

erase a key clause in bilateral investment treaties that allows for international arbitration in order to protect itself;

(b) if so, the details thereof;

(c) whether Government is negotiating with countries to amend the investment treaties so that any supposed violation of an investment promise through Indian Government action can be challenged only in Indian courts; and

(d) if so, the details thereof ?

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI NAMO NARAIN MEENA) : (a) No, Sir.

(b) to (d) No, Sir.

Zero cost option structure

4237. SHRI TARUN VIJAY : Will the Minister of FINANCE be pleased to state:

(a) whether in July, 2006 an amendment to RBI Act resulted in losses of around Rs. 32,000 crores as per RBI estimates;

(b) the need for such amendment allowing “Zero-cost option structures”;

(c) whether there exists a RBI note providing that this amendment was brought at the behest of authorised forex dealers;

(d) if so, the details thereof;

(e) whether it was a case of supervisory failure on the part of RBI actions taken by then Finance Minister; and

(f) the reasons for penalizing only 19 banks in 2011 by RBI just Rs.10-15 lakhs for violating derivatives guidelines where “either 5 lakh or twice the amount involved and whichever is more” clause exist?

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI NAMO NARAIN MEENA) : (a) to (e) The amendment to the Reserve Bank of India Act, 1934 had taken place in 2006 by inserting Section 45U. The Section 45U defines ‘Derivatives’ as an instrument comprising among other products - Foreign currency swaps, foreign currency Rupee swaps, foreign currency options or such other instruments as may be specified by the bank from time to time. The amendment to the Act does not specifically refer to Zero Cost Option structure. RBI has, further, informed that as part of the updation of Master Circular on Risk Management and Interbank Dealings in July 2006, it was clarified that Authorised Dealers (ADs) can also undertake Zero Cost Option structures.

RBI has also informed that they do not have the data on estimated losses on foreign exchange derivative trades. However, the data as collected separately from 22 banks for marked to Market (MTM) positions regarding customers for December 2008 was at Rs. 31,719 crores. The above cannot be termed as estimated losses as MTM is basically an accounting concept wherein all outstanding financial contracts are marked to market at fair value. Hence, MTM value is dynamic in nature and changes in line with the market movements and represents the replacement cost of the derivative contracts.

(f) Section 47A of Banking Regulation Act, 1949 provides that penalty may be imposed “where the contravention or default is of the nature referred to in sub-section (4) of Section 46, a penalty not exceeding five lakh rupees or twice the amount involved in such contravention or default where such amount is quantifiable, whichever is more, and where such contravention or default is a continuing one, a further penalty which may extend to twenty-five thousand rupees for every day, after the first, during which the contravention or default continues.”

To rationalize the punitive action, the 19 banks were categorised into three groups based on the number of significant contraventions established during the course of the proceedings. Of the 19 banks, six banks that had five or more such contraventions were penalized Rs. 15.00 lakh each, eight banks that had less than five but more than two such contraventions were penalized Rs. 10.00 lakh each and five banks that had two such contraventions were penalized Rs. 5.00 lakh each.

Revenue collection from Madhya Pradesh

†4238. SHRI RAGHUNANDAN SHARMA : Will the Minister of FINANCE be pleased to state:

(a) the details of the revenue collected directly or indirectly as central taxes from Madhya Pradesh during each of the last three years; and

(b) the allocation made by the Union Government to the State Government during the said period?

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI S.S. PALANIMANICKAM) : (a) The information about state-wise collection of revenue is not maintained.

(b) The allocation made by the Union Government to the State Government of Madhya Pradesh as a State share in Central Taxes during each of the last three years is as under:

† Original notice of the question was received in Hindi.