

OVERSEAS FOREX TRADING THROUGH ELECTRONIC/INTERNET TRADING PORTALS

A.P. (DIR SERIES 2011-12) CIRCULAR NO. 46, DATED 17-11-2011

Attention of the Authorised Dealer Category - I (AD Category - I) banks is invited to A.P. (DIR Series) Circular No. 53, dated April 07, 2011 wherein AD Category I banks were advised to exercise due caution and be extra vigilant in respect of the margin payments being made by the public for online forex trading transactions through credit cards/deposits in various accounts maintained with banks in India. Further, AD Category-I banks were also advised to exercise due caution in respect of the accounts being opened in the name of individuals or proprietary concerns at different bank branches for collecting the margin money, investment money, etc. in connection with such transactions.

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. It is again reiterated that AD Category - I banks should exercise due caution and be extra vigilant in respect of the transactions that require residents to make margin payments for online forex trading transactions through credit cards/deposits in various accounts maintained with banks in India. 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 the Foreign Exchange Management Act (FEMA), 1999 besides being liable for violation of regulations relating to Know Your Customer (KYC) norms / Anti-Money Laundering (AML) standards.

3. 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) Circular No. 53, dated April 07, 2011 and the Press Release issued by the Reserve Bank dated February 21, 2011 (Annexure). 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 unauthorized transactions.

4. 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.

ANNEXURE

FEMA : RBI ADVISORY ON OVERSEAS FOREX TRADING THROUGH ELECTRONIC/INTERNET TRADING PORTALS

PRESS RELEASE : 2010-2011/1196, DATED 21-2-2011

The Reserve Bank of India has today clarified that remittance in any form towards overseas foreign exchange trading through electronic/internet trading portals is not permitted under the Foreign Exchange Management Act (FEMA), 1999. The Reserve Bank has also clarified that the existing regulations under FEMA, 1999 do not permit residents to trade in foreign exchange in domestic/overseas markets.

Residents are, however, permitted to trade in currency futures and options contracts, traded on the stock exchanges recognised by the Securities and Exchange Board of India (SEBI) in India, subject to the conditions specified by the Reserve Bank from time to time.

Background

The Reserve Bank had noticed advertisements issued by electronic/internet portals offering trading or investing in foreign exchange with guaranteed high returns. Many companies even engage agents who personally contact gullible people to undertake forex trading/investment schemes and entice them with promises of disproportionate/exorbitant returns.

The Reserve Bank of India cautions the public not to remit or deposit money for such unauthorised transactions. The advice has become necessary in the wake of many residents falling prey to such tempting offers and losing money heavily in the recent past.