

RBI/2011-12/211 A.P. (DIR Series) Circular No. 31

October 03, 2011

Appointment of Agents / Franchisees by Authorised Dealer Category-I banks, Authorised Dealer Category-II and Full Fledged Money Changers- Revised guidelines

Attention of Authorised Persons is invited to the paragraph C of the Annex I the Memorandum of Instructions governing money changing activities, issued vide A. P. (DIR Series) Circular No. 57 [A.P. (FL/RL Series) Circular No. 04] dated March 9, 2009 in terms of which the Guidelines for appointment of Agents / Franchisees by Authorized Dealers Category - I, Authorized Dealers Category - II and FFMCS have been prescribed.

2. Keeping in view the growth in money changing activities undertaken by the agents / franchisees of AD Category-I banks / AD Category II / FFMCS and the issuance of Anti Money Laundering (AML) Guidelines on money changing activities, there is a need to exercise adequate control over the franchisees by the franchisers. Accordingly, it has been decided to amend certain instructions contained in the said A.P. (DIR Series) Circular. The revised instructions are given in the **Annex**.

3. All the other instructions contained in the A.P.(DIR Series) Circular No.57 {A.P.(FL/RL Series) Circular No.4} dated March 9, 2009 shall remain unchanged.

4. Authorised Persons may bring the contents of this circular to the notice of their constituents concerned.

5. The directions contained in this Circular have been issued under Sections 10(4) 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and non-compliance with the guidelines would attract penal provisions of Section 11(3) of the Act *ibid*.

Yours faithfully,
(Meena Hemchandra)
Chief General Manager-in-Charge

Annex
[Annex to A. P. (DIR Series) Circular No. 31
dated October 03, 2011]

Paragraph No. [cf. Annex I to the A. P. (DIR Series) Circular No. 57 [A.P. (FL/RL Series) Circular No. 04] dated March 9, 2009]	Existing Instructions	Revised Instructions
(C) 3 (b) -Agency / Franchisee agreement	(b) The foreign currency purchased by the franchisee should be surrendered to the franchiser or any other authorized persons, as may be agreed upon, within 7 working days from the date of purchase.	(b) The foreign currency purchased by the franchisee should be surrendered only to the franchiser within 7 working days from the date of purchase.
(C) 4 - Due Diligence of Agents/ Franchisees	<p>The ADs Category - I / ADs Category - II / FFMCS should undertake the following minimum checks while conducting the due diligence of the agents / franchisees</p> <ul style="list-style-type: none"> • existing business activities of the agent / franchisee / its position in the area. • minimum Net Owned Funds of the agent / franchisee. • Shop & Establishment / other applicable municipal certification in favour of the agent/ franchisee. • verification of physical existence of location of the agent / franchisee, where restricted money changing activities will be conducted. • conduct certificate of the agent / franchisee from the local police authorities. • declaration regarding past criminal case, if any, cases 	<p>The ADs Category - I / ADs Category - II / FFMCS should undertake the following minimum checks while conducting the due diligence of the agents / franchisees</p> <ul style="list-style-type: none"> • existing business activities of the agent/franchisee / its position in the area. • minimum Net Owned Funds of the agent / franchisee. • Shop & Establishment / other applicable municipal certification in favour of the agent/ franchisee. • verification of physical existence of location of the agent / franchisee, where restricted money changing activities will be conducted. • conduct certificate of the agent / franchisee from the local police authorities. <p>Note: - Obtaining of Conduct Certificate of the agent/ franchisee from the local</p>

	<p>initiated / pending against the agent / franchisee or its directors / partners by any law enforcing agency, if any.</p> <ul style="list-style-type: none"> • PAN Card of the agent / franchisee and its directors / partners. • photographs of the directors / partners and the key persons of agent / franchisee. <p>The above checks should be done on a regular basis, at least once in a year. The AD Category - I / AD Category - II / FFCs should obtain from the agents / franchisees proper documentary evidence confirming the location of the agents / franchisees in addition to personal visits to the site. The AD Category - I / AD Category - II / FFCs should also obtain a Chartered Accountant's certificate confirming the maintenance of the Net Owned Funds of the agent / franchisee, i.e., Rs. 10 lakh on an ongoing basis.</p>	<p>police authorities is optional for the franchisers. However, the franchisers may take due care to avoid appointing individuals/entities as franchisees who have cases / proceedings initiated / pending against them by any law enforcing agencies.</p> <ul style="list-style-type: none"> • declaration regarding past criminal case, if any, cases initiated / pending against the agent / franchisee or its directors / partners by any law enforcing agency, if any. • PAN Card of the agent / franchisee and its directors / partners. • photographs of the directors / partners and the key persons of agent / franchisee. <p>The above checks should be done on a regular basis, at least once in a year. The AD Category - I / AD Category - II / FFCs should obtain from the agents / franchisees proper documentary evidence confirming the location of the agents / franchisees in addition to personal visits to the site. The AD Category - I / AD Category - II / FFCs should also obtain a Chartered Accountant's certificate confirming the maintenance of the Net Owned Funds of the agent / franchisee, i.e., Rs. 10 lakh on an ongoing basis.</p>
(C) 5. Selection of Centers	Franchisers are free to select centers for operationalising the scheme.	(i) The AD Category - I banks / AD Category - II / FFCsmay appoint

		<p>franchisees within a distance of 100 kms. from their controlling branches concerned.</p> <p>(ii) However, this distance criterion is exempted in case of a recognised group/ chain of hotels appointed as franchisees, provided the headquarters of the group/ chain of hotels falls within a distance of 100 kms. of the controlling branch of the AD Category - I banks / AD Category - II / FFMCs(franchiser)concerned.</p> <p>(iii) Further, in case of areas declared as hilly areas (as defined by the respective State Governments/Union Territories) and the North-Eastern States, the distance restriction given in point (i) above is not applicable.</p> <p>Note: - AD Category - I/ AD Category - II/ FFMCs may adhere to the revised guidelines for the new franchisees with immediate effect. They may implement the said criterion for the existing franchisees as early as possible, latest by December 31, 2011 and report the same to the Regional Office of the Reserve Bank concerned.</p>
(E) 10 Foreign Currency Balances	ii. RMCs/ Franchisees should surrender foreign currency notes, coins and travellers' cheques purchased to an AD or to an FFMC within seven working days.	ii. Franchisees should surrender foreign currency notes, coins and travellers' cheques purchased only to their franchisers within seven working days