

BANGLADESH BANK

GUIDELINES FOR FOREIGN EXCHANGE TRANSACTIONS

Volume - 1

SUMMARIZING

Instructions as of 31st December, 1996 issued to
Authorised Dealers in Foreign Exchange

To be read in conjunction with other instructions, subsequent
amendments and modifications issued from time to time.

Preface

This publication, titled 'Guidelines for Foreign Exchange Transactions', is the successor to the last (1986) edition of the Exchange Control Manual. This is a compilation of the instructions to be followed by the Authorised Dealers and their constituents in transactions relating to foreign exchange. These guidelines come in two volumes. The first volume includes the instructions and the prescribed forms /declarations relating to individual transactions. The second volume dwells on the procedure of reporting of foreign exchange transactions by Authorised Dealers to Bangladesh Bank, and includes the proformas for monthly returns, statements, schedules for such reporting. Both volumes of this first edition of the Guidelines include instructions as on the 31st

December, 1996, and should be read with FE Circulars/Circular Letters issued subsequently.

Foreign Exchange Policy Department
Bangladesh Bank
Head Office, Dhaka.

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CHAPTER 1

INTRODUCTORY

1. Foreign Exchange Regulation (FER) Act, 1947 (Act No. VII of 1947) enacted on 11th March, 1947 in the then British India provides the legal basis for regulating certain payments, dealings in foreign exchange and securities and the import and export of currency and bullion. This Act was first adapted in Pakistan and then, in Bangladesh. The Act is reproduced at Appendix 1. Bangladesh Bank is responsible for administration of regulations under the Act. Appendix 4 provides a list of Bangladesh Bank's offices and their jurisdictions.

2. Basic regulations under the FER Act are issued by the Government as well as by the Bangladesh Bank in the form of Notifications which are published in the Bangladesh Gazette. Notifications issued by the Bangladesh Government and the erstwhile Government of Pakistan and the Bangladesh Bank and the erstwhile State Bank of Pakistan are reproduced at Appendices 2 and 3. Directions having general application are issued by the Bangladesh Bank in the form of notifications, foreign exchange circulars and circular letters.

3. Authorized Dealers (ADs) in foreign exchange are required to bring the foreign exchange regulations to the notice of their customers in their day-to-day dealings and to ensure compliance with the regulations by such customers. The ADs should report to the Bangladesh Bank any attempt, direct or indirect, of evasion of the provisions of the Act, or any rules, orders or directions issued thereunder.

4. The ADs must maintain adequate and proper records of all foreign exchange transactions and furnish such particulars in the prescribed returns for submission to the Bangladesh Bank. They should continue to preserve the records for a reasonable period for ready reference as also for inspection, if necessary, by Bangladesh Bank's officials.

5. This publication summarizes the instructions issued under the FER Act as well as the prudential instructions issued by Bangladesh Bank (as of 30th September, 1996) to be followed by ADs in their day-to-day foreign exchange transactions.

6. Specimen forms (other than those of periodical returns dealt with in Volume -2) prescribed in this publication are given in Appendix 5. CH 12

7. Terms having a special meaning for the purpose of the FER Act are defined under Section 2 of that Act. However, for the purpose of this publication and the instructions issued by the Bangladesh Bank from time to time, the following terms as defined below shall be used in addition to those defined under Section 2 of the FER Act:

(i) Resident and Non-Resident

A resident is a person bank or firm who/which resides in Bangladesh. A non-resident is a person, bank or firm who/which resides outside Bangladesh. Non-residents include Bangladesh nationals who go out of Bangladesh for any purpose (for details of this category of non-resident please see Chapter 12). A person is presumed to be ordinarily resident if he maintains a home in Bangladesh or resides in the country for a substantial part of each year or pays income tax as a resident of Bangladesh. On the other hand, the fact that a person gives an address in Bangladesh does not necessarily mean that he should be regarded as a resident if he is, in fact, only a temporary visitor and is ordinarily resident elsewhere.

(ii) Bangladesh Bank

Bangladesh Bank (BB) means the Bangladesh Bank established under the Bangladesh Bank Order, 1972 (President's Order No. 127 of 1972).

(iii) Taka

Taka means the Bangladesh Taka unless otherwise specified.

(iv) Dollar

Unless otherwise indicated the term dollar used in this publication shall mean the US dollar.

(v) Authorized Dealers

Wherever used in this publication, the term Authorized Dealer or AD would mean a bank authorized -by Bangladesh Bank to deal in foreign exchange under the FER Act, 1947.

CH 2 3

CHAPTER 2

AUTHORIZED DEALERS AND MONEY CHANGERS

1. Bangladesh Bank issues licenses normally to scheduled banks to deal in foreign exchange if it is satisfied that the bank applying for this license has adequate manpower trained in foreign exchange, there is prospect to attract reasonable volume of foreign exchange business in the desired location and the applicant bank meticulously complies with the instructions of the Bangladesh Bank especially with regard to submission of periodical returns. Bangladesh Bank may issue general licenses or licenses with authority to perform limited functions only.

2. Licenses with limited scope are also issued to persons or firms to exchange foreign currency notes, coins and travellers' cheques in places where money changing facilities are required. The authorizations are granted to persons or firms of adequate means and status who, in the opinion of the Bangladesh Bank, will be able to conduct their dealings strictly in accordance with the Foreign Exchange Regulations.

3. Applications for the grant of AD licenses should be made to the General Manager, Foreign Exchange Policy Department, Bangladesh Bank, Head Office, Dhaka. The applications should contain information on availability of trained staff and other requirements as specified in Para 1 above.

4. Applications for the grant of licenses to act as Authorized Money Changers should be made to the Foreign Exchange Policy Department of the area where the applicant's business is located. The applications should contain full particulars as regards the main business conducted by the applicant, the location of the business premises, the names and addresses of the applicant's bankers. The application should be routed through the applicant's banker who should furnish a report on the financial status of the applicant.

Licenses to
deal in foreign
exchange
Authorized
Money Changers
Applications for
Authorized
Dealer's Licenses
Applications for
Money
Changer's
Licenses CH 3 4
CHAPTER 3

BANGLADESH BANK'S TRANSACTIONS WITH ADS

1. Bangladesh Bank's purchases and sales from and to the ADs are in US Dollar only, on spot basis. All such transactions with Bangladesh Bank are required to be in multiples of US\$ 10,000, subject to a minimum of US\$ 50,000. ADs are free to quote their own rates, ready and forward, for transactions in the inter bank market and with their customers.

2. (a) The Central Banks of Bangladesh, India, Iran, Nepal, Pakistan, Sri Lanka, Bhutan and Myanmar have an Agreement to settle current transactions between these countries through the Asian Clearing Union(ACU) mechanism. All such payments to the ACU member countries excepting those covered by loan/ credit agreements are accordingly settled through the Asian Clearing Union (ACU) mechanism in Asian Monetary Unit (AMU, also called ACU dollar) which is defined as equivalent to the US dollar.

(b) The ACU Agreement referred to above provides for settlement of the following types of payments:

(i) Payments from residents in the territory of one participating country to residents in the territory of another participating country.

(ii) Payments for current international transactions as defined by the Articles of Agreement of the International Monetary Fund.

(iii) Payments permitted by the country in which the payer resides.

(c) ADs shall maintain nostro accounts in ACU dollars with their correspondent banks in ACU member countries for the purpose of settlements through ACU. Similarly ACU dollar accounts may be opened by the ADs in their books in the names of their correspondents in ACU member countries. ADs may pay interest on the balance of Nostro A/C (ACU Dollar) as per mutual negotiation.

(d) An AD needing to fund its ACU dollar nostro account with a correspondent bank in an ACU member country shall do so

through Bangladesh Bank against surrender of the required amount in US dollar, or of equivalent taka at Bangladesh Bank's selling rate. Bangladesh Bank will advise the central bank of the concerned ACU member country to make the amount available to the transferee bank in that country. After making the payment, the central bank of the recipient ACU member country shall advise the GM of the ACU secretariat to credit its account by debit to Bangladesh Bank's account.

Buying and

selling

Payments

through ACU CH 3 5

(e) For repatriating funds from an ACU dollar nostro account with a correspondent bank in an ACU member country an AD shall advise the correspondent bank to route the payment through the central bank of that country, which will advise Bangladesh Bank to make the amount available to the recipient AD. Bangladesh Bank on receipt of the advise, shall make the fund available to the recipient AD (either in US dollar or in equivalent taka. at BB's buying rate, at the AD's option) and shall advise the GM of the ACU secretariat to credit its account by debit to the account of the central bank of the transferor ACU member country.

3. (a) Bangladesh Bank operates a foreign currency clearing system enabling the AD banks to settle their mutual claims in US dollar, Pound Sterling, Euro and Japanese Yen arising from inter bank transactions; to economize the time and cost involved in settlements through correspondents abroad. Under this arrangement, AD banks maintain clearing accounts with the BB in US dollar, pound sterling, Euro and Japanese yen. Apart from the purpose of settlement with other ADs, these accounts may also be used for transfers to and from correspondents abroad.

(b) Settlement of the balances lying in each of the clearing accounts take place at the end of each month. The Bangladesh Bank charges interest on the debit balance in an account on daily product basis and debit the bank's account at the end of each month and pays interest on the amount of credit balance at the rates prescribed from time to time.

(c) Operation of the clearing system is centralized in the International Department of Bangladesh Bank, Head Office, Dhaka; but the ADs in other centers may transfer funds to other banks through their head/main office in Dhaka.

Clearing
arrangement with
Bangladesh Bank CH 4 6
CHAPTER 4

FOREIGN CURRENCY ACCOUNTS OF THE ADS AND PURCHASE AND SALE OF FOREIGN CURRENCY

1. ADs, may maintain accounts in freely convertible currencies with their correspondents/ branches abroad. Accounts may also be maintained in ECU for the purpose of investment of surplus fund, if any, of the ADs.
 2. The foreign currencies held by the ADs shall at all time be deemed to be held at the disposal of the Bangladesh Bank. The Bangladesh Bank, through its Foreign exchange Policy Department, may give such instructions with regard to the disposal of such currencies as it may deem necessary and expedient.
 3. The Bangladesh Bank sets prudential limits on each AD bank's open (overbought/oversold) exchange position. The AD should ensure that the prescribed open position limit is not exceeded. If an AD exceeds the prescribed limit and fails to furnish satisfactory explanation for the same, it may be asked to sell the excess amount ready and to cover its position by buying forward for deliveries corresponding to the maturities of its own forward obligations. In general, the ADs should aim at maintaining their ready and forward positions month by month reasonably in line, avoiding heavy ready purchases against forward commitments.
 4. The ADs are required to work out their open exchange position daily and to report to the Bangladesh Bank the positions (overbought / oversold) as at the close of business on Thursday of each week (See Chapter 2, Vol. 2). If for reasons beyond control the overbought/oversold position during the period under report is in excess of the prescribed limit, the weekly return must be accompanied by a letter explaining the circumstances.
 5. The ADs may freely enter into transactions for sale or purchase of foreign currencies both ready and forward with other ADs, foreign correspondents and overseas branches provided that all such transactions must be reported to the Bangladesh Bank in the appropriate returns (See Chapter 2, Vol. 2).
 6. The ADs may obtain short term loans and overdrafts for a period not exceeding 7 days at a time at the going market rates from overseas branches and correspondents to meet their short term needs. If these loans or overdrafts require a collateral in Bangladesh or abroad prior approval must be obtained from Bangladesh Bank. Short term loans and overdrafts taken under the authority of this para may be remitted by the ADs without the prior approval of the Bangladesh Bank. But subject to report.
- Foreign currency

held by the AD at
the disposal of
the Bangladesh
Bank
Accounts in
foreign
currencies
Open position
Overbought/
oversold
position in
excess of
prescribed limits
Purchase of one
foreign currency
against another CH 5 7

CHAPTER 5

NON-RESIDENT TAKA ACCOUNTS OF FOREIGN BANK BRANCHES AND CORRESPONDENTS

1. The Taka accounts of all foreign bank branches or correspondents Outside Bangladesh are regarded as non -resident accounts. The accounts of different branches of the same bank situated in different countries must be identified separately and the accounts of each branch or group of branches in one country should be designated as accounts of that country.
2. ADs may freely open or continue to maintain Non-Resident Taka Accounts in the names of their overseas branches and correspondents Against inward remittance in convertible currencies only. Transfer between non-resident Taka accounts are permitted freely. Approved foreign currency may also be sold to non -resident bank branches and correspondents provided the remittance is charged against credit balances held in the non -resident Taka account. Non -resident Taka accounts may be opened with initial deposits sent from abroad in a freely convertible currency. New non -resident Taka accounts opened by the ADs must be reported to the Bangladesh Bank with details.
3. Payments from and receipts to the non-resident Taka accounts constitute purchases or inward remittances and sales or outward remittances respectively of foreign currency. Consequently, all the regulations and instructions applicable to inward and outward remittances shall apply mutatis mutandis to payments, made to and from these accounts. All credits and debits and balances on non-resident Taka accounts of foreign bank branches and correspondents will be reported in the appropriate Returns (prescribed in Chapter 2, Vol.2).

General
New non-resident
accounts of
banks
Reporting of
permitted debits
and credits CH 6 8

CHAPTER 6

FORWARD DEALINGS IN FOREIGN EXCHANGE

1. ADs, on their own, are free to buy and sell foreign currencies forward in accordance with the internationally established practices however, in all cases the ADs must ensure that the cover is intended to neutralize the risks arising from definite and genuine transactions.

2. Be it forward sale or purchase, ADs must cover their own risk within the shortest possible time.

3. All forward contracts should be treated as firm and should be closed out on expiry. In such cases the ADs should charge the difference between the contracted (booked) rate and the TT clean spot buying or TT spot selling rate, as the case may be, ruling on the date the contract is closed out. The forward contract should be closed without charging any difference if the rate moves in favour of the customer on the date of the closure. In other words, in case of a forward purchase by Authorized Dealer no difference will be charged if the TT spot selling rate on the date of closure is at par or lower (i.e., inferior from the point of view of the customer) than the booked rate. Similarly, no difference should be charged for closing out a forward sale contract if the TT clean spot buying rate on the date of closure is at par or higher (i.e., costlier than the booked rate from the point of view of the customer) than the booked rate. No forward contract should be renewed at the old rate. All cases of renewal should be treated as new contracts and the rates as applicable for purchase-sale of forward contracts on the date of renewal should be applied.

4. The ADs may undertake swap transactions to cover their risks arising from forward transactions. However, they are advised to refrain from taking speculative positions through swap transactions.

5. All documents (copy of LC, contracts etc.) relating to forward contracts and Swap transactions must be, preserved for subsequent inspection by the Bangladesh Bank.

CHAPTER 7

OUTWARD REMITTANCES

1. Most outward remittances are approved by the ADs, on behalf of the Bangladesh Bank following declaration of Taka as convertible for current accounts payments from March, 1994. Only a few remittances of special nature require Bangladesh Bank's prior approval.

2. All remittances from Bangladesh to a foreign country or local currency credited to on resident Taka accounts of foreign banks or convertible Taka account constitute outward remittances of foreign exchange. ADs must exercise utmost caution to ensure that foreign currencies remitted or released by them are used only for the purposes for which they are released, they should also maintain proper records for submission of returns to Bangladesh Bank as also for the latter's inspection from time to time.

3. In all cases of purchase of foreign currency an application must be made to an AD and, wherever necessary to Bangladesh Bank. For payments against imports into Bangladesh, the prescribed application form is form IMP (Appendix 5/13) and for other types of remittances form TM (Appendix 5/1). TM form must be used for reporting by the ADs even when remittance is approved by Bangladesh Bank in any other manner, for instance by issuing a special permit. On receipt of the application in the prescribed form, the ADs may effect the sale of foreign exchange if they are empowered to approve the application. If the transaction requires prior approval of the Bangladesh Bank, the form should be forwarded by the AD to the Bangladesh Bank for consideration.

4. Applications for Bangladesh Bank's prior approval for outward remittances, wherever required, should be submitted to Bangladesh Bank only through the ADs and not by their customers directly; all such applications should be forwarded by the ADs to Bangladesh Bank by their own messengers or by post.

5. In respect of the forms or permits etc. approved from the Bangladesh Bank, the ADs should see that these have been approved by duly authorized officers and that they bear the Bangladesh Bank's embossing seal. In case the authorization is signed by an official of Bangladesh Bank whose specimen signature may not be available with them such authorization should be resented to the nearest office of the Foreign Exchange Policy Department and the signatures authenticated. It is most important that, once forms have been approved by or on behalf of the Bangladesh Bank, the ADs carry out the transactions only on behalf of the original applicants for whom the forms were approved.

Dealing with
approved
applications
Applications for
approval of
Bangladesh Bank
to be submitted
only through an
AD
Applications on
prescribed forms
General CH 7 10

6. Permits issued (where applicable) by the Bangladesh Bank (See Appendix 5/2) must be utilized within the period of its validity indicated in the permits. The amount released must not exceed the authorized limit. Also, the instructions, if any, given in the permits with regard to the amounts to be released periodical ly e.g. monthly or quarterly must be strictly adhered to.

7. Remittances made against permits or approval letters of Bangladesh Bank should be reported on TM form. The AD must state on the TM form the number of the permit against which the remittance has been made by him and must certify that the remittance has been endorsed by him on the permit. The remittance must be endorsed on the back of the permit giving the date of the remittance under the stamp and signature of the AD. When the permit is exhausted or no longer required, it should be returned to the Bangladesh Bank by the AD alongwith the TM form on which the last remittance is reported.

8. All authorisations excepting TM forms approved by the Bangladesh Bank or by the ADs on behalf of the Bangladesh Bank remain valid for a period not exceeding 30 days from the date of approval unless they are expressly stated as valid for a specified longer period or unless they have been revalidated for a further period. TM form approved by the Bangladesh Bank wi ll, however, remain valid for a period of three calendar months from the date of approval by the Bangladesh Bank. Permits issued by the Bangladesh Bank are also valid for specified periods as stated on the permits. The ADs should not effect any remittance against approved Forms or Permits which have lapsed unless they have been duly revalidated.

9. Original copies of all IMP forms, TM forms covering remittances effected by the ADs must be submitted to the Bangladesh Bank alongwith the appropriate Returns as laid down in Chapter 2, Vol. 2 For the disposal of the remaining copies of the IMP forms (See Para 28 (c), Chapter 15).

10. In the event of any remittance which has already been reported to the Bangladesh Bank on the prescribed return being subsequen tly cancelled either in full or in part, the ADs must report the cancellation of the outward remittance as an inward remittance. The return in which the reversal of the transaction is reported should be supported by a letter giving the following particulars:

- a) The date of the return in which the outward remittance was reported.
- b) The name and address of the applicant.

- c) The amount of the sale effected originally.
- d) The amount cancelled.
- e) Reasons for cancellation.

Permits for
Recurring
remittances

Effecting
remittances
against permits

Period of validity
of approval of
Bangladesh Bank

Disposal of
Application
forms

Cancellation of
remittances
CH 8 11

CHAPTER 8

INWARD REMITTANCES

1. The term "Inward Remittances" includes not only remittance by T.T., M.T., Drafts etc., but also purchases of bills, purchases of drafts under Travellers' Letters of Credit and purchases of Travellers' Cheques. This Chapter does not, however, cover purchases of foreign currency note- and coins which are dealt with in Chapter 9.

2. The ADs may freely purchase foreign currencies or raise debits to non-resident Taka Accounts of the respective bank branches and correspondents. Remittances equivalent to US\$ 2000 and above should be reported on Form C (See Appendix 5/3) attached to the appropriate schedule (See Chapter 2, Vol. 2). However, declaration on Form C by the beneficiary is not required against remittances sent by Bangladesh nationals working abroad. The purpose of remittances should be clearly stated on the Form C. Where the country of origin of funds and currency in which remittances received are the same, the ADs may submit a consolidated Form C in respect of those remittances attaching therewith a separate list showing details of remittances comprising the amount reported on Form C. Remittances received against exports should be certified and reported on EXP Forms. In case of remittance received in advance for exports the AD should obtain a signed declaration from the beneficiary on the back of the "Advance Receipt Voucher" (See Chapter 2, Vol. 2) certifying the purpose of remittance.

3. There is no objection to the ADs obtaining reimbursement from non-resident banks in freely convertible foreign currency in respect of Taka bills and drafts purchased by them under instructions from such a non-resident bank whether under Letters of Credit or under other arrangements.

4. If an inward remittance already reported to the Bangladesh Bank is cancelled, either in full or in part, because of non-availability of beneficiary, the ADs must report the cancellation of the inward remittance as an outward remittance on TM form. The return in which the reversal of the transaction is reported should be supported by a letter giving the (a) reference of the return in which the inward remittance was reported (b) name and address of the beneficiary (c) amount and the reason for cancellation and (d) amount of the purchase as effected originally.

General
Inward
Remittances no
restrictions
Reimbursement
in foreign
currency for Taka
bills and drafts
Cancellation of
Inward
Remittances
CH 9 12

CHAPTER 9

DEALING IN FOREIGN CURRENCY NOTES AND COINS ETC.

1. No person, firm or company other than an AD or Authorized Money Changer is permitted to deal in foreign currency in any form. Other persons entering into transactions involving the buying or otherwise acquiring or borrowing from or selling or otherwise transferring or lending to or exchanging with, a person who is not an AD or Authorized Money Changer any foreign currency, will, therefore, be deemed to be contravening the provisions of the FER Act.

2. ADs and money changers may freely buy foreign currency from incoming passengers regardless of nationality and regardless of whether or not a declaration on form FMJ (Appendix 5/64) is produced at the time of encashment. If the form is produced, the amount encashed should be endorsed on it.

The ADs may also purchase foreign currency notes, coins and other travel instruments freely from Authorized Money Changers without the production of Form FMJ.

3. a) The ADs are permitted to dispose of foreign currency notes etc. by way of sales to other ADs and the general public in accordance with the instructions of the Bangladesh Bank.

b) They may also despatch to agents or correspondents abroad for credit to their Foreign Currency Accounts with the approval of the Bangladesh Bank. Application for Bangladesh Bank's permission should be made in duplicate; Bangladesh Bank's permission will be given in the duplicate copy. For reasons of security, strict confidentiality should be maintained for communications with Bangladesh Bank; this may preferably be done through personal calls on the senior officials of the Bangladesh Bank's Foreign Exchange Policy Department.

4. In addition to normal purchases from the public, authorized money changers and other authorized dealers, after AD may supplement their holdings of foreign currency notes from abroad with approval from the Bangladesh Bank.

Unauthorized
dealings
Conditions under
which ADs
/Authorized
Money Changers
may purchase
foreign
currency
Disposal of
foreign currency
notes and coins
by the ADs
The ADs'
requirements of
foreign currency
notes CH 9 13

5. All purchases of foreign currency notes and coins made by the ADs and Authorized Money Changers are entirely on their own responsibility and they must make their own arrangements for realizing the proceeds of surplus foreign currency notes and coins purchased by them which cannot be sold to their customers as permitted under the Regulations.

The ADs may realize the value of surplus foreign currency notes and coins by repatriating them through their foreign branches or correspondents and having the proceeds credited to their appropriate Foreign Currency Accounts.

Responsibility
for the
realization of
the value of
foreign currency
notes purchased
by ADs CH 10 14

CHAPTER 10

SECTION- I

PRIVATE FOREIGN CURRENCY ACCOUNTS

1. (i) The ADs may without prior approval of the Bangladesh Bank open foreign currency accounts in the names of (a) Bangladesh nationals residing abroad (b) foreign nationals residing abroad or in Bangladesh and also foreign firms registered abroad and operating in Bangladesh or abroad (c) Foreign missions and their expatriate employees. Foreign exchange earned through business done or services rendered in Bangladesh can not be put into these accounts. Credits to a foreign currency account may be made against inward remittance of foreign exchange in any form or transfer from another of account or non -resident Taka accounts of banks abroad. Bangladesh Bank may specially allow opening of foreign currency accounts not covered by this general authorization.

(ii) Payments may be made freely abroad from these foreign currency accounts to the extent of balances lying therein. Local disbursements may also be made freely in Taka from such foreign currency accounts.

(iii) No payment in foreign exchange may be made to or on behalf of any resident in Bangladesh out of the foreign currency accounts opened as per the above arrangement. However, this restriction will not apply in case of foreign diplomats and privileged persons or any other person or firm who have specific authority from the Bangladesh Bank to accept such payments. Bills of the local contractors of the foreign missions in Bangladesh may also be settled in foreign currency from the balances of the foreign currency accounts of such missions. In such cases the beneficiary of the bill will have to encash the foreign currency with any AD within one month from the date of receipt.

(iv) Any payment received in foreign exchange by the ADs on behalf of residents of Bangladesh must not be retained in foreign exchange but must be converted into Taka unless the AD is satisfied that the payee has the general/ special permission of the Bangladesh Bank to retain the foreign exchange.

(v) The ADs maintaining foreign currency accounts under this authority can pay interest on such accounts provided the accounts are maintained in the form of term deposits for a minimum period of 90 days. Rates of interest payable on such accounts should normally be comparable with the rates available on similar accounts maintained abroad.

Opening of FC
accounts with
ADs in
Bangladesh CH 10 15

2. Bangladesh nationals working and earning abroad including Self employed Bangladeshi migrants proceeding abroad on employment may open foreign currency accounts even without initial deposits. They may operate the accounts themselves or nominate other persons in Bangladesh for this purpose. The accounts can be opened either in Pound Sterling, US Dollar, Euro or Japanese Yen at the option of the prospective account holder and maintained as long as the account holder desires. These accounts would ordinarily be fed from remittances by account holders themselves but funds sent by other wage earners may also be placed to the credit of such accounts. ADS may also raise credits to such accounts with the proceeds of convertible foreign exchange viz. currency notes, travellers' Cheques, drafts etc. brought into Bangladesh by the account -holders while on temporary visit to Bangladesh provided such foreign exchange in excess of US \$3000 (or its equivalent) has been duly declared by them to the Customs on Form 'FMJ' at the time of their arrival. Funds lying to the credit of FC accounts of Bangladesh nationals can be utilized for import of goods and commodities as per instructions issued by the CCI&E and Bangladesh Bank.

3. Foreign currency accounts in the names of the Diplomatic Bonded Warehouse (duty free shops) licensed by the Custom Authorities may be opened by the ADS without prior approval of the Bangladesh Bank on following conditions:

a) Convertible foreign currency (travellers' cheques, drafts, cheques or credit card settlements) received only on account of sale of merchandise may be credited to these accounts.

b) Foreign exchange may be remitted abroad only for the purpose of import of merchandise by the bonded warehouse. For the same purpose foreign exchange may also be transferred from such accounts to foreign Currency accounts maintained with other ADS. For meeting local expenses, foreign exchange from these accounts may be encashed freely at current exchange rate. The requirement of encashment of at least 50% of the gross profit (sale price of merchandise minus purchase price of merchandise) of the Bonded Warehouse in foreign exchange should be duly fulfilled.

c) Monthly statement of purchase, sale and foreign exchange transaction related thereto alongwith bank certificate concerning encashment in Taka shall be submitted to the Bangladesh Bank in prescribed form (See Ch. 2, Vol. 2).

4. Foreign currency accounts in the names of local and Joint Venture contracting firms employed to execute projects by foreign donors/international donor agencies may also be opened by the ADs as per terms of the approved contract without prior permission of the Bangladesh Bank. Only foreign exchange received from the donors/donor agencies to meet expenses of the project can be credited

CH 10 16

to these accounts. All expenses in foreign exchange as per relevant contract may be met from these accounts. These accounts should be closed as soon as the transactions relating to the project are concluded.

It will be in order for the ADs to issue cheque books to foreign currency account-holders.

5. Foreign nationals residing in Bangladesh are allowed to maintain and operate their foreign currency accounts abroad.

6. Foreign currency accounts may be opened in the names of resident Bangladesh nationals working with the foreign/international organizations operating in Bangladesh provided their salary is paid in foreign currency. Such account may be credited only with the foreign currency portion of the salary and debited for all approved current transactions like cost of travel, education for children, treatment etc. Foreign currency accounts may also be credited with consultancy fees/honoraria received in foreign currency by the above mentioned category of residents, debits to Such accounts being subject to same conditions as mentioned above.

7. In terms of Government Notification No. 1(8) -EF/58 dated 20th August, 1958 issued under Section 9 of the FER Act, all citizens of Bangladesh and other persons residing in Bangladesh Continuously for six months or more who became owner of any foreign exchange whether held in Bangladesh or abroad are required to sell such foreign exchange to an AD within one month of the date of acquisition by them of such foreign exchange. This provision of repatriation of foreign exchange will not, however, apply to the following cases viz:

(i) Foreign exchange held abroad by foreign diplomats and foreign nationals employed in Embassies and Missions of foreign

countries in Bangladesh.

(ii) Foreign exchange held abroad by foreign nationals or foreign business houses, except to the extent representing earnings abroad in respect of business conducted in Bangladesh or services rendered while in Bangladesh.

(iii) Foreign exchange held by Bangladesh nationals in accounts abroad which were opened and credited while the account holders were working abroad as resident outside Bangladesh.

(iv) Foreign contractors or consultants working in Bangladesh Under contract with any Government Department or Public Sector agency or in a project under any loan, credit or grant, where the relevant contract provides for payment of their fees and emoluments partly or entirely in foreign exchange abroad.

CH 10 17

(v) Expatriate employees of foreign contractors or consultants as mentioned in sub -para (iv) above where the terms of their employment provide for payment of their salaries partly or entirely in foreign exchange abroad.

(vi) Foreign nationals stationed in Bangladesh as employees of foreign concerns Situated abroad and receiving part of their emoluments in Bangladesh for subsistence and the balance abroad for meeting other expenses, including maintenance of their families, will not also be required to repatriate the portion of their emoluments received abroad.

Besides the above mentioned exemptions from repatriation requirement, there are exemptions from surrender (encashment) requirement in respect of (i) portion of repatriated export proceeds that is allowed to be credited to the exporters retention quota account (please see ch 20), (ii) foreign exchange brought in at the time of return from abroad that can be credited to RFCD account (please see ch 10) and (iii) upto US\$ 3000 brought in undeclared at the time of return from abroad that can be retained at hand (please see ch 21).

For the purposes of the aforesaid Notification the term "residents in Bangladesh" excludes citizens of Bangladesh in foreign countries so long as they stay outside Bangladesh but includes foreign nationals who reside continuously in Bangladesh for six months or more.

8. Payments in foreign currency by foreign nationals residing in Bangladesh to or on behalf of residents of Bangladesh whether Bangladeshis or foreign nationals are prohibited except to a firm, like a gift shop or an establishment, like a hotel, holding a valid Authorized Money changer's license. Foreign nationals should not, therefore, directly or indirectly, make foreign currency available to the residents or to other persons on their behalf against payment in Taka. Such payments are prohibited even from

their foreign currency accounts which they are permitted to maintain and operate from Bangladesh.

Payments by
foreign nationals
in foreign
currencies
CH 10 18

SECTION - II

NON-RESIDENT FOREIGN CURRENCY DEPOSIT ACCOUNT

9. All non-resident Bangladesh nationals and persons of Bangladesh origin including those having dual nationality and ordinarily residing abroad may maintain interest bearing time deposit accounts named "Non-Resident Foreign Currency Deposit (NFCD) Account" with the ADs.

10. Bangladesh nationals serving with Embassies/High Commissions of Bangladesh in foreign countries as also the officers/staff of the Government/semi-Government departments/nationalized banks and employees of body corporate posted abroad or deputed with International and Regional agencies like IMF, World Bank, IDB, ADB etc. during their assignments abroad may open such accounts. Crew members of the Bangladeshi shipping companies are not entitled to open such accounts, but shore staff posted abroad may open such accounts. Accounts may also be opened with funds transferred from existing foreign currency accounts maintained by the wage earners with the ADs in Bangladesh.

11. The accounts are in the nature of term deposits maturing after one month, three months, six months and one year. The accounts may be maintained in US dollar, pound sterling, Euro or Japanese yen; initially with minimum amount of US\$ 1000 or pound sterling 500 or equivalent. Accounts may be opened against remittances in other convertible currencies after conversion of those into US Dollar, pound sterling, Euro or Japanese yen.

12. These Accounts may be maintained as long as the Account-holders desire.

13. Eligible Bangladesh nationals may send application (as per Appendix 5/4) alongwith a set of specimen signatures of the opener of the account to an AD in Bangladesh duly verified by Bangladesh Mission abroad, or a reputable bank or any other person known to the AD in Bangladesh. The application forms may be had from Bangladesh Missions abroad and from the ADs in Bangladesh or their

branches abroad. No set of specimen signatures will be required to be enclosed with the application form if the application is submitted to an AD with whom the applicant has already been holding a foreign currency account. In Such case a reference to the respective FC account number will serve as self -introduction and the account opening branch will verify the signature with t he specimen signature maintained for the FC account.

Opening of
account
How to open the
account CH 10 19

14. The ADs will pay interest on deposits into the accounts at the eurocurrency deposit rates. In case of premature repayments, the interest amount will be forfeited to the depositing AD. The interest on deposits into this account is exempt from the tax payable under Income Tax Act. ADs may also apply interest on NFCD Account which is not specifically mentioned as Term Deposit, if balance not less than US Dollar 1000 or Pound Sterling 500 or equivalent for 1 (one) month or longer.

15. The ADs in Bangladesh may at their option sell foreign exchange deposits (in US Dollars only) to the Bangladesh Bank without any lower limit at the Bangladesh Bank's buying rate and repurchase the principal and interest at the Bangladesh Bank's selling rates prevailing on the day of repurchase. The ADs may also invest abroad the amounts deposited with them and pay interest to the depositors out of earnings from such investments.

16. The account holder can fr eely repatriate the balance and the interest accrue & thereon in foreign exchange to the country of his residence or anywhere he chooses and may at his option, convert the balance into local Taka at the prevailing exchange rate.

17. Foreign nationals and companies/firms registered and/or incorporated abroad, banks, other financial institutions including institutional investors and 100% foreign owned (A -Type) industrial units in the Export Processing Zones in Bangladesh, are also allowed to open and maintain NFCD accounts with the ADs. The minimum amount of time deposits in such cases should be US\$ 25,000 or its equivalent in pound sterling, Euro or Japanese yen. Other terms and conditions in respect of these account -holders will be the same as those mentioned above for NFCD accounts of non -resident Bangladesh nationals.

18. Separate monthly statements summarizing currency wise the transactions in the NFCD accounts of all AD branches of a bank should be submitted from the head offices/ principal offices of t he banks to the FEPD at the head office of Bangladesh Bank, as per proforma at appendix 5/5, by the 15th of the month following that which it relates.

Interest on
deposits
Repatriation of
principal and
interest CH 10 20

SECTION - III

RESIDENT FOREIGN CURRENCY DEPOSIT ACCOUNT

19. Persons ordinarily resident in Bangladesh may open and maintain Resident Foreign Currency Deposit (RFCD) accounts with foreign exchange brought in at the time of their return from travel abroad. Any amount brought in with declaration to Customs Authorities in form FMJ and upto US \$ 3000 brought in without any declaration, can be credited to such accounts. However, proceeds of export of goods or services from Bangladesh or commission arising from business deals in Bangladesh shall not be credited to such accounts.

20. Balances in these accounts shall be freely transferable abroad. Fund from these accounts may also be issued to account -holders for the purpose of their foreign travels in the usual manner (i.e. with endorsement in passport and ticket, upto US \$ 1500 in the form of cash currency notes and the remainder in the form of TC).

21. These accounts may be opened in US dollar, pound sterling Euro or Japanese yen and may be maintained as long as the account holders desire. While depositing foreign exchange for credit to such account the depositor shall furnish written declaration, mentioning the date of return from abroad and the amount of foreign exchange brought in, that the foreign exchange (i) is not a receipt against export of goods or services from Bangladesh, (ii) is not a commission due from abroad arising from business deal in Bangladesh. The ADs will credit the foreign exchange presented by the depositor to the RFCD account only after examining the passport of the depositor and the FMJ form (if the amount exceeds the equivalent of \$ 3000) and after being satisfied about the correctness of the declaration.

22. Interest in foreign exchange shall be payable on balances in such accounts if the deposits are for a term of not less than one month and the balance is not less than US \$1000 or £500 or its equivalent. The rate of interest shall be one quarter percent (0.25 percent) less than the rate at which interest is paid on balances of bank in their foreign currency clearing accounts maintained with the Bangladesh Bank.

23. The head offices/principal offices of the banks shall prepare currency-wise consolidated monthly statements of transactions in the RFCD accounts in all their AD branches (as per Appendix 5/6)

and send the same to Foreign Exchange Policy Department, Bangladesh Bank, head office by the 15th day of the following month. CH 11 21

CHAPTER 11

CONVERTIBLE AND NON-CONVERTIBLE TAKA ACCOUNTS

1. ADs may open convertible Taka accounts in the names of foreign organizations/ nationals viz., diplomatic missions, UN organizations, non-profit international bodies, foreign contractors and consultants engaged for specific projects under the Govt. semi Govt. agencies and the expatriate employees of such missions/organizations who are resident in Bangladesh.

2. These accounts may be credited with foreign currency brought in or remitted from abroad or transferred from a foreign currency account or another convertible Taka account. For transfer from another convertible Taka account, the taka amount from the transfer or's account would be converted into foreign currency for transfer and credit to the recipient account by reconversion into Taka. No money emanating from a business originating in Bangladesh and otherwise repatriable to Bangladesh can be credited to these accounts.

3. A convertible Taka account may be debited for payments in foreign currency abroad, for local expenses, for transfers to foreign currency accounts or other convertible Taka accounts or for credits to a non-convertible Taka account.

4. The ADs may open Taka STD (7 -30 days special notice) accounts in the names of foreign diplomatic missions and their expatriate personnel, foreign airlines and shipping lines operating in Bangladesh, international non -profit organizations including charitable organizations, UN organizations and their respective expatriate personnel and pay interest thereon provided that the amount of interest accrued on balances of these accounts will be disbursed locally in non-convertible Taka and that no part of the earned interest will be remittable abroad at any stage.

5. Foreign organizations/their expatriate personnel mentioned at para 1 above may maintain non-convertible Taka accounts with ADs without prior BB approval. These accounts may be credited with funds from convertible Taka accounts, with remittances from abroad, and with Taka received from authorised sources including interests from STD accounts. These accounts may freely be debited for local expenses. No remittance abroad or transfer to an fc account/convertible Taka account may be made by debit to a non-convertible Taka account.

Operation on
Convertible Taka
Account

Interest Bearing

CHAPTER 12

PRIVATE NON-RESIDENT TAKA ACCOUNTS

1. (i) The accounts of individuals, firms or companies resident outside Bangladesh are designated as non -resident accounts and are treated as accounts of countries of permanent residence of the account holders. ADs should establish the countries of permanent residence of all account -holders and mark the accounts of all non-resident persons, firms or companies as non-resident accounts; indicating clearly the countries of their permanent residence as established. Where any doubt exists whether an account is to be treated as non-resident, reference should be made to the Bangladesh Bank for decision, giving relevant details.

(ii) In terms of Section 5 of Article II of the schedules appended to the United Nation (Privileges and Immunities) Act, 1948, the accounts of United Nations and its organizations are free from financial controls. The ADs should therefore treat such accounts maintained with them as resident accounts. However, the instructions contained in this Chapter will equally apply to the expatriate employees of the UN and its organizations in Bangladesh except that their convertible Taka accounts will be credited with (i) funds from official accounts of UN organizations in Bangladesh, (ii) remittances from abroad, (iii) foreign exchange encashed with an AD in Bangladesh and (iv) funds from other convertible Taka accounts.

2. It is provided in Section 20 (1)(a) of the FER Act that any person who has been resident in Bangladesh shall be treated as still resident in Bangladesh until the Bangladesh Bank by general or special order directs otherwise. All nationals of Bangladesh who go out of Bangladesh for any purpose viz. employment, study, business tour, pleasure trip etc. are required to be treated as non -resident for the purpose of Section 5 of the Act, for so long as they remain outside Bangladesh except in the case of accounts of persons holding office in the Service of Bangladesh who go abroad or who are already abroad and residing outside Bangladesh for the time being either on duty or on leave. Such persons will not, therefore, be able to instruct persons in Bangladesh to make any payment on their behalf to persons in Bangladesh. Such payments, if made, will constitute an offence under the FER Act, and will be punishable under the provisions of the said Act. If persons proceeding abroad find that they have to make certain payments to a person in Bangladesh, they must obtain prior approval of the Bangladesh Bank before doing so.

However, when such persons come to Bangladesh on temporary visits their accounts may be treated as "Resident" during the period of their stay in Bangladesh, The ADs will, however, ensure that such

residence CH 12 23

accounts are immediately redesignated as "non -resident" after the account-holders leave the country,

It would, however, be in order for the ADs to raise debits and credits to the accounts of such persons during their absence from Bangladesh for the following:

a) Debits:

(i) Payments on account of insurance premium, club bills or other payments in Bangladesh of a regular nature for which the ADs hold standing instructions from their customers provided the payments are supported by bills and vouchers.

(ii) Government and Municipal dues in Bangladesh provided payments are supported by official claims.

(iii) Debits representing payments in Bangladesh for cost of passages by air or by sea.

(iv) Other payments by cheques drawn in favour of payees resident in Bangladesh.

(v) Debits on account of purchase of shares of public limited companies and/or securities of the Government of the People's Republic of Bangladesh provided such shares/securities are purchased and retained by the ADs themselves for and on behalf of the account holder so long as he resides outside Bangladesh. In case the shares/ securities are required to be disposed of, the sale proceeds should be credited to the non-resident account.

(vi) Debits on account of disbursements in Bangladesh to resident Bangladesh nationals to the extent of funds received from abroad through banking channel.

(vii) Debits on account of repayments of installments of loan direct to a financial institution in Bangladesh from which the account holder had obtained loan.

(viii) Debits in reversal of previous credits.

(b) Credits:

(i) Receipts on account of salary, allowances, bonus, commission etc.,

(ii) Dividend and interest income on investments in shares and securities,

(iii) Income from landed property and agricultural rent,

(iv) House rent and sale proceeds of properties on the basis of documentary evidence,

CH 12 24

(v) Interest accrued on the amounts lying in the non -resident accounts,

(vi) Sale proceeds of shares of public limited companies and/or securities of the Government of the People's Republic of Bangladesh purchased under Sub -para (v) of para (2) (a) above,

(vii) Remittances received from abroad through banking channel,

(viii) Refund of amount previously debited or over-charged. In these cases, the AD must satisfy himself that the credit falls under any one of the exempted categories and represents the purpose which it purports to do before passing it through the account.

When a person domiciled in Bangladesh leaves Bangladesh to take up permanent residence in another country his account should be treated as an account of the country of his new domicile; similarly, when a foreign national residing in Bangladesh leaves Bangladesh permanently, his account should be treated as an account of the country of his permanent domicile.

3. (a) New non -resident accounts in the names of persons or firms or companies other than banks may be opened only with prior approval of the Bangladesh Bank. The application for approval should give the full name and permanent address of the applicant and the purpose for which such an account is required and the manner in which it will be kept in funds.

(b) Non-resident Taka accounts may, however, be opened without prior approval of the Bangladesh Bank for crediting the proceeds of inward remittances sent through banking and postal channels. To the extent the funds credited represent the proceeds of foreign currency, the same may be freely disbursed locally.

4. The accounts of all foreign nationals who are resident in Bangladesh and the accounts of companies or firms (other than banks) whose head office or controlling interests are outside Bangladesh but are operated on by persons in Bangladesh may be treated as resident accounts. The account-holders or persons in Bangladesh authorized to operate on such accounts must sign Form QA -22 (See Appendix 5/7). Form QA-22 should be obtained by the ADs in duplicate and a copy thereof forwarded to the Bangladesh Bank for record as and when the account is opened. Prior approval of the Bangladesh Bank for opening such accounts is, however, not necessary. This form is an undertaking that the signatory will not provide any foreign currency against reimbursement in Taka and that any transaction on the account not directly connected with the signatory's business in Bangladesh or which represents remittance

New non-resident
accounts of
persons other
than banks

Accounts of
foreign nationals
resident in
Bangladesh;

Form QA-22 CH 12 25

from abroad will be reported to the Bangladesh Bank on Form A -7 (Appendix 5/8). Declaration on Form QA -22 need not be taken from members of foreign embassies, legations, consulates and foreign government officials in Bangladesh. Permission has also been given to banks which are not ADs to open taka accounts of foreign nationals in their books subject to their signing certificates on Form QA-22.

5. In the case of non -resident accounts, declarations on Form QA-22 are not necessary.

6. Notwithstanding the fact that a constituent has signed Form QA-22 the AD must take all reasonable steps to ensure that the constituent is not making foreign exchange available to any person in Bangladesh other than an AD against reimbursement in Taka or is not by any other means contravening the provisions of the Act. Any irregularity should immediately be brought to the notice of the Bangladesh Bank.

7. An account held jointly by a resident and a non -resident should be treated as a resident accounts if it is operated solely by the resident or jointly by the resident and the non -resident. If the joint account is to be operated by the non -resident only, it is to be treated as non-resident account.

8. Unless prescribed otherwise by the Bangladesh Bank in respect of any particular non -resident Taka account of persons, firms and companies other than banks, all operations on such accounts shall be governed by the rules given below. Transactions on such accounts should be covered by a Form A -7 (See Appendix 5/8) except for transactions which are specifically exempted from the completion of Form A -7 as given below. Wherever prior approval of the Bangladesh Bank is required, it should be obtained on Form A-7.

(1) Credits and debits not subject to report on Form A-7.

(a) Credits:

Refunds of amounts previously debited or overcharged.

(b) Debits:

(i) Payments in respect of postage, telegram charges, storage or safe custody charges, club bills and other sundry payments where the amount does not exceed Tk. 100 per month.

(ii) Debits in reversal of previous credits.

Form QA-22 not
Required from
Non-residents
Responsibility
of ADs regarding
Irregular operation
on accounts

Joint accounts of
residents and
Non-residents
Operations on
non-residents
Accounts of
Persons, firms
and companies
Other than banks CH 12 26

(iii) Debits in respect of approved remittances in foreign exchange.

(iv) Payments for disbursements in Bangladesh from the accounts which are opened in terms of para 3(b) of this Chapter and which are fed entirely by remittance from outside Bangladesh.

(11) Credits and debits subject to report on Form A -7 but not subject to prior approval of the Bangladesh Bank:

(a) Credits:

Proceeds of cheques drawn on banks outside Bangladesh or of remittance received from abroad in favour of the non -resident account-holder.

(b) Debits:

Cheques drawn in favour of payees resident in Bangladesh above Tk. 100 but not exceeding Tk. 1000 in any one month.

All other credits and debits require prior approval of the Bangladesh Bank.

Form A-7 in respect of the credits and debits to private non -resident accounts which require to be reported to the Bangladesh Bank should be forwarded to the Bangladesh Bank.

9. In the case of credits to a non -resident account the receiving banker, i.e. the bank who credits a non -resident account in his books is responsible for ensuring that Form A -7 has been completed and approved by the Bangladesh Bank or an AD as permissible before crediting funds to private non -resident accounts. In order that no difficulty may arise in doing so, the following procedure is suggested for adoption by all banks:

A cheque or draft received for the credit of a non-resident account of a company, firm or person unless accompanied by Form A -7 should not be passed through the clearing, but should be sent by the receiving bank to the paying bank stating that a non-resident account is being credited and requesting in exchange a pay -slip accompanied by Form A-7 duly completed by the drawer or by the paying bank on his behalf and approved by the Bangladesh Bank or the AD as permissible.

Responsibility
of submitting
Form A-7:
Credits to private
non-resident
accounts CH 12 27

A similar practice should be followed in the case of bank cheques which represent payment of remittances from abroad for credit to the resident accounts of foreign nationals who have completed Form QA-22.

10. In the case of debits to non -resident accounts, cheques representing payments other than those mentioned in paragraph 8(l) (b)(i), (ii) and (iii) should be returned by the paying banker with tile remarks "Non -resident account, Approved Form A -7 required". The collecting bank will then arrange with the customer, for whom the payment is drawn, to submit Form A-7 for approval.

Responsibility
of submitting
Forms A-7:
Debits to
non-resident
accounts CH 13 28

CHAPTER 13

NON-RESIDENT BLOCKED TAKA ACCOUNTS

1. Section 6 of the FER Act confers powers on the Bangladesh Bank to "block" accounts in Bangladesh of any person resident outside Bangladesh and to direct that payment of any sum due to a non-resident may be made only to such a blocked account.
2. A blocked account means an account opened as a blocked account at any branch or office in Bangladesh of a bank authorized in this behalf by the Bangladesh Bank or an account blocked by the order of the Bangladesh Bank.
3. A blocked account may not be opened in the name of a resident of Bangladesh unless it is held jointly with a non-resident. No blocked account may be opened by an AD or an existing "free" account blocked except under directions from the Bangladesh Bank.
4. Sub-section (1)(b) of Section 6 of the FFR Act provides that where the Bangladesh Bank has directed that any payment due to a non-resident may be made to a blocked account in his name with a bank in Bangladesh, the crediting of the sum due to the blocked account shall, to the extent of the sum credited, be a good discharge to the person making the payment.
5. Payments in discharge of liabilities to non-residents, remittance of which outside Bangladesh cannot be approved by the Bangladesh Bank under the current foreign exchange regulations, notwithstanding that they may have arisen legitimately and lawfully, will be allowed to be made only to blocked accounts. For instance, any payment of a capital nature due to a non-resident or a payment due to a Bangladesh national who has emigrated to another country will be permissible only into a blocked account in the name of the beneficiary.
6. Bank accounts and securities belonging to Bangladesh nationals and foreign nationals residing permanently in Bangladesh who emigrate to foreign countries, should be treated as blocked. For blocking the accounts and securities of intending emigrants the Bangladesh Bank will issue necessary instructions to their bankers. Sometimes Bangladesh nationals who had gone abroad for purposes other than migration take up permanent residence in a foreign country. As and when such cases of their clients come to the knowledge of the ADs, it will be their responsibility to report these to the Bangladesh Bank for instructions as to whether or not the bank accounts/securities of the person concerned should be blocked. In

such cases pending receipt of instructions from the Bangladesh Bank, the securities

Powers of the
Bangladesh Bank
to block
non-resident
accounts
Definition of a
blocked account
Opening of
blocked accounts
Payment to
blocked account
Items Payable to
blocked accounts
Bangladeshi
emigrants
blocking of
accounts
CH 13 29

should be immobilized and no operation on the bank account should be allowed without its prior approval.

7. The Bangladesh Bank may issue special instructions regarding operations on individual locked accounts. In the absence of a ny such special instruction, no payment into or withdrawal from blocked accounts may be made unless prior approval of the Bangladesh Bank has been obtained.

8. Balances held in blocked accounts may be invested in "approved securities" expressed to be pay able in Taka or may be placed on fixed deposit with the bank in which the account is field subject to prior approval of the Bangladesh Bank. The shares or securities in which investment is permitted by the Bangladesh Bank must be bought through the bank wi th whom the blocked account is kept and registered in the name of the account-holder, the address being his permanent residential address outside Bangladesh. Alternatively, securities so purchased may be registered in the names of the banks keeping the blocked accounts or their nominees in Bangladesh. The securities may not be held in bearer form and may not be sold or transferred out of the name of the stock -holder without prior permission of the Bangladesh Bank.

Operations on
blocked accounts
Use of blocked
balance CH 14 30

CHAPTER 14

FOREIGN INVESTMENT AND OPERATION IN SECURITIES

SECTION 34341 : FOREIGN INVESTMENT

1. Foreign Investors are free to make investment in Bangladesh in the industrial enterprises excepting a few reserved sectors. An industrial venture may be set up in collaboration with local investors or may even be wholly owned by the foreign investors. No permission is needed to set up such ventures if the entrepreneurs use their own funds.

2. Prior permission of the Bangladesh Bank is not required for issue and transfer of shares in favour of non-residents against foreign investment in Bangladesh; general permission is accorded in this behalf subject to the following conditions:

(a) The industrial venture will have secured permission from the Board of Investment (BOI)/Controller of Capital Issues, under the Capital Issues (Continuance of Control) Act 1947, about its capital issue. To avail of the facilities and institutional support provided by the Government, entrepreneurs/sponsors may secure registration with the Board of Investment;

(b) Before issue of shares against foreign investment in freely convertible foreign exchange brought in from abroad through the banking channel, the funds thus brought in should be encashed to taka with an AD;

(c) Before issue of shares against foreign investment in the form of capital machinery, the machinery will have to be cleared from the Bangladesh customs authorities at the port of entry;

(d) Foreign Investment and Inspection Department, Bangladesh Bank, head office should be informed about the issue and

transfer of shares to non -residents pursuant to (a),(b) & (c) above, within 14 days of such issue/ transfer, alongwith the following documents/papers:

(i) Attested copy of registration, if any, of the foreign investment in the industrial ventures accorded by the BOI;

Investment in
Bangladesh
Issue and transfer
of shares in
favour of
non-residents CH 14 31

(ii) Attested copy of the permission for the capital issue accorded by the BOI/Controller of Capital Issues:

(iii) Original certificate of encashment of foreign exchange in Taka in case of issue of shares against foreign exchange received from abroad through the banking channel; and,

(iv) For issue of shares against foreign investment in the form of capital machinery, the exchange control copy of bill of entry evidencing clearance of the capital machinery from the Custom Authorities, copies of the relative import permit, invoice and bill of lading.

3. Transfer of Bangladeshi shares and securities from one Transfer of non-resident holder to another non -resident would not require prior Bangladesh Bank approval.

4. Non -resident persons/institutions including non -resident Bangladesh nationals may buy Bangladeshi shares and securities in Bangladesh against freely convertible foreign currency remitted from abroad through the banking channel. Transactions relating to such investments including repatriation of dividend/ interest earnings and sale proceeds shall be made through a Non -resident Investor's Taka Account (NITA) according to the following procedure:

(i) the non -resident investor shall open a NITA with any AD in Bangladesh, with freely convertible foreign currency remitted from abroad through normal banking channel or by transfer of funds from the non -resident investor's foreign currency account, if any, in Bangladesh;

(ii) Balances in the NITA may freely be used to buy Bangladeshi shares/securities. These balances are also freely remittable abroad in equivalent foreign exchange. The outward remittances will be reported to the Bangladesh Bank in the usual monthly returns alongwith the TM forms approved by the ADs in terms of this general authorization.

iii) The NITA can be operated by the account -holder himself or by a nominee, including the AD itself. Purchase and sale of shares/securities listed in a stock exchange in Bangladesh shall be made only through a member/registered broker of the exchange.

Purchase of new public issues not yet listed in a stock exchange may however be made directly from the company issuing the stock/security.

Transfer of
Bangladeshi
Share/securities
from one
non-resident
holder to another
Portfolio
Investment by
non-residents :
Procedure to be
followed CH 14 32

(iv) Dividends/interest earnings on the shares/securities bought through the NITA, net of taxes payable on such earnings of the non -resident holder, received from the issuing company/institution may be credited to the NITA, In these Cases (unless the payment is accompanied by a certificate from the issuing company's auditor that the tax payable on the earning of the non -resident holder has been withheld and the net post-tax amount has been paid for credit to the NITA) the AD will ensure that an amount representing taxes payable on the earning of the non -resident holder is withheld from the gross amount received (for eventual payment to the tax authorities) and only the net post-tax amount is credited to the NITA.

(v) Sale proceeds of the shares/securities purchased through the NITA (net of taxes payable, if any, on the capital gain) may also be credited to the NITA. Before crediting the sale proceeds of the stocks/shares held by the non -resident into the NITA, the AD shall ensure that the tax payable (if any) on the capital gain is withheld from the sale proceeds for eventual payment to the tax authorities.

(vi) No local funds from any sources other than those mentioned at (i), (iv) and (v) above can be credited to NITA.

(vii) The AD must ensure that the NITA is debited or credited for purchase or sell of shares at the prices prevailing in the stock market on the day of the relative purchase/sale.

(viii) Relevant instructions contained in The Securities and Exchange Commission (SEC) Notifications regarding placements, allotments and issuance of right shares are to be meticulously complied with.

5. No loan facilities shall be allowed by the ADs in the Non -resident Investor's Taka Accounts.

6. Incidental expenses related to sales and purchases of shares/ securities and to operation of the accounts may be debited to NITA.

7. For the purpose of investment through Stock Exchange or in new public issue by non-residents, securities will have the same meaning as defined in section 2(k) of the FER Act, 1947.

8. After the shares/securities have been purchased by the non-resident investor, the related certificates/scripts can be deposited/kept with any person/organization nominated by the

CH 14 33

investor. The investor can as well take them outside the country, if he so desires.

9. In addition to the routine reporting regarding inward and outward remittance to and from the NITAs in the usual monthly returns, the ADs will furnish quarterly statements of transactions in the NITAs, as per prescribed proforma (Appendix 5/9), to the Foreign Investment and Inspection Department, Bangladesh Bank, head office, Dhaka. The ADs will also submit with the quarterly statements their own certificates/ certificates from the auditors of the concerned companies regarding payment/withholding or exemption of taxes payable on the capital gains and on dividend/interest earnings of the non-resident holders, as applicable.

Section - II

OPERATIONS IN SECURITIES

10. Section 2 of the FER Act defines "security" as shares, stocks, bonds, debentures, debenture stock and Government securities, deposit receipts in respect of securities and units or subunits of unit trusts. A "foreign security" is defined as a security issued elsewhere than in Bangladesh and any security the principal of or interest on which is payable in any foreign currency or elsewhere than in Bangladesh. "Security" also includes coupons or warrants representing dividends or interest and life or endowment insurance policies.

11. There is no restriction under the FER Act on the import of securities into Bangladesh. No securities can however be exported or taken out of Bangladesh without general or special permission of the Bangladesh Bank. Residents in Bangladesh who are holders of foreign securities and who wish to send the securities to banks, brokers or agents abroad for the purpose of sale, transfer etc. should apply to the Bangladesh Bank through an AD for necessary export permit. Permission for transfer of such securities will be granted provided the AD gives an undertaking that the securities will be received back in Bangladesh within a specified period, or in the case of sale, the foreign currency proceeds of the sale will be repatriated to Bangladesh. Bangladesh Bank is also prepared to consider applications for the exchange of foreign shares and/or securities held by residents of Bangladesh with Bangladesh shares and/or securities held by residents abroad. Applications for this Purpose should be made through an AD or Stock and Share Broker. Such applications would be considered favourably provided the Bangladeshi shares/securities desired to be imported from abroad are approximately of the same market value as foreign shares and/or securities that are desired to be exported.

12. In terms of clause (b) of sub-section (1) of Section 13 of the FER Act, transfer of any security or creation or transfer of any interest in a security to or in favour of a person resident outside Bangladesh is prohibited except with the general or special permission of the Bangladesh Bank. It should be noted that this prohibition applies to transfer of (i) all Bangladesh securities (i.e. securities expressed to be payable in Bangladesh currency or registered in Bangladesh) whether held by person resident in or outside Bangladesh, and (ii) all foreign securities held by persons resident in Bangladesh.

In the case of securities registered in Bangladesh, there is general permission for issuance and transfer of shares/securities in favour of

Definition of
security
Import and
export of
securities
Transfer of
Securities to
Non-residents CH 14 35

non-residents against foreign investments in the form of freely convertible foreign exchange or in the form of capital machinery (please see para. 2, Ch 14 for details).

The prohibition imposed against transfer or creation of any interest in a security or in favour of a non-resident precludes the pledging or hypothecating of securities to or in favour of non-residents (e.g. as collateral or security for credit facilities abroad (please see Chapter 25, Section I) or utilizing them for forming trusts or settlements, of which a non-resident is the beneficiary.

13. (i) Clauses (c) and (d) of sub-section (I) of Section 13 of the Act prohibit, respectively, transfers of securities from registers in Bangladesh to registers outside Bangladesh and the issuing, whether in Bangladesh or elsewhere of securities which are registered or to be registered in Bangladesh, to persons resident outside Bangladesh except with the general or special permission of the Bangladesh Bank.

(ii) For the purpose of Section 13 of the Act, "a person resident outside Bangladesh" or a "non-resident" includes a foreign national for the time being resident in Bangladesh.

14. Persons resident in Bangladesh who are or become owners of foreign securities are permitted to hold or retain such securities provided they have acquired them in a manner not involving a breach or violation of the foreign exchange regulations. Holders of foreign securities who wish to sell, transfer or otherwise dispose of or deal in securities must, however, ensure that the proposed transactions do not contravene the provisions of the FER Act and the orders issued by the Government of Bangladesh and/or the Bangladesh Bank thereunder and must obtain prior permission of the Bangladesh Bank wherever necessary.

15. Under the existing foreign exchange regulations all persons resident in Bangladesh who are or become the owners of any security in respect of which the principal, interest or dividend is or are payable in the currency of any foreign country or in respect of which the owner has the option to acquire the payment of principal, interest or dividend in such currencies, are required to submit a return to the Bangladesh Bank within one month of their acquiring the securities giving certain particulars in respect of the said securities. The specimen of the form in which these particulars are required to be furnished in duplicate is given in Appendix 5/10. Foreign nationals for the time being residing in Bangladesh are not required to submit the return.

Other provisions
Holding/
retention of
foreign
securities
Submission of
Return by
holders of
foreign
securities CH 15 36

CHAPTER 15

Section I

IMPORTS

1. Import of goods into Bangladesh is regulated by the Ministry of Commerce in terms of the Import and Export (Control) Act, 1950; with Import Policy Orders issued biannually, and Public Notices issued from time to time by the office of the Chief Controller of Imports and Exports (CCI&E). The instructions contained in this chapter apply to sales of foreign exchange or transfers to non-resident taka accounts against import of goods into Bangladesh.

In terms of the Importers, Exporters and Indentors (Registration) Order, 1981 no person can import goods into Bangladesh unless he is registered with the Chief Controller of Imports and Exports or exempted from the provisions of the said Order. Before any Letter of Credit (LC) is opened or remittance made for imports into Bangladesh the AD should verify that the importer is registered with the CCI&E or otherwise exempted from such registration. The AD should ensure that the registration number of the importer is invariably furnished on the IMP form. Where the importer is exempted from such registration, a suitable mention of this fact should be made on the IMP form.

2. The ADs must ensure that they deal only with known customers having a place of business in Bangladesh and can be traced easily should any occasion arise for this purpose.

3. (a) The ADs are authorized to issue 'Letter of Credit Authorization Forms' (LCAFs) in conformity with the IPO allowing imports into Bangladesh. LCAFs or import permits or clearance permits are not required for imports by the Ministries and government departments. The LCAFs, available with the ADs, are issued in sets of 5 copies each of these, the one marked "For Exchange Control Purpose" should be used for opening LC and for effecting remittances. The ADs should be very careful about compliance with the instructions of the IPO and relevant Public Notices in the matter of issuance of LCAFs.

(b) If foreign exchange is intended to be bought from the Bangladesh Bank against an LCAF it has to be registered with Bangladesh Bank's Registration Unit located in the concerned area office of the CCI&E. For such registration the LCAF, duly filled in and signed by the importer and authenticated by the AD, shall be

submitted by the AD to the concerned Registration Unit. The Unit will put a registration number on all the copies and emboss a security seal.

Import Trade
Control
Registration of
importers
LC Authorization
Form CH 15 37

After registration the original and duplicate copies of the LCAFs will be delivered to the authorized representatives of the ADs. The triplicate and quadruplicate copies will be passed on to the concerned area office of the CCI&E and the quintuplicate will be retained by the Registration Unit.

(c) Where no registration of LCAFs is needed, the AD will send the triplicate and quadruplicate copies to the concerned area office of the CCI&E, retaining the other copies with itself. Where an import is against a source of financing (foreign project loans, grants) usable through a specific designated bank, the nominated AD of the importer will forward to the designated bank the authenticated LCAFs and the designated bank will eventually forward the triplicate and quadruplicate copies of LCAF to the area office of the CCI&E.

(d) (i) The ADs will not issue blank LCAFs to their clients. The importer should himself/herself sign the LCAF in the presence of an officer of the AD, an authorised official of the AD should put his/her signature with date and seal on the LCAF, evidencing verification of the importer's signature and import entitlement as per current IPO.

(ii) The ADs will maintain records of the signatures of the authenticating officers of the Bangladesh Bank Registration Unit and verify, before opening LC, that the signature of the authenticating officer of the Registration Unit is genuine.

(iii) In no case the ADs will accept authenticated LCAF for opening LC direct from the parties. Normally the AD issuing and authenticating an LCAF would also open the LC but if it requires transfer to another AD this should be done directly by the transferring AD itself. The AD receiving the LCAF must conduct its own verification of the signatures on the LCAF before opening LC.

e) LCAFs remains valid for remittances for one year subsequent to the month of issuance/ month of registration (in case of registration with Bangladesh Bank). For example, if an LCAF is issued/registered with Bangladesh Bank on 15th January, 1992 remittances can be made there against upto 31st January, 1993. However, LCAFs issued for import of capital machineries and spares will remain valid for remittances for 18 months subsequent to the month of issuance/ registration. The ADs should not, under any circumstance, make remittance against any LCAF after the expiry of the above prescribed validity periods without first obtaining revalidation of the LCAF. They may, however, allow such remittances without obtaining revalidation only against Foreign Currency funds of Bangladesh nationals working abroad.

(f) The AD should ensure that the registration number given by the Bangladesh Bank is correctly and legibly reproduced on the IMP forms covering the sales of exchange as also on the relative schedules (See Chapter 2, Volume 2).

4. Opening of LCs and payments for imports into Bangladesh should be made through an AD in the area where the holder of the LCAF is resident (Appendix-4 lists the areas for foreign exchange regulation purposes).

5. Specific procedural instructions regarding imports under special arrangements or agreements (grants, loans, bar ters etc.) issued by the Bangladesh Bank from time to time should be followed by the ADs.

6. The ADs should take all precautions to quote the correct ITC nos (HS Codes) of the goods to be imported, in the LCAF and the LC. Failure to do so may lead to imposition of penalties by the Customs Authorities. In all cases of doubt, reference should be made either by the AD or the customer direct to the area office of the CCI&E.

7. (a) When LCs are opened, full particulars thereof must be endorsed on the back of the exchange control copy of the LCAF under the stamp and signature of the AD. The Taka equivalent of the LC opened must be endorsed on the LCAF at the ruling BC selling rate (spot), but if a forward exchange cover is provided the conversion should be made at the actual for-ward rate.

Foreign exchange must not be sold ready if a forward sale is outstanding against an LC.

(b) Details of amounts remitted, whether under LC or other-wise, should be endorsed on the Exchange Control copy of the LCAF together with the number of the relative IMP form. Appropriate reference to the LCs, the dates on which these were opened and remittances effected should be noted in order to identify the endorsement against any particular LC opened or remittances effected.

(c) Before delivering the import documents to the importers, the AD should invariably endorse on the invoices accompanying the bills the amount both in figures and words which they have remitted from Bangladesh. The endorsement should be under the stamp and signature of the ADs. In case of payment on DA terms, the amount for which the bill has been accepted should be endorsed in the invoices.

8. On expiry of an LC unutilized partly or wholly, or on cancellation or reversal of a sale of foreign exc hange, the endorsements made on the back of the LCAF may be canceled with appropriate remarks, under the seal and signature of the AD.

Imports under
special
arrangements
Misclassified

9. In case an endorsement is made mistakenly on a wrong LCAF, the AD may cancel the endorsement provided the endorsement is transferred simultaneously to the appropriate valid LCAF. Endorsement may be transferred only from one valid LCAF to another valid LCAF where both are identical in all respects.

10. The aggregate amount of foreign exchange sold against an LCAF whether under LC or otherwise, should not exceed the value mentioned in the LCAF. In case where LC was opened and remittance is needed in a floating currency against which no forward booking has been made, the Taka value of the LCAF will be deemed to have been increased to the extent of appreciation of the foreign currency for the purpose of allowing remittance by the AD.

11. Remittance in excess of the value of the LCAF is not permissible without prior approval of the Bangladesh Bank except for payment of normal bank charges of the foreign correspondents. In other words, the ADs need not adjust the amount of bank charges from the LCAF value. Remittances of bank charges should be reported to the Bangladesh Bank as usual with TM forms and necessary supporting documents. The ADs will endorse the amount of bank charges remitted along with the date of remittance on the back of the Exchange Control copy of the LCAF. They should also quote the approval number and date, if remittance is effected against any specific approval from the Bangladesh Bank.

Bank charges of unusual nature i.e., not commonly attributable to transactions against LCs cannot be remitted without Bangladesh Bank's approval. Foreign bank charges in respect of imports in the public sector will be on the suppliers account and, hence, cannot be remitted from Bangladesh. Bank charges under barter/STA shall be payable in accordance with the relevant provisions therein.

12. LCAFs can normally be utilized on c&f basis. Full LCAF value is therefore not remittable as f.o.b value of goods. In other words, freight charges payable on imports on f.o.b basis are to be adjusted against the relative LCAF value. In case of f.o.b imports the AD should endorse, beside f.o.b value, the freight payable in Taka as indicated in the Bill of Lading etc. In cases where miscellaneous charges i.e. handling charges, cartage/surface transportation, documentation charges etc., are required to be paid by the importers on arrival of goods through the Airlines, the ADs will also endorse on the Exchange Control copy of the LCAFs the amount of such charges as indicated in the Airway bill along with the freight in Bangladesh Taka. The ADs should also give a certificate to the Importers in the form given in Appendix 5/11 to the effect that the amount of freight, handling charges etc. have been endorsed on the relative LCAF. The issue of this certificate is essential as the shipping companies etc. are under instructions not to accept payment of freight in Taka unless the above mentioned certificate is produced to them. In cases where the

Imports on FOB

basis

Remittances in
excess of LCAF
value

Amounts for

which Letters of
Credit may be
opened and
remittances made
under LCAF CH 15 40

f.o.b value and the amount of freight payable in Taka exceeds the value of the LCAF the application should be referred to the Bangladesh Bank for consideration with full particulars and supporting documentary evidence.

13. An AD may not open LC or make remittances of foreign exchange covering imports into Bangladesh in cases where the Exchange Control copy of the relevant LCAF has been issued in the name of a person or firm other than that of the applicant. Such requests received by an AD should be referred to the area office of the CCI&E.

14. An AD should not remit the proceeds of bills in cases where the name of the importer on the bill of exchange differs from that on the LCAR. As an exception, where goods are imported on DP or DA basis or even under LC and the original drawee dishonors the bill and the foreign shipper or his local agent finds another buyer for the goods, the AD may make the remittance without prior permission of the Bangladesh Bank provided he certifies that the applicant-remitter is the buyer of the goods and provided the remitter is in possession of a valid LCAF covering the import of the goods in question.

15. Exchange control copies of the LCAFs submitted by the importers should, when fully utilized, be forwarded by the ADs to the Bangladesh Bank. Exchange Control copies of LCAFs which remain unutilized for the full amount should also be surrendered by the ADs to the Bangladesh Bank after expiry of the validity period for remittance.

16. An AD may not make remittance in payment of goods if the Exchange control copy of a valid LCAF is not produced even though the goods may have been cleared by the Customs. Goods imported in an unauthorized manner are liable to be confiscated by the Government. All applications for remittances of foreign exchange covering such imports should be submitted to the Bangladesh Bank for prior approval and should be accompanied by the Exchange Control copy of the Customs Bill of Entry for Consumption in Bangladesh, the relative penalty order together with full particulars of the circumstances under which the goods were imported without the requisite LCAF.

LCAF issued in
The name other

than that of the
applicant
Remittances of
proceeds of
dishonored bills
Disposal of fully
utilized or
unutilized LCAF
Remittances
against goods
imported under
penalty CH 15 41

Section II

LETTERS OF CREDIT AND REMITTANCES AGAINST IMPORTS

17. The ADs may not issue, advise, notify or confirm any LC, authority to purchase, guarantee or similar undertaking covering imports into Bangladesh the implementation of which would involve a payment in Taka to a non -resident account or a payment in foreign currency except in accordance with the instructions prescribed hereunder.

The AD should establish LCs against specific authorization only on behalf of their own customers who maintain accounts with them and are known to be participating in the trade. Payments in retirement of the bills drawn under LCs must be received by the ADs by debit to the account of the concerned customer or by means of a crossed cheque drawn on the drawee's other bankers. These restrictions will not apply to import of articles for the private use of the importer as permitted in the Import Policy Order.

18. (i) All LCs and similar undertakings covering imports into Bangladesh must be documentary LCs and should provide for payment to be made against full sets of onboard (shipped) bills of lading, air consignment notes, railway receipts, post parcel receipts showing dispatch of goods covered by the Credit to a destination in Bangladesh. All LCs must specify submission of signed invoices and certificates of origin. If any particular LCAF require submission of any other document or the remittance of exchange at certain periodical intervals or in any other manner, the LC should incorporate those instructions of the LCAF. Port of entry (destination land port) should be specifically declared or mentioned at L/C in the case of import through land route.

(ii) It is not permissible to open clean or revolving or packing credits. Applications for opening such LCs should be referred to the Bangladesh Bank with full particulars.

(iii) The ADs may open divisible, transferable LCs for imports into Bangladesh under cash LCAF without reference to the Bangladesh Bank. They may also allow without reference to the Bangladesh Bank amendments that do not violate foreign exchange regulations and import control regulations.

(iv) It is not permissible to open import LCs in favour of beneficiaries in countries from which import into Bangladesh are banned by the competent authority.

LCs covering
imports
Terms on which
LCs may be
opened CH 15 42

19. LC covering import of goods into Bangladesh against valid LCAF should be opened within the period, if any, prescribed in the current IPO.

20. The AD should, before opening an LC, see documentary evidence that a firm order for the goods to be imported has been placed and accepted. The AD should ensure while opening an LC that full description of the goods to be imported are given in each Credit along with the unit price of the merchandise. The ADs should also obtain confidential report on the exporter from their branches or correspondents abroad or in their discretion, satisfy themselves as to the standing of the exporter by consulting standard books of reference issued by international credit agencies such as Seyds, Dunn and Bradstreet in all cases where the amount of the LC exceeds Tk. 2,00,000 against proforma invoices issued direct by foreign suppliers and Tk. 5,00,000 against indents issued by local agents of the suppliers. Such reports should be obtained by the ADs themselves and the reports if submitted by the importers should not be accepted. The ADs may also, at their discretion and in their own interest, verify the standing of the beneficiaries even in cases where the value of the Credit is lower than the limits mentioned above.

21. LC may be established providing for payment to the country of origin of goods or any other country except those countries imports from which are prohibited. The LC may provide for payment or reimbursement in any freely convertible foreign currency, in the currency of the country of the beneficiary or of the country of origin/shipment of goods, or by way of credit to the non-resident Taka account of the concerned bank abroad. Payments for imports under barter agreements or under foreign Loans/Grants can be made only in the manner specified for the concerned barter/loan/grant.

22. An AD may approve on behalf of Bangladesh Bank remittance against imports into Bangladesh provided the conditions set out in Section-I and elsewhere in this chapter are complied with and provided also that the documents covering the import, whether under LC or otherwise, are received through the AD concerned. In case of import by post, the ADs may make remittance without prior approval of the Bangladesh Bank only if the parcel is addressed directly to the AD. Where the parcel is addressed to an individual care of the AD/ to the individual direct, prior approval of Bangladesh Bank should be applied for, in the manner laid down in para 25 below.

23. ADs may allow remittance against discrepant documents/ documents received directly by the importers after the goods have been cleared from the customs, on the basis of the relative LCAF,

the exchange control copy of the customs bill of entry for consumption or customs certified invoice in the case of import by post, and the relative invoices.

Period for which

LCs may be

opened

LC to be opened

only against firm

contracts

Approved

methods of

payment

Applications for

remittances for

imports which

the ADs may

approve CH 15 43

24. Bangladesh Bank would be prepared to consider approval for advance remittance against goods to be imported into Bangladesh where such goods are of specialized or capital nature. Applications for approval in Form IMP should be submitted to Bangladesh Bank alongwith the exchange control copy of the relative LCAF, the contract in original (with a spare copy) entered into between the importer and the foreign manufacturer or supplier, and an undertaking as per proforma at Appendix 5/12. Such application will not normally be considered where the advance remittance applied for is more than one third of the total c&f value of the goods to be imported.

Advance remittance upto US\$ 2500 may however be made by an AD without prior Bangladesh Bank approval in favour of supplier against its invoice for importation of books, journals and life saving drugs. Cases where the goods against these remittances do not arrive in Bangladesh within due time should be reported to Bangladesh Bank.

25. (a) All applications for payments for imports into Bangladesh should be made on IMP forms (See Appendix 5 /13). The IMP forms must be submitted in duplicate by the importer or his duly authorized agent. In cases where empowered to approve the remittances on behalf of the Bangladesh Bank, the AD will endorse its approval on the reverse of the IMP form in the space provided for the purpose. In other cases, the AD will submit the IMP form together with required supporting documents to the Bangladesh Bank for approval.

(b) The AD should mark with a bold letter "G" the IMP form for remittance against an import in the name of a Government department or office for which LC are opened by the AD. In other cases, where LCAFs are issued to private parties and are marked "On Government Account", the IMP forms should be similarly marked with bold "G".

26. In all cases of remittances for imports into Bangladesh, the importer must submit within 4 months from the dates of remittances the relevant exchange control copy of the customs bill of entry. In case of import by post, the importer must submit the invoice certified by the customs authorities in lieu of the exchange

control copy of the bill of entry. Where the value of an import by post is less than £ 5 or its equivalent in other foreign currency, the customs authorities will issue a certificate instead of certifying the invoices. In such cases, the certificate may be submitted in place of the certified invoices.

27. The Bangladesh Bank is prepared to consider applications for extension of the time limit beyond 4 months in cases of genuine difficulties, such as delay in the arrival of the ship or difficulties in clearing the goods already landed at a port in Bangladesh etc.

Advance

remittances

Forms on which

applications for

remittances

should be made

Indication on

IMP form for

Government

imports

Submission of

the Exchange

Control copies

of the Customs

Bill of Entry and

Certified

invoices

Extension of

time Limit for

submission of

Bills of Entry

etc. CH 15 44

28. (a) The ADs will obtain invoice, in duplicate, both of which will be certified by them as usual. After recording in the IMP form the particulars of the remittance effected, the original copy of the IMP form alongwith a copy of the certified invoice shall be forwarded to the Bangladesh Bank with the usual monthly returns.

(b) The duplicate copy of IMP form will be retained by the AD. Subsequently when the exchange control copy of the bill of entry/customs certified invoice is submitted by the importer, the particulars therein should be matched and checked with those in the IMP form and invoice filed earlier, to see if the merchandise for which remittance was made has been duly received in Bangladesh. If no material discrepancy is detected, the case should be considered closed, with the duplicate IMP form, invoice and custom bill of entry/custom certified invoice filed together for eventual inspection and disposal instruction from inspection team from the Foreign Investment and Inspection Department of Bangladesh Bank.

(c) Cases with material discrepancy between the particulars of merchandise for which remittance was made and the merchandise actually received as evidenced by the exchange control copy of bill of entry/customs certified invoice, and cases of non submission of bill of entry/customs certified invoice within four month of remittance should be reported to the area office of Bangladesh Bank quarterly, in proformas given at Appendices 5/14 and 5/15, by 15th

day of the month following the quarters ended March , June, September and December. The ADs should also follow up with the importers the cases of material discrepancies and of non -submission of bills of entry/ customs certified invoices within due time.

(d) In respect of all imports in the public sector the forms should be kept in separate importerwise folders till final disposal.

29. In the event goods are completely lost, duplicate copy of the IMP form should be forwarded to the Bangladesh Bank giving full particulars of the loss and the manner in which the insurance claim has been collected. In the event of partial loss, the exchange control copy of the customs bill of entry for the goods actually cleared should be submitted giving full particulars of the loss and the manner in which the insurance claim has been collected.

30. ADs may establish LCs for pre -shipment inspection favouring internationally reputed pre -shipment inspection companies if the relative sales contracts or LCs so stipulate, as per terms of contract entered into by the importer with the pre -shipment inspection companies. Remittances against such LCs for pre-shipment inspection may be effected on receipt of claims accompanied by the relative pre-shipment inspection report. These remittances should be approved and reported in TM forms.

Disposal of IMP
forms

Loss of goods

Pre-shipment

inspection fee CH 15 45

31. (a). Subject to compliance with other conditions laid down in this chapter and in the current IPO, import LCs may be opened on deferred payment(DA) basis in the following cases:

(i) Capital machinery imports on upto 360 days usance basis;

(ii) Industrial raw materials imports for own use of industrial importers (including back to back imports discussed in detail in the next section) on upto 180 days usance basis;

(iii) Import of coastal vessels including oil tankers, and oceangoing vessels including those procured for scrapping on upto 360 days usance basis;

(iv) Import of agricultural implements and chemical fertilisers on upto 180 days basis;

(v) Import of life saving drugs on upto 90 days usance basis;

For such deferred payment imports, the prices must be internationally competitive and usance interest if any should not be at rate higher than the LIBOR for the relative period or the equivalent rate prevailing in the currency of the country of the supplier.

(b) Instructions regarding opening of import LCs on longer usance terms against supplier's credits obtainable by industrial

enterprises in the private sector as per general or specific BOI approval are contained in chapter 23 of this publication.

LC on deferred
payment basis CH 15 46

Section III

BACK TO BACK LCs

32 (A) 1. The ADs may open back to back import LCs against export LCs received by export oriented industrial units operating under the bonded warehouse system, subject to observance of domestic value addition requirement (stated in terms of permissible limit of c&f value of imported inputs as percentage of f.o.b export value of output) prescribed by the Ministry of Commerce from time to time.

2. Further to the relevant general instructions in the foregoing sections of this chapter, the following instructions should be complied with while opening back to back import LCs:

(i) Only recognized export oriented industrial units operating under bonded warehouse system will be allowed the back to back LC facility. The unit requesting for this facility should possess valid registration with the CCI&E and valid bonded warehouse license.

(ii) The master export LC (against which opening of back to back LC is requested) should have validity period adequate to cover the time needed for importation of inputs, manufacture of merchandise, and shipment to consignee;

(iii) The back to back LC value shall not exceed the admissible percentage of net f.o.b value of the relative master export LC (as per prescribed value addition requirement) and the price of goods to be imported must be competitive. For computation of net f.o.b value of a master export LC, the freight charge, insurance cost and commission if payable by the exporter

shall be deducted from the LC value. If the freight element is not shown separately, a certificate from the shipping company or the shipping agent should be asked for.

(iv) The back to back import LCs shall be opened on upto 180 days usance (DA) basis except in case of those opened against Export Development Fund (EDF) administered by the Department of Banking Operation and Development of Bangladesh Bank in which case the back to back LC will be opened on sight (DP) basis. Interest for the usance period shall not exceed LIBOR, or the equivalent interest rate in the currency of settlement,

(v) All amendments of the master export LC should be noted down carefully to rule out chances of excess obligation under the back to back import LC.

General
Opening of back
to back import
LCs CH 15 47

(vi) Back to back import LC should not be opened against LCs received for export under Barter/STA, without prior approval of Bangladesh Bank.

(vii) The back to back import LC shall contain condition of pre-shipment inspection by an internationally reputed inspection firm regarding quality and quantity of the merchandise.

(B) 1. Inland back to back LCs denominated in foreign exchange may be opened in favour of local manufacturer -cum- suppliers of inputs, against master export LCs received by export oriented manufacturing units operating under the bonded warehouse system; upto value limits applicable as per prescribed value addition requirement/ utilisation permit.

2. Back to back LC may in turn be opened for import of necessary inputs, against inland back to back LC in favour of a local manufacturer cum supplier operating under the bonded warehouse system, in accordance with the instructions, mutatis mutandis, at subpara. 32A above.

33. Payment abroad in settlement of usance bill against the back to back import LCs shall be made at maturity, out of proceeds of the relative export patriated in foreign exchange; the required foreign exchange will be set aside, out of the export proceeds, in a separate foreign currency account in the subsidiary ledger of the AD. Before making remittance against the back to back import bill, the AD should see that the exchange control copy of bill of entry for bond in evidence of actual arrival of the relative imports has been submitted. Usance bills against back to back import LCs should be settled at maturity even where for some reason export has not taken place, or where the export proceeds have not been realised, or where the realised export proceeds net of value addition requirement is not adequate to cover the back to back import payment. In such cases post facto approval of Bangladesh Bank

will have to be applied for, explaining fully the circumstances of export failure or non-realisation/ short realisation of export proceeds, with relevant supporting documents. Cases of failure of export against the relative master LCs should also be reported to the National Board of Revenue (NBR) and the concerned Commissioner of Customs so that they may monitor closely the level of stock of the relative goods in the bonded warehouse. A copy of the letter to NBR reporting the export failure should be submitted to Bangladesh Bank alongwith the application for post facto approval of remittance towards back to back import payment. Also, all applications for post facto approval of such

Inland back to
back LC;
opening of back
to back import
LC against
inland back to
back LC
Payment
Settlement
against back to
back LCs CH 15 48

remittance in events of export failure and short realisation/non-realisation of export proceeds should be accompanied by the exchange control copy of the relative bill of entry evidencing actual receipt of the back to back imports.

The AD should maintain effective watch on the stock of inputs procured under the back to back arrangement and of finished products made therewith; any indication of illegal disposal of stocks from the bond coming to the knowledge of the AD should immediately be reported to the concerned commissioner of customs and NBR.

Section IV

DEPOSIT OF COUNTERPART FUND IN RESPECT OF
IMPORTS UNDER NON-PROJECT COMMODITY
LOANS/CREDITS/GRANTS

34. Counterpart funds against all clean documents except in cases of discrepant documents received on collection basis or negotiated by the foreign banks under reserve, shall be deposited by the designated bank in Bangladesh to Govt. Account No. IV A (or such other account of the Govt. of Bangladesh as prescribed in respect of the relative loan/credit/aid) maintained with the Bangladesh Bank within three working days from the date of receipt of documents; the said period shall be deemed to be inclusive of the date of receipt of documents and the date of deposit of counterpart funds to the Bangladesh Bank.

35. In cases where due to discrepancy, the negotiating bank abroad sends the documents on collection basis or under reserve or otherwise the bank should forthwith arrange acceptance of the documents by the importers and deposit counterpart funds within 7 days from the date of receipt of the documents. In case of non-acceptance, the bank should return the documents to the negotiating bank or dispose of the documents in accordance with the instructions of the negotiating bank abroad.

36. Under some loans, credits and grants, LCs are not opened by the utilizing agencies; instead goods are procured and shipped by the loan giving agencies themselves or by their nominated agencies. After shipment of such goods the documents are mailed either to the Economic Relations Division (ERD) of the Ministry of Finance or to the designated banks, as the case may be, for retirement of documents and clearance of consignment from the customs authorities. On receipt of these documents, the bank should forthwith arrange with the relevant agency to pay the proceeds of the bills within a period of 7 days for deposit to the Bangladesh Bank. The agency should be warned that it would be required to pay interest at penal rate in the event of delay in the

deposit of the funds within the stipulated period of 7 days; cases of default should be brought to the notice of the Bangladesh Bank promptly.

(a) In case of LC opened by the designated bank against application through the importer's bank, the latter must retire the documents not later than 24 hours from the time of receipt thereof from the designated bank. If payment is not made within this time limit, the designated bank will be entitled to recover from the importer's bank any penal interest the former may have to pay to the Bangladesh Bank.

Clean documents
against LC
Documents
against LC
received on
collection basis/
negotiated under
reserve due to
discrepancy

Documents
received direct by
the ERD or
designated banks
without opening
of LC

Documents
against LCs
opened by
designated banks
on application
through the
banks of the
importers
CH 15 50

(b) In case, however, the documents are not found in accordance with the terms of the LC, the importer's bank should within 5 days from the date of receipt, either retire the documents or send back the same to the designated bank. Any delay on this score will forfeit their right to raise objection on the ground of discrepancies.

(c) In all the above cases, the designated bank must send the documents to the importer's bank within 24 hours of receipt. For any delay at the designated bank's end, the penal interest relating to the period of delay made by them will have to be borne by them.

(d) The designated bank will deposit Taka funds to the Bangladesh Bank within the time limit as in the foregoing Paragraphs. In all cases of delay it will be the sole responsibility of the designated bank to deposit the Taka funds to the Bangladesh Bank at the earliest along with interest at prescribed rate.

37. (a) Counterpart funds under foreign commodity loans, credits and grants where forward contract has been booked will be required to be deposited at the rate at which the relevant contract has been booked.

(b) Counterpart funds under foreign commodity credit agreements with barter component where no forward contract can be booked, are required to be deposited at the B.C. selling rate prevailing on the date of opening of LC.

(c) Unless specified otherwise, in all other cases deposit of counterpart funds will be made at the B.C. Selling rate ruling on the date of lodgement of the bill as applicable to cash import without forward cover facilities.

38. (i) An AD who has either opened an LC as designated bank or forwarded it to the appropriate designated bank should be in all preparedness to follow the schedule for deposit of counterpart funds as mentioned in the foregoing paragraphs.

In case of delay in making the deposit within the prescribed period, the funds should be deposited to the Bangladesh Bank along with penal interest computed on the following basis:

(a) 5% above the bank rate — For the first seven days beyond the prescribed period.

(b) 6% above the bank rate — For the subsequent period after the expiry of first seven days beyond the prescribed period.

Application of

Rate of exchange

Penal interest CH 15 51

(ii) (a) All designated banks under foreign commodity loans, credits and grants will send, by the 15th of the following month, a monthly statement of all LCs opened (Loan/Credit/Grant wise) as per proforma in Appendix 5/16 to the office of the Bangladesh Bank with which counterpart funds will be deposited.

(b) In case any bill is received by any designated bank/importer's bank on collection basis due to discrepancy in the bills or otherwise, from the negotiating bank abroad/loan giving agency/ ERD, notice of retirement should be served upon the importer concerned within 24 hours of receipt of such documents, for retirement of the bills against payment within the prescribed time limit, under advice to the office of the Bangladesh Bank with which counterpart funds will be deposited, as per proforma at Appendix 5/17.

(iii) At the time of deposit of counterpart funds designated banks will furnish to the Bangladesh Bank a statement as per Appendix 5/18.

(iv) Instructions contained in the above paragraphs shall also be applicable in respect of documents received at places where there is no office of the Bangladesh Bank.

(v) LCs opened by the designated banks for imports under loans, credits and grants should not provide for payment on deferred basis.

Submission of
particulars of
LCs opened and
discrepant bills CH 16 52

CHAPTER 16

COMMERCIAL REMITTANCES (OTHER THAN FOR IMPORTS)

1. (i) Applications for remittances of freight and passage collections by branches or agents of foreign airlines and shipping companies should be made to the ADs on Form TM accompanied by a declaration in Form FP (See Appendix 5/19) along with the following:

(a) Import/export freight manifest.

(b) Encashment certificate in support of inward remittances received from head office/principal abroad.

(c) Authenticated copy of the charter party in case of vessel chartered by the principal of the shipping agent in Bangladesh.

The statements mentioned in paras (v) & (vi) below should also accompany the applications.

(ii) Remittances of freights and passages collected in Bangladesh may be sent to owners abroad after adjustment of the amount spent

for local disbursement and taxes payable. Remittance of passage collections or use thereof for local disbursements are permissible only after the relative journeys have actually been undertaken; collections should not therefore be included in the remittance application or used for local disbursement unless the journeys are undertaken.

(iii) All foreign airlines & shipping companies are required to submit periodical statements of their disbursement and collection in the prescribed form regardless of whether there is a remittable surplus. The statement is required even from those airlines and shipping companies who bring in funds from abroad to meet their operating expenses in Bangladesh, the amounts brought in from head office/principal abroad should be reported in the FP statement.

(iv) Shipping Companies/ Agents are required to charge minimum agency commission for handling vessels at Bangladesh ports at the following rates:

- a) Export Cargo -5% of net freight collections for cargoes booked by the agent directly and 2½% against those booked by the Principal.
- b) Import Cargo-2% of net freight collections.
- c) (1) Import Cargoes in tramp/chartered vessel per port per call:

Freight and
Passage
collections
Agency
commission for
handling vessels CH 16 53
(a) Import cargoes (dry) including
bulk/homogeneous-mixed in
tramp/chartered vessel upto DWAT
(Dead Weight All Told):

(b) Tanker/liquid cargo upto DWAT
(Dead Weight All Told):

(2) Minimum agency commission for
tramp/chartered vessels in ballast
calling at Bangladesh ports for
bunkering, victualling including
landing of sick crew etc. per call per
port

(3) Owner's protecting/husbanding
/supervising agent's minimum fees for
tramp/ chartered vessel per call per
port

(v) Foreign airlines are required to submit the following

statements on monthly basis

- (a) Statement of freight/passage collection and disbursement in Bangladesh (See Appendix 5/20).
- (b) Statement of passages sold/tickets issued by the Airlines (See Appendix 5/21).
- (c) Disbursement statement (See Appendix 5/22) supported by cancellation/refund statement (See Appendix 5/23).
- (d) Details of credit bookings of passage and freight realized in cash during the month (See Appendix 5/24).
- (e) Statement of outstanding passage/freight bookings on credit (See Appendix 5/25).
- (vi) Shipping companies/agents operating in Bangladesh are required to submit the following statements on quarterly basis:—

(a) Statement of freight/passage collections in respect of foreign vessels and disbursements in Bangladesh in Form Shipping I (See Appendix 5/26).

Submission of
statement by
foreign airlines
Submission
of statements
by shipping
companies/
agents

- (i) 10,000 tons ...US\$ 1,000
- (ii) above 10,000 tons but not exceeding 20,000 tons
....US\$ 2,000
- (iii) above 20,000 tons....US\$ 2,500

- (i) 10,000 tons ...US\$ 1,000
- (ii) above 10,000 tons but not exceeding 20,000 tons
....US\$ 1,500
- (iii) above 20,000 tons....US\$ 2,000

.....US\$ 750

... ..US\$ 750 CH 16 54

(b) Details of credit bookings of passage and freight realized in cash during the quarter in Form Shipping II (See Appendix 5/27).

(c) Details of outstanding passage and freight booking on credit in Form Shipping III (See Appendix 5/28).

(d) Breakdown of disbursements in Form Shipping IV (See Appendix 5/29) supported by statement of cancellations or refunds of freight/passages in Form Shipping V (See Appendix 5/30).

(e) Statement of passages sold/tickets issued by the Shipping company
(See Appendix 5/31).

The returns should be supported by export/import freight manifest and bill of lading. The breakdown of disbursement must also be supported by third party bills/receipts where the amount involved in any particular item of expenditure is Taka 2500 or over. The returns should be submitted within 60 days following the quarter to which the returns relate.

(vii) Shipping/Airline Companies or Travel Agents may collect freight in Taka for transportation of excess accompanied as well as unaccompanied baggage including motor car of Bangladesh nationals from destination abroad to Bangladesh without prior permission from the Bangladesh Bank.

(viii) Shipping Companies/ Airlines while accepting freight in Bangladesh Taka on exports and imports should be guided by the following instructions:

(a) Freight on Exports

Freight on exports from Bangladesh in local currency shall be accepted only when a certificate from the exporter's bank is produced to the Shipping Companies/ Airlines in the following form:

"Certified that EXP Form No.....in respect of shipment
to be made by M/s.....has/been stamped to
(name of the exporter)

the effect that the documents in respect of the shipment under this
EXP form shall be negotiated/accepted only when these are drawn
on c&f/c.i.f basis and not on f.o.b basis.

Before issuing the above certificate, the ADs will invariably endorse the relative EXP form in the following manner :

"Certified that documents in respect of the shipment under this EXP
form shall be negotiated/accepted only when these are drawn on
c&f/c.i.f basis and not on f.o.b basis.

While submitting the applications for remittances to the AD, the
Shipping Companies will invariably submit therewith the CH 16 55

aforesaid bank's certificate alongwith a copy of the relevant bill of
lading duly arranged according to the entries appearing on the
freight manifest. In case of Airlines, Airway bill is to be submitted
together with the certificate of the AD as mentioned above.

(b) Freight on Imports

Freight on imports on fob basis against LCAFs issued on c&f/cif
basis only shall be accepted in Bangladesh in the local currency by
the shipping companies provided a certificate from the AD as
mentioned in this paragraph is produced by the importer to the
shipping company concerned. The AD should ensure that in the
case of imports on fob basis against LCAF issued on c&f/cif basis,
a reasonable margin within the overall limit of the LCAF is
reserved to cover the amount of freight so that the overall total
does not exceed the amount of the LCAF. With a view to ensuring

compliance with the above requirement, the AD should endorse on the LCAF the amount of freight payable in Bangladesh Currency as stated in the bill of lading/airway bill and to issue a certificate in the form prescribed below for presentation to the shipping company/ airline in Bangladesh at the time of payment of freight in Bangladesh currency. Shipping companies/ airlines are advised that while accepting payment of freight in Bangladesh currency on such imports they should invariably insist on production of the certificate from the ADs on the following form, which should be enclosed with the freight manifest/return at the time of applying for remittance of surplus freight collections:

"Certified that the amount of freight payable in Bangladesh Taka viz. Takaas indicated on the bill of lading no../airway bill no....dated in respect of imported by Messrs..... fromper mv/sshas been duly endorsed on the exchange control copy of the relative LCAF No.....datedunder stamp and signature."

2 Apart from the periodical statements referred to in the foregoing paragraph, applications for remittance of surplus earnings of foreign airlines and shipping companies (in TM form, with declaration as per Appendix 5/19) submitted to the ADs should be accompanied by the following documents

A. Airlines

(i) Dummy P Form duly filled in [Appendix 5/32]

(ii) P-2 Form (where applicable) filled in as per Appendix 5/33.

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(iii) Encashment Certificate as per Appendix 5/34, certificate of debit to convertible Taka account as per Appendix 5/35 and certificate of debit to shipping agent's/company's account as per Appendix 5/36; as applicable.

(iv) Airway Bill in the case of excess baggage, export Cargo etc. If freight against export from Bangladesh is accepted in local currency, certificate from Exporter's Bank as per para I (viii) (a) above;

(v) In the case of payment of freight on import against LCAF, certificate from the concerned ADs as per para 1 (viii)(b) above;

(vi) In the case of issue of tickets against convertible Taka Accounts, letter of authorization from the concerned account -holder as per para 11 (vi)(b) of Chapter 19 of this publication;

Each form/supporting document will be submitted by the airline/ its GSA to the AD in duplicate.

Examination and Processing by Authorised Dealer:

From the above mentioned documents the ADs shall satisfy themselves that

the concerned airlines have collected passenger fare/goods freight as per routes and fares approved by the Civil Aviation Authority of Bangladesh(CAAB). Moreover, the ADs have to satisfy themselves that the provisions of this chapter and chapter 19 relating to issuance of tickets and collection of freight have been duly complied with, It would be necessary for the ADs to obtain confirmation in writing from the certificate issuing ADs as to the genuineness of the encashment certificates submitted by the airlines.

To ascertain the expenses of the airlines, the ADs shall examine the statements submitted by the airlines in terms of para I (v) of this Chapter [Appendices 5/20-5/25]. Bills/vouchers issued by the relevant authorities submitted by the airlines in support of the expenses shown in Appendix 5/22 should be examined and written explanation should be obtained in case of major omissions (e.g. landing charge in case of on line carrier) in the statement. If the explanation is not found satisfactory, the matter should be brought to the notice of the Bangladesh Bank immediately.

While determining surplus earnings, the concerned ADs shall satisfy themselves that the agency commission, overriding commission (in the case of issue of tickets and collection of freight by the GSA) as per IATA rules, and taxes at the applicable rate have been deducted. Taxes may not be deducted to the extent exempted by Bilateral Treaties providing for tax exemption or where bank guarantees are furnished as per approval of the tax authorities. Airlines may pay taxes out of funds earlier earmarked for tax on the basis of assessment made by the tax authorities or from their current

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income. In the latter case, the taxes paid should be shown as an item of expenditure in the disbursement statement of the month in which the taxes have been paid. If expenditure in any month exceeds income, the deficit must be covered by inward remittance.

After determining the surplus earnings as per relevant provisions of this chapter and chapter 19, the AD will approve TM Form and remit surplus earnings to the Head Office of the applicant airline. Thereafter the ADs shall submit to the Bangladesh Bank one set of all the relevant papers including copies of each form/document and approved TM Form for post facto examination.

B. Shipping Company:

(i) Encashment certificate in support of remittance from abroad by head office/ principal;

(ii) Import/export freight manifests and bills of lading mentioned in the manifests;

(iii) In the case of arrival in Bangladesh ports of vessel chartered by the foreign principal of Bangladeshi shipping agent, attested copy of the relevant charter party.

(iv) In the case of export cargo, statement regarding tax liability in prescribed form (Appendix 5/37) duly signed by the taxation and customs authorities. The shipping Company/its agent shall prepare this statement in quadruplicate and submit it to the tax authorities. The concerned Deputy Commissioner of Taxes will put his signature

and seal on those and return three copies to the concerned shipping company or his agent. The shipping company/agent will submit those 3(three) copies to the concerned office of the customs authorities who will put his signature and seal alongwith name and full address on those and return two copies to the shipping company/ agent who will submit these to the AD. The authorised officer of the AD will put his signature and seal mentioning name and address on both copies, retain one copy and return the other to the shipping company/agent.

(v) Forms as per para 1 (vi) above and declarations as per para 1 (viii)(a) and para 1 (viii)(b) above.

vi) Bill/voucher in support of expenses shown in Form Shipping IV (App. 5/29) for all expenses of Tk. 2500/00 or more per item.

Each form, statement and supporting bills/vouchers shall be submitted to the AD in duplicate.

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Examination and Processing by Authorised Dealer:

In determining total income, freight received against export on c&f basis, freight received against import on fob basis and fund received by way of inward remittance from head office/principal of local shipping agent are to be added. The surplus earning is to be determined by deducting expenses shown in Form Shipping IV from the total income. Expenses relating to port charges and custom charges as per disbursement statement (Form Shipping IV) are to be checked with the bills issued by the concerned port authority. The ADs shall satisfy themselves that freight brokerage s have been reflected in Form Shipping IV. In the case of export of non -jute and non -traditional goods (including export of jute yam and jute carpet by private sector jute mills and jute carpet manufacturers) 1/2% of total income is payable to Bangladesh S hippers' Council as freight brokerage on account of service charge. This freight brokerage is also required to be shown in the disbursement statement as an expense. The AD shall also ensure that agency fees and commission as per para 1 (iv) above have been shown at serial no 8 of the Disbursement Statement. Taxes shown in Disbursement Statement should be checked with particulars furnished for determination of tax liability as per Appendix 5/37, Since income tax on account of Feeder Freight is not shown in t he Appendix referred to above, remittance of surplus earnings may be allowed only on receipt of supporting document to the effect that income tax has been paid on this account. Any advance payment Made to the Master of the ship, payment towards bunker supp ly, expenses incurred in connection with hotel bill or charter hire should also be shown separately in the Disbursement Statement. For each item of expense amounting to Tk. 2500/00 and above, the relevant bills should be checked. In each case of remittance of surplus earnings, the ADs should obtain a certificate from the Shipping Company /Agent that all the expenses have been shown in the disbursement statement, and that omission of any expense from the said statement shall render the applicant liable for a ction against violation of Foreign Exchange Regulations. The AD shall approve the TM Form for the amount of surplus earnings found in order and after effecting remittance forward

one full set of the papers alongwith approved TM Form to the concerned area office of the Bangladesh Bank.

(C) Remittance of Surplus Earnings of Courier Service

Companies:

A foreign courier service company/its agent shall submit to the AD monthly statements for the purpose of remittance of surplus earnings to head office/ principal abroad. The monthly statement, certified by a registered chartered accountant, and its supporting documents should contain information relating to each collection in Bangladesh against outward dispatches; volume/weight of the documents/parcels dispatched, mode of dispatch, office abroad (with name of city and Remittance of surplus earnings of Courier service companies CH 16 59

country) through which documents/parcels have been delivered, amount of commission, and the amount payable to the principal on account of charges. The surplus earnings shall be determined by deducting from gross collections (i) the local agent's commission for handling inward and outward documents /parcels, (ii) taxes payable on gross collections as applicable (iii) audit fees and other expenses. Remittance applications should also be accompanied by invoices raised by head office/principal abroad for the claimed amount. The ADs shall satisfy themselves that the terms and conditions of the relative sanction letter issued by Bangladesh Bank to the applicant company/ agent have been duly fulfilled. As in the case of remittance of surplus earnings of airlines and shipping companies, the application and all other papers shall be submitted to the AD in duplicate. After recording approval in TM Form and effecting remittance, the AD shall forward one full set of all papers including copy of approved TM Form to the concerned area office of the Bangladesh Bank for post-facto examination.

3. Before taking up for processing a remittance application, the AD shall check whether the concerned airline, shipping company, courier service company /their local agents have valid approval (with upto date renewal) of Bangladesh Bank under Section 18A/18B of the FER Act.

4. In all cases of remittances of surplus earnings, undertakings shall be obtained from the applicants to the effect that in the event of detection, on post facto scrutiny, of any excess remittance, the excess amount will be repatriated/ adjusted from subsequent remittable amount.

5. All the above mentioned remittances shall be reported in the usual monthly returns submitted by the ADs to the Bangladesh Bank.

6. (i) Bangladesh Shipping Corporation and Bangladesh Biman are allowed to make remittances to meet bonafide disbursements in foreign ports/foreign stations without approval of the Bangladesh

Bank.

(ii) Bangladesh Shipping Corporation is required to submit the following periodical statements/returns in regard to their foreign operations:-

(a) Consolidated quarterly statement showing income, and expenditure in respect of foreign shipping agents as per Appendix 5/38.

(b) Consolidated quarterly statement showing income and expenditure in foreign exchange by foreign agents as per Appendix 5/39.

Operating
expenses of
Bangladesh
Shipping
Corporation and
Bangladesh
Biman
Submission of
statement by
Bangladesh
Shipping
Corporation CH 16 60

(c) Consolidated quarterly statement showing balances held abroad with banks, main agents and other credit agencies as per Appendix 5/40.

(d) A copy of the monthly report of cash foreign exchange earnings and expenditure submitted to Ministry of Finance.

Returns as at (a) to (c) above should reach Bangladesh Bank, Head Office, Dhaka within two months following the quarter to which returns relate and returns at (d) above by 20th of the following month.

(iii) Bangladesh Biman is required to submit a consolidated monthly statement of foreign exchange earnings and expenditure as per Appendix 5/41.

7. All private shipping companies in Bangladesh are required to submit the following quarterly statements/returns :

(a) Statement of earnings and expenditure in Bangladesh in respect of vessels owned by private shipping companies as per Appendix 5/42.

(b) Statement showing earnings and expenditure of foreign agents of Bangladeshi shipping companies as per Appendix 5/43.

(c) Consolidated statement of earnings, disbursements and net amount repatriated to Bangladesh as per Appendix 5/44.

(d) Statement showing debits and credits to foreign currency account maintained by shipping companies with banks abroad as per Appendix 5/45.

The statements should reach Foreign Exchange Policy Department, Bangladesh Bank, Head Office, Dhaka within two months following the

quarter to which those relate.

8. Persons or firms holding permission of the appropriate ministry of the Government to charter non -resident-owned aircraft may apply for remittance approval of Bangladesh Bank in TM form along with the permission letter of the Govt. The application should be accompanied by a copy of the charter agreement together with an undertaking that a detailed account of all disbursements made for the account of the owners will be submitted to the Bangladesh Bank within 15 days of the expiry of the period of the agreement.

If the application is approved, a permit will be issued to cover any advance payments required under the terms of the Charter but the remittance of the total amount agreed upon will not normally be sanctioned until the final accounting of disbursements etc. is made available to the Bangladesh Bank.

Submission of
statement by
Bangladesh
Biman
Charter of
foreign aircraft CH 16 61

9. Persons or firms resident in Bangladesh intending to remit foreign exchange in favour of non -resident owners of ships on account of charter hire shall apply to the ADs.

The documents to be furnished along with the application are :

(i) TM Form duly filled in;

(ii) Permission from the Ministry of Shipping/Directorate General of Ports and shipping for charter of the concerned non-resident owned ship;

(iii) Waiver certificate from the D.G., Ports & Shipping;

(iv) Contract (Charter party/Agreement) between the shipowner and the charterer,

(v) Contract between the Exporter and the Charterer
(Where the exporter is not the charterer himself);

(vi) Freight prepaid bill of lading

(vii) Bank certificate in support of c&f Export as per proforma prescribed vide para 1 (viii)(a) above;

viii) Freight/Cargo Manifest issued by the Shipping Agent;

(ix) Mate's receipt issued by the Captain/M aster of the concerned ship; and

(x) Bangladesh Bank's Permission to the Shipping Agent to handle the concerned Non -resident owned ship at Bangladesh ports as per provisions of section 18A of the FER Act, 1947.

If the above documents are found in order, the total quantity of goods shipped shall be determined from the concerned bills of lading, Cargo/Freight manifest and Mate's receipt. Thereafter, the total freight shall be determined by applying the rate of freight mentioned in the charter party (agreement concluded between the Ship-owner and the charterer) to the aforesaid quantity of goods. To be certain that the goods shipped have been exported on c&f basis, it would be necessary to examine certificates issued by the concerned banks. Net charter freight is required to be determined by deducting freight tax at prescribed rate, freight brokerage, port dues, etc. and other local expenses relating to the chartered ship from the total freight. In the event of remittance of foreign exchange by the concerned Non-resident shipowner for the purpose of said local expenses, net remittable charter freight shall be determined by adjustment of the amount so remitted from abroad.

Charter of
foreign ships CH 16 62

After determination of net charter hire on the basis of the above procedure, the AD shall approve the TM form and effect remittance to the non-resident owner. Before allowing remittance of charter hire, the AD shall obtain from the charterer an undertaking that the charterer shall submit to the AD the final Income-Expenditure Statement alongwith required documentary evidences within one month from the date of remittance of charter hire.

Further, an undertaking is to be obtained from the charterer to the effect that if on subsequent scrutiny the remittance is seen to be in excess of amount actually payable, the excess amount will be repatriated through normal banking channel.

10. In case the charterer is a private Bangladeshi shipping company, the AD, before effecting remittance, shall satisfy itself that the concerned shipping company has no surplus earnings abroad or the surplus earnings kept abroad is not sufficient to meet the concerned charter hire.

11. The charterer shall submit to the concerned AD a final Income-Expenditure statement relating to the charter alongwith documentary evidences within one month from the date of approval of the remittance. Each of the above documents/ statements and related papers shall be obtained in duplicate and one set of the same alongwith approved TM Form shall be sent by the AD to the relevant area office of the Bangladesh Bank, for post-facto examination.

12. The ADs may remit export claims not exceeding 10% of the repatriated export proceeds on the following counts:

- (a) Short weight claim;
- (b) Quality claim;
- (c) Part shipment.

In these cases the exporters will be required to apply to the AD in the form given in Appendix 5/46. The TM Forms in these cases shall be approved by the concerned ADs. Genuineness of the claim should in

these cases be established by examination of the following documents:

(a) Short-weight Claim

- (1) Proceeds Realization Certificate (PRC);
- (2) Debit Note from the buyer;
- (3) Weighment Certificate/Note from a recognized weighing body;

Remittances
against export
claims CH 16 63

- (4) LMD Certificate (for shipping weight basis shipment) in the case of raw jute.

(b) Quality Claim

- (1) Proceeds Realization Certificate (PRC);
- (2) Debit Note from the buyer,
- (3) Test Report from a recognized test house or an Arbitration Certificate from an approved body of arbitrators.

(c) Part Shipment

- (1) Proceeds Realization Certificate (PRC);
- (2) Debit Note from the buyer;
- (3) Contract in original;
- (4) Arbitration award from a recognized arbitrator as referred to in the contract.

13. In the following cases the ADs may effect remittances in settlement of commercial claims in respect of exports without prior approval of the Bangladesh Bank:

(i) Claims on export of jute goods by mills controlled by the Bangladesh Jute Mills Corporation (BJMC) provided:

- (a) The remittance application of the mill concerned is supported by a genuineness certificate about the claims issued by the BJMC.
- (b) The proceeds realization certificate is submitted alongwith the application,
- (ii) While receiving application from the exporter for approval of remittance on account of quality claim against export of raw jute and jute goods, No Objection Certificate/recommendation issued by the Directorate of Inspection of Jute and jute goods should be asked for alongwith other prescribed documents. No remittance application against quality claim on export of raw jute and jute goods should be considered without this No

Objection Certificate/recommendation.

14. The ADs will submit to the Bangladesh Bank all the documents under various types of export claims as mentioned in paras 12 & 13 above for post facto examination, within 15 days from the date of remittance.

CH 16 64

15. Applications (Appendix 5/46) from exporters for export claim remittance of more than 10% of repatriated export proceeds, supported by documents mentioned in para 12 above, should be forwarded to the Bangladesh Bank alongwith TM Form for prior approval. Such applications for remittance against other types of claim settlements on exports should also be forwarded similarly to Bangladesh Bank for prior approval, duly supported by the relevant documents as listed below:

(i) Amicable Settlement:

(a) Proceeds Realization Certificate.

(b) Debit Note from the buyer.

(c) Certificate from the Chamber of Commerce in the country of import.

(d) Correspondence in original exchanged between the shipper and the buyer. Original cables should be produced if cable charges are included in the Debit Note.

(ii) Commission:

(a) Proceeds Realization Certificate.

(b) Debit Note.

(c) Agreement regarding the payment of commission.

(iii) Cancellation of the Contract:

(a) Debit Note.

(b) Contract.

(c) Correspondence in original passed between buyer and shipper.

(d) Arbitration Certificate, or Chamber of Commerce's Certificate for claims settled amicably.

(iv) Freight against Exports:

(a) Proceeds Realization Certificate.

(b) Debit Note.

(c) Contract.

(d) Bill of Lading.

(v) Inspection Fee, Arbitration Fee, Survey and Analysis Fee etc. :

- (a) Proceeds Realization Certificate. CH 16 65
- (b) Debit Note from the institution claiming fees.

(c) Report from the above institution in support of the claim.

(vi) Miscellaneous Claims like Refund of Export Duty:

(a) Proceeds Realization Certificate.

(b) Debit Note.

(c) Contract.

(d) Correspondence.

16. In addition to the export claims mentioned above, remittance on account of the undermentioned claims in respect of raw jute are also allowed subject to fulfillment of documentation prescribed for each type of claims.

(i) Invoice back and Resale:

(Remittance is allowed after resale of the goods is completed.
Resale price is adjusted from invoiced back claim).

(a) Original arbitration award (including appeal award, if any).

(b) Documentary evidence to show that:

(i) Shipper had advised the Bangladesh Bank about buyer's exercising the option of invoicing back the parcel.

(ii) Prior permission from the Bangladesh Bank was obtained for resale of the invoiced back goods.

(c) Receipts, bills, vouchers etc. in support of miscellaneous charges included in the claim.

(d) Account sale or resale note.

(e) Resale Contract.

(For resale, maximum commission is 1% and no commission is allowed if the goods are resold to the same party who has invoiced back the parcel).

(ii) Default:

(a) Original Contract.

(b) Correspondence in original exchanged between the shipper and the buyer regarding non-shipment.

(c) Original arbitration award or amicable settlement certificate. CH 16 66

(d) Documentary evidence in support of market difference of claims.

(e) Shipper's explanation for non-fulfillment of the contract.

(iii) Moisture Claim:

(a) Proceeds Realization Certificate.

(b) Debit Note.

- (c) Original Contract.
- (d) Original Arbitration Award or Test Report or Analysis Report.
- (iv) Late Shipment Penalty:
 - (a) Original Contract.
 - (b) Copy of Bill of Lading.
 - (c) Shipper's explanation showing reasons for late shipment.
 - (d) BJA's letter declining to issue Unavoidable Delay Certificate.
 - (v) Difference for payment received at sight instead of after sight (Usance) basis:
 - (a) Original Contract.
 - (b) Correspondence showing at whose instance the payment was made at sight.
 - (c) Banker's confirmation that the proceeds were realized at sight showing the date of realization and particulars of returns in which the transaction was reported.
 - (d) The basis on which the difference is claimed and evidence in support thereof.
 - (vi) Freight rebate (or difference in rebate):
 - (a) Original Contract.
 - (b) Copy of Bill of Lading.
 - (c) Shipping company's certificate of payment (if freight paid abroad and rebate paid in Bangladesh).
 - (vii) Refund against overpricing:
 - (a) Original Contract.

CH 16 67

- (b) Correspondence exchanged between buyer and seller in this regard.

17. All approval applications for export claim remittances/ allowing discounts in respect of readymade garment shipments should be accompanied by recommendation of the Discount Committee (Convenor: ED, BB) in the Export Promotion Bureau. While forwarding applications for approval of remittance of export claims in respect of Raw Jute/Jute goods; ADs should ensure that particulars of shipment, showing Invoice No. and date, EXP No., net invoice value are furnished in all cases.

18. ADs should furnish monthly statements of export claim remittances (as per Appendix 5/4 7), mentioning remittances allowed by themselves during a month under general authority given to them as well as those allowed with prior Bangladesh Bank approval, by the 7th day of the following month.

19. For remittances on account of settlement of claims arising under Marine Insurance Policies, the ADs are required to submit the following documents to the Bangladesh Bank with Form TM duly filled in alongwith a declaration as per Appendix 5/48 for approval

Marine Policies:

- (i) Shippers' invoices relating to shipment against which claim is made.

- (ii) Proceeds Realization Certificate.
- (iii) Bill of Lading.
- (iv) Claim Note.
- (v) Original Insurance Policy/ Certificate.
- (vi) Survey Report.
- (vii) Short Contents Certificate from the Customs Authorities of the country of import in case claim is made for short delivery of goods.

20. For any other type of export claim not covered above, the exporter's application should be forwarded by the AD to Bangladesh Bank with full information and supporting documents.

21. There is a General Average act when an extraordinary sacrifice or expenditure is intentionally and reasonably made or incurred for the common safety for the purpose of preserving from peril the property involved in a common maritime adventure. To protect a ship and a major portion of its cargo from peril, the captain may declare General Average. To determine losses arising from General Average act the captain then appoints an Adjuster. The General Average Adjuster
Claim Settlement
Under marine
Insurance
policies
General Average
payments CH 16 68

sends report to the concerned parties stating therein the amount of loss, the share of each in the loss and the destination to which the share is to be remitted. In this context the insurance companies may apply to the AD for remittance abroad of the amount representing the shares of consignees insured by them, with the following documents:

- (i) Final Report of the General Average Adjuster
- (ii) Marine Cargo Policy
- (iii) Copy of Letter of Credit (LC)
- (iv) Bill of Lading
- (v) Invoice
- (vi) Average guarantee
- (vii) TM Form and declaration as per Appendix 5/48.
- (viii) Declaration from Shadharan Bima Corporation alongwith the list showing names of the insurance companies concerned with the General Average.

Before allowing remittance the ADs shall satisfy themselves that the names of the company mentioned in the Marine Policy, of the ship, of the consignor and the consignee, the quantity of goods and price mentioned in the invoice, bill of lading no. and the quantity of goods mentioned therein, the quantity of goods and value mentioned in the LCs, the quantity of goods and value mentioned in the Average Guarantee etc. are consistent with the details contained in the General Average Adjuster's report. If all the documents and papers are found in order, the ADs may approve TM Form and effect remittance on account of the General Average contribution applied for. All the papers and documents are to be preserved for eventual post facto checking by inspection team of the Bangladesh Bank.

22. Prior permission of the Bangladesh Bank is required by persons or firms in Bangladesh who wish to employ the services of agents abroad, whether on regular or intermittent basis. Applications for this purpose should be made by letter giving full details of the nature and value of the business transacted in the past by the applicant, the existing arrangements and the nature of the proposed arrangements to be made with the overseas agents and where approved, applications for remittances should be made on Form TM quoting reference of the approval of the facility by the Bangladesh Bank.

23. Prior approval of Bangladesh Bank is not required by the residents in Bangladesh for opening of offices/ subsidiary companies abroad. They are however required to report the same to Bangladesh Bank within one month of opening of such offices, as per Appendix 5/49. Companies/firms shall, through ADs, regularly submit to the Foreign Investment and Inspection Department of Bangladesh Bank, head office periodical statements of accounts of these offices/
Employment of
overseas agents
etc.
Opening of
branches or
subsidiary
companies
abroad CH 16 69
subsidiary companies abroad; any net surplus of earning over routine current expenses /net profit of such offices are to be promptly repatriated to Bangladesh.

Remittance of upto US\$ 30,000 or equivalent may be made annually meet current expenses of such offices opened abroad by a commercial or industrial concern. Such remittance may only be made in the names of concerned offices /subsidiary companies abroad. The ADs shall examine following papers before effecting remittances :

- (1) Approval letter of the competent authority of the country concerned for opening the office in that country.
- (2) Lease agreement relating to the premises.

The AD shall satisfy itself about the actual necessity of remitting funds by examining the actual and/ or estimated incomes and expenses of the office/ subsidiary company abroad as revealed from its audited accounts and the other papers; and remit funds to the extent found necessary, subject to the prescribed ceiling. Before effecting remittances for subsequent years the ADs shall verify the renewed lease agreement (if applicable) and other related vouchers.

24. No prior permission of the Bangladesh Bank or BOI is required by the enterprises for entering into agreement involving remittance of royalty, technical know-how or technical assistance fees, operational services fees, marketing commission etc. if the total fees and other expenses connected with technology transfer do not exceed the following limits:

- (a) For new projects, not exceeding 6% of the cost of imported machineries;

(b) For ongoing concerns, not exceeding 6% of the previous years' sales as declared in the income tax returns.

The ADs may remit such royalty and other fees without prior approval of Bangladesh Bank. ADs may remit such fees at rates exceeding the above limits without prior approval of Bangladesh Bank provided specific approval of BOI has been obtained for the higher rates by the applicant company in processing all such remittance applications the ADs should ensure that:

(i) The applicant company is registered and operating in Bangladesh.

(ii) The application for remittance is submitted by the company concerned as per Appendix 5/50 in triplicate, along with a copy of the relative contract duly registered with BOI. All relevant documents are to be submitted in triplicate also.

Remittance of
royalty and

technical fees CH 16 70

(iii) The information in the application is verified by the Auditors of the company and the correctness thereof certified by the Auditors in the space provided for the purpose. An additional statement showing the basis and actual calculation of the amount payable duly certified by the Auditor should be submitted with the application.

(iv) The ADs will exercise proper scrutiny to ensure that the amount to be remitted does not exceed the net remittable amount as certified by the Auditors and the limit generally prescribed or specifically approved by the BOI. In case of doubt the AD should obtain clarification from the Foreign Investment and Inspection Department, Bangladesh Bank, Head Office, Dhaka.

(v) Before allowing the remittance the AD should obtain from the applicant an undertaking to the effect that in case of wrong or excess remittance the amount remitted in excess of the entitlement will be repatriated to Bangladesh immediately on demand by the Bangladesh Bank.

Immediately after allowing the remittance the AD will forward one copy of the application along with its supporting documents to the Foreign Exchange Investment Department, Bangladesh Bank, Head Office, Dhaka for post facto checking. Another copy of application shall be attached to the relative Form TM while reporting the remittance to the area office of the Bangladesh Bank in the monthly summary statement/returns. The third copy of the application shall be forwarded to the Board of Investment for information and record.

The ADs will ensure that the remittance is allowed strictly as per above norms and shall maintain records company-wise properly so as to facilitate their inspection by the Bangladesh Bank.

25. While making remittances of recurrent nature like royalty fees the ADs should also ensure compliance with the following:

(a) The recurrent fees etc. will be remittable through one nominated bank only. Prior intimation should be sent to Bangladesh Bank for

changing the nominated bank. A statement certified by the existing nominated banker with regard to remittances made upto date is to be forwarded to the Bangladesh Bank and the proposed new nominated bank branch.

(b) In case of a new project, the fees will be remitted by the bank through which the machineries for the project have been imported. The relevant import documents (Exchange Control copy of Bill of Entry, Invoice etc.) will be preserved by the bank. If a change is required at a latter

CH 16 71

stage, intimations should be sent to Bangladesh Bank and the proposed bank as described in the preceding paragraph.

(c) While effecting the remittance, the Bank should satisfy themselves about the genuineness of the papers (copies of the royalty/technical assistance agreements, documentary evidences regarding training and consultancies, papers regarding new projects indicated at 'b' above) the Bank should also preserve the papers for eventual examination by Bangladesh Bank inspection teams.

26. Industrial enterprises producing for local markets may remit through their nominated ADs upto 1% of annual sales as declared in their previous years' income tax return towards costs of training and consultancy services as per relevant contract with the foreign trainer/ consultant, and prior approval of Bangladesh Bank will not be required for such remittances. In this connection industrial enterprises will mean firms and companies engaged in manufacturing or processing or assembling.

27. ADs may without prior Bangladesh Bank approval remit abroad the profits of branches of foreign firms and companies. The foreign firm/ company operating in Bangladesh should for this purpose submit application to its nominated AD duly supported by the following documents/ information:

(A) (i) Audited Balance Sheet and Profit and Loss Account for business done in Bangladesh for the relevant period.

(ii) Consolidated audited Balance Sheet and Profit and Loss Account of the Company/Firm (Head Office) for the corresponding period.

(iii) Year wise reconciliation of Head Office Accounts for the period for which profit remittance is applied for.

(iv) Documents regarding payment of taxes in Bangladesh:

(a) A certificate from the Auditors in Bangladesh that tax provision made in the accounts for the period in question is sufficient to meet all tax liabilities in Bangladesh; or,

(b) Copies of final assessment orders and forms in respect of all taxes for the period duly certified and stamped by the Department concerned.

(v) Full particulars about additions to fixed assets of the company in Bangladesh, if any, during the period and

source of funds for financing such additions.

(vi) Particulars of outstanding borrowings in Bangladesh of the company/ firm.

Remittance of
profits of
branches of
foreign firms
other than
financial
institutions CH 16 72

(vii) Permission letter of the relevant Government Authorities for carrying on business in Bangladesh and the terms and conditions thereof.

(B) The ADS shall examine and process the applications for profit remittance as follows:

(i) All past losses should be adjusted either to profit and loss account or general reserve account.

(ii) Additions to fixed assets, furniture and fixture, office equipments, cars etc. will be deducted from net profit before arriving at the remittable profit. If the additions are financed out of depreciation, disposals during the year and/or non-repatriable funds received from abroad, no deduction for these will be made from the profit.

(iii) Profit on sale of small fixed assets items like furniture , fixture and equipment and profit on sale of investments in stocks, shares, bonds, securities etc. may be treated as admissible items of remittable profit.

(iv) The entire amount of the profit on sale of fixed assets acquired for running the normal business activities of the concern as well as profit on sale of investments in share, securities,, etc. acquired out of undistributed remittable profit will also be treated as remittable.

(v) Profit on sale of immovable properties such as land, building, etc. shall be deducted from remittable profit unless prior permission of Bangladesh Bank has been obtained on application alongwith (a) Auditor's certificate about current market value of the immovable property sold,(b) balance sheet and other papers of the relevant period establishing the book value of the property on the date of sale,(c) copy of agreement of sale certified by the Auditor,(d) papers regarding tax assessment/ tax payment on the capital gains from the sale.

(vi) Net amount of cash subsidy, if any, granted by the Govt. shall be deducted from profit.

(C) Further to the requirements of sub -paras (A) and (B) above, applications for remittance of profits of Sterling Tea Estate Companies should fulfill the following:

(i) The companies will prepare accounts in Taka and apply for remittance in Taka.

(ii) The Auditors should certify that the computation of remittable profit and the entire income for the year has been earned on business authorized by the Memorandum and Articles of Association of the company and accrued in Bangladesh and that all losses and revenue liabilities have

Remittance of
profits of
Sterling Tea
Estate
Companies CH 16 73

been adjusted before arriving at the remittable profit. The Auditors must also certify that in their opinion the accompanying financial statements present fairly the financial position of the company as of date and the results of its operations and changes in financial position for the year ended, are in conformity with the generally accepted accounting principles applied on a business consistent with that of the preceding year and the deviations, if any, have been reported.

(iii) Certified copies of assessment orders and evidence of payment of all income and other taxes or a certificate from the Auditors of the company that adequate provision has been made to meet all tax liabilities in Bangladesh, both for the previous years as well as current year together with the calculation sheet duly certified by the Auditors showing how the tax provision figure has been arrived at, should be produced.

(D) The firm/company will keep the Foreign Investment and Inspection Department, Bangladesh Bank, Head Office, informed beforehand about its nomination of AD and about any subsequent change in such nomination. The AD shall determine the taka amount of the remittable profit after examining the remittance application in terms of sub-paras (B) and (C) above and effect remittance of equivalent foreign exchange. After making the remittance the AD shall forward the remittance application and supporting papers/documents in original to the Foreign Investment and Inspection Department, Bangladesh Bank for post facto checking. Another copy of the remittance application alongwith the approved TM Form shall be forwarded, to the concerned area office of the Bangladesh Bank with the monthly returns of the AD.

28. Foreign banks and financial institutions operating in Bangladesh may remit profits to their head offices abroad through their nominated ADs without prior Bangladesh Bank approval. Foreign insurance companies operating in Bangladesh may likewise remit the shareholders' portion of profits through their nominated ADs without prior Bangladesh Bank approval. The basis for computation of remittable profit and the documents on which the calculations should be based shall be as follows

(A) Documents:

(a) Audited Balance Sheet and Profit & Loss Account in

respect of operation of the foreign bank/insurance company/ financial institution in Bangladesh for the relevant year;

b) (i) Copies of final assessment orders and forms in respect of all taxes for the period duly certified and stamped by the Remittance of profit of banks, insurance companies and other financial institutions CH 16 74

taxation authority, or (ii) certificate from the Auditors in Bangladesh that tax provision made in the accounts for the period is sufficient to meet all tax liabilities;

c) Certificate authenticated by the Auditor showing particulars of additions to fixed assets in Bangladesh, if any, during the period alongwith the amount of depreciation made, sale proceeds of fixed assets disposed of, and the amount of non repatriable funds received from abroad to finance capital expenditure during the period;

d) Auditor's certificate with regard to the income accrued and shown in the books of accounts but not actually realized on the date of remittance;

e) In case of insurance companies, Actuary's valuation report relating to the period for which remittance is to be sent, and approval letter from Controller of Insurance regarding remittance of shareholders' portion of profits for the period;

f) Auditor's certificates regarding adequacy of (i) capital and reserves and (ii) provisioning against classified loans, advances and other assets required in terms of applicable laws and regulations; mentioning clearly both the required and the actual levels of capital, reserves and provisions;

g) An undertaking from the applicant foreign bank/ insurance company/ financial institution that any amount determined by Bangladesh Bank as having been remitted in excess of the amount actually remittable shall be repatriated immediately on demand.

B) Computation of Remittable Profit:

Upon being satisfied about the consistency of the amount applied for remittance with the facts and figures in the documents listed above, profits as per audited accounts may be remitted after making necessary deductions on the following counts:

a) Tax

Tax assessed by the taxation authority or in the event assessment is not completed on the date of remittance, the amount of tax as provided for in the books of accounts and certified by the auditors as adequate in accordance with the tax laws;

b) Additions to Fixed Assets

Costs of fixed assets, furniture and fixtures, office equipment, cars etc. acquired/ bought during the year minus cost of assets financed out of depreciation, sale proceeds of assets and those bought with non-repatriable funds from abroad as shown in the Auditor's certificate referred to in para 28(A)(c) above; CH 16 75

c) Profits on Sale of Immovable Assets

Any amount of profit in excess of Tk. 10,000 (Ten thousand) arising out of sale of immovable assets (land, building etc.) included in the profit;

d) Income receivable

Any unrealized receivable against an adversely classified asset e.g. interest earning credited to interest suspense account;

e) Irregular Income

Excess amount of interest and commission/charges etc. realized and included in the Profit & Loss Account as detected by the Bangladesh Bank inspection teams

f) Shortfalls in Capital & in provision requirements

Any shortfall in capital & reserves in Bangladesh and any shortfall in maintenance of provisions against classified loans, advances and other assets as required in terms of laws and regulations by Bangladesh Bank /other relevant regulatory authorities from time to time;

g) Past accumulated losses

All accumulated previous losses.

29. Attested copies of all papers/documents related to remittance of profits of foreign banks, financial institutions and insurance companies are to be forwarded to the Foreign Investment and Inspection Department, Bangladesh Bank, Head Office, Dhaka by the AD, within one week of remittance, for post facto checking; retaining the originals in their records for inspection by Bangladesh Bank officials. Any sum remitted in excess (as may be determined by the Bangladesh Bank during post facto checking) shall have to be repatriated immediately.

30. (a) The ADs are allowed to remit dividends (both final and interim) to the non-resident shareholders on receipt of the application in the prescribed form (Appendix 5/51) in triplicate from the companies concerned duly certified by their Auditors and supported by the following documents :

(i) Attested copy of the certificate of incorporation of the company (to be submitted only once),

(ii) Audited Balance Sheet and Profit & Loss Account of the Company for the year to which the dividend relates.

(iii) Copy, certified by the Auditor, of the Board resolution declaring the dividend.

Remittance of
dividend to
non-resident
shareholders CH 16 76

(iv) List of non-resident shareholders to whom dividend is payable.

(v) Certificate from the Auditor of the company to the effect that the taxes payable by the non resident shareholder on account of the dividend earned has been deducted.

(vi) Auditor's certificate to the effect that the provision for income tax and/ or any additional liability (such as surcharge etc.) in connection with such taxes made in the accounts of the company is sufficient to meet all past and present tax liabilities of the company in Bangladesh upto the period for which remittance of dividend is applied for i.e. the provision should cover not only current year but also the previous years for which taxes have not yet been finally assessed and paid.

(vii) Final income tax assessment order as and when obtained.

viii) Before allowing remittance the ADs should ensure that the applicant has given undertaking to the effect that in case of remittance of any ineligible amount, the amount so remitted will be repatriated to Bangladesh on demand by the Bangladesh Bank/ by the AD.

(b) Each company will apply for dividend remittances through one nominated AD whose name should be communicated beforehand to the Foreign Investment and Inspection Department, Bangladesh Bank, Head Office, Dhaka. Any change in the nominated AD Bank should likewise be notified to the Bangladesh Bank well in advance.

(c) While allowing remittance of dividend the ADs should satisfy themselves that profit shown in the Balance Sheet and Profit & Loss Account has arisen out of the normal trading/ business activities of the company or out of past accumulated reserves which were remittable. In arriving at the profit out of which dividend has been declared and applied for remittance, ADs should in particular verify to ensure that all previous losses /tax liabilities, if any, have been fully adjusted against current year's net profit or against general/revenue reserve. Also, any cash subsidy granted by Govt. to the company should be deducted from profit in arriving at the divisible profit, unless allowed otherwise by the Bangladesh Bank.

(d) Remittance of dividend should be approved in Taka first and be effected after converting the Taka into equivalent foreign exchange at the rate ruling on the date of remittance.

(e) Immediately after the remittance of dividend is made, one full set of the application, audited annual Balance Sheet and Profit and Loss Account and all other papers shall be forwarded by the AD to the Foreign Investment and Inspection Department, Bangladesh Bank, Head Office, Dhaka for post facto checking. Another copy of the application form should be attached to the relevant Form TM while reporting the remittance to the relevant area office of the Bangladesh CH 16 77

Bank in the monthly returns. The third copy of the application form and copies of other papers should be retained by the AD for its record.

(f) The ADs will maintain separate company wise record of payment of dividends to the non -resident shareholders either by remittance or for credit to the Non -resident Investor's Taka Account (NITA, see Ch 14) as the case may be, under the above general permission, so as to facilitate their inspection by the Bangladesh Bank.

(g) Remittance of pre -liberation dividend will, however, require prior approval of the Bangladesh Bank. Such application should be forwarded by the ADs to the General Manager of Foreign Investment and Inspection Department, Bangladesh Bank, Head Office, Dhaka on Form TM alongwith all requisite documents for approval.

(h) Dividend warrants can be freely exported to the non -resident shareholders of both Bangladesh and foreign controlled companies provided the shares have been issued against payments in foreign exchange received through the banking channel or against payments out of NITA in the name of the shareholder in accordance with the general approval of the Bangladesh Bank accorded in this behalf.

(i) For joint venture enterprises, Bangladesh Bank shall allow remittance of the foreign partner's/ collaborator's share of profits on submission of application alongwith audited Balance Sheet, Profit & Loss Account etc. and other papers as per instructions contained in this paragraph.

31. On applications from the local newspapers, ADs may remit foreign exchange towards cost of subscription of news items, features, articles of foreign news agencies. Remittance should be made on the basis of (i) contracts entered into between the applicant and the foreign news agency and (ii) NOC of the Ministry of Information.

ADs may remit abroad costs/ fees on account of their own subscription to foreign media services such as Reuter monitor service, SWIFT without prior Bangladesh Bank approval.

Export of
dividend
Warrants
Remittance of
profits to foreign
partner in joint
venture
Subscriptions to
foreign media
services
Costs /fees for

32. ADs may without prior Bangladesh Bank approval effect remittance towards cost of advertisement of Bangladeshi products in mass media abroad. Remittance applications from the companies/firms in Bangladesh should be supported by the invoice from the foreign mass media concerned, and the applicant will have to submit copy of the advertisement within one month of its issuance. The AD shall preserve the invoice, application and advertisement copy for post facto checking by inspection officials of Bangladesh Bank.

33. The ADs may effect remittances towards settlement of dues to foreign banks of bank charges, cost of cables & other incidental charges arising in their normal course of the business without prior Bangladesh Bank approval. All such remittances should be reported to the Bangladesh Bank on Forms TM alongwith appropriate return.

CHAPTER 17

SECTION—I

INSURANCE BUSINESS

1. Foreign exchange regulations governing insurance business entered into and completed in Bangladesh are set out in this chapter. Branches and agencies in Bangladesh of insurance companies whose head offices are situated abroad are, from foreign exchange regulations viewpoint, regarded as resident in Bangladesh and are subject to the same instructions as insurance companies registered in Bangladesh.

Life Insurance

2. (i) Insurance policies on the lives of residents of Bangladesh may be issued only in Taka.

(ii) Existing Taka life policies may not be converted into foreign currency policies except with the prior approval of the Bangladesh Bank. Similarly, the records of an existing Taka policy may not be transferred to an office outside Bangladesh.

3. (i) Premiums on Taka policies on the lives of non-residents may be accepted in Taka if made by cheques drawn on a non-resident Taka account with an AD or if made out of funds remitted from abroad by the policy-holder through an AD.

(ii) Premiums collected on Taka policies must be credited to the insurance company's resident account. The remittance of such collections by the branches of non-resident companies to their overseas head office or branches is not permitted.

4. Policies may not be assigned by a resident in Bangladesh to a non-resident or by one non-resident to another non-resident in a different country without the prior approval of the Bangladesh Bank. There is, however, no objection to technical assignments of life policies to the head offices of overseas insurance companies as security for Taka loans granted by the branch in Bangladesh.

5. (i) The maturity proceeds or surrender value of Taka policies will be paid in Taka only.

(ii) The proceeds at maturity of Taka endowment policies or annuities held by foreign nationals who are temporarily resident in Bangladesh or who having been temporarily resident in Bangladesh have left Bangladesh, may not be transferred for payment outside Bangladesh without the prior approval of the Bangladesh Bank.

Types of policies

which may be

issued

Collection of

premium

Assignments

Payments of

claims CH 17 80

6. Bangladesh nationals may buy life insurance policies in foreign exchange

while residing abroad. On their permanent return to Bangladesh they may continue to pay the premia from foreign currency accounts maintained in Bangladesh. Remittance facility may also be allowed for premia payments provided:

(a) The foreign currency policy abroad was taken while the policy-holder was resident abroad;

(b) Nominee or assignee of the policy is a resident;

(c) The holder furnishes under-taking that the proceeds of the policy will be received in Bangladesh through normal banking channel; and

(d) Declaration is furnished by the applicant as per proforma at Appendix 5/52.

(e) The AD shall keep note of maturity date of the policy and inform Bangladesh Bank about non -repatriation if proceeds of the policy at maturity immediately in any such case.

7. Life and endowment policies which fall within the definition of securities cannot be taken or sent out of Bangladesh without the prior approval of the Bangladesh Bank. Applications for export of life policies should be made to the Bangladesh Bank giving full description of the policy and reasons for its export.

Non-Life Business

8. Exporters in Bangladesh may obtain insurance cover for shipments on cif basis, the policies may be expressed in Taka or in foreign currency. For fob/c&f export shipments, the insurance covers are arranged by the overseas buyers.

9. (i) Exports from and imports into Bangladesh under the public sector are required compulsorily to be insured with the Sadharan Bima Corporation (SBC). Private sector exporters and importers may take out policies from SBC or from any approved private sector insurance company in Bangladesh.

(ii) The insurance policies on account of imports into Bangladesh should be expressed in Taka except that in case of imports for projects/ industries which are financed by foreign loans/ grants, policies may be expressed in foreign currency if the terms of the loans/ grants so require.

(iii) Coastal shipments between places in Bangladesh may be insured only in Taka.

10. (a) Insurance cover on non -marine risks (excluding life) inside Bangladesh may be issued only in Taka. Nothing in this paragraph shall affect the operation of the warehouse to warehouse clause in marine insurance policies.

Export of

policies

Marine

policies- exports

Marine

policies -imports

Marine
policies -coastal
shipments CH 17 81

(b) Insurance cover on assets outside Bangladesh owned by residents of Bangladesh may be issued in Taka or in the currency of the country in which the assets are situated.

(c) Insurance of baggages and valuables in transit is subject to the same regulations as applicable to marine insurance policies.

11. (i) Claims on foreign currency policies may be paid to non-resident beneficiaries in the currency in which the policy is issued. Where a remittance from Bangladesh is required for this purpose, an application must be made to the Bangladesh Bank on Form TM accompanied by a declaration as per Appendix 5/48.

(ii) Claims on foreign currency policies whose beneficiaries are residents of Bangladesh may ordinarily be paid in Taka. Where the beneficiary requires payment in the currency of the policy, permission from Bangladesh should be applied for on Form TM accompanied by declaration as per Appendix 5/48. The beneficiary must explain in the declaration why payment in foreign currency is required.

(iii) All risks insurance policies on the assets of residents may be issued only in Taka.

(iv) Householders policies can be issued only in Taka.

(v) The issue of personal accident policies is subject to the same conditions as life policies.

(vi) Policies under the Workmen's Compensation Act and Merchant Shipping Act can be issued only in Taka.

12. (i) Premia on Taka policies of non-residents may be accepted in Taka if made by cheque drawn by the non-resident policy holder on his non-resident Taka account with an AD or if the payment is remitted from abroad by the policy holder through an AD. Insurer should not accept payment in Taka from resident accounts in such cases.

(ii) Premia on foreign currency policies issued by the Insurance Companies in respect of foreign nationals resident in Bangladesh can be collected Out of remittable Taka funds of the policy holder or through a remittance received from abroad. In respect of foreigner residing abroad the premia can be collected only through remittance from abroad.

13. Claims against Taka policies can be paid in Taka only, regardless of whether the beneficiary is a resident or otherwise.

Insurance of
baggage and
valuables in transit
Currency in which

policies may be
issued for
non-marine risks
(excluding life)
Currency in which
policies may be
issued-other risks
All risks insurance
Personal accident
insurance
Policies under
Workmen's
Compensation Act
and Merchant
Shipping Act

Householders
policies
Method of
Collection of perma
On (non-life
Business): Taka
policies
Premia
collection-foreign
currency policies
Method of
settlement of claim
(non-life business) CH 17 82
SECTION 11

REINSURANCE

14. Remittance facilities for reinsurance (non -life) abroad will be allowed to the insurance companies operating in Bangladesh by ADs without prior Bangladesh Bank approval subject to the following conditions:

(i) Remittances of premia-Facultative Reinsurance:

(a) Application for this purpose should be made on Form TNI accompanied by a declaration in the form given in Appendix 5/53.

(b) The application is supported by evidence in the nature of cover note etc., in respect of reinsurance effected.

(c) In case of applicant insurance companies other than the SBC, a certificate from SBC that the applicant has fulfilled the requirement of obtaining reinsurance cover through SBC to the extent statutorily prescribed.

(ii) Settlement of account- Treaty Reinsurance:

(a) The application is supported by a proforma statement of account signed by the Manager of the applicant company or an officer holding a power of, attorney and duly confirmed by the reinsurer.

(b) The applicant company has submitted quarterly statements of its

reinsurance account to the Bangladesh Bank through the AD.

(c) Proceeds certificate in case any amount of claim has been received in cash and the same is being accounted for through the statement of account.

(d) Applications for this purpose should be made on Form TNI accompanied by a declaration in the form in Appendix 5/54.

15. Remittance of premia towards reinsurance of life business done by an insurance company in Bangladesh under treaty arrangement with foreign reinsurers may be allowed by the ADs on application in TM Form along with declaration as per Appendix 5/54 subject to:

(a) Submission of Bordereaux.

(b) Furnishing of undertaking by the insurance company to repatriate receipts in settlement of claims under the reinsurance through an AD.

(c) A proforma statement of account signed by the authorised official of the insurance company.

Reinsurance-life:

Remittance of

premia CH 18 83

CHAPTER 18

PRIVATE REMITTANCES

1. Foreign nationals leaving Bangladesh permanently after expiry of period of service in terms of relevant employment contracts, may transfer abroad their genuine savings out of salaries/benefits clearly stated in the employment contracts duly approved by the Board of Investment (BOI). They shall also be eligible to transfer abroad the retirement benefits such as provident fund, pension, gratuity due as per employment contracts approved by the BOI.

2. The ADs may, without prior approval of Bangladesh Bank, effect remittance of retirement benefits and savings including sale proceeds of investments in government securities made in accordance with para 5 below (but not including sale proceeds of real assets such as household articles, real estates and other real assets, requests if any for remittance of such sale proceeds should be forwarded to Bangladesh Bank); as per instructions in the following paragraphs.

3. (A) Application and Supporting documentation.

Application as per proforma at Appendix 5/55 duly filled in by the applicant and his employer should be accompanied by :

(i) TM Form duly filled in and signed by the applicant.

(ii) (a) A certificate from the employer showing:

(i) Net salary and allowances for each year,

(ii) Provident Fund and leave salary paid on retirement,

(iii) Bonus and other gratuitous payments for each year,

(iv) Whether the cost of passage for self and family is being paid by the employer.

A certified true copy of the employment contract approved by BOI/the appropriate Department of the Govt. of Bangladesh should be produced in support of the above.

Where any of the above payments are not covered by the original service contract, a certified copy of the resolution of the board of directors of the employer company allowing the payment and approval thereof from the Govt. Department which originally approved the employment of the foreign national should be submitted.

In case of persons employed in the private sector, certified true copies of the relative permission letters for employment issued by the appropriate Govt. Department should be attached.

Transfer of
assets-foreign
nationals
retiring from
Bangladesh CH 18 84

(b) Bank's encashment certificate in support of receipt of funds, if any, from abroad.

(c) AD's certificate in regard to the applicant's investment in Govt . securities made for availing of the income tax relief showing also the amount realized from the sale proceeds and income accrued on the investments,

(d) Bank's certificate showing:

(i) Total amount of remittances made on account of family maintenance.

(ii) Total amount of remittances made on account of leave salary.

In case where the period of stay exceeds 10 years, the bank's certificate should cover the period of last 10 years.

(e) Statements of transactions in bank account for the last one year prior to the date of the application with explanation of sources of credit entries of Tk. 500 or more other than those relating to receipt of salaries and allowances.

(f) Application for transfer of actuarial reserve and relative insurance record in respect of insurance policy, if any, is required to be submitted through the insurance company concerned.

The Statements/ certificates mentioned by the sub -paras (b), (c), (d), (e) and (f) above are to be prepared by the ADs themselves on the basis of their own records.

(g) Clearance certificate in respect of income tax and other taxes payable.

(h) For remittance of pension/ provident fund/ gratuity on account of an employee retiring from a foreign -owned/ foreign controlled organisation, a certificate signed jointly by the employer organisation and its nominated AD that the relevant pension fund/retirement fund out of which the retirement benefits are payable are maintained in Bangladesh and that no remittance

towards contribution to any retirement fund maintained abroad has been made in respect of the applicant employee.

(B) Examination and processing of applications

(i) Before effecting remittance of retirement benefits the ADs should verify with reference to the terms of employment contract approved by the competent government department (currently BOI) that the CH 18 85

benefits applied for remittance are indeed due as per terms of the employment contract. In case of applicants retiring from foreign owned/foreign controlled companies, the ADs shall satisfy themselves, with reference to the certificate mentioned at para 3(A)(h) that the relative pension/retirement funds are maintained locally.

(ii) Before effecting remittance of funds representing savings, the ADs shall carefully examine the applications and supporting documents to satisfy themselves that the amount applied for remittance are the genuine savings out of the applicant's own legitimate earnings in Bangladesh. For this purpose they will look into the information on earnings of the applicant such as approved salary, allowance, bonus etc., debits for the applicant's local expenses out of such earnings, outward remittances already made or to be made; and inward remittances received from abroad, if any. Details of credits to bank account of the applicant during the preceding one year at least should be scrutinised to ascertain that only the items of the applicant's own legitimate earnings have been included in arriving at the amount of savings applied for remittance.

If on the basis of the above examination there emerges sufficient grounds to believe that the amount applied for remittance is in excess of the applicant's possible genuine savings, the AD shall effect remittance only to the extent of its own estimate of the applicant's genuine savings and thereafter refer the case to Foreign Exchange Policy Department, Bangladesh Bank for further consideration regarding the excess amount, with such additional explanation /representation as the applicant may wish to furnish.

(iii) Pension payments:

In cases where pension is payable at regular intervals after the initial lumpsum payment of retirement benefits, the ADs shall effect remittances of regular pension payments provided that life certificate in respect of the pensioner issued by the paying banker abroad is produced and the AD is satisfied on the basis of documentary evidence that the relative pension fund is maintained locally.

4. Remittances effected in accordance with the above instructions will be reported by the ADs to the concerned area office of Bangladesh Bank in the usual monthly returns. The ADs shall maintain full records of cases of remittance of retirement benefits and savings of foreign nationals disposed of by them, for eventual examination by the Inspecting officials of Bangladesh Bank.

5. All requests for investment by foreign nationals in Bangladesh Govt. securities such as defense savings certificate etc., for the purpose of claiming income tax relief against investment allowance should be submitted through the applicant's banker to the Bangladesh Bank for prior approval. While forwarding the application to the Bangladesh Bank, the bank will furnish a certificate to the following effect on the application form:

- (i) The investment is proposed to be made out of the applicant's genuine savings in Bangladesh.
- (ii) The applicant does not have local borrowings and overdrafts.
- (iii) The proposed investment is for qualifying for tax relief against the investment allowance allowed by income tax authorities.

If, however, the applicant has local borrowings and overdrafts, full details thereof should be furnished viz.,

- (i) The date on which the, loan /overdraft was obtained;
- (ii) The purpose for which the loan /overdraft was obtained; and
- (iii) The amount of loan /overdraft outstanding as on the date of application for investment in Govt. securities.

6. Application for remittance of sale proceeds of real assets such as household articles and real estates, should be forwarded to the Bangladesh Bank with the following documents /certificates:

- (i) Statement of sale proceeds realized in respect of locally purchased articles of value Tk. 500 or more mentioning:

- (a) Description,
- (b) Purchase price,
- (c) Date of purchase,
- (d) Date of sale, and

- (e) Sale proceeds realized.
Relative sale receipts or their certified true copies should be produced.

- (ii) A statement of sale proceeds realized in respect of articles imported/ brought from abroad of value Tk. 500 or more mentioning a) Description, (b) landed cost in Bangladesh, (c) date of import, (d) date of sale, (e) sale proceeds realized.

Investments by
foreign nationals
in certificates/
securities etc.
Remittance of

sale proceeds of
real assets CH 18 87

Relative import documents and relative sale receipts
or their certified true copies should be produced.

7. Application for remittance of legacies and other distributions from estates of deceased persons due to beneficiaries resident outside Bangladesh should be forwarded to the Bangladesh Bank. Such applications should contain the following information and supporting documents:

(i) Name, nationality and place of residence of the deceased at the time of his death. If the deceased person was resident of Bangladesh the period of such residence should be stated.

(ii) A copy of the relative clauses in the Will after probate has been granted or if the deceased died intestate, in the Letters of Administration; in both cases authenticated by a Notary Public, any Court, Judge or Magistrate in Bangladesh or in the country of residence of the deceased if he died abroad.

When making applications a full statement of the assets of the deceased in Bangladesh should be given including a statement of bank account and all other assets. The balance in the bank accounts representing income earned during the year should be stated separately in cases where the deceased was a person resident outside Bangladesh. The amounts which are not allowed to be remitted to the beneficiaries will be permitted by the Bangladesh Bank to be credited to a blocked account in the name of the executor or administrator with a bank in Bangladesh. If any security, shares and real estate which have been specifically bequeathed to persons resident outside Bangladesh are to be transferred to such beneficiaries, the application should also contain full particulars of such securities, shares and real estate.

8. (a) Foreign nationals who are resident in Bangladesh and who have an income in Bangladesh are permitted to make monthly remittances to the country of their domicile out of their current savings up to 50% of their net income to cover their commitments abroad.

(b) This remittance facility is not available to foreign born wives of Bangladesh nationals.

(c) The AD bank branch that receives the pay checks from the employer for credit of the personal account of the foreign national shall process and approve such remittance applications submitted as per Appendix 5/56 alongwith TM Form and attested copy of the employment contract duly approved by the BOI or other relevant Govt. authority (renewed/ revalidated upto date, where needed).

Legacies and
Other
distribution of
assets from the
estates of

deceased persons
Family
Remittance
facility CH 18 88

(d) Salary on which remittance entitlement is calculated would exclude monetary value of various facilities, such as, free house, transport, servants, boarding etc., as also cash payments towards conveyance, entertainment, house rent etc. The term 'net income' would in this context signify gross income of the applicant less all compulsory deductions such as, income tax, provident fund and pension fund, house rent and other deductions which are of a fixed nature. Bonus or commission receivable by foreign nationals cannot be added for calculating monthly entitlement in anticipation of the grant of bonus or commission, the inclusion will be made only after the net amount of bonus or commission has been actually paid by the employers and will be spread over the subsequent twelve months.

(e) Net salary (as calculated in terms of the preceding para) of the foreign nationals payable for the period of leave admissible to them as per their service contract duly approved by the Govt. will be remittable. In such cases a declaration from the employer to be obtained to the effect that leave for which remittance is claimed - has been earned exclusively on service tendered in Bangladesh. Such remittance should be effected on approval by the employer. The employer should also be advised that the remittance for the remaining period will not be admissible should the employee return to Bangladesh earlier than the period for which it was intended for.

Family remittance facility will not be admissible for the period for which leave salary will be availed of,

(f) Foreign exchange may be released for short travels abroad during approved employment period of the foreign national and his/her spouse and other family members; amounts so released should be adjusted from the monthly remittance entitlement, or from the leave salary remittable as per subpara (e) above. Such release of foreign exchange would be against tickets evidencing confirmed date of travel within two weeks from the date of issuance of foreign exchange in TCs.

(g) Remittances effected in accordance with the above instructions will be reported to the Bangladesh Bank in the usual monthly returns of the ADs. The ADs shall maintain full records of such remittances, for eventual examination by Inspection officials of Bangladesh Bank as also for reference while processing applications for remittance of savings on retirement from Bangladesh.

Remittance of
leave salaries of
foreign

nationals
Foreign
Exchange
issuance against
family
remittance
facility/leave
salary for travel
abroad CH 18 89

9. The ADs may release foreign exchange towards remittance of membership fees of foreign professional and scientific institutions and fees for application, registration, admission, examination (TOEFL, SAT etc.) in connection with admission into foreign educational institutions on the basis of written application supported by demand note/ letter from the concerned foreign institution showing the amount to be remitted. The draft/TT etc. to be issued for such remittances should be payable direct to the Institution concerned and the transaction should be reported to the Bangladesh Bank supported by Form TM in the usual monthly return.

10. Foreign exchange may be released by the ADs for admission and study by Bangladesh nationals in regular courses in recognised educational institutions abroad subject to verification of bonafides according to the following drill:

(A) Application and required Papers

(i) Application (Appendix 5/57) duly filled in;

(ii) Original and photocopy of admission letter issued by the educational institution in favour of the student (such as the I-20 in the case of US institutions);

(iii) Original and photocopy of estimate relating to annual tuition fee, board and lodging, incidental expenses etc. issued by the concerned educational institution (I -20 in case of US institutions);

(iv) Attested copies of educational certificates of the applicant; and

(v) Valid Passport.

(B) Examination and processing by AD

(a) After scrutinising the application and the supporting documents submitted the AD shall issue foreign exchange as per estimate furnished by the educational institution subject to adjustment with the travel entitlement. On application from the concerned student, expenses in transit not exceeding US dollar 200 or its equivalent in other freely convertible currency may be allowed out of travel entitlement described in para 1 of Chapter 19 of 'Guidelines of Foreign Exchange Transactions, 1996, Volume-1'.

(b) In each case of sale of foreign exchange, the front page of the original letter of estimate/acceptance letter issued by the concerned educational institute should bear clearly the round stamp of the foreign exchange

issuing bank branch and also the signature of the officer of the said branch.

Membership
fees, fees for
application,
registration,
admission,
examination etc. CH 18 90

(c) After verifying the original copies of papers referred to in para 10(A) above, the foreign exchange issuing ADs would attest the photocopy thereof and preserve the same. Thereafter the original copies would be returned to the applicant.

(d) Foreign exchange payable to the educational institution should be issued in favour of the institution concerned in the form of TT/MT/Draft. If payment on account of board and lodging/ incidental expenses etc. are not required compulsorily to be in favour of the educational institution, foreign exchange on these counts may be issued in favour of the student in the form of TC /Draft etc. Educational institutions sometimes require applicants to send advance amounts for processing of applications, retention of seats etc. If the papers of the foreign educational institution clearly state such requirement, advance remittance may be effected.

(e) The facility of purchase of foreign exchange/ remittance will not be admissible for more than one academic year at a time.

(f) For each release of foreign exchange subsequent to the first release, the current progress report and current estimate of the educational institution should be taken into consideration. The ADs shall maintain separate file for each Student with all relevant papers in readiness for perusal by inspecting officials of Bangladesh Bank.

(g) All purchases of foreign exchange throughout the entire duration of a course of study pursued abroad should be from one AD bank branch. For any intended change in this respect, the relevant file shall be transferred direct to the concerned new AD branch on written request by the student. Under no circumstance should the file be handed over to the student.

11. Consular fees collected by foreign embassies in Bangladesh Taka and deposited in a Taka Account maintained with an AD solely for depositing the consular fee collections may be remitted abroad without prior Bangladesh Bank approval; the AD shall report such remittance in the usual monthly returns alongwith the relevant TM Form to the concerned area office of the Bangladesh Bank.

12. Immigration visa processing fees and evaluation fees for evaluation of educational certificates, demanded by Foreign Immigration Authorities from resident Bangladesh nationals applying for Immigration Visa, may be remitted by ADs as per demand notes of the Foreign Immigration Authorities, on approach by the applicants. Such remittances shall also be reported to the area offices of Bangladesh Bank in the usual monthly returns alongwith relevant TM Forms.

13. Applications for remittance of moderate amounts of foreign exchange for maintenance of family members (dependent parents, spouses and children) living abroad may be forwarded by ADs to the Bangladesh Bank for consideration and prior approval. Each application should be supported by a certificate issued by the relevant Bangladesh Embassy regarding residency of the beneficiaries, extent of income abroad alongwith the Embassy's recommendation as to moderate requirement for family maintenance purpose. The certificate should also indicate the purpose for which the family member(s) went abroad, reasons for continued residence abroad and the probable period of stay abroad.

14. Applications for remittances by private individuals for purposes other than those mentioned above should be made on Form TM on which full details of the purpose of the remittance should be stated and full documentary evidence in support of the application be attached. The ADs must satisfy themselves regarding the bonafides of each case through their personal knowledge of the applicant, if any, or evidence which the applicant may be able to produce. After thus satisfying themselves, the ADs should certify the application and forward it to the Bangladesh Bank for consideration. In each case the nationality of the applicant should be stated and if the applicant is not a resident in Bangladesh, the country of residence of the applicant should be clearly stated. If the applicant is a foreign national, the period of residence in Bangladesh and his intention as to future residence should be declared. Particulars of any permit obtained by him for making monthly remittances to his country of domicile should be given.

Remittance of
consular fees
Remittance of
Immigration
Visa processing
fees and
Evaluation
fees.

Family
Maintenance
abroad by
resident
Bangladesh
nationals
Other private
remittances CH 19 92

CHAPTER 19

TRAVEL

1. (i) The amount of exchange released by an AD to a traveller with the approval of the Bangladesh Bank or under general authority given to the ADs should be recorded by them on the traveller's valid passport as well as ticket under their stamp and signature at the time of release of such exchange. However, while issuing foreign exchange to the Diplomats / Privileged persons/ UN personnel, Govt. officials travelling on official duties, such endorsement in their passports need not be made. The AD should verify to satisfy itself that the ticket covers a journey to be undertaken not later than two weeks after the date on which exchange is issued. No exchange should be sold against tickets which do not specify the date of departure.

(ii) The ADs may release foreign exchange upto US\$ 1000 or equivalent per person during a calendar year to Bangladesh nationals proceeding by air to destinations in SAARC member countries and Myanmar; within this annual limit, upto US\$ 500 or equivalent may be issued per person for overland travels to the aforesaid countries. For visits of Bangladesh nationals to destinations in countries other than those mentioned above, upto US\$ 3000 per person may be issued during a calendar year. The above limits are indicative, Bangladesh bank will authorise release of foreign exchange for travel abroad beyond these indicative limits upon submission of documents regarding the bonafides of the expenses. Application for such authorisation should be sent to Foreign Exchange Policy Department of Bangladesh Bank.

(iii) The annual quotas mentioned above are for adult passengers. For minors (below 12 years in age) the applicable quota will be half the amount allowable to adults.

(iv) While releasing foreign exchange for travel abroad, the AD should verify and satisfy itself that any foreign exchange released for an earlier travel was utilised with the journey being actually undertaken or was duly encashed unutilized.

(v) The travel entitlements mentioned above may be utilised also by way of international credit cards issued in the names of the persons concerned. Instructions relating to the issue and use of such credit cards are laid down at Ch. 20.

(vi) While releasing foreign exchange for travel purposes the ADs should ensure that:

(a) the intending traveller is a client of the AD bank or is sufficiently well known to the AD bank for it to be satisfied about the bonafides of the application;

Release of
foreign exchange
endorsement on
passport and
ticket
Release of
foreign exchange
for travel abroad CH 19 93

(b) The indenting traveller is in possession of a confirmed air ticket (where applicable) for journey to be undertaken

(c) the amount released is endorsed on the passport and air ticket (where applicable) of the traveller with indelible ink, with the signature and the name of the AD branch embossed in the passport and ticket (where applicable);

(d) in each case of release of foreign exchange for travel abroad, photocopies of first six pages of the passport and the page recording endorsement of foreign exchange, and photocopies of the pages of ticket showing- name of the passenger, route and date of Journey and endorsement of foreign exchange alongwith the relative TM Form should be sent to Bangladesh Bank alongwith report of the transaction in the usual monthly returns.

2. All applications for foreign exchange for travel abroad on health grounds should be submitted in form as at Appendix 5/58, in duplicate. Upto US \$ 10,000 or equivalent may be released by the AD on the basis of the recommendation of the Medical Board set up by the Health Directorate or on the basis on the need established through recommendation of appropriate medical specialists and the cost estimate of the foreign medical institution. Requests for release of foreign exchange exceeding US\$ 10,000 for treatment abroad should be forwarded by the AD with supporting documents to Bangladesh Bank, which will authorise release upon verification of the bonafides of the expenses.

3. For official or semi-official visits abroad by the officials of Govt. Autonomous /Semi-autonomous institutions etc, ADs may release foreign exchange as per entitlements fixed by the Ministry of Finance from time to time. In such cases, the applicant for foreign exchange shall be required to submit the sanction letter and the Competent Authority's Order /Notification /Circular authorising the travel.

4. Authorised Dealers may release foreign exchange to private sector participants for attending seminars, conferences and workshops abroad at the scale of upto (i) US\$ 200 per diem for SAARC member countries and Myanmar and (ii) US\$ 250 per diem for other countries. Foreign exchange may be released only for the actual period of the seminar/workshop/conference to be held, on the basis of invitation letters received in the names of the applicants or their employer institutions. Photocopy of the invitation letter and all other related documents should be kept in record by the ADs for post facto scrutiny by the inspection officials of Bangladesh Bank. Release of foreign exchange beyond the above mentioned indicative limits will be allowed by Bangladesh Bank upon submission of requests supported by documented proof of the expenses. Applications for such release should be sent to Foreign Exchange Policy department of Bangladesh Bank.

5. Foreign exchange may be released to private individuals as well as to

officials of Govt., Autonomous and semi-autonomous bodies for undertaking educational tours, attending seminars, workshops etc. abroad by debit to convertible Taka accounts of foreign NGOs

Health travel;
release of
exchange
Official or semi
official visits by
employees of
govt./
autonomous/
semi-
autonomous
bodies
Release of ex
change by debit
to convertible
Taka account for
travel abroad CH 19 94

and International Bodies at their request. In the cases of officials of Govt., Autonomous/semi-autonomous bodies the application for release of foreign exchange should be accompanied by the permission letter of the competent authority authorising their proposed travel abroad.

6. The ADs may issue foreign currency TCs to foreign nationals without any limit and foreign currency notes upto US \$ 1500 or equivalent per person against surrender of equivalent amounts in foreign currencies. The TCs and foreign currency notes should, however, be delivered only on production of a ticket for a destination Outside Bangladesh and the amount issued should be endorsed on the relative passports. In the case of travel by car, the ADs may accept export -cum-import permits in lieu of tickets.

7. (i) Upto US\$ 6000 or equivalent may be issued by an AD to a new exporter for business travel abroad, against recommendation letter from Export Promotion Bureau (EPB). Genuine requirements for his/her amounts will be considered by Bangladesh Bank on applications submitted through ADs with supporting documents.

(ii) Importers are entitled to a business travel quota @ 1% of their imports settled during the previous financial year while non-exporting producers for local market are entitled to such business travel quota @ 1% of their turnover of the preceding financial year as declared in their tax return; subject in both cases to upper ceiling of US\$ 5000. The same business organisation engaged in imports as well as production shall be allowed such business travel quota entitlement only on one count. Bangladesh will grant release of foreign exchange for travel abroad beyond the above mentioned indicative limit upon submission of documentary proof of the expenses. Application for such release should be sent to Foreign Exchange Policy Department of Bangladesh Bank.

8. Attention of all persons granted foreign exchange for travel should be drawn to sub-section (3) of Section 4 of the FER Act. No person acquiring foreign exchange for travel may use it for purposes other than living or travelling expenses in the country for which exchange is issued and in case of special allotment, for purposes other than those for which exchange is sanctioned. On return, unspent amounts brought back (with declaration in FMJ form for

amounts more than US\$ 3000) may freely be encashed to Taka or may be retained in RFCD accounts; upto US\$ 3000 may be retained in hand.

9. ADs may allow reconversion into foreign exchange of the unspent Taka funds of foreign tourists (i.e., foreign nationals on temporary visit to Bangladesh except those on employment in Bangladesh) on production of the certificate evidencing the encashment of foreign currency brought in by the tourist. Reconversion shall be allowed by the same AD with which the foreign currency was encashed earlier, on the strength of the original encashment certificates which will be retained by the AD while allowing reconversion. The FMJ Form containing the declaration of the foreign exchange brought in at the time of arrival should be asked for and retained by the AD where reconversion exceeds US\$ 3000.

Issue of TCs
and
foreign
currency
notes to foreign
nationals
Business travel
entitlement for
new exporters,
importers and
non-exporting
producers
Disposal of
unspent foreign
exchange by
returning
residents
Reconversion of
unspent taka into
foreign exchange
by foreign
tourists CH 19 95

10. The Government of Bangladesh announces each year the scale at which foreign exchange may be issued to intending pilgrims for performing Hajj. Release of foreign exchange for this purpose should be made as per instructions to be issued for this purpose by Bangladesh Bank each year.

11. Airlines /Shipping Companies and their authorized Travel Agents have been given general authority to issue tickets for travel abroad subject to the following instructions:

(i) Travel abroad by resident Bangladesh nationals: Tickets against payment in Bangladesh Taka may be issued by the Airlines / Travel Agents for these travels on completion of P Form (Appendix 5/32) in duplicate and production of valid passport with valid visa, involving journey by a route and at a fare approved by the Civil Aviation Authority of Bangladesh (CAAB). In case of travel abroad by officials of Govt./ Autonomous / Semi-Autonomous bodies / Public sector corporations or Local Government agencies on official duty or as member of official delegation, tickets shall be issued on Bangladesh Biman only.

However, if the total cost of such visit including cost of passage is borne by foreign organizations/International Agencies, an exception may be

made. If the Passport of the intending traveller shows that the traveller is employed with any Govt. or Autonomous / semi autonomous body or public sector agency, the Airline/Travel Agent may issue ticket only if the Order or NOC from the concerned administrative Ministry / Division /Department authorising the travel is produced.

The above provision of issuance of ticket against payment in Taka would also be applicable for those foreign nationals who work in Bangladesh with the approval of the competent authorities of the Govt. of Bangladesh and draw their pay and allowances in Bangladesh Taka; or whose costs of travel abroad, as per terms of their service, are to be borne by the employing Organisation /Agency. In such cases, attested photocopies (in duplicate) of sanction letters of the competent authorities of the Govt. of Bangladesh and service contract should be asked for before issuing tickets and submitted to the ADs alongwith monthly statement.

(ii) Travel of Bangladesh nationals to destinations outside the country on employment:

The Airline /Travel Agent should ask for the following documents before issuing /okaying tickets for such travels:

(a) Form P or P -2, (Appendix 5/33) as the case may be, duly completed.

b) Valid passport with valid visa. In case the Passport shows that the intending traveller is employed with Govt. or with any Public Sector Agency /Autonomous

Release of
foreign exchange
for Hajj
Issuance of
tickets for travel
abroad CH 19 96

body, Order /NOC from the concerned administrative Ministry authorising the travel abroad should be produced.

(c) Clearance from The Bureau of Manpower Employment and Training(BMET) in the form of endorsement in Passport.

(d) Visa/Entry permit issued by the concerned country's Embassy /High Commission in Bangladesh duly attested by the BMET. In case entry permit or visa including group visa is issued from abroad, the same should be attested by the Bangladesh Mission in that country as well as by the BMET.

In case the entry permit or visa does not bear attestation by Bangladesh Mission abroad, the genuineness of the employment is to be certified in clear terms by the BMET.

(iii) Travel abroad by Bangladesh nationals against tickets /PTAs received

from abroad.

Passages may be booked by the Airlines/Travel Agents for the above category of travels on completion of P -2 F orm and production of valid passport with valid visa by the passengers subject to the condition that the journey will be undertaken exactly for the routes for which tickets /PTAs have been received. If the intending traveller is employed with the Govt. or with any public sector agency or autonomous body, instructions of sub -para (iv) below should be followed. In case the PTAs are meant for travel of Bangladeshi scholars /students for studies abroad, instructions of sub -para (v) below should be followed.

(iv) Travel by Officials of the Govt. and of Public Sector Agencies including autonomous/semi-autonomous bodies against PTAs received from abroad where cost of ticket is paid/borne by foreign Government Agencies, UN organizations, International non -profit organizations like International Committee of Red Cross, British Council, Ford Foundation, Commonwealth Secretariat, Colombo Plan Secretariat, Islamic Secretariat, foreign universities etc. for attending conference, seminars etc. or for any other purpose abroad:

Airlines/Travel Agents may book passages for these travels on production of the following documents/particulars to them by the travellers concerned:

(a) A photocopy or an authenticated copy of Order/NOC from the administrative Ministry concerned authorising the travel abroad. In cases where the visits are sponsored by any other Ministry, a photocopy or authenticated copy of clearance from the sponsoring
CH 19 97

Ministry should also be produced. These Orders /NOCs should be retained by the Airlines for their records.

(b) Valid Passport, with valid visa where required.

(v) Travel by Bangladeshi Scholars /Students for studies abroad against PTAs received from abroad where cost of ticket is paid by foreign Governments /foreign Universities /internationally reputed non -profit Institutions like British Council, Ford Foundation, Commonwealth Secretariat, Colombo Plait Secretariat, Islamic Secretariat etc:

Passages may be booked by the Airlines /Travel Agents for the above categories of travels on production of photocopy or authenticated copy of Order /NOC from the Ministry which has sponsored the travel and valid passport with valid visa. If the intending traveller is employed with Government or with any public sector agency/Autonomous/ semi-autonomous body, copy of the Order /NOC from the administrative Ministry concerned authorising the travel should be asked for before booking the passage. The Airline should retain the Order /NOC for their record.

(vi) Trav el by foreign nationals, foreign diplomats and privileged persons against encashment of foreign currency notes /TCs /Drafts or against inward remittance from abroad or by debit to private foreign currency accounts/convertible Taka accounts maintained by fo reign nationals /firms /companies /organizations with ADs in Bangladesh or against PTAs /tickets received from abroad.

Airlines /Travel Agents may issue tickets for the above category of travels for journeys originating from abroad or from Bangla desh if the person undertaking the travel is the account holder himself, his /her spouse /children or an employee of the Firm/Mission/Company /Organisation maintaining the foreign currency account /convertible Taka account subject to completion of P -2 Form by the Traveller concerned and observance of the following drill:

(a) For issuance of tickets against encashment of foreign currency notes /instruments /TTs /MTs etc. or against encashment of foreign exchange from private foreign currency account, Encash ment Certificate issued by an AD in the proforma prescribed at Appendix 5/34 should invariably be produced by the traveller concerned to the Airline /Travel Agent. The passage should be booked within one month from the date of issue of the Encashment Certificate.

Booking of passage against encashment of foreign exchange from foreign currency accounts maintained by Bangladesh nationals is admissible only for passengers holding Bangladesh passports. Airlines CH 19 98

/Travel Agents should not issue tickets in favour of any foreign national against encashment of foreign exchange from foreign currency accounts maintained by Bangladesh nationals without prior approval of the Bangladesh Bank. Offline airlines also should not issue tickets against encashment of foreign exchange from foreign currency accounts of Bangladesh nationals without prior approval of the Bangladesh Bank.

(b) In case of issuance of tickets by debit to convertible Taka account, the cost of passage should be accepted in the form of Account Payee cheques /Pay Orders drawn on the relevant convertible Taka account in favour of the Airline /Travel Agent. Where the Account holder is not a Foreign Mission, International Organisation, diplomat or a privileged person, a certificate from the bank concerned in the proforma as at Appendix 5/35 certifying that the account on which the cheque/pay order has been drawn is a convertible Taka account and also stating the account number and the amount to be debited, will have to be produced alongwith the Cheque /Pay Order. In cases where the account -holder is a foreign diplomatic mission, diplomat/privileged person or expatriate personnel of UN and its affiliated agencies or IMF, IBRD, IDA or other international or regional financial or loan giving agency or their expatriate personnel, a declaration should be obtained by the Airline /Travel Agent /Shipping Company from the concerned organisation /person showing the name of the bank with which the convertible Taka account is maintained, the account nu mber and the amount debited towards cost of passage. The concerned Airline /Travel Agent /Shipping Company should submit these declarations to the ADs alongwith their usual monthly passage statements. The Airline /Travel Agent shall also obtain a certificate from the account -holder stating his/her

relationship with the passengers in case ticket is to be issued in favour of spouses or children; and in case of issuance of ticket in favour of officers/staff of foreign missions/organisations, certificate from the Mission or the organisation stating that the intending traveller is their employee should be asked for. Airlines /Travel Agents will submit these certificates to the ADs alongwith their usual passage statements.

(c) Passages may be booked for travel of foreign diplomats/privileged persons and other foreign nationals in Bangladesh against PTAs/Tickets received from abroad. Tickets may also be issued to foreign tourists against approved credit cards brought in by CH 19 99

them from abroad. Issuance of tickets for travel by foreigners not falling within the above categories would require prior approval of the Bangladesh Bank.

(vii) Travel by Ship's crew of Bangladesh origin:

(a) In case of ship's crew of Bangladesh origin proceeding abroad to join vessels abroad, tickets may be issued against PTAs received from abroad as well as by debit to the foreign Shipping Company's Account maintained in Bangladesh in the name of the Shipping Company or Shipping Agent. For issuance of tickets against foreign Shipping Company's Account, payment of cost of passage should be received by Account Payee Cheques drawn on the Shipping Company's Account. The concerned Shipping Agent /Company should furnish certificate from its banker as per proforma at Appendix 5/36 stating the name of the bank with which the account is maintained, the name of the foreign Shipping Company and the amount to be debited. The certificate should be submitted to the AD alongwith the usual monthly passage statements of the Airline.

(b) Before issuing tickets favouring ship's crew of Bangladesh nationality, the Airline /Travel Agent must satisfy itself on the basis of documentary evidence that the crew possesses valid CDC and clearance issued by Shipping Master of Government of Bangladesh about the recruitment abroad. Copy of the Shipping Master's Clearance should be forwarded alongwith the usual monthly passage statement to the AD.

viii) Travel by Ship's crew of foreign nationality.

Outward passages of foreign ship's crew of foreign nationality may be booked against inward remittances or by debit to foreign Shipping Company's Account maintained in Bangladesh in the name of the Shipping Company /Shipping Agent. For booking of passages against inward remittances, the Shipping Agent/Company

should produce Encashment Certificate from the concerned Bank in the proforma at Appendix 5/34 and the drill as contained in sub-para vi(a) should be followed. In case of booking of passages against payment from foreign Shipping Company's Account, bank certificate in the proforma at Appendix 5/36 should be produced and the relevant instructions of sub -para vii(a) above should be followed. CH 19 100

(ix) Travel against rebated tickets issued by Airlines/Shipping Companies:

(a) Tickets against Free passages (i.e. 100 % rebated) allowed by the Airlines/Shipping Companies favouring their own employees including family members or to their Travel Agents may be issued subject to completion of P-2 Form by the traveller concerned.

(b) In respect of partly rebated passages allowed by the Airlines/Shipping Companies to their own employees including family members or to their Travel Agents, tickets may be issued on completion of P Form by the traveller concerned for travel abroad once in a year.

12. (a) (i) Before passages can be booked in terms of paragraph 11 above, the intending travellers shall be required to fill in and submit the P Form/P-2 Form to the Airline /Travel Agent / Shipping Company booking the passage. These should be forwarded to the ADs by the airlines while reporting the sales of tickets in the monthly passage statements.

(ii) Airlines should in their own interest exercise utmost care in booking passage strictly in accordance with the guidelines given in the above paragraph. For any irregularity /discrepancy in booking passage under this authority delegated to them, the concerned officials of the Airline or the Travel Agent will be liable for penal action under the FER Act.

(iii) Airlines will furnish monthly passage statements to the AD in respect of passages sold /tickets issued under the authority given in the above paragraph in the usual proforma together with the documents as indicated in foregoing paragraphs as per prescribed time schedule.

(iv) If the Airline /Shipping Company/Travel Agent has any reason to doubt in any case the genuineness of the certificates /documents produced to them by the intending traveller, they should immediately get in touch with the concerned area office of Bangladesh Bank for instructions.

(v) Bangladesh Bank reserves the right to inspect at any time the books and records of the Airlines, Shipping Companies and the Travel Agents to ensure compliance with the instructions issued by Bangladesh Bank.

(b) Booking of passage in cases not covered by the general authority given to the Airlines /Shipping companies /Travel agents at paragraph 11 above would require prior approval of Bangladesh Bank in Form P/Form P-2. Bangladesh Bank's approvals in these forms shall remain valid for travel for 3 calendar months from the date of approval. Travel on international sectors should commence within the validity of P Form/P -2 Form failing which such tickets will require CH 19 101

revalidation even though the journey on domestic sectors against such tickets had been performed within the validity of the forms.

13. (i) Booking of passage may be made for outward journey by a route and at a fare approved by the Civil Aviation Authority of Bangladesh(CAAB). Fare ceilings on various routes are notified by the CAAB from time to time for guidance of the Airlines and the Travel Agents.

(ii) No ticket for outward journey from Bangladesh should be issued by an Airline /Shipping Company or Travel Agent which do not specify the actual date of departure. If an application is made subsequently to the Airline /Shipping Company or Travel Agent to alter or amend the date of departure they should examine such tickets with a view to determining whether any exchange has been drawn against such tickets. Where foreign exchange has been drawn against the ticket, no extension of date of departure should be granted without specific approval of the Bangladesh Bank in each case.

14. (a) Booking of inward passages against payment in Taka for persons holding Bangladesh passports who proceeded abroad on one way tickets would require prior Bangladesh Bank approval in Form P. Booking of inward passages against payment in Taka for foreign nationals would also require prior Bangladesh Bank approval in Form P.

(b) Airlines /Shipping Companies /their Travel Agents may issue Prepaid Ticket Advices in favour of foreign guests invited by Govt./ Autonomous/semi-autonomous organizations, UN organisations, local agencies of International organizations in Bangladesh. These PTAs may be issued against application by the concerned organisation in the Form prescribed at Appendix 5/59.

15. Refunds against cancelled /unutilized tickets/vouchers should be made only after the passenger produces his/her passport, and after being satisfied that any foreign exchange issued has been encashed with an AD or the entry has been duly cancelled by an AD or that the document bears no evidence of any exchange issued to the holder. Sometimes exchange is drawn by one passenger on behalf of a group of persons travelling together. In such cases if any member of the group cancels his/her booking, no refund of passage money should be made unless his/her quota of exchange has been refunded to or encashed with an AD and necessary evidence to this effect is produced to the Airline /Shipping Company /Travel Agent. This requirement of encashment of unutilised foreign exchange applies in all cases. Refunds by the Airline /Shipping Company /Travel Agent should invariably be made by cheques drawn on the official account of the Airline /Shipping Company /Travel Agent concerned with a bank in Bangladesh. In all other cases, no refund should be granted against part or whole cancellation of ticket unless prior approval of the Bangladesh Bank is obtained.

Booking of
inward passages
Refunds against
cancellation of
tickets

However, where a passenger once undertakes the foreign travel it should be construed that the foreign exchange released to him/her has been utilized for the purpose for which it was released. Airlines /Shipping Companies /Travel Agents may, in such cases allow refund of the cost of the cancelled /unutilized portion of tickets without insisting on production of passport of the passenger concerned if it is otherwise evident that the passenger undertook the foreign travel and stayed back abroad for any reason.

16. (i) In all cases of bookings made against payments in Taka, whether single or round trip, no refund should be granted outside Bangladesh. In all such cases refunds should be made only in Bangladesh in Taka to the Bangladeshi nominee/ authorized person of the passenger concerned. All tickets/ vouchers etc., must be marked accordingly. Airlines and Shipping Companies should also ensure that such refunds are not given in the form of exchange vouchers or in any other form which can be used for further transportation. All such refunds must be made either by cheque or by actual cash payment in Bangladesh.

17. Passages for journeys to be performed from one place out of Bangladesh to another place out of Bangladesh i.e. for performance of journey wholly outside Bangladesh should not be booked against Bangladesh Taka without the prior permission of the Bangladesh Bank in Form P.

18. Airlines /Shipping Companies /Travel Agents may make adjustment upto Tk. 600 without prior approval of the Bangladesh Bank towards cost of passages approved on Form P within the validity of the form, if the fare changes upward or downward.

19. Airlines /Shipping Companies /Travel Agents may accept freight in local currency for the excess baggage (accompanied or unaccompanied) only in the following cases without prior approval of Bangladesh Bank:

(a) Freight for transportation from foreign countries to Bangladesh of accompanied as well as unaccompanied baggage by the returning Bangladesh nationals on freight to pay basis;

(b) Freight on samples, advertisement materials and presentations imported into Bangladesh on freight to pay basis as per provisions of Import Policy Order in force.

In both the cases, two sets of dummy P Forms alongwith the monthly statements are to be submitted to the ADs.

(c) Freight for transportation from Bangladesh to destinations abroad of excess accompanied and unaccompanied baggage may be accepted by Airlines etc. in Bangladesh Taka without prior approval of the Bangladesh Bank as per guidelines given below:

No refund outside
Bangladesh
Acceptance of
fare difference
Acceptance of
freight of excess
baggage CH 19 103

(i) For Bangladesh nationals, upto Taka 200 in each case for destinations in India, Nepal, Pakistan and Sri Lanka and upto Taka 750 in each case for other destinations. Acceptance of amounts beyond these limits will require prior approval of the Bangladesh Bank.

(ii) Freight payable by the Diplomats and members of foreign diplomatic missions provided payment is made by cheque drawn on their respective convertible Taka accounts maintained with ADs in Bangladesh.

(iii) Freight payable by the foreign personnel of UN organisations provided payment is made by cheque drawn on their official bank accounts maintained with ADs in Bangladesh.

(iv) Freight payable by foreign nationals employed in Bangladesh with the permission of the Govt. if the cost of such freight is to be borne by the employer as per terms of service contract approved by the Government. If not, acceptance of freight in Taka will be permissible subject to the adjustment of the amount against the family maintenance permits, if any, of the concerned foreign national. For this purpose the Airline /Shipping Company /Travel Agent should ask for a certificate from an AD in Bangladesh in confirmation of the freight cost having been adjusted against a valid family maintenance permit of the applicant held by the AD concerned.

(v) Foreign nationals not falling under the categories mentioned above may avail of the same facility as available to Bangladesh nationals in this regard,

(d) Freight in Taka may be accepted by the Airlines /Shipping Companies/Travel Agents without prior Bangladesh Bank approval for fob imports into Bangladesh as per instructions contained in paragraph I (viii)(b), Chapter 16.

(e) Airlines /Shipping Companies may accept freight in Bangladesh Taka from registered exporters against despatch of bonafide trade samples of exportable items from Bangladesh without prior approval of the Bangladesh Bank on the basis of Customs Clearance Certificate for despatch of the article. Where the value of trade sample is Taka 1,000 or

above, export permit from the office of the CCI&E and recommendation of the EPB should also be asked for. While accepting freight in Taka in respect of consignments of

such export samples, the Airline/Shipping Company will obtain a declaration (Appendix 5/60) from the exporter concerned to the effect that the parcel contains bonafide trade sample without involving any payment in foreign exchange. The Airlines/

Acceptance of

Taka freight on

fob imports

Acceptance of

freight in Taka

against export

samples CH 19 104

Shipping Companies while submitting their returns to the AD will indicate the number and date of the Customs Clearance Certificate and Export Permit from the office of the CCI&E, reference number and date of EPB's recommendation and the Registration Number of the exporter concerned with date.

20. Cases of booking of passage /freight not covered in this Chapter may be referred to Bangladesh Bank for instructions.

21. Where a Government servant or a member of an official delegation is allowed to go abroad on duty by air, the administrative Ministry /Division /Department concerned will issue in triplicate the prescribed Air Travel Authorization (Appendix 5/61) on Bangladesh Biman only in respect of the official /official delegation for travel abroad. On production Of Such air travel warrant the passage of the Government servant or members of the official delegation as detailed in the warrant will be booked by Bangladesh Biman. The air travel warrant is to be submitted by Biman to the Bangladesh Bank along with the passage statement.

22. (a) Airlines and Shipping Companies should furnish to the ADs monthly returns of all passages sold, tickets issued or handed over by them as also of refunds and cancellations as per instructions in Chapter 16. Although Travel Agents are not required to submit monthly returns, they should maintain records of all passages sold by them as per appendices 5/21 and 5/31.

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CHAPTER 20

FOREIGN EXCHANGE RETENTION QUOTA FOR EXPORTERS

1. (i) Merchandise exporters are entitled to a foreign exchange

retention quota of 50% of repatriated f.o.b value of their exports. However, for exports of goods having high import content (low domestic value-added) like POL products including naphtha, furnace oil and bitumen. readymade garments made of imported fabrics, electronic goods, etc. the retention quota is 10% of the repatriated f.o.b value.

(ii) Foreign exchange out of the retention quota may be maintained in FC accounts with the concerned ADs in US dollar, Pound Sterling, Euro or Japanese Yen upon realization of the export proceeds. Balances in these accounts may be used by the exporters for bonafide business purposes, such as business visits abroad, participation in export fairs and seminars, establishment and maintenance of offices abroad, import of raw materials, machineries and spares etc. without prior approval of Bangladesh Bank, It should be noted that since exporters will use foreign exchange from the retention quota for business visits abroad, no separate business travel quota will be admissible (other than for new exporters as per Para 7, Ch. 19). Foreign exchange from the exporter's retention quota cannot be used for investment abroad by the exporter.

(iii) Foreign exchange out of exporter's retention quota may also be kept as interest bearing renewable term deposits with the concerned ADs in Bangladesh in US dollar, Pound Sterling, Euro or Japanese Yen, with minimum balances of US\$ 2,000 or £ 1,500 or equivalent. Periods of such term deposits may be determined in accordance with normal banking practices /normal banking considerations. Interest on such deposits may be allowed at rates comparable to the prevailing Euro deposit rates for the relevant currency.

2. Retention Quota for Service Exporters:

Service exporters may retain 5% and Software and Data entry/processing exporters may retain 40% of their repatriated income as Retention Quota. Funds can be drawn from these accounts to meet expenses for bonafide business travel abroad.

However, foreign exchange earnings on account of indenting commission or agency commission for export from Bangladesh cannot be credited to such accounts since these incomes originate from Bangladesh sources.

CH 20 106

3. International credit cards may be issued to the exporters against foreign exchange retention quota. The arrangements for issuance of international credit cards and use thereof by exporters shall be as under:

(a) Eligibility for holding international credit cards:

International credit cards may be issued in favour of upto three (3) top level executives of an exporting firm/organisation holding retention quota FC Accounts. An exporting firm /organisation may avail of the card facility from one card issuing company only. It will be upto the card issuing company to accept or decline a request from an FC Account holding exporting firm/organisation for issuance of international credit cards. All records, documents, accounting statements relating to issuance and use of credit cards should be kept

ready and available for inspection /examination by Bangladesh Bank as and when required.

(b) Instructions to be followed in issuance and use of credit cards:

(i) Cards may be issued for use against funds available in the retention quota FC Accounts, and the annual personal travel quota entitlements of the cardholders as per Para 1, Chapter 19. Immediately on issuance of a card or cards, a report must be sent to the DGM (operations Division), Foreign Exchange Policy Department, Bangladesh bank, Head Office, Dhaka as per proforma given in Appendix 5/63. The cards may be cancelled as soon as the fund available in the FC account is fully utilized, unless there is reasonable prospect of replenishment.

(ii) The AD holding the retention quota FC account of the exporting firm/organisation shall settle the charge slips and statements of expenses received from the card issuing company, by debit to the concerned FC account.

(iii) Utmost caution should be exercised to guard against drawings in excess of the entitlement. To facilitate monitoring towards limiting the liabilities on count of card use the FC Account holding AD may from time to time advise the credit balances of the FC Account to the card issuing organisation.

Under no circumstances shall any foreign exchange be released in favour of the card issuing company without first having the FC account debited/ available travel quota entitlement drawn (and in the event such balance/ travel entitlement is exhausted, without prior permission of Bangladesh Bank). The card issuing company shall have the right to recover directly from the exporting firm / organisation its dues in local currency, but foreign exchange against such receipts may only be availed with debit having first been raised in the retention quota FC account of the exporting firm /organisation or out of available travel entitlement of cardholder (or only with prior approval of Bangladesh Bank in case both sources are exhausted).

CH 20 107

Bangladesh Bank may direct the card issuing company to withdraw the card facility extended to an exporting firm /organisation in case of repetition of incurring obligations against card use in excess of foreign exchange entitlements.

(d) Reporting of settlement in foreign exchange against card use:

All payments in foreign exchange by debit to FC account in settlement of dues to the card issuing organisation shall be reported to Bangladesh Bank in schedule EFCP -2 alongwith TM form duly filled in.

CH 21 108

CHAPTER 21

IMPORT AND EXPORT OF CURRENCY NOTES AND COINS, FOREIGN EXCHANGE, GOLD, SILVER, JEWELLERY AND SECURITIES ETC.

1. (A) In terms of Bangladesh Bank Notification No. FE 2/94 BB dated 12th November, 1994 any person may bring into Bangladesh from any place outside Bangladesh without any limit foreign currency notes or bank notes other than:

- (i) Unissued notes and coins.
- (ii) Notes legal tender in Bangladesh in excess of Taka 500 in value.

Provided that the concerned person makes a written declaration to the Customs Authorities at the time of arrival, in FMJ Form (See Appendix 5/63) of the entire amount; no declaration will however, be necessary if the amount brought in does not exceed US\$ 3000 or its equivalent in foreign currency and does not exceed Taka 500 in notes legal tender in Bangladesh;

(B) Sending into Bangladesh by post or otherwise of any currency note, bank note or coin by any person from abroad without general or specific permission from the Bangladesh Bank is prohibited.

(C) Any traveller entering into Bangladesh may bring with him at

any one time Bangladesh currency notes /coins within the limit as prescribed hereunder:

(i) Members of the crew of a ship or an aircraft or the staff of a railway may bring Bangladesh currency notes upto Tk. 500 at any one time.

(ii) A Bangladesh national coming from abroad may bring with him/her Bangladesh currency notes upto Taka 500 only, the same amount may be taken out while proceeding abroad from Bangladesh.

(iii) Every foreign national travelling on a foreign passport and persons travelling on Bangladesh passports will, while entering Bangladesh by sea, air or land from any destination outside Bangladesh declare to the Customs authorities, on FMJ Form to be completed in a single copy all currencies if the amounts brought in exceed the limits mentioned at para 1 (A) above. In transit passengers, however, are not required to complete this form.

The customs official will return to the declarant the form duly authenticated. Authorised Money Changers and ADs need not ask Import of foreign currency notes and coins CH 21 109

for this form at the time of encashing the foreign currency and foreign currency instruments to Taka. Foreign nationals should however retain these declarations with themselves so as not to face difficulty in taking out unspent foreign exchange at the time of their departure from Bangladesh.

(D) An incoming person may retain foreign exchange upto US\$ 3000 or equivalent brought in by himself/herself without declaration and take out the same at the time of departure from Bangladesh without endorsement in passport and air ticket. Such amounts may also be deposited in RFCD account by a resident Bangladeshi and in NFCD account/private non-resident FC account by a non-resident Bangladeshi.

2. In terms of Notification No. 1(2) ECS/48 dated the 1st July, 1948 issued pursuant to sub-section (1) of Section 8 of the FER Act, Government have prohibited, except with the general or special permission of the Bangladesh Bank, the import into Bangladesh from any place outside Bangladesh of:

(a) any gold coin, gold bullion, gold sheet or gold ingot whether refined or not, and

(b) any silver bullion, silver sheet or plate which has undergone no process of manufacture subsequent to rolling or any uncurrent silver coin.

Import of gold and silver into Bangladesh from any place outside is, therefore, subject to the Bangladesh Bank's general or specific authorization. General permission has been accorded by Bangladesh Bank allowing an incoming Bangladesh national to bring in upto 2(two) kilograms of gold or silver in ingot /bullion form at the time of arrival into Bangladesh, subject to payment of

duties and taxes as levied by the Govt.

3. Gold, as defined under Section 2 of the FER Act, includes gold in the form of coin whether legal tender or not or in the form of bullion or ingot whether refined or not. Silver, as defined under the same Section of the Act includes silver bullion or ingot, silver sheets and plates which have undergone no process of manufacture subsequent to rolling and uncurrent silver coin which is not legal tender in Bangladesh or elsewhere.

4. There are no restrictions under the FER Act on the import of jewellery and precious stones. Import of jewellery and precious stones is, however, subject to the Import Trade Control Regulations.

5. The terms jewellery and precious stone are deemed to include all articles made wholly or mainly of gold, platinum, diamonds of all kinds, precious or semi-precious stones, pearls, whether or not mounted, set or strung and articles set or mounted with diamonds, precious or semi-precious stones or pearls.

Import of gold

and silver

Definitions of

gold and silver

Import of

jewellery and

precious stones

Definitions of

jewellery and

precious stones CH 21 110

6. There are no restrictions under the FER Act on import of securities into Bangladesh.

7. (i) Any person may take out of Bangladesh with him foreign exchange issued to him by an AD and endorsed on his passport.

(ii) General permission has been granted:

(a) to the ADs to send out of Bangladesh cheques, drafts or bills of exchange which have been acquired by them in their normal course of business and within the terms of their authorization.

(b) to a foreign national who is resident in Bangladesh, but is not domiciled in Bangladesh to take or send out of Bangladesh drafts or cheques drawn on their foreign currency accounts.

8. The term foreign exchange as defined under Section 2 of the FER Act, includes cheques, drafts, traveller's cheques, letters of credit, bills of exchange and promissory notes expressed or drawn in foreign currency, or in Bangladesh currency but payable in foreign currency.

9. (a)(i) Any person may take out of Bangladesh, Bangladeshi legal tender notes and coins not exceeding Taka 500 only in value at any one time.

(ii) Currency which has been brought into Bangladesh in the safes of vessels or aircraft or which has been taken on board vessel or aircraft with the permission of the Bangladesh Bank may be

taken out of Bangladesh.

(iii) Any person ordinarily resident in Bangladesh may take out foreign exchange not exceeding US \$ 3,000 or its equivalent which was brought in without declaration at the time of returning from abroad.

(iv) Any person not ordinarily resident in Bangladesh including Bangladesh Nationals working abroad may take out of Bangladesh any amount in foreign exchange not exceeding the amount declared by him to the Customs Authority on arrival in Bangladesh. However, such a person may take out at the time of leaving Bangladesh foreign exchange not exceeding US \$ 3,000 or its equivalent brought in without declaration to the Customs Authority on his arrival in Bangladesh.

(b) It is not permissible to send currency notes and coins out of Bangladesh by post or any other means.

10. Under Section 13(l)(a) of the FER Act, it is not permissible for any person to take or send out any security to any place outside Bangladesh except with permission of the Bangladesh Bank. Residents in Bangladesh who are holders of foreign securities and

Import of

Securities

Export of foreign

exchange

Export of

Securities CH 21 111

who wish to send these securities to bank, brokers or agents abroad for purposes of sale, transfer etc., should apply to the Bangladesh Bank through an AD for the necessary export permit. Permission for transfer of foreign securities will be granted provided the AD gives an undertaking that the securities will be received back in Bangladesh within a specified period or in the case of sale, the foreign currency proceeds will be remitted to Bangladesh.

11. Sub-section 2 of Section 8 of the FER Act prohibits export from Bangladesh of jewellery or precious stones except with the general or special permission of the Bangladesh Bank. Bangladesh Bank has accorded general permission to all outgoing and incoming adult female passengers to take out of Bangladesh and to bring into Bangladesh any quantity of personal jewellery worn on their persons or as part of their personal baggages.

12. Export of gold jewellery and silver jewellery from Bangladesh may be effected by exporters registered with the office of the CCI&E as per normal EXP procedure (described in the next Chapter). Back to back import LCs may be established by ADS for import of gold, silver and precious stones for manufacture and export of jewellery against export LCs received by registered jewellery exporters operating under the bonded warehouse system, subject to observance of the minimum domestic value addition requirement prescribed in the Jewellery Export Policy formulated by the Ministry of Commerce (10% for gold jewellery, 15% for stone-studded gold jewellery and 25% for silver jewellery). Back to back imports may also be effected against firm export orders in

cases where import costs are met out of advances received by the exporter from the foreign buyer, or where the import payment is settled abroad directly by the foreign buyer.

If the cost of imported inputs are prepaid abroad by the foreign buyer or met out of advances received from the foreign buyer, exporters shall be required to repatriate export proceeds to the extent of the local value addition only. In such cases, the total export value and the cost of imported inputs should be shown separately in the EXP Form, and the ADs while forwarding the third copy of the EXP Form shall enclose papers /documents in evidence of prepaid input import/ advance receipt of import costs.

Prior permission of Bangladesh Bank will be required for export of Jewellery on consignment basis or for sale in exhibitions abroad.

Taking out and
bringing in
jewelry by
outgoing and
incoming
passengers
Jewelry Export
Scheme CH 22 112
CHAPTER 22

SECTION - I EXPORTS

1. Govt. Notifications No. 1(6) -ECS/48 and 1(7) -ECS/48 dated the 1st July, 1948 issued pursuant to Section 12 of the FER Act prohibit export of any goods directly or indirectly to any place outside Bangladesh, unless a declaration is furnished by the exporter to the Collector of Customs or to such other person as the Bangladesh Bank may specify in this behalf that foreign exchange representing full export value of the goods has been or will be disposed of in a manner and within a period specified by the Bangladesh Bank.

2. The prohibition mentioned above does not apply to the export of:

(i) bonafide trade samples sent by registered exporter upto the value prescribed in the Export Policy in force.

(ii) personal effects, whether accompanied or unaccompanied, of travellers;

(iii) ships stores and transshipment cargo;

(iv) goods shipped under the order of the Government of Bangladesh or of such officers as may be appointed by the Government in this behalf or of the Military, Naval or Air Force authorities in Bangladesh for Military, Naval or Air Force requirements.

In the case of export by Post, a certificate signed by a gazetted officer or by any person entitled to use service postage stamp should be pasted on the outer cover of the parcel to the above effect;

(v) gift packets where they are accompanied by a declaration by the sender that the contents of the packet are less than Tk. 50 in value and that the dispatch of the packet does not involve any transaction in foreign exchange; and

(vi) Where the packet is covered by a certificate issued by the Bangladesh Bank to the effect that the export of the parcel does not involve any transaction in foreign exchange.

Exemptions as above will be allowed by the Customs Authorities after being satisfied that the relative exports qualify for such exemptions.

3. Foreign exchange regulations regarding exports cover all goods exported to all destinations regardless of whether they are subject to Export Trade Control Regulations. Similarly, nothing in the foreign exchange regulations relieves the exporters from the necessity of complying with the Export Trade Control Regulations prescribed by

Exports
Export exempted
from repatriation
of export
proceeds
Export Trade
Control
Regulations CH 22 113

the Government, including the necessity of obtaining export licenses in case of goods the export of which requires such license.

4. All exports to which the requirement of declaration applies, must be declared on the EXP Form (Appendix 5/64). These forms will be supplied by the ADs to their exporter clients.

5. Payment for goods exported from Bangladesh should be received through an AD in freely convertible foreign currency or in Taka from a non-resident Taka Account. Receipts against exports under various barter and bilateral arrangements should be settled as per instructions issued by the Bangladesh Bank from time to time,

6. The ADs should, before certifying any export form, ensure that the exporter is registered with the CCI&E under the Registration (Importers and Exporters) order 1952. The registration number should be quoted on the relative EXP forms.

7. (a) Before lodging the EXP Forms with the Customs /Postal Authorities, the exporter should get copies of the forms certified by an AD. After receipt of the EXP Forms from the exporters for certification purposes, the ADs will see and ensure that each set of the forms is duly filled in. Thereafter, they will record full particulars of the forms in the Export Register to be maintained as

per proforma at Appendix 5/65 and assign a number for each set of the EXP forms in the following manner, which is to be inserted in the space provided at the top of each form:

AD's
Code Number
Register
Serial
Year

The first three boxes of EXP number will bear the branch code prescribed by Bangladesh Bank for each AD branch and the next 5 boxes are meant for mentioning the serial number of the Export Register (Appendix 5/65) of the branch and the last two boxes are meant for mentioning the last two digits of the year of registration. The ADs will also have to complete the forms themselves by mentioning all the required information /particulars /code number etc. in the forms at the appropriate places and certify the forms in the manner prescribed therein under seal and signature of the authorised official of the AD.

(b) In order to avoid any loss of foreign exchange to the country, ADs shall not certify any EXP form unless they have satisfied themselves with regard to the following:

(i) arrangements made for realization of export proceeds within the prescribed period,

Form prescribed
for declaring
exports
Method of
receiving
Payments
against exports
Registration of
exporters
Certification of
EXP Forms by
ADs
EXP No. CH 22 114

(ii) arrangement has been made for receipt of title to goods like Bill of Lading, Airway Bill etc. by the AD on shipment of the underlying goods,

(iii) The EXP Form is signed either by the exporter or one holding valid legal power of attorney from the exporter and the terms of the power of attorney are such that both the exporter and the attorney may be held responsible jointly and severally for repatriation of export proceeds.

(iv) Bonafides of the buyers/consignees abroad and their credentials etc. Where necessary, ADs should make discreet enquiries in this regard through their correspondents abroad etc., greater care should be taken particularly in cases of shipments against Trust Receipts and shipments on CAD or DA basis. Where ADs doubt

the bonafides and standing of the buyers/consignees abroad or where owing to common interest or otherwise they suspect collusion with the intent of delaying or avoiding repatriation of export proceeds ADs should report such cases promptly to Bangladesh Bank. Similarly, ADs should report to Bangladesh Bank cases where it comes to their knowledge that the exporters are directly or indirectly connected with or have any financial or other interest in the buyer/ consignee abroad. Where felt necessary, discreet enquiry about the bonafides and credentials of the charter party should also be made in case the shipment is to be against a charter party Bill of Lading so as to avoid loss of cargo /foreign exchange.

(c) For delay in repatriation or non-realisation of export proceeds, the exporter as well as the AD and its officials certifying the export forms render themselves liable to punitive action under the FE P Act. Therefore, in their own interest both exporters and the ADs should be alert and active in ensuring timely repatriation of export proceeds.

8. In exercise of the powers vested in the Bangladesh Bank under Section 20(3) of the FER Act, all carriers whether common or private (Railway, Shipping or Airline companies) and their agents are directed as under:

(i) That in respect of export of goods from Bangladesh (excepting export from Type A industrial units located in the EPZs) to foreign countries by land and route or by sea, the Railway Receipts, Bills of Lading and any other documents of title to cargo should be drawn only to the order of an AD designated for this purpose by the respective exporters and delivered to the authorized representatives of the ADs concerned and to none else. However, in case of export of goods, full payment for which value has been received by the exporter in advance through the AD, the Bill of Lading and other documents may be endorsed by the AD in favour of foreign importers and the same may be sent directly to the

Making out and
delivery of
shipping
documents CH 22 115

importers abroad by the AD. There may be cases where goods shipped from Bangladesh to the neighboring countries by land route or even by cargo vessels reach the beneficiary earlier than the relative Bill of Lading, Truck receipts etc. This causes inconveniences and involves payment of demurrage at the port of destination due to delay in receipt of shipping documents. To overcome this problem, Shipping Companies may, at the request of the negotiating bank in Bangladesh, issue Telegraphic Delivery Orders on their agents in the relevant center directing them to deliver the goods to the order of the AD bank's correspondents in the buyers' country. A copy of the telegram /telex message, duly authenticated by the Shipping Company /Agent, should be passed on to the relevant AD who would send his own tested cable /telex instructions to his overseas correspondent asking the latter to hand over the Delivery Order to the consignee and stating the amount to be realized from the consignee before the Delivery Order is released. The usual shipping documents namely, invoice, bill of lading etc. may be

despatched to the correspondent bank as usual.

(ii) In respect of export of goods from Bangladesh (excepting exports from Type A industrial units located in the EPZs) to foreign countries by air, the Airway bills and any other documents of title to cargo should be drawn to the order of a bank in the country of import nominated by the AD designated for this purpose by the respective exporters and delivered to the authorized representative of the AD. However, in case of export of goods, full payment for which has been received by the exporter in advance through the AD, the AD may allow the Carrier Company to draw the documents to its own (AD's) order and then endorse the documents including the Airway Bill in favour of the foreign importers. The same may be sent directly to the importers abroad by the AD. The above directions shall not apply to exports exempted from repatriation of export proceeds and listed in para 2 of this chapter. Export of fresh fish, vegetables, fruits, poultry and other goods of perishable nature is also exempt from this direction. The documents of title to cargo like Bill of Lading, Airway Bill in respect of goods shipped from the fully foreign-owned enterprises (Type A industries) in the EPZs may also be drawn in favour of the consignee /LC opening bank.

9. The ADs to whose order the relative Railway Receipts, Bills of Lading etc. are drawn shall endorse the same to the order of their foreign correspondents but in no case they shall make any blank endorsement or endorse it to the order of the consignee unless they have obtained specific or general approval of the Bangladesh Bank therefor. However, in the cases of export from Type A industrial units located in EPZ, Bill of Lading/Airway Bill /other documents of title to cargo drawn to the order of the AD may be blank endorsed or

Endorsement of
shipping
documents by the
ADs CH 22 116

endorsed in favour of the consignees as per terms of the export LC /export contract.

10. (i) The EXP Forms are in quadruplicate. In all cases the forms will be completed and signed by the exporter or his authorized agent.

(ii) After completing the EXP Forms the exporter should submit all copies to the AD for certification. After the forms are certified by the AD these should be submitted to the Customs /Postal Authorities alongwith the shipping bill at the time of shipment. The Customs Authorities after filling in the portion relating to them and affixing therein their seal and signature will return the duplicate, triplicate and quadruplicate copies to the exporter /his authorized agent. The original copy will be forwarded by the Customs Authority to the Bangladesh Bank.

(iii) The exporter must submit all the remaining copies of the EXP Form alongwith the invoices etc. to the AD through whom payment for the goods exported is to be received. An extra copy of the shipper's invoice must be attached to the duplicate copy of the EXP Form for submission to the Bangladesh Bank. In the event of payment being

received through an AD other than the one who certified the export forms, the AD negotiating or collecting the export documents should convey the particulars of the export form to the AD that had originally certified the export form to enable the latter to make a suitable note in the relative register.

All shipping documents covering goods exported from Bangladesh and declared on EXP Form must be passed through the medium of an AD within 14 days from the date of shipment. The copies of the EXP Form and the shipping documents etc. should be submitted to the AD in time to enable it to submit the certified duplicate copy of the EXP Form to the Bangladesh Bank within 14 days from the date of shipment of the goods covered by the form.

(iv) Oil receipt of the EXP Form and the documents covering the exports the ADs should compare the signatures appearing on the bills of lading with the specimen signatures of the duly authorized officers of the Steamer Companies on record to ensure genuineness of the documents.

The AD should also compare the relative bill and /or documents with the relative form and satisfy itself that the declaration made on the form is correct and the method of finance stated thereon is a permitted one and that the amount for which the bill is drawn or the invoice is written is not less than the invoice value stated on the form. The invoice value should also be checked against the Taka value taken for Customs purposes as shown on the form, against Taka Value under the space for the shipping bill number. In no case the invoice value should be less than the value declared for Customs purposes. Special care should be exercised in the checking of the invoices with a view to detecting undervaluing of exports. Any suspicious circumstance should be reported to the Bangladesh Bank.

Submitting of

Export

documents to

ADs

Disposal of EXP

Forms

Scrutiny of

documents CH 22 117

(v) If the difference between the value stated on the form and the amount of the bill /invoice is small and accounted for by legitimate trade charges etc. the AD may accept the bill /documents for negotiation /collection. The details of such adjustments must be given on the relative form and must be authenticated by the AD under its stamp and signature.

(vi) After negotiation of the bill or acceptance of the documents for collection, the ADs should complete the certificates in this behalf in the space provided on the duplicate copies of the EXP Form to the effect that they have negotiated bills /received shipping documents for collection for the value stated on the forms.

(vii) Where payment is received in foreign currency or by debit to non-resident Taka account of a bank branch or correspondent abroad the ADs shall certify on the reverse of the triplicate copy of the form retained with them and forward it to the Bangladesh Bank with the usual return. The quadruplicate copy will be retained by the AD for record.

(viii) In the case of commodities export of which is subject to receipt of advance payment or confirmed and irrevocable LC (such as raw jute), shipments will be allowed by the Customs only on the basis of the certificate of the AD on the export forms to the effect that either advance payment or confirmed and irrevocable LC has been received covering export of the goods mentioned on the export form.

11. (a) Commission, brokerage or other trade charges due to be paid to foreign importers or agents by exporters in Bangladesh relating to the particular shipment may be deducted from the relative bill amount or the amount of the sale proceeds or remitted from Bangladesh after the full proceeds have been realized only upto a maximum of 5% of the value of the goods. In exceptional cases or where it is customary in any particular trade to pay commission in excess of 5% by deduction from the invoice value of exports, the Bangladesh Bank may consider applications by exporters through their bankers and may grant a standing authority to permit payment of commission in excess of 5% of the invoice value. Production of documentary evidence indicating the arrangement necessitating the payment of commission in this manner will be necessary.

(b) In the case of export of books, journals and magazines published in Bangladesh, the exporters can allow without prior approval of the Bangladesh Bank discount upto 33½% in all of the invoice value. For allowing discount in excess of the 33½% of the invoice value, the exporters may approach the Bangladesh Bank for prior approval.

Exports subject
to receipt of
advance
payments or
confirmed and
irrevocable LC
Deduction of
commission,
brokerage or
other trade
charges. CH 22 118

12. In the export form there is provision for indicating separately:

- (i) f.o.b value;
- (ii) insurance;
- (iii) freight; and
- (iv) total c.i.f value.

Therefore, where the exports are on c&f or c.i.f basis, the f.o.b value is required to be shown separately. The ADs should ensure that in all export forms relating to export of raw jute, f.o.b value of shipment of raw jute is invariably shown separately in cases where such shipments are effected on c&f or c.i.f basis. Where shipment of raw jute is made

on fob basis, this fact should be clearly indicated in the export form by deleting the items of insurance, freight and total c.i.f value. The ADs while certifying realization of the export proceeds will in addition to the certificate in the appropriate column, also indicate on the reverse of the duplicate /triplicate form the fob value, insurance and freight separately. For this purpose they will use a rubber stamp reading as under:

- * f.o.b /Free Frontier value
- * Insurance
- * Freight
- * Total c&f/c.i.f value
- * (Delete not required)

13. The period prescribed by the Bangladesh Bank within which full foreign exchange proceeds of exports must be received by exporters is four months (Vide Bangladesh Bank Notification No. FE 1/77 -BB dated the 16th April, 1977). If the receipt of the full proceeds of any shipment is delayed beyond this period without a special or general authorisation from the Bangladesh Bank, the exporter will be liable to action under the FER Act.

14. General authorisation has been accorded to ADs for allowing exports of raw jute and jute goods on upto 360 days usance basis against irrevocable LCs confirmed at buyer's cost from first class international banks abroad. This requirement of third bank confirmation may be waived if the AD is satisfied about the prospect of receiving payment in time, taking into account the country risk, the counterparty risk (the reputation and financial standing of the buyer) and the reputation and standing of the LC opening bank as ascertained from standard reference sources and/ or foreign correspondents of the AD. The AD should also satisfy itself that the export price quoted is internationally competitive and that the usance interest loaded is at a rate commensurate with the prevailing interest rate in the concerned currency.

Prescribed period
within which
payment should
be received
Export of raw
jute and jute
goods on usance
basis CH 22 119

15. (a) Head offices/ principal offices of the ADS will submit to the Foreign Exchange Policy Department, Bangladesh Bank, Head Office monthly statements showing the total figures of all export bills including partly unrealized relating to all their AD branches outstanding at the end of each month in the proforma prescribed (See Appendix 5/66) by the 15th of the month following the month to which it relates.

(b) Area Principal offices of the ADS are required to submit quarterly statements of particulars of export bills outstanding beyond the prescribed period of realization as at the end of each quarter to the concerned area offices of Bangladesh Bank in the prescribed proforma (See Appendix 5/67). The statement should be prepared as per instructions contained in the reverse of the form. The ADS should quote the reference number and date of the Bangladesh Bank's

permission in the remarks column in case any extension of time for repatriation of export proceeds has been allowed by the Bangladesh Bank. The statement should be submitted within 15 days from the date the relevant quarter closes. ADS should ensure timely submission of the statement and should also ensure inclusion of all overdue export cases in the statement without any omission.

16. (i) If it is customary in any particular trade for exporters to draw bills for only a percentage of the invoice value, the balance to be paid after arrival of goods at destination, the ADS may negotiate bills in the part amount provided they obtain an undertaking from the exporters that they will realize the balance within the prescribed period. The ADS should report such part receipts to the Bangladesh Bank on Form "EXP Form Not Attached Voucher" (See Appendix 18 of Vol -2) on the appropriate Schedule. It is the responsibility of the ADS to follow up each such case and to ensure that the balance amount is also realized within the prescribed period. This exemption will not, however, apply in the case of shipments of those goods which are subject to either 100% advance remittance or to the opening of confirmed or irrevocable LC for the full amount of the export.

(ii) Where part of the invoice value has been received in advance by the shipper, the AD while negotiating /collecting documents for the balance, should certify on the duplicate of the EXP Form that part of the amount has been received by them in advance quoting reference to the return on which the receipt was reported on an "Advance Receipt Voucher" (See Appendix 17 of Vol-2).

(iii) The triplicate of the EXP Form should be kept outstanding by the AD until the full value of the exports has been received.

17. Where a portion of a consignment is short shipped and the exporter consequently draws a bill or writes an invoice for a quantity less than that entered on the original copy of the relative EXP Form submitted to the Customs, he must make a declaration on the remaining copies of the form submitted to the bank negotiating the

Reporting of

overdue cases

Part drawings and

advance

remittances

Short shipments CH 22 120

bills that the shipment was partially short shipped specifying the quantity short shipped.

In all cases of short shipments, the exporters should give notice of short shipment on the prescribed form in duplicate to the Customs who will forward a certified copy of the notice to the Bangladesh Bank. This notice should bear the number and date of the relative EXP Form in respect of which goods have been short shipped.

18. Where a shipment to be made by a particular vessel is entirely short shipped and re-shipped by another vessel, the exporter should apply on the prescribed form in duplicate to the Customs for permission to alter the name of the vessel on the relative export form and the shipping bill, stating on the application the number and date of the relative EXP form to which the application relates. The Customs will forward a verified

copy of the application to the Bangladesh Bank.

Where a shipment is entirely shut out and is not being re-shipped immediately by any other vessel, the exporter should give notice accordingly in the prescribed form in duplicate. The Customs will forward a verified copy of the notice in respect of the shipment entirely shut out to the Bangladesh Bank in order that the relative EXP Form may be treated as cancelled.

19. If shipments from Bangladesh are lost in transit for which payment has not already been received either by a direct remittance or by negotiation of bills under an LC, the ADS must see that an insurance claim is made as soon as the loss is known. The triplicate copy of the relative EXP Form should be returned to the Bangladesh Bank with a statement on the reverse thereof, under the stamp and signature of the AD that the shipment has been lost, together with the following particulars regarding the insurance covering the shipment:

(a) Amount of insurance (including currency in which drawn).

(b) Name of the Insurance Company.

(c) Place where the claim is payable. Where the claims are payable in a currency other than Taka, they should be realized through the AD who had certified the duplicate copy of the relative EXP Form and who, on satisfaction of the claim, should certify on the triplicate copy the particulars of the amount collected by itself and forward the copy to the Bangladesh Bank.

20. Before paying out money against remittances received from abroad, whether against purchase of foreign currency or debit to a non-resident taka account of a foreign bank in case where purpose of the remittance is stated to be advance receipt for goods to be exported from Bangladesh, the AD should obtain a declaration from the beneficiary on the "Advance Receipt Voucher" certifying the purpose of the remittance.

Shipments shut
out entirely
Shipments lost
or damaged in
transit
Receipts of
Advance
Remittances
against exports CH 22 121

21. In case where exporters arrange insurance cover and freight in Bangladesh but prepare invoices on f.o.b basis, the ADs should verify from the bills of lading that freight has not been prepaid in Bangladesh. All cases where freight on insurance has been paid in Bangladesh but export documents are made out of f.o.b basis should be reported to Bangladesh Bank.

22. Sometimes exporters are required to submit to various Government agencies evidence of export and realization of export proceeds. In such cases, Proceeds Realization Certificate may be issued by ADs in the prescribed form (See Appendix 5/68) after getting them authenticated by the Bangladesh bank. The Bangladesh bank will authenticate such certificates on the basis of the certification

made by the AD. The transaction would be post facto verified by the Bangladesh Bank with reference to Schedule/ Statement received from AD concerned.

Verification of
Export Proceeds
Realization
Certificate
Shipment on
f.o.b terms CH 22 122
SECTION II

EXPORT FROM THE EXPORT PROCESSING ZONES

23. Export Processing Zones (EPZs) have been established by an Act namely, Bangladesh Export Processing Zone Authority Act, 1980. The following types of industrial units operate in the EPZs:

- (a) Type A: 100 percent foreign owned including those owned by Bangladesh nationals resident abroad;
- (b) Type B: Joint Venture projects between foreign and Bangladeshi entrepreneurs resident in Bangladesh.

(c) Type C: 100 percent Bangladeshi entrepreneurs resident in Bangladesh.

The broad guidelines relating to the operation of industrial enterprises in the EPZs are contained in the "Principles and Procedures governing setting up of industries in EPZ" issued by the Bangladesh Export Processing Zone Authority (BEPZA).

24. Exports from EPZs are subject to the usual requirement of declaration of exports in EXP Form and repatriation of export proceeds. For identification, EXP forms for those export should be rubber stamped or overprinted with words "EXPORT FROM EPZ" in bold letters.

25. The following procedure shall apply to release of foreign exchange to the enterprises against exports made from EPZs:

i) 100% of repatriated export proceeds of a Type A industrial unit in EPZ may be retained in FC account in the name of the unit with an AD in Bangladesh. Balances in the FC account may freely be used to meet all foreign payment obligations including import payment obligations of the unit and payment obligations in foreign exchange to BEPZA. Balances from the FC account will also be freely encashable for local disbursements or for crediting Taka account maintained with an AD for meeting Taka payment obligations like wages, rents, rates, taxes etc. Taka account maintained with ADs by Type A units in EPZ may be credited only with encashments of funds from FC accounts or of other inward remittances from abroad. However, receipts from Taka sales of factory refuses and of unusable portion of raw materials of Type A industries may be credited to the Taka accounts provided the permission letter of BEPZA for the sale and evidence of payment of duties/ taxes on sale proceeds are produced to the AD. Balances in the Taka accounts cannot be converted to foreign exchange and may only be used for meeting local expenses.

Repatriation of
proceeds of
exports from
the EPZs

Disposal of
export
proceeds
CH 22 123

(ii) Upto 80% of the repatriated export proceeds of Type B and Type C units other than those in the garments sector may be retained in FC Accounts maintained in the names of the units with their ADs; for a Type B or Type C unit in the garments sector, upto 75% of the repatriated export proceeds may be credited to FC account maintained in the name of the unit with an AD. The remainder of the export proceeds should be

encashed to taka at the prevailing exchange rate. All foreign payments obligations of Type B and Type C units including import payments and repayments of foreign loans may be met out of the balances in their FC accounts; payment obligations in foreign exchange of a type B unit to the BEPZA may also be settled from balances in its FC account. Balances in the FC accounts of the Type B and Type C units are freely encashable to Taka for local disbursements.

26. Sales of Bangladeshi goods or raw materials to the enterprises in EPZ against payment in foreign currency shall be treated as exports from Bangladesh and normal foreign exchange regulations concerning declaration of exports on EXP Forms and repatriation of proceeds is applicable to these exports to the EPZ enterprises.

27. In the case of joint venture (Type B) projects in the EPZs, the foreign partners will have to arrange their contributions in foreign exchange from own or borrowed sources outside Bangladesh and the local partners shall contribute their shares in local currency. In the event, however, the contributions as per joint venture project agreements made by the foreign partners are not sufficient to cover the cost of machinery and equipment, the shortfall may be made up, with prior Bangladesh Bank approval, by conversion of Taka into foreign currency upto an amount not exceeding the local partners' shares /contributions referred to above.

Sale of
Bangladeshi
goods to EPZ
enterprises CH 23 124

CHAPTER 23

BORROWING ABROAD BY RESIDENTS

1. Industrial enterprises in the private sector may, with prior approval from the Board of Investment (BOI), enter into supplier's credit and other foreign currency loan contracts with lenders abroad if the effective rate of interest does not exceed LIBOR+4%, repayment period is not less than 7 years, and down payment is not more than 10%. The effective rate of interest would in this context include the stated annual rate of interest and the annualized rates of

all fees such as commitment fee, front -end fee, appraisal fee etc. (total fee as percentage of principal divided by the number of years of repayment). These supplier's credit /loan agreements need however be registered with the BOI. Foreign loans /supplier's credits not conforming with these general guidelines may also be contracted and obtained with prior BOI approval. In each case of supplier's credit/ loan from abroad contracted in terms of general or specific authorisation of BOI as mentioned above, a copy of the loan agreement registered with BOI/ approved by BOI should be forwarded by the AD of the borrower to the Hard Term Loans Cell, Foreign Exchange Policy Department, Bangladesh Bank, Head Office, Dhaka. ADs may establish LCs without prior reference to Bangladesh Bank against supplier's credit/ foreign financing availed in terms of general or specific BOI authorisation referred to above, for imports of capital goods /establishment of new industries in accordance with the Import Policy Order in force. Copies of the LCs so established should be forwarded by the ADs to the Hard Term Loans Cell, Foreign Exchange Policy Department, Bangladesh Bank, Head Office, Dhaka for information and record.

2. Repayment installments of interest and principal against the supplier's credits/ loans from abroad availed in terms of general or specific authorisation of the BOI as mentioned in the foregoing may be remitted abroad by the ADs without prior reference to Bangladesh Bank provided that:

(i) The amounts of interest and installments of principal repayment are remitted only by the AD through whom the foreign credit was originally received;

(ii) In case of loan received in convertible foreign exchange, the AD while reporting to Bangladesh Bank the remittance of interest/ principal repayment installment in the usual monthly must furnish a certificate stating the date(s) and amount(s) of receipt of loan funds and mentioning the monthly returns /schedules in which those receipts were originally reported to Bangladesh Bank. A copy of the relevant credit agreement and a copy of the repayment schedule should also be forwarded;

Borrowing
abroad by private
sector industrial
units

Remittances
towards
repayments CH 23 125

(iii) In case of foreign loan availed of in the form of supplier's credit the borrower must submit to the AD the exchange control copy /copies of bill(s) of entry evidencing actual arrival of the relative capital goods in Bangladesh before any installment of interest/ principal can be remitted. Attested copy /copies of the bill(s) of entry alongwith copy of the relative credit agreement and repayment schedule should be forwarded to the Bangladesh Bank by the AD while reporting remittance of installment of principal /interest in the usual monthly returns /schedules.

3. Borrowing abroad by public sector entities requires approval of the Govt., all such borrowings on commercial (non-concessional) terms also require specific approval of the Hard Term Loan Committee.

4. ADs may on behalf of industrial concerns under public/ private sector issue guarantees, with prior approval from Bangladesh Bank, favouring foreign suppliers towards repayment of suppliers' credits; subject to fulfillment of the following conditions:

(i) Guarantee may be issued only if the credit bears approval of the Hard Term Loan Committee in case of a public sector borrower; and only if the terms of the supplier's credit/ loan are either in conformity with the general BOI guidelines or bear specific BOI approval in case of a private sector borrower. The AD should satisfy itself about the viability of the project and the borrower's ability to service the Loan /credit, in making its decision for issuing the guarantee.

(ii) The guarantee issued must not in any way infringe or violate any of the terms and conditions prescribed by the BOI/ Hard Term Loan Committee for acceptance of the credit.

(iii) Any remittance in foreign exchange resulting from any claim against such guarantees will require prior approval of the Bangladesh Bank in each case.

5. Availing of short term suppliers' credits from abroad in the form of imports under deferred payment LCs will be subject to compliance with the instructions at Para 31(a), Chapter 15.

6. Remittances towards repayment of interest and principal installments against past foreign loans/ suppliers' credits availed in terms of specific approvals other than those covered in the preceding paragraphs (such as past marine vessel procurements under the erstwhile Pay as You Earn Scheme) will be subject to such prior permission requirement as prescribed in the original approvals, until and unless decided otherwise by Bangladesh Bank on approach in each case.

Borrowing

Abroad by public
sector entities

Guarantee

towards

repayment of

foreign

suppliers' credit CH 24 126

CHAPTER 24

OPENING OF OFFICE AND APPOINTMENT OF
AGENTS IN BANGLADESH BY NON-RESIDENTS:
REPATRIATION OF EARNINGS OF COMMISSION,
FEES ETC.

1. In terms of Section 18 B of the FER Act [vide Foreign Exchange

Regulation (Amendment) Ordinance, 1976] all persons resident outside Bangladesh, foreign nationals residing in Bangladesh and foreign companies (other than banking companies) not incorporated in Bangladesh are required to obtain permission from the Bangladesh Bank to establish in Bangladesh any place of business for trading, commercial or industrial activities. Applications for obtaining permission should be addressed to the General Manager, Foreign Investment and Inspection Department, Bangladesh Bank, Head Office, Dhaka through the applicant's banker. Specimen of application form is given in Appendix 5/69.

2. In terms of Section 18 A of the FER Act, Permission of Bangladesh Bank will have to be obtained by any person (which includes individuals, firms, business organizations or concerns incorporated or not) to enable the person concerned to act or accept an appointment to act as an agent in trading and commercial transactions or as a technical or management adviser of any person resident outside Bangladesh or of a person resident in Bangladesh but not citizen of Bangladesh. Application for obtaining permission of Bangladesh Bank shall be submitted through the applicant's banker to the General Manager, Foreign Investment and Inspection Department, Bangladesh Bank, Head Office, Dhaka in the prescribed form (See Appendix 5/70).

3. Indenting houses/ Agents, Recruiting Agents, Trademarks/ Patent Agents and Attorneys and others who act as Agents or Consultants of non-residents are required to submit to the Bangladesh Bank, the following documents /information in respect of their foreign exchange earnings:

(i) (a) Quarterly statement as per prescribed form (Appendix 5/71) as on end March, June, September and December each year showing commission earnings in foreign exchange. The statement should reach the respective area office of Bangladesh Bank within 30 days from the close of each quarter.

(b) A copy of each agency agreement entered into by them with the foreign suppliers.

(ii) (a) Quarterly statement as per prescribed form (See Appendix 5/72) showing the amounts of foreign exchange received

Permission
requirement for
accepting
appointment as
agents of
non-residents
Information on
foreign exchange
receipts by
indenting houses
etc.

Indenting
Houses/ agents
Recruiting
agents
Permission
requirement for

opening office in
Bangladesh by
non-residents for
trading/
commercial/
industrial
purposes CH 24 127

on account of services rendered to foreign employers. The aforesaid statement will reflect the position at the end of March, June, September and December each year and should reach the concerned area office of Bangladesh Bank within 30 days from the close of each quarter.

(b) A copy of each agency agreement entered into with the foreign employers.

(iii) (a) Quarterly statement in the prescribed form (see Appendix 5/73) showing the foreign exchange receipts on account of Govt. fees and their own professional charges, The statement should show the position as at the end of March, June, September, December each year and reach the concerned area office of Bangladesh Bank within 30 days from the close of each quarter.

(b) A certified copy of each agreement entered into by them with foreign clients.

(iv) (a) Quarterly statement in the prescribed form (see Appendix 5/74) showing the amounts of foreign exchange received on account of services rendered on account of services rendered to oil companies and non-residents for the quarters ending March, June, September and December each year. The statements should reach the concerned area office of the Bangladesh Bank within 30 days from the close of each quarter.

(b) A copy of each agreement accepting appointment as agent/representative/consultant of foreign oil company/non-resident firm.

4. Original copy of the agency agreement together with a copy thereof should be furnished alongwith the above mentioned initial statements. The original copy of the agency agreement will be returned by Bangladesh Bank after perusal. Every time a new agency agreement is entered into by the above mentioned categories of persons/firms, the original of the agreement together with a copy thereof will have to be produced to the Bangladesh Bank at the time of submission of the relevant statement.

5. In evidence of foreign exchange repatriation into Bangladesh, the AD's usual encashment certificate bearing mention of the monthly return in which the relevant transaction has been reported should be submitted with the relevant quarterly statements.

Trademarks,
patent agents and
attorneys
Agents,
representatives
of foreign oil
companies and
non-resident
firms CH 25 128

CHAPTER 25

SECTION — I

LOANS, OVERDRAFTS AND GUARANTEES

GENERAL

1. Grant of credit facilities in Taka to non -residents, to companies (other than banking companies) controlled directly or indirectly by persons resident outside Bangladesh and to residents against guarantees or collateral lodged outside Bangladesh, the extension of loans and overdrafts in foreign currencies and the giving of guarantees on behalf of residents of Bangladesh in favour of non-residents or on behalf of non-residents in favour of residents are all regulated under sections 3, 4, 5, 18 and 20 of the FER Act. This Chapter contains the general regulations covering the granting of such loans, overdrafts, credit facilities and guarantees.
2. The ADs may provide short term credit facilities for a period not exceeding 2 weeks to their branches and correspondents abroad only by way of overdrafts arising in the latter's non -resident Taka accounts, if any, on account of negotiation of LCs opened by them for import from Bangladesh.
3. The ADs should not grant Taka loan against overseas guarantees or collateral outside Bangladesh without prior approval of the Bangladesh Bank. Applications should be made on Form 2 (See Appendix 5/75). The applicant is required to state the purpose for which the credit facilities are required, the period for which the facilities would be needed, the value of his stocks and assets in Bangladesh and reasons why borrowing against an overseas guarantee or collateral outside Bangladesh is necessary. He is also required to state in what manner the proposed loan or overdraft is expected to be paid off.
4. By virtue of Section 18(2) of the FER Act, no person resident in Bangladesh may grant any loan, advance or credit facility to any company (other than banking company) which is controlled whether directly or indirectly, by persons resident outside Bangladesh except with the approval of Bangladesh Bank. For the purpose of Section 18(2) of the FER Act, the word "Company" includes a firm, branch or office of a company or firm. Pursuant to this provision, Bangladesh Bank has accorded general authorisation to banks for extending to foreign owned/controlled industrial and trading firms/companies operating in Bangladesh Taka working capital loans necessary for their operation in due course of business, according to prevailing credit norms and on the basis of normal banker customer relationship. In this context a company is deemed to be controlled directly or indirectly by persons resident outside Bangladesh, (a) if it is a branch office of a company incorporated outside Bangladesh;

Restriction on
lending
Loans and
overdrafts to
non-resident
bank branches
and
correspondents
Trading and
commercial
loans and
overdrafts
Loans, overdrafts
etc. of foreign
owned or
controlled firms CH 25 129

(b) in the case of partnership, if

(i) 50% or more of the capital of the partnership is owned by foreign nationals or,

(ii) the majority of the partners are foreign nationals; and

(c) in case of companies incorporated in Bangladesh, if

(i) 50% of the shares or more are owned by foreign nationals or,

(ii) 50% or more of the directors in the Board of company are foreign nationals. In the case of equal share holding or equal representation on the Board of Directors, a company is deemed to be foreign controlled if its chairman is a foreign national.

(iii) The application for grant of Taka loans under the above conditions shall be submitted by foreign or foreign controlled companies to their bankers in such forms as may be prescribed by the concerned bank.

(iv) The ADs will maintain and carefully preserve separate company wise records of loans/ overdrafts granted by to the foreign or foreign controlled companies.

(v) Head offices/ principal offices of the ADs are also required to submit a consolidated statement (See Appendix 5/76) as of 31st December each year showing local borrowing facilities allowed to foreign or foreign controlled companies in Bangladesh; to the General Manager, Foreign Investment and Inspection Department, Bangladesh Bank, Head Office, Dhaka.

5. (a) ADs may grant credit facilities against goods intended for export from Bangladesh to companies and business houses controlled by persons resident outside Bangladesh without prior approval of the Bangladesh Bank. Business houses controlled by persons resident outside Bangladesh may be given credit facilities, without Bangladesh Bank's approval against pledge of merchandise like jute, hides and

skin which are mainly exported from Bangladesh.

(b) Purchases by the ADs of usance bills covering imports into Bangladesh result in the payment by them in foreign currency or a payment in Taka to a non-resident account, whereas, they do not receive payment for the bills from the importer pending maturity and thus the transactions result in the extension of credit facilities to the importer in Bangladesh. ADs may extend such facilities to foreign owned or controlled firms on banker -customer relationship and normal banking practices.

Loans against
commodities
intended for
export from
Bangladesh
purchase of
usance bills CH 25 130

6. (a) Applications for credit facilities in Taka to any person, whether resident in Bangladesh or otherwise, for purposes other than trading or commercial against overseas guarantee or collateral outside Bangladesh should be referred to Bangladesh Bank for prior approval. The application should be made in Form L (Appendix 5/75).

(b) No credit facility should be given to foreign nationals for dealings in shares and securities, purchase of cars etc. without prior approval of Bangladesh Bank. Applications in form L may in such cases forwarded to Bangladesh Bank for consideration.

7. ADs should not grant any loan or overdraft in foreign currencies whether secured or unsecured except with the prior approval of Bangladesh Bank. Applications for this purpose should be made by letter giving full details of the purpose for which such loans or overdrafts in foreign currency are required, particulars of the guarantee or collateral, if any, and the proposed mode of repayment of the loan or overdraft.

8. ADs may furnish guarantees to non -residents on behalf of residents only within the authority set out in the following paragraphs:

9. ADs may issue bid bonds/ performance bonds on behalf of suppliers in Bangladesh in favour of international agencies inviting tenders for supply of goods/ services. In such cases ADs should ensure genuineness of the tender/ supply contract /work order etc. before issuing of bond/ guarantee.

10. ADs may freely give guarantees on behalf of their customers in their ordinary course of business in respect of missing documents, authentication of signature, release of goods on Trust Receipts and defects in documents negotiated under LC or otherwise.

11. ADs may furnish performance bonds or guarantees in favour of overseas buyers on account of Bangladeshi exporters without prior approval of the Bangladesh Bank subject to usual banking norms subject to the following conditions:

(a) the tender floated by the foreign buyer calls for bank guarantee/ performance bond;

(b) the tenderer is a bonafide merchandise exporter-,

(c) there is no export ban on the commodity to be supplied;

(d) the past performance of the tenderer (exporter) is considered satisfactory by the AD.

The remittance, if any, to the beneficiary as a result of invocation of the bond or guarantee can be made subject to report to the Bangladesh Bank.

Private loans/
overdrafts against
guarantees or
collaterals lodged
outside

Bangladesh

Loans for
investment

Loans and
advances by the

ADs in Foreign

Currency

Guarantees on
behalf of

residents in

favour of

non-residents Minor

Guarantees

Export Guarantee CH 25 131

12. Issuance of repayment guarantees against foreign suppliers' credits shall be subject to the instructions at Para 4, Chapter 23.

13. (a) Subject to such conditions as may be imposed by Banking Regulations and Policy Department from time to time, ADs may issue Taka guarantees on behalf of foreign or foreign controlled companies/ firms operating in Bangladesh in favour of residents in Bangladesh: (i) against 100% cash deposit and /or where the guarantee is required to be submitted with tender documents in lieu of earnest money deposit, subject to the condition that validity of the guarantee issued in lieu of earnest money will be limited to the period within which the decision regarding acceptance or rejection of the tender is taken, (ii) against adjustment of the amount from the overdraft limit, if any, allowed to the company/ firm concerned.

(b) An AD may without prior approval of Bangladesh Bank, issue guarantee, bid bond or performance bond in foreign currency on behalf of a non-resident firm/company favouring residents in Bangladesh provided a back to back guarantee covering the guaranteed amount from an overseas correspondent or other bank abroad is held by the AD. The AD should satisfy itself about the bonafides of the overseas guarantee before issuing its own guarantee/ bid bond/ performance bond there against.

(c) In all other cases not specified above prior approval of the Bangladesh Bank is required for issuing guarantees on behalf of non-residents in favour of the residents in Bangladesh. Applications for these cases should be made by letter in duplicate giving full particulars of the guarantee/ bond, the period, Purpose and the method

by which the AD will be reimbursed in the event of the guarantee/ bond being invoked.

14. ADs may issue, on behalf of residents, bid bonds/ performance bonds/ guarantees in foreign currency in favour of local project authorities against goods/ services procurement tenders financed by international/ foreign donor agencies, on the condition that in case the guarantee is invoked the claim there against would be paid only in Taka equivalent and not in any other currency.

15. Non-resident international agencies may demand bank guarantees from non-resident contractors against supply of materials/ downpayment for the ongoing projects in Bangladesh financed by them. Such guarantee on behalf of a non-resident contractor in favour of the non-resident beneficiary may be issued by an AD against 100% counter guarantee from a reputed international bank abroad, or against 100% cash collateral in foreign exchange received from abroad through banking channel.

16. (a) ADs may not, without prior approval of Bangladesh Bank, furnish guarantees to or hold collaterals on behalf of overseas bank branches or correspondents in respect of credit facilities or guarantees to be extended by them or for any other purpose. All applications to

Repayment
guarantees
against suppliers'
credits
Guarantee on
behalf of
non-residents
in favour of
residents in
Bangladesh
Guarantee
favouring a
non-resident on
behalf of another
non-resident
Guarantees and
pledging of
collateral in
favour of
overseas bank
branches and
correspondents CH 25 132

Bangladesh Bank should be made by letters giving details of the purpose for which guarantee is to be furnished or collateral deposited. Prior approval is not however, necessary in cases where the ADs are satisfied that the amount of the fixed deposit or other collateral held by them represents funds remitted to Bangladesh through normal banking channel from the country of residence of the borrower.

(b) In cases where the extension of loans or overdrafts or guarantees require prior approval of the Bangladesh Bank, the renewal of such loans, overdrafts or guarantees shall also require prior approval of the Bangladesh Bank.

17. Nothing in this chapter shall affect the establishment of LCs in accordance with the provisions of Chapter 15 and the advice, confirmation and negotiation of credits established by non-resident banks to finance exports from Bangladesh.

Renewals of
loan and
overdrafts
LCs to finance
imports or
exports not
barred CH 25 133

SECTION -II

CREDIT FACILITIES TO INDUSTRIES IN EXPORT PROCESSING ZONES

18. (A) 100% foreign owned enterprises in the EPZs known as type A industries may obtain short term foreign currency loans from overseas banks and financial institutions subject to the following conditions:

(i) The loan shall be received through an AD in Bangladesh; and the loan proceeds will be credited to the FC account maintained by the AD in the name of the Type A unit, to be used for financing import of capital machinery and raw

materials, payment of interest /service charges, repayment of loans and for crediting Taka account for meeting local expenses;

(ii) Only assets fully owned by the Type -A industry may be lodged as collaterals for such loans;

(iii) Repayment of principal and interest on the loan shall be remitted out of the balances available in the FC account without prior Bangladesh Bank approval. No fund may be provided from the AD's own resources for such repayment except with prior approval of Bangladesh Bank;

(iv) In case the loan is called up by the creditor, the assets charged to foreign lender will be allowed to be sold only in foreign exchange and proceeds, after paying off all local liabilities in Bangladesh, may be remitted abroad with Bangladesh Bank's approval;

(vi) No Taka loan against repatriable short term foreign currency loan will be allowed to a Type A industry.

(B) Type B industries (joint venture projects) may also obtain such loans subject to conditions applicable to Type A industries as indicated above, except that Type B industries will not be permitted to mortgage/ hypothecate their fixed assets, raw materials in favour of any non -resident. The ADs may, however, issue guarantee to overseas banks/ financial institutions for short term foreign currency loans brought into Bangladesh by Type B industries, subject to prior approval of the Bangladesh Bank.

19. Taka loan may be granted to a joint venture (Type B) industrial unit in EPZ upto 100% of short term foreign currency loan brought in and encashed to Taka. Loan in Taka for procurement of capital machineries for setting up a Type B industry, not exceeding the local partners' share of ownership of the unit, may be extended on normal

Taka loans to
Type B units CH 25 134

banker-customer relationship. Prior Bangladesh Bank approval should be obtained by the AD while providing foreign exchange for import of the machineries out of the Taka loan. Repayments of the Taka loans alongwith interests should be received out of the foreign exchange earnings of the unit.

20. ADs may extend credit facilities to Type C industries (100% locally owned) as admissible to such industries outside EPZ.

21. In establishing import LCs on account of Type A, B and C units in the EPZs ADs shall bear in mind the position that the import payments may be made only out of the foreign exchange earnings of the concerned units or out of their borrowings abroad credited in their FC accounts, and that no funds from the AD's own foreign exchange resources can be used for this purpose. Before opening inputs import LC against an export LC or export order received by an EPZ unit the AD should satisfy itself completely about the clarity of the conditions in the export order/ LC, the

standing and credit of the foreign buyer and the ability of the exporting unit for timely execution of the export order. In opening inputs import LCs on account of Type B and Type units, domestic value addition requirements prescribed for the respective items by the Ministry of Commerce should also be abided by.

Import payments against the LCs should be scheduled in a manner that payment obligations do not fall due before receipt of export proceeds. In all cases of opening input import LCs on accounts of units in the EPZ, ADs should satisfy themselves that necessary arrangements have been made by the opener that in case of shortfall or delay in export receipts, foreign exchange would be made available from external sources.

Taka loans to
Type C units
Opening of
import LCs on
account of EPZ
units