

AMENDMENTS IN THE FOREIGN EXCHANGE MANUAL

CHAPTER II **AUTHORISED DEALERS AND MONEY CHANGERS**

Subject: Application for Authorised Dealers license

Existing - Authorised Dealers license to branches of the banks and NBFIs is granted by State Bank of Pakistan on case to case basis.

Amended- Application for grant of Authorised Dealers license should be made by the head office of the bank/NBFI, or principal office in Pakistan in the case of foreign banks, to the Director EPD stating the nature of transactions that are desired to be dealt. Once the head office/principal office of a bank or NBFI has obtained an authorization to deal in foreign exchange, it would be free to decide the names of those offices / branches which would conduct foreign exchange transactions and advise State Bank. The advice is necessary, as a code number is required to be allotted by the Statistics Department to each branch for compilation of statistical data.

Subject: Authorised Money Changers (AMC)

Existing- As per Code of Conduct issued.

Amended- Code of Conduct incorporated. However, sub-paragraph(vii) of “Code of Conduct for money changers” is amended to make it clear that any change in the business premises/partners/directors of an Authorised Money Changer, will amount to establishment of a new money changing business and the applicable fee would become payable.

CHAPTER III **AUTHORISED RATES OF FOREIGN EXCHANGE**

The Chapter has been revised on the basis of various circulars issued on the subject. Authorised Dealers are free to determine their own rates of exchange both for ready and forward transactions for the public, subject to the condition that the margin between the buying and selling rates should not exceed Paisas fifty per US dollar or is equivalent in other currencies. This condition does not apply to inter-bank transactions.

CHAPTER IV **FORWARD EXCHANGE FACILITIES**

Subject: Forward Sale against investments by Non-Residents

Existing- The Para has been elaborated to clarify that forward sale against portfolio investment can be made by any AD.

Amended paragraph:

- (i) Authorised Dealers may sell foreign currencies forward to non-residents for portfolio investment made by them in rupee denominated shares and securities on repatriation basis out of funds remitted from abroad, as permitted vide Chapter XX. The forward cover can also be provided on the date of conversion of foreign currency into rupees, pending their investment. Such sales would be made only for the amount brought in or the face value of the security, whichever is higher. No forward cover will be provided for dividend/interest/coupon income and for Foreign Direct Investment. The

maximum period of sales should be twelve months, which may be extended in the manner laid down in paragraph 9.

- (ii) A forward sale may also be made by an Authorised Dealer other than the one maintaining the special convertible rupee account or providing custodial service for investment provided the customer gives a declaration that the investment has been made on repatriation basis and that cover has not already been obtained from any other Authorised Dealer.

Subject: Forward Cover to the Investment Banks, Leasing and Modaraba Companies

Existing - Available. It has been further clarified.

Amended Para

Authorised Dealers may provide forward cover to the Investment Banks, Leasing Companies and Modaraba Companies holding restricted Authorised Dealer's Licences issued by the State Bank of Pakistan, in respect of the funds mobilized by them from abroad against issuance of Certificates of Investment and surrendered to the State Bank provided they have not obtained forward cover from the State Bank.

Subject: Extension of Forward Cover

Amendment – Authorised Dealers are now permitted to extend forward contracts on roll-over basis even for less than one month.

CHAPTER V
FOREIGN CURRENCY ACCOUNTS

Subject: Purchases by SBP of Currencies from and their sale to the Authorised Dealers.

Amendment – The existing para which was based on the provision of section 23 of SBP Act (Obligation to buy or sell foreign exchange) has been redrafted in view of the amendment in the Act. It now reads as under:

“The State Bank may at its discretion buy US Dollars from and sell them to the Authorised Dealers both Ready and Forward.”

CHAPTER VI
PRIVATE FOREIGN CURRENCY ACCOUNTS

☞ This chapter has undergone many changes due to imposition of restrictions in May 1998, introduction of the new FC scheme vide FE circular No.25 of 1998 and other changes made from time to time including the amendment made in the Protection of Economic Reforms Act.

☞ The various types of Foreign Exchange Accounts have now been clearly defined and incorporated category wise. However, it is clarified that restrictions placed on withdrawal in foreign currency from FC Accounts existing as on May 28, 1998, vide FE 12 of 1998 as amended from time to time, would continue to be operative, till the restrictions are lifted.

Subject - Special permission for foreign currency accounts

Existing – The opening of FCAs with the proceeds of foreign equity & loans and accounts of foreign contractors require prior approval from SBP.

Amended Para: To liberalize these regulations, the following instructions have been included in the Manual:

- i) Foreign Oil/Mineral exploration companies and foreign contractors and their foreign sub-contractors may be allowed by the Authorised Dealers to open foreign currency accounts under the Scheme described in paragraph 6 (FE 25 Scheme) or Special Foreign Currency Accounts subject to the condition that they will meet all their expenditure in Pakistan including salaries of foreign nationals/non-residents in Pak Rupees only, out of rupee payments if any, received by them in terms of their contracts / by converting in the inter-bank market funds received from their Head Offices / by converting funds from their foreign currency accounts in the inter-bank market.
- ii) (a) Firms and companies raising foreign equity and foreign currency loan may be allowed by Authorised Dealers to open special foreign currency account for receiving and retaining the foreign funds on submission of information about the source of foreign funding and the amount required to be retained in foreign currency. The funds available in such foreign currency account can be used by the account holders for making only those types of payments which are otherwise permissible in terms of the instructions laid down in this Manual (e.g. imports, consultancy) and which are related to the business of the account holder. Any amount not so used will be required to be converted into rupees in the inter-bank market and no withdrawal will be allowed in the shape of foreign currency notes.

(b) The concerned Authorised Dealer will be required to submit monthly statements in the prescribed proforma (Appendix V-5) alongwith the related import documents, invoices, agreements etc.

(Note: App. V-5 is the same Annexure 'A' of FE Circular No. 16 of 1996)

CHAPTER VIII **PRIVATE NON-RESIDENT RUPEE ACCONTS**

Subject—Operations of Non-resident Accounts of persons, Firms and Companies other than Banks.

Monthly ceiling of Rs 5000/- on Cheques drawn for maintenance has been abolished.

CHAPTER XII **EXPORTS**

The FE circulars issued in relation to extension in the prescribed period for repatriation of export proceeds from four months to six months and retention of export proceeds by software exporters and service industry and Private Commodity Exchange arrangement with foreign parties have been incorporated.

Subject – Retention Period of Export Proceeds

Existing – It is permissible for exporters to retain the export proceeds in special exporters account with an Authorised Dealer in Pakistan for 3 working days and to sell the same within this period to any Authorised Dealer.

Amendment – It is clarified that the facility also covers advance payment received for exports.

Subject – Exports Exempted from Foreign Exchange Regulations

Existing – Gift parcels where they are accompanied by a declaration by the sender that the contents of the parcel are less than Rs 500/- in value.

Amendment – The limit of Rs 500/- has been replaced with the words ‘a value not exceeding the ceiling notified by the Ministry of Commerce for gift parcels from time to time’.

Subject - Methods and Period of Payment

Existing - All extensions in the realization period require State Bank of Pakistan prior approval.

Amended – Where the terms of sale provide for payment earlier than six months, Authorised Dealers may allow extension in the realization period if they are satisfied with the explanation given, provided such extension does not extend the period beyond six months from the date of shipment.

Subject - Free Samples

Existing: Not available.

Amended: Physicians’ Free samples may be supplied along with consignments of drugs and medicine being exported by the pharmaceutical companies up to the extent agreed to between exporter and foreign buyers/agents.

CHAPTER XIII
IMPORTS

Subject – Payment through Authorised Dealers in the Foreign Exchange Area of the Importer

Amendment – Existing paragraph has been deleted.

Subject – Endorsement of the amount on invoices.

The requirement of Endorsement on invoice has been abolished.

Subject- Imports under letter of credit - Opening / Extension of letter of credit- Time frame & change of beneficiary

Amended- Authorised Dealers are now empowered to allow extensions in all types of letters of credits for further periods not exceeding 12 months at a time on payment of fee if so prescribed in the Import Policy, provided there has been no change in the Import policy/exchange regulation in relation to the importability of the goods, the country of origin/shipment and the method of payment. Some other minor changes have also been made. The revised para is reproduced below:

Opening of / extension in letters of credit - time frame / change of beneficiary and commodity/other amendments.

(i) Authorised Dealers can open letters of credit and extend their validity for a period allowed by the import policy announced by the Ministry of Commerce subject to compliance with all the conditions laid down therein.

(ii) If the import policy does not lay down any instruction in this regard, they may open letters of credit for a period upto 12 months. However, in respect of machinery and mill-work which are required to be specifically manufactured and the period of manufacture is more than 12 months, the letter of credit may be opened for a period upto 24 months. The validity of a letter of credit may be extended by the Authorised Dealers for further periods not exceeding 12 months at a time on payment of fee, if so prescribed in the Import Policy, provided there has been no change in the Import Policy/exchange regulations in relation to the importability of the goods, the country of origin / shipment, and the method of payment, and if approached within its validity. An expired letter of credit may also be similarly revalidated subject to the same conditions.

(iii) Authorised Dealers are also allowed to amend the letters of credit envisaging change of the beneficiary/goods at the request of the importers provided the importers approach the Authorised Dealers for the change within the validity of the letter of credit and import of the goods covered by the letters of credit are still permissible.

(iv) Authorised Dealers should also ensure to make endorsement of L/C opened for items (other than freely importable items) whose import is subject to certain conditions, in the original Category Pass Book. In case an importer opens letters of credit with more than one bank, the Authorised Dealer holding the original category Pass Book will make out photostat copies thereof, authenticate the same and furnish other concerned Authorised Dealers with it and will keep record thereof.

(v) Authorised Dealers may also make other amendments in the letters of credit without reference to the State Bank provided the amendments are not in conflict with the provisions of this Manual or the Import Trade Control Regulations.

(vi) Letters of credit may provide for negotiation of documents within a period not exceeding 30 days from the date of shipment.

Subjects - Remittance involving violation of ITC (Import Trade Control) Regulations.

Revised paragraph is reproduced below:

‘Authorised Dealers may allow remittance of the value of imports made in contravention of the import policy if the Federal Government has condoned the contravention and the Customs have released the goods. Such remittance may be allowed on submission of the invoice, bill of lading and Exchange Control copy of Customs Bill of Entry.’

Subject – Payment of freight on import of trade samples

Airlines / shipping companies can accept freight in Rupees up to Rs. 500/- per year per registered importer for import of bonafide trade samples. **This limit has been enhanced to Rs. 2000/-.**

Paras relating to Foreign Currency loans and credit transferred to chapter on loans.

Subject-General authority for remittance against Imports

The power to allow remittances against import documents received directly by the importer has been **delegated to the Authorised Dealers**. The revised paragraph is reproduced below:

(i) Authorised Dealers may approve on behalf of the State Bank, applications for remittance against imports into Pakistan provided the documents covering imports, whether under letters of credit or otherwise, are received through them and the conditions set out in this chapter are complied with. The relative Form 'T' should be certified accordingly when reporting the sale to the State Bank. In the case of imports by post, Authorised Dealers may make remittances without the prior approval of the State Bank, only if the post parcels are addressed directly to them. In cases, where the parcels are addressed directly to the individuals or care of the Authorised Dealers, applications should be forwarded to the State Bank for prior approval. Authorised Dealers should invariably attach a copy of the relative invoice with the original or quadruplicate 'T' Form, as the case may be, submitted by them to the State Bank with their monthly return of sale in terms of para 33 of the chapter.

(ii) Where the shipping documents are received by the importers directly, or by the Authorised Dealer from the overseas supplier instead of the bankers of the suppliers, remittance should be made only after the goods have been cleared from the Customs and the Exchange Control copy of Bill of Entry or Customs certified invoices in the case of imports by post, relative invoices,

non-negotiable copies of the Bill of Lading / Airway Bill / Railway Receipt / Truck Receipt etc. and T Form duly completed and signed have been submitted.

Subject - Submission of Bills of Entry condition

The requirement of submission of Exchange Control Copy of Bill of Entry in all cases of remittances for imports and its verification by the Authorised Dealers was dispensed with vide FE 91/92. It was reintroduced vide FE 16/98.

Amendment - This provision has been dropped. The revised instructions will apply to all remittances affected on or after 01-01-2002. The Authorised Dealers will follow the instructions conveyed vide FE 16/98, as amended from time to time, in respect of remittances made upto 31-12-2001.

CHAPTER XIV **COMMERCIAL REMITTANCES (OTHER THAN FOR IMPORTS)**

The paragraphs regarding Remittances for surplus passage of Shipping Companies and Airlines have been rewritten in line with the circulars issued during the years 2000 & 2001.

Subject – Remittance by Information Technology Sector

Amended – Remittance on account of items of IT nature as specified in IT policy will be considered by SBP. The relevant para introduced in the Manual is reproduced below:

(i) Remittances on account of items of the following nature may be allowed by the State Bank:

- (a) Satellite Transponder Charges
- (b) International Bandwidth Charges
- (c) International Internet Service Charges
- (d) International Private Line (IPL) Charges
- (e) Software License/ Maintenance/ Support Fee against specific “Software License Agreement” executed with the licensor on the basis of NOC issued by Pakistan Software Export Board.

(ii) Application on Form ‘M’ for such remittance should be submitted to the Joint Director (Investment Division) through an Authorised Dealer along with the following:

- a. Agreement, if any.
- b. Original invoice / demand note.
- c. NOC from the concerned authority (viz PTA/Pakistan Software Export Board).
- d. Evidence of payment of income tax or exemption certificate from CBR.

Subject – Advertisement in newspapers and magazines abroad.

Existing: Advertisement clippings from the newspaper/magazine are required to be submitted to SBP within a period not exceeding three months.

Amended - These clippings will now be retained by the ADs for inspection by the State Bank’s Inspectors.

CHAPTER XV **INSURANCE BUSINESS**

Remittances are allowed by SBP in respect of the following:

- (a) Claims in respect of marine policies covering export

(b) Remittance under reinsurance business

Amended: The powers to allow remittances of claims in respect of the above have been delegated to Authorised Dealers. The revised instructions are reproduced below:

Claims in respect of Marine Policies covering Exports.

i) Claims arising under the policies covering exports from Pakistan are payable to the shippers in cases where the proceeds have not been realised from the overseas importers. Where the payments have been received by the shippers, the claim can be paid to the overseas importers.

ii) Remittance of these claims by Pakistani insurance companies to foreign importers may be allowed by the Authorised Dealers on submission of applications accompanied by the following documents:

1. Application on form 'M' along with the declaration in the prescribed form (Appendix V-53).
2. Claim Note.
3. Policy in original. Duplicate acceptable where original is retained by the Customs authority of the importing country and / or lost and indemnity in lieu of the original.
4. Invoice on CIF basis relating to the shipment.
5. Bill of Lading / Airway Bill / Postal Receipt relating to the shipment.
6. Survey Report / Short Landing Certificate / General Average Adjustment / Short Contents Certificate / No Survey Loss Certificate. Survey not necessary if claim is not likely to exceed U.S. \$100/-.
7. Foreign bank's certificate to the effect that the proceeds relating to the shipment against which claim is made have already been remitted to Pakistan (except in case of general average claim payable to adjusters).

iii) To facilitate prompt payment to overseas claimants, the State Bank will consider requests from Pakistani insurance companies for settlement of such claims by their overseas settling agents through a system of revolving letter of credit. In cases where such permission is given claims would be scrutinized by the overseas settling agents on the basis of the documents indicated at serial No. (2) to (7) in the preceding sub-paragraph and payments made through revolving letter of credit. The claim documents both in respect of direct remittance and remittance under letter of credit should be submitted to the State Bank along with the relative form 'M' while reporting the transaction in the monthly Returns for post facto checking along with the declaration in the prescribed form (Appendix V-53).

iv) Foreign insurance companies are required to settle claims in respect of marine policies covering exports through their head offices on the basis of all the above claim documents.

Remittance under Reinsurance Business

Permission may be given by the Authorised Dealers for remittances in respect of reinsurance business effected with or accepted from non-resident companies on the insurance companies submitting to them the following information and documents. Remittances in respect of life reinsurance business will, in addition, be subject to conditions laid down in the preceding paragraph 23 of the Manual.

i) Remittance of premia under Facultative Reinsurance:

1. Applications on form 'M' accompanied by a declaration in the prescribed form (Appendix V-54).
2. Evidence in the nature of cover note etc., in respect of reinsurance affected.
3. Certificate from the Controller of Insurance to the effect that the local market has been fully utilized before placing any part of the risk outside the country facultatively.

ii) Settlement of Account under Treaty Reinsurance:

1. Application on form 'M' accompanied by declaration in the prescribed form (Appendix V-55).
2. A proforma statement of account showing net balance payable / receivable signed by the manager or an authorised officer of the applicant company duly confirmed by the beneficiary.
3. Proceeds Certificate in case any amount of claim has been received in cash and the same is being accounted for through the statement of account.

These documents will be submitted to the State Bank with the monthly Returns.

(Note: App. V-53 is the old V-62, V-54 is the old V-63 and V-55 is the old V-64).

CHAPTER XVI **PRIVATE REMITTANCES**

Subject – Transfer of Assets – Foreign nationals retiring from Pakistan

Details of credit entries in bank account other than monthly pay and allowances and sale proceeds realized in respect of locally and imported purchased articles each of value Rs.500/- are required to be submitted.

This requirement has been dispensed with.

Subject – Subscription to foreign magazines, periodicals etc and purchase of books of a learned or technical nature.

?? For professional and specialized organization and import of Braille books for blinds Authorised Dealers are empowered to allow remittance upto Rs.20000/- each per year. These instructions have been revised to allow such remittances as per current Import Policy. The revised paragraph is reproduced below:

‘Authorised Dealers may allow remittances, without prior approval of the State Bank, for subscription to foreign magazines, periodicals, newspapers etc., and for purchase of books of learned and technical nature as per ceiling prescribed in the Import Policy.’

?? The existing paragraph 12 has been amended by adding the following:

- (vi) A declaration by the applicant showing the amount already remitted during the current fiscal year.

Subject – Import of medicines and special gadgets for disabled persons.

Authorised Dealers are empowered to allow such remittances upto a ceiling of Rs.5000/- per person per year. The instructions have been revised vide FE Circular No. 24 of 2001.

Subject – Correspondence course

The existing ceiling of Rs.10000/- for payment of fees for approved correspondence course has been abolished.

CHAPTER XVIII **IMPORTS AND EXPORTS OF CURRENCY NOTES AND COINS, FOREIGN EXCHANGE, JEWELLERY, GOLD & SILVER**

Subject –Taking out of precious stones and jewellery

Existing – Foreign Nationals can take out gold, jewellery, precious/semi precious stones up to the value of Rs. 100,000/- in all provided the same have been purchased against encashment of F.E brought by them from abroad.

Amendment – Overseas Pakistanis have been included in this Facility and limit has been revised to US \$ 10,000/-(in order to bring it in line with Ministry of Commerce notification).

CHAPTER XIX **LOANS, OVERDRAFTS AND GUARANTEES**

1. This chapter has been re-arranged in order to clearly provide separately for: -

- (a). Rupee loans to Foreign Controlled Companies, non-residents and against guarantees of non-residents/ collaterals held outside Pakistan.
- (b). Foreign Currency loans to the Private Sector.
- (c). Guarantees/Performance Bonds etc.

2.The existing restrictions on foreign controlled companies for local borrowings which are linked with their nature of business and paid-up capital have been removed. They will henceforth be permitted to borrow for meeting their working capital requirement subject to observance of Prudential Regulations. The revised para is reproduced below:

‘Authorised Dealers are authorised to grant rupee loans and credits to foreign controlled companies for meeting their working capital requirements subject to observance of Prudential Regulations prescribed under the Banking Companies Ordinance.’

As a consequence, the existing paragraphs No. 4 to 13 have been deleted.

Subject - Foreign currency loans for working capital of foreign controlled companies.

Powers to sanction the facility lies with State Bank of Pakistan. Additional rupee loan and overdrafts on matching basis are approved by State Bank of Pakistan.

Amended - These powers are delegated to Authorised Dealers. The revised paragraph is reproduced below:

‘Foreign controlled companies are permitted to contract foreign currency loans from banks/financial institutions abroad or from their Head Offices/ or from other overseas branches/associates for meeting their working capital requirements. The repayment period should not exceed twelve months and the rate of interest should not exceed 1 % over LIBOR. Such loans can, however, be rolled over for further periods not exceeding twelve months each.

(ii) Foreign controlled companies, as defined in paragraph 2 *ibid*, desirous of availing this facility may approach their bankers (Authorised Dealers), who will satisfy themselves that the applicant is a foreign controlled company. Once such a confirmation is obtained, the concerned company may contract the loan and repatriate the amount for credit to their Rupee account with the Authorised Dealer.

(iii) The concerned Authorised Dealer will issue a proceeds realisation certificate, and record the particulars of the loan. On maturity, the Authorised Dealer having received the inward remittance will allow payment of interest minus taxes and repayment of principal. While reporting remittance of interest, a certificate confirming the applicable LIBOR and a certificate confirming payment of income tax will be attached with the Form ‘M’. If tax is not payable, a

copy of the exemption certificate issued by the Revenue authorities will be submitted. While reporting repayment of the principal, a copy of the proceeds realisation certificate will be attached with the Form 'M'.

(iv) Branches in Pakistan of foreign companies are not allowed to pay interest on such loans.

(v) Foreign contractors are not allowed to pay interest on such loans, and they can repay the loans only after they have completed the contracted work/project and have submitted clearance certificate from the tax authorities, which should be attached with the Form 'M'.