

## **CHAPTER 1**

### **INTRODUCTORY**

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## CHAPTER 1

### INTRODUCTORY

#### **1. Foreign Exchange Regulation Act, 1947 and Notifications issued thereunder.**

Foreign exchange policy and its operations in Pakistan are formulated and regulated in accordance with the provisions of the Foreign Exchange Regulation Act, 1947 (the Act). The object of this Act is to regulate, in the economic and financial interest of Pakistan, certain payments, dealings in foreign exchange, securities, import/export of currency and bullion. Under the Act, the basic regulations are issued by the Government of Pakistan and the State Bank in the form of Notifications which are published in the Official Gazette. The Act, as amended up-to date, is reproduced at the end of the Manual as Appendix-I. Notifications issued by the Federal Government under the Act, except those issued in terms of sub-section (2) of Section 19, sub-section (2) of Section 23 and Section 23-B are reproduced as Appendix-II and those issued by the State Bank are reproduced as Appendix-III.

#### **2. Directions issued under the Act.**

Under the provisions of the Act, the State Bank may give directions or instructions to the Authorized Dealers, travel agents, carriers, stock-brokers and other persons who are authorized by the State Bank to do anything in pursuance of the Act, in regard to making of payments and carrying out other acts in the course of their business. Directions having general application are issued in the form of public notices, FE Circulars, Circular Letters and Notifications etc. Instructions issued by the State Bank to the Authorized Dealers, travel agents, carriers, etc. from time to time setting out the terms and conditions subject to which they may engage in transactions covered by the Act, have been incorporated in this Manual. Contents of this Manual and all instructions, directions, orders etc., issued under the Act are without prejudice to the provisions of any other law of Pakistan or any rules, notifications, orders, directions or regulations made thereunder.

#### **3. Regulatory actions on the violation of provisions of the Act.**

(i) In terms of section 3B of the Act, if an Authorized Dealer, Hotel holding restricted authorization etc. commits a contravention of any term of authorization or undertakes any unauthorized activity or attempts to contravene or assists the contravention of the general or special directions or instructions issued by the State Bank under any provision of the Act or any rule made thereunder, State Bank may suspend or cancel the authorization.

(ii) Further, section 23K of the Act empowers the State Bank to impose monetary penalties on its regulatees including Authorized Dealers, Hotels holding restricted authorization, etc. on account of violation of foreign exchange rules, regulations, instructions etc. upto five hundred thousand rupees for each contravention and, where the contravention is a continuing one, with a further penalty which may extend to ten thousand rupees for each day during which such contravention continues. In pursuance of this section, every director, manager, officer or agent of the Authorized Dealer, Hotel holding restricted authorization etc. shall be deemed guilty of such contravention, if the contravention was committed with his knowledge or consent or if he did not exercise due diligence to prevent the commission of the offence.

#### **4. Amendments in foreign exchange rules and regulations.**

Amendments in the foreign exchange rules and regulations are issued through FE Circulars, Circular Letters and Notifications to Authorized Dealers, travel agents, shipping lines, airlines, importers, exporters, general public etc. which are placed at the State Bank's website ([www.sbp.org.pk](http://www.sbp.org.pk)). These regulations are compiled in the form of Foreign Exchange Manual which is updated periodically and placed at the State Bank's website. In order to ensure compliance of all applicable foreign exchange rules and regulations, Authorized Dealer and other stakeholders should keep this Manual updated in the light of FE Circulars, Circular Letters, Notifications etc. issued by the State Bank from time to time.

#### **5. References to the State Bank/SBP-Banking Services Corporation.**

(i) Authority has been delegated to the Authorized Dealers to approve certain transactions on behalf of the State Bank as prescribed in Foreign Exchange Manual. In these cases, Authorized Dealers should, before approving any transactions, satisfy themselves about the bonafides of the applicant and the genuineness of the transaction by verifying the necessary documents.

(ii) They should refer to the State Bank/SBP-Banking Services Corporation alongwith their recommendations/comments only those cases which they are not authorized to approve, as per the following:

- a) All policy matters, investment related issues and cases involving waiver from any provision of the FE Manual/Circular, or where no explicit guidelines are provided in the Manual to the Director, Exchange Policy Department, State Bank of Pakistan, I. I. Chundrigar Road, Karachi.
- b) All operational matters pertaining to the following may be referred to the respective field offices of SBP-Banking Services Corporation or the Director, Foreign Exchange Operations Department, SBP-Banking Services Corporation, Head Office, I. I. Chundrigar Road, Karachi:
  - i) Export & Import
  - ii) Export Outstanding/Overdue
  - iii) Export Verification Claims/Performance
  - iv) Commercial Remittance (Insurance, Shipping & Airlines)
  - v) Oil & Shipping Issues
  - vi) Commission Related Remittances
  - vii) Private Remittance
  - viii) Submission of Returns & Statistical Data
  - ix) Exchange Allocations & Releases
  - x) Processing of Foreign Exchange Allocation as per approved budget
  - xi) Processing of Royalty, Technical Fee payment request
  - xii) Branch/Liaison Offices

- xiii) Miscellaneous Remittances (M-Form) pertaining to IT, Board of Director Meeting Fees, Media Commercial Charges and expenses pertaining to Training/Study/Travelling/ Conferences & Seminars
- xiv) All other operational matters

(iii) While referring cases to the State Bank/SBP-Banking Services Corporation, Authorized Dealers should ensure that the applications are on the prescribed forms, wherever such forms are prescribed, and are supported by appropriate documentary evidence. In all these cases, Authorized Dealers shall be responsible to satisfy themselves about the bonafides of the applicants, correctness of the statements/ documents made/submitted by them and genuineness of the transaction.

(iv) In order to streamline the process for expeditious disposal of the cases/references, Authorized Dealers must ensure that the same are forwarded to Exchange Policy Department of the State Bank or Foreign Exchange Operations Department of SBP Banking Services Corporation after proper review/scrutiny in the light of above referred instructions. Further, all references seeking clarification on the regulations/instructions and all other cases, except routine and prescribed statements/returns/ information, must be signed at least at the level of respective Departmental/Business/Group Head of the bank. It may carefully be noted that the references/cases received without following the above procedure shall not be attended and shall be returned back in original to the respective Authorized Dealer.

## **6. Stationery.**

(i) Forms 'M', 'T-1' and 'E' will be printed by the Head/Principal Offices of the Authorized Dealers themselves strictly according to the size, contents and format of the specimens supplied to them by the State Bank. These forms should bear an identifying prefix as per Appendix IV followed by serial numbers in six digits except in the case of form 'E' which will have seven digits. For example, the first number of all the forms printed by XYZ bank except form 'E' will be "XYZ 000001" (i.e. six digits) and so on, and in the case of form 'E', the serial number will be "XYZ 0000001" (i.e. seven digits), and so on. The other prescribed forms may also be got printed by the Authorized Dealers themselves. These must conform exactly in size, content and format to the respective forms prescribed by the State Bank.

(ii) Authorized Dealers should keep an updated record of the forms printed and distributed to their branches, which should be kept adequately stocked to avoid any complaint on account of non-availability of the forms.

## **7. Jurisdiction of Exchange Policy Department of the State Bank, Foreign Exchange Operations Department of the SBP-Banking Services Corporation and its Field Offices.**

Under the Act, the State Bank is responsible for day to day administration of foreign exchange policy which is exercised through its Exchange Policy Department (EPD). Further, foreign exchange operational matters are handled through Foreign Exchange Operations Department (FEOD), SBP-Banking Services Corporation (BSC), Head Office, Karachi. FEOD has following offices with the jurisdiction of each Office mentioned there against:

<u>Sr. No.</u>	<u>Office</u>	<u>Jurisdiction</u>
1.	Foreign Exchange Operations Department, SBP Banking Services Corporation, Karachi:	Karachi Division
2.	Hyderabad:	Hyderabad and Mirpurkhas Divisions
3.	Sukkur:	Sukkur and Larkana Divisions
4.	Quetta:	Quetta, Kalat, Sibi and Mekran Divisions
5.	Lahore:	Lahore Division
6.	Faisalabad:	Faisalabad and Sargodha Divisions
7.	Sialkot:	Narowal & Sialkot Districts
8.	Multan:	Multan and Dera Ghazi Khan Divisions
9.	Rawalpindi:	Rawalpindi Division
10.	Islamabad:	Federal Capital Territory
11.	Peshawar:	Hazara, Kohat, Malakand & Peshawar Divisions
12.	Gujranwala:	Gujranwala Division, excluding Sialkot District
13.	D. I. Khan:	Dera Ismail Khan Division
14.	Bahawalpur:	Bahawalpur Division
15.	Muzaffarabad:	Azad Jammu & Kashmir

## 8. Definitions.

**Act** means the Foreign Exchange Regulation Act, 1947.

**Authorized Dealer** means a person for the time being authorized under Section 3 of the Act to deal in foreign exchange.

**Authorized Derivatives Dealers** are institutions that are licensed by the State Bank to undertake certain derivative transactions.

**Banking Company** means a banking company as defined in the Banking Companies Ordinance, 1962 and includes anybody corporate which transacts the business of banking in Pakistan.

**Currency** includes all coins, currency notes, bank notes, postal notes, money orders, cheques, drafts, traveler's cheques, letters of credit, bills of exchange and promissory notes.

**CFR** means Cost and Freight, as referred to in International Chamber of Commerce (ICC)'s latest Incoterms.

**CIF** means Cost, Insurance and Freight as referred to in ICC's latest Incoterms.

**Exchange Company** means a company authorized under section 3AA of the Act to deal in foreign currency notes, coins, postal notes, money orders, bank drafts, travellers cheques and transfers.

**Export Proceeds** means sale proceeds received in approved manner against goods/services exported from Pakistan.

**Exchange Entitlement Certificates (EEC)** is a certificate issued by the Foreign Exchange Operations Department, SBP-Banking Services Corporation confirming that the goods of the particular amount have been received in Pakistan.

**Foreign Exchange** means foreign currency and includes any instrument drawn, accepted, made or issued under clause (8) of Section 17 of the State Bank of Pakistan Act, 1956, all deposits, credits and balance payable in any foreign currency, and any drafts, traveler's cheques, letters of credit and bills of exchange, expressed or drawn in Pakistan currency but payable in any foreign currency.

**Foreign Currency** means any currency other than Pakistan currency.

**Freight** means the charges paid for the carriage or transportation of goods by air, sea or land.

**FOB** means Free on Board as referred to in ICC's latest Incoterms.

**Gold** includes gold in the form of coin, whether legal tender or not, or in the form of bullion or ingot, whether refined or not.

**Pakistan Currency** is the currency which is expressed or drawn in Pakistan Rupees (PKR).

**Security** means shares, stocks, bonds, debentures, debenture stock and Government securities, as defined in the Securities Act, 1920, deposit receipts in respect of deposits of securities, and units or sub-units of unit trusts, but does not include bills of exchange or promissory notes other than Government promissory notes.

**Silver** means silver bullion or ingot, silver sheets and plates which have undergone no process of manufacture subsequent to rolling and uncurrent silver coin which is not legal tender in Pakistan or elsewhere.

**State Bank** means the State Bank of Pakistan.

**Terms having special meanings** for the purposes of the Act have been defined in Sections 2 and 13 of the Act.

- i) For the purposes of Section 13 of the Act the term "persons resident outside Pakistan" covers a foreign national including foreign nationals of Indo-Pak origin as also Pakistanis holding dual nationality for the time being resident in Pakistan. A company registered in Pakistan which is controlled directly or indirectly by "persons resident outside Pakistan" is, for the purposes of Sections 13 and 18 of the Act, treated as a "person resident outside Pakistan".
- ii) For the purposes of Section 5 of the Act the term "persons resident outside Pakistan" also includes nationals of Pakistan and persons domiciled in Pakistan, except persons holding office in the service of Pakistan, who go out of Pakistan for any purpose.
- iii) In respect of purposes other than the above, a resident person, bank or firm is a person who resides in Pakistan. A non-resident is a person, bank or firm, who resides outside Pakistan. No definite rules can be laid down for determining whether a person is ordinarily resident in Pakistan but there is a presumption that a person is resident if he maintains a home in Pakistan, or resides in the country for a substantial part of each year, or pays income tax as a resident of Pakistan. On the other hand, the fact that a person gives an address in Pakistan does not necessarily mean that he should be regarded as a resident if he is in fact only a temporary visitor and is ordinarily resident outside Pakistan.

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