

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF ECONOMIC AFFAIRS
LOK SABHA
UNSTARRED QUESTION NO. 664

TO BE ANSWERED ON 20th July, 2018/ ASHADHA 29, 1940 (SAKA)

Operational Flexibility for Multinational Entities

QUESTION

664: **SHRI G.M. SIDDESHWARA:**

Will the Minister of **FINANCE** be pleased to state:

- a) Whether the Reserve Bank of India has changed norms to provide operational flexibility to multinational entities and their Indian subsidiaries exposed to currency risks arising out of current account transactions in the country, if so, the details thereof; and
- b) whether the transactions under the facility will be covered under a tripartite agreement involving the Indian subsidiary, its non-resident parent/treasury and the bank, if so, the details thereof?

ANSWER

MINISTER OF STATE IN THE MINISTRY OF FINANCE
(SHRI P. RADHAKRISHNAN)

(a) The Reserve Bank of India, vide A.P. (DIR Series) Circular No. 41 dated March 21, 2017 provided operation flexibility to multinational entities and their Indian subsidiaries who are exposed to currency risks arising from current account transactions emanating in India. The details of operational flexibility for Indian subsidiaries of Non-resident Companies as provided in Annex-I to the RBI circular dated 21.03.2017 are shown at Annex-A.

(b) As per para 4 (i) of Annex-I to the above RBI circular dated March 21, 2017, the transactions under this facility will be covered under a tripartite agreement involving the Indian subsidiary, its non-resident parent/treasury and the Authorised Dealer bank. This agreement will include the exact relationship of the Indian subsidiary or entity with its overseas related entity, relative roles and responsibilities of the parties and the procedure for the transactions, including settlement.

Operational flexibility for Indian subsidiaries of Non-resident Companies

1. Purpose

To provide operational flexibility for booking derivative contracts to hedge the currency risk arising out of current account transactions of Indian subsidiaries of Multi-National Companies (MNCs).

2. Users

Non-resident parent of an Indian subsidiary or its centralised treasury or its regional treasury outside India.

3. Products

All Foreign Currency/Indian Rupee (FCY-INR) derivatives, Over the Counter (OTC) as well exchange traded that the Indian subsidiary is eligible to undertake as per Foreign Exchange Management Act (FEMA), 1999 and Regulations and Directions issued thereunder.

4. Operational Guidelines, Terms and Conditions for hedging

(i) The transactions under this facility will be covered under a tri-partite agreement involving the Indian subsidiary, its non-resident parent / treasury and the Authorised Dealer (AD) bank. This agreement will include the exact relationship of the Indian subsidiary or entity with its overseas related entity, relative roles and responsibilities of the parties and the procedure for the transactions, including settlement. The International Swaps Derivative Association (ISDA) agreement between the AD bank and the non-resident entity will be distinct from this agreement.

(ii) The non-resident entity should be incorporated in a country that is member of the Financial Action Task Force (FATF) or member of a FATF-Style Regional body.

(iii) The AD Bank may obtain Know Your Customer/ Anti Money Laundering (KYC/AML) certification on the lines of the format in Annex XVIII of the Master Direction on Risk Management and Inter Bank Dealings, as amended from time to time.

(iv) The non-resident entity may approach an AD Category-I bank directly which handles the foreign exchange transactions of its subsidiary for booking derivative contracts to hedge the currency risk of and on the latter's behalf.

(v) The non-resident entity may contract any product either under the contracted route or on past performance basis, which the Indian subsidiary is eligible to use.

(vi) The Indian subsidiary shall be responsible for compliance with the rules, regulations and directions issued under FEMA 1999 and any other laws/rules/regulations applicable to these transactions in India.

(vii) The profit/ loss of the hedge transactions shall be settled in the bank account and books of accounts of the Indian subsidiary. The AD bank shall obtain from the Indian subsidiary an annual certificate by its Statutory Auditors to this effect.

(viii) The concerned AD Bank shall be responsible for monitoring all hedge transactions (OTC as well as exchange traded) booked by the non-resident entity and ensuring that the Indian subsidiary has the necessary underlying exposure for the hedge transactions.

(ix) AD banks shall report hedge contracts booked under this facility by the non-resident related entity to Clearing Corporation of India (CCIL)'s trade repository with a special identification tag.
