

Exchange Control

MARCH 2001

1. Export of Goods and Services-Forwarder's Cargo Receipt

Authorised dealers may negotiate House Airways Bills (HAWBs) issued by consolidating Cargo Agents, only if the relative letter of credit specifically provides for negotiation of HAWB, *in lieu* of Airway Bills issued by the airline company. It has now been decided that authorised dealers may also accept Forwarder's Cargo Receipts (FCR) issued by IATA approved agents, *in lieu* of bill of lading, for negotiation/collection of shipping documents, in respect of export transactions backed by letters of credit, only if the relative letter of credit specifically provides for negotiation of this document, *in lieu* of bill of lading. Further, the relative sale contract with the overseas buyer should also provide that FCR may be accepted *in lieu* of bill of lading as a shipping document.

2. Foreign Exchange Management Act 1999 -Notification issued by Reserve Bank

Reserve Bank has by notifications, made certain Regulations to carry out the provisions of Foreign Exchange Management Act, 1999 (42 of 1999). Notifications FEMA Nos.1 to 25 were circulated vide A.D. (M.A. Series) Circular No. 11 dated May 16, 2000. Reserve Bank has issued notifications bearing No.26 to 39 (except No.33). Synopsis of some of the Regulations is given in the following paragraphs:

i) Notification No. FEMA 36/2001 - RB dated February 27, 2001 in partial modification of Notification No. FEMA 23/2000-RB dated May 3, 2000

The amendments made to the Foreign Exchange Management (Export of Goods and Services) Regulations, 2000 are as under:

a) In Regulation 4 -

(i) Exemptions are granted to certain exports from the requirement of declaration on a prescribed Form. Similar concessions are granted to units in "Electronic Hardware Technology Parks", "Electronic Software Technology Parks" and "Special Economic Zones".

(ii) Reserve Bank has been authorised to waive the requirement of declaration on GR Forms and to permit export of defective goods for repairs subject to re-import.

b) In Regulation 6 - Sub-regulation 3(i) is substituted to provide for declaration to be made by units in Special Economic Zones for exports of computer software and audio/ video/television software in Form SOFTEX.

c) In Regulation 9 - The units situated in Special Economic Zones are permitted to realise and repatriate to India the full export value of goods or software within a period of twelve months from the date of export.

d) The format of the Form SOFTEX has been revised.

ii) Notification No. FEMA 37/2001 - RB dated February 27, 2001 in partial modification of Notification No. FEMA 10/2000 - RB dated May 3, 2000

The Notification seeks to amend the Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) Regulations, 2000. A unit in Special Economic Zone (SEZ) is now permitted to credit 100 per cent of its foreign exchange receipts to its EEFC account except foreign exchange acquired, by way of purchase against rupees from any person resident in India other than another unit in a Special Economic Zone.

iii) Notification No. FEMA 38/2001 - RB dated February 27, 2001 in partial modification of Notification No. FEMA 6/RB-2000 dated May 3, 2000

The amendment empowers the Reserve Bank to permit a person, to take or send out of India or bring into India currency notes of Government of India/Reserve Bank of India of value exceeding Rs. 5,000 subject to such terms and conditions as the Bank may stipulate.

iv) Notification No. FEMA 39/2001-RB dated February 27, 2001 in partial modification of Notification No. FEMA 6/RB-2000 dated May 3, 2000

The amendment authorises a company in India to make payment in rupees to its non-whole time director, who is a person resident outside India and who is on a visit to India for the company's work.

3. Current Account Transactions

Government of India has issued Notification No. S.O.301(E) dated March 30, 2001, amending their Notification GSR 381(E) dated May 3, 2000. The synopsis of the changes brought about by the amendment are as under:

A. Schedule II

(a) Remittances by any State Government or its Public Sector Undertaking require prior approval from the Ministry of Finance (DEA) for advertisement abroad in print media for any purpose other than for promotion of tourism, foreign investment and for international bidding (exceeding US\$ 10,000),

(b) The restrictions imposed on remittances for securing Insurance for health from a company abroad and for membership of P&I Club respectively will be applicable even though remittance is made out of funds held in EEFC account,

B. Schedule III

(a) Gift remittance exceeding US\$5,000 per remitter/donor per annum and Donation exceeding US\$ 5,000 per remitter/donor per annum, respectively will require prior

approval of the Reserve Bank. The restriction would be applicable even in cases where the remittance is being made out of funds held in EEFC account.

- (b) Restrictions imposed on payment of commission for sale of immovable property and on remittance for use and/or purchase of trade mark/ franchise in India would also be applicable to the remittances made out of funds held in EEFC account,
- (c) The ceiling of US\$ 5,000 per year on remittances to close relatives residing abroad will not be applicable in case of foreign nationals (other than Pakistani nationals), who are resident but not permanently resident in India,
- (d) The remittances exceeding US\$ 1,00,000 per project for any consultancy services procured from outside India will require prior approval of the Reserve Bank. This restriction will
- (e) also apply to such remittances made out of funds held in EEFC accounts,
- (f) All remittances exceeding US\$ 1,00,000 for reimbursement of preincorporation expenses will also require prior permission from the Reserve Bank.