

**A.D. (M.A. Series) Circular No.11 (May 16, 2000)**

**Reserve Bank of India  
Exchange Control Department  
Central Office  
Mumbai 400 001**

A.D. (M.A. Series) Circular No.11

May 16, 2000

To,

All authorised dealer in Foreign Exchange

**Foreign Exchange Management Act, 1999**

The Government of India, Ministry of Finance, vide Notification No.GSR(371)(E) dated 1<sup>st</sup> May 2000 has notified that the Foreign Exchange Management Act, 1999 (42 of 1999) shall come into force on the 1<sup>st</sup> day of June 2000. To give effect to the provisions of the Act the Government of India have, among others, made Foreign Exchange Management (Current Account transactions) Rules 2000 under Section 5 read with Section 46 of the Act. The Reserve bank has also made Regulations/ issued Notifications under various provisions of the Act. Copies of the Foreign Exchange Management Act, 1999 (42 of 1999), Rules made by Government and Regulations made/Notifications issued by the Reserve Bank under the Act are enclosed. Authorised dealers may carefully study the provisions of the Act, Rules/Regulations/notifications, since all foreign exchange transactions taking place with effect from 1<sup>st</sup> June 2000, will be governed by the provisions of the Foreign Exchange Management Act, 1999, Rules, Regulations, Notifications/directions or orders made or issued thereunder. The Foreign Exchange Regulation Act, 1973 stands repealed from 1<sup>st</sup> June 2000.

2. The synopsis of the important provisions of the Rules made by Government regulating certain current account transactions and Regulations made by the Reserve Bank under various provisions of the Act have been given in the Annexures as under :-

Annexure I -Rules relating to Current Account transactions

Annexure II -Regulations relating to Capital Account transactions

Annexure III -Regulations relating to export of goods and services

Annexure IV -Other regulations/notifications issued by Reserve Bank

3. Pending issue of further instructions authorised dealers may be guided by the existing provisions of the Exchange Control Manual referred to in 'Annexure V' as also in other Annexures to this circular.

4. In terms of Section 10(1) of the FEMA, 1999 Reserve Bank is empowered to authorise any person to be known as authorised person to deal in foreign exchange as an authorised dealer or money changer. All authorised dealers and money changers who have been issued licences by Reserve Bank and functioning as on 31<sup>st</sup> May 2000 shall be deemed as authorised persons, authorised by Reserve Bank to deal in foreign exchange as authorised dealers or as authorised money changers, for the purpose of Section 10(1) of the Act. The directions contained in this circular shall be applicable, mutatis-mutandis to Money Changers and they shall continue to be governed by the provisions of Memorandum FLM/RLM, as amended from time to time.

5. Attention of authorised dealers is drawn to the provisions contained in sub-section (5) of Section 10 of the Act, which provides that before undertaking any transaction in foreign exchange on behalf of any person, he is required to obtain a declaration and such other information from the person (applicant) on whose behalf the transaction is being undertaken that will reasonably satisfy him that the transaction is not designed to contravene or evade the provisions of the Act or any of the Rules or Regulations made or Notifications or directions or orders issued under the Act. Authorised dealers should preserve the information/documents obtained by them from the applicant before undertaking the transactions for verification by the Reserve Bank.

6. With a view to maintaining uniform practices authorised dealers may consider prescribing requirements or documents to be obtained by their branches to ensure compliance with provisions of sub-section (5) of Section 10 of the Act.

7. The above referred provision of the Act also provides that in case the person on whose behalf the transaction is being undertaken refuses or does not give satisfactory compliance of the requirements of an authorised person, he shall refuse in writing to undertake the transactions. Where an authorised person has reasons to believe that a contravention or evasion of the Act or the Rules or Regulations made or Notifications issued thereunder was contemplated in the transaction that he has refused to undertake, he shall report the matter to the Reserve Bank.

8. Exporters of goods may be advised that for the time being until new sets of GR/PP forms are printed they may use the existing GR/PP forms by suitably modifying the undertaking/declarations contained therein on the lines of undertaking/declarations contained in the revised GR/PP forms attached to the Schedule to Foreign Exchange Management (Export of goods and services) Regulations, 2000.

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

10. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and these shall come into force from 1st June 2000. Any contravention or non-observance of these directions is subject to the penalties prescribed under the Act.

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

**Annexure I**

**Remittance for Current Account Transactions**

**Government of India Notification No.GSR(381)E dated 3rd May 2000**

1. In terms of provisions of Section 5 of Foreign Exchange Management Act, any person may sell or draw foreign exchange to or from an authorised dealer if such sale or withdrawal is a current account transaction.

The proviso to Section 5 empowers Government of India, in public interest and in consultation with the Reserve Bank to impose reasonable restrictions on certain current account transactions.

2. The Government of India have accordingly issued a Notification No.GSR 381(E) dated 3<sup>rd</sup> May 2000 notifying the Foreign Exchange Management (Current Account Transactions) Rules, 2000 in terms of which drawal of exchange for certain transactions has been prohibited and restrictions have been placed on certain transactions.

3. In terms of the Rules 3, drawal of exchange for the following transactions is prohibited.

- (i) Travel to Nepal or Bhutan
- (ii) Transactions with a person resident in Nepal or Bhutan (unless specifically exempted by Reserve Bank by general or special order)
- (iii) Remittance out of lottery winnings
- (iv) Remittance of income from racing/riding etc. or any other hobby.
- (v) Remittance for purchase of lottery tickets, banned/proscribed magazines, football pools, sweepstakes, etc.
- (vi) Payment of commission on exports made towards equity investment in Joint Ventures/Wholly Owned Subsidiaries abroad of Indian companies.
- (vii) Remittance of dividend by any company to which the requirement of dividend balancing is applicable.
- (viii) Payment of commission on exports under Rupee State Credit Route.

- (ix) Payment related to “Call Back Services” of telephones.
  - (x) Remittance of interest income on funds held in Non-Resident Special Rupee (NRSR) account scheme.
4. Exchange facilities for transactions included in Schedule II to the Rules may be permitted by authorised dealers provided the applicant has secured the approval from the Ministry/Department of Government of India indicated against the transactions.
5. In respect of transactions included in Schedule III where the remittance applied for exceeds the limit, if any, indicated in the schedule or other transactions included in Schedule III for which no limit have been stipulated would require prior approval of Reserve Bank.
6. Remittances for all other current transactions which are not specifically prohibited under the Rules or which are not included in Schedule II or III may be permitted by authorised dealers without any monetary/percentage ceilings subject to compliance with the provisions of sub-section (5) of Section 10 of the Act. Remittances for transactions included in Schedule III may be permitted by authorised dealers upto the ceilings prescribed therein.
7. For removal of doubts, it is clarified that –
- i) The existing procedure to be followed by Indian companies for entering into collaboration arrangements with overseas collaborators would continue.
  - ii) There would be no restriction regarding receipt of advance payment or back to back letter of credit for merchanting trade transactions.
  - iii) In terms of Notification No.FEMA 3/2000-RB i.e. Foreign Exchange Management (Borrowing or lending in foreign exchange) Regulations, 2000 approval of Reserve Bank would be required for importers availing of Supplier’s Credit beyond 180 days and Buyer’s Credit irrespective of the period of credit.
  - iv) Transactions relating to import of shipstores into bond for supply to Indian/foreign flag vessels, Indian Naval ships, foreign diplomatic personnel will no more be regulated by Reserve Bank.
  - v) Remittance of surplus freight/passage collections by shipping/airline companies or their agents, remittances by break bulk agents, multimodal transport operators, remittance of freight pre-paid on inward consolidation of cargo, operating expenses of Indian airline/shipping companies etc. may be permitted by authorised dealers after verification of documentary evidence in support of the remittance.

8. The Reserve Bank will not prescribe the documentation which should be verified by the authorised dealers while permitting remittances for various transactions, particularly of current account. In this connection attention of authorised dealers is drawn to sub-section (5) of Section 10 of the Foreign Exchange Management Act, 1999 which provides that an authorised person shall before undertaking any transaction in foreign exchange on behalf of any person require that person to make such a declaration and to give such information as will reasonably satisfy him that the transaction will not involve and is not designed for the purpose of any contravention or evasion of the provisions of the Act or of any rule, regulation, notification, direction or order issued thereunder. Authorised dealers are advised to keep on record any information/documentation on the basis of which the transaction was undertaken for verification by the Reserve Bank. The said clause further provides that where the said person (applicant) refuses to comply with any such requirement or makes unsatisfactory compliance therewith, the authorised person shall refuse in writing to undertake the transaction and shall if he has reason to believe that any contravention/evasion is contemplated by the person, report the matter to Reserve Bank.

## Annexure II

### **Regulations relating to Capital Account Transactions**

Section 6 of the Act provides powers to Reserve Bank to specify in consultation with the Central Government the classes of permissible Capital Account transactions and limits upto which exchange is admissible for such transactions. Section 6 (3) provides powers to Reserve Bank to prohibit, restrict or regulate various transactions referred to in the sub-clauses of that sub-section, by making Regulations.

The contents of the Regulations made by the Reserve Bank to regulate Capital account transactions of various types are explained in the following paragraphs.

#### **1. Foreign Exchange Management (Permissible Capital Account transactions) Regulations, 2000 - Notification No.FEMA 1 /2000-RB dated 3rd May 2000.**

These regulations have been made under Section 6 (2) of the Act. In terms of these regulations investment in India by a person resident outside India in any company or partnership firm or proprietary concern which is engaged in the business of Chit Fund or as a Nidhi Company or in Agricultural or Plantation activities or in Real Estate business (other than development of townships, construction of residential / commercial premises, roads or bridges) or construction of farm houses or trading in Transferable Development Rights (TDRs) is prohibited.

Schedule I to the Regulations specifies the permissible classes of Capital account transactions of a person resident in India and Schedule II specifies the permissible classes of such transactions by a person resident outside India.

The extent upto which such transactions can be undertaken by a person resident in India or by a person resident outside India, the terms and conditions subject to which such transactions can be undertaken by such persons have been specified in Regulations made under various clauses of Sub-section (3) of Section 6 of the Act, as also under Section 47 of the Act which provides powers to Reserve Bank to make Regulations to carry out the provisions of the Act.

**2. Foreign Exchange Management (Issue of Security in India by a branch, office or agency of a person resident outside India) Regulations, 2000 –**

**Notification No.FEMA 2/2000-RB dated 3rd May 2000.**

In terms of the above Regulations any transfer or issue of any security or a foreign security in India by a branch, office or agency in India of any person resident outside India which is not covered by the provisions of the Act or Rules or Regulations made under the Act would require prior approval of the Reserve Bank.

**3. Foreign Exchange Management (Borrowing or lending in Foreign Exchange) Regulations, 2000 –**

**Notification No. FEMA 3/2000-RB dated 3rd May, 2000**

(i) These regulations relate to the borrowing or lending in foreign exchange by a person resident in India. In terms of these Regulations approval of Reserve Bank would be necessary for any borrowing or lending in foreign exchange by any person resident in India except those covered in Regulations Nos. 4 and 5.

(ii) The existing schemes namely the US\$ 5 million scheme, US\$ 10 million scheme (cf. paragraph 7B.8A of ECM) and scheme for raising of foreign currency loans by residents from Non-resident Indians not exceeding US\$ 2,50,000 (explained in the schedule) would continue to be operated by Reserve Bank. Any foreign currency borrowing which is not covered by these schemes or by the provisions of Regulations Nos. 4 & 5 would require approval of Government of India as well as Reserve Bank of India. Any lending by a person resident in India to a person resident outside India which is not covered by Regulations Nos. 4 and 5 of these Regulations would also be subject to Reserve Bank's approval.

**4. Foreign Exchange Management (Borrowing and lending in Rupees) Regulations, 2000–**

**Notification No.FEMA 4/2000-RB dated 3rd May 2000**

(i) These regulations relate to borrowing and lending in rupees by a person resident in India from/to a person resident outside India.

(ii) Regulation No.4 provides for permission for borrowings in rupees by a person resident in India on non-repatriation basis from NRIs subject to the conditions referred to

therein. This corresponds to general permission granted vide erstwhile Notification No.FERA 200/99-RB dated 30th March 1999 (cf. Paragraph 10D.8 of ECM).

(iii) Regulation No.5 provides for general permission for borrowings by an Indian company from NRIs/OCBs on non-repatriation/repatriation basis subject to terms and conditions specified therein by issue of non-convertible debentures. These provisions correspond to the provisions of erstwhile Notification No.FERA 213/99-RB dated 1st November 1999 [cf. paragraph 10C.7(ii) and 10C.15 of the ECM].

(iv) Regulation No. 6 provides for restrictions on use of borrowed fund.

(v) Regulation No. 7 provides for general permission to authorised dealers to grant rupee loans to NRIs against security of shares or immovable property in India subject to the conditions specified therein (corresponding to the provision of paragraph 10D.2(i) of the ECM.)

(vi) Regulation No. 8 provides for grant of rupee loans by authorised dealer or housing finance institutions approved by National Housing Bank to NRIs for acquisition of residential accommodations subject to the terms and conditions referred to therein (corresponding to paragraph 10D.2(ii) and (iii) of the ECM).

(vii) Regulation No. 11 provides for permitting an overdraft by an authorised dealer in rupee accounts of its overseas branches/correspondents/Head office not exceeding five hundred lakhs in aggregate. Authorised dealers may follow the instructions contained in paragraph 5A.10 of the ECM, in this regard.

(viii) Any borrowing or lending in rupees by a person resident in India from/to a person resident outside India which is not covered by the provisions of the Act or Rules or these Regulations would require approval of Reserve Bank.

## **5. Foreign Exchange Management (Deposit) Regulations, 2000 – Notification No.FEMA 5/2000-RB dated 3rd May, 2000**

These regulations relate to the deposits between a person resident in India and a person resident outside India –

(i) Regulation No. 4 contains permission for opening rupee/foreign currency deposit accounts by certain persons, viz.

(a) Rupee/foreign currency accounts by foreign diplomatic missions and diplomatic personnel or their family members with an authorised dealer subject to conditions mentioned in the Regulation.

(b) Deposits with authorised dealers in rupees by a person resident in Nepal and Bhutan.

- (c) Deposits with authorised dealers by United Nations Organisation and its subsidiary/affiliate bodies in India and its officials in India.
- (ii) Regulation No. 5 provides for deposit accounts opened with authorised dealers by a person resident outside India under various schemes. Details of the schemes have been given in the respective schedules.

A) Schedule 1 – Non-Resident (External) Account Scheme

The terms and conditions subject to which NRE accounts of NRIs/OCBs can be maintained by authorised dealers or authorised banks have been specified in the schedule. Generally, there is no change in the existing NRE account scheme contained in Part B of Chapter 13 of ECM except that the limit for permitting overdraft in the account has been raised from Rs.20,000 to Rs.50,000. For the purpose of reporting to Reserve Bank authorised dealer/banks may follow the instructions contained in paragraph 13B.25 of ECM.

B) Schedule II – Foreign Currency (Non-Resident) Account (Banks) Scheme [FCNR(B)Scheme]

The terms and conditions subject to which authorised dealers may open and maintain foreign currency accounts of NRIs/OCBs under FCNR(B) schemes are specified in this schedule. Generally, there is no change in the existing FCNR(B) scheme contained in Part B of Chapter 14 of ECM.

As regards submission of data on inflows, outflows and outstanding deposits under the scheme authorised dealers may follow the procedure contained in paragraph 14B.10 of ECM.

C) Schedule 3 – Non-Resident Ordinary Rupee (NRO) Account Scheme

The terms and conditions subject to which authorised dealers may open and maintain NRO accounts have been specified in this schedule, which are similar to those contained in Part A – Section I of Chapter 13 of ECM, except that the ceiling on permitting overdraft in such accounts has been dispensed with. Authorised dealers may permit overdraft in such accounts as per their discretion and commercial judgement.

D) Schedule 4 – Non-Resident (Non-Repatriable) Rupee (NRNR) deposit scheme

The terms and conditions subject to which such deposit accounts can be opened by authorised dealers in the name of any non-resident are specified in this schedule which are similar to those contained in Part C of Chapter 13 of ECM. Such accounts can be opened by any non-resident.

E) Schedule 5 – Non-Resident (Special) Rupee (NRSR) Account Scheme



The terms and conditions subject to which authorised dealers can open and maintain NRSR account in the name of any NRI/PIO are specified in this schedule, which are same as contained in Part A – Section II of Chapter 13 of ECM. In terms of the provisions of this Schedule, NRSR accounts will also be allowed to be opened and maintained by banks authorised to maintain accounts of non-residents, subject to the provisions of the Schedule.

F) Schedule 6 – Acceptance of deposit by a company in India from NRIs on repatriation basis

A company incorporated in India including NBFC registered with Reserve Bank has been granted general permission to accept deposits from NRIs on repatriation basis subject to terms and conditions specified in the schedule. General permission has also been granted for repayment of deposits by the company which has accepted deposits under the Scheme by inward remittance or by credit to NRE/FCNR account maintained with an authorised dealer/bank in India subject to the conditions specified in paragraph (x) of the Schedule.

G) Schedule 7 – Acceptance of deposits by Indian proprietorship concern/firm or a company from NRIs on non-repatriation basis

General permission has been granted to Indian proprietorship concern/firm or a company (including Non-Banking Finance Company) registered with Reserve Bank to accept deposits from NRIs on non-repatriation basis subject to the terms and conditions specified in this schedule. The terms and conditions are similar to those stipulated in paragraph 10C.10(i) of ECM and erstwhile Notification No.FERA 196/99-RB dated 30th March 1999.

(iii) General permission has been granted for retention of funds raised through external commercial borrowings or raising of resources through ADRs/GDRs in deposit with a bank outside India pending their utilisation or repatriation in India.

(iv) General permission has been granted to Indian companies to accept deposits from NRIs/OCBs by issue of a commercial paper subject to terms and conditions specified in Sub-Regulation (2) of Regulation No.8.

(v) Opening of an Escrow Account with an authorised dealer in India for the purpose of routing counter-trade transactions would require approval of Reserve Bank in terms of Regulation No.9.

Any deposit between a person resident in India and a person resident outside India which is not covered by the provisions of the Act or these Regulations would require approval of Reserve Bank.

**6. Foreign Exchange Management (Acquisition and transfer of immovable property outside India) Regulations, 2000 – Notification No.FEMA 7/2000-RB dated 3rd May 2000.**

In terms of these Regulations, acquisition or transfer of any immovable property outside India by a person resident in India would require prior approval of Reserve Bank except in the following cases –

- (i) Property held outside India by a foreign citizen resident in India;
- (ii) Property acquired by a person on or before 8th July 1947 and held with the permission of Reserve Bank;
- (iii) Property acquired by way of gift or inheritance from persons referred to in (ii) above;
- (iv) Property purchased out of funds held in RFC account.

General permission has also been granted to a person resident in India for transfer of a property acquired by him in terms of sub-paragraph (iii) & (iv) above to his relative as specified in the Explanation to Regulation No.5, who is also a person resident in India.

**7. Foreign Exchange Management (Guarantees) Regulations, 2000 - Notification No.FEMA 8/2000-RB dated 3<sup>rd</sup> May 2000**

- (i) In terms of these Regulations, except with the permission of Reserve Bank, giving a guarantee or a surety or undertaking any transaction which has the effect of guaranteeing a debt or obligation or other liability owed by a person resident in India to or incurred by a person resident outside India, requires approval of Reserve Bank except where issue of such a guarantee or surety is permissible under the Regulations.
- (ii) General permission has been granted by Reserve Bank to authorised dealers to issue guarantees in respect of transactions specified in Regulation No. 4.
- (iii) In terms of Regulation No.5 general permission has also been granted to –
  - (a) Indian exporters executing projects for giving performance guarantees and guarantees for availing of credit facilities from banks/financial institutions outside India provided the approval for executing the project abroad has been secured from the Working Group , Exim Bank or an authorised dealer, as the case may be;
  - (b) an Indian company who is setting up a joint venture or wholly owned subsidiary abroad in favour of or on behalf of the overseas JV/WOS subject to compliance with the provisions of Regulations governing direct

investment in JV/WOS abroad. Such a guarantee can also be issued by an authorised dealer on behalf of Indian company;

- (c) agents in India of foreign shipping or airline companies on behalf of their principals in favour of any statutory or Government authority in connection with the obligations owned by the principals to such authorities.

**8. Foreign Exchange Management (Insurance) Regulations, 2000 - Notification No.FEMA 12/2000-RB dated 3<sup>rd</sup> May 2000**

(i) The Regulations provide that except to the extent provided in the Act or rules or regulations taking out of a general or life insurance policy from an insurer outside India would require approval of Reserve bank.

(ii) In terms of Regulation No.4, a foreign national temporarily resident in India can continue to hold insurance policy taken by him from an insurer outside India if premium on such policy is paid out of his foreign currency resources abroad.

(iii) General permission has also been granted to a person resident in India to -

- (a) take or hold a general insurance policy issued by a foreign insurer provided the person has obtained Central Government's approval;
- b) continue to hold any insurance policy issued by an insurer abroad when such person was resident outside India provided premium on such policy is paid out of his foreign currency account abroad or out of RFC account held with an authorised dealer in India. In such cases the maturity proceeds/claims can be credited to the foreign currency account maintained abroad or to RFC account with an authorised dealer in India.

If, however, such life insurance policy is in force for not less than 3 years, the premium due thereon can be paid by remittance from India through an authorised dealer. In such cases the amount of maturity proceeds or claims have to be repatriated to India within seven days from receipt thereof.

**9. Foreign Exchange Management (Remittance of Assets) Regulation, 2000 – Notification No.FEMA 13/2000-RB dated 3<sup>rd</sup> May, 2000**

Remittance of capital assets in India held by a person whether resident in or outside India would require approval of the Reserve Bank except to the extent provided in the Act or Rules or Regulations made under the Act.

(i) Under the existing provisions (paragraph 11D.5 of ECM) remittance of assets by foreign nationals not permanently resident in India, on their retirement from India were allowed by Reserve Bank in instalments. Similarly, foreign born widows of Indian

nationals were also permitted by Reserve Bank to transfer their assets by remittance from India in instalments (cf. Paragraph 11D.6 of ECM).

(ii) In terms of Regulation No.4, authorised dealers have been permitted to allow remittance of assets of a person referred to in sub-Regulation (2) who has retired from India or who has inherited assets from a person who was a resident of India, or remittance of assets in India of a foreign born widow of an Indian national resident outside India in annual instalments of Rs.20 lakhs subject to the terms and conditions mentioned therein.

(iii) Authorised dealers have been permitted to allow remittance of balance amount held in a bank account by a foreign student after completion of his studies.

(iv) General permission has also been granted to Indian entities to make remittance towards their share of contribution to provident fund or superannuation/pension fund in respect of their expatriate staff who are resident in India but not permanently resident therein.

(v) Remittance of winding up proceeds of a branch in India, remittance of legacy, bequest or inheritance or remittance of assets on hardship grounds would require approval of Reserve Bank as stated in Regulation 6.

**10. Foreign Exchange Management (Acquisition and transfer of immovable property in India) Regulations, 2000 –  
Notification No.FEMA 21/2000-RB dated 3rd May, 2000.**

(i) Except under the provisions of the Act or rules or regulations made thereunder, acquisition or transfer of immovable property in India by a person including an Indian citizen resident outside India would require approval of Reserve Bank.

(ii) In terms of Section 6(5) of the Act a person resident outside India can hold own or transfer immovable property in India if such property was acquired by him when he was a resident in India or inherited from a person resident in India.

(iii) In terms of Regulation No.3, an Indian citizen resident outside India is permitted to –

(a) acquire any immovable property in India other than agricultural/plantation property or a farm house;

(b) transfer any property in India to a person resident in India;

(c) transfer any property other than agricultural or plantation property or a farm house to an Indian citizen or a person of Indian origin as defined in Regulation 2(c), resident outside India.

- (iv) In terms of Regulation No.4 a person of Indian origin has been permitted to –
- (a) acquire immovable property other than agricultural land/plantation property or a farm house by way of purchase subject to the conditions mentioned in clause (a) of the Regulation;
  - (b) acquire any immovable property other than agricultural land/plantation property/farm house by way of gift from an Indian citizen resident outside India or from a PIO;
  - (c) acquire property by inheritance subject to the conditions stipulated in clause (c) of the Regulation;
  - (d) transfer by way of sale any immovable property other than agricultural/plantation property or a farm house by way of sale to a person resident in India;
  - (e) transfer agricultural land/farm house or plantation property by way of gift or sale to an Indian citizen resident in India.
- (v) A branch or office in India of a foreign entity other than a liaison office has been permitted to acquire immovable property which is necessary for or incidental to the activity carried on in India by such branch or office subject to the terms and conditions mentioned in Regulation No.5. Such property can also be mortgaged to an authorised dealer as a security for any borrowing by a branch or office.
- (vi) Authorised dealers have been permitted to allow remittance of sale proceeds of property other than agricultural/plantation property or a farm house to an Indian citizen resident outside India or a PIO as defined in clause (c) of Regulation No.2 who has sold the property in India subject to the terms and conditions stipulated in Regulation No. 6.
- (vii) A person who is a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal or Bhutan requires approval of Reserve Bank for acquisition or transfer of property in India other than lease not exceeding 5 years, in terms of Regulation No.7.

**11. Foreign Exchange Management (Establishment in India of a branch or office or other place of Business) Regulations, 2000 – Notification No.FEMA 22/2000-RB dated 3rd May, 2000**

- (i) In terms of these Regulations establishment of a branch or liaison office or project office or any other place of business in India by any entity resident outside India other than a banking company requires approval of Reserve Bank. The application for permission should be made to Reserve Bank, Central Office in Form FNC 1. A banking company registered or incorporated outside India has been permitted to open a branch or office in India if it has obtained necessary permission under the Banking Regulation Act, 1949.

(ii) In terms of Regulation No.4, persons who are citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, Iran or China require approval of Reserve Bank for opening of a branch or office or a place of business in India.

(iii) The list of permissible activities which can be undertaken by a branch or a liaison office have been specified in the schedules. A project or site office has been permitted to undertake activities relating and incidental to execution of project in India.

(iv) Authorised dealers have been permitted to allow remittance of profit by a branch and remittance of surplus after completion of the project by the project office subject to terms and conditions specified in Regulation No. 7.

**12. Foreign Exchange Management (Investment in Firm or Proprietary concern in India) Regulation 2000 – Notification No.FEMA 24/2000-RB dated 3<sup>rd</sup> May 2000.**

(i) These regulations provide that except as otherwise provided in the Act or rules or regulations made or directions or orders issued thereunder, any investment by way of contribution to the capital of a firm or a proprietary concern or association of persons in India by a person resident outside India requires prior approval of Reserve Bank.

(ii) In terms of Regulation No.4, Reserve Bank has granted general permission to an Indian citizen or a PIO [as defined in Regulation 2(vi)] resident outside India to make investment by way of contribution to the capital of a firm or a proprietary concern in India on non-repatriation basis subject to conditions mentioned therein.

(iii) In terms of Regulation No.5, general permission has also been granted to a firm or proprietary concern to make payment in rupees to or for credit of the non-resident Indian or a person of Indian origin the amount invested in the said firm/concern and income accruing on such investment by way profit to such person.

(iv) There is no change in the existing regulations governing such investment by NRIs/PIOs in a firm/proprietary concern on non-repatriation basis.

**13. Foreign Exchange Management (Export and Import of Currency) Regulations, 2000 – Notification No.FEMA 6/RB-2000 dated 3<sup>rd</sup> May, 2000**

The Regulations relate to export and import of Indian currency and foreign currency from/into India.

2. There is no change in the existing regulations for export/import of Indian currency/foreign currency from/into India contained in Part G of Chapter 6 and Part D of Chapter 7 of ECM except that –

- i) A person is permitted to take out of India while on a visit to a foreign country other than Nepal or Bhutan Indian currency notes upto Rs.5000 in aggregate. Such a person is also permitted to bring back in Indian currency notes not exceeding Rs.5000 while returning to India (Earlier these limits were Rs.1000/-).
- ii) Regulations for export and import of Indian currency to/from Nepal are applicable to Bhutan also.

**14. Foreign Exchange Management (Transfer or issue of any Foreign Security) Regulations, 2000**

**Notification No.FEMA 19/RB-2000 dated 3rd May 2000**

These regulations seek to regulate acquisition and transfer of a foreign security by a person resident in India i.e. investment by Indian entities in overseas joint ventures and wholly owned subsidiaries as also investment by a person resident in India in shares and securities issued outside India.

- (2) (i) In terms of Regulation No. 4, general permission has been granted to residents for purchase/acquisition of securities –
- (a) out of funds held in RFC account;
  - (b) issued as bonus shares on existing holding of foreign currency shares; and
  - (c) sale of shares/securities so acquired.
- (ii) General permission has also been granted to a person resident in India for purchase of securities out of their foreign currency resources outside India as also for sale of securities so acquired.

(3) For the purpose of investment in foreign securities in other cases the Regulations have been divided in two parts viz. –

- Part I - Direct Investment outside India  
Part II - Investment in Foreign securities other than by way of Direct investment

**Part I – Direct Investment abroad**

(4) Any Indian party [as defined in clause (k) of Regulation 2] has been permitted to make investment in overseas joint venture/wholly owned subsidiary to the extent and subject to the conditions mentioned below :-

- (a) Investment upto US\$ 50 mn. or its equivalent in a block of three financial years, except investment in Nepal & Bhutan;
- (b) Investment in Indian Rupees upto Rs.120 crores in Nepal and Bhutan in a block of three financial years.

**Explanation :**

The ceiling will include contribution to the capital of the overseas JV/WOS, loan granted to the JV/WOS, and 50% of guarantees issued to or on behalf of the JV/WOS.

- (c) The investment should be in a foreign entity engaged in the same core activity [as defined in clause (d) of Regulation No. 2] carried on by Indian company;
  - (d) The Indian party should have earned net profit during preceding three accounting years.
  - (e) The Indian party should not have been on Reserve Bank's caution list or under investigation by Enforcement Directorate.
  - (f) All transactions relating to a joint venture/wholly owned subsidiary should be routed through a branch of an authorised dealer to be designated by the Indian party.
- (5) Such an investment may be funded out of one or more of the following sources :-
- i) Balances held in EEFC account of Indian party;
  - ii) By remittance from India upto the extent of 25 per cent of Indian party's net worth as on the last audited balance sheet;
  - iii) Utilisation of 50 per cent of proceeds of foreign currency funds raised through ADR/GDR issues.

Where the investment is entirely funded out of balances in EEFC account and/or out of proceeds of ADR/GDR issues the conditions referred to in clause (c) & (d) of paragraph 4 will not apply.

**(6) Investment out of funds raised through ADR/GDR issues**

An Indian party is permitted to make direct investment without any monetary limit to the extent of 50 per cent of funds raised through ADRs/GDRs (inclusive of any investment already made out of proceeds of ADRs/GDRs), in terms of Regulation No.6(6).



**(7) Investment in Financial Sector**

Where the Indian party seeks to make investment in an entity outside India engaged in financial sector it should also fulfil the conditions specified in Regulation No. 7.

**(8) Investment under swap or exchange of shares arrangement**

An Indian party engaged in any of the sectors included in Schedule I to these Regulations is permitted to acquire shares of a company outside India which is also engaged in the same activity in exchange of ADRs/GDRs issued to the latter for the shares so acquired, provided –

- a) the investment does not exceed US\$ 100 mn. or its equivalent or
- b) an amount equivalent to 10 (ten) times the export earnings of Indian party during preceding financial year inclusive of any other direct investment made during the same financial year, including investment made under (a) above.

The Indian party acquiring shares under swap or exchange of shares arrangement should comply with the conditions specified in sub-regulation (1) of Regulation No. 8.

**(9) Approval of Reserve Bank**

In all other cases of direct investment abroad which are not covered by general permission referred to in previous paragraphs, Reserve Bank's approval would be required in terms of Regulation No.9(1). For this purpose applications should be made in-

- a) Form ODI if investment in overseas JV/WOS
- b) Form ODB if the investment is by way of swap or exchange of shares.

**(10) Capitalisation of exports and other dues**

The Indian party is permitted to capitalise the payments due from the foreign entity towards exports made to it (other than those which have remained outstanding for more than 6 months) as also fees, royalties or any other payments due from the foreign entity within the ceilings applicable for investment in overseas JVs/WOS in terms of clause (ii) of sub-Regulation (3) of Regulation No.6. The procedure to be followed for capitalisation of payments for exports has been specified in Regulation No.12. The declaration forms and other documents specified in this Regulation should be routed through the designated branch of an authorised dealer.

(11) The Indian party before giving consent to the decisions relating to subject matters specified in clauses (a), (b) & (c) of sub-regulation (1) of Regulation No.13 obtain the permission of Reserve Bank under the circumstances specified in that sub-regulation.

**(12) Acquisition of a foreign company through bidding or tender procedure**

Authorised dealers have been permitted to remit earnest money deposit or issue a bid bond guarantee on behalf of an Indian party for acquisition of a foreign company through bidding and tender procedure and also allow subsequent remittances subject to the provisions of Regulation No. 14.

**(13) Obligation of Indian Party**

The Indian party which has made direct investment abroad under these Regulations is under obligation to (a) receive shares certificate or any other document as an evidence of investment, (b) repatriate to India the dues receivable from foreign entity and (c) submit the documents/Annual Performance Report to Reserve Bank, as specified in Regulation No.15.

**(14) Transfer of shares by way of sale**

Sale of shares of JV/WOS abroad held by an Indian party would require prior approval of Reserve Bank, in terms of Regulation No.16.

(15) The Indian party has been permitted to pledge the shares of JV/WOS to an authorised dealer or a financial institution in India for availing of any credit facility for itself or for the JV/WOS abroad.

(16) Any investment made in terms of Regulations contained in Part I should be reported to Reserve Bank in form ODA as specified in the relevant Regulations.

**Part II – Investment in foreign securities other than by way of direct investment**

(17) An Indian company or a body corporate which has obtained necessary approval of Government of India, Ministry of Finance, Department of Economic Affairs has been permitted to issue Foreign Currency Convertible Bonds (FCCBs) to a person resident outside India. Such a company or body corporate is required to submit to Reserve Bank a report within 30 days form issue of FCCBs as specified in Regulation No. 18(3).

(18) General permission has been granted to a person resident in India –

- a) to acquire foreign securities as a gift from any person resident outside India;
- b) to acquire shares under Cashless Employees Option Scheme issued by a company outside India;

- c) To acquire shares by way of inheritance from a person whether resident in or outside India;
- d) who is an employee or a director of Indian office or branch of a foreign company or of a subsidiary in India of a foreign company or of an Indian company in which foreign equity is not less than 51 per cent to purchase equity shares offered by the said foreign company under the Employee Stock Option Scheme provided (a) such shares are issued at a concessional price and (b) the amount of consideration for purchase of shares does not exceed US\$ 10,000 or its equivalent in a block of 5 calendar years. Authorised dealers have been permitted to allow remittances for purchase of shares under the scheme by eligible persons.

(19) The shares acquired by persons resident in India in accordance with the provisions of the Act, Rules or Regulations made thereunder are allowed to be pledged for obtaining credit facilities in India from an authorised dealer.

(20) Reserve Bank would consider applications from residents for acquisition of foreign securities in following cases –

- a) Acquisition of qualification shares for becoming a director of a company outside India.
- b) Purchase of rights shares of a company outside India provided the consideration therefor does not exceed US\$ 10,000 in a block of five calendar years.
- c) Purchase of shares of a JV/WOS abroad by employees/directors of an Indian promoter company in the field of software subject to the conditions specified in proviso to clause (c) of Regulation No. 21(1).
- d) Purchase of foreign securities under ADR/GDR linked stock option schemes by resident employees of Indian software companies including working directors provided purchase consideration does not exceed US\$ 50,000 or its equivalent in a block of five calendar years.

(21) Reserve Bank would, on application permit Mutual Funds in India to purchase foreign securities subject to such terms and conditions as it may stipulate.

**15. Foreign Exchange Management (Transfer or Issue of Security by a person resident outside India) Regulation, 2000 – Notification No.FEMA 20/2000-RB dated 3rd May 2000**

These regulations seek to regulate investment in India by persons resident outside India i.e. issue of any security by an Indian entity to a person resident outside India and purchase, sale of Indian securities by a person resident outside India.

(2) For the purpose of these Regulations the investment in India by person resident outside India has been divided in five categories and the regulations applicable have been specified in respective schedules, as under :-

- Schedule 1 - Investment under Foreign Direct Investment Scheme
- Schedule 2 - Investment by Foreign Institutional Investors under Portfolio Investment Scheme
- Schedule 3 - Investment by NRIs/OCBs under Portfolio Investment Scheme
- Schedule 4 - Purchase and sale of shares by NRIs/OCBs on Non-repatriation basis
- Schedule 5 - Purchase and sale of securities other than shares or Convertible debentures of an Indian company by Persons resident outside India

(3) Citizens of Bangladesh, Pakistan or Sri Lanka resident outside India and entities in Bangladesh or Pakistan are not permitted to purchase shares or debentures issued by Indian companies or any other Indian security without the prior approval of Reserve Bank, in terms of Regulation No.5.

(4) General permission has been granted in Regulation No. 6 to any person resident outside India to purchase shares/convertible debentures offered on right basis by an Indian company which satisfies the conditions stipulated in sub-regulation (2) of the said Regulation. The right shares so acquired shall be subject to same conditions regarding repatriability as are applicable to original shares.

(5) General permission has been granted to the transferee company or a new company consequent on merger or de-merger or amalgamation of Indian companies subject to the conditions specified in Regulation No. 7.

(6) An Indian company has been permitted to issue shares to its employees or employees of its joint venture/subsidiary abroad, who are resident outside India either directly to such employees or through a Trust subject to the provisions of Regulation No.8.

(7) General permission has been granted in terms of Regulation No. 9 for transfer of shares/convertible debentures by a person resident outside India as under –

- i) for transfer of shares/convertible debentures held by a person resident outside India other than NRI/OCB to any person resident outside India, provided that the transferee should have obtained permission of Central Government if he had any previous venture or tie up in India through investment in any manner or a technical collaboration or trade mark agreement in the same field or allied field in which the Indian company whose shares are being transferred is engaged;
  - ii) NRIs/OCBs are permitted to transfer shares or convertible debentures of Indian company to another NRI/OCB;
  - iii) A person resident outside India is permitted to transfer shares/debentures of an Indian company to a resident by way of gift.
- (8) (i) Transfer of any security by a person resident in India to a person resident outside India would require approval of Reserve Bank.
- (ii) For transfer of existing shares/convertible debentures of an Indian company by a resident to a non-resident by way of sale, the transferor should obtain an approval of the Central Government and thereafter apply to Reserve Bank. In such cases the Reserve Bank may permit the transfer subject to such terms and conditions including the price at which sale may be made.
- (iii) Any other transfer not covered by the aboveresferred provisions or the provisions of the Schedules would require the prior approval of Reserve Bank for which the application should be made on Form TS1. For arriving at the sale price of the shares in such cases the procedure indicated in Regulation 10B.2 should be followed.
- (9) Reserve Bank has granted general permission for remittance of net sale proceeds (net of applicable taxes) of a security sold by a person resident outside India provided -
- (a) the security is held on repatriation basis;
  - (b) security is sold on recognised stock exchange or the Reserve Bank's permission for sale of security and remittance of sale proceeds has been obtained and ;
  - (c) a NOC/Tax Clearance Certificate from Income Tax authorities or an undertaking/declaration as per the provisions of paragraph 3B.10 of ECM has been produced.
- (10) The various Schemes available to persons resident outside India for investment in Indian securities contained in the schedules are explained below.

## **A. Schedule 1 - Foreign Direct Investment Scheme**

### **(i) Reserve Bank's automatic route**

An Indian company which is not engaged in the activity or manufacture of items listed in Annexure A to this Schedule is permitted to issue shares to a person resident outside India upto the extent specified in Annexure B, on repatriation basis, provided –

- a) The issuer company does not require an industrial licence;
- b) The shares are not being issued for acquiring existing shares of another Indian company;
- c) If the person resident outside India to whom the shares are being issued proposes to be a collaborator, he should have obtained Central Government's approval if he had any previous investment/collaboration/tie up in India in the same or allied field in which the Indian company issuing shares is engaged.

(ii) subject to compliance with the provisions of paragraph (i) above an Indian company which proposes to undertake activities in Annexure 'B' is permitted to issue shares/convertible debentures to persons resident outside India out of fresh capital issued for financing expansion programme for carrying on such activities.

(iii) A trading company is permitted to issue shares/convertible debentures to the extent of 51 per cent of its capital to persons resident outside India. The remittance of dividend in respect of such shares would be permissible only when the company secures registration as an Export/Trading/Star Trading House.

(iv) A SSI Unit which is not engaged in activity or manufacture of items included in Annexure 'A' to this Schedule may issue shares to non-residents upto 24 percent of its capital. Such a company is permitted to issue shares beyond 24 per cent subject to ceilings specified in Annexure 'B' if (a) it gives up SSI status and (b) it is not engaged or does not propose to engage in manufacturing of items reserved for SSI sector.

(v) EOUs or units in Free Trade Zones or in Software/Electronic Hardware Technology Parks are permitted to issue shares to persons resident outside India beyond 24 percent subject to compliance with ceilings indicated in Annexure 'B'.

(vi) Issue of shares by an Indian company to a person resident outside India which are not covered by the provisions of sub-paragraph (i) to (v) above would require approval of SIA or FIPB.

(vii) An Indian company is permitted to issue fresh shares to the depository abroad for the purpose of raising resources through ADR or GDR mechanism subject to the conditions specified in paragraph No. 4 of the Schedule.

(viii) The price of shares to be issued by the Indian company to persons resident outside India should be in accordance with the provisions of paragraph No. 5 of the schedule.

(ix) The remittance of dividend to the persons resident outside India by an Indian company which is engaged in any of the industries in the consumer sector specified in Annexure 'E' or any other activity to which dividend balancing requirement under the Industrial Policy notified by Government of India is applicable, would be subject to the provisions of paragraph No. 6 of the Schedule.

(x) The rate of dividend on preference shares issued by an Indian company to a person resident outside India should not exceed 300 basis points over State Bank of India's prime lending rate, in terms of paragraph No.7 of the Schedule.

(xi) The consideration for issue of shares to persons resident outside India under this scheme should be received either by way of inward remittance through normal banking channels or out of funds held in NRE/FCNR accounts of NRI/OCB investor.

(xii) The Indian company issuing shares to non-residents under this scheme should submit to Reserve Bank, reports as specified in paragraph 9 of the schedule.

(xiii) Reserve Bank's permission is necessary for retention abroad of share subscription received by Indian company from non-residents.

(xiv) It may be noted that there are no separate schemes for NRIs/OCBs for direct investment in India on repatriation basis. NRIs/OCBs are now on par with any other foreign investor and they may invest in the shares/convertible debentures issued by an Indian company under the Foreign Direct Investment Scheme.

## **B. Schedule 2 – Investment by Foreign Institutional Investors (FIIs) Under Portfolio Investment Scheme**

- (i) The existing regulations and procedure for investment by FIIs under Portfolio Investment Scheme remain unchanged.
- (ii) Reserve bank would also consider applications from a domestic asset management company or a portfolio manager registered with SEBI as FII for managing the sub-account to make investment under the Portfolio Investment Scheme on behalf of persons resident outside India who are foreign citizens and body corporates registered outside India, as indicated in paragraph 4 of this Schedule. Such investment would be restricted to 5 per cent of the equity capital or 5 per cent of the paid up value of each series of convertible debentures within the overall ceiling of 24 percent or 40 percent as applicable for FIIs for the purpose of Portfolio Investment Scheme.

**C. Schedule 3 - Portfolio Investment Scheme for NRIs/OCBs on repatriation/non-repatriation basis**

There is no change in the existing scheme for portfolio investment by NRIs/OCBs on repatriation/non-repatriation basis except that the requirement of grant of approval by designated branch of an authorised dealer valid for a period of 5 years at a time has been dispensed with.

**D. Schedule 4 – Purchase/sale of shares and convertible Debentures by NRIs/OCBs on non-repatriation basis**

There is no change in the existing procedures/regulations for purchase and sale of shares/convertible debentures by NRIs/OCBs on non-repatriation basis.

**E. Schedule 5 – Purchase and sale of securities other than Shares/debentures by non-residents**

There are no major changes in the regulations or procedure applicable for purchase and sale of other securities by NRI/OCBs on repatriation/non-repatriation basis and by FIIs on repatriation basis.

**Annexure III**

**Regulations relating to export of goods and services**

**Foreign Exchange Management (Export of goods and services) Regulations, 2000 – Notification No.FEMA 23/2000-RB dated 3rd May, 2000**

1. In terms of Section 7 of the Act the Reserve Bank has been empowered to regulate receipt of payments for goods or services exported from India by prescribing a form of declaration. Accordingly, the Reserve Bank has in terms of the abovereferred regulations prescribed the following forms for declaration of goods/software as specified in the schedule annexed to the Regulations:-

- i) Form GR
- ii) Form SDF
- iii) Form PP
- iv) Form SOFTEX

These forms are almost similar to the existing form GR, SDF, PP and SOFTEX except that the declaration/undertaking to be furnished by the exporter has been suitably modified. Form VP/COD has been dispensed with.

2. Though the Act provides powers to Reserve Bank to specify a form for declaration for export of services, no such form has been prescribed. In this connection, attention is drawn to Sub-Regulation (3) of Regulation No. 3.



3. Regulation No.4 specifies the categories of exports for which a declaration need not be completed . The exemptions, among others, include –

- a) export of goods/software not exceeding Rs.25,000 in value.
- b) export by way of gift not exceeding Rs.one lakh in value.
- c) Export of goods not exceeding US\$ 1000 or its equivalent per transaction to Myanmar under Barter Trade agreement.

4. In terms of Regulation No. 9, the export proceeds are required to be realised within a period of 6 months from the date of shipment. In the case of exports to a warehouse established abroad with the approval of Reserve Bank, the proceeds have to be realised within 15 months from the date of shipment. The requirement of repatriation of proceeds on due date has been dispensed with. An enabling provision has been made in this regulation to delegate powers to authorised dealers to allow extension of time.

5. Export of goods on elongated credit terms beyond six months requires prior approval of Reserve Bank, in terms of Regulation No.10.

6. Approval of an appropriate authority viz. Working Group or Exim Bank or authorised dealer would be required for export of goods or services on deferred payment terms or for execution of a turnkey project or civil construction contracts in terms of Regulation No.18. These proposals would be considered by the authority concerned in accordance with the guidelines issued by Reserve Bank in Memorandum PEM as amended from time to time.

7. Pending issue of further instructions authorised dealers may be guided by the provisions of following paragraphs of Chapter 6 of ECM

- 6A.1(i) Trade and Exchange Control
- 6A.4 Numbering of forms (except VP/COD)
- 6A.5 Importer-exporter code number
- 6A.8 Exports under Trade Agreements/Rupee Credits
- 6A.9 Protection against transit risks under FOB, C & F etc. contracts
- 6A.13 Counter Trade arrangements
- 6A.14 Export of goods on lease hire etc.
- 6A.16 Project exports and service exports
- 6A.17 Export on elongated credit terms (except that Form ECT has been dispensed with. The application giving full particulars may be made on the applicant's letter head)
- 6A.18 Forfeiting
- 6B.1(i) }  
} Disposal of copies of GR form
- 6B(1)(ii) }

6B.2	Shut out/short shipments
6B.3	Exports by air
6B.5	Export by barges/country crafts/road transport
6C.1	Countersignature of PP form
6C.2	Delay in submission of shipping documents
6C.3	Check list for scrutiny of forms
6C.4	Transfer of documents ( Refer to Regulation No.12 )
6C.5	Trade discount
6C.6	Advance payments against exports
6C.7	Part drawings
6C.8	Consignment exports
6C.9	Despatch of shipping documents
6C.10	Handing over negotiable copy of bill of lading to master of vessel/trade representative
6C.11	Export Bills register
6C.12(i)	Follow up of overdue bills
6C.12 (ii)	XOS statements
6C.13 A	Reduction in invoice value on account of pre-payment of usance bills
6C.13 B	Reduction in value
6C.14	Write off of unrealised bills
6C.15	Change in buyer/consignee
6C.17	Shipments lost in transit
6C.18	Payment of claims by ECGC
6C.19	Return of documents to exporters
Part D of Chapter 6	Export of software

#### Annexure IV

#### Other Regulations

#### **1. Foreign Exchange Management (Realisation, repatriation and surrender of foreign exchange) Regulations, 2000 - Notification No.FEMA 9/2000-RB dated 3rd May 2000**

i) In terms of Regulation No. 3 a person resident in India to whom any foreign exchange is due or has accrued is under duty to take reasonable steps to realise and repatriate to India such foreign exchange unless an exemption has been provided in the Act and rules or regulations made thereunder or under the general or special permission of Reserve Bank.

ii) The manner of repatriation of foreign exchange has been specified in Regulation No.4 .

iii) Regulation No. 5 provides that any foreign exchange due or accrued as remuneration for services rendered or in settlement of any lawful obligation or an income on assets held outside India or as inheritance, settlement or gift should be sold to an

authorised person within a period of seven days of its receipt and in all other cases within 90 days of its receipt.

iv) In terms of Regulation No. 6(1) any person who has drawn exchange for any purpose but has not utilised it for the same or any other purpose permissible under the provisions of the Act or rules or regulations made thereunder should surrender such foreign exchange or unutilised foreign exchange to an authorised person within a period of 60 days from the date of acquisition. Where, however, exchange was drawn for travel abroad, the unutilised exchange in excess of the limit upto which foreign exchange is permitted to be retained, should be surrendered to an authorised person within 90 days from the date of return of the traveller to India if unspent exchange is in the form of foreign currency notes and within 180 days if it is in the form of travellers cheques.

v) These regulations are not applicable to foreign exchange in the form of currency of Nepal and Bhutan.

## **2. Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2000 - Notification No.FEMA 10/2000-RB dated 3rd May 2000**

i) These regulations seek to regulate opening and maintenance of foreign currency accounts in or outside India by a person resident in India.

ii) Except to the extent provided in the Act, and Rules or regulations made thereunder, opening and maintenance of a foreign currency account in India or outside India by a person resident in India would require approval of Reserve Bank.

iii) In terms of sub-section (h) of Section 6 of the Act a person who has acquired foreign currency when he was resident outside India or who has inherited foreign exchange from a person who was resident outside India, has been permitted to hold, own, transfer the foreign currency so acquired.

iv) In terms of Regulation No. 4 a person resident in India who receives foreign exchange has been permitted to maintain Exchange Earners' Foreign Currency Account with an authorised dealer in India subject to the terms and conditions specified in the Schedule.

v) In terms of Regulation No. 5, Reserve Bank has granted general permission to residents to maintain Resident Foreign Currency Accounts with an authorised dealer in India out of sources of receipt of foreign exchange mentioned in clauses (a) to (d) of sub-Regulation (1). There is no restriction on utilisation of funds in RFC accounts.

vi) General permission has been granted to foreign airline or shipping companies or their agents in India to open foreign currency account with an authorised dealer subject to the conditions mentioned in Regulation 6.

vii) General permission has also been granted to the following categories of persons to maintain foreign currency accounts with a bank outside India subject to the conditions mentioned in Regulation 7,

- a) by an authorised dealer with its correspondents/branches/Head Office outside India;
- b) by a branch outside India of an authorised dealer with a bank outside India for carrying on normal banking business outside India;
- c) by Indian shipping or airline company;
- d) by Life Insurance Corporation of India or General Insurance Corporation of India for the purpose of carrying on life/general insurance business outside India;
- e) by an exporter who is exporting goods and services on deferred payment terms or executing a turnkey project or civil construction contract abroad;
- f) by a student going abroad for studies or a person who is on a visit to a foreign country;
- g) by a person going abroad to participate in an exhibition/trade fair.

**3. Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2000 – Notification No.FEMA 11/2000-RB dated 3rd May, 2000**

In terms of provisions of Section 9 of the Act, the Reserve Bank has specified the limit for possession and retention of foreign currency by a person resident in India, under these Regulations.

- a) Authorised persons have been permitted to possess foreign currency and coins in accordance with the limits, if any, advised to them by the Reserve Bank.
- b) There is no restriction on possession of foreign coins by any person.
- c) Any person resident in India is permitted to retain in aggregate foreign currency not exceeding US\$ 2000 or its equivalent in the form of currency notes/bank notes or travellers cheques acquired by him from sources referred to in clauses (a) to (d) of sub-regulation (iii) of Regulation No. 3.
- d) A person resident in India but not permanently resident therein is permitted to possess foreign currency notes, bank notes and travellers cheques without limit if the foreign currency was acquired when he was resident outside India

and was brought into India and declared to Customs authorities where such declaration was required to be made.

**4. Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2000 - Notification No.FEMA 14/2000-RB dated 3rd May, 2000**

i) These Regulations specify the manner of receipt and payments or methods of receipt and payment which correspond to the provisions contained in paragraphs 2.5 and 2.6 of the ECM

ii) There is no change in the existing regulations relating to the methods of receipt of foreign exchange and payment of foreign exchange.

iii) Pending issue of further directions/instructions authorised dealers may be guided by the provisions of the following paragraphs of ECM.

- 2.1 Permitted currencies
- 2.2 Authorised dealers' responsibility in regard to other currencies
- 2.3 Choice of contracting currencies in international transactions.
- 2.4 Authorised dealers' foreign currency accounts
- 2.7 Payment in approved/conforming manner
- 2.8 Asian Clearing Union
- 2.9 Memorandum of Procedure (ACM)
- 2.10 Channelling through ACU obligatory

**5. Foreign Exchange Management (Foreign Exchange derivative contracts) Regulations, 2000 – Notification No.FEMA 25/RB-2000 dated 3rd May 2000**

(i) Except to the extent permitted in the Regulations any person resident in India or outside India proposing to enter into a foreign exchange derivative contract would require prior permission of Reserve Bank.

(ii) (a) The persons resident in India may enter into forward contracts with an authorised dealer for the transactions and subject to the terms and conditions mentioned in Part A of Schedule 1.

(b) A person resident in India may enter into a foreign exchange derivative contract other than forward contract for the transactions and subject to the terms and conditions mentioned in Part B of Schedule I.

(iii) Categories of persons resident outside India mentioned in Schedule II are permitted to enter into forward contracts with an authorised dealer in India to hedge the transactions specified in that Schedule subject to the terms and conditions mentioned therein.

(iv) The applications for hedging of commodity price risks are required to be made to Reserve Bank for prior approval through the International Divisions of an authorised dealer. The procedure to be followed by the applicant and the authorised dealer and the documents to be furnished with the applications have been explained in Schedule III.

(v) There is no change in the existing regulations relating to the forward contracts, other derivative products or hedging of commodity price risk.

**6. Foreign Exchange Management (Receipt and Payment to a person resident outside India) Notification No.FEMA 16/RB-2000 dated 3rd May 2000**

i) In pursuance of provisions of Section 3 of the Act the Reserve Bank has granted general permission to any person to receive any payment –

- a) made in rupees by order or on behalf of a person resident outside India during his stay in India by converting the foreign exchange into rupees by sale to an authorised person.
- b) made by means of a cheque drawn on a bank outside India or a bank draft or travellers cheques issued outside India or made in foreign currency notes directly, from out of India provided the cheques, drafts or foreign currency is sold to an authorised person within seven days of its receipt.
- c) by means of a postal order or postal money order issued by a post office outside India.

ii) Reserve bank has also granted general permission to a person resident in India to make payment in rupees –

- a) for extending hospitality to a person resident outside India;
- b) to a person resident outside India for purchase of gold or silver imported by such person in accordance with the provisions of any order issued by Central Government under the Foreign Trade (Development and Regulation) Act, 1992 or under any law or rules or regulations in force.

iii) General permission has also been granted to a company in India to make payment of sitting fees or commission or remuneration or travel expenses to and from or within India to its whole time director who is on a visit to India for company's work subject to the terms and conditions mentioned in paragraph 3 of the Notification.

**7. Transactions with Nepal and Bhutan Notification No.FEMA 17/RB-2000 dated 3rd May 2000**

The Reserve Bank has directed that the restrictions imposed in clauses (b), (c) and (d) of Section 3 relating to making payment to or for credit of any person resident outside India,

or receiving otherwise through an authorised person any payment by order or on behalf of a person resident outside India, or entering into any financial transactions in India as consideration for or in association with acquisition or creation or transfer of a right to acquire any asset outside India will not be applicable for any transaction entered into in Indian rupees by or with (a) citizen of India, Nepal or Bhutan resident in Nepal or Bhutan, (b) a branch in Nepal or Bhutan of a company or corporation in India or Nepal or Bhutan or (c) a branch in Nepal or Bhutan of a partnership firm or otherwise of citizens of India, Nepal and Bhutan.

**8. Permission to buy foreign exchange from Post Office In India in the form of Postal Order or Money Order Notification No.FEMA 18/RB-2000 dated 3rd May 2000**

The Reserve Bank has in pursuance of clause (a) of Section 3 of the Act granted general permission to any person to buy foreign exchange from any post office in India in the form of postal order or money order.

**9. Definition of currency Notification No.FEMA 15/2000-RB dated 3<sup>rd</sup> May 2000**

The Reserve bank has in pursuance of clause (h) of Section 2 of the Act notified debit cards, ATM cards or any other instrument which can be used to create a financial liability as currency.

**Annexure V**

**Pending issue of further directions authorised dealers  
may be guided by the following provisions  
of the Exchange Control Manual**

<b>Chapter</b>	<b>Paragraph No.</b>	<b>Subject matter</b>
1.	1.4	Authorised dealers in foreign exchange
	1.5	Authorised Co-operative/Commercial Banks (These banks will now be permitted to also maintain NRSR Accounts)
	1.6	Authorised Money Changers
	1.7	Revocation of licences/authorisation granted by Reserve Bank
	1.16	Marking of documents
	1.17	Organisation of Exchange Control Department
	1.22	Breach of regulations by Non-resident branches/ correspondents of authorised dealers
	1.24	Employment of Brokers
3.	3A.1	Purchase of TTS, MTs, etc. from Public
	3A.5	Foreign Inward Remittance Payment System
	3A.6	Issue of bank certificates
	3A.7	Refund of inward remittance

	3B.3(i)	Procedure for making applications
	3B.3(iii)	-do-
	3B.5	Manner of payment of rupees against sale of foreign exchange
	3B.10	Undertaking/Certificate regarding payment of Income Tax
	3D.2	Purchases from Public
	3D.3	Purchases against Currency Declaration Form
	3D.4	Encashment Certificates
	3D.5	Purchase on Authorised Dealer's own responsibility
	3D.6	Import of Foreign Currency notes
	3D.8	Reconversion of Indian currency
	3D.9	Sales to Foreign Tourists
	3D.9A	Providing Foreign Currency Travellers Cheques and notes to the Master/Captain of foreign vessels against inward remittance
	3D.11	Sales to other authorised dealers, Exchange Bureaux and Money Changers
	3D.12	Rates of Exchange
	3D.13	Display of exchange rates
	3D.14	Regulation of authorised dealers' sales to travellers
	3D.15	Export of surplus currency notes and coins
	3D.16	Records to be maintained by Exchange Bureaux
	3D.17	Reporting of transactions by Exchange Bureaux
4	4.1 to 4.8	Provisions relating to authorised dealer's dealings with Reserve Bank
5	Part A5A1 to 5A11	Rupee accounts of non-resident banks
	Part B5B.1 to 5B.6	Inter-bank dealings
	Annexure	Guidelines for foreign exchange exposure limits to authorised dealers
7	7A.1(i) and (ii)	General
	7A.2	Import licences
	7A.4	Manner of rupee payment
	7A.5	Letter of authority
	7A.6	Attestation of invoices by authorised dealers
	7A.7	Form A1
	7A.8	Imports financed in rupees
	7A.9	Import licence for CIF value
	7A.9A	Imports by Government/Public Sector Undertakings, etc.
	7A.10	Advance Remittance (except that amount of US\$ 15,000 or its equivalent may be amended as US\$ 25,000 or its equivalent)
	7A.11	Time limit for settlement of import payments



	7A.12	Interest on import bills
	7A.15	Endorsement on Import Licences
	7A.20	Evidence of Imports
	7A.21	Precautions for handling import documents
8.	8A.1(d)	Sale of exchange – Endorsement on passport
	8A.1(e)	Issue of Travellers Cheques
	8A.1(f)	Sale of exchange in the form of foreign currency notes
	8A.1(g)	Retention of Form A2
	8A.3(ii)	Endorsement of unspent exchange on the passport
	8A.9	Remittances for tour arrangements
16	16.1 to 16.9	Returns and Statements (including Guide to authorised dealers for compilation of ‘R’ returns)