

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 rules and 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. Further, the Notifications 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 (<http://www.sbp.org.pk/epd/index.htm>). 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, as per the list appended at *Annexure-A* of this Chapter; cases involving waiver from any provision of the FE Manual/Circulars, or where no explicit guidelines are provided in the Manual shall be referred to the Director, Exchange Policy Department, State Bank of Pakistan, I. I. Chundrigar Road, Karachi.
- b) All operational matters, as per the list appended at *Annexure-B* of this Chapter, shall be referred to the Director, Foreign Exchange Operations Department, SBP-Banking Services Corporation, Head Office, I. I. Chundrigar Road, Karachi or to the respective field offices of SBP-Banking Services Corporation.

(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 and beneficial ownership 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. Stationery¹.

(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

¹Exports are mainly being handled under EFE Module of WeBOC. However, a small percentage of exports are still being made through manual Forms ‘E’ (For details, please refer Chapter 12).

3.	Sukkur:	Sukkur and Larkana Divisions
4.	Quetta:	Quetta, Kalat, Sibi and Makran 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.

- a. **Act** means the Foreign Exchange Regulation Act, 1947.
- b. **Authorized Dealer** means a person for the time being authorized under Section 3 of the Act to deal in foreign exchange.
- c. **Authorized Derivatives Dealers** are institutions that are licensed by the State Bank to undertake certain derivative transactions.
- d. **Bank** means a banking company as defined in section 5 of the Banking Companies Ordinance, 1962 (LVII of 1962);
- e. **CFR** means Cost and Freight, as referred to in International Chamber of Commerce (ICC)'s latest Incoterms.
- f. **CIF** means Cost, Insurance and Freight as referred to in ICC's latest Incoterms.
- g. **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.
- h. **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.
- i. **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.
- j. **Export Proceeds** means sale proceeds received in approved manner against goods/services exported from Pakistan.

- k. **Foreign Currency** means any currency other than Pakistan currency.
- l. **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.
- m. **FOB** means Free on Board as referred to in ICC's latest Incoterms.
- n. **Freight** means the charges paid for the carriage or transportation of goods by air, sea or land.
- o. **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.
- p. **Open Account** shall include import transactions in which documents have been received by importer or the Authorized Dealer directly from the foreign supplier.
- q. **Pakistan Currency** is the currency which is expressed or drawn in Pakistan Rupees (PKR).
- r. **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.
- s. **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.
- t. **State Bank** means the State Bank of Pakistan established under the State Bank of Pakistan Act, 1956.
- u. **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 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.

- v. All other terms and expressions used but not defined in this Manual shall have the same meaning as assigned thereto in the Act, Banking Companies Ordinance, 1962, State Bank of Pakistan Act, 1956, Microfinance Institutions Ordinance, 2001 and Payment System & Electronic Fund Transfers Act, 2007.

Nature of Cases to be considered by Exchange Policy Department

	<i>Authorization to deal in Foreign Exchange</i>
1	Issuance of AD's licenses to Banks and Restricted Authorization to DFIs and Hotels to deal in FX.
	<i>Trade</i>
2	Commission and other trade charges from the invoice value over the prescribed limit.
3	Payments outside Asian Clearing Union (ACU) mechanism.
4	Establishment of LC other than back to back LC under Merchanting Trade.
	<i>Exports</i>
5	Shortfall in realization of export proceeds over the prescribed limit.
6	Exemption from Electronic Form 'E' (EFE) procedure for export of goods from Pakistan.
	<i>Imports</i>
7	Exemption from Electronic Import Form (EIF) procedure
8	Issuance of EIF where no payment from Pakistan is involved.
9	Remittance of advance payment for import where the goods are of specialized nature and could not be shipped within 120 days and/ or amount is over and above USD 10,000.
10	Establishment of Letter of Credit (L/Cs) by PIA/ Pakistani Shipping Companies involving delivery of goods to carriers other than PIA/PNSC.
11	Establishment of L/C on CIF/CIP, Transferable, Revolving basis, CFR/ Free Out basis, etc.
12	Remittance on account of Excess Payment/ Overdrawn Bills for the imports.
13	Extension in time period for submission of shipping documents beyond 4 months, in case of imports under advance payments.
14	Amendment in Letter of Credit or insertion of special clauses in the L/C.
15	Clarification/exemptions related to forward cover.
	<i>Commercial Remittances</i>
16	On account of Equity Investment Abroad
17	On account of Employee Stock Option Plans and related remittances.
18	On account of Establishment of Branch/ Office abroad by Pakistani Banks/ Authorized Dealers/ Financial Institutions.
19	On account of Profit repatriation abroad by the branch offices of foreign companies/ banks working in Pakistan
20	On account of Head Office Expenses reimbursed by the branches of foreign companies/ banks working in Pakistan
21	On account of meeting shortfall in Minimum Capital Requirement (MCR) for overseas branches of Pakistani banks.
22	On account of Budgetary Expenses of a company's or bank's Representative Offices/ Liaison Offices/ Marketing Offices located abroad.
23	On account of Service Level Agreements signed by the Banks, Microfinance Banks, DFIs and NBFIs with the parent company/ related parties abroad, and their related remittances.
24	On account of expenses for promotion of home remittances.

	<i>Private Transfers</i>
25	Remittance on account of Inherited Properties
26	Home Remittances
27	Home Remittance related agreements between domestic and overseas financial institutions and other associated issues.
28	Clarifications on New Products launched for home remittances/ Special Non Resident Accounts
29	Clarifications/ Policy matters related to 'Reimbursement of T.T. Charges Scheme' and 'M-Wallet Scheme'
	<i>Insurance</i>
30	USD denominated insurance policies by local insurance companies on notional basis.
	<i>FCY Borrowing From Abroad</i>
31	Foreign Currency Loans borrowed from abroad.
32	Repayment Schedule on account of FCY borrowing from abroad.
33	Principal and Interest payments on FCY borrowing from abroad, before registration of Repayment Schedule with SBP.
34	PKR Lending to Foreign Controlled Companies/ Non Residents/ Individual Foreign Nationals.
	<i>Guarantees</i>
35	Guarantees/ SBLC, involving FCY borrowing from abroad or equity investment abroad, only.
36	Establishment of SBLC against import of crude oil.
	<i>Registration of Shares / Hypothecation of Shares</i>
37	Registration of Shares issued by the resident companies to non-residents.
38	Designation of ADs for remittance on account of dividend and disinvestment proceeds to non- resident shareholders of resident companies.
39	Pledge/ Hypothecation of shares of resident companies as collateral to the custodian favoring foreign lenders relating to FCY Loans borrowed by resident companies.
40	Registration of bonus/ right shares in favor of non- residents
41	Registration of Shares Transfer; from residents to non- residents and from non-residents to non-residents.
	<i>Accounts</i>
42	Policy waiver with respect to FCY Accounts.
43	Retention of FCY balances in FCY Accounts opened with SBP's special permission.
44	Special FCY Accounts and Imprest Accounts for miscellaneous purposes, with respect to various Public Sector Entities.
45	Policy waiver with respect to Non- resident Rupee Accounts.
46	Closure of Non- resident Rupee Accounts of Foreign Banks' Branches and Correspondents.
47	Matters related to Blocked Accounts.
48	Matters related to Special Convertible Rupee Accounts (SCRA).

Nature of Cases to be considered by Foreign Exchange Operations Department

Exports	
1	Realization of export proceeds beyond six months period.
2	Adjustment of unutilized advance payments received by the exporters from different buyers.
3	Adjustment of advance payment against exports.
4	Refund of export advance payment to the remitter.
5	Utilization of time barred export advance payments.
6	Export commission related matters.
7	Issuance of certificate against bank guarantee for export of raw cotton.
8	Matters related to re-export of goods e.g. for repair/ replacement, frustrated cargo, etc.
9	Allocation of quota for sugar, wheat, fertilizer/ urea, etc. and respective subsidy payments.
10	Subsidy Scheme Claims (DLTL Textile and Non-Textile, Sugar, Wheat, etc.).
11	Charter Party freight related remittance against exports/ imports.
12	Operational matters pertaining to Electronic Form E (EFE).
13	Export Overdue cases and related litigation ¹ .
Imports	
14	Import on Open Account basis.
15	L/Cs for import of services.
16	Import of goods/ acquisition of services from abroad, by the Public Sector Entities/ Ministries/ Government Institutions/ Provisional Governments, etc.
17	Issuance of Exchange Entitlement Certificates.
18	Import Overdue cases and related litigation ¹ .
19	Operational matters pertaining to Electronic Import Form (EIF)
Commercial Remittances	
20	On account of services acquired from abroad. (Appendix 'X')
21	On account of Oil and Gas related purchase
22	On account of Aircraft Lease Rentals/Maintenance Reserves/security deposit.
23	On account of Implementation Agreements signed between the Independent Power Producers and the Government of Pakistan.
24	On account of foreign engineering/ technical services and O&M (Operation & Maintenance) service contracts.
25	On account of operating expenses on behalf of shipping companies e.g. cost of bunkers, lubricants, port disbursement charges, etc.
26	On account of Dry Docking/ Repair Fee.
27	On account of Director's Remuneration/ Meeting Fee, etc.
28	On account of container detention charges and demurrage charges of chartered ships.
29	On account of refurbishment/ repair of machinery charges.
30	On account of Reuters/ SWIFT service charges.
31	On account of traveling including training and conferences related expenses, etc.
32	On account of visa fees submitted by foreign embassies/ consulate general through ADs.
33	On behalf of agents of foreign courier companies to their principals.
34	Designation of Authorized Dealers and remittance on account of Software License Fee.
35	Consultancy/ Royalty/ Technical/ Franchise Fee Agreements.
36	Acknowledgement of Service Level Agreements and related remittances; except the cases pertaining to Banks, Microfinance Banks, DFIs and NBFIs.
37	FCY cash payment to Master/ Captain of the ship by local agents of foreign shipping companies.
38	Remittance by insurance companies under general average awards & salvage claims

	<i>Private Remittances</i>
39	On account of medical treatment abroad beyond the prescribed limit.
40	On account of studies abroad beyond the prescribed limit.
	<i>Insurance</i>
41	Life Insurance/ Reinsurance.
42	Insurance claims on policies covering exports from Pakistan.
43	Payment of premia etc. on account of Insurance and Reinsurance Policies.
44	Reinsurance business from abroad and remittance of claims including cases related to life insurance/ reinsurance on account of individuals.
45	Establishment of revolving L/C by insurance companies operating in Pakistan in favor of their settling agents.
46	Insurance premium on PNSC vessels.
47	Remittance of port of loading surveyor charges and insurance surveyor fee.
	<i>FCY Borrowing from abroad</i>
48	Remittance of Due Diligence Fee in terms of FCY Borrowing from abroad before registration of Loan Agreement.
49	Remittance on account of fees/ expenses (other than amount of principal and interest) in terms of FCY borrowing from abroad, after registration of loan agreement with EPD-SBP.
50	Issuance of F.E. permits in terms of loan / interest payments by EAD on behalf of PSEs.
	<i>Guarantees</i>
51	Guarantees/ SBLC, except the ones involving FCY borrowing from abroad or equity investment abroad.
52	Bank guarantee on account of Airlines (GSA) dealing in passage freight/ ticket collection.
53	Bank guarantee for Umrah related services.
	<i>Accounts</i>
54	Remittance from Assignment Accounts.
<i>¹The export overdue cases (after initiation of litigation) shall be dealt with by Foreign Exchange Adjudication Department, SBP-BSC.</i>	