

A.D. (M.A. Series) Circular No.12

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

A.D. (M.A. Series) Circular No.12

April 24, 1999

To

All Authorised dealers in foreign exchange

Dear Sirs,

Amendments to the Exchange Control Manual (ECM)

Please refer to paragraphs 22, 23 and 26 of the Statement on Monetary and Credit Policy for the year 1999-2000 which was announced on 20th April 1999. Following instructions are issued in implementation of the decisions announced in the above-referred paragraphs.

1. Forward exchange cover for Foreign Institutional Investors (FIIs) - Equity investment

1.1 Hitherto, authorised dealers were permitted to provide forward exchange cover to FIIs to the extent of 15 per cent of the market value of their investments in equity as at the close of business on 11th June 1998 converted into dollar terms at the rate of U.S.\$ 1 = Rs.42.38 and incremental investments subsequent thereto. It has since been decided to change the cut-off date from 11th June 1998 to 31st March 1999. Accordingly, authorised dealers may provide forward exchange cover to FIIs to the extent of 15 per cent of their outstanding equity investment as at the close of business on 31st March 1999 converted into dollar terms at the rate of U.S.\$ 1 = Rs.42.43, as well as for the entire amount of any additional investment made after 31st March 1999. Existing forward contracts entered into by FIIs in accordance with earlier instructions may, however, be allowed to continue till maturity even if the amount thereof exceeds 15 per cent of the investment outstanding as on 31st March 1999.

1.2 Reserve Bank will consider requests from FIIs for additional limits on a case-by-case basis after the eligible limits have been fully utilised. Such applications should be made to the Chief General Manager, Reserve Bank of India, Exchange Control Department, (Forex Market Division), Central Office, Mumbai together with full particulars of forward exchange facilities already availed of by the FII.

1.3 All other instructions contained in A.D.(M.A. Series) Circular Nos. 19 and 31 dated 16th June 1998 and 20th August 1998 respectively, as also in Circular letter No.EC.FMD.124/02.03.75/98-99 dated 2nd September 1998 on the subject remain unchanged.

2. Credit facilities for overseas trading offices of Indian companies

Please refer to paragraph 9B.1 of the Exchange Control Manual which contains guidelines to authorised dealers for release of exchange for establishment of overseas offices by firms/companies in India. One of the conditions subject to which firms/companies in India are allowed to open offices abroad is that the overseas office should **not** create any financial liabilities, contingent or otherwise, for their Head Office in India.

It has now been decided that Reserve Bank would consider requests from Export Houses/Trading Houses/Star Trading Houses/Super Star Trading Houses for availing of fund based/non-fund based facilities from overseas banks for their trading offices abroad on merits, provided the terms and conditions subject to which such facilities are extended by overseas banks are reasonable.

Applications for this purpose should be made to the Chief General Manager, Reserve Bank of India, Exchange Control Department, Central Office, (EXD), Mumbai with full particulars of the exchange facilities availed of for maintenance of the overseas office, need for availing of credit facilities by overseas trading office and terms and conditions subject to which the credit facilities have been offered by the overseas bank(s).

3. Exchange Earners Foreign Currency (EEFC) Accounts

3.1 Please refer to Part D of Chapter 14 of Exchange Control Manual regarding Exchange Earners Foreign Currency Accounts. It has now been decided that authorised dealers may allow the EEFC account holders the facility of making payments from such accounts for eligible purposes by issue of cheques to the beneficiaries of the payments. This facility may be introduced with effect from 1st May 1999. For this purpose, authorised dealers may issue separate cheque books to EEFC account holders which should be distinct from the cheques issued on domestic rupee accounts or NRE accounts and should be superscribed with the words "EEFC Account". Authorised dealers may fix their own requirement of minimum balance in the account for being eligible to avail of the cheque facility. Authorised dealers should, while providing the cheque facility to the EEFC account holders, advise them that while issuing cheques for making payments in foreign exchange out of funds held in EEFC account, they should ensure that the cheques are issued for payments for approved purposes only and the relevant exchange control regulations are complied with.

3.2. The account holder, within a period of seven days from the date of issue of cheque, should submit an application in form A1/A2 together with the particulars of cheque issued and requisite document to the authorised dealer concerned giving full particulars of payment made by issue of a cheque. The authorised dealer should report the transaction in an appropriate 'R' return as and when the cheque is cleared for payment to the beneficiary. While making the payment of cheque authorised dealer should ensure that the transaction in question is permissible under the current exchange control regulations. Any payment made by issue of a cheque for a

purpose for which use of funds in EEFC account is not permissible should be reported to Reserve Bank promptly with full details.

3.3 Reserve Bank has accordingly issued a Notification No.F.E.R.A. 203/99-RB dated 24th April 1999 (copy enclosed) amending its earlier Notification No.F.E.R.A.36/76-RB dated 10th May 1976, as amended up to 26th April 1993, granting general permission for sending outside India the cheques drawn on EEFC accounts.

4. The contents of this circular may be brought to the notice of constituents concerned.
5. The following consequential amendments may be carried out in the Exchange Control Manual (ECM).

Volume I

- (i) New paragraph 9B.1A may be added as per Slip 1 after paragraph 9B.1 and its entry made in the Index of the said Chapter.
- (ii) New paragraph 14D.8A may be added as per Slip 2 after paragraph 14D.8 and its entry made in the Index of the said Chapter.

Volume II

The existing Notification No.F.E.R.A.36/76-RB dated 10th May 1976 as amended upto 26th April 1993, issued under the Section 13 of Foreign Exchange Regulation Act, 1973 may be replaced by Slip 3.

6. 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

Encls. : 2 Slips

**RESERVE BANK OF INDIA
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Notification No.F.E.R.A.203 /99-RB dated 24th April 1999

In pursuance of sub-section (2) of Section 13 of the Foreign Exchange Regulation Act, 1973 (46 of 1973), the Reserve Bank hereby directs that its Notification No.F.E.R.A.36/76-RB dated 10th May 1976 as amended from time to time, (hereinafter referred to as “the said Notification”) shall be further amended in the following manner, namely:-

In the said Notification, in clause (b), after the words and figures “No.F.E.R.A.116/92-RB dated 7th September 1992,” the words and figures “or No.F.E.R.A.183/98-RB dated 22nd April 1998” shall be inserted.

Sd/-
(Jagdish Capoor)
Deputy Governor

Slip 3
[AD/MA/ 12 /1999]

*Notification No.F.E.R.A.36/76-RB dated 10th May 1976 as amended
up to 24th April 1999 vide Notification No.F.E.R.A. 203 /99-RB
dated 24 th April 1999*

Export of Cheques, Drafts, Foreign Exchange, etc.

G.S.R.949 In pursuance of sub-section (2) of Section 13 of the Foreign Exchange Regulation Act, 1973 (46 of 1973) and in supersession of the Notification of the Reserve Bank of India No.F.E.R.A.25/47-RB dated 10th July 1947, as amended from time to time, the Reserve Bank is pleased -

- (a) to permit the authorised dealers to send out of India foreign currency in the form of coins, currency notes, cheques, drafts or bills of exchange which have been acquired in the normal course of their business and within the terms of their authorisations;
- (b) to permit any person maintaining an account in accordance with the provisions of the Notification of the Reserve Bank of India No.F.E.R.A.116/92-RB dated 7th September 1992 or F.E.R.A.183/98-RB dated 22nd April 1998.

Slip 1
[AD/MA/ 12 /1999]

**Credit facilities for overseas trading
offices of Indian companies**

9B.1A Reserve Bank considers, on merits, request from Export Houses/Trading Houses/Star Trading Houses/Super Star Trading Houses to avail of fund based/non-fund based facilities for

their trading offices abroad from overseas banks. Application in such cases should be made to the Chief General Manager, Reserve Bank of India, Exchange Control Department (Export Division), Mumbai together with full particulars of the exchange facilities availed of for maintenance of the overseas office concerned, full details of terms and conditions subject to which the facilities are being extended by the overseas bank and the need for availing of the credit facilities by the overseas trading office.

Slip 2
[AD/MA/ 12 /1999]

Issue of cheques against EEFC balances

14D.8A i) Authorised dealers may allow EEFC account holders the facility of making payments from such accounts for eligible purposes by issue of cheques to the beneficiaries of the payment. In order to facilitate easy identification of cheques drawn on EEFC accounts, authorised dealers may issue to their constituents maintaining EEFC accounts with them, separate cheque books containing a special series of cheques distinct from cheques issued on domestic rupee accounts and NRE accounts superscribed with the words “EEFC Account”. Authorised dealers may fix their own requirement of minimum balance in the account for being eligible to avail of cheque facility. While allowing the above facility authorised dealers should advise the EEFC account holders that while issuing cheques for making payments in foreign exchange out of funds held in EEFC accounts, they will ensure that the cheques are issued for payments for approved purposes only and the relevant exchange control regulations are complied with.

ii) EEFC account holders should immediately after issue of the cheque, but in any case not later than seven days, submit an application to authorised dealer on form A1 or A2, as the case may be, together with supporting documents giving full particulars of transaction for which cheque was issued.

iii) While making payment of cheques issued on EEFC account, authorised dealers should satisfy themselves that the transaction in question is permissible under the current exchange control regulations. Any payment made by issue of a cheque for a purpose for which use of funds held in EEFC account is not permissible should be reported to Reserve Bank promptly.

iv) The transaction should be reported in appropriate “R” return when the cheque is cleared for payment.
