

Notification No.FEMA47/2001-RB (December 5, 2001)

**RESERVE BANK OF INDIA
EXCHANGE CONTROL DEPARTMENT
CENTRAL OFFICE
MUMBAI-400 001**

Notification No.FEMA47/2001-RB

Dated December 5, 2001

In exercise of the powers conferred by clause (b) of Section 9 and clause (e) of sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), and in partial notification of its Notification No.FEMA.10/2000-RB dated 3rd May, 2000, Reserve Bank of India makes the following amendments in the Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) Regulations, 2000, namely :

1. (i) These Regulations may be called the Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) (Second Amendment) Regulations, 2001.

(ii) They shall come into force with immediate effect.

2. In the Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) Regulations, 2000, in Regulation 7, after sub-regulation (4), the following sub-regulation shall be inserted, namely;

“(4A) A firm or a company or a body corporate registered or incorporated in India (hereinafter referred to as ‘the Indian entity’) may open, hold and maintain in the name of its office (trading or non-trading) or its branch set up outside India or its representative posted outside India, a foreign currency account with a bank outside India by making remittances from India for the purpose of normal business operations of the office/branch or representative;

Provided that -

a) the overseas branch/office has been set up or representative is posted overseas for conducting normal business activities of the Indian entity;

b) the total remittances made under this sub-Regulation by the Indian entity, to all such accounts in an accounting year shall not exceed

(i) 2 per cent of the average annual sales/income or turnover during last two accounting years of the Indian entity, where the remittances are made to meet initial expenses of the branch or office or representative,

and

(ii) 1 per cent of such average annual sales/income or turnover where the remittances are made to meet recurring expenses of the branch or office or representative;

c) the overseas branch/office/representative shall not enter in any contract or agreement in contravention of the Act, Rules or Regulations made thereunder;

d) the account so opened, held or maintained shall be closed,

a. if the overseas branch./office is not set up within six months of opening the account, or
b. within one month of closure of the overseas branch/office, or
c. where no representative is posted for six months.

and the balance held in the account shall be repatriated to India;

Provided further that the restriction contained in clause (b) of the first proviso shall not apply in a case where -

- a) the remittances to the account maintained under this sub-Regulation are made out of funds held in EEFC account of the Indian entity, or
- b) the overseas branch/office is set up or representative posted by a 100% EOU or a unit in EPZ or in a Hardware Technology Park or in a Software Technology Park, within two years of establishment of the Unit.

Explanation: For the purpose of this sub-Regulation,

- (A) Purchase or acquisition of Office equipments and other assets required for normal business operations of the overseas branch/office/representative will not be deemed as a capital account transaction;
- (B) Transfer or acquisition of immovable property outside India, other than by way of lease not exceeding five years, by the overseas branch/office/representative will be subject to the Foreign Exchange Management (Acquisition and Transfer of Immovable Property outside India) Regulations, 2000”.

(K. J. Udeshi)
Executive Director

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