:

For purchase of foreign exchange less than US \$ 200 or its equivalent, photocopies of the

identification document need not be kept on record. However, full details of the identification document should be maintained.

For encashment of foreign exchange between US \$ 200 and US \$ 2000 or its equivalent, the photocopies of the identification document should be maintained for one year and completion of statutory audit.

For encashment in excess of US \$ 2000 or its equivalent, the photocopies of the identification document should be maintained for a minimum period of five years.

In Paragraph No.4(c) of the aforesaid circular:

Existing instructions:

Requests for payment of sale proceeds in cash may be acceded to the extent of US \$ 1000 or its equivalent per transaction. All encashment within one month may be treated as a single transaction for the purpose. In all other cases, AMCs should make payment by way of Account Payee cheque / demand draft only.

Amended Instructions:

Requests for payment in cash by foreign visitors / Non-Resident Indians may be acceded to the extent of US \$ 2000 or its equivalent. All other provisions of this paragraph remain unchanged.

The Anti-Money Laundering Guidelines issued to Authorised Money Changers vide the above A.P. (DIR Series) Circular No.18 dated December 02, 2005 and any subsequent amendments thereto would be applicable, mutatis mutandis, to Authorised Dealers - Category I and II in respect of their money changing transactions.

SEBI APPROVES GUIDELINES FOR REAL ESTATE MUTUAL FUNDS & CHANGES IN VENTURE CAPITAL FUND LOCK-IN PERIOD FOR IPO

The SEBI Board at its meeting held on 26th June 2006 has approved the guidelines for Real Estate Mutual Funds (REMFs) which are summarized hereunder.

Real Estate Mutual Fund Scheme means a scheme of a mutual fund which has investment objective to invest directly or indirectly in real estate property and shall be governed by the provisions and guidelines under SEBI (Mutual Funds) regulations. The structure of the REMFs, initially, shall be close ended. The units of REMFs shall be compulsorily listed on the stock exchanges and NAV of the scheme shall be declared daily.

The REMFs shall appoint custodian who has been granted a certificate of registration to carry on the business of custodian of securities by the Board. The custodian shall safe keep the title of real estate properties held by the REMFs. These schemes can invest 1) directly in real estate properties within India , (2) Mortgage (housing lease) backed securities (3) Equity shares/ bonds/ debentures of listed/ unlisted companies which deal in properties and also undertake property development and in (4) Other securities.

The SEBI Board also decided that the shareholding of Venture Capital Funds (VCFs) and Foreign Venture Capital Investors (FCVIs) held in a company prior to making an Initial Public Offering (IPO), would be exempt from lock-in requirements only if the shares are held by them for a period of at least one year at the time of filing of draft prospectus with SEBI. This, according to SEBI, would help to ensure that only those VCFs and FCVIs who participate in the company with a long term perspective, are allowed to get the benefit of the exemption from requirement of lock-in as intended by the SEBI (Disclosure and Investor Protection) Guidelines.

TAXATION LAWS AMENDMENT ACT COMES INTO EFFECT

The Taxation Laws (Amendment) Act, 2006 has come into effect from 13th July 2006 after receiving the assent of the President of India. The Act carries out amendments in the Income-tax Act, 1961, the Central Excise Act, 1944, the Customs Act, 1962, and the Customs Tariff Act, 1975 with the object of rationalizing and simplifying procedures, widening of tax base and plugging loopholes leading to leakage of revenue.

Amendments to Income-Tax Act, 1961:

Besides amendments such as imposition of withholding tax on royalty, non-compete fees, etc. payment to residents and expansion of the scope of the term "rent" for the purpose of withholding tax, disallowance of deduction for certain payments on which TDS not made, rounding off of demands or refunds to the nearest multiple of ten rupees, rectification of order in certain cases involving receipt of foreign exchange, empowering the Tax Recovery Officer to exercise limited powers of the Assessing Officer, allowing for revision of penalty orders on receipt of appellate orders regarding assessment and mandatory auditing of accounts of certain charitable entities etc., have been carried out.

Section 2(44) - Additional Powers to a Tax Recovery Officer (TRO):

The Amendment to this Section has now expanded the scope of the powers of the TRO by providing that the TRO can also exercise or perform such powers and functions which are conferred on or assigned to an Assessing Officer (AO) under the Act and which may be prescribed. This amendment is effective from 13th July 2006.

Section 10(23BBF) - Exemption of income of North-Eastern Development Finance Corporation Limited (NEDFCL):

The amendment provides in this Section that a certain specified percentage of the total income (as given herein below) of NEDFCL, a company formed and registered under the Companies Act, 1956 is now exempted from Assessment Year 2006-07 to the Assessment Year 2009-10.

Assessment Year--- Percentage exempt

2006-07-----> 80 percent of total income

2007-08-----> 60 percent of total income

2008-09-----> 40 percent of total income

2009-10-----> 20 percent of total income

This amendment is effective from 1st April 2006 and will apply to Assessment Year 2006-07 onwards.

Section 10(23C) - Exemption of income of certain notified funds, institutions, trusts etc:

Presently, income of certain notified funds, institutions, trusts etc established for charitable purposes or wholly for public religious purposes or wholly for public religious and charitable purposes (the specified entities) is exempt from tax. The specified entities have to make an application to the prescribed authority for the purpose of issue of a notification granting this exemption. There was no time limit provided for disposal of the application or issuing the notification for grant of exemption to these entities. Also, the prescribed authority before notifying these specified entities, could call for the audited annual account of these specified entities but there was no stipulation for getting the

accounts audited or furnishing the audit report along with the tax return. These specified entities could be notified by the Central Government for a maximum period of three assessment years.

Now, as per the amendment, any notification issued before 13th July 2006 shall be valid only for the balance period of the notification, which in no case shall exceed three years. The amendment further provides that where a specified entity has made an application on or after 13th July 2006 and the notification should be issued or order granting approval or rejecting the application should be passed before the expiry of twelve months from the end of the month in which the application was made. It also provides that if the total income of the specified entities before considering the exemption exceeds the maximum amount not chargeable to tax then these specified entities should get their accounts audited and should furnish the audited accounts and the audit report along with their tax return.

This amendment is effective from 1 April 2006 and will apply from Assessment Year 2006-07 onwards.

Section 12A - Conditions for registration of trusts etc:

As per this Section, one of the conditions for the trusts/institutions for claiming exemption under Section 11 and 12 is that these entities should get their accounts audited and should furnish an audit report along with their tax return if their income in the previous year before claiming the exemption exceeds INR 50,000.

The amendment effected to this Section now provides that these entities should get their accounts audited and should furnish an audit report along with their tax return if their income in the previous year (financial year) before claiming the exemption exceeds the maximum amount not chargeable to tax (that is Rs.100,000) for that previous year (financial year). This amendment is effective from 1 April 2006 and will apply to Assessment Year 2006-07 and subsequent years.

Section 35 - Expenditure on Scientific Research:

An assessee paying any sum to be used for scientific research to an association, university, college or other institution approved by the Central Government could claim a weighted deduction of one and one-fourth times of the said sum. As the guidelines and the conditions subject to which the approval may be granted to the university, college etc had not been provided for in the Act, the amendment now empowers the Central Board of Direct Taxes (CBDT) to lay down by rules, guidelines and the conditions subject to which the approval would be granted to the university, college etc by the Central Government. This approval must be granted within twelve months from the end of the month of receipt of the application. This amendment is effective from 1 April 2006 and will apply from Assessment Year 2006-07 onwards.

Section 35AC - Expenditure on eligible projects or schemes & Section 35CCA:

An Explanation has been inserted in section 35AC, whereby, the deduction to which the taxpayer is entitled in respect of any sum paid to a public sector company or a local authority or to an association or institution for carrying out the eligible project or scheme, shall not be denied merely on the ground that subsequent to the payment of such sum by the taxpayer either the approval granted to such association or institution has been withdrawn or the notification notifying the eligible project or scheme carried out by the public sector company or local authority or association or institution has been withdrawn. This amendment is effective from 1 April 2006 and will apply to Assessment Year 2006-07 and subsequent years.

A similar Explanation has also been added in Section 35CCA which deals with Expenditure by way of payment to associations and institutions for carrying out rural development programmes.

Consequential amendments have also been made in Section 80GGA dealing with Deduction in respect of certain donations for scientific research or rural development.

Section 40(a)(ia) - Amounts not deductible:

Presently, a taxpayer, making a payment to a resident of any sum towards interest, commission/brokerage, fees for professional/technical services or making a payment to a resident contractor/sub-contractor, is denied deduction for sums so paid if the taxpayer fails to withhold tax on such payments and /or fails to make payment of tax withheld on such sums in accordance with the withholding tax provisions under the Act. The deduction is allowed in the year in which the taxpayer pays the tax withheld in respect of such sums.

The Act expands the scope of the said disallowances by including within the ambit of the said section, payments made to a resident towards rent and royalty. This amendment is effective from 1 April 2006 and will apply to Assessment Year 2006-07

Section 40A - Disallowance for certain payments in excess of INR 20,000:

Presently any payment for expenditure in excess of Rs. 20,000 other than by way of a crossed cheque/bank draft attracts a disallowance of 20 percent of the sum so paid. As per the amendment, the said disallowance of 20 per cent of the sum paid would now be attracted if a payment in excess of Rs. 20,000 is made otherwise than by an 'account payee' cheque/bank draft and not a crossed cheque/bank draft. This amendment will be effective from 1 April 2006 and will apply to Assessment Year 2006-07 and subsequent years.

Section 56 - Income from Other Sources

Any sum of money exceeding Rs. 25,000 received without consideration by an Individual or Hindu Undivided Family (HUF) from any person on or after 1 September 2004 is presently treated as 'Income from Other Sources'. However, the sums received from any relative, received on the occasion of the marriage of the Individual, received under a will, received by way of inheritance or in contemplation of death of the payer are not so treated. This limit of INR 25,000 per payer would be applicable upto 31 March 2006.

The amendment to this Section now provides that the aggregate of sums received in excess of Rs. 50,000 without consideration by an Individual or HUF on or after 1 April 2006 (individual limit of Rs.25,000 per payer has been now dispensed with but now there is an aggregate limit of receipt of Rs.50,000 for an individual or HUF) will be taxed in his/its hands as 'Income from Other Sources'. Sums received from any relative, received on the occasion of the marriage of the Individual, received under a will, received by way of inheritance or in contemplation of death of the payer continue to be excluded from being taxed as 'income'.

The amendment to this Section also provides that sums received from a specified local authority, fund, foundation, university, educational/medical institution, hospital, trust or institution shall be excluded from the scope of taxation as 'Income from Other Sources'.

Section 139 - Filing of tax return:

The Act now provides that a university/educational institution existing solely for education purposes and/or hospital/institution existing solely for philanthropic purposes and not for the purposes of profit and whose annual receipts do not exceed Rs. 10 million would now have to file its tax return even if its total income before claiming exemption does not exceed the maximum amount not chargeable to tax (currently Rs.100,000).

Further, a university, college or institution notified under Section 35(1)(ii) and (iii) which was not earlier required to furnish its tax return under the Act would now have to furnish its tax return.

This amendment is effective from 1st April 2006 and will apply to Assessment Year 2006-07 and subsequent years.

Section 143 – Assessment:

The amendment to this Section provides that if the Assessing Officer (AO) is satisfied during the course of the assessment proceedings that the activities of a university, college or institution specified under Section 35(1)(ii) and (iii) are not carried out in accordance with the condition(s) subject to which the approval was granted to it, then, the AO may after giving the said entity a reasonable opportunity to show cause against the proposed withdrawal of the approval, recommend to the Central Government to withdraw the approval granted to such entity. The Central Government may pass an order withdrawing the approval. This amendment is effective from 1 April 2006 and will apply to Assessment Year 2006-07 and subsequent years.

The Act makes amendments to the Income-tax Act so as to streamline the approval and monitoring process for certain charitable entities, scientific research associations etc., prescribe filing of return by certain charitable entities with aggregate annual receipts below ten million rupees and certain donee research institutions, require payment exceeding rupees twenty thousand by way of an account payee cheque or account payee bank draft, mandate TDS on renting of plant and machinery, equipment, royalty and non-compete fee and provide exemption to North-Eastern Development Finance Corporation Limited with phased withdrawal over five years beginning assessment year 2006-2007. Further, amendments have been made to exclude any sum received from a charitable entity or a local authority without consideration from the ambit of 'Income from other sources', and to aggregate the said sums received without consideration, and to enhance the existing limit of twenty five thousand rupees to fifty thousand rupees for the purpose of inclusion as 'Income from other sources'. Amendments have also been made to provide that in case of withdrawal of approval for certain donee entities, deduction to the donor shall not be denied.

Section 155 - Amendment of Assessment Order :

Prior to the amendment in this section,, the deduction under Sections 10A, 10B and 10BA was denied where export income has not been received in convertible foreign exchange in India or has been received/converted in convertible foreign exchange outside India but has not been brought into India within the prescribed period.

The amendment effected now to this Section now provides that if subsequent to the prescribed period, such export income is received in or brought into India in convertible foreign exchange, then the Assessing Officer (AO) would have to amend the assessment order and allow the deduction in respect of such income, within a period of four years from the end of the previous year in which such export income is received in or brought into India. This amendment is effective from 13th July 2006.

Section 194-I - The definition of the term 'Rent' expanded for the purpose of withholding tax:

The definition of the term 'Rent' has been amended for the purpose of withholding tax under Section 194-I of the Act to cover any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement, for the use of any land, building/land appurtenant to a building (including factory building), machinery, plant, equipment, furniture or fittings (either separately or together), whether or not any or all of the above are owned by the recipient of the rent. In view of this, any payment on account of rent for any of these items in excess of INR120,000 will now be subjected to withholding tax. This amendment is effective from 13th July 2006.

Section 194J - Withholding tax now extended to payment of Royalty, Non-Compete Fee, etc to Residents:

Section 194J of the Act has been amended to extend the coverage of withholding tax provisions to payments to residents in excess of Rs.20,000 towards:

- Royalty (Royalty shall have the same meaning as in Explanation 2 to section 9(1)(vi) which is very wide in scope)
- Consideration for not carrying out any business activity (Non – Compete fees)
- Consideration for not sharing specified intangible business assets

The applicable withholding tax shall be at the rate of 5 per cent (plus applicable surcharge and education cess). This amendment is effective from 13th July 2006.

Section 275 - Bar of limitation for imposing penalties:

The amendment to this Section provides that in cases where an order relating to penalty is passed before the order of the quantum appeal is received by the Chief Commissioner or Commissioner or the order of revision is passed by the Commissioner, then the order relating to penalty will be revised accordingly at the time of giving effect to the order of the Appellate Authority/ Commissioner (as the case may be) after hearing the taxpayer or giving the assessee an opportunity to be heard. Further such order should be passed within six months from the end of the month in which the order is passed/revised by the appellate authority/CIT as the case may be.

It has been further provided that the order relating to penalty revised after the disposal of the appeal/revision would be an appealable order against which the assessee could prefer an appeal before the Commissioner of Income-tax Appeals) [CIT(A)]. These amendment are effective from 13th July 2006.

Section 288B - Rounding off of tax:

Presently, any amount payable or refundable under the Act should be rounded off to the nearest rupee. The amendment now provides that any amount payable or refundable under the Act should be rounded off to the nearest multiple of ten rupees. This amendment is effective from 13th July 2006.

Amendments to Customs & Central Excise Acts:

The Act also makes amendments in the Customs Act, 1962, and Central Excise Act, 1944 which, inter-alia, provides an optional scheme for settlement of disputes at the earliest and encouraging voluntary payment of tax dues, simplified and time bound customs assessment in case of contrary claims by assessee by issue of speaking order within 15 days of assessment to provide certainty and room for appeal. Publication of names of tax evaders, provisional attachment of property during the pendency of proceedings have been introduced as measures to curb evasion of Customs and Central Excise duty and to facilitate recovery of amounts due as revenue to the government.

SERVICE TAX: RELIEF TO PRACTICING CHARTERED/COST ACCOUNTANTS & COMPANY SECRETARIES

The Government of India has exempted the services provided or to be provided by a practicing chartered accountant, a practicing cost accountant and a practicing company secretary respectively, in his professional capacity, to a client, relating to representing the client before any statutory authority in the course of proceedings initiated under any law for the time being in force, by way of

issue of notice, from the whole of service tax leviable thereon under section 66 of the said Finance Act.

CBDT EXTENDS TIME LIMIT FOR INVESTMENT UNDER SECTION 54EC

Section 54EC of Income-tax Act, 1961, provides tax exemption on capital gains arising from the transfer of a long-term capital asset, if such capital gains are invested in certain bonds within a period of six months after the date of such transfer. With effect from 1.4.2006, such gains can be invested only in the notified bonds of Rural Electrification Corporation Ltd. (REC) and National Highways Authority of India (NHAI).

Bonds of REC and NHAI, to be issued during Financial Year 2006-07, have been notified by Central Government on 29.06.2006 for Rupees 45 billion and Rupees 15 billion respectively.

Due to non-availability of these bonds, some persons could not avail of benefit under section 54EC, and for some other persons the effective time available for making the investment is less than six months. With a view to removing the hardship caused to taxpayers, the Central Board of Direct Taxes, has issued an order under section 119(2)(c) of Income Tax Act, 1961 on 30.06.2006 extending the time limitation for making the investments under section 54EC as under

- up to 30th September, 2006 in case of persons where the long-term capital asset was transferred between 29.9.2005 and 31.12.2005 (both dates inclusive);
- up to 31st December, 2006 in case of persons where the long-term capital asset was transferred between 01.01.2006 and 30.06.2006 (both dates inclusive).

SEBI INCREASES REGISTRATION FEES PAYABLE BY FII

The Securities & Exchange Board of India (SEBI) has increased the registration fees for Foreign Institutional Investors (FII) from the existing level of US\$ 5,000 to US\$10,000. Further, the period of validity of the Certificate granted to FII has been reduced to three years from five years and accordingly, the registration fees shall be paid by FII at the revised rate of US\$ 10,000 after the expiry of every three years for renewal of the certificate. The fee in respect of sub-accounts has also been increased to US\$2,000 from US\$1,000.

SNAPSHOT OF GLOBAL MARKETS - JUNE 2006

KEY STOCK MARKET INDICES

INDEX	OPENING (01/06/2006)	HIGHEST IN JUNE 2006	LOWEST IN JUNE 2006	CLOSING (30/06/2006)
BSE SENSEX	10472.46	10729.92	8799.01	10609.00
S&P CNX NIFTY	3072.55	3134.15	2595.65	3128.00
DOW JONES I.A.	11173.75	11158.06	10653.23	11150.22
NASDAQ COMPOSITE	2180.32	2233.88	2065.11	2172.09
FTSE 100	5722.40	5865.70	5467.40	5833.40
NIKKEI	15603.25	15789.31	14045.53	15505.18

PRICES OF KEY COMMODITIES (US\$)

COMMODITY	OPENING (01/06/2006)	HIGHEST IN JUNE 2006	LOWEST IN JUNE 2006	CLOSING (30/06/2006)
GOLD - SPOT (NY)	640.50	645.00	562.70	613.40
SILVER - SPOT (NY)	11.95	12.37	9.58	10.97
PLATINUM - SPOT(NY)	1225.00	1254.00	1111.00	1220.00
COPPER (COMEX)	3.460	3.639	3.000	3.463
ALUMINIUM (COMEX)	1.190	1.210	1.110	1.164
BRENT CRUDE (IPE)	71.10	73.69	67.42	73.51
NYMEX CRUDE OIL	71.00	74.20	68.75	73.93

KEY GLOBAL CURRENCY RATES AGAINST USD

CURRENCY	OPENING RATE (01/06/2006)	HIGHEST IN JUNE 2006	LOWEST IN JUNE 2006	CLOSING RATE (30/06/2006)
EURO/USD	1.2860	1.2978	1.2478	1.2550
GBP/USD	1.8791	1.8880	1.8090	1.8160
USD/JPY	112.16	116.70	111.32	116.32
USD/INR	46.38	46.23	44.62	46.23

MAJOR CURRENCIES AGAINST INR

CURRENCY	OPENING RATE (01/06/2006)	HIGHEST IN JUNE 2006	LOWEST IN JUNE 2006	CLOSING RATE (30/06/2006)
USD/INR	44.96	46.42	45.57	46.42
EURO/INR	59.65	59.65	57.67	58.26
GBP/INR	87.16	87.16	83.79	84.31
JPY/INR	41.36	41.36	39.57	39.91

INTEREST RATES

MIBOR

PERIOD	OPENING RATE (01/06/2006)	HIGHEST IN JUNE 2006	LOWEST IN JUNE 2006	CLOSING RATE (30/06/2006)
OVERNIGHT	5.60	5.86	5.59	5.85
14 DAY	6.07	6.21	5.91	6.19
1-MONTH	6.33	6.63	6.29	6.61
3-MONTH	6.80	7.10	6.73	7.09

LIBOR - USD

PERIOD	OPENING RATE (01/06/2006)	HIGHEST IN JUNE 2006	LOWEST IN JUNE 2006	CLOSING RATE (30/06/2006)
1-MONTH	5.13	5.35	5.13	5.35
3-MONTH	5.27	5.51	5.24	5.51
6-MONTH	5.39	5.64	5.32	5.64

12-MONTH	5.51	5.77	5.39	5.77
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LIBOR - EURO

PERIOD	OPENING RATE (01/06/2006)	HIGHEST IN JUNE 2006	LOWEST IN JUNE 2006	CLOSING RATE (30/06/2006)
1-MONTH	2.82	2.91	2.82	2.91
3-MONTH	2.94	3.07	2.94	3.07
6-MONTH	3.12	3.24	3.10	3.24
12-MONTH	3.37	3.52	3.30	3.52

LIBOR - GBP

PERIOD	OPENING RATE (01/06/2006)	HIGHEST IN JUNE 2006	LOWEST IN JUNE 2006	CLOSING RATE (30/06/2006)
1-MONTH	4.66	4.68	4.66	4.68
3-MONTH	4.72	4.75	4.72	4.75
6-MONTH	4.80	4.85	4.78	4.84
12-MONTH	4.98	5.06	4.93	5.06

LIBOR - JPY

PERIOD	OPENING RATE (01/06/2006)	HIGHEST IN JUNE 2006	LOWEST IN JUNE 2006	CLOSING RATE (30/06/2006)
1-MONTH	0.149	0.189	0.129	0.189
3-MONTH	0.308	0.353	0.303	0.353
6-MONTH	0.408	0.363	0.393	0.436
12-MONTH	0.597	0.613	0.548	0.598

US T-BILL

PERIOD	OPENING RATE (01/06/2006)	HIGHEST IN JUNE 2006	LOWEST IN JUNE 2006	CLOSING RATE (30/06/2006)
	Discount/Yield	Discount/Yield	Discount/Yield	Discount/Yield
1-MONTH	4.67/4.75	4.78/4.86	4.51/4.54	4.43/4.54
3-MONTH	4.71/4.83	4.92/5.05	4.69/4.81	4.87/5.01
6-MONTH	4.89/5.06	5.11/5.32	4.82/5.01	5.04/5.24

KEY CENTRAL BANK RATES

	30/06/2006	1 MONTH PRIOR	3 MONTH PRIOR	6 MONTH PRIOR	1 YEAR PRIOR
US FEDERAL RESERVE FUNDS RATE	5.25	5.00	4.75	4.25	3.25
EUROPEAN CENTRAL BANK RATE	2.75	2.50	2.50	2.25	2.00
BANK OF ENGLAND RATE	4.50	4.50	4.50	4.50	4.75
RESERVE BANK OF INDIA - BANK RATE	6.00	6.00	6.00	6.00	6.00

* US FED Rate increased to 5.00% with effect from 10th May 2006

PRIME RATES

CURRENCY	RATE (30/06/2006)
USD	8.25
EURO	3.50
GBP	4.50
JPY	1.38
INR	10.25 to 10.75

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