

RBI PRESS RELEASES

RBI modifies certain regulations for NBFCs (January 31, 1998)

Detailed regulations were issued on 2nd January 1998 to ensure orderly functioning of the Non-Banking Financial Companies (NBFCs) and for protection of interest of the depositors. Since then, in response to suggestions received from various sections, RBI has held detailed consultations with leading NBFC associations, financial experts and other professionals in order to remove any genuine problems that might arise in the implementation of the guidelines issued on January 2, 1998. In the light of these discussions, RBI has decided to modify some of the regulations. The modifications are as under :

Limits on acceptance of deposits

Equipment leasing and hire purchase finance companies

2. The ceiling on quantum of public deposits as a multiple of net owned fund (NOF) in respect of equipment leasing and hire purchase finance companies has been enhanced. Equipment leasing and hire purchase finance companies having rating of minimum investment grade have also now been allowed to access public deposits.

The revised limits are as under:

Level of rating	Existing limits	Enhanced limits
	(As a multiple of NOF)	
AAA	3 times	4 times
AA	2 times	2.5 times
A	1 time	1.5 times
Minimum investment Grade, i.e., A- (CRISIL and ICRA) BBB (CARE) BBB- (DCR India)	NIL	0.5 times

The requirement of rating and level of public deposits for loan and investment companies remains unchanged.

Time for regularising the excess deposits

3. In order to take care of the mismatches in cash flows, the time limit for repayment/regularisation of excess public deposits has been extended. Accordingly, NBFCs having excess public deposits as on January 1, 1998 have been allowed time to repay/regularise excess deposits till December 31, 2000 subject to the condition that 1/3rd of the excess is repaid by the end of December every year so that the entire excess deposit is repaid/regularised by 31st December 2000.

During this period of 3 years, the equipment leasing companies and hire purchase finance companies which are rated investment grade or above and loan and investment companies which have rating of A or above have been allowed to accept/renew public deposits subject to the above stipulations of reduction of excess deposits by 1/3rd each year.

The equipment leasing companies and hire purchase finance companies which are unrated or rated below the minimum investment grade and loan and investment companies which are unrated or are rated below the specified grade of 'A' are, however, allowed only to renew the maturing public deposits and are not allowed to accept fresh public deposits.

Downgrading of credit rating

4. In case the ceiling on public deposits gets reduced as a consequence of downgrading of rating, the resultant excess deposits should be repaid/regularised within a period of 12 months.

Prudential norms modified

5. The provisioning requirements for hire purchase/leased assets have been modified. While loan and other credit facilities shall continue to be classified as NPAs for each borrower as per existing norms, the lease and hire purchase transactions may be classified independently on the basis of record of recovery in each account. In other words, in respect of borrowers having multiple lease/hire purchase facilities, NPAs will be calculated by taking into account the default in respect of relative account/s only.

Net owned fund

6. For the purpose of deposit acceptance and prudential norms regulations (including capital adequacy and credit/investment concentration norms), the definition of net owned fund has been modified to include preference shares which are compulsorily convertible into equity.

Disclosure requirements

7. The NBFCs are now required to disclose the level of their rating and the name of the rating agency in their application forms for public deposits.

8. Other provisions of the regulations relating to ceiling on the rate of interest on deposits at 16 per cent per annum, payment of brokerage at two per cent of deposits, renewal of deposits, repayment of public deposits, liquid asset requirement and safe custody of securities with a scheduled commercial bank, submission of auditor's report and capital adequacy requirement remain unchanged.

9. Necessary notifications are being issued separately which will be available on Internet website <http://www:rbi.org.in>.

RBI operationalises general permission to Indian companies seeking FDIs in respect of SIA/FIPB approvals (February 13, 1998)

The Reserve Bank has issued a notification on February 10, 1998 operationalising the procedure for granting general permission to Indian companies to issue equity shares/

securities to foreign investors in accordance with the approval for Foreign Direct Investments (FDIs) granted by the Secretariat for Industrial Assistance (SIA) (Government of India, Ministry of Industry, Department of Industrial Policy and Promotion) or by the Foreign Investment and Promotion Board (FIPB).

The notification (No. FERA 182/98 RB dated February 10, 1998) has been issued under Sections 19(1) and 29(1) of the Foreign Exchange Regulation Act (FERA), 1973. The general permission for issue of equity shares/securities to foreign investors is granted subject to observance of certain terms and conditions.

It may be recalled that the Reserve Bank of India, on February 4, 1998 announced that in order to simplify the procedures for Foreign Direct Investments in India already approved by the Government of India, it has granted general permission under FERA to all such proposals. With the issuance of the notification, it is now no longer necessary for the Indian companies to approach the regional offices of the Reserve Bank for "in-principle" permission before receiving inward remittance or at the stage of issuing shares to the foreign investors. The companies are, however, required to file the required documents with the concerned regional offices of the Reserve Bank within 30 days after issue of shares.

The RBI notification dated February 10, 1998 is available on the RBI website on the Internet also (<http://www.rbi.org.in>).

**Reserve Bank further liberalises current account transactions
(February 18, 1998)**

With a view to further facilitating current

account transactions, the Reserve Bank of India has amended/modified the exchange control regulations. In a detailed circular issued recently, the Reserve Bank has advised the following modifications in the exchange control regulations governing remittances by exporters and importers:

Advance payments against exports

Exporters can now receive interest bearing advance payments from their overseas buyers subject to the conditions that (i) the rate of interest on such advance does not exceed Libor + 100 basis points, (ii) the shipments to be made against the advance payments so received are monitored by the bank in India through which the advance payment has been received and (iii) the shipments are made within one year from the date of receipt of advance payment. In cases where exporters are unable to make shipments against advance payments received by them for exports, authorised dealers can allow remittances towards refund of advance payments (partly or fully). Authorised dealers can allow such remittances provided the unutilised portion of the advance is refunded within a period of one year of its receipt and the exporter produces (i) a chartered accountant's certificate that the amount is still outstanding in the books of the exporter and has not been adjusted in any manner, and (ii) a declaration that the advance was not against exports to be made in pursuance of any undertaking given to the Import Trade Control authorities in regard to fulfilment of export obligation. If, however, the advance was received for exports to be made in fulfilment of export obligation, the exporter should be advised to submit a no objection certificate from the Import Trade Control authorities for refund of the amount. Authorised dealers should also call for

and cancel or suitably endorse the inward remittance certificate issued at the time of receipt of foreign exchange.

Refund of Export Proceeds

Similarly, authorised dealers through whom export proceeds were received may allow refund of export proceeds of goods exported from India if such goods are reimported into India on account of poor quality, etc. Authorised dealers can allow such refunds on the exporter producing satisfactory documentary evidence regarding (i) reimport of goods into India, viz., exchange control copy of the bill of entry, postal/courier wrappers and (ii) reasons for re-export of the goods by the foreign buyer. Authorised dealers should also advise the exporter to surrender the proportionate incentives if he has availed any.

Merchanting Trade

Authorised dealers will now also allow advance remittances by their Indian customer-merchant exporters to their overseas suppliers of goods in respect of merchanting trade transactions. Such remittances will be allowed against confirmed orders if the authorised dealer is satisfied about the capabilities of the merchant trader to perform the obligations of the order and that the transaction would result in adequate profit to the merchant trader. The authorised dealers will have to obtain a guarantee from an international bank of repute outside India from the foreign seller of goods if the amount of advance remittance exceeds US \$ 15,000.

Advance remittances for other transactions

For service related transactions

Authorised dealer will now allow advance payments in respect of other transactions such as engagement of foreign nationals, consultancy services, advertisement space in overseas newspapers/periodicals, specialised training to be provided abroad/in India, etc. In case such payments exceed US \$ 15,000 or its equivalent, the overseas beneficiary of the remittance will have to furnish a guarantee from an overseas bank of international repute. The authorised dealers through whom the advance remittance is made, will have to follow up and ensure that the beneficiary of the advance remittance fulfils his obligations under the contract/agreement with the remitter in India.

For feasibility studies

Authorised dealers can allow remittances up to US \$ 1,00,000 by Indian companies to overseas consultancy organisations for conducting feasibility studies for project to be set up abroad by the proposed joint venture/wholly owned subsidiary of the applicant Indian company. Such remittances will be allowed on production of (a) invoice from the overseas consultancy organisation indicating the charges for feasibility study, (b) a declaration from the remitter to the effect that the assignment has been completed and (c) undertaking/certificate regarding payment of income-tax.

Other miscellaneous remittances

In addition to these, the authorised dealers can allow certain other remittances without the approval of the Reserve Bank, These are:

- (i) remittances by Indian courts in connection with execution of commission/letters of request against the documentary evidence of the court order indicating the amount of remittance;
- (ii) remittance of alimony against the documentary evidence of the court order indicating the amount of alimony,
- (iii) remittance of lease/rental charges for hiring web-space from foreign web servers and E-mail service providers against the documentary evidence of invoice from the overseas beneficiary and undertaking/accountant's certificate regarding income-tax;
- (iv) remittance of sale proceeds of imported cars sold by foreign diplomats/missions to State Trading Corporation of India (STCI) against the documentary evidence of letter from STC in support of the sale price of the car;
- (v) remittance of sale proceeds of imported cars sold by diplomats/missions in India to another diplomat against documentary evidence in support of the sale price of the car and the fact that the payment by the purchaser was made out of funds brought from abroad in free foreign exchange or out of remittable funds;
- (vi) remittance of net (of income-tax) amount of bonus by Indian firms/companies to their employees who are Indian nationals posted abroad on production of documentary evidence in support of the remittable amount;
- (vii) remittance of provident/pension/superannuation contributions in respect of foreign employees of Indian firms/companies who are permanently resident in India in accordance with the service conditions of the foreign national concerned;
- (viii) remittance for payment of commission/remuneration by Indian firms/companies to their non-resident directors on production of a certified copy of audited balance sheet of the company together with a work sheet duly certified by a chartered accountant indicating how the remittable amount has been arrived at;
- (ix) remittance of claims to overseas buyer in respect of marine insurance policies covering exports from India which have been settled by the General Insurance Corporation and its subsidiaries in favour of Indian exporters on production of documentary evidence in support of the claim provided the export proceeds in full have been received by the exporter.

For medical treatment abroad

The Reserve Bank of India has allowed authorised dealers to grant additional foreign exchange facilities to persons who have fallen ill after proceeding abroad for business, etc., visits. Authorised dealers can grant such additional exchange facilities on the basis of a certificate from the attending doctor/hospital

abroad subject to submission of bills/vouchers in support of expenditure incurred on medical treatment on return of the persons concerned to India.

The Reserve Bank has also raised indicative limit upto which authorised dealers can release exchange to residents for medical check up abroad from U.S.\$ 500 to U.S.\$ 1000.

Authorised dealers are now also allowed to release exchange @ U.S.\$ 150 per day upto seven days to persons going abroad for medical check up. In such cases exchange @ U.S.\$ 150 per day upto seven days may also be released to the attendant if it is necessary for the attendant to accompany the person going abroad for medical check up and a certificate from the attending doctor to this effect is produced.

For tour operators/travel agents

The Reserve bank has also removed quantitative restrictions on remittances of claims by Indian tour operators/travel agents to foreign tourists. Authorised dealers can now allow such remittances up to 10 per cent of the tour cost without any monetary ceiling subject to fulfilment of other conditions such as, verification of advance payment received and the details of the claims preferred by foreign tourists. Earlier, authorised dealers were permitted to allow such remittance by Indian tour operators/travel agents upto 10 per cent of the tour cost or US \$ 200 per claim (whichever was less) in the case of individual foreign tourist and upto 10 per cent of the tour cost or US \$ 1000 per claim (whichever was less) in the case of group tour.

For use of news material

Prior approval of the Reserve Bank of India is also no longer required for remitting the cost of material, such as, news features, photographs, cartoons, etc., used by Indian newspapers/periodicals/news agencies to overseas news/features agencies. Authorised dealers will allow such remittances directly in accordance with the approvals issued by the Government of India (Ministry of Information and Broadcasting).

Reimbursements of expenses

Under the present regulations firms, companies and other organisations engaging the services of foreign citizens have normally to pay for the passage fare of the non-resident for visit to India in Indian rupees. Further the local expenses for internal travel, lodging, boarding of such persons are to be paid for in rupees in India for which general permission has been granted. In cases where expenses for travel to India and back as also expenses for internal travel, lodging, boarding etc., have been paid for by the non-resident, it would be in order for authorised dealers to allow remittances in reimbursement of such expenses incurred by the non-resident concerned on production of appropriate documentary evidence in support of the amount sought to be remitted, provided such expenses are to be met by the applicant as per the contract.

Issue of foreign currency notes

In addition to travellers cheques, drafts etc., to foreign tourists/transit passengers against

reimbursement in any permitted currency by banks abroad or against surrender of foreign currency drafts/cheques by the applicants, authorised dealers can now issue foreign currency notes not exceeding US \$ 500 or its equivalent to foreign tourists/students against inward remittances received in their favour.

While foreign currency notes may be issued to foreign tourists freely, in the case of foreign students studying in India these may be issued when they are going abroad during vacation or after completing their studies in India, after verification of their journey tickets.