

A.P. (DIR Series) CIRCULAR NO 53/RBI

Dated: April 7, 2011

Overseas forex trading through electronic / internet trading portals

Attention of the Authorised Dealer Category - I (AD Category - I) banks is invited to Regulation 4 of the Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000 (Notification No. FEMA 25/2000-RB dated May 3, 2000), as amended from time to time, in terms of which a person resident in India may enter into a foreign exchange derivative contract in accordance with the provisions contained in Schedule I to hedge an exposure to risk in respect of a transaction permissible under the Foreign Exchange Management Act (FEMA), 1999 or rules or regulations or directions or orders made or issued thereunder. Further, in terms of Regulation 5 A, *ibid*, a person resident in India may enter into currency futures or currency options on 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. In terms of A.P. (DIR Series) Circular No. 32 dated December 28, 2010, a derivative transaction is only permitted based on the presence of an underlying price risk exposure for which purchase and/or sale of foreign exchange is permitted under FEMA, 1999. Further, attention of the AD Category - I banks is invited to A.P. (Dir Series) Circular No. 51 dated May 8, 2007 in terms of which remittances under the Liberalised Remittance Scheme are allowed only in respect of permissible capital or current account transactions or a combination of both. All other transactions, which are otherwise not permissible under FEMA, 1999, including the transactions in the nature of remittance for margins or margin calls to overseas exchanges / overseas counterparty, are not allowed under the Scheme.

2. It has been observed that overseas foreign exchange trading has been introduced on a number of internet /electronic trading portals luring the residents with offers of guaranteed high returns based on such forex trading. The advertisements by these internet / online portals exhort people to trade in forex by way of paying the initial investment amount in Indian Rupees. Some companies have reportedly engaged agents who personally

contact people to undertake forex trading/ investment schemes and entice them with promises of disproportionate / exorbitant returns. Most of the forex trading through these portals are done on a margining basis with huge leverage or on an investment basis, where the returns are based on forex trading. The public is being asked to make the margin payments for such online forex trading transactions through credit cards / deposits in various accounts maintained with banks in India. It is also observed that accounts are being opened in the name of individuals or proprietary concerns at different bank branches for collecting the margin money, investment money, etc.

3.AD Category - I banks are, therefore, advised to exercise due caution and be extra vigilant in respect of the above transactions. It is clarified that any person resident in India collecting and effecting / remitting such payments directly /indirectly outside India would make himself/ herself liable to be proceeded against with for contravention of FEMA, 1999 besides being liable for violation of regulations relating to Know Your Customer (KYC) norms / Anti Money Laundering (AML) standards.

4.AD Category - I banks may bring the contents of this circular to the notice of their constituents and customers concerned. Authorised Dealers may also give wide publicity to the instructions contained in the A.P. (DIR Series) Circulars referred to above and the Press Release issued by the Reserve Bank dated February 21, 2011 (copy enclosed). The instructions contained in this circular may also be brought to the attention of the card issuing companies who may also be advised to remain alert against permitting payments for such unauthorised transactions.

5.The directions contained in this circular have been issued under sections 10(4) and 11 (1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

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