**INTERNATIONAL TRADE FINANCE – RBI NOTIFICATIONS JAN TO JUNE 2021**

**Investment in Entities from FATF Non-Compliant Jurisdictions**

**RBI/2021-22/55CO.DPSS.AUTH.No.S190/02.27.005/2021-22 June 14, 2021**

*All entities authorised to operate Payment Systems in India*

A reference is invited to the circular DOR.CO.LIC.CC No.119/03.10.001/2020-21 dated February 12, 2021 issued by the Department of Regulation, Reserve Bank of India (RBI) on investment in NBFCs from FATF non-compliant jurisdictions. With a view to maintaining consistency, the corresponding regulations for investments in Payment Systems Operators (PSOs) are as follows.

2. The Financial Action Task Force (FATF) periodically identifies jurisdictions with weak measures to combat money laundering and terrorist financing (AML / CFT) in its following publications: i) High-Risk Jurisdictions subject to a Call for Action, and ii) Jurisdictions under Increased Monitoring. A jurisdiction whose name does not appear in these two lists is referred to as a FATF compliant jurisdiction. Investments in PSOs from FATF non-compliant jurisdictions shall not be treated at par with that from compliant jurisdictions.

3. Investors in existing PSOs holding their investments prior to the classification of the source or intermediate jurisdiction/s as FATF non-compliant, may continue with the investments or bring in additional investments as per extant regulations so as to support continuity of business in India.

4. New investors from or through non-compliant FATF jurisdictions, whether in existing PSOs or in entities seeking authorisation as PSOs, are not permitted to acquire, directly or indirectly, ‘significant influence’ as defined in the applicable accounting standards in the concerned PSO. In other words, fresh investments (directly or indirectly) from such jurisdictions, in aggregate, should account for less than 20 per cent of the voting power (including potential1 voting power) of the PSO.

5. The above instructions, as amended from time to time, shall also apply to any entity that has applied for or that intends to apply for authorisation as a PSO under the Payment and Settlement Systems Act, 2007.

6. This directive is issued under Section 18 read with Section 10(2) of the Payment and Settlement Systems Act, 2007.

\**Potential voting power could arise from instruments that are convertible into equity, other instruments with contingent voting rights, contractual arrangements, etc., that grant investors voting rights (including contingent voting rights) in the future. In such cases, it should be ensured that new investments from FATF non-compliant jurisdictions are less than both (i) 20 per cent of the existing voting powers, and (ii) 20 per cent of existing and potential voting powers assuming those potential voting rights have materialised.*

**ITF**

**Risk Based Internal Audit (RBIA) Framework – Strengthening Governance arrangements**

**RBI/2020-21/83 Ref.No.DoS.CO.PPG./SEC.04/11.01.005/2020-21 January 07, 2021**

*The Chairman / Managing Director / Chief Executive Officer, All Scheduled Commercial Banks (Excluding RRBs), All Local Area Banks, All Small Finance Banks and All Payments Banks*

In terms of the Guidance Note on Risk-Based Internal Audit issued by RBI vide [circular DBS.CO.PP.BC.10/11.01.005/2002-03 dated December 27, 2002](https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=1020&Mode=0), banks, inter alia, are required to put in place a risk based internal audit (RBIA) system as part of their internal control framework that relies on a well-defined policy for internal audit, functional independence with sufficient standing and authority within the bank, effective channels of communication, adequate audit resources with sufficient professional competence, among others.

2. While the aforesaid Guidance Note lays out the basic approach for risk based internal audit functions, banks are expected to re-orient their approach, in line with the evolving best practices, as a part of their overall Governance and Internal Control framework. Banks are encouraged to adopt the International Internal Audit standards, like those issued by the Basel Committee on Banking Supervision (BCBS) and the Institute of Internal Auditors (IIA).

3. To bring uniformity in approach followed by the banks, as also to align the expectations on Internal Audit Function with the best practices, banks are advised as under:

1. Authority, Stature and Independence - The internal audit function must have sufficient authority, stature, independence and resources within the bank, thereby enabling internal auditors to carry out their assignments with objectivity. Accordingly, the Head of Internal Audit (HIA) shall be a senior executive of the bank who shall have the ability to exercise independent judgement. The HIA as well as the internal audit function shall have the authority to communicate with any staff member and have access to all records or files that are necessary to carry out the entrusted responsibilities.
2. Competence - Requisite professional competence, knowledge and experience of each internal auditor is essential for the effectiveness of the bank's internal audit function. The desired areas of knowledge and experience may include banking operations, accounting, information technology, data analytics and forensic investigation, among others. Banks should ensure that internal audit function has the requisite skills to audit all areas of the bank.
3. Staff Rotation - Except for the entities where the internal audit function is a specialised function and managed by career internal auditors, the Board should prescribe a minimum period of service for staff in the Internal Audit function. The Board may also examine the feasibility of prescribing at least one stint of service in the internal audit function for those staff possessing specialized knowledge useful for the audit function, but who are posted in other departments, so as to have adequate skills for the staff in the Internal Audit function.
4. Tenor for appointment of Head of Internal Audit - Except for the entities where the internal audit function is a specialised function and managed by career internal auditors, the HIA shall be appointed for a reasonably long period, preferably for a minimum of three years.
5. Reporting Line - The HIA shall directly report to either the Audit Committee of the Board (ACB) / MD & CEO or Whole Time Director (WTD). Should the Board of Directors decide to allow the MD & CEO or a WTD to be the ‘reporting authority’ of the HIA, then the ‘reviewing authority’ shall be with the ACB and the ‘accepting authority’ shall be with the Board in matters of performance appraisal of the HIA. Further, in such cases, the ACB shall meet the HIA at least once in a quarter, without the presence of the senior management, including the MD & CEO/WTD. The HIA shall not have any reporting relationship with the business verticals of the bank and shall not be given any business targets. In foreign banks operating in India as branches, the HIA shall report to the internal audit function in the controlling office / head office.
6. Remuneration - The independence and objectivity of the internal audit function could be undermined if the remuneration of internal audit staff is linked to the financial performance of the business lines for which they exercise audit responsibilities. Thus, the remuneration policies should be structured in a way that it avoids creating conflict of interest and compromising audit’s independence and objectivity.

4. The internal audit function shall not be outsourced. However, where required, experts, including former employees, could be hired on contractual basis subject to the ACB being assured that such expertise does not exist within the audit function of the bank. Any conflict of interest in such matters shall be recognised and effectively addressed. Ownership of audit reports in all cases shall rest with regular functionaries of the internal audit function.

5. Banks must ensure and demonstrate through proper documentation that their risk-based internal audit framework captures all the significant criteria / principles suited for their organisational structure, the business model and the risks.

6. The instructions contained in this circular shall come into effect immediately from the date of this circular.

7. This circular supplement the guidelines issued by Reserve Bank of India on [December 27, 2002](https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=1020&Mode=0) on Risk-based internal audit along with other circulars/instruction on the subject issued from time-to time and for any common areas of guidance, the prescription of this circular shall be followed.

**ITF**

**Interest Equalization Scheme on Pre and Post Shipment Rupee Export Credit- Extension**

**RBI/2021-22/21 DOR.CRE.REC.06/04.02.001/2021-22 April 12, 2021**

*All Scheduled Commercial Banks (excluding RRBs), Small Finance Banks, Primary (Urban) Cooperative Banks and EXIM Bank*

Please refer to the instructions issued vide [DBR.Dir.BC.No.69/04.02.001/2019-20 dated May 13, 2020](https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11887&Mode=0).

2. In this connection, Government of India has approved the extension of Interest Equalization Scheme for pre and post shipment Rupee export credit, with same scope and coverage, for three more months i.e., upto June 30, 2021. The extension takes effect from April 01, 2021 and ends on June 30, 2021 covering a period of three months.

3. Consequently, the extant operational instructions issued by the Reserve Bank under the captioned Scheme shall continue to remain in force upto June 30, 2021.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12075&Mode=0>

**ITF**

**External Commercial Borrowings (ECB) Policy – Relaxation in the period of parking of unutilised ECB proceeds in term deposits**

R**BI/2021-22/16 A.P. (DIR Series) Circular No. 01 April 07, 2021**

*All Category-I Authorised Dealer Banks*

Please refer to paragraph 12 of the Governor’s Statement on Developmental and Regulatory Policies dated April 07, 2021. In this connection, attention of Authorized Dealer Category-I (AD Category-I) banks is invited to paragraph 4.2 of the of Master Direction No.5 dated March 26, 2019, on “External Commercial Borrowings, Trade Credits and Structured Obligations”, in terms of which ECB borrowers are allowed to park ECB proceeds in term deposits with AD Category-I banks in India for a maximum period of 12 months cumulatively.

2. Based on requests from stakeholders, including Industry associations, and with a view to providing relief to the ECB borrowers affected by the Covid-19 pandemic, it has been decided to relax the above stipulation as a one-time measure. Accordingly, unutilised ECB proceeds drawn down on or before March 01, 2020 can be parked in term deposits with AD Category-I banks in India prospectively for an additional period up to March 01, 2022.

3. All other provisions of the ECB policy remain unchanged. AD Category-I banks should bring the contents of this circular to the notice of their constituents/ customers.

4. The aforesaid Master Direction No. 5 dated March 26, 2019, is being updated to reflect the changes.

5. The directions contained in this circular have been issued under section 10(4) and 11(2) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions/ approvals, if any, required under any other law.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12070&Mode=0>

**ITF**

**Bilateral Netting of Qualified Financial Contracts- Amendments to Prudential Guidelines**

**RBI/2020-21/115 DOR.CAP.51/21.06.201/2020-21 March 30, 2021**

*All Scheduled Commercial Banks (excluding Regional Rural Banks)*

The Bilateral Netting of Qualified Financial Contracts Act, 2020 (hereafter referred to as “the Act”), has been notified by the Government of India vide Gazette Notification No. S.O. 3463(E) dated October 1, 2020. The Act provides a legal framework for enforceability of bilateral netting of qualified financial contracts (QFC).

2. In exercise of the powers conferred by section 4(a) of the Act, the Reserve Bank, vide Notification no. FMRD.DIRD.2/14.03.043/2020-21 dated March 9, 2021, has since notified (a) “derivatives”; and (b) “repo” and “reverse repo” transactions as defined under Section 45(U) of Chapter III-D of the Reserve Bank of India Act, 1934 as a QFC.

3. Accordingly, select instructions contained in the following circulars have been modified/ amended appropriately:

a) [Master Circular DBR.No.BP.BC.1/21.06.201/2015-16 dated July 1, 2015](https://www.rbi.org.in/Scripts/BS_ViewMasCirculardetails.aspx?id=9859) on ‘Basel III Capital Regulations’ as provided in [Annex 1](https://rbidocs.rbi.org.in/rdocs/content/pdfs/BILA30032021_A1.pdf);

b) [Circular DBR.BP.BC.No.106/21.04.098/2017-18 dated May 17, 2018](https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11278&Mode=0) on ‘Basel III Framework on Liquidity Standards – Net Stable Funding Ratio (NSFR) – Final Guidelines’ as provided in [Annex 2](https://rbidocs.rbi.org.in/rdocs/content/pdfs/BILA30032021_A2.pdf);

c) [Master Circular DBR.No.BP.BC.2/21.04.048/2015-16 dated July 1, 2015](https://www.rbi.org.in/Scripts/BS_ViewMasCirculardetails.aspx?id=9908) on ‘Prudential norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances’ as provided in [Annex 3](https://rbidocs.rbi.org.in/rdocs/content/pdfs/BILA30032021_A3.pdf); and

d) [Master Circular DBR.No.BP.BC.4./21.06.001/2015-16 dated July 1, 2015](https://www.rbi.org.in/Scripts/BS_ViewMasCirculardetails.aspx?id=9893) on Prudential Guidelines on Capital Adequacy and Market Discipline-New Capital Adequacy Framework (NCAF) as provided in [Annex 4](https://rbidocs.rbi.org.in/rdocs/content/pdfs/BILA30032021_A4.pdf).

The revised instructions come into force with immediate effect.

**ITF**

**FETERS – Cards: Monthly Reporting**

**RBI/2020-21/113 A.P. (DIR Series) Circular No.13 March 25, 2021**

*All Category-I Authorised Dealer Banks*

Attention of Authorised Dealers (Category I) is invited to [A.P. (DIR Series) Circular No. 50 dated February 11, 2016](https://rbi.org.in/Scripts/NotificationUser.aspx?Id=10276&Mode=0) on compilation of R-Returns for reporting under the Foreign Exchange Transactions Electronic Reporting System (FETERS). It has been decided to collect more details of international transactions using credit card / debit card / unified payment interface (UPI) along with their economic classification (merchant category code – MCC) through a new return called ‘FETERS-Cards’, using the same web-portal ([https://bop.rbi.org.in](https://bop.rbi.org.in/)).

2. Nodal offices of Authorised Dealers (ADs) may submit FETERS-Cards details on the web-portal in the following manner:

A. For transactions through credit card / debit card / UPI:

1. Sale of forex by AD towards international transaction made by Indian resident (to be reported by the card issuing / transaction originating AD); and
2. Purchase of forex by AD under transaction by foreign resident with Indian resident (to be reported by merchant acquirer AD).

B. The information shall be submitted in the following fixed format (details given in [Annex](https://rbidocs.rbi.org.in/rdocs/content/pdfs/NT113_25032021.pdf)):

1. For transactions using credit/debit card:

MCC X Country X Currency X Amount (Payment/Refund) X Card Status (Present /Not present)
2. For transactions through UPI:

MCC X Country X Currency X Amount (Payment/Refund) X QR Code Scan (Yes/No)

3. AD Banks need to report all card transactions (e.g., through PoS terminals / e-commerce (online purchase) / for transferring funds to bank accounts).

4. Data submission by ADs:

1. ADs shall submit the FETERS-Cards data on the web-portal ([https://bop.rbi.org.in](https://bop.rbi.org.in/)) by using the RBI-provided login-name and password, within seven working days from the last date of the month for which data are being reported. The web-portal provides detailed guidance and help material.
2. FETERS-Cards reporting will be implemented for the transactions taking place from April 1, 2021. Hence, details of the transactions in April 2021 may be reported in the first week of May 2021.
3. In case of any clarifications, banks may send their queries through e-mail or contact by phone at 022-26578416 or 022-26571154 (direct).

5. The directions contained in this circular have been issued under Sections 10(4) and 11(2) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

**ITF**

**Margin for Derivative Contracts**

**RBI/2020-21/98 A. P. (DIR Series) Circular No. 10 February 15, 2021**

*All Authorised Dealer Category-I Banks*

Attention of Authorised Dealer Category-I (AD Cat-I) banks is invited to the Foreign Exchange Management (Margin for Derivative Contracts) Regulations, 2020 notified in the Gazette of India vide notification no. FEMA.399/RB-2020 dated October 23, 2020 ([Annex I](https://rbidocs.rbi.org.in/rdocs/content/pdfs/AnnexI_15022021.pdf)). Accordingly, directions are being issued to allow posting and collection of margin for permitted derivative contracts between a person resident in India and a person resident outside India.

2. AD Cat-I banks may post and collect margin in India, on their own account or on behalf of their customers, for a permitted derivative contract entered into with a person resident outside India in the form of:

1. Indian currency;
2. Freely convertible foreign currency;
3. Debt securities issued by Indian Central Government and State Governments;
4. Rupee bonds issued by persons resident in India which are:
5. Listed on a recognized stock exchange in India; and
6. Assigned a credit rating of AAA issued by a rating agency registered with the Securities and Exchange Board of India. If different ratings are accorded by two or more credit rating agencies, then the lowest rating shall be reckoned.

**Explanation:** Permitted derivative contract shall have the same meaning as assigned to it in the Foreign Exchange Management (Margin for Derivative Contracts) Regulations, 2020 [Notification no. FEMA.399/RB-2020 dated October 23, 2020].

3. AD Cat-I banks may post and collect such margin outside India in the form of:

1. Freely convertible foreign currency; and
2. Debt securities issued by foreign sovereigns with a credit rating of AA- and above issued by S&P Global Ratings / Fitch Ratings or Aa3 and above issued by Moody’s Investors Service. If different ratings are accorded by two or more credit rating agencies, then the lowest rating shall be reckoned.

4. AD Cat-I banks may receive and pay interest on margin posted and collected on their own account or on behalf of their customers for a permitted derivative contract entered into with a person resident outside India.

5. AD Cat-I banks shall maintain a separate account in the name of persons resident outside India for the purpose of posting and collecting cash margin in India, and transactions incidental thereto.

6. The directions contained in this circular have been issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

**ITF**

**Foreign Exchange Management (Export of Goods and Services) (Amendment) Regulations, 2021**

**Notification No. FEMA 23(R)/(4)/2021-RB January 08, 2021**

In exercise of the powers conferred by clause (a) of sub-section (1), sub-section (3) of section 7 and clause (b) of sub-section (2) of section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank of India makes the following amendments in the Foreign Exchange Management (Export of Goods & Services) Regulations, 2015 [[Notification No. FEMA 23(R)/2015- RB dated January 12, 2016](https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10256&Mode=0)] (hereinafter referred to as 'the Principal Regulations'), namely:

**1. Short title and commencement: -**

1. These Regulations may be called the Foreign Exchange Management (Export of Goods and Services) (Amendment) Regulations, 2021.
2. They shall come into force from the date of their publication in the [official Gazette](https://rbidocs.rbi.org.in/rdocs/content/pdfs/GazetteN21012021.pdf).

2. In the Principal Regulations, in regulation 4, for sub-regulation (ea), the following shall be substituted, namely:-

“(ea) re-export of leased aircraft/helicopter and/or engines/auxiliary power units (APUs), either completely or in partially knocked down condition re-possessed by overseas lessor and duly de-registered by the Directorate General of Civil Aviation (DGCA) on the request of Irrevocable Deregistration and Export Request Authorisation (IDERA) holder under ‘Cape Town Convention’ or any other termination or cancellation of the lease agreement between the lessor and lessee subject to permission by DGCA/Ministry of Civil Aviation for such export/s.”

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12014&Mode=0>

**ITF**

**Foreign Exchange Dealers’ Association of India**

**Interpretation of term ‘Outstanding’, ‘Export Outstanding’ or ‘Import Outstanding’ used in directives issued by the Reserve Bank of India March 09, 2021**

*All Members of FEDAI*

Directives issued by Reserve Bank of India for export and import of goods & services have used the term ‘Outstanding’, ‘Export Outstanding’ or ‘Import Outstanding’ at various places. In course of our interaction with member banks we observed that these terms;

* were not being interpreted uniformly by all practitioners;
* at times caused incomplete or inconsistent interpretation of directives if such term is inferred verbatim at all the places;
* need to be inferred in the context of the content of the paragraph wherever the term was used in the respective Master Direction.

In view of above, FEDAI approached Reserve Bank of India for guidance in the matter.

The RBI vide their letter FED.CO.Trade/1875/05.31.077/2020-21 dated March 05, 2021 have clarified these terms as used in various guidelines, which is enclosed herewith for your record and compliance.

Annexure to FEDAI Circular SPL-01/Exp-imp/2021 dated 09th March2021: <https://www.fedai.org.in/DocumentUploadFiles/SpecialCircular/SPL-01.2021dt.09March2021.pdf>