

**iv-A) Foreign Exchange Future Flow Transactions Framework for Long Term Fund-Raising by Authorized Dealers**

1. Authorized Dealers (AD) are allowed to raise long-term funds from a Special Purpose Vehicle (SPV) outside Pakistan, by selling their Diversified Payment Rights to it, under Foreign Exchange Future Flow Transactions(FFTs) Framework, with the prior approval of State Bank of Pakistan (SBP) as mentioned in sub Para 7 below.

2. For the purpose of this para:

- a) “Diversified Payment Rights” (or “DPRs”) mean the right, title and interest (but none of the obligations) of an AD in, to and under, and all monetary claims of an AD against the sender/ payer of, Payment Orders denominated in one or more foreign currencies received (or to be received) by such AD (including its right to receive and/or retain for itself all payments made in connection with such Payment Orders).
- b) “Payment Order” has the same meaning as provided in Para 21 (i)(i), Chapter 10 (Inward and Outward Remittances) of the Foreign Exchange Manual (FEM).

3. ADs, interested in participating in such a transaction, or a program structure, consisting of multiple transactions, shall adhere to the instructions/ guidelines prescribed below:

- a) The SPV setup outside Pakistan for the purpose of undertaking only the FFT-related activities shall neither be owned nor controlled by the AD or by any of its affiliates. However, the SPV may have a name that incorporates all or some of the elements of the AD’s name subject to prior approval of SBP.
- b) The SPV may issue debt instruments (or raise loans or incur other debt) in the international markets and must thereafter remit 100% of the proceeds of such debt to the AD against the sale of DPRs. However, such AD’s name shall not be used in the name of any debt instruments issued (or loans or other debt incurred) by such SPV. Reasonable steps shall be taken to ensure that investors/ lenders, in such debt instruments (or loans or other debt), are aware that the obligations of the AD, to the SPV and investors/ lenders, are limited to the extent expressed in the AD’s written agreement with such SPV and investors/ lenders.
- c) The AD shall ensure that there are no impediments (contractual or otherwise) that prevent the sale of the applicable DPRs to the contemplated SPV and that, if any are required, all necessary consents from each applicable obligor (Payment Order-sending bank) have been obtained. However, failure to obtain any such required consents and/ or failure to comply with any such underlying agreement, for the purposes of this framework, shall not impact the validity of the applicable sale except to the extent that the applicable underlying agreement so provides.
- d) The applicable DPRs must be sold to the applicable SPV on an arms-length basis.
- e) The sale of a DPR, to qualify as a “true sale” (i.e., put beyond the reach of the AD and its creditors even in a receivership, bankruptcy or similar proceedings with respect to such AD,

including one administered by the SBP), must satisfy the following (and only the following) characteristics, upon which such sale will be a valid “true sale”.::

- i. The sale of such DPRs must be provided for in a written agreement between such AD and the applicable SPV, which agreement may be governed by Pakistani or other law and may be in such form and language as agreed by the parties. Such agreement need not to specifically identify each applicable DPR or the identity of any related obligor(s). Such sale may provide for the applicable DPR to have been sold either perpetually or to a future sale termination date to be determined in some manner, as agreed by the AD and the SPV (including, for example, the agreement of the AD and SPV or the payment of all of the SPV’s obligations).
  - ii. The AD must state that it is selling to the SPV all of its rights to receive payment of the applicable DPRs.
  - iii. The SPV shall not have any recourse to the AD with respect to any default by the applicable obligor(s) of such DPRs except with respect to DPRs for which such AD has made an inaccurate representation and/or warranty at or before the time of its sale to the applicable SPV (or, with respect to a future funding to the AD under the applicable transaction, at or before the time of such funding).
- f) If there is a prospectus or similar offering document (an “Offering Document”) for such a transaction or program structure, then the applicable investors/lenders must be clearly informed in such Offering Document that the applicable FFT does not represent deposits in the AD.
- g) The applicable SPV will own the sold DPRs immediately upon their generation (i.e., the AD will not have even momentary title thereto).
- h) The AD may also sell/ assign related bank and/ or other collection accounts to SPV. However, the AD may (as servicer, trustee, agent or otherwise for the SPV), remain the sole or joint owner of such account without impacting the “true sale” nature of such sale/ assignment. In addition, the AD may open a new account to replace any such sold/assigned account. However, the AD may get back the control of such sold/assigned accounts upon termination of the underlying FFT.
- i) Subject to the terms of the applicable DPRs, notice of the sale of a DPR need not be given to the applicable obligor(s) nor is any acknowledgment or agreement from such obligor(s) with respect thereto required; however, notice of such sale to such obligor(s), and any acknowledgment or agreement from such obligor(s) with respect thereto, may be made in such a manner as the AD and/ or the SPV determines.
- j) In addition to DPRs to be generated in the future, the sale may include such DPRs existing at the time of such sale. Furthermore, such DPRs to be generated in the future need not be derived from a contract or other arrangement in effect at the time of such sale (e.g., such sale may include DPRs derived from the AD’s relationships and/ or transactions that commence after the sale).
- k) An SPV may be consolidated with the AD for accounting purposes to the extent applicable accounting rules so require, which consolidation will not impact the “true sale” nature of the sale of the applicable DPRs or any other elements of the applicable FFT.

4. Notwithstanding any other rule, regulation, circular, notification or similar instructions of the SBP, the collections on DPRs received by the SPV in foreign currency, may be retained outside Pakistan to the extent required to satisfy such SPV's debt and other obligations arising as a result of the FFT with AD; provided that an amount equal to the rest of the funds (including any accrued profit) shall be received by the AD as part of the consideration for such sale.

5. Notwithstanding any other rule, regulation, circular, notification or similar instructions of the SBP, in connection with the funds raised from outside Pakistan through the SPV, under an FFT, the AD may repay to the SPV such amounts (plus interest and other customary amounts) to the extent it is not recovered by the SPV from the collection on DPRs.

6. ADs desirous of participating in such FFT transactions shall formulate policies and develop controls, and checks to effectively manage the associated risks.

7. The AD intending to enter into an FFT, shall approach the Exchange Policy Department of SBP for prior approval of the transaction or program structure based on multiple tranches. The AD shall provide the material details of the arrangement, including but not limited to the following:

- a) Details of the SPV to be used for raising debt under the FFT. The ADs are required to ensure the due diligence of the SPV before sharing the details with SBP.
- b) Details of the DPRs intended to be sold to the SPV.
- c) The initial amount contemplated to be raised, the expected cost, and the expected tenor and repayment plan of the transaction/ program;
- d) The intended use of funds to be raised from outside Pakistan.
- e) A description of the underlying agreements with the SPV and other parties to the FFT.
- f) The target investors/ lenders and a description of whether an Offering Document will be issued.
- g) Details of roles (other than the originator role) that the AD wants to assume in the FFT.
- h) Details of other fees, and expenses contemplated to be paid by the AD for the transaction/program structure.

\*\*\*\*\*