

**DRAFT**

Notification No. FEMA.25/RB-2000 dated 3rd May 2000

(Amended upto 24-10-2017)

**G.S.R.411(E) dated 03.05.2000** - In exercise of the powers conferred by clause (h) of sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank makes the following regulations, to promote orderly development and maintenance of foreign exchange market in India, namely :

1. Short title and commencement
2. Definitions
3. Prohibition
4. Permission to a person to enter into a Foreign Exchange Derivative contract
5. **[== DELETED ==]**
6. Commodity Hedge
7. Remittance related to a Foreign Exchange Derivative contract
8. Remittance related to a Commodity Derivative Contract

Schedule - I

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## 1. Short title & commencement -

- (1) These Regulations may be called the Foreign Exchange Management (Foreign exchange derivative contracts) Regulations, 2000.
- (2) They shall come in force on the 1st day of June, 2000.(*except as otherwise stated*)<sub>2</sub>

## 2. Definitions - In these Regulations, unless the context requires otherwise, -

- (i) 'Act' means the Foreign Exchange Management Act, 1999 (42 of 1999);
- (ii) [== UPDATED ==] "authorised dealer" means a person authorised as such by Reserve Bank under sub-section (1) of Section 10 of the Act.
- (iii) [== DELETED ==]
- (iv) [== DELETED ==]
- (v) [== UPDATED ==] Foreign exchange derivative contract means a financial contract which derives its value from the change in the exchange rate of two currencies at least one of which is not Indian Rupee or which derives its value from the change in the interest rate of a foreign currency and which is for settlement at a future date, i.e. any date later than the spot settlement date, provided that contracts involving currencies of Nepal and Bhutan shall not qualify under this definition.
- (va) [== DELETED ==]
- (v)(a) [== ADDED ==] Exchange Traded Currency Derivative contract means a standardised foreign exchange derivative contract traded on a stock exchange to buy or sell one currency against another on a specified future date, at a price specified on the date of the contract.
- (vi) [== DELETED ==]
- (vi)(a) [== ADDED ==] Contracted exposure means an exposure to the exchange rate of Rupee against a foreign currency, on account of current or capital account transactions permissible under FEMA, 1999 or any rules or regulations made thereunder, which have been entered into.
- (vi)(b) [== ADDED ==] Anticipated exposure means an exposure to the exchange rate of Rupee against a foreign currency, on account of current or capital account transactions permissible under FEMA, 1999 or any rules or regulations made thereunder, which are expected to be entered into in future.
- (vii) 'Schedule' means a schedule annexed to these Regulations;
- (viii) [== DELETED ==]
- (ix) [== DELETED ==]
- (x) the words and expressions used but not defined in these Regulations shall have the same meanings respectively assigned to them in the Act.
- (xi) [== DELETED ==]

## 3. Prohibition - Save as otherwise provided in these Regulations, no person in India shall enter into a foreign exchange derivative contract <sup>21</sup> [or currency futures] without the prior permission of the Reserve Bank.

## 4. [== UPDATED ==] **Permission to enter into a Foreign Exchange Derivative contract** - A person may enter into a foreign exchange derivative contract or exchange traded currency derivative contract in accordance with the provisions contained in Schedule I of this regulation.

5. [== DELETED ==]

5A [== DELETED ==]

5B [== DELETED ==]

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### 6. <sup>14</sup> [ **Commodity Hedge** :-

- (i) Reserve Bank may, on an application made in accordance with the procedure specified in Schedule III permit, subject to such terms and conditions as it may consider necessary, a person resident in India to enter into a contract in a commodity exchange or market outside India to hedge the price risk in a commodity.
- (ii) Notwithstanding anything contained in sub-regulation (i), an authorized dealer bank <sup>30</sup> (Deleted w.e.f.17-01-2012) may permit a company, resident in India <sup>20</sup> (Deleted w.e.f.03-06-2008.), to enter into contracts in a commodity exchange or market outside India, to hedge the price risk in a commodity <sup>19</sup> (Deleted w.e.f.31-05-2007) subject to such terms and conditions as may be stipulated by the Reserve Bank from time to time.  
<sup>31</sup> (Deleted w.e.f.17-01-2012)  
<sup>32</sup> ( Sr iii Deleted w.e.f. 17-01-2012 )
- <sup>33</sup>(iii) Notwithstanding anything contained in this regulation a unit in the Special Economic Zone (SEZ) may enter into contracts in a commodity exchange or market outside India to hedge the price risk of the commodity of export / import, subject to the condition that such contract is entered.]

### 6A <sup>22</sup> [ "**Freight**" Hedge

- (i) Reserve Bank may, on an application made in accordance with such procedure as may be directed by Reserve Bank, permit a person resident in India, subject to such terms and conditions as may be considered necessary, to enter in to a freight derivative contract in an exchange or a market outside India to hedge the freight risk such person is exposed to.
- (ii) Notwithstanding anything contained in sub regulation (i) an authorised dealer in India <sup>34</sup> [ specially authorised in that behalf by the Reserve Bank ] may permit an oil refining company or a shipping company, resident in India, to enter in to freight derivative contracts in an exchange or market outside India, to hedge the freight risk which the company is exposed to, subject to such terms and conditions as may be stipulated by the Reserve Bank from time to time.

Provided that such authorised dealer category-I bank shall exercise the authority subject to directions and guidelines issued to them by the reserve Bank in that behalf.]

### 7. **Remittance related to a Foreign Exchange Derivative contract** - An authorised dealer in India may remit outside India foreign exchange in respect of a transaction, undertaken in accordance with these Regulations, in the following cases, namely;

- (a) option premium payable by a person resident in India to a person resident outside India,
- (b) remittance by a person resident in India of amount incidental to a foreign exchange derivative contract entered into in accordance with Regulation 4,
- (c) remittance by a person resident outside India of amount incidental to a foreign exchange derivative contract entered into in accordance with Regulation 5,
- (d) any other remittance related to a foreign exchange derivative contract approved by Reserve Bank.

### 8. <sup>16</sup>[ **Remittance related to a Commodity Derivative Contract**

An authorised dealer in India may remit outside India foreign exchange in respect of a transaction, undertaken in accordance with these Regulations, in the following cases, namely: -

- (a) option premium payable by a person resident in India to a person resident outside India;

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- (b) remittance by a person resident in India of amount incidental to a commodity derivative contract entered into in accordance with Regulation 6,
- (c) any other remittance related to a commodity derivative contract approved by Reserve Bank.]

\* [Inserted by M/s Alpha Plus Technologies to facilitate retrospective effect of addition of the words " American Depository Receipts (ADRs)"in Schedule-I ,Paragraph A , sub-paragraph (1),clause (f).]

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### Schedule - I

- 1 A person may enter into a foreign exchange derivative contract with an Authorised Dealer. Contracts involving Rupee shall be subject to the following condition(s):
  - i. That such contracts shall be based on a contracted or anticipated exposure as defined in these regulations.
  - ii. That such person shall share the details of the exposure with the Authorised Dealer when called upon to do so by the dealer.
  
- 2 A person may enter into an exchange traded currency derivative contract on an exchange recognised under section 4 of the Securities Contract (Regulation) Act, 1956. Contracts involving Rupee shall be subject to the following condition(s):
  - i. That such contracts shall be based on a contracted exposure as defined in these regulations.
  - ii. That such person shall designate an Authorised Dealer in India for monitoring of their positions taken beyond such position limits as may be prescribed by the Reserve Bank of India to an exchange.
  - iii. That such person shall share the details of the contracted exposure with the Authorised Dealer when called upon to do so by the dealer.

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[== DELETED ==] Schedule - II

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Schedule - III

[See Regulation 6]

## **Procedure for Application for Approval for Hedging of Commodity Price Risk**

1. A person resident in India, engaged in export -import trade <sup>12</sup> [or as permitted by the Reserve Bank, ] who seeks to hedge price risk in respect of any commodity including Gold, <sup>2</sup> ( Deleted w.e.f.05-09-2000) may submit an application to the International Banking Division of an authorised dealer giving the following details.
  - i) A brief description of the hedging strategy proposed, namely -
    - a) description of business activity and nature of risk;
    - b) instruments proposed to be used for hedging
    - c) names of commodity exchange and brokers through whom the risk is proposed to be hedged and credit lines proposed to be availed. The name and address of the regulatory authority in the country concerned may also be given
    - d) size / average tenure of exposure and / or total turnover in a year, together with expected peak positions thereof and the basis of calculation.
  - ii) copy of the Risk Management Policy approved by the Management covering:
    - a) risk identification,
    - b) risk measurements,
    - c) guidelines and procedures to be followed with respect to revaluation and / or monitoring of positions,
    - d) names and designations of the officials authorised to undertake transactions and limits.
  - iii) Any other relevant information.
2. <sup>15</sup> [ Authorized dealer, after ensuring that the application is supported by documents indicated in paragraph 1, as may be relevant, may forward the application with its recommendations to the Reserve Bank of India, where applicable. In all other cases, the application may be forwarded by the company concerned to an authorized dealer bank authorized to grant permission under sub-regulation (ii) of regulation 6, for consideration.]

G.S.R.1324(E) dt 24-10- 2017

<sup>1</sup> Inserted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Second Amendment) Regulations, 2012 w.e.f.03-05-2000.

<sup>2</sup> Deleted by the Foreign Exchange Management (Foreign exchange derivative contracts) (Amendment) Regulations, 2000 w.e.f.05-09-2000.Prior to its deletion, in Schedule III, the words read as follows : but excluding oil and petroleum products.

<sup>3</sup> Substituted by the Foreign Exchange Management (Foreign exchange derivative contracts) (Amendment) Regulations, 2002 w.e.f.09-04-2002.Prior to its substitution, the item (a) of Paragraph A.1 of the Schedule 1 read as follows

(a) the value of the hedge does not exceed the current market value in respect of investments in debt instruments,

<sup>4</sup> Inserted by the Foreign Exchange Management (Foreign exchange derivative contracts) (Second Amendment) Regulations, 2002 w.e.f. 19-08-2002.

- 5 Substituted by the Foreign Exchange Management (Foreign exchange derivative contracts) (Third Amendment) Regulations, 2002 w.e.f.18-03-2003. Prior to its substitution, in item (h) of paragraph A.1 of Schedule 1, the words read as follows :
- (h) contracts involving rupee as one of the currencies, once cancelled shall not be rebooked although they can be rolled over at ongoing rates on or before maturity. This restriction shall not apply to contracts covering export transactions which may be cancelled, rebooked or rolled over at ongoing rates,
- 6 Inserted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2005 w.e.f.07-07-2003.
- 7 Substituted by the Foreign Exchange Management (Foreign exchange derivative contracts) (Amendment) Regulations, 2003 w.e.f.09-07-2003. Prior to its substitution, In clause (1) of Schedule II to the Notification, Sub-clause (a) read as follows :
- (a) the value of the hedge does not exceed the current market value in respect of investments in debt instruments,
- 8 Deleted by the Foreign Exchange Management (Foreign exchange derivative contracts) (Amendment) Regulations, 2003 w.e.f.09-07-2003. Prior to its deletion, Sub-clause (b), in clause (1) of Schedule II to the Notification, read as follows :
- (b) the value of the hedge does not exceed 15% of the market value of the equity as at the close of business on 31st March 1999, converted at the rate of US\$ 1 = Rs. 42.43 plus the increase in market value / inflows after 31st March 1999 provided that the forward cover once taken shall be allowed to continue as long as it does not exceed the value of the underlying investment,
- 9 Substituted by the Foreign Exchange Management (Foreign exchange derivative contracts) (Amendment) Regulations, 2003 w.e.f. 09-07-2003. Prior to its substitution, Clause (3) of Schedule II, read as follows :
- (3) Reserve Bank may, on application, allow a person resident outside India to purchase a forward contract to hedge his investment made since 1st January 1993.
- 10 Deleted by the Foreign Exchange Management (Withdrawal of General Permission to Overseas Corporate Bodies (OCBs)) Regulations, 2003 w.e.f. 23-10-2003. Prior to its deletion, In Schedule II, the words read as follows : or Overseas Corporate Body .
- 11 Inserted by the Foreign Exchange Management (Foreign exchange derivative contracts) (Third Amendment) Regulations, 2003 w.e.f. 11-11-2003.
- 12 Inserted by the Foreign Exchange Management (Foreign exchange derivative contracts) (Fourth Amendment) Regulations, 2003 w.e.f.11-11-2003.
- 13 Substituted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2006 w.e.f.23-06-2005. Prior to its substitution, in Schedule I in paragraph 'A' in item No.1, for sub-item (h), the words read as follows :
- (h) contracts involving the rupee as one of the currencies, once cancelled, shall not be re-booked except as otherwise permitted by the Reserve Bank from time to time although they can be rolled over at ongoing rates on or before maturity. Contracts covering export transactions may be cancelled, re-booked or rolled over at on-going rates without any restrictions.
- 14 Substituted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Second Amendment) Regulations, 2006 w.e.f.23-07-2005. Prior to its substitution, Regulation 6, read as follows :
- (6) **Commodity Hedge** - Reserve Bank may, on an application made in accordance with the procedure specified in Schedule III, permit subject to such terms and conditions as it may consider necessary, a person resident in India to enter into a contract in a commodity exchange or market outside India to hedge price risk in a commodity.
- <sup>4</sup>[ Provided that a unit in the Special Economic Zone (SEZ) may, without prior approval of the Reserve Bank, enter into a contract in a commodity exchange or market outside India to hedge the price risk in the commodity on export / import, subject to the condition that such contract is entered into on a "stand-alone" basis
- Explanation :-** The term "stand-alone" means that the unit in the SEZ is completely isolated from financial contracts with its parent or subsidiary in the mainland or within the SEZ(s) as far as its import / export transactions are concerned .]
- 15 Substituted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Second Amendment) Regulations, 2006 w.e.f. 23-07-2005. Prior to its substitution, Schedule III, Paragraph 2 , read as follows :
- (2) Authorized dealer, after ensuring that the application is supported by documents indicated in paragraph 1, as may be relevant, may forward the application with its recommendations to the Reserve Bank of India, where applicable. In all other cases, the application may be forwarded by the company concerned to an authorized dealer bank authorized to grant permission under sub-regulation (ii) of regulation 6, for consideration.
- 16 Inserted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2007 w.e.f.23-07-2005.
- 17 Inserted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2007 w.e.f.13-12-2006.
- 18 Substituted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2007 w.e.f.08-02-2007. Prior to its substitution, in Schedule II, in paragraph 1, for clause (b), the words read as follows :
- (b) Forward contracts once cancelled shall not be rebooked but may be rolled over on or before the maturity,
- 19 Omitted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2007 w.e.f. 31-05-2007. Prior to its omission, in Regulation 6, in sub-regulation (ii), the words read as follows : imported/exported by it.
- 20 Omitted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Second Amendment) Regulations, 2009 w.e.f.03-06-2008. Prior to its omission, in Regulation 6, in sub-regulation (ii), the words read as follows : and listed on a recognised stock exchange.

- 21 Inserted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2008 w.e.f. 05-08-2008.
- 22 Inserted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2009 w.e.f. 04-02-2009.
- 23 Substituted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2010 w.e.f. 27-07-2010. Prior to its substitution, Regulation 5A , the words read as follows :
- 5A Permission to a person resident in India to enter into currency futures**
- A person resident in India may enter into a currency futures in a stock exchange recognized under section 4 of the Securities Contract (Regulation) Act, 1956, to hedge an exposure to risk or otherwise, subject to such terms and conditions as may be set forth in the directions issued by the Reserve Bank of India from time to time.
- 24 Omitted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Second Amendment) Regulations, 2012 w.e.f. 01-02-2011. Prior to its omission, in sub-paragraph 3(1) of the paragraph 'B' in Schedule I, the words read as follows :
- Provided that in respect of cost effective risk reduction strategies like range forwards, ratio range forwards or any other variable by whatever name called there shall not be any net inflow of premium.
- 25 Inserted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Second Amendment) Regulations, 2012 w.e.f. 01-02-2011.
- 26 Inserted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2012 w.e.f. 20-05-2011.
- 27 Inserted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2012 w.e.f. 21-07-2011.
- 28 Omitted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2013 w.e.f. 15-12-2011. Prior to its omission, in Schedule I, In paragraph 'A', in sub-paragraph 1(h), the words read as follows :
- (h) Contracts involving the rupee as one of the currencies, once cancelled, shall not be rebooked except as otherwise permitted by the Reserve Bank from time to time although they can be rolled over at on-going rates on or before maturity. Such contracts booked by residents to hedge current account transactions, regardless of tenor, not being those booked on past performance basis without documents or booked to hedge transactions denominated in foreign currency but settled in Indian Rupee, may be cancelled and rebooked freely at on going rates. Contracts covering export transactions may also be cancelled, rebooked or rolled over at on going rates without any restriction.
- 29 Inserted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2013 w.e.f. 29-12-2011.
- 30 Omitted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2013 w.e.f. 17-01-2012. Prior to its omission, in Regulation 6, sub-regulation (ii), the words read as follows : specially authorized in that behalf by the Reserve Bank.
- 31 Omitted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2013 w.e.f. 17-01-2012. Prior to its omission, in Regulation 6, sub-regulation (ii), the words read as follows: Provided that such authorized dealer bank shall exercise such authority subject to the directions and guidelines issued to them by the Reserve Bank in that behalf.
- 32 Omitted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2013 w.e.f. 17-01-2012. Prior to its omission, in Regulation 6, sub-regulation (iii) , the words read as follows :
- (iii) An authorised dealer bank may apply to the Reserve Bank of India, Foreign Exchange Department for grant of authority to grant permission under sub-regulation (ii) to its customers.
- 33 Renumbered by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2013 w.e.f. 17-01-2012.
- 34 Substituted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2013 w.e.f. 17-01-2012. Prior to its substitution, in Regulation 6A, in sub-regulation (ii), the words read as follows : specially authorised by the Reserve Bank under sub-regulation (ii) of Regulation 6.
- 35 Inserted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2013 w.e.f. 16-07-2012.
- 36 Inserted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2013 w.e.f. 12-09-2012.
- 37 Inserted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2014 w.e.f. 02-06-2014.
- 38 Substituted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2016 w.e.f. 01-06-2016. Prior to its substitution, Regulation 4 read as follows :
- (4) A person resident in India may enter into a foreign exchange derivative contract in accordance with provisions contained in Schedule I, to hedge an exposure to risk in respect of a transaction permissible under the Act, or rules or regulations or directions or orders made or issued thereunder.
- 39 Inserted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2016 w.e.f. 01-06-2016.
- 40 Substituted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2016

w.e.f.25.10.2016. Prior to its substitution, Regulation 5B , read as follows :

(5B) <sup>37</sup>[Permission to a person resident outside India to enter into currency futures or exchange traded currency options

A person resident outside India who is eligible to invest in securities as laid down in Schedules 2, 5, 7 and 8 of Foreign Exchange Management (Transfer or Issue of Security by a person resident outside India) Regulations, 2000 (FEMA 20/2000-RB dated May 3, 2000 (GSR 406 (E) dated May 3, 2000)) as amended from time to time, may enter into currency futures or exchange traded currency options contracts on a stock exchange recognised under section 4 of Securities Contracts (Regulations) Act, 1956 to hedge an exposure to risk, subject to such terms and conditions as may be set forth in the directions issued by the Reserve Bank of India from time to time.]

<sup>41</sup> Inserted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2017 w.e.f.17-03-2017.

<sup>42</sup> Inserted by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Second Amendment) Regulations, 2017 w.e.f.24-10-2017.