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Measures to cool Forex Markets

In the light of developments in the last fortnight of May in the foreign exchange market, the Reserve Bank of India, as on some previous occasions, took following actions:

(i) It imposed as a temporary measure, interest rate surcharge of 50 per cent of the lending rate on import finance with effect from May 26, 2000 (Please see next column). The interest rate surcharge will be phased out as early as possible.

(ii) The Reserve Bank of India also assured the market that it would meet partially or fully the Government debt service payments directly, as considered necessary.

(iii) Further, it made arrangements to meet, fully or partially, the foreign exchange requirements for import of crude oil by the Indian Oil Corporation.

(iv) The Reserve Bank would continue to sell dollars at the prevailing market rate through State Bank of India in order to augment supply in the market, or intervene directly, as considered necessary to meet any temporary demand-supply imbalances.

(v) The Reserve Bank advised exporters not to delay repatriation of export proceeds beyond the due date. In order to discourage any delay in realisation of export proceeds, it asked banks to charge with effect from May 26, 2000, interest at 25 per cent per annum (minimum) on overdue export bills from the date the bill falls due for payment.

(vi) The Reserve Bank also advised authorised dealers, acting on behalf of foreign institutional investors to feel free as in the past to approach the Reserve Bank to procure foreign exchange at the prevailing market rate, in case some foreign institutional investors wish to reduce their investments. Depending on market conditions, the Reserve Bank would either sell the foreign exchange directly or advise the concerned bank to buy it in the market.

(vii) Banks were also advised to enter into transactions in the forex market only on the basis of genuine requirements and not for the purpose of building up speculative positions. The Reserve Bank would monitor the position closely.

Interest Rate Surcharge on Import Finance

In the context of the developments in the foreign exchange markets as also the overall monetary and credit situation, it was decided on May 26, 2000 to reintroduce, as a temporary measure, interest rate surcharge of 50 per cent of the actual lending rate on bank credit for imports with immediate effect. Earlier, the scheme of levying interest rate surcharge on import finance was withdrawn with effect from October 29, 1999.
The following categories of bank credit for imports will, however, be exempt from the levy of interest rate surcharge:

(a) Export Packing Credit provided at concessive rate of interest to meet the cost of imported inputs.
(b) Import of capital goods by bona fide borrower-importers under valid licences issued under the Export Promotion Capital Goods Scheme (EPCG Scheme).
(c) All bona fide imports including import of capital goods by Export-Oriented Units (EOUs) and units in the Export Processing Zones (EPZs).
(d) All bona fide imports under Advance Licences granted for import of "Inputs" such as raw materials, intermediates, components, etc., by either the original holder or a transferee (if transferred under an endorsement of the Directorate General of Foreign Trade enabling such transfer).
(e) All bona fide imports against the credit under the Duty Entitlement Pass Book (DEPB) Scheme contained in the EXIM Policy 1997-2002.
(f) Bulk imports in respect of crude oil, petroleum products, fertilisers, edible oils and other essential commodities imported through Government agencies, and
(g) Import of crude oil by private and joint sector refineries for actual use in their own refineries.

Interest on Overdue Exports Bills

It has now been decided that with effect from May 26, 2000 the interest rate applicable for ECNOS at post-shipment stage in respect of overdue export bills be changed to 25 per cent per annum (minimum) from the date the bills fall due for payment. Banks are advised to ensure that exporters do not delay repatriation of export proceeds beyond the due date.

It may be recalled that in terms of the Reserve Bank's instruction issued on October 29, 1999, the banks are free to decide the appropriate rate of interest in respect of the category of "Export Credit Not Otherwise Specified" (ECNOS) at post-shipment stage.

The revision in the interest rate effective from May 26, 2000 will be applicable not only to fresh advances but also to the existing advances for the remaining period.

Diamond Dollar Account Scheme

It may be recalled that the Export and Import Policy (1997–2002) had announced the Diamond Dollar Account Scheme (DDAS). To operationalise the scheme, the Reserve Bank announced the eligibility criteria for firms that can open such an account.

Under the Scheme, only firms and companies dealing in the purchase/sale of rough or cut and polished diamonds and fulfilling certain criteria were permitted to carry out their business through designated Diamond Dollar Accounts.

The criteria specified by the Reserve Bank include, a track record of at least three years in import or export of diamonds and an average annual turnover of Rs.5 crore or above during the preceding three licensing years. The licensing year is from April to March. Firms and companies maintaining foreign currency accounts, excluding export earners' foreign currency (EEFC) accounts, with banks in India or abroad, are not eligible to maintain Diamond Dollar Accounts. Eligible firms or companies can have the diamond dollar account with not more than two authorised dealers.

The Reserve Bank has requested eligible firms and companies to apply for this purpose to the Chief General Manager, Exchange Control Department, Reserve Bank of India Central Office (Exports Division), Mumbai 400 001 through their authorised dealers.
The Diamond Dollar Accounts should be maintained in the form of current accounts. The balances held in the Diamond Dollar Accounts would be subject to Cash Reserve Ratio and Statutory Liquidity Ratio requirements.

Liquidating PCFC possible under DDA Scheme

The Reserve Bank has also stated that under the scheme, the DDA holders are permitted to make local sale and purchase of rough/cut and polished diamonds between themselves. Accordingly, it would be in order for banks to liquidate the pre-shipment credit in foreign currency (PCFC) granted to a DDA holder by dollar proceeds from sale of cut and polished diamonds to another DDA holder.

Rediscounting of NBFC Bills

It has been decided to allow the banks to rediscount bills discounted by non-banking finance companies arising from sale of two wheeler and three wheeler vehicles subject to certain conditions. The conditions include:

i. The bills should have been drawn by the manufacturers on dealers only;
ii. The bills should represent genuine sale transactions. That the transactions are genuine may be ascertained from the chassis/engine number; and
iii. Before rediscounting the bills, the banks should satisfy themselves about the

bonafides and track record of the NBFCs which have discounted the bills.

Earlier, the banks were allowed to rediscount bills discounted by NBFCs arising from sale of commercial vehicles including light commercial vehicles subject to normal lending safeguards. In the recent past, the market size of two and three wheeler vehicles has expanded considerably, especially in the rural areas. As a result, NBFCs have gained considerable experience in assessing the credit risk of dealers of such vehicles as well as the individual customers. To enable the NBFCs to meet the increasing demand, the Reserve Bank has permitted the banks to rediscount such bills from the NBFCs.

Value of the Indian Rupee

Year to Year : (Over May 21, 1999)	The Rupee appreciated 4.8 per cent against the Pound sterling. and 13.9 per cent against the Euro. The rupee depreciated 2.8 per cent against the US dolllar and 16.0 per cent against the Japanese Yen.
Calendar Year : (Over December 31, 1999)	The Rupee appreciated 7.1 per cent against the Pound sterling and 10.2 per cent against the Euro and 3.4 per cent against the Japanese yen. It depreciated 1.1 per cent against the US dollar.
Financial Year : (Over March 31, 2000)	The Rupee appreciated 6.0 per cent against the Pound sterling, 5.0 per cent against the Euro and 0.9 per cent against the Japanese yen. It depreciated 0.8 per cent against the US dollar.
Month on Month : (Over April 20, 20, 2000)	The Rupee appreciated 5.2 per cent against the Pound sterling and 3.3 per cent against the Euro. It depreciated by 0.8 per cent against the US dollar and 1.4 per cent against the Japanese yen.

Foreign Exchange Management Act, 1999

With a view to facilitating external trade and promoting orderly development of foreign exchange market in India, a new Act called the Foreign Exchange Management Act, 1999 (FEMA) came into force from June 1, 2000. With FEMA coming into force, the Foreign Exchange Regulation Act, 1973 stands now repealed.

	Object
FERA 1973	FEMA 1999
......, for the conservation of the foreign exchange resources......	...... Facilitating external trade and pavments and for promoting the orderly maintenance of the foreign exchange market in India.

The Reserve Bank of India has notified comprehensive, simple and transparent rules under the new Foreign Exchange Management Act, 1999. The new rules clearly indicate the types of permissible transactions, leave very few individual transactions to be dealt with by the Reserve Bank, simplify procedures, reduce the number of application forms to a bare minimum and grant more powers to authorised dealers, that is, the banks.

End use of Exchange **Section 10 (6)**
Any person .... who has acquired or purchased foreign exchange for any purpose mentioned in the declaration made by him to authorised person .... does not use it for such purpose or does not surender it within the specified period or uses the foreign exchange so acquired or purchased for any other purpose for which purchase of foreign exchange is not permissible under the provisions of the Act, ... shall be deemed to have committed contravention of the Act.

What is New in FEMA?

Under FEMA, foreign exchange transactions have been divided into two broad categories - current account transactions and capital account transactions. Transactions that alter the assets and liabilities of a person resident in India or a person resident outside India have been classified as capital account transactions. All other transactions would be current account transactions.

Under FEMA, only the Government of India in consultation with the Reserve Bank would be empowered to impose reasonable restrictions on current account transactions. As per the Government of India notification dated May 4, 2000, remittances of only seven types of current account transactions are prohibited. These include remittances such as those made out of winning of lotteries, subscription to proscribed magazines, football, pools, etc.

There are only a few current account transactions that would need prior permission from appropriate government authorities under FEMA; whereas a few transactions would require permission of the Reserve Bank in case the amount of remittances exceeds prescribed limit.

Most importantly, the new Act is a civil legislation. That is, the onus of proving contravention rests with the enforcement authorities and not on the person who is charged with such contravention.

Sun Set Clause
Section 49 (3)

...... no court shall take cognizance of an offence under the repealed Act and no adjudicating officer shall take notice of any contravention under section 51 of the repealed Act after the expiry of two years from the date of commencement of this Act.

Some Highlights

- The Foreign Exchange Management Act and rules give full freedom to a person resident in India who was earlier resident outside India to hold or own or transfer any foreign security or immovable property situated outside In-dia and acquired when he was resident there.
- Similar freedom is also given to a resident who inherits such security or immovable property from a person resident outside India.

Definition
2(h) "Currency"
"Currency" includes all currency notes, postal notes, postal orders, money orders, cheques, drafts, travellers cheques, letters of credit, bills of exchange and promissory notes, credit cards or such other similar instruments, as may be notified by the Reserve Bank.

- Further, a person resident outside India is permitted to hold shares, securities and properties acquired by him while he was resident in India.
- The person resident outside India is also permitted to hold such properties inherited from a person resident in India.
- The exchange drawn can also be used for purpose other than for which it is drawn provided it is permissible under the Act.

Prohibited Transactions
(Schedule I Rule 3)

1. Remittance out of lottery winnings.
2. Remittance of income from racing/riding etc. or any other hobby.
3. Remittance for purchase of lottery tickets, banned/ proscribed magazines, football pools, sweepstakes etc.
4. Payment of commission on exports made towards equity investment in Joint Ventures/Wholly Owned Subsidiaries abroad of Indian companies,
5. Remittance of dividend by any company to which the requirement of dividend balancing is applicable.
6. Payment of commission on exports under Rupee State Credit Route.
7. Payment related to "Call Back Services" of telephones.
8. Remittance of interest income on funds held in NonResident Special Rupee Scheme a/c.

Travel abroad

Medical treatment expenses Studies abroad	Estimate from doctor in India or hospital/doctor abroad US $30,000 or estimate

- The Exchange Earners' Foreign Currency (EEFC) account holders are permitted to freely use the funds held in EEFC accounts for payment of all permissible current account transactions.
- The rules for foreign investment in India and Indian investment abroad are also comprehensive and permit In-dian companies engaged in certain specified sectors to acquire shares of foreign companies engaged in similar activities by share swap or exchange through issue of ADRs/GDRs up to certain specified limits.

The Reserve Bank regulations under Foreign Exchange Management Act are available on its website through its home page as also through a special URL: www.fema.rbi.org.in

Transactions to be permitted by Ministry/Department
Schedule II (See Rule 4)

Purpose of Remittance	Ministry/Department of Govt. of India whose approval is required
1. Cultural Tours	Ministry of Human Resources Development, (Department of Education and Culture)
2. Advertisement abroad by any PSU/State and Central Government Department	Ministry of Finance, (Department of Economic Affairs)
3. Remittance of freight of vessel charted by a PSU	Ministry of Surface Transport, (Chartering Wing)
4. Payment of import by a Govt. Department or a PSU on c.i.f. basis (i.e. other than f.o.b. and f.a.s. basis)	Ministry of Surface Transport, (Chartering Wing)
5. Multi-modal transport operators making remittance to their agents abroad	Register Certficate from the Director General of Shipping
6. Remittance of hiring charges of transponders	Ministry of Finance, (Department of Economic Affairs)
7. Remittance of container detention exceeding the rate prescribed by Director General of Shipping.	Ministry of Surface Transport (Director General of Shipping)
8. Remittance under technial collaboration agreements where payment of royalty exceeds 5% on local sales and 8% on exports and lump-sum payment exceeds US $ 2 million	Ministry of Industry and Commerce
9. Remittance of prize money/	Ministry of Human Resource

sponsorship of sports activity abroad by a person other than International/National/State level sports bodies, if the amount involved exceeds US $ 100,000	Development (Department of Youth Affairs and Sports).
10. Payment for securing insurance for health from a company abroad	Ministry of Finance, (Insurance Division)
11.Remittance for membership of P I Club	Ministry of Finance, (Insurance Division)

Transactions permitted by RBI
Schedule III (Rule 5)

1. Remittance by artiste e.g. wrestler, dancer, entertainer etc. (This restriction is not applicable to artistes engaged by tourism related organisations in India like ITDC, State Toursim Development Corporations etc. during special festivals or those artistes engaged by hotels in five star categories, provided the expenditure is met out of EEFC account.)
2. Release of exchange exceeding US $5,000 or equivalent in one calendar year, for one or more private visits to any country (except Nepal and Bhutan).
3. Gift remittance exceeding US $5,000 per beneficiary per annum,
4. Donation exceeding US $5,000 per annum per beneficiary.
5. Exchange facilities exceeding US $5000 for persons going abroad for employment.
6. Exchange facilities for emigration exceeding US $5,000 or amount prescribed by country of emigration.
7. Remittance for maintenance of close relatives abroad exceeding US $5,000 per year per recipient.
8. Release of foreign exchange, exceeding US $25,000 to a person irrespective of period of stay, for business travel or attending a conference or specialised training or for maintenance expenses of a patient going abroad for medical treatment or check-up abroad or for medical treatment/check-up.
9. Release of exchange for meeting expenses for medical treatment abroad exceeding the estimate from the doctor in India or hospital/doctor abroad.
10. Release of exchange for studies abroad the estimates from the institution abroad or US $30,000 whichever is higher.
11. Commission to agents abroad for sale of residential flats/ commercial plots in India, exceeding 5% of the inward remittance.
12. Short term credit to overseas offices of Indian companies.
13. Remittance for advertisement on foreign television by a person whose export earnings are less than Rs. 10 lakhs during each of the preceding two years.
14. Remittances of royalty and payment of lump-sum fee under the technical collaboration agreement which has not been registered with Reserve Bank.
15. Remittances exceeding US $100,000 for architectural/ consultancy services procured from abroad.
16. Remittances for use and/or purchase of trade mark/ franchise in India.

Miscellaneous Remittances			
			(in US $)
	Purpose	Earlier Limits	Revised Limits
*	BTQ	3,000	5,000
*	Gift	1,000	5,000
*	Donation	1,000	5,000
*	Employment	2,500	5,000
*	Emigration	3,000	5,000
*	Maintenance of close relative	5,000	5,000

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