FOREIGN EXCHANGE MANAGEMENT(FOREIGN EXCHANGE DERIVATIVE CONTRACTS)REGULATIONS, 2000

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FOREIGN EXCHANGE MANAGEMENT(FOREIGN EXCHANGE DERIVATIVE CONTRACTS)REGULATIONS, 2000

In exercise of the power conferred by Cl. (h) of sub-section (2) of Sec. 47 of the Foreign Exchange Management Act, 1999 (42 ot 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 :-

(i) These Regulations may be called the Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000. (ii) They shall come into force on the 1st day of June, 2000.

2. Definitions :-

In these regulations, unless the context requires otherwise,-

(i)'Act' means the Foreign Exchange Management Act, 1999 (42 of 1999), (ii) 'Authorised dealer' means a person authorised as an authorised dealer under sub-section (1) of Sec. 10 of the Act; (iii) 'Cash delivery' means delivery of foreign exchange on the day of transaction; (iv) 'Forward contract' means a transaction involving delivery, other than . Cash or Tom or Spot delivery, of foreign exchange ; (v) 'Foreign exchange derivative contract' means a financial transaction of an arrangement in whatever form and by whatever name called, whose value in derived from price movement in one or more underlying assets, and includes :-

(a) a transaction which involves at least one foreign currency other than currency of Nepal or Bhutan or

(b) a transaction which involves at least one interest rate applicable to a foreign currency not being a currency of Nepal or Bhutan, or

(c) a forward contract, but does not include foreign exchange transaction for Cash or Tom or Spot deliveries ;

(vi) 'Registered Foreign Institutional Investor (FIL)' means a foreign institutional investor registered with Securities and Exchange Board of India ;

(vii) 'Schedule means a schedule annexed to these Regulations ;

(viii) 'Spot delivery' means delivery of foreign exchange on the second working day after the day of transaction ;

(ix) 'Tom delivery' means delivery of foreign exchange on a working day next to the day of transaction ;

(x) the words and expressions used but not defined in these Regulations shall have the same meanings respectively assigned to them in the Act.

3. Prohibition :-
Save as otherwise provided in these Regulations, on person in India shall enter into a foreign exchange derivative contract without the prior permission of the Reserve Bank.

4. Permission to a person resident in India to enter into a Foreign Exchange Derivative contract :-
A person resident in India may enter into a foreign exchange derivative contract in accordance with provisions contained in Sch. 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.

5. Permission to a person resident outside India to enter into a Foreign Exchange Derivative contract :-

A person resident outside India may enter into a foreign exchange derivative contract with a person resident in India in accordance with provisions contained in Sch. II, to hedge an exposure to risk in respect of a transaction permissible under the Act, or rules or regulations or directions or orders made cr issued thereunder.

6. Commodity Hedge :-

Reserve Bank may, on an application made in accordance with the procedure specified in Sch. Ill, 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.

7. Remittance related to a Foreign Exchange Derivative contract :-

A n 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.

SCHEDULE 1

Foreign Exchange Derivative Contract permissible for a person

1 In the Foreign Exchange Management (Foreign Exchange Derivatives Contracts) Regulations, 2000, in Schedule I in Paragraph 'A' in item No. 1, sub-item (h) following shall be substituted, in place of : "(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 on-going rates on or before maturity. Contracts covering export transactions may be cancelled, re-booked or rolled over at on-going rates without any restrictions. " by the Foreign Exchange Management (Foreign Exchange Derivative Contracts) (Amendment) Regulations, 2006 .[2] In the Foreign Exchange Management

(Foreign Exchange Derivatives Contracts) Regulations, 2000, In Schedule I, under the heading "B. Contract other than forward contract", in paragraph 3, after sub-paragraph (2), the following new sub-paragraph shall be inserted, namely:- "(3) A person resident in India may enter into a foreign currency rupee option contract with an authorized dealer to hedge an exposure to exchange risk in respect of a transaction for which sale and/ or purchase of foreign currency is permitted under the Act or the rules or regulations or directions or orders made or issued thereunder on the same terms and conditions applicable to forward contracts." by the Foreign Exchange Management Act, 1999 (42 of 1999)[3] In the Foreign Exchange Management (Foreign Exchange Derivatives Contracts) Regulations, 2000, In Schedule I, under the heading "B. Contract other than forward contract", in paragraph 3, in sub-paragraph (1), after the words "A person resident in India may enter into a foreign currency option contract", the words "not involving the rupee as one of the currencies" shall be inserted by the Foreign Exchange Management Act, 1999 (42 of 1999) resident in India A, Forward Contract 1. A person resident in India may enter into a forward contract with an authorised dealer in India to hedge an exposure to exchange risk in respect of a transaction for which sale and/or purchase of foreign exchange is permitted under the Act, or rules of regulations to directions or orders made or issued thereunder, subject to following terms and conditions- (a) the authorised dealer through verification of documentary evidence is satisfied about the genuineness of underlying exposure, (b) the maturity of the hedge does not exceed the maturity of the underlying transaction, (c) the currency of hedge and tenor are left to the choice of the customer. (d) where the exact amount of the underlying transaction is notascertainable, the contract is booked on the basis of a reasonable estimate. (e) foreign currency loans/bonds will be eligible for hedge only after final approval is accorded by the Reserve Bank where such approval is necessary. (f) in case of Global Depository Receipts (GDRs) the issue price has been finalised, (g) balances in the Exchange Earner's Foreign Currency (EEFC) accounts sold forward in the account holders shall remain earmarked for delivery and such contracts shall not be cancelled. They may be, however, be rolled-over, "(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.". (i) substitution of contracts for hedging trade transactions may be permitted by an authorised dealer on being satisfied with the circumstances under which such substitution has become necessary. B. Contract other than Forward Contract 2. (1) A person resident in India who has borrowed foreign exchange in accordance with the provisions of the Foreign Exchange Management (Borrowing and Lending in Foreign Exchange) Regulations, 2000, may enter into an Interest rate swap or Currency swap or Coupon Swap or Foreign Currency Option or Interest rate cap or collar (Purchases) or Forward Rate Agreement (FRA) contract with an authorised dealer in India or with a branch outside India of an authorised dealer for hedging his loan exposure and unwinding from such hedges : Provided that - (a) the contract does not involve rupee, (h) the Reserve Bank has accorded final approval for borrowing in foreign currency, (c) the notional principal amount of the hedge does not exceed the

outstanding amount of the foreign currency loan, and (d) the maturity of the hedge does not exceed the un-expired maturity of the underlying loan, (2) A person resident in India, who owes a foreign exchange or rupee liability, may enter into a contract for foreign currency-rupee swap with an authorised dealer in India to hedge long term exposure, (3) The contract entered into under sub-paragraph 2, if cancelled shall not be rebooked or re-entered, by whatever name called. 3 (I) A person resident in India may enter into a foreign currency option contract "not involving the rupee as one of the currencies" with an authorised dealer in India to hedge foreign exchange exposure of such person arising out of his trade : 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. Explanation.- The contingent foreign exchange exposure arising out of submission of a tender bid in foreign exchange is also eligible for hedging under this sub-paragraph. (2) A Transactions undertaken under sub-paragraph (I) may be freely booked and/or cancelled. "(3) A person resident in India may enter into a foreign currency rupee option contract with an authorized dealer to hedge an exposure to exchange risk in respect of a transaction for which sale and/ or purchase of foreign currency is permitted under the Act or the rules or regulations or directions or orders made or issued thereunder on the same terms and conditions applicable to forward contracts."

SCHEDULE 2

Foreign Exchange Derivative Contracts permissible for a person resident outside India

4 In the Foreign Exchange Management (Foreign Exchange Derivatives Contracts) Regulations, 2000, In Schedule II, after paragraph 3B, the following new paragraph shall be inserted, namely:- "4. A foreign institutional investor, a non-resident Indian or a person resident outside India foreign direct investment in India, may enter into a foreign currency-rupee option contract with an authorized dealer in India, under the same terms and conditions applicable to forward contract." by the Foreign Exchange Management Act, 1999 (42 of 1999) 1. A Registered Foreign Institutional Investor (FII) may enter into a forward contract with rupee as one of the currencies with an authorised dealer in India to hedge its exposure in India: Provided that- (a) "the value of the hedge does not exceed the market value of the underlying debt or equity instruments, provided forward contracts once booked shall be allowed to continue to the original maturity even if the value of the underlying portfolio shrinks, for reasons other than sale of securities.". (b) the value of the hedge does not exceed 150 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. (c) forward contracts once cancelled shall not be rebooked but may be rolled over on or before the maturity, (d) the cost of hedge is met out of repatriable funds and/or inward remittance through normal banking channel, (e) all outward remittances incidental to hedge are not of applicable Indian taxes. 2. A non-resident Indian or Overseas Corporate Body may enter into forward contract with rupee as one of the currencies, with an authorised dealer in India to hedge - (a) the amount of dividend due to him/it on shares held in an Indian company ; (b) the balance held in Foreign Currency Non-Resident (FCNR) account or Non-Resident External Rupee (NRE) account, (c) the amount of

investment made under portfolio scheme in accordance with the provision of the Foreign Exchange Regulation Act, 1973 or under notifications issued thereunder or is made in accordance with the provisions of the Foreign Exchange Management (Transfer or issue of Security by a person Resident outside India) Regulations, 2000 and in both cases subject to the terms and conditions specified in the proviso to paragraph 1 of this Schedule. 3. Authorised dealers may offer forward contracts to persons resident outside India to hedge the investments made in India since January 1, 1993, subject to verification of the exposure in India. These forward contracts once cancelled are not eligible to be rebooked.". 4. A foreign institutional investor, a non-resident Indian or a person resident outside India foreign direct investment in India, may enter into a foreign currency-rupee option contract with an authorized dealer in India, under the same terms and conditions applicable to forward contract.

SCHEDULE 3

Procedure for application for approval for hedging of commodity price risk

1. A person resident in India, engaged in export-import trade, who seeks to hedge price risk in respect of any commodity including Gold,[* * *], may submit and 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) name 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. (u) 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. Authorised dealer after ensuring that the application is supported by documents indicated in paragraph 1, may forward the application with its recommendations to Reserve Bank for consideration.