

# **The Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000**

UNION OF INDIA

India

## **The Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000**

### **Rule**

### **THE-FOREIGN-EXCHANGE-MANAGEMENT-FOREIGN-EXCHANGE-DE of 2000**

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The Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000 Published vide G.S.R. 411(E), dated 3.5.2000, published in the Gazette of India, Extraordinary, Part II, Section 3(i), dated 8.5.2000 Last Updated 18th March, 2020 [11/569] In exercise of the powers conferred by clause (h) of sub-section (2) of section 47 of the Foreign Exchange Management Act, 1999 (42 of 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) [ 'authorized dealer' means a person authorised as such by Reserve Bank under subsection (1) of section 10 of the Act; ] [\*\*\*] [Deleted '(iii) 'cash delivery' means delivery of foreign exchange on the day of transaction;' by Notification No. FEMA.398/RB-2020, dated 18.02.2020 (w.e.f. 03.05.2000).] [\*\*\*] [Deleted '(iv) 'forward contract' means a transaction involving delivery, other than cash or tom or spot delivery, of foreign exchange;' by Notification No. FEMA.398/RB-2020, dated 18.02.2020 (w.e.f. 03.05.2000).] (v) [ "Foreign exchange derivative contract" means a financial contract which

derives its value from the change in the exchange rate of two currencies at least one of which is not Indian Rupee or which derives its value from the change in the interest rate of a foreign currency and which is for settlement at a future date, i.e. any date later than the spot settlement date, provided that contracts involving currencies of Nepal and Bhutan shall not qualify under this definition.] [Substituted by Notification No. FEMA.398/RB-2020, dated 18.02.2020 (w.e.f. 03.05.2000).][\*\*\*] [Deleted '(va) 'currency futures' means a standardized foreign exchange derivative contract traded on a recognized stock exchange to buy or sell one currency against another on a specified future date, at a price specified on the date of contract, but does not include a forward contract;' by Notification No. FEMA.398/RB-2020, dated 18.02.2020 (w.e.f. 03.05.2000).][\*\*\*] [Deleted '(vi) 'Registered Foreign Institutional Investor (FII)' means a foreign institutional investor registered with Securities and Exchange Board of India;' by Notification No. FEMA.398/RB-2020, dated 18.02.2020 (w.e.f. 03.05.2000).](vii)"Schedule" means a Schedule annexed to these regulations;[\*\*\*] [Deleted '(viii) 'spot delivery' means delivery of foreign exchange on the second working day after the day of transaction;' by Notification No. FEMA.398/RB-2020, dated 18.02.2020 (w.e.f. 03.05.2000).][\*\*\*] [Deleted '(ix) 'tom delivery' means delivery of foreign exchange on a working day next to the day of transaction;' by Notification No. FEMA.398/RB-2020, dated 18.02.2020 (w.e.f. 03.05.2000).](x)the words and expressions used but not defined in these regulations shall have the same meanings respectively assigned to them in the Act.[\*\*\*] [Deleted '(xi) 'Qualified Foreign Investor (QFI)' means a person resident outside India as defined in Regulation 2 of FEMA 20/RB-2000 dated May 3, 2000.' by Notification No. FEMA.398/RB-2020, dated 18.02.2020 (w.e.f. 03.05.2000).](xii)[ 'Contracted exposure' refers to currency risk arising on account of current and capital account transactions permissible under the Act or any rules or regulations made thereunder, that have been entered into. [Added by Notification No. FEMA.398/RB-2020, dated 18.02.2020 (w.e.f. 03.05.2000).](xiii)'Anticipated exposure' refers to currency risk arising on account of current and capital account transactions permissible under the Act or any rules or regulations made thereunder, that are proposed to be entered into in future.(xiv)'Currency risk' means the potential for loss on account of movement in exchange rates of Rupee against a foreign currency or on account of movement in exchange rates of one foreign currency against another or on account of movement of interest rate applicable to a foreign currency.(xv)'Hedging' means the activity of undertaking a foreign exchange derivative transaction to manage currency risk.(xvi)'Exchange traded currency derivatives' means a standardised foreign exchange derivative contract traded on a recognized stock exchange to buy or sell one currency against another on a specified future date, at a price specified on the date of contract.]

**3. Prohibition. - Save as otherwise provided in these Regulations, no person in India shall enter into a foreign exchange derivative contract [or currency futures] without the prior permission of the Reserve Bank.**

**4. [ Permission to enter into a foreign exchange derivative contract.**

- A person, whether resident in India or resident outside India, may enter into a foreign exchange derivative contract or exchange traded currency derivative contract in accordance with provisions contained in Schedule I of this regulation.]

## **5. [**

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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 Schedule II, to hedge an exposure to risk in respect of a transaction permissible under the Act, of rules or regulations or directions or orders made or issued thereunder.

## **5A. [**

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5A. [ Permission to a person resident in India to enter into currency futures or currency options [Substituted by Notification No. G.S.R. 635 (E) dated 19.7.2010 (w.e.f. 8.5.2000)]- A person resident in India may enter into a 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.]

## **5B. [**

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**5C. [ [Deleted 'para 5C' by Notification No. FEMA.398/RB-2020, dated 18.02.2020 (w.e.f. 03.05.2000).]**

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5C. [ Permission to resident and non-resident entities to undertake hedge transactions with simplified procedures. [Added by Notification No. G.S.R. 1324(E), dated 24.10.2017 (w.e.f. 8.5.2000.).]- Notwithstanding anything contained in paras 4, 5, 5A and 5B, resident entities with foreign currency exposures and non- resident entities with rupee exposures, other than individuals, may hedge underlying exchange rate risk arising out of transactions permitted under Foreign Exchange Management Act, 1999, or rules or regulations or directions or orders made or issued thereunder, subject to such simplified terms and conditions as may be set forth in the directions issued by the Reserve Bank from time to time.]

## **6. [ Commodity hedge.**

- (i) Reserve Bank may, on an application made in accordance with the procedure specified in Schedule III, 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.(ii)Notwithstanding anything contained in sub-regulation (i), an

authorized dealer bank [ \* \* \* ] may permit a company, resident in India [ \* \* \* ] [Omitted words "and listed on a recognized stock exchange" Notification No. G.S.R. 895 (E) dated 5.11.2009 (w.e.f. 8.5.2000)], to enter into contracts in a commodity exchange or market outside India, to hedge the price risk in a commodity [ \* \* \* ] [ The words " imported/exported by it" omitted by G.S.R. 760(E), dated 17.9.2007 (w.r.e.f. 31.5.2007).][subject to such terms and conditions as may be stipulated by the Reserve Bank from time to time: [Substituted by G.S.R. 223(E), dated 16.4.2006 (w.r.e.f. 23.7.2005). ][ \* \* \* ][ \* \* \* ] [ Omitted by Notification No. G.S.R. 330(E) dated 18.2.2013 (w.e.f. 17.1.2012)](iii)Notwithstanding anything contained in this regulation a unit in the special economic zone ("SEZ") may enter into contracts in a commodity exchange or market outside India to hedge the price risk of the commodity of export/ import, subject to the condition that such contract is entered into on a "stand-alone" basis.Explanation. - The term "stand-alone" means that the unit in the SEZ is completely isolated from financial contracts with its parent or subsidiary in the mainland or within the SEZ(s) as far as its import/export transactions are concerned.] .

## **6A. [ Freight hedge.**

- (i) Reserve Bank may, on an application made in accordance with such procedure as may be directed by Reserve Bank, permit a person resident in India, subject to such terms and conditions as may be considered necessary, to enter into a freight derivative contract in an exchange or a market outside India to hedge the freight risk such person is exposed to.(ii)Notwithstanding anything contained in sub-regulation (i) an authorized dealer in India [specially authorized in that behalf by the Reserve Bank] may permit an oil refining company or a shipping company, resident in India, to enter into freight derivative contracts in an exchange or market outside India, to hedge the freight risk which the company is exposed to, subject to such terms and conditions as may be stipulated by the Reserve Bank from time to time:Provided that such authorized dealer category I bank shall exercise the authority subject to directions and guidelines issued to them by the Reserve Bank in that behalf.]

## **7. Remittance related to a Foreign Exchange Derivative Contract. - An authorized 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.

## **8. [ Remittance related to a Commodity Derivative Contract.**

- An authorized 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 commodity derivative contract entered into in accordance with regulation 6;(c)any other remittance related to a commodity derivative contract approved by Reserve Bank.]

I

(See regulation 4)FOREIGN EXCHANGE DERIVATIVE CONTRACT PERMISSIBLE FOR A PERSON RESIDENT IN INDIAA. Forward Contract

**1. A person resident in India may enter into a forward contract with an authorized 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 or regulations or directions or orders made or issued thereunder, subject to following terms and conditions-**

(a)[ the authorized dealer through verification of documentary evidence is satisfied about the genuineness of the underlying exposure or as otherwise permitted by the Reserve Bank from time to time,] [Substituted by Notification No. G.S.R. 264(E), dated 5.3.2002 (w.e.f. 8.5.2000)](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 not ascertainable, 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 finalized,(g)balances in the Exchange Earner's Foreign Currency(EEFC) accounts sold forward by the account holders shall remain earmarked for delivery and such contracts shall not be canceled. They may be ,however, be rolled-over,[(h) Contracts involving the rupee as one of the currencies, once canceled, 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.[\* \* \*] [Substituted by G.S.R. 222(E), dated 16.4.2006 (w.r.e.f. 23.6.2005).]](i)substitution of contracts for hedging trade transactions may be permitted by an authorized dealer on being satisfied with the circumstances under which such substitution has become necessary.(j)[ a person resident in India may, subject to the terms and conditions prescribed by Reserve Bank of India, enter into a forward contract with an authorized dealer in India to hedge an exposure to exchange risk in respect of transactions denominated in foreign currency but settled in Indian rupees.] [Added by Notification No. G.S.R. 880(E), dated 21.10.2003 (w.e.f. 8.5.2000).][AA. Forward Contract in respect of Economic Exposure. - A person resident in India may, subject to such terms and conditions as may be stipulated by the Reserve Bank from time to time, enter into a forward contract with an authorized dealer in India to hedge an economic

exposure to exchange risk in respect of such transactions as may be prescribed by the Reserve Bank from time to time.] [Inserted by G.S.R. 760(E), dated 17.9.2007 (w.r.e.f. 23.7.2005).]B. Contract other than Forward Contract

## 2.

(1)A person resident in India who has borrowed foreign exchange in accordance with the provisions of 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 authorized dealer in India or with a branch outside India of an authorized dealer for hedging his loan exposure and unwinding from such hedges:Provided that -(a)the contract does not involve rupee,(b)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 authorized dealer in India to hedge long term exposure.(3)The contract entered into under sub-paragraph 2, if canceled shall not be rebooked or re-entered, by whatever name called.

## 3.

(1)A person resident in India may enter into a foreign currency option contract [not involving the rupee as one of the currencies] [Inserted by Notification No. G.S.R. 750(E) dated 19.12.2005 (w.e.f. 8.5.2000)] with an authorized 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, ratiorange 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 (1) may be freely booked and/or canceled.(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 there under on the same terms and conditions applicable to forward contracts.] [Inserted by Notification No. G.S.R. 750(E) dated 19.12.2005 (w.e.f. 8.5.2000)](C)[ Writing of standalone options against underlying exposure. [Inserted by Notification No. G.S.R. 571(E), dated 1.6.2016 (w.e.f. 8.5.2000).] - A person resident in India may enter into cross-currency option contract (not involving the rupee as one of the currencies) and/ or foreign currency - rupee option contract authorized dealer against an underlying foreign exchange exposure 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 subject to such terms and conditions as may be stipulated by the Reserve Bank from time to time.]

## II

(See regulation 5) **FOREIGN EXCHANGE DERIVATIVE CONTRACTS PERMISSIBLE FOR A PERSON RESIDENT OUTSIDE INDIA**

**1. A Registered Foreign Institutional Investor (FII) [/Qualified Foreign Investor (QFI)] [Substituted for the words "Foreign Institutional Investor (FII)" by Notification No. G.S.R. 330(E) dated 18.2.2013 (w.e.f. 16.7.2012)] may enter into a forward contract with rupee as one of the currencies with an authorized 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 forwards 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)[ forward contracts may be canceled and rebooked subject to such terms and conditions as may be stipulated by the Reserve Bank from time to time, or may be rolled over on or before maturity.] [Substituted by G.S.R. 760(E), dated 17.9.2007 (w.r.e.f. 23.7.2005).](c)the cost of hedge is met out of repatriable funds and/or inward remittance through normal banking channel,(d)all outward remittances incidental to hedge are not of applicable Indian taxes.

**2. A non-resident Indian [\*\*\*] may enter into forward contract with rupee as one of the currencies, with an authorized dealer in India to hedge-**

(a)the amount of dividend due to him/it on shares held in an Indian company;(b)the balances 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 provisions 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.[2-A. A non-resident Indians may, subject to conditions prescribed by the Reserve Bank of India from time to time, enter into cross currency (not involving the rupee) forward contracts to convert the balances held in FCNR (B) accounts in one foreign currency to another foreign currency in which FCNR (B) deposits are permitted to be maintained.] [Added by Notification No. G.S.R. 880(E), dated 21.10.2003 (w.e.f. 8.5.2000).]

**3. [ Authorized 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 canceled are not eligible to be rebooked.] [Substituted by Notification No. G.S.R. 532(E), dated 8.1.2003 (w.e.f. 8.5.2000).]**

[3-A. A person resident outside India may, subject to conditions prescribed by the Reserve Bank of India from time to time, enter into a forward sale contract with an authorized dealer in India to hedge the currency risk arising out of his proposed foreign direct investment in India.

### **3.**

-B. A person resident outside India having Foreign Direct Investments in India may, subject to the condition that forward cover shall be taken only after the rate has been approved by the Board, enter into forward contracts with rupee as one of the currencies to hedge the currency risk on dividend receivable by him from the Indian company.] [Added by Notification No. G.S.R. 880(E), dated 21.10.2003 (w.e.f. 8.5.2000).]

**4. [ A Foreign Institutional Investor, a Non-Resident Indian or a Person Resident outside India having 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 contracts.] [Inserted by Notification No. G.S.R. 750(E) dated 19.12.2005 (w.e.f. 8.5.2000)]**

**7. [ A Foreign Portfolio Investor may enter into forward contracts, foreign currency-rupee option contract, cost reduction structures or swaps with Rupee as one of the currencies with an Authorised Dealer in India to hedge the currency risk in respect of investments made under the Voluntary Retention Route (VRR) facility subject to such terms and conditions as may be stipulated by the Reserve Bank from time to time.] [Inserted by Notification No. G.S.R. 161(E) dated 26.2.2019 (w.e.f. 8.5.2000).]**

## **III**

(See regulation 6) **PROCEDURE FOR APPLICATION FOR APPROVAL FOR HEDGING OF COMMODITY PRICE RISK**

**1. A person resident in India , engaged in export-import trade [or as permitted by the Reserve Bank] [Added by Notification No. G.S.R. 881(E), dated 21.10.2003 (w.e.f. 8.5.2000).], who seeks to hedge price risk in respect of any commodity including Gold, may submit an application to the International Banking Division of an authorized 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) names 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.(ii)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 authorized to undertake transactions and limits.(iii)Any other relevant information.

**2. [ Authorized dealer, after ensuring that the application is supported by documents indicated in paragraph 1, as may be relevant, may forward the application with its recommendations to the Reserve Bank of India, where applicable. In all other cases, the application may be forwarded by the company concerned to an authorized dealer bank authorized to grant permission under sub-regulation (ii) of regulation 6, for consideration.]**  
**[Substituted by G.S.R. 223(E), dated 16.4.2006 (w.r.e.f. 23.7.2005).]**