

**A.D.(M.A. Series) Circular No.5 (April 22, 2000)**

**RESERVE BANK OF INDIA  
EXCHANGE CONTROL DEPARTMENT  
CENTRAL OFFICE  
MUMBAI-400001**

April 22, 2000

A.D.(M.A.Series) Circular No.5

To

All Authorised Dealers in Foreign Exchange

Dear Sirs,

**Amendments to Exchange Control Manual (ECM)**

It has been decided to amend/modify the Exchange Control regulations as stated in the following paragraphs:

**1. Advance remittance for imports**

Attention of authorised dealers is invited to paragraph 7A.10(d) of ECM, in terms of which authorised dealers are allowed to make advance remittance, on behalf of importers, against bank guarantee furnished by the overseas supplier from an international bank of repute situated outside India, if the amount of advance remittance exceeds U.S.\$ 15,000. The matter has since been reviewed and it has been decided to raise the monetary ceiling of U.S.\$ 15,000 to U.S.\$ 25,000. All other conditions mentioned in the paragraph remain unchanged.

**2. External Commercial Borrowings - Repayment of loan/credit and payment of other charges**

In terms of paragraph 7B.7(iii)(b) of ECM, applications for remittance of penal interest for defaulting in repayment of principal/payment of interest are required to be referred to the concerned Regional Office of Reserve Bank, provided the default period exceeds one month from the due date, or the borrower has defaulted on payments on more than two occasions. With a view to simplifying the procedure further, it has now been decided to delegate powers to authorised dealers to allow remittance of penal interest, irrespective of period of default and number of occasions. Authorised dealers should, however, submit a detailed report to the concerned Regional Office of Reserve Bank if the borrower has defaulted on three consecutive occasions. All other conditions mentioned in the paragraph remain unchanged.

**3. Renewal of Trading Office Abroad**

Attention of authorised dealers is drawn to paragraph 9B.1(iv) of ECM, in terms of which exporters are required to apply for renewal of remittance facilities for their existing trading offices abroad as well as justify continuation of the trading offices. It has been decided

that the firms/companies having trading offices abroad, operating on 'no remittance' basis or maintained out of funds in EEFC Accounts need not apply for renewal of permission for continuation of their offices abroad. However, annual statements as prescribed under paragraph 9B.1(ii)(f) of the ECM should be submitted to the authorised dealer.

#### **4. Direct investment by NRIs in proprietorship/partnership concerns and by NRIs/OCBs in Indian companies**

In terms of paragraph 10C.6(i) and 10C.7(i) of ECM, proprietorship or partnership concerns and Indian companies which accept capital contribution or subscription to share capital/convertible debentures, on non-repatriation basis, under general permission granted by Reserve Bank from time to time, are required to submit a declaration in Form DIN to the concerned Regional Office of the Reserve Bank under whose jurisdiction they are situated, within a period of 90 days, from the date of receipt of investment. Consequent to the recent amendments/modification of Exchange Control regulations, the form DIN has been modified. The concerned firms/companies may submit the requisite declaration in the revised format.

#### **5. Loans abroad against securities provided in India**

Attention of authorised dealers is drawn to paragraph 10D.1(ii) of ECM, in terms of which authorised dealers may grant, through their overseas branches and correspondents, loans and overdrafts against the security of fixed deposits or other assets in India, to Indian nationals or persons of Indian origin established in business or trade, provided, they are satisfied that such assets represent funds which had previously been remitted to India in an approved manner. It has now been decided to bring Overseas Corporate Bodies (OCBs) also within the purview of the provisions of the aforesaid paragraph.

#### **6. Loans in India against guarantees by non-residents**

In terms of paragraph 10D.6 of ECM, authorised dealers may extend Rupee loans in India against guarantees by non-residents subject to the conditions mentioned therein. It has now been decided to dispense with the condition regarding obtaining of primary security in the form of hypothecation/mortgage of assets by the Indian borrowers. Authorised dealers may, however, comply with all other conditions referred to in the paragraph.

#### **7. Facilities against the security of balances in EEFC Account**

Attention of authorised dealers is drawn to paragraph 3 of A.D.(M.A. Series) Circular No.19 dated June 2, 1999 in terms of which authorised dealers are permitted to grant, to the EEFC account holders, credit facilities (fund based as well as non-fund based), according to their commercial judgement against the security of balances held in their EEFC Accounts. It is clarified that the credit facilities against the security of balances in EEFC Accounts may be granted in foreign exchange also. The repayments of such credit facilities should, however, be made out of balances in EEFC Accounts of the concerned depositors. The facilities should be utilised for normal business purposes only and not for any on-lending or for investment in shares, securities, etc.

**8.** The following consequential amendments may be carried out in the Exchange Control Manual.

**Volume I**

- i) In paragraph 7A.10(d) the amount ‘U.S.\$ 15,000’ may be changed to ‘U.S.\$ 25,000’.
- ii) The paragraph 7B.7(iii)(b) may be substituted by Slip 1.
- iii) A new sub-paragraph 9B.1(vi) may be added as per Slip 2.
- iv) In paragraph 10D.1(ii) the words ‘OCBs’ may be added after the word ‘origin’ appearing in line 2.
- v) The condition (b) of the paragraph 10D.6(i) may be substituted by Slip 3.
- vi) A new paragraph 14D.9 may be added as per Slip 4.

**Volume II**

- vii) The existing form DIN may be replaced as per Slip 5.

**9.** Authorised dealers may bring the contents of this circular to the notice of their concerned constituents.

**10.** The directions contained in this circular have been issued under Section 73(3) of the Foreign Exchange Regulation Act, 1973 (46 of 1973) and any contravention or non-observance thereof is subject to the penalties prescribed under the Act.

Yours faithfully,  
**B. MAHESHWARAN**  
Chief General Manager

**Slip 1**  
[AD/MA/ 5 /2000]

**Repayment of Loan/Credit and Payment of Other Charges**

**7B.7(iii)**

(b) The penal interest may be allowed as per the rate indicated in the approval letters issued by the Government/Reserve Bank. In case no rate is mentioned in such approval letters, the authorised dealers may allow the payment of penal interest based on the rate indicated in the relative debit note/invoice raised by the lender, subject to the ceiling of 2% per annum, besides the normal approved interest, provided the relative loan agreement taken on record by the Government/Reserve Bank contains the provision for payment of penal interest. In case of defaults by the borrowers on three consecutive occasions, authorised dealers should report the same, with full details, to the concerned Regional Office of Reserve Bank.

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**Slip 2**  
[AD/MA/ 5 /2000]

**Establishment of Overseas Offices**

**9B.1**

(vi) Firms/companies having trading offices abroad operating on 'no remittance' basis or maintained out of funds in EEFC accounts need not apply for renewal of permission to continue the existing office abroad. However, annual statements as indicated in paragraph 9B.1(ii)(f) should be submitted to the authorised dealer.

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**Slip 3**  
[AD/MA/ 5 /2000]

**Loans in India against Guarantees by Non-Residents**

**10D.6(i)**

(b) The loan is fully secured by the guarantee of an international bank and the lender bank adheres to the guidelines prescribed for capital adequacy, prudential norms, etc. and the lending discipline prescribed for working capital and term loan purposes, by Reserve Bank from time to time.

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**Slip 4**  
[AD/MA/ 5 /2000]

**Facilities against the Security of Deposits**

**14D.9** Credit facilities whether fund based or non fund based, in rupees or in foreign exchange, may be granted either in India or abroad, against the security of funds held in the EEFC accounts. The repayment of such credit facilities should be made out of the balance in the EEFC account of the concerned depositor. The facility should be used for normal business purposes only and not for any on-lending or for investment in shares, securities, etc.