

**RESERVE BANK OF INDIA
EXCHANGE CONTROL DEPARTMENT
CENTRAL OFFICE
MUMBAI 400 001**

June 29, 1999

A.D. (M.A. Series) Circular No.23

To

All Authorised Dealers in Foreign Exchange

Dear Sirs,

Amendments to Exchange Control Manual (ECM)

It has been decided to amend/modify the exchange control regulations as under:

1. Remittance of surplus passage/freight collection by foreign airline companies

In terms of paragraph 8B.1 of Exchange Control Manual, while scrutinising SPM 1 statements from the foreign airline companies for remittance of their net surplus passage fare/freight collections, authorised dealers are required to verify that the concerned airline company has obtained necessary permission from Reserve Bank under Section 29(1)(a) of FERA 1973 for carrying on its commercial activity in India. Reserve Bank vide its Notification No.F.E.R.A. 202/99-RB dated 15th April 1999 (copy enclosed) has granted general permission to foreign airline companies, which do not have a branch, office or other place of business in India, to carry on their normal commercial activity in India **through their local agents**. Accordingly, it will be in order for the authorised dealers to allow local agents of foreign airline companies to remit net surplus passage fare/freight collection in India provided the agents certify that (i) the requisite permission from the Director General of Civil Aviation (DGCA) has been obtained for the airline's flights, in the case of on-line operations and (ii) bilateral air service agreement exists between the Government of India and the Government of the country of incorporation of the foreign airline company concerned, in case of off-line operations.

2. NRE/FCNR/RFC Accounts - Resident nominees

In terms of paragraph 13B.16 and 14E.7 of Exchange Control Manual, authorised dealers have been permitted to allow remittance of funds lying in the NRE/FCNR/RFC accounts of deceased account holders to their non-resident nominees subject to certain conditions. In case of resident nominees the share of deposits due to them is to be paid in Indian rupees. It has now been decided that Reserve Bank would consider requests from resident nominees for remittance of funds abroad out of their share of repatriable deposits of deceased NRI for discharging the liabilities abroad of the deceased account holder or for similar other purposes, on merits of the case. Authorised dealers may refer such applications to Reserve Bank, together with relevant documents.

3. The following consequential amendments may be carried out in the ECM.

Volume I

- i) Sub-paragraph 8B.1(i) may be replaced by Slip 1.
- ii) Clause (a) of paragraph 8B.1(ii) may be replaced by Slip 2.
- iii) Clause (b) of paragraph 8B.1(ii) may be deleted and Clause (c) thereof may be renumbered as (b).
- iv) Item A(5) of Annexure III to Chapter 8 may be replaced by Slip 3.
- v) Note A under paragraph 11A.2(i) may be substituted by Slip 4.
- vi) Existing paragraph 13B.16 may be renumbered as 13B.16A.
- vii) A new paragraph 13B.16B may be added as per Slip 5 and its entry be made in the Index.
- (viii) Paragraph 14E.7(ii) may be replaced by Slip 6.

Volume II

- (ix) In Appendix III under Section 29 a new Notification No.F.E.R.A.202/99-RB dated 15th April 1999 may be added as per Slip 7.
4. Authorised dealers may bring the contents of this circular to the notice of their concerned constituents.
5. The directions contained in this circular have been issued under Section 73(3) of the Foreign Exchange Regulation Act, 1973 (46 of 1973) and any contravention or non-observance thereof is subject to the penalties prescribed under the Act.

Yours faithfully,

B. MAHESHWARAN

Chief General Manager

Slip 1
[AD/MA 23/1999]

8B.1(i) Foreign airline companies **operating in or through India** are required to submit to Reserve Bank through their bankers monthly statement (in duplicate) of their passage and freight collections and disbursements made therefrom in form SPM 1 duly signed by the Chief Executive in India of the airline in terms of paragraph 22 of the Guidelines (Annexure III). Applications for remittance of surplus passage fare and freight collections to the non-resident owners and operators of the foreign airline companies, as and when desired, should be made by their offices or agents in India to their bankers on form A2 along with the statement in form SPM 1 indicating, inter alia, the amount to be remitted. The concerned authorised dealer may allow the remittance of surplus funds provided the company has produced the necessary undertaking/certificate regarding payment of income-tax (cf. paragraph 3B.10). Before allowing the remittance, the bank should verify that the concerned airline has obtained the necessary permission from Reserve Bank under Section 29 of FERA 1973 for

carrying on their commercial activity in India and also advise the concerned airline company that discrepant amounts noticed during the scrutiny of the statements by Reserve Bank or the amount remitted in excess of its entitlement should be brought to India immediately by the airline company concerned by inward remittance and no adjustment from other surplus funds held/future accretions, etc. would be permitted. Reserve Bank has, however, granted general permission vide its Notification No.F.E.R.A.202/99-RB dated 15th April 1999 to airline companies which are not incorporated in India and **which do not have a branch, office or other place of business** in India to carry on normal commercial activities in India through their local agents. Authorised dealers should, therefore, not insist on permission under Section 29 of FERA in such cases, but should obtain a certificate from the airline company or their agent in India concerned that DGCA's approval for on-line operations has been obtained.

Slip 2
[AD/MA 23/1999]

8B.1(ii) (a) A certificate from the airline company or their agent in India that there exists a bilateral service agreement between the Government of India and Government of the country of incorporation of the foreign airline company concerned.

Slip 3
[AD/MA/ 23/1999]

A(5) The tickets issued in India should normally be those of a carrier operating in or through India. This, however, does not restrain the carriers operating in or through India from issuing tickets with coupons covering journeys between two points abroad on a carrier not so operating (e.g. Air India ticket may be issued containing coupons one or more of which are for confirmed/open dated booking for journey/s between European and African ports by an airline which does not have any flights touching Indian ports). Offline carriers i.e. those which do not operate their services in or through India, incorporated in the countries with which India has a bilateral air service agreement, or their General Sales Agents (GSA) may sell tickets and/or issue airway bills against payment in Indian rupees, only in conjugation with the tickets/airway bills issued for travel to/from India and import/export into/from India, as also in respect of their ad-hoc flight/s to/from India.

Slip 4
[AD/MA 23/1999]

11A.2(i)

NOTE A. Reserve Bank has by its Notifications No.F.E.R.A.22/74-RB dated 11th October 1974 and No.F.E.R.A.202/99-RB dated 15th April 1999 under Section 29(1) of the Act has granted general permission to shipping and airline companies respectively, incorporated outside India for carrying on their normal commercial activities through local agents provided such companies do not have a branch, office or other place of business in India.

Slip 5
[AD/MA 23/1999]

Remittance/Transfer of funds by resident nominees

13B.16B Applications received from resident nominees for remittance of funds abroad for meeting the liabilities, if any, of the deceased account holder or for similar other purposes may be forwarded to Reserve Bank for consideration on merits.

Nomination Facility

14E.7

(ii) On the death of a RFC account holder, the balance in the account may be repatriated to nominee(s) to the extent of his/their entitlement, if on the date of death of the account holder such nominee(s) is/are resident outside India. If any nominee is a person resident in India on the date of the death of the account holder, the amount may be paid to him/her in equivalent Indian rupees.

If the resident nominee desires to remit funds out of his share of the repatriable deposits of the deceased account holder, for meeting the latter's liabilities abroad or for similar other purposes, the application may be forwarded to Reserve Bank. Such requests will be considered on merits.

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Notification No.F.E.R.A.202/99-RB dated 15th April 1999

**Carrying on Activities in India by Foreign Airline
Companies through Local agents**

In pursuance of Clause (a) of Sub-Section (1) of Section 29 of the Foreign Exchange Regulation Act, 1973 (46 of 1973), the Reserve Bank is pleased to grant general permission to airline companies which are not incorporated in India and which do not have a branch, office or other place of business in India, to carry on in India through their local agents subject to the other provisions of the said Act and of any rules, directions or orders made thereunder, their normal commercial activities like transportation of goods and passengers, and collection of freight charges and fares for on-line and off-line operations.

Provided that -

- (i) in respect of on-line operations, permission from the Director General of Civil Aviation has been obtained:
 - (ii) in case of off-line operations, a bilateral air service agreement exists between the Government of India and the Government of the country of incorporation of the foreign airline company.
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