

Credit Information Review

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Foreign Travel under FEMA

Dossier

The Reserve Bank has issued a comprehensive circular containing directions on release of foreign exchange for foreign travel.

- For release of foreign exchange to the persons resident in India for travel abroad, Authorised Dealers (ADs) should be guided by the rules under the Foreign Exchange Management Act (FEMA).
- Release of foreign exchange is not admissible for travel to Nepal and Bhutan.
- For release of foreign exchange exceeding certain specified limits prior approval of the Reserve Bank should be obtained.
- All applications for release of exchange exceeding the prescribed limits should be referred to the Regional Office of the Exchange Control Department under whose jurisdiction the applicant is functioning/residing.

Limits

- The present limit for Basic Travel Quota (BTQ) is USD 5,000. Out of the overall foreign exchange being sold to a traveller, exchange in the form of foreign currency notes and coins may be sold up to the prescribed limits.

	Place of Travel	Amount
(i)	Travellers proceeding to countries other than Iraq, Libya, Islamic Republic of Iran, Russian Federation and other Republics of Commonwealth of Independent States	not exceeding US \$ 500 or its equivalent
(ii)	Travellers proceeding to Iraq or Libya	not exceeding US\$ 5000 or its equivalent

(iii)	Travellers proceeding to Islamic Republic of Iran, Russian Federation and other Republics of Commonwealth of Independent States	Full Exchange released
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Private Visits

Foreign exchange for private visit can be released to a person who is availing of foreign exchange for travel outside India for any purpose.

Cultural Tours

Dance troupes, artistes, etc., who wish to undertake tours abroad for cultural purpose should apply to the Ministry of Human Resources Development (Department of Education and Culture), Government of India, for recommendation regarding their foreign exchange requirements. ADs may release foreign exchange, on the strength of the sanction from the Ministry, to the extent and subject to certain conditions.

Remittances for Tour

ADs may remit foreign exchange upto a reasonable limit, at the request of a traveller towards his hotel accommodation, tour arrangements, etc., in the countries proposed to be visited by him, provided it is out of the foreign exchange purchased by the traveller from an AD (including exchange drawn for private travel abroad).

Medical

A person who has fallen sick after proceeding abroad may be released foreign exchange for medical treatment outside India.

Remittances for Agents

AD may effect remittances at the request of agents in India who have tie up arrangements with hotels/agents, etc., abroad for providing hotel accommodations or making other tour arrangements for travellers from India provided the AD is satisfied that the remittance is being made out of the foreign exchange purchased by the concerned traveller from an AD (including exchange drawn for private travel abroad).

Advance Remittance

ADs should allow advance remittance for any current account transaction for which the release of foreign exchange is admissible, provided the amount of advance remittance does not exceed US \$ 25,000 or its equivalent. Where the amount exceeds US \$ 25,000 or its equivalent, a guarantee from a bank of international repute situated outside India or a guarantee from an AD in India, if such a guarantee is issued against the counter-guarantee of a bank of international repute situated outside India, should be obtained from the overseas beneficiary. The AD should also ensure that the beneficiary of the advance remittance has fulfilled his obligations under the contract or agreement with the remitter in India.

Payment in Rupees

ADs may accept payment in cash up to Rs.50,000 against sale of foreign exchange for travel abroad (for private visit or for any other purpose). Wherever the sale of foreign exchange exceeds the amount equivalent to Rs.50,000, payment must be received only by a crossed cheque drawn on the applicant's bank account, or crossed cheque drawn on the bank account of the firm/company sponsoring the visit of the applicant, or banker's cheque/pay order/ demand draft.

Where the rupee equivalent of foreign exchange drawn exceeds Rs.50,000 either for any single drawal or more than one drawal reckoned together for a single journey/visit, it should be paid by cheques or drafts as explained above.

Follow up of Utilisation of Foreign Exchange

Where an AD has released exchange on the basis of estimates, e.g., for medical treatment or medical check up abroad, etc., the AD should ensure that the details of actual expenses are invariably submitted by the applicant to the branch of the AD which released foreign exchange, within a fortnight of his returning to India. Non submission of the details within reasonable time should be reported to the Regional Office of the Reserve Bank under whose jurisdiction the applicant resides.

Unspent Exchange

Unspent foreign exchange brought back to India by a traveller should be surrendered to an AD against payment in rupees within ninety days from the date of return of the traveller if the unspent foreign exchange is in the form of currency notes. If such foreign exchange is in the form of traveller cheques, it should be surrendered to an AD within 180 days from the date of return. Exchange so brought back can be utilised by the traveller for his subsequent visit abroad during the period specified above. However, a returning traveller is also permitted to retain with him, foreign currency travellers cheques and Notes upto an aggregate amount of US \$ 2000 and foreign coins without any ceiling. Foreign exchange so retained can be utilised by the traveller for his subsequent visit abroad.

However, even where a person approaches an AD for surrender of foreign exchange after the prescribed period, AD should not refuse to purchase the foreign exchange on the ground that the prescribed period has expired.

Period of Surrender of Foreign Exchange

In case the foreign exchange purchased for any purposes is not used for the purposes or for any other purpose for which purchase or acquisition of foreign exchange is permitted under the provisions of FEMA 1999 or Rules or Regulations the unused portion is required to be surrendered to an AD within a period of sixty days from the date of its purchase.

The AD should not refuse to purchase the foreign exchange on the ground that the prescribed period of sixty days has expired, in cases where a person approaches an AD for surrendering foreign exchange after sixty days.

Procedural Opening Accounts for Agents

AD may open foreign currency accounts in the name of agents in India who have tie up arrangements with hotels/ agents, etc., abroad for providing hotel accommodations or making other tour arrangements for travellers from India provided :

- (a) the credits to the account are by way of depositing (i) collections made in foreign exchange from travellers and (ii) refunds received from outside India on account of cancellation of bookings/tour arrangements, etc., and
 - (b) the debits in foreign exchange are for making payments towards hotel accommodation, tour arrangements, etc., outside India, in accordance with (ii) above.
- Where permits/ approvals have been issued by the Reserve Bank/ Government of India, foreign exchange should be sold within the validity period stated on the permit/approval and the sale be endorsed on the reverse of the permit / original approval.
 - ADs need not endorse on the traveller's passport foreign exchange sold for travel abroad where the traveller is going abroad for a purpose other than private visit.
 - Wherever foreign exchange is sold for a private visit, it should invariably be endorsed on the traveller's passport under the AD's stamp, date and signature.
 - ADs should, if requested by the traveller, record under their stamp and signature details of foreign exchange sold for travel, other than the private visit abroad.
 - In case of a child travelling on a parent's passport, the endorsement should be made on the joint passport.
 - In case of issue of travellers cheques, the traveller should sign the cheques in the presence of an authorised official and the purchaser's acknowledgement for receipt of the travellers cheques should be duly maintained.
 - 1 Forms A2 relating to sale of foreign exchange for travel abroad should be retained for a period of one year by the ADs together with the related documents for the purpose of verification by their internal auditors.

EXCHANGE CONTROL

Export of Goods and Services under FEMA

The Reserve Bank has issued a circular containing detailed directions relating to dealings of authorised dealers with their exporter clients.

Export trade is regulated by the Directorate General of Foreign Trade (DGFT) functioning under the Ministry of Commerce and Industries, Department of Commerce, Government of India. Exporters should follow the Notifications/ Directions issued by DGFT from time to time.

Any export of Indian currency except to the extent permitted under any general permission granted would require prior permission of the Reserve Bank.

The Reserve Bank has permitted ADs to issue guarantees on behalf of exporter clients on account of exports out of India. Export of goods and services against repayment of state credits granted by erstwhile Soviet Union would continue to be governed by the extant directions. Further, Reserve Bank would consider, counter trade proposals from Indian exporters with Romania involving adjustment of value of exports from India against value of imports made into India in terms of a voluntarily entered arrangement between the concerned parties.

Export of Goods, Software

Any reference regarding export of goods and services from India should be made to the office of Exchange Control Department of the Reserve Bank within whose jurisdiction the applicant person, firm or company resides or functions unless otherwise indicated. If for any particular reason, a firm or company desires to deal with a different office of the Exchange Control Department, it may approach the office within whose jurisdiction it functions for necessary approval.

Exemptions from Declarations

- (i) The requirement of declaration of export of goods and software in the prescribed form would not apply to the cases indicated in Regulation No. 4 *ibid*. The requirement of declaration also shall not apply to goods sent for testing abroad, subject to re-import.
- (ii) Gift of goods exceeding rupees one lakh in value require approval of the Reserve Bank.
- (iii) Export of goods not involving any foreign exchange transaction directly or indirectly, requires the waiver of GR/PP procedure from Reserve Bank.

Numbering of forms

GR, PP and SOFTEX forms will bear specific identification numbers which should be cited in all applications/ correspondence with the Reserve Bank. In the case of declarations made on SDF form, the port code number and shipping bill number should be cited.

Manner of Payment

- (i) The amount representing the full export value of the goods exported shall be received through an AD in the specified manner.
- (ii) Payment for export may also be received by the exporter, in the form of bank draft, pay order, banker's or personal cheques, or foreign currency notes/foreign currency travellers' cheques from the buyer during his visit to India, or payment out of funds held in the FCNR / NRE account maintained by the buyer, or through International Credit Cards. When payment, in respect of goods sold to overseas buyers during their visits is received in this manner the GR/ SDF (duplicate) should be released by the ADs only on receipt of funds in their Nostro account or on production of a certificate by the exporter from the Credit Card servicing bank in India to the effect that it has received the equivalent amount in foreign exchange, if the AD concerned is not the Credit Card servicing bank.

Guarantees against Exports

ADs should obtain prior approval of the Reserve Bank for issue of guarantees in respect of caution-listed exporters.

Foreign Currency Accounts

The Reserve Bank may consider applications in form EFC from exporters having good track record for opening foreign currency accounts with banks subject to certain terms and conditions. Applications for opening such an account with a branch of an AD in India may be submitted through the branch at which the foreign currency account is to be maintained. If the foreign currency account is to be maintained abroad the application should be made by the exporter giving details of the bank with which the account will be maintained.

Diamond Dollar Account

Under the scheme of Government of India, firms and companies dealing in purchase/sale of rough or cut and polished diamonds, with track record of at least three years in import or export of diamonds and having an average annual turnover of Rs. 5 crores or above during preceding three licensing years are permitted to transact their business through Diamond Dollar Accounts, with not more than two ADs in India. Accordingly, eligible firms and companies may apply for permission to the Reserve Bank. through their AD.

Counter-trade Arrangement

(i) Counter trade proposals involving adjustment of value of goods imported into India against value of goods exported from India in terms of an arrangement voluntarily entered into between the Indian party and the overseas party through an Escrow Account opened in India in US dollar will be considered by the Reserve Bank. All imports and exports under the arrangement should be at international prices in conformity with the EXIM Policy and FEMA, 1999 and the Rules and Regulations made thereunder. No interest will be payable on balances standing to the credit of the Escrow Account but the funds temporarily rendered surplus may be held in a short-term deposit up to a total period of three months in a year and the banks may pay interest at the applicable rate. No fund based / or non-fund based facilities would be permitted against the balances in the Escrow Account.

(ii) Application for permission for opening an Escrow Account may be made by the overseas exporter/organisation through the AD with whom the account is proposed to be opened, to the office of The Reserve Bank under whose jurisdiction the AD is functioning.

Export of Goods on Lease, Hire, etc.

Export of machinery, equipment, etc. on lease, hire, etc. basis under agreement with the overseas leasee against collection of lease rentals / hire charges and ultimate reimport require prior approval of the Reserve Bank. Exporters should apply for necessary permission, through an AD, to the concerned Regional Office of the Reserve Bank, giving full particulars of the goods to be exported.

Participation in Trade Fairs Abroad

(i) Participants in international exhibition/ trade fair have been granted general permission vide the Foreign Exchange Management (Foreign Currency Account by a person resident in India) Regulations, 2000 for opening temporary foreign currency account abroad. Exporters may deposit the foreign exchange obtained, by sale of goods, at the international exhibition/trade fair and operate the account during their stay outside India provided that the balance in the account is repatriated to India within a period of one month from the date of closure of the exhibition/trade fair and full details are submitted to the concerned AD.

(ii) Firms/Companies and other organisations participating in Trade Fair/ Exhibition abroad should obtain approval on GR Form from the concerned office of Reserve Bank for export of exhibits and other items for display-cum-sale in the trade fair/exhibition. On closure of the fair/exhibition, they should re-import the exhibits or repatriate the value of goods sold within one month of the closure of the fair/ exhibition and submit necessary documentary evidence to the concerned Regional office of the Reserve Bank in support of the re-import or repatriation.

Project Exports and Service Exports

(i) Export of engineering goods on deferred payment terms and execution of turnkey projects and civil construction contracts abroad are collectively referred to as 'Project Exports'. Indian exporters offering deferred payment terms to overseas buyers and those participating in global tenders for undertaking such contracts abroad are required to obtain approval of AD/ EXIM Bank/ Working Group at post-award stage before undertaking execution of such contracts. Regulations relating to 'Project Exports' and 'Service Exports' are laid down in the Memorandum on Project Exports (PEM).

(ii) Pure supply contracts where at least 90 per cent of the export value is realised within the prescribed period from the date of export and the balance amount within a maximum period of two years from the date of export are not treated as deferred payment exports, provided the exporter does not require/avail of any funded or non-funded facility/ ies for such exports from ADs.

Export on Elongated Credit Terms

Exporters intending to export goods on elongated credit terms may submit their proposals giving full particulars through their banks to Regional Office of the Reserve Bank for consideration.

Forfeiting

Exim Bank and ADs have been permitted to undertake forfeiting for financing of export receivables. It would be in order for ADs to allow remittance of commitment fee/ service charges, etc. payable by the exporter as approved by the EXIM Bank/ AD. Such remittance may be permitted in advance in one lump sum or at monthly intervals as approved by the concerned agency.

BANKING POLICY

Issue of Credit Cards

Banks can undertake credit card business either departmentally or through a subsidiary company set up for the purpose. They could also undertake domestic card business by entering into tie-up arrangement with one of the banks already having arrangements for the issue of credit cards. Prior approval of the Reserve Bank is not necessary for banks desirous of undertaking credit card business either independently or in tie-up arrangements with other card issuing banks. However, only banks with networth of Rs.100 crore and above should undertake issue of credit cards. Banks desirous of setting up a separate subsidiary for undertaking credit card business would require the prior approval of the Reserve Bank of India.

Brokers for Investments

Banks and primary dealers have been permitted to undertake transactions in securities among themselves or with non-bank clients through members of the National Stock Exchange (NSE), Over the Counter Exchange of India (OTCEI) and the Stock Exchange, Mumbai (BSE). Banks should directly undertake transactions in securities which are not undertaken on the NSE, OTCEI or the BSE without the use of brokers.

Collection of Data from Banks

In order to enable them to accurately furnish the required information on their foreign currency assets and liabilities and their revaluation the Reserve Bank has issued detailed guidelines to all scheduled commercial banks (excluding regional rural banks).

Scheduled commercial banks in India are required to submit Form A Returns along with Annexure A and B in the prescribed format as per the revised methodology from reporting Friday, December 1, 2000.

India Millennium Deposits

State Bank of India was permitted to float a scheme called 'India Millennium Deposits' (IMDs).

The Reserve Bank of India has permitted authorised dealers to grant loans in non-repatriable rupees, in India, to the holders of IMDs for personal purposes and for carrying on business activities except for the purpose of relending or carrying on agricultural/plantation activities or for investment in real estate business. NRIs (not OCBs) may be granted loans in non-repatriable rupees for acquisition of immovable property subject to the following conditions:

- (i) The loans should be fully secured by the value of deposits and accrued interest.
- (ii) The regulations relating to margin, rate of interest, etc., as stipulated by the Reserve Bank from time to time are adhered to.
- (iii) The period of loan should not exceed the unexpired period of maturity of the deposits.
- (iv) The loan should be repaid out of remittance from abroad or maturity proceeds of the deposits or out of funds held in India by the deposit holder.

ADs may also grant loans to the account holders for the purpose of making direct investment in India on non-repatriation basis, subject to the conditions stipulated above. The loan amount may be disbursed directly to the investee firm/company on behalf of the IMD holder.

ADs may grant loans/overdrafts to individuals/firms/ companies resident in India against the collateral of IMDs, subject to usual norms and the following conditions:

- (i) There should be no direct or indirect foreign exchange consideration for the non-resident depositor to pledge his deposits to enable the resident to obtain the loan.
- (ii) The period of loan should not exceed the unexpired maturity of IMDs.
- (iii) Regulations relating to margin, interest rates, purpose of loan as stipulated by the Reserve Bank from time to time are adhered to.
- (iv) The loan should be utilised for personal purposes/for carrying on business activities other than agricultural/ plantation activities or real estate business. The loan should not be utilised for relending.
- (v) The loan should be granted only against a special mandate from the NRI IMD holder.

ADs should not grant foreign currency loans against the security of IMDs.

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