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CHAPTER 14

COMMERCIAL REMITTANCES (OTHER THAN FOR IMPORTS)

1. Freight and Passage Collections.

i) Shipping companies/airlines may accept freight and passage money in Rupees only in the under-noted cases without the prior approval of the State Bank:

- a) Exports from Pakistan made on C&F/CIF basis against Form 'E' duly certified by Authorized Dealers on their letter heads in terms of para 32 of Chapter 12 of the Manual.
- b) Imports into Pakistan on FOB basis:
 - aa) Against Authorized Dealer's certificate on form prescribed at Appendix V-29 in terms of para 24 of Chapter 13 of the Manual.
 - bb) Against SBP's approval for import on FOB basis in public sector in terms of para 25 of Chapter 13 of the Manual.
 - cc) Against certificate of importers for freight on Import of Trade Sample not exceeding Rs. 2,000/- per year in terms of para 27 of Chapter 13 of the Manual.
- c) Freight on personal effects/excess baggage in accordance with the provisions laid down in paras 39(i) & 39(iii) of Chapter 17 of the Manual.
- d) Freight on Export of Trade Sample and gift parcels in accordance with the procedure laid down in para 39 (ii) of Chapter 17 of the Manual.
- e) Passage money in accordance with the instructions laid down in Chapter 17.

In all other cases prior approval of State Bank should be obtained before collecting freight in Rupees. For this purpose, applications should be made to the State Bank giving the nature of the transactions and the reasons why freight cannot be paid in foreign currency.

ii) Foreign shipping companies and airlines, whether having an office in Pakistan, or not, were not allowed to open PLS accounts. They could open current accounts for keeping funds received from abroad and the amounts of freight and passage collections, pending remittance to their head offices. ¹However, in terms of F.E. Circular No. 5 dated 17th March, 2003, Shipping Companies/Airlines having offices in Pakistan or operating their ship/airlines in Pakistan can open and operate profit-bearing Pak rupee accounts in Pakistan with the condition that profit so earned would not be remittable but can be used for meeting local expenses. Agents of foreign shipping companies and airlines may continue to retain freight/passage collections in PLS

¹ FE Circular No. 5 dated March 17, 2003.

accounts held in their own names provided the profits earned in these accounts are not passed on in any manner to their principals.

iii) ²Cargo Consolidators/Forwarders who are approved members of FIATA and registered with regulating authorities as per Para 1 (iv) ibid may accept freight in rupees without the prior approval of the State Bank only in respect of Pakistani exports cargo on C&F/CIF basis as per procedure prescribed in paragraph 32 of Chapter 12 of the Manual provided the consignment is being dispatched against Advance Payment or an irrevocable letter of credit which contains a provision for issuance of documents of title under Cargo Consolidation System and a certificate to this effect issued by the Authorized Dealer on Appendix V-12 is produced.

iv) The Regulating Authorities for respective Agents of Foreign Principals are as below:

<u>Type of Agency</u>	<u>Regulating Authority</u>	<u>Type of permission</u>
a) Shipping Agency	Director General (Ports and Shipping Wing) Ministry of Communications and Railways, Government of Pakistan.	Registration
b) Cargo Consolidators	-do-	Registration
c) Airline GSA/PSA	Civil Aviation Authority	NOC

2. Reporting of Passage and Freight Earnings.

Foreign airlines/General Sales Agents/Shipping companies/Shipping Agents are required to report each month to the State Bank full particulars of the passages and freight booked by them in Pakistan on form 'F.P. Airline'/'F.P. Shipping' in duplicate as per specimen appearing at Appendices V-36 and V-37. While the statement by foreign airlines/General Sales Agents i.e. Appendix V-36 should be sent to Statistics and Data Warehouse Department of the State Bank by the end of the month following that to which it pertains, foreign shipping companies/agents will submit the statement i.e. Appendix V-37 by 18th of the month following that to which it pertains. While the Airlines should submit only one form 'F.P. Airline' in respect of bookings made by them and their agents, the Shipping Agents should submit separate statement (form F.P. Shipping) for each of their principals whose ships are handled by them during a month. The forms F.P. should be supported by bank encashment certificate in support of inward remittances received.

3. Remittance of Surplus Passage and Freight Collections by Foreign Airlines operating in Pakistan.

² FE Circular No. 19 dated December 16, 2002.

i) Authorized Dealers may allow remittance of surplus passage and freight collections,³ twice a month on receipt of payments from the travel agents, of those foreign airlines/General Sales Agents which are keeping their collections with them, on submission of application alongwith the following documents: -

- a) A copy of F.P. Statement (Appendix V-36).
- b) Import/Export freight manifests.
- c) Authorized Dealers certificates as stated in paragraph 1 (i)(b)(aa).
- d) ⁴BSP Sales Statement provided by the International Air Transport Association (IATA) alongwith the Counter Sales Report which contains full details of each sale transaction and other documents prescribed in Chapter 17. (Data contained in Appendix V-38 statement should readily be available with the concerned ticket issuing office).
- e) Statement of passage/freight bookings earlier made on credit now realized (Appendix V-39).
- f) Disbursement Statements (Appendix V-40).
- g) Cancellation/refund statement (Appendix V-41).
- h) Statement of outstanding passage/freight bookings on credit (Appendix V-42).
- i) Auditors' certificate showing payment of income tax, or exemption certificate given by the Revenue authorities.
- j) ⁵In the case of agents, a copy of the valid permission letter given by the regulating authorities as stated under Para 1 (iv) *ibid* for acting on behalf of the foreign principal.
- k) An undertaking to repatriate back to Pakistan, the amount found by the State Bank, on post-facto checking, to have been remitted in excess of the entitlement.

ii) Authorized Dealers will allow remittance of surplus passage and freight collections plus inward remittance, to the extent of amounts of passage and freight actually realized less disbursements, refunds, and income tax paid/payable. No remittance is to be allowed in excess of the balance available in the account, as it is not permissible to make remittances out of borrowed funds.

³ FE Circular No. 09 dated August 09, 2005.

⁴ FE Circular No. 05 dated December 17, 2007.

⁵ FE Circular No. 19 dated December 16, 2002.

- (iii) ⁶Airlines will retain photocopies of Tickets/Coupons/Airway Bills at their end for submission to the concerned Authorized Dealer, as and when required for random verification by the State Bank of Pakistan. Instead of submitting photocopies of tickets/coupons/Airway Bills, they may attach with their remittance application, the counter Sales Report which contains full details of each sale transaction.
- iv) The requirement of submission of foreign currency Encashment Certificate for repatriation of cargo revenue has also been done away. Further, other supporting documents for repatriation of cargo revenue will also not be required to be submitted along with funds transfer application form. The same may be submitted by the Airline to the concerned Authorized Dealer within 120 days after departure of the cargo.
- v) The requirement of submission of Encashment Certificate by the foreign nationals at the time of booking of their passage has also been withdrawn forthwith.
- vi) ⁷Airlines will submit a copy of manifest of Cargo Consolidators together with relative non-negotiable copies of House Airway Bill (quoting reference of original Master Airway Bill issued by them with names of each shippers), "E" Form Certificates prescribed vide Para 32 of Chapter 12 of the Manual, and a copy of valid permission letter given by the regulating authorities as stated under Para 1 (iv) *ibid* to the concerned Authorized Dealer within 120 days after departure of the cargo.
- vii) ⁸Authorized Dealers will retain all the documents mentioned in sub paragraph (i) along with a photocopy of Form 'M' submitted by foreign Airlines/General Sales Agents for on-site inspection by the Banking Inspection Department, State Bank of Pakistan. The original Form 'M' shall be submitted as usual through schedule E-4 while reporting the transaction in the monthly Foreign Exchange Returns.
- viii) Any irregularity detected and advised by the State Bank shall be rectified by the concerned airline/GSA within ninety days or the amount under objection will be repatriated or adjusted from subsequent remittance, as applicable.

4. Remittance of Surplus Passage and Freight Collections by Foreign Shipping Companies.

- i) Authorized Dealers may allow remittance of surplus passage and freight collections of those foreign shipping companies/agents which are keeping their collections with them, on submission of application along with the following documents: -

- a. A copy of F.P. Statement (Appendix V-43).

⁶ FE Circular No. 9 dated August 09, 2005.

⁷ FE Circular No. 19 dated December 16, 2002.

⁸ FE Circular No. 23 dated December 31, 2002.

- b. Import/Export freight manifests.
- c. A copy of each bill of lading issued in respect of export on freight pre-paid basis, alongwith Authorized Dealers certificates as stated in paragraph 1.
- d. Passage Statement (Appendix V-38) alongwith photocopies of ticket coupons and other documents prescribed in Chapter 17.
- e. Statement of Passage/freight bookings earlier made on credit now realized (Appendix V-44).
- f. Disbursement Statements (Appendix V-45).
- g. Cancellation/Refund Statement (Appendix V-41).
- h. Statement of outstanding passage/freight bookings on credit (Appendix V-46).
- i. Authenticated copy of the charter party if the vessel calling at the ports in Pakistan has been chartered by the principals of the shipping agents in Pakistan.
- j. A copy of manifest of Cargo Consolidators together with relative non-negotiable copies of House Bill of Lading (quoting reference of original Master Bill of Lading issued by them with names of each shippers), "E" Form Certificates prescribed vide Para 32 of Chapter 12 of the Manual, Encashment Certificate where freight is paid in foreign exchange separately and a copy of valid permission letter given by the ⁹regulating authorities as stated under Para 1 (iv) *ibid*.
- k. A copy of encashment certificate in respect of inward remittance.
- l. Auditors' certificate showing payment of income tax, or exemption certificate given by the Revenue authorities.
- m. In the case of agents, a copy of the valid permission letter given by the ⁹regulating authorities as stated under Para 1 (iv) *ibid* for acting on behalf of the foreign principal.
- n. An undertaking to repatriate back to Pakistan, the amount found by the State Bank, on post-facto checking, to have been remitted in excess of the entitlement.

⁹ FE Circular No. 19 dated December 16, 2002.

ii) Authorized Dealers will allow remittance of surplus passage and freight collections plus inward remittance, to the extent of amounts of passage and freight actually realized less disbursements, refunds, and income tax paid/payable. No remittance is to be allowed in excess of the balance available in the account, as it is not permissible to make remittances out of borrowed funds.

iii) ¹⁰Authorized Dealers will retain all the documents mentioned in sub paragraph (i) alongwith a photocopy of Form 'M' submitted by foreign shipping companies/shipping agents for on-site inspection by the Banking Inspection Department, State Bank of Pakistan. The original Form 'M' shall be submitted as usual through schedule E-4 while reporting the transaction in the monthly Foreign Exchange Returns.

iv) Any irregularity detected and advised by the State Bank shall be rectified by the concerned shipping company/agent within ninety days or the amount under objection will be repatriated or adjusted from subsequent remittance, as applicable.

5. Remittance of Freight Charges by Freight Forwarders/Consolidators.¹¹

(i) As declared under the Trade Policy 2005-06, freight forwarders were allowed remittance of locally collected freight charges to their principals abroad. However, such remittances would require SBP's prior approval. In order to further facilitate the industry, Authorized Dealers are allowed to effect remittances of surplus freight directly on behalf of concerned freight forwarder/consolidators on a monthly basis, after verification of documentary evidence in support of the remittance.

In order to mitigate inherent risks and establish genuineness of the transactions, Authorized Dealer will require verification through the following documents at the time of allowing monthly remittances:

- a) Client's letter, indicating purpose of remittance, particulars of the beneficiary and beneficiary's bank.
- b) Agency Agreement with counterpart abroad (Annually).
- c) NTN and PIFFA Membership Certificates (Annually).
- d) Certificate from a practicing Chartered Accountancy firm to the effect that the amount of remittance applied for has been verified with reference to authenticated copies of prepaid Master Airway Bill/Master Bill of Lading with the related House Airway Bill /House Bill of Lading, cargo manifests and billed invoices from counterparts abroad, and had been found correct.

¹⁰ FE Circular No. 23 dated December 31, 2002.

¹¹ FE Circular No. 06 dated May 15, 2006.

- e) M – Form.
- f) Statement of Freight collected and/or payable abroad against Shipments made during the month (Appendix V-47).
- g) Statement of Freight Payable against Imports on Consolidated basis by Air/ Sea during the month (Appendix V-48).
- h) Monthly Statement of Air/Sea Cargo Consolidation (Appendix V-49).

Authorized Dealers will report all such transactions to Foreign Exchange Operations Department (FEOD), SBP-Banking Services Corporation, Karachi with copies of supporting documents obtained from the Freight Forwarders/Consolidators by the 15th of the following month. They will also retain copies of all such supporting documents at their remitting branches for SBP inspection as and when required or called for.

(ii) ¹² The Shipping Companies/Air lines or their authorized agents may issue Master Bill of Lading (MBL) /Master Airway Bills (MAWB) in the name of the Freight Forwarders (as shippers) only if the same conforms to the following:

a). Name of the Freight Forwarders/Consolidators will appear in shipper column of MBL followed by the wording “on behalf of exporter (s)” along with their names, related House Bill of Ladings/Airway Bills’ numbers and dates. The above information may either be provided on the face of the MBL/MAWB or as an attachment with the notation on the MBL/MAWB as per the “attachment which constitutes an integral part of the MBL/MAWB”.

b). Name of the counterpart of Freight Forwarders/Consolidators will appear in consignee column of MBL.

c). Name of the counterpart of Freight Forwarders/Consolidators will appear as notify party column of MBL.

d) (i) In case of FCL/FCL CY/CY shipments, both MBL and HBL will be attached and sent through bank for the receiver to retire and Freight Forwarders/Consolidators to be given for delivery. Shipping Lines will not deliver cargo unless shipping line’s MBL is surrendered at destination.

(ii) In case of LCL shipments, the cargo will be released/delivered to the Freight Forwarders’ counterpart at the port of discharge who will release/deliver the goods against a duly endorsed HBL only.

e). In the body of the MBL following may be mentioned:

¹² FE Circular No. 02 dated April 14, 2010.

- i). Goods Description.
- ii). E-Form Number & date of issue.
- iii). Corresponding HBL number issued against carrier's B/L.
- iv). Actual Importer at destination.

f). Under no circumstances, the freight forwarders/consolidator/their agents or agents of shipping Company/airline may surrender MBL/MAWB to the carrier/agent in Pakistan and must instead be presented to the carrier by the Overseas Freight Forwarder/Agents at the destination/port of discharge.

Further, in the context of related regulations and undertaking on Form 'E', the exporters/banks before carrying out transactions with their counterparts, freight forwarders, etc. should exercise due diligence/take necessary precautions to mitigate allied risks while making such arrangements.

6. General Average Payments.

i) Applications for remittance of general average collected from consignees in Pakistan shall be made by the shipping companies/shipping agents on Form 'M' accompanied by the following information/documents:-

- a) Circular of Insurance Association regarding general average.
- b) N.O.C. from the Insurance Association and National Insurance Company Limited about the remittance of the amount of the general average.
- c) The amounts collected from each individual consignee.
- d) List of cargo subject to general average.
- e) The general average bonds covering the collections.
- f) General Average Award.

Authorized Dealers may allow remittances on the basis of these documents and attach the same with the 'M' form, while reporting the transactions in their monthly Foreign Exchange Returns.

ii) Pending General Average Award, the Authorized Dealers may also issue bank guarantees in favour of the General Average Adjusters on submission of the information documents referred to from (a) to (e) above. Remittances under the guarantees will, however, be allowed by them on production of General Average Award.

iii) In the case of exports from Pakistan, if general average is declared and if the general average claim is paid by the overseas importer, the insurance company in Pakistan, with whom

the goods were insured prior to shipment from Pakistan may be allowed to reimburse the amount to the overseas importer on production of the following documents, which should be submitted to the State Bank as mentioned in sub-para (i):

- a) Export Realization Certificate.
- b) All shipping documents viz. a copy of the bill of lading, invoice, insurance policy etc.
- c) Average deposit receipt duly endorsed by the overseas importer in favour of the insurance company in Pakistan.
- d) Letter of subrogation.
- e) An undertaking to render the account on finalization of the award.

7. Operating Expenses of Pakistani Shipping Companies/Airlines.

Pakistani shipping companies and airlines are required to submit to the State Bank a monthly statement of their earnings and expenditure at foreign ports in the prescribed forms (Appendices V-50 and V-51) supported by passage/freight manifest for receipts and by vouchers in respect of payments. They can make disbursements in respect of approved transactions only out of their receipts at foreign ports and they are under obligation to regularly repatriate the excess collections, if any, to Pakistan and attach the bank encashment certificates with the statement. In case the collections fall short of the disbursements, the shipping companies/airlines should make an application to the State Bank for remittance of the deficit or for meeting bonafide individual items of disbursements like crew wages, bunkering charges, port dues, food charges etc. Applications for repair of ships/aircrafts and purchase of durable stores other than food provisions should, however, be routed through the Ministry of Communications in the case of shipping companies and the Ministry of Defence in the case of airlines.

¹³Authorized Dealers can make remittances on account of lease rentals by the Airlines incorporated in Pakistan upto the guaranteed hours. However, if the amount exceeds the guaranteed hours, Authorized Dealers would refer the case to the Director, Foreign Exchange Operations Department, SBP-Banking Services Corporation for necessary approval by submitting the following documents:

- a) Attested copy of valid agreement
- b) Original invoices
- c) An audited statement showing the opening balance, earning, expenditure and net amount (surplus/deficit)

8. Charter of Foreign Ships and Aircrafts.

¹³ FE Circular No. 08 dated June 22, 2004.

i) ¹⁴ Ship owners, charterers and operators and/or owners, charterers, and operators of all floating crafts including tugs, dredgers, survey vessels and other specialized crafts may open and operate foreign currency accounts in Pakistan. They will be permitted to operate these accounts for both receipts and payments of foreign exchange. Such foreign currency account holders may retain their surplus earnings in these accounts and shall surrender the same within three months of closing of the financial year. Foreign partners in Pakistan based Joint Venture companies may receive their share of profits after tax. Operation of such account will be subject to the following conditions:

- a) Cash deposits and cash withdrawals from these Accounts will not be permitted.
- b) All reporting requirements that are applicable for existing Foreign Currency Accounts maintained by the Shipping Companies abroad would also be applicable to those special Foreign Currency Accounts.
- c) All withdrawals in Pak Rupees will be at Interbank Rate.

(ii) Persons or firms intending to hire on charter non-resident owned ships or aircrafts should apply in the first instance to the Ministry of Communications for the charter of ships and the Ministry of Defence for the charter of aircrafts. Applications for remittance of charter hire should be made to the State Bank on Form 'M' supported by the Government sanction and a copy of the Charter Party Agreement and an undertaking that detailed account of all disbursements made for the account of the owners will be submitted to the State Bank within 15 days of the expiry of the agreement. If the application is approved, a permit will be issued to cover any advance payments required under the terms of the charter but the remittance of the total amount agreed upon will not normally be sanctioned until the final account of disbursements is made available to the State Bank. The charterers should seek from the owners' periodical reimbursement of the disbursements made on their behalf or have them adjusted from their remittances of charter hire.

9. Export Claims.

Applications from exporters for remittance of various types of claims on exports should be made on Form 'M' accompanied by a declaration in the prescribed form (Appendix V-51A) duly supported by the following documents: -

(i) QUALITY CLAIMS.

- a) Proceeds Realization Certificate.
- b) Debit Note from the buyer.

¹⁴ FE Circular No. 05 dated February 19, 2002.

- c) Test Report from a recognized Test House or an Arbitration Certificate from an approved body of arbitrators.

(ii) AMICABLE SETTLEMENT.

- (a) Proceeds Realization Certificate.
- (b) Debit Note from the buyer.
- (c) Certificate from the Chamber of Commerce in the country of import.
- (d) Correspondence in original exchanged between the shippers and the buyers. Original cables should be produced if cable charges are included in the Debit Note.

(iii) COMMISSION (If not paid in terms of the authority delegated vide Chapter 12).

- (a) Proceeds Realization Certificate.
- (b) Debit Note.
- (c) Agreement regarding payment of Commission. Shippers should furnish a copy of the Export Price Check (EPC) form registered with the relevant authority, if the goods are subject to “Export Price Check” procedure. The form should show the rate of commission.

(iv) NON-FULFILMENT OF EXPORT CONTRACT EITHER IN FULL OR IN PART.

- a) Debit Note from the buyer.
- b) Contract in original.
- c) Arbitration award from a recognized arbitrator.
- d) Correspondence in original exchanged between the buyer and the shipper.
- e) In case of claim for partial non-shipment, Proceeds Realization Certificate for the quantity shipped.

(v) INSPECTION FEE, ARBITRATION FEE, SURVEY AND ANALYSIS FEE, CONTROLLING FEE, WEIGHING CHARGES ETC.

- (a) Proceeds Realization Certificate.
- (b) Debit Note from the institution claiming fees.
- (c) Report from the above institution in support of the claim.

(vi) MISCELLANEOUS CLAIMS LIKE REFUND OF EXPORT DUTY ETC.

- a) Proceeds Realization Certificate.
- b) Debit Note.
- c) Contract.

- d) Correspondence.

(vii) LOSS IN WEIGHT.

- a) Proceeds Realization Certificate and Export Invoice.
- b) Debit Note from the buyers.
- c) Weighment Certificate/Note from a recognized weighing body and Controller's Report.

Applications in respect of items (v), (vi) and (vii) may be approved by the Authorized Dealers and the prescribed documents surrendered to the SBP-Banking Services Corporation alongwith the monthly Foreign Exchange Returns. Applications in respect of items (i), (ii), (iii) and (iv) will, however, require approval from the State Bank.

10. Guarantees for Payment of Claims.

- i) In case of export of cotton only, Authorized Dealers may extend guarantees in favour of overseas importers for payment of claim, provided the following conditions are fulfilled:

- a) Advance payment or confirmed and irrevocable letter of credit for hundred percent value has been received in favour of the exporter.
- b) The amount of the guarantee does not exceed 5% of the total invoice value covered by the advance payment or confirmed and irrevocable letter of credit.
- c) The guarantee covers shipment of cotton only.
- d) The guarantee is valid for a maximum period of 30 days after the last date of discharge of cotton in the country of import.
- e) The guarantee provides for payment of claims on submission of Liverpool Cotton Association Arbitration Award in case of exports to U.K. and of internationally known associations whose names are approved by the State Bank in the case of export to other countries.

- ii) Authorized Dealers may also allow remittance of claims falling within the terms of these guarantees provided the amount is fully covered by the Arbitration Award of the respective association. While reporting these remittances to the State Bank, the Authorized Dealers should enclose with the form 'M': -

- a) Relative Arbitration Award,
- b) Proceeds Realization Certificate, and
- c) Certificate confirming the date of discharge of cotton in the country of import.

11. Employment of Overseas Agents etc.

Prior permission of the State Bank is required by persons or firms in Pakistan who wish to acquire the services of agents abroad for any purpose other than export of goods from Pakistan, whether on regular basis or otherwise. Applications for this purpose should be made by letter giving full details of the nature and value of business transacted in the past by the applicant, the existing arrangements and the nature of the arrangements proposed to be made with the overseas agents.

12. Remittance of Royalty/Franchise and Technical Fees.

(i) Royalty and Technical Fee in the Manufacturing Sector has been defined as under:-

a) Definition of Royalty: Royalty is a fee paid by a local firm to the foreign collaborator in consideration of “License to use the foreign manufacturers’ patent/brand name for marketing the product(s).”

b) Definition of Technical Fee: It is a fee paid by the local firm to the foreign collaborator in consideration of:-

aa) Engineering and Technical Services including assistance on manufacturing process, testing and quality control, assistance by way of making available patented process and/or secret know-how and right to avail of the technical/confidential information resulting from continuous technical research and development etc; and

bb) Technical training of local personnel.

NOTE:

No technical fee shall be allowed for simple conventional process goods which are being produced in the country without foreign technical collaboration.

ii) The remittance of Royalty/Franchise and Technical Fee or Service Charges in Agriculture, Social, Infrastructure and Service Sector projects including international food chains may be allowed according to the following guidelines:-

(a) The initial lump sum fee payable to the foreign investor/the party providing technical expertise and/or allowing use of their brand name, should not exceed US\$ 100,000/- irrespective of the number of outlets under one franchise.

(b) A maximum of 5% remittance of net sales (excluding sales tax) in the food sector may be allowed as Franchise Fee only for those items, which are core items of the franchise and are the specialties of the trade name. The payment of such fees will be allowed on monthly basis. No item will be eligible for twice payment of Royalty/Franchise Fee. In other words, the payment of Royalty/Franchise Fee shall not be admissible for those items whose franchise is not held by the food chains and/or which are sold under some other brand name e.g. soft drinks etc.

(c) Percentage/amount of fees etc., for other non-manufacturing projects may also be upto the maximum of 5% of net sales (excluding sales tax).

(d) Initial period for which fees is to be allowed to projects in non-manufacturing sectors, including international food chains, should not exceed 5 years. Subsequent extension in time period will be considered and allowed by the Government/State Bank of Pakistan, provided these projects also make investment in allied upstream projects.

iii) ¹⁵The remittance of Royalty/Franchise and Technical Fee or Commission/Service Charges for the financial sector may be allowed on the following guidelines:

- a) The applications for remittances of such payments by the Commercial Banks as well as Non-Banking Financial Institutes (NBFIs) including leasing/modaraba companies and investment banks, to the foreign collaborators in respect of their branded financial products/services within the area of their authorized business, would be processed and approved by Foreign Exchange Operations Department SBP-Banking Services Corporation on a case to case basis, on submission of an attested copy of the agreement and other relevant information/documents.
- b) The one time lump sum upfront Royalty/Technical Fee/Franchise Fee should not exceed US\$500,000/-. This would be allowed from the Interbank Market.
- c) Continuing royalty payments, service/technical charges/commission or handling charges/any other directly related charges not exceeding 0.25% in aggregate of customers' billing net of taxes/surcharges would be allowed which would either be recovered from the customers or met through the financial institution's own resources. No foreign exchange would be provided/utilized for this purpose from the interbank market.
- d) Permission for standby LC/guarantee, if required, would be granted on the merit of each case.

iv) Upon execution of an agreement for transfer of technology with foreign collaborator, the local firm engaged in manufacturing as stated in sub-para (i) or operating in the non-manufacturing sectors as stated in sub-para (ii) will designate any of the Authorized Dealers in foreign exchange in Pakistan through whom payments under the agreement will be made and send an authenticated copy of the agreement to the Exchange Policy Department (Investment Division), SBP, Karachi through the designated bank within 30 days from the date of its execution. Application for acknowledgement will be made on the prescribed form (Appendix V-52). The State Bank will record the agreement if it conforms to the foregoing definitions of

¹⁵ FE Circular No. 14 dated October 03, 2002.

Royalty/Franchise and Technical Fees and send an acknowledgement or return it if the same is not in accord therewith.

v) Remittance of Royalty/Franchise and Technical Fees may be allowed by the Authorized Dealer designated for the purpose, without the prior approval of the State Bank subject to the following:-

- a) Application for remittance of Royalty/Franchise and Technical Fees is submitted by the firm concerned in the prescribed form (Appendix V-53) in triplicate alongwith a copy of the acknowledgement letter issued by the State Bank.
- b) The correctness of the information furnished in the application (Appendix V-53) must be certified by the auditors of the firm in the space provided for the purpose. An additional statement showing calculation of Royalty/Franchise and Technical Fees duly certified by the auditors should also be enclosed with the application.
- c) Payment of income tax supported by a certificate from the auditors of the paying firm. In case it is claimed that the amount of Royalty/Franchise and Technical Fees is exempt from levy of Pakistan taxes, the applicant should invariably produce a certificate to this effect from the competent tax authority and attested copy of the said certificate should be enclosed with the prescribed application to be sent alongwith other relevant documents while reporting the transaction to the Exchange Policy Department.

vi) Authorized Dealers will maintain company-wise record of remittances allowed by them on the above account so as to facilitate inspection by the State Bank's Inspection Teams.

13. Technical Services and Consultancy Agreements and Engagement of Foreign Technicians.

(i) Foreign experts/technicians may be employed by the local firms in private sector without requiring approval by any Government agency for rendering such technical services as supervision of installation, commissioning of plant and training of personnel.

(ii) Authorized Dealers may accordingly allow remittances for engagement of foreign experts/technicians to foreign firms or establish letters of credit available for payment of such charges on production of beneficiary's service invoices/bills duly certified by the employers in Pakistan. While reporting to the State Bank the remittances effected under this facility in the monthly foreign exchange returns, the Authorized Dealers will attach the following documents with relative Form 'M':-

- (a) Copy of the service agreement entered into with the foreign firms.
- (b) Beneficiary's service invoices/bills duly certified by the employers in Pakistan.

(iii) It will be the exclusive responsibility of the Authorized Dealers to ensure that income tax has been correctly deducted from the amount payable to the foreign beneficiaries and paid to the income tax authorities or exemption certificate from the income tax authorities is called and recorded with the Authorized Dealers.

14. Remittances by Information Technology Sector.

(i) ¹⁶Authorized Dealers have general permission to release foreign exchange upto a maximum of US\$ 100,000/- or equivalent in other currencies per invoice for private sector companies incorporated in Pakistan and ¹⁷those branches of foreign companies which are operating in Pakistan with the permission of Board of Investment to undertake permissible business/commercial activities, pay local taxes and periodically repatriate their profit abroad under Para 15 of this Chapter, for payments of the following charges on account of utilization of Information Technology services, after satisfying themselves with the genuineness and bonafides of the requests through invoices, Government approvals/NOCs/licensing or certifications wherever so required as per the relevant instructions in the Foreign Exchange Manual, and after deducting all applicable taxes:

- (a) Satellite Transponder Charges.
- (b) International Bandwidth Charges.
- (c) International Internet Service Charges.
- (d) International Private Line Charges.
- (e) Software Licence/Maintenance/Support Fees for proprietary/specialized software.
- (f) Subscriptions/payments for access to foreign electronic media and databases.

The above remittances may only be made through a bank designated by the remitters for the purpose under intimation to Exchange Policy Department, State Bank of Pakistan.

(ii) The remittances by the following categories shall, however, continue to be governed under the existing instructions:

- (a) Liaison/Project Offices of foreign companies (other than branches of foreign banks)
- (b) State Bodies and Enterprises

Application on Form 'M' for such remittances should be submitted to the Director, Exchange Policy Department (Investment Division), SBP, Karachi through an Authorized Dealer alongwith the following:

¹⁶ FE Circular No. 12 dated July 07, 2004.

¹⁷ FE Circular No. 12 dated July 07, 2004.

1. Agreement, if any.
2. Original invoice/demand note.
3. NOC from the concerned authority (viz PTA/Pakistan Software Export Board for an amount above US\$ 100,000/- in case of utilization of information technology services).¹⁸
4. Evidence of payment of income tax or exemption certificate from Federal Board of Revenue (FBR).

15. Remittance of Profits by Foreign Banks/Companies.

(i) Applications from branches of foreign banks operating in Pakistan for remittance of profits to their Head Office abroad should be made to the State Bank on Form 'M' duly supported by the following information/documents: -

- a) Audited Balance Sheet and Profit & Loss Account of the branch (es) in Pakistan.
- b) Tax provision made during the year for (a) the current year and (b) for the prior years along with its computation.
- c) A certificate from the auditors in Pakistan that tax provision made in the accounts is sufficient to meet all tax liabilities in Pakistan, or copies of final assessment orders and forms duly certified by the Income Tax Department.
- d) Assessment orders for the previous years, if not submitted earlier to the State Bank.
- e) Certificate from the auditors showing the liability for staff gratuity as at the close of accounts and provision made there-against. If no provision has been made, reasons thereof.
- f) Details of other/miscellaneous income.
- g) Amount charged/claimed on account of Head Office expenses for the current year (if not separately shown in the accounts) and the basis of its calculation alongwith Head Office expenses claimed/allowed by the Income Tax Authorities for the preceding 3 years.
- h) Provision made in the current year for classified assets.
- i) Confirmation to the effect that the amount provided for classified assets is not less than the amount required to be provided on the basis of the Prudential Regulations of the State Bank.

¹⁸ Circular Letter No. 02 dated January 06, 2006.

- j) Item-wise details of un-realized/accrued income credited to Profit & Loss Account for the year and in the previous year.
 - k) Item-wise details of un-realized/accrued income of the previous years realized in the current year.
- (ii) Applications for remittance of net remittable profits by the branches of foreign companies other than banks, operating in Pakistan to their Head Offices abroad should be submitted on Form 'M' supported by the following information/documents: -
- a) Audited Balance Sheet and Profit & Loss Account of the branch(es) in Pakistan.
 - b) Audited Consolidated Balance Sheet and Profit & Loss Account of the Head Office. If they are not available at the time of making the applications, they should be submitted subsequently.
 - c) Reconciliation of the Head Office Accounts.
 - d) Tax provision made during the year for (i) the current year and (ii) prior years alongwith its computation.
 - e) A certificate from the auditors in Pakistan that tax provision in the accounts is sufficient to meet all tax liabilities in Pakistan or copies of final assessment orders and forms duly certified by the Income Tax Department.
 - f) Assessment orders for the previous years, if not submitted earlier.
 - g) Certificate from the auditors showing the liability for staff gratuity as at the close of accounts and provision there against. If no provision has been made, reasons thereof.
 - h) Details of other/miscellaneous income.
 - i) Amount charged/claimed on account of Head Office expenses for the current year (if not separately shown in the accounts) and the basis of its calculation alongwith Head Office expenses claimed/allowed by the Income Tax Authorities for the preceding 3 years.
 - j) Full particulars of additions, if any, made to fixed assets in Pakistan, during the period and the source of funds utilized for financing such additions.
 - k) The extent to which the proposed remittance will require bank finance.
 - l) In case the applicant is applying for the first time, documentary evidence to the satisfaction of the State Bank that the applicant firm was in existence and conducting business operations in Pakistan prior to 3rd October, 1963. In respect of those branches of foreign firms and companies which were established in Pakistan on or after 3rd

October, 1963, original or photocopy of the letter of the Investment Promotion Bureau/Board of Investment, Government of Pakistan, granting them permission to conduct business operations in Pakistan, should be submitted with the application alongwith other documents.

(iii) A company other than a bank, insurance company, airline and shipping company desiring to avail of the facility of making remittance of profit without prior approval of the State Bank, may approach the Director, Exchange Policy Department (Investment Division), State Bank of Pakistan, Karachi disclosing the name of its banker through whom it would like to make remittance. The State Bank will authorize the bank concerned to effect remittance of profit to the Head Office abroad of the company subject to verification of the remittable amount in the manner to be prescribed by it. While reporting such remittances, the designated Authorized Dealers will enclose all the relevant documents with the relative Form 'M'.

16. Payment of Dividend to Non-Resident Shareholders.

(i) Authorized Dealers may allow remittance of dividends to non-resident shareholders without the prior approval of the State Bank. For this purpose, each company will designate an Authorized Dealer through whom it proposes to remit dividends to its non-resident shareholders. No Authorized Dealer will effect remittance of dividends under this authority unless it has been authorized by the State Bank to do so in respect of a particular company.

(ii) Each company which wants to avail of the facility of making remittance of dividends without the prior approval of the State Bank, should advise the Director, Exchange Policy Department (Investment Division), State Bank of Pakistan, Karachi the name of its bankers through whom it would like to make remittance. On receipt of nomination of a bank from the company, the State Bank will authorize the bank concerned to effect remittance of dividends, whether interim or final, to the non-resident shareholders of the company without its prior approval.

(iii) Before allowing remittance of dividends, Authorized Dealer must ensure:

- a) that the shares are held by the non-residents (other than Indian nationals) under the specific and/or general permission of the State Bank and are registered at their foreign addresses,
- b) that the shares in question were not acquired by the non-residents on the basis of their undertaking that they will not claim remittance of dividend and,
- c) that the application for remittance of dividend is net of Pakistan tax liability. Authorized Dealers must also ensure that the auditor's certificate to this effect on the application is from a well-known firm of auditors.

(iv) The following documents must be seen by the designated Authorized Dealer before allowing the remittance of dividends: -

- a) Application in triplicate in the prescribed form (Appendix V-54) duly certified by the company's auditors. There will be one consolidated application in respect of dividends due to all the non-resident shareholders. Where the company's auditors have not accepted the entitlement in respect of some shareholders, the application may be certified with their reservation and entitlement of others released pending reconciliation. Entitlement in respect of un-resolved cases may be released through a supplementary consolidated application after the matter is finalized.
- b) Two certified copies of the audited Annual Profit & Loss Account and Balance Sheet of the company concerned for the year to which the dividend application pertains or two copies of interim Profit & Loss Account for the period to which interim dividend relates.
- c) Certified true copy of the Shareholders'/Directors' resolution declaring the dividend.
- d) In case tax exemption is claimed by them/any of the shareholders, a certificate to this effect is invariably produced from the competent tax authorities.

(v) While reporting remittances allowed by them under the above authority in their monthly Exchange Returns, the Authorized Dealers will enclose with the relative Form 'M' a copy of the supporting application (Appendix V-54) together with one copy of audited Annual/Interim Profit and Loss Account and Balance Sheet and certified true copy of the Directors'/Shareholders' resolution. In cases where shareholders are resident of different countries and remittances are made in different currencies, the remittances will be reported on different 'M' forms under the relative currency statements. Reference to the relative monthly currency statements should be made in column 10 of the application (Appendix V-54) against remittances made in different currencies and the application alongwith its supporting documents should be attached to any of the 'M' forms. Duplicate copy of the application form will be retained by the Authorized Dealer concerned for its record.

(vi) Authorized Dealers also have general permission to allow payment of dividends due to non-residents (other than Indian) holding shares of companies incorporated in Pakistan on non-repatriation basis, by credit to their private non-resident Rupee accounts maintained with them or with other Authorized Dealers. To this end, Authorized Dealers making payment of dividends to non-resident shareholders for credit to their non-resident accounts shall complete the prescribed Form A-7 and forward the same alongwith the payment instruments to the Authorized Dealer which maintains the non-resident Rupee account for credit to the account of the shareholders. The receiving Authorized Dealer will report the transaction in its monthly Exchange Return.

(vii) Authorized Dealers should maintain separate company-wise record of payment of dividends made to their non-resident shareholders either by remittance or for credit to their non-

resident accounts, as the case may be, under the above general permission so as to facilitate their inspection by the State Bank's Inspection Teams.

(viii) Authorized Dealers should note that it is one of the conditions prescribed in the Investment Policy that foreign investor may temporarily hold 100% shares in the specified newly opened sectors for foreign investment, pending disinvestments of the prescribed percent of investment to residents, subject to the condition that remittance of dividend would be restricted to their investment upto 60% only. They should ensure compliance with this restriction.

17. Export of Dividend Warrants.

Dividend warrants of companies incorporated in Pakistan can be freely exported to the non-resident shareholders, provided the shares have been issued with the approval of the State Bank and a statement of such non-resident shareholders has been filed with it.

18.(i) Foreign Articles in Pakistani Newspapers and Magazines.

Authorized Dealers may allow remittances at actuals, without prior approval of the State Bank, in respect of articles contributed by non-resident foreigners for publication in Pakistani Newspapers or Magazines, provided a demand note from the non-resident contributors is produced by the publishers of the article to the Authorized Dealers while applying for remittance. Advance remittance may also be allowed subject to the applicant's undertaking to submit the requisite documents in due course.

(ii) Remittances on account of News Feature, News Picture, Syndication Services, Gambles, Comics, Puzzles, Book Reviews etc.

Authorized Dealers may effect remittances, without prior approval of the State Bank, at the request of the publishers of Newspapers and Magazines of repute having large circulation or by local agents of the foreign beneficiaries in Pakistan on account of News Feature Services, News Picture Services, Syndication Services, Gambles, Comics, Puzzles, Book Reviews etc. published in Pakistan Newspapers and Magazines. While effecting remittances, Authorized Dealers shall ensure the following:-

- a) Form 'M' has been duly signed by the applicant.
- b) A formal letter of request for remittance has been received from the remitting agency in Pakistan.
- c) The invoices/demand notes etc. of the foreign beneficiaries are produced in original.

(iii) Remittances of salary/remuneration as well as Telex/Tele fax/Telegram/Telephone Charges to the Overseas Correspondents of Pakistani Newspapers.

Authorized Dealers may allow remittances without prior approval of the State Bank, on account of salary/remuneration as well as Telex/Telegram/Tele fax/Telephone charges in favour of correspondents of Pakistani newspapers posted abroad on production of original demand notes/bills/vouchers.

19. Advertisements in Newspapers and Magazines abroad.

Exchange facility is available to exporters for publishing advertisements in foreign newspapers and magazines without any upper ceiling. Authorized Dealers may allow remittances as indicated above for advertisement charges payable by exporters to newspapers, magazines, etc., abroad without the prior approval of the State Bank on production and examination of the following documents:-

- (i) Form 'M' signed by the applicant.
- (ii) Invoice/Bill etc., of the beneficiary in original.
- (iii) Undertaking from the applicant concerned that he will produce relevant clippings from the newspaper/magazine to them within a period not exceeding three months. These clippings will be retained by the Authorized Dealers for inspection by State Bank's Inspectors.

While effecting the above remittances, Authorized Dealers will ensure that the newspaper/magazine in which the advertisement is proposed to be inserted is of good standing and repute and remittance is made only in the name of the concerned newspaper/magazine. In cases of doubt, reference should be made to the State Bank before effecting the remittance.

20. Bank Charges and Sundries.

Authorized Dealers may, without prior approval of the State Bank, effect remittances to their foreign correspondents etc., to cover payments due to them on account of bank charges, cost of cables and other incidental charges arising in the normal course of authorized business other than imports. All such remittances should be reported to the State Bank on Form 'M'. In cases where bank charges relating to exports are paid by the Authorized Dealers to their foreign correspondents by deduction from the amount of the export bills, they should report the full amount of the export bill as "Purchase" and simultaneously report the deduction as "Sale".

21. Purchase of Tender Forms from abroad.

Authorized Dealers may allow remittances on account of fees for tender forms payable to Government/Semi-Government agencies or a private company or a firm abroad without the prior approval of the State Bank on receipt and examination of the following documents:

- i) Form 'M' duly filled in and signed by the applicant.
- ii) Newspaper clipping/Pakistan/Foreign Embassy's letter or other supporting documents evidencing floatation of tenders and the cost of tender documents.

22. (i) Registration of Patents and Trade Marks in Foreign Countries.

Authorized Dealers may allow remittances covering fees etc., for registration of patents and trademarks in foreign countries by firms/companies etc., in Pakistan without prior approval of the State Bank on receipt and examination of the following documents:

- a) Form 'M' duly signed by the applicant.
- b) Debit Notes of the patent attorney/solicitors etc., for the fees for registration of patent/trade mark.
- c) Undertaking from the remitter to produce within one month from the date of remittance evidence to the effect that the patent/trade mark has been registered abroad.

It will be the responsibility of Authorized Dealers to ensure that the requisite evidence for registration of patent/trade mark is produced to them within the stipulated period.

(ii) Registration of Exporters of Pharmaceutical products in Foreign Countries.

Authorized Dealers may allow remittances of registration fees by exporters of pharmaceutical products in Pakistan for their registration with the Ministry of Health of a foreign country, without the prior approval of the State Bank, on production of the following documents:

- a) Form 'M' duly signed by the applicant.
- b) Evidence from the Ministry of Health of the foreign country concerned demanding payment of registration fee.
- c) Undertaking from the remitter to produce within 1½ month from the date of remittance, evidence to the effect that the applicant has been registered with the Ministry of Health of the foreign country concerned.

23. Reporting of Remittances.

While reporting remittances to the State Bank allowed by them under paras 12, 18, 19, 20, 21 and 22 in their monthly Exchange Returns, Authorized Dealers will bunch the 'M' forms under each category separately alongwith the supporting documents on the basis of which remittances have been effected by them. The bunch of Forms 'M' with the relative documents must have a covering statement in duplicate as per proforma given below:-

“Covering statement in respect of remittances
allowed during the month of
on account of
(State purpose)

Sl. No	Name of the Remitter	Name and Address of the beneficiary	Amount remitted in foreign exchange	Equivalent in Rupees	Particulars of document	Remarks if any
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All documents on the basis of which exchange facility is allowed by Authorized Dealers must invariably be stamped to indicate that the remittance has been allowed against them.