



BMC Advisors

Corporate Laws and Intellectual Property Rights Consultants



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SEBI UPDATES

CIRCULAR

IMD/FPIC/CIR/P/2017/113
October 04, 2017

To
All Foreign Portfolio Investors
through their designated Custodians of Securities

The Depositories (NSDL and CDSL)

Sir / Madam,

Sub: Investments by FPIs in Government Securities

1. RBI in its Fourth Bi-monthly Policy Statement for the year 2015-16, dated September 29, 2015 had announced a Medium Term Framework (MTF) for FPI limits in Government securities in consultation with the Government of India. Accordingly, SEBI had issued circulars CIR/IMD/FPIC/8/2015 dated October 06, 2015, IMD/FPIC/CIR/P/2016/45 dated March 29, 2016 and IMD/FPIC/CIR/P/2016/107 dated October 03, 2016, IMD/FPIC/CIR/P/2017/30 dated April 03, 2017 and IMD/FPIC/CIR/P/2017/74 dated July 04, 2017 regarding the allocation and monitoring of FPI debt investment limits in Government securities.

2. It has been decided to revise the limit for investment by FPIs in Government Securities, for the October -December 2017 quarter, as follows:

- a. Limit for FPIs in Central Government securities shall be enhanced to INR 189,700 cr.
- b. Limit for Long Term FPIs (Sovereign Wealth Funds (SWFs), Multilateral Agencies, Endowment Funds, Insurance Funds, Pension Funds and Foreign Central Banks) in Central Government securities shall be revised to INR 60,300 cr.
- c. The debt limit category of State Development Loans (SDL) shall be enhanced as follows:
 - i. SDL-General shall be enhanced to INR 30,000 cr
 - ii. SDL-Long Term shall be enhanced to INR 9,300 cr

3. Accordingly, the revised FPI debt limits would be as follows:

Type of Instrument	Upper Cap as on July 04, 2017 (INR cr)	Revised Upper Cap with effect from October 03, 2017 (INR cr)
Government Debt -General	187,700	189,700
Government Debt-Long Term	54,300	60,300
SDL -General	28,500	30,000

SDL -Long Term	4,600	9,300
Total	275,100	289,300

4. All other existing conditions with regard to allocation and monitoring of debt limits shall continue to apply.

This circular shall come into effect immediately. This circular is issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992.

A copy of this circular is available at the web page "Circulars" on our website www.sebi.gov.in.

Custodians are requested to bring the contents of this circular to the notice of their FPI clients.

Yours faithfully,

ACHAL SINGH
Deputy General Manager
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CIRCULAR

SEBI/HO/IMD/DF3/CIR/P/2017/114

October 6, 2017

All Mutual Funds/Asset Management Companies (AMCs)/
Trustee Companies/Boards of Trustees of Mutual Funds/ AMFI

Sir/ Madam,

Subject: Categorization and Rationalization of Mutual Fund Schemes

1. It is desirable that different schemes launched by a Mutual Fund are clearly distinct in terms of asset allocation, investment strategy etc. Further, there is a need to bring in uniformity in the characteristics of similar type of schemes launched by different Mutual Funds. This would ensure that an investor of Mutual Funds is able to evaluate the different options available, before taking an informed decision to invest in a scheme.
2. In order to bring the desired uniformity in the practice, across Mutual Funds and to standardize the scheme categories and characteristics of each category, the issue was discussed in Mutual Fund Advisory Committee (MFAC). Accordingly, it has been decided to categorize the MF schemes as given below:

I. Categories of Schemes, Scheme Characteristics and Type of Scheme (Uniform Description of Schemes):

3. The Schemes would be broadly classified in the following groups:
 - a) Equity Schemes
 - b) Debt Schemes
 - c) Hybrid Schemes
 - d) Solution Oriented Schemes
 - e) Other Schemes

The details of the scheme categories under each of the aforesaid groups along with their characteristics and uniform description are given in the Annexure.

4. As per the annexure, the existing 'type of scheme' (presently mentioned below the scheme name in the offer documents/ advertisements/ marketing material/etc.) would be replaced with the type of scheme (given in the third column of the tables in the Annexure) as applicable to each category of scheme. This will enhance the existing disclosure. Hence, for the purpose of alignment of the existing schemes with the provisions of this circular, change in "type of scheme" alone, would not be considered as a change in fundamental attribute.
5. In case of Solution oriented schemes, there will be specified period of lock in as stated in the Annexure.
However, the said lock-in period would not be applicable to any existing investment by an investor, registered SIPs and incoming STPs in the existing solution oriented schemes as on the date on which such scheme is getting realigned with the provisions of this circular.
6. The investment objective, investment strategy and benchmark of each scheme shall be suitably modified (wherever applicable) to bring it in line with the categories of schemes listed above.

II. Definition of Large Cap, Mid Cap and Small Cap:

7. In order to ensure uniformity in respect of the investment universe for equity schemes, it has been decided to define large cap, mid cap and small cap as follows:
 - a. Large Cap: 1st -100th company in terms of full market capitalization
 - b. Mid Cap: 101st -250th company in terms of full market capitalization
 - c. Small Cap: 251st company onwards in terms of full market capitalization.
8. Mutual Funds would be required to adopt the list of stocks prepared by AMFI in this regard and AMFI would adhere to the following points while preparing the list:
 - a. If a stock is listed on more than one recognized stock exchange, an average of full market capitalization of the stock on all such stock exchanges, will be computed;
 - b. In case a stock is listed on only one of the recognized stock exchanges, the full market capitalization of that stock on such an exchange will be considered.
 - c. This list would be uploaded on the AMFI website and the same would be updated every six months based on the data as on the end of June and December of each year. The data shall be available on the AMFI website within 5 calendar days from the end of the 6 months period.
9. Subsequent to any updation in the list, Mutual Funds would have to rebalance their portfolios (if required) in line with updated list, within a period of one month.

III. Process to be followed for categorization and rationalization of schemes:

- a. Only one scheme per category would be permitted, except:
 - i. Index Funds/ ETFs replicating/ tracking different indices;
 - ii. Fund of Funds having different underlying schemes; and
 - iii. Sectoral/ thematic funds investing in different sectors/ themes
- b. Mutual Funds would be required to analyze each of their existing schemes in light of the list of categories stated herein and submit their proposals to SEBI after obtaining due approvals from their Trustees as early as possible but not later than 2 months from the date of this circular.
- c. The aforesaid proposals of the Mutual Funds would also include the proposed course of action (viz., winding up, merger, fundamental attribute change etc.) in respect of the existing similar schemes as well as those that are not in alignment to the categories stated herein.
- d. Subsequent to the observations issued by SEBI on the proposals, Mutual Funds would have to carry out the necessary changes in all respects within a maximum period of 3 months from the date of such observation.
- e. Where there is a merger of schemes/change of fundamental attribute(s) of a scheme (as laid down under SEBI Circular No. IIMARP/MF/CIR/01/294/98 dated February 4, 1998), the AMCs would be required to comply with Regulation 18(15A) of SEBI (Mutual Funds Regulation, 1996).
- f. Mutual Funds are advised to strictly adhere to the scheme characteristics stated herein as well as to the spirit of this circular. Mutual Funds must ensure that the schemes so devised should not result in duplication/ minor modifications of other schemes offered by them. The decision of SEBI in this regard shall be binding on all the mutual funds.

IV. Applicability of this circular:

- a. All existing open ended schemes of all Mutual Funds
- b. All such open ended schemes where SEBI has issued final observations but have not yet been launched.
- c. All open ended schemes in respect of which draft scheme documents have been filed with SEBI as on dated.
- d. All open ended schemes for which a mutual fund would file draft scheme document.

This circular is issued in exercise of the powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992, read with the provision of Regulation 77 of SEBI (Mutual Funds) Regulations, 1996 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

Yours faithfully,

RAJESH GUJJAR
Deputy General Manager
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For Annexure refer link:

http://www.sebi.gov.in/legal/circulars/oct-2017/categorization-and-rationalization-of-mutual-fund-schemes_36199.html

RBI UPDATES

RBI/2017-18/70

DBR.No.Ret.BC.90/12.02.001/2017-18

October 4, 2017

All Commercial Banks,
Primary (Urban) Co-operative Banks (UCBs)
State and Central Co-operative Banks (StCBs/CCBs)

Madam/Dear Sir,

Section 24 and Section 56 of the Banking Regulation Act, 1949 - Maintenance of SLR and holdings of SLR in HTM category

Please refer to our circulars DBR.No.BP.BC.65/21.04.141/2015-16 dated December 10, 2015 and DBR.No.Ret.BC.71/12.01.001/2016-17 dated June 7, 2017 on the captioned subject.

2. As announced in the Fourth Bi-monthly Monetary Policy Statement, 2017-18 on October 04, 2017, it has been decided to reduce the SLR requirement of banks from 20.0 per cent of their Net Demand and Time Liabilities (NDTL) to 19.5 per cent from the fortnight commencing October 14, 2017. A copy of the relative notification DBR.No.Ret.BC.91/12.02.001/2017-18 dated October 4, 2017 is attached.

3. Currently, the banks are permitted to exceed the limit of 25 per cent of the total investments under HTM category, provided the excess comprises of SLR securities and total SLR securities held under HTM category are not more than 20.5 per cent of NDTL. In order to align this ceiling on the SLR holdings under HTM category with the mandatory SLR, it has been decided to reduce the ceiling from 20.5 per cent to 19.5 per cent in a phased manner, i.e. 20 per cent by December 31, 2017 and 19.5 per cent by March 31, 2018.

4. As per extant instructions, banks may shift investments to/from HTM with the approval of the Board of Directors once a year, and such shifting will normally be allowed at the beginning of the accounting year. In order to enable banks to shift their excess SLR securities from the HTM category to AFS/HFT to comply with instructions as indicated in paragraph 3 above, it has been decided to allow such shifting of the excess securities and direct sale from HTM category. This would be in addition to the shifting permitted at the beginning of the accounting year, i.e., in the month of April. Such transfer to AFS/HFT category as well as sale of securities from HTM category, to the extent required to reduce the SLR securities in HTM category in accordance with the regulatory instructions, would be excluded from the 5 per cent cap prescribed for value of sales and transfers of securities to/from HTM category under paragraph 2.3 (ii) of the Master Circular on Prudential Norms for Classification, Valuation and Operation of Investment Portfolio by Banks.

Yours faithfully,

(S.S. Barik)
Chief General Manager-in-Charge

DBR.No.Ret.BC.91/12.02.001/2017-18
October 4, 2017

NOTIFICATION

In exercise of the powers conferred by sub-section (2A) of Section 24 read with Section 51 and Section 56 of the Banking Regulation Act, 1949 (10 of 1949) and in partial modification of the Notification Ref.DBR.No.BC.73/12.02.001/2016-17 dated June 7, 2017, the Reserve Bank hereby specifies that:

With effect from October 14, 2017, every commercial bank, primary (urban) co-operative bank, state co-operative bank and central co-operative bank shall maintain in India assets (referred to as 'SLR assets' in the above Notification) the value of which shall not, at the close of business on any day, be less than 19.5 per cent of their total net demand and time liabilities in India as on the last Friday of the second preceding fortnight, valued in accordance with the method of valuation specified by the Reserve Bank from time to time.

All other instructions contained in the Notification dated June 7, 2017, referred to above, shall continue to apply.

(Sudarshan Sen)
Executive Director

Master Directions - Non-Banking Financial Company - Peer to Peer Lending Platform (Reserve Bank) Directions, 2017

The Reserve Bank of India, (hereinafter referred to as “the Bank”) issued a Notification No DNBR.045/CGM (CDS)-2017 dated August 24, 2017 in terms of sub-clause (iii) of clause(f) of section 45I of the Reserve Bank of India Act, 1934 (hereinafter referred to as “the Act”) and on being satisfied that it is necessary to do so, in exercise of the powers conferred under section 45IA, 45JA, 45L, and 45M of the Act, and of all the powers enabling it in this behalf, hereby issues these Directions for compliance of the same by every Non-Banking Financial Company that carries on the business of a Peer to Peer Lending Platform.

1. Short title and commencement of the Directions:

(1) These Directions shall be known as the Non-Banking Financial Company - Peer to Peer Lending Platform (Reserve Bank) Directions, 2017.

(2) These Directions shall come into force with immediate effect.

2. Applicability of the Directions

These Directions shall apply to every Non-Banking Financial Company- Peer to Peer Lending Platform (NBFC-P2P) as defined in these Directions.

3. Scope

These Directions provide a framework for the registration and operation of NBFC-P2Ps in India.

4. Definitions

(1) In these Directions, unless the context otherwise requires, the terms used herein shall bear the meanings assigned to them below –

“Company” means a company as defined in clause (20) of section 2 of the Companies Act, 2013;

“Leverage Ratio” means the Total Outside Liabilities divided by Owned Funds, of the NBFC-P2P.

“Non-performing asset” (NPA) means a loan where interest and/ or instalment of principal remain overdue for a period of 90 days or more.

“Participant” means a person who has entered into an arrangement with an NBFC-P2P to lend on it or to avail of loan facilitation services provided by it;

“Peer to Peer Lending Platform” means an intermediary providing the services of loan facilitation via online medium or otherwise, to the participants as defined at Item (iv) of sub-paragraph (1) of paragraph 4 of these directions;

“Non-banking financial company - Peer to Peer Lending Platform” (NBFC-P2P) means a non-banking institution which carries on the business of a Peer to Peer Lending Platform.

(2) Words or expressions used in these Directions but not defined herein and defined in the Act or in the Companies Act, 2013 shall have the same meaning as assigned to them under those Acts.

5. Registration

(1) Eligibility Criteria

(i) No non-banking institution other than a company shall undertake the business of Peer to Peer Lending Platform.

(ii) No NBFC-P2P shall commence or carry on the business of a Peer to Peer Lending Platform without obtaining a Certificate of Registration (hereinafter referred to as "CoR") from the Bank. Provided that an entity carrying on the business of a Peer-to-Peer Lending Platform as on the effective date of these directions, can continue to do so, subject to the conditions laid down in subparagraph (2)(vii) in this Paragraph.

(iii) Every company seeking registration with the Bank as an NBFC-P2P shall have a net owned fund of not less than rupees twenty million or such higher amount as the Bank may specify.

(2) Process of Registration

(i) Every existing and prospective NBFC-P2P shall make an application for registration to the Department of Non-Banking Regulation, Mumbai of the Bank, in the form which will be specified by the Bank for the purpose. Existing NBFC-P2Ps shall apply within three months from the issuance of these Directions.

(ii) The Bank, for the purpose of considering the application for registration, shall require the following conditions, among others, to be fulfilled:

The company is incorporated in India;

The company has the necessary technological, entrepreneurial and managerial resources to offer such services to the participants;

The company has the adequate capital structure to undertake the business of Peer to Peer Lending Platform;

The promoters and the Directors of the company are fit and proper;

The general character of the management of the company is not prejudicial to the public interest;

The company has submitted a plan for, or implemented, a robust and secure Information Technology system;

The company has submitted a viable business plan for conducting the business of Peer to Peer Lending Platform;

Public interest shall be served by the grant of CoR;

Any other condition as may be specified by the Bank, fulfillment of which, in the opinion of the Bank, is necessary to ensure that the commencement of or carrying on the business in India shall not be prejudicial to the public interest.

In case of prospective NBFC-P2Ps

(iii) The Bank may, after being satisfied that the conditions specified under paragraph 5(2)(ii) are fulfilled, grant in-principle approval for setting up of a Peer to Peer Lending Platform, subject to such conditions which it may consider fit to impose.

(iv) The validity of the in-principle approval issued by the Bank will be twelve months from the date of granting such in-principle approval.

(v) Within the period of twelve months, the company shall put in place the technology platform, enter into all other legal documentations required and report position of compliance with the terms of grant of in-principle approval to the Bank.

(vi) The Bank may, after being satisfied that the entity is ready to commence operations, grant a CoR as an NBFC-P2P, subject to conditions as deemed fit by the Bank.

In case of existing NBFC-P2Ps

(vii) Companies that are undertaking the business of Peer to Peer Lending Platform, as defined at paragraph 4(1)(v) of these directions, as on the date of effect of these directions, shall apply for registration as an NBFC-P2P to the Bank within 3 months from that date. Such companies, which have applied to the Bank for registration as an NBFC - P2P, shall be permitted to continue the business of a Peer to Peer Lending Platform till their application for issuance of CoR is rejected, subject to such conditions, including winding down of business, as the Reserve Bank may impose.

(viii) The Bank may cancel the CoR granted to an NBFC-P2P, if such company -

ceases to carry on the business of Peer to Peer Lending Platform in India; or has failed to comply with any condition subject to which the CoR has been issued to it; or is no longer eligible to hold the CoR; or at any time fails to fulfill any of the conditions referred to in paragraphs 5(2)(ii) and 5(2)(v); or fails to -

(i) comply with any Direction issued by the Bank; or

(ii) maintain accounts, publish and disclose its financial position in accordance with the requirements of any law or any Direction or order issued by the Bank; or

(iii) submit or offer for inspection its books of account or other relevant documents when so demanded by the Bank.

6. Scope of Activities

(1) An NBFC-P2P shall-

(i) act as an intermediary providing an online marketplace or platform to the participants involved in Peer to Peer lending;

(ii) not raise deposits as defined by or under Section 45I(bb) of the Act or the Companies Act, 2013;

(iii) not lend on its own;

(iv) not provide or arrange any credit enhancement or credit guarantee;

(v) not facilitate or permit any secured lending linked to its platform; i.e. only clean loans will be permitted;

(vi) not hold, on its own balance sheet, funds received from lenders for lending, or funds received from borrowers for servicing loans; or such funds as stipulated in paragraph 9;

(vii) not cross sell any product except for loan specific insurance products;

(viii) not permit international flow of funds;

(ix) ensure adherence to legal requirements applicable to the participants as prescribed under relevant laws.

(x) store and process all data relating to its activities and participants on hardware located within India.

(2) Further, NBFC-P2P shall-

(i) undertake due diligence on the participants;

(ii) undertake credit assessment and risk profiling of the borrowers and disclose the same to their prospective lenders;

(iii) require prior and explicit consent of the participant to access its credit information;

(iv) undertake documentation of loan agreements and other related documents;

(v) provide assistance in disbursement and repayments of loan amount;

(vi) render services for recovery of loans originated on the platform.

(3) NBFC-P2P shall not undertake any activity other than those stated in paras 6(1) and 6(2) of these Directions. Deployment of investible funds by an NBFC-P2P in instruments specified by the Bank, not for trading, shall however be permitted.

7. Prudential Norms

(1) NBFC-P2P shall maintain a Leverage Ratio not exceeding 2.

(2) The aggregate exposure of a lender to all borrowers at any point of time, across all P2Ps, shall be subject to a cap of ₹ 10,00,000/-.

(3) The aggregate loans taken by a borrower at any point of time, across all P2Ps, shall be subject to a cap of ₹ 10,00,000/-.

(4) The exposure of a single lender to the same borrower, across all P2Ps, shall not exceed ₹ 50,000/-

(5) The maturity of the loans shall not exceed 36 months.

(6) P2Ps shall obtain a certificate from the borrower or lender, as applicable, that the limits prescribed above are being adhered to.

8. Operational Guidelines

(1) NBFC-P2P shall have a Board approved policy in place -

Setting out the eligibility criteria for participants on it.

Determining the pricing of services provided by it.

Setting out the rules for matching lenders with borrowers in an equitable and non-discriminatory manner.

(2) The outsourcing of any activity by NBFC-P2P does not diminish its obligations and it shall be responsible for the actions of its service providers including recovery agents and the confidentiality of information pertaining to the participant that is available with the service providers.

(3) No loan shall be disbursed unless the individual lender/s have approved the individual recipient/s of the loan and all concerned participants have signed the loan contract.

9. Fund Transfer Mechanism

Fund transfer between the participants on the Peer to Peer Lending Platform shall be through escrow account mechanisms which will be operated by a trustee. At least two escrow accounts, one for funds received from lenders and pending disbursement, and the other for collections from borrowers, shall be maintained. The trustee shall mandatorily be promoted by the bank maintaining the escrow accounts. All fund transfers shall be through and from bank accounts and cash transaction is strictly prohibited. The mechanism as described in the Annex-I may be adopted by the NBFC-P2P.

10. Submission of data to Credit Information Companies (CICs)

(1) An NBFC-P2P shall become member of all CICs and submit data (including historical data) to them.

(2) NBFC-P2P shall:

(i) keep the credit information (relating to borrower transactions on the platform) maintained by it, updated regularly on a monthly basis or at such shorter intervals as may be mutually agreed upon between the NBFC-P2P and the CICs;

(ii) take all such steps which may be necessary to ensure that the credit information furnished by it is up to date, accurate and complete;

(iii) include necessary consents in the agreement with the participants for providing the required credit information;

11. Transparency and Disclosure Requirements

(1) An NBFC-P2P shall be required to disclose the following:

(i) to the lender

(a) details about the borrower/s including personal identity, required amount, interest rate sought and credit score as arrived by the NBFC-P2P.

(b) details about all the terms and conditions of the loan, including likely return, fees and taxes;

(ii) to the borrower - details about the lender/s including proposed amount, interest rate offered but excluding personal identity and contact details;

(iii) publicly disclose on its website:

- (a) overview of credit assessment/score methodology and factors considered;
- (b) disclosures on usage/protection of data;
- (c) grievance redressal mechanism;
- (d) portfolio performance including share of non-performing assets on a monthly basis and segregation by age; and
- (e) its broad business model.

(2) NBFC-P2P shall ensure that the providing of services to a participant, who has applied for availing of such services, is backed by appropriate agreements between the participants and the NBFC-P2P. The agreements shall categorically specify all the terms and conditions among the borrower, the lender and the NBFC-P2P.

(3) The interest rates displayed on the platform shall be in Annualized Percentage Rate (APR) format.

12. Fair Practices Code

(1) An NBFC-P2P shall put in place a Fair Practices Code, based on the Guidelines outlined herein, with the approval of its Board. The same should be put up on its web-site, for the information of various stakeholders.

(2) NBFC-P2P shall be required to obtain explicit affirmation from the lender stating that he/ she has understood the risks associated with the proposed transaction and that there is no guarantee of return and that there exists a likelihood of loss of entire principal in case of default by a borrower. The platform shall not provide any assurance for the recovery of loans. Further, the platform shall display a caveat that "Reserve Bank of India does not accept any responsibility for the correctness of any of the statements or representations made or opinions expressed by the NBFC-P2P, and does not provide any assurance for repayment of the loans lent on it".

(3) In the matter of recovery of loans, NBFC-P2P shall ensure that the staff are adequately trained to deal with the participants in an appropriate manner and shall not resort to harassment viz; persistently bothering the borrowers at odd hours, use of coercion for recovery of loans, etc.

(4) NBFC-P2P shall ensure that any information relating to the participants received by it is not disclosed to any third party without the consent of the participants.

(5) The Board of Directors shall also provide for periodic review of the compliance of the Fair Practices Code and the functioning of the grievances redressal mechanism at various levels of management. A consolidated report of such reviews shall be submitted to the Board at regular intervals, as may be prescribed by it.

13. Participant Grievance Redressal

(1) An NBFC-P2P shall put in place a Board approved policy to address participant grievances/complaints. Complaints shall be handled/ disposed of by NBFC-P2P within such time and in such manner as provided for in its Board approved policy, but in any case not beyond a period of one month from the date of receipt.

(2) At the operational level, NBFC-P2P shall display the following information prominently, for the benefit of participants, on the website:

(i) the name and contact details (Telephone / Mobile Nos. as also email address) of the Grievance Redressal Officer who can be approached for resolution of complaints against the NBFC-P2P.

(ii) that if the complaint / dispute is not redressed within a period of one month, the participant may appeal to the Customer Education and Protection Department of the Bank.

14. Information Technology Framework, Data Security and Business Continuity Plan

(1) Business of an NBFC-P2P shall be primarily Information Technology (IT) driven. The technology should be scalable to handle growth in business.

(2) There should be adequate safeguards built in its IT systems to ensure that it is protected against unauthorized access, alteration, destruction, disclosure or dissemination of records and data. The Bank may from time to time, prescribe technical specifications, as deemed fit.

(3) NBFC-P2P should have a Board approved Business Continuity Plan in place for safekeeping of information and documents and servicing of loans for full tenure in case of closure of platform.

(4) Information System Audit of the internal systems and processes shall be in place and shall be conducted at least once in two years by CISA certified external auditors. Report of the external auditor shall be submitted to the Regional Office of the Department of Non-Banking Supervision of the Bank, under whose jurisdiction the Registered Office of the NBFC-P2P is located, within one month of submission of the report by the external auditor.

(5) There shall be reasonable arrangements in place to ensure that loan agreements facilitated on the platform will continue to be managed and administered by a third party in accordance with the contract terms, if the NBFC-P2P ceases to carry on the P2P activity.

(6) NBFC-P2P would be required to conform with Master Direction DNBS.PPD. No. 04/66.15.001/2016-17 dated June 8, 2017 on Information Technology Framework for NBFC Sector, as stipulated in Section A from inception.

15. Fit and Proper Criteria

(1) An NBFC-P2P shall

(i) ensure that a policy is put in place, with the approval of the Board of Directors, setting out 'Fit and Proper' criteria to be met by its directors. These criteria shall be consistent with the requirements contained in Annexes II to IV;

(ii) ensure that Directors meet the fit and proper criteria at the time of their appointment and on an ongoing basis, certify and inform the same to the Bank on a half-yearly basis;

(iii) obtain a declaration and undertaking from the Directors giving additional information. The declaration and undertaking shall be on the lines of the format given in Annex III;

(iv) obtain a Deed of Covenants signed by the Directors, which shall be in the format as given in Annex IV;

(v) advise the Bank of any change of Directors, or key management personnel, and issue a certificate from the Managing Director/CEO of the NBFC-P2P that fit and proper criteria in selection of the Directors have been followed. The statement must reach the Regional Office of the Department of Non-Banking Supervision of the Bank under whose jurisdiction the Registered Office of the NBFC-P2P is located, within 15 days of the change. An annual statement shall be submitted by the CEO of the NBFC-P2P to the said Regional Office, giving the names of its Directors for the quarter ending on March 31, which should be certified by the auditors.

The Bank, if it deems fit and in public interest, may independently assess whether the directors are, individually or collectively, fit and proper and the NBFC-P2P shall remove the concerned director/s, on being advised by the Bank to do so.

16. Requirement to obtain prior approval of the Bank for allotment of shares, acquisition or transfer of control of NBFC-P2P

(1) Prior written permission of the Bank shall be required for –

(i) any allotment of shares which will take the aggregate holding of an individual or group to equivalent of 26 per cent and more of the paid up capital of the NBFC-P2P;

Explanation: For the purpose of this paragraph, the term

"holding" refers to both direct and indirect holding, beneficial or otherwise. The holding will be computed with reference to the holding of the applicant, relatives (where the applicant is a natural person) and associated enterprises.

"relative" has the same meaning as assigned under section 2(77) of the Companies Act, 2013.

"associate enterprise" has the same meaning as assigned to it in Explanation I to Section 12B of the Banking Regulation Act, 1949.

(ii) any takeover or acquisition of control of an NBFC-P2P, which may or may not result in change of management;

(iii) any change in the shareholding of an NBFC-P2P, including progressive increases over time, which would result in acquisition by/ transfer of shareholding to, any entity, of 26 per cent or more of the paid up equity capital of the NBFC-P2P;

Provided that, prior approval would not be required in case of any shareholding going beyond 26% due to buyback of shares / reduction in capital where it has approval of a competent Court. The same is to be reported to the Bank not later than one month from its occurrence;

(iv) any change in the management of the NBFC-P2P which would result in change in more than 30 per cent of the Directors, excluding independent Directors;

(v) any change in shareholding that will give the acquirer a right to nominate a Director.

Application for Prior Approval

(2) An NBFC-P2P shall submit an application, on the company letter head, for obtaining prior approval of the Bank, along with the following documents:

- (i) Information about the proposed Directors/ shareholders as per Annex V;
- (ii) Sources of funds of the proposed shareholders acquiring the shares in the NBFC-P2P;
- (iii) Declaration by the proposed Directors/ shareholders that they are not associated with any unincorporated body that is accepting deposits;
- (iv) Declaration by the proposed Directors/ shareholders that they are not associated with any company, the application for CoR of which has been rejected by the Bank;
- (v) Declaration by the proposed Directors/ shareholders that they have not been convicted of any crime and that there are no pending criminal cases against them, including proceedings initiated under section 138 of the Negotiable Instruments Act, 1881; and
- (vi) Bankers' Report on the proposed Directors / shareholders.

(3) Applications in this regard shall be submitted to the Regional Office of the Department of Non-Banking Supervision of the Bank where the company is registered.

Public Notice about Change in Control/ Management

(4) A public notice of at least 30 days shall be given before effecting the sale of, or transfer of the ownership by sale of shares, or transfer of control, whether with or without sale of shares. Such public notice shall be given by the NBFC-P2P and also by the other party or jointly by the parties concerned, after obtaining the prior permission of the Bank.

(5) The public notice shall indicate the intention to sell or transfer ownership/control, the particulars of transferee and the reasons for such sale or transfer of ownership/ control. The notice shall be published in at least one leading national and in one leading local (covering the place of registered office) vernacular newspaper.

Information with respect to change of address, directors, auditors, etc. to be submitted

(6) Every NBFC-P2P shall communicate, not later than one month from the occurrence of any change in:

- (i) the complete postal address, telephone number/s and fax number/s of the registered / corporate office;
- (ii) the residential addresses of the Directors of the company;
- (iii) the names and office address of the auditors of the company; and
- (iv) the specimen signatures of the officers authorised to sign on behalf of the NBFC-P2P to the Regional Office of the Department of Non-Banking Supervision of the Bank within whose jurisdiction the Registered Office of the NBFC-P2P is located.

17. Reporting Requirements

(1) The Bank may, from time to time, prescribe return/s to be submitted by NBFC-P2P, as it deems fit.

(2) The following quarterly statements shall be submitted to the aforesaid Regional Office within 15 days after the quarter to which these relate.

(i) A statement, showing the number and amount in respect of loans;

(a) disbursed during the quarter;

(b) closed during the quarter; and

(c) outstanding at the beginning and at the end of the quarter, including the number of lenders and borrowers outstanding as at the end of the quarter

(ii) The amount of funds held in the Escrow Account, bifurcated into funds received from lenders and funds received from borrowers, with credit and debit summations for the quarter.

(iii) Number of complaints outstanding at beginning and at end of quarter, and disposed of during the quarter, bifurcated as received from lenders and borrowers.

(iv) The Leverage Ratio, with details of its numerator and denominator.

18. Supervision

The Bank may, at any time, cause an inspection by one or more of its officers or employees, or by any other agency as Bank may deem fit, of any NBFC-P2P.

19. Exemptions

The Bank may, if it considers necessary for avoiding any hardship or for any other just and sufficient reason, grant extension of time to comply with or exempt any NBFC-P2P or class of NBFC-P2Ps or all NBFC-P2Ps, from all or any of the provisions of these Directions, either generally or specially, and subject to such conditions as it may impose.

20. Clarifications

If any question arises relating to the interpretation of these directions, the matter shall be referred to the Bank and the decision of the Bank shall be final.

(C.D.Srinivasan)
Chief General Manager

For annexure please find below link:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11137&Mode=0>

RBI/2017-18/72
IDMD.CDD.No.927/14.04.050/2017-18

October 06, 2017

The Chairman & Managing Director
All Scheduled Commercial Banks
(Excluding RRBs)
Designated Post Offices
Stock Holding Corporation of India Ltd. (SHCIL)
National Stock Exchange of India Ltd. & Bombay Stock Exchange Ltd.

Dear Sir/Madam,

Sovereign Gold Bonds Scheme, Operational Guidelines

This has reference to the GoI notification F. No. 4(25)-B/ (W&M)/2017 and RBI circular IDMD.CDD.No.929/14.04.050/2017-18 dated October 06 2017 on the Sovereign Gold Bonds, FAQs in this regard have been placed on our website (www.rbi.org.in). Operational guidelines with regard to this scheme are given below:

1. Application

Application forms from investors will be received at branches during normal banking hours from Monday to Wednesday of every week (both days inclusive). Receiving Offices need to ensure that the application is complete in all respects as incomplete applications are liable to be rejected. Relevant additional details may be obtained from the applicants, where necessary. The Receiving Offices may make arrangements to enable the investors to apply online, in the interest of better customer service

2. Joint holding and nomination

Multiple joint holders and nominees (of first holder) are permitted. Necessary details may be obtained from the applicants as per practice.

3. Know-Your-Customer (KYC) requirements

Know-Your-Customer (KYC) norms shall be the same as that for purchase of physical form of gold. Identification documents such as passport, Permanent Account Number (PAN) Card, Voter's Identity Card, Aadhaar card shall be required. In case of minors only, the bank account number may also be considered as valid for KYC verification. KYC will be done by the issuing banks/SHCIL offices/Post Offices/agents. It may be ascertained from the investor, if he/she has made a previous investment in SGBs or IINSC-C and hence in possession of an Investor ID. If so, the investments may be made under the unique Investor ID only.

4. Cancellation

Cancellation of application is permitted till the closure of the issue, i.e. until Wednesday of the particular week of subscription. Part cancellation of submitted request for purchase of gold bonds is not permitted. No interest on application money needs to be paid if the application is cancelled.

5. Lien marking

As the bonds are government securities, lien marking, etc. will be as per the extant legal provisions of Government Securities Act, 2006 and rules framed there under.

6. Agency arrangement

Scheduled Commercial Banks may engage NBFCs, NSC agents and others to collect application forms on their behalf. Banks may enter into arrangements or tie-ups with such entities. Commission for distribution shall be paid at the rate of rupee one per hundred of the total subscription received by the receiving offices on the applications received and receiving offices shall share at least 50% of the commission so received with the agents or sub-agents for the business procured through them.

7. Processing through RBI's e-Kuber system

Sovereign Gold Bonds will be available for subscription at the branches of scheduled commercial banks and designated post offices through RBI's e- Kuber system. The e-Kuber system can be accessed either through INFINET or Internet. The Receiving Offices need to enter the data or carry out bulk upload for the subscriptions received by them. They may ensure accuracy of entry of data to prevent occurrence of any inadvertent errors. An immediate confirmation will be provided to them for receipt of application. In addition, a confirmation scroll will be provided for file uploads to enable the Receiving Offices to update their database. On the date of allotment, Certificates of Holding will be generated for all the subscriptions in the name of the sole/principal holder. The Receiving Offices can download the same and take printouts. The Certificates of Holding will also be sent through e-mail to the investors who have provided their email address. The securities will be credited in their de-mat accounts by the depositories, in due course, subject to matching of particulars furnished in the application with the depositories' records.

8. Printing Certificates of Holding

Holding Certificate needs to be printed in colour on A4 size 100 GSM paper.

9. Servicing and follow up

Receiving Offices, i.e., branches of the Scheduled Commercial Banks, designated post offices, SCHIL and stock exchanges (NSE Ltd and BSE) will "own" the customer and provide necessary services with regards to this bond e.g. update contact details, receive requests for premature encashment, etc. Receiving Offices will be required to preserve applications till the bonds are matured and are repaid.

10. Tradability

The Bonds shall be eligible for trading on a date notified by the Reserve Bank of India. (It may be noted that only bonds held in demat form with depositories can be traded in stock exchanges)

11. Contact details

Any queries/clarifications may be e-mailed to the following:

- (a) Sovereign Gold Bond related: Please click [here](#) to send email.
- (b) IT related: Please click [here](#) to send email.

Yours faithfully,
(Shyni Sunil)
Deputy General Manager

RBI/2017-18/71
IDMD.CDD.No.929/14.04.050/2017-18

October 06, 2017

The Chairman & Managing Director
All Scheduled Commercial Banks,
(Excluding RRBs)
Designated Post Offices
Stock Holding Corporation of India Ltd. (SHCIL)
National Stock Exchange of India Ltd. & Bombay Stock Exchange Ltd.

Dear Sir/Madam,

Sovereign Gold Bond Scheme

Government of India has vide its Notification F.No. 4(25)-B/ (W&M)/2017 dated October 06, 2017 announced that the Sovereign Gold Bond Scheme. Under the scheme SGBs (The Bonds) will be issued in a series of weekly issuances which will be open for subscription from Monday to Wednesday of every week starting from October 09, 2017. The Government of India may, with prior notice, close the Scheme before the specified period. The terms and conditions of the issuance of the Bonds shall be as follows:

1. Eligibility for Investment:

The Bonds under this Scheme may be held by a person resident in India, being an individual, in his capacity as such individual, or on behalf of minor child, or jointly with any other individual. The bond may also be held by a Trust, Charitable Institution and University. "Person resident in India" is defined under section 2(v) read with section 2(u) of the Foreign Exchange Management Act, 1999

2. Form of Security

The Bonds shall be issued in the form of Government of India Stock in accordance with section 3 of the Government Securities Act, 2006. The investors will be issued a Holding Certificate (Form C). The Bonds shall be eligible for conversion into de-mat form.

3. Date of Issue

The bond shall be issued on the first business day of next week for the applications received during a given week.

4. Calendar of Issuance:

The Sovereign Gold Bonds will be issued every week from October 2017 to December 2017 as per the calendar specified below:

S.No	Period of Subscription	Date of issuance
1.	October 09-11, 2017	October 16, 2017
2.	October 16-18, 2017	October 23, 2017
3.	October 23-25, 2017	October 30, 2017
4.	October 30-November 01, 2017	November 06, 2017

5.	November 06-08, 2017	November 13, 2017
6.	November 13-15, 2017	November 20, 2017
7.	November 20-22, 2017	November 27, 2017
8.	November 27-29, 2017	December 04, 2017
9.	December 04-06, 2017	December 11, 2017
10.	December 11-13, 2017	December 18, 2017
11.	December 18-20, 2017	December 26, 2017
12.	December 26-27, 2017	January 01, 2017

5. Denomination

The Bonds shall be denominated in units of one gram of gold and multiples thereof. Minimum investment in the Bonds shall be one gram with a maximum limit of subscription of 4 kg for individuals, 4 kg for Hindu Undivided Family (HUF) and 20 kg for trusts and similar entities notified by the government from time to time per fiscal year (April – March), provided that

- a) annual ceiling will include bonds subscribed under different tranches during initial issuance by Government and those purchased from the secondary market; and
- b) the ceiling on investment will not include the holdings as collateral by banks and other Financial Institutions.

6. Issue Price

Price of the Bonds shall be fixed in Indian Rupees on the basis of simple average of closing price of gold of 999 purity published by the India Bullion and Jewelers Association Limited for the last three business days of the week preceding the subscription period. The issue price of the Gold Bonds will be ₹ 50 per gram less than the nominal value to those investors applying online and the payment against the application is paid through digital mode.

7. Interest

The Bonds shall bear interest at the rate of 2.50 percent (fixed rate) per annum on the amount of initial investment. Interest shall be paid in half-yearly rests and the last interest shall be payable on maturity along with the principal.

8. Receiving Offices

Scheduled Commercial Banks (excluding RRBs), designated Post Offices (as may be notified), Stock Holding Corporation of India Ltd (SHCIL) and recognized stock exchanges viz., National Stock Exchange of India Limited and Bombay Stock Exchange Ltd. are authorized to receive applications for the Bonds either directly or through agents.

9. Payment Options

Payment shall be accepted in Indian Rupees through cash up to a maximum of ₹ 20,000/- or Demand Drafts or Cheque or Electronic banking. Where payment is made through cheque or demand draft, the same shall be drawn in favour of receiving office.

10. Redemption

i) The Bonds shall be repayable on the expiration of eight years from the date of issue of Gold bonds. Pre-mature redemption of the Bond is permitted from fifth year of the date of issue on the interest payment dates.

ii) The redemption price shall be fixed in Indian Rupees and the redemption price shall be based on simple average of closing price of gold of 999 purity of previous 3 business days from the date of repayment, published by the India Bullion and Jewelers Association Limited. The receiving office shall inform the investor of the date of maturity of the Gold Bond one month before its maturity.

11. Repayment

RBI/depository shall inform the investor of the date of maturity of the Bond one month before its maturity.

12. Eligibility for Statutory Liquidity Ratio (SLR)

The holding of these Bonds by banks as collateral shall be counted towards Statutory Liquidity Ratio holding.

13. Loan against Bonds

The Bonds may be used as collateral for loans. The Loan to Value ratio will be as applicable to ordinary gold loan mandated by the RBI from time to time. The lien on the Bonds shall be marked in the depository by the authorized banks.

14. Tax Treatment

Interest on the Bonds shall be taxable as per the provisions of the Income-tax Act, 1961. The capital gains tax arising on redemption of SGB to an individual has been exempted. The indexation benefits will be provided to long term capital gains arising to any person on transfer of bond

15. Applications

Subscription for the Bonds may be made in the prescribed application form (Form 'A') or in any other form as near as thereto stating clearly the grams of gold and the full name and address of the applicant. The receiving office shall issue an acknowledgment receipt in Form 'B' to the applicant.

16. Nomination

Nomination and its cancellation shall be made in Form 'D' and Form 'E', respectively, in accordance with the provisions of the Government Securities Act, 2006 (38 of 2006) and the Government Securities Regulations, 2007, published in part III, Section 4 of the Gazette of India dated December 1, 2007.

17. Transferability

The Bonds shall be transferable by execution of an Instrument of transfer as in Form 'F', in accordance with the provisions of the Government Securities Act, 2006 (38 of 2006) and the Government Securities Regulations, 2007, published in part III, Section 4 of the Gazette of India dated December 1, 2007.

18. Tradability of bonds

The Bonds shall be eligible for trading from such date as may be notified by the Reserve Bank of India.

19. Commission for distribution

Commission for distribution shall be paid at the rate of rupee one per hundred of the total subscription received by the receiving offices on the applications received and receiving offices shall share at least 50% of the commission so received with the agents or sub-agents for the business procured through them.

20. All other terms and conditions specified in the notification of Government of India in the Ministry of Finance (Department of Economic Affairs) vide number F. No.4(13) W&M/2008, dated 8th October 2008 shall apply to the Bonds.

21. Operational guidelines relating to Sovereign Gold Bonds are issued vide circular IDMD.CDD.No.927/14.04.050/2017-18 dated October 06, 2017.

Yours faithfully,

(Shyni Sunil)
Deputy General Manager

INCOME TAX UPDATES

F. No. 370142/25/2017-TPL
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, Dated 6th October, 2017

Subject: Framing of rules in respect of Country-by-Country reporting and furnishing of master file - comments and suggestions-reg.

In keeping with India's commitment to implement the recommendations of 2015 Final Report on Action 13, titled "*Transfer Pricing Documentation and Country-by-Country Reporting*", identified under the OECD Base Erosion and Profit Shifting (BEPS) Project, section 286 of the Income-tax Act, 1961 ('the Act') was inserted vide Finance Act, 2016, providing for furnishing of a Country-by-Country report in respect of an international group by its constituent or parent entity. Section 92D of the Act was also amended vide Finance Act, 2016 to provide for keeping and maintaining of Master File by every constituent entity of an international group, which was to be furnished as per rules prescribed in this regard.

2. Consequent to the aforesaid amendments to the Act, it is proposed to insert rules 10DA, 10DB and form nos. 3CEBA to 3CEBE in the Income-tax Rules, 1962 ('the Rules'), laying down the guidelines for maintaining and furnishing of transfer pricing documentation in the Master File and Country-by-Country report. In this regard, the following guidelines are proposed to be prescribed:

2.1 The following rules 10DA and 10DB are proposed to be inserted in the Rules after the existing rule 10D:

"Information and documents to be kept and maintained under proviso to sub-section (1) and to be furnished in terms of sub-section (4) of Section 92D.

10DA. (1) Every person, being a constituent entity of an international group shall,___

(i) if the consolidated revenue of the international group, of which such person is a constituent entity, as reflected in the consolidated financial statement of the international group for the accounting year preceding such previous year, exceeds five hundred crore rupees; and

(ii) the aggregate value of international transactions,___

(A) during the reporting year, as per the books of accounts, exceeds fifty crore rupees, or

(B) in respect of purchase, sale, transfer, lease or use of intangible property during the reporting year, as per the books of accounts, exceeds ten crore rupees,

keep and maintain the following information and documents of the international group:___

(a) a list of all the operating entities of the international group along with their addresses;

(b) a chart depicting the legal status of the constituent entity and ownership structure of the entire international group;

(c) a description of the business of international group during the reporting accounting year including,___

(I) the nature of the business or businesses;

(II) the important drivers of profits of such business or businesses;

(III) a description of the supply chain for the five largest products or services of the international group in terms of revenue plus any other products and/or services amounting to more than five per cent. of group turnover or revenue;

(IV) a list and brief description of important service arrangements among members of the international group, other than those for research and development services;

(V) a description of the capabilities of the main service providers within the international group;

(VI) details about the transfer pricing policies for allocating service costs and determining prices to be paid for intra-group services;

(VII) a list and description of the major geographical markets for the products and services offered by the international group;

(VIII) a description of the functions performed, assets employed and risks assumed by the constituent entities of the international group that contribute at least ten per cent. of the revenues, assets and profits of the group; and

(IX) a description of the important business restructuring transactions, acquisitions and divestments during the accounting year;

(d) a description of the overall strategy of the international group for the development, ownership and exploitation of intangibles, including location of principal research and development facilities and their management;

(e) a list of all the entities of the international group engaged in development and management of intangibles along with their addresses;

(f) a list of all the important intangibles or groups of intangibles owned by the international group along with the names and addresses of the group entities that legally own such intangibles;

(g) a list and brief description of important agreements among members of the international group related to intangibles, including cost contribution arrangements, principal research service agreements and license agreements;

(h) a detailed description of the transfer pricing policies of the international group related to research and development and intangibles;

(i) a description of important transfers of interest in intangibles, if any, among entities of the international group, including the name and address of the selling and buying entities and the compensation paid for such transfers;

(j) a detailed description of the financing arrangements of the international group, including the names and addresses of the top ten unrelated lenders;

(k) a list of group entities that provide central financing functions, including their place of operation and of effective management;

(l) a detailed description of the transfer pricing policies of the international group related to financing arrangements among group entities;

(m) a copy of the annual consolidated financial statement of the international group; and

(n) a list and brief description of the existing unilateral advance pricing agreements and other tax rulings in respect of the international group for allocation of income among countries.

(2) The report of the information referred to in sub-rule (1) shall be in Form No. 3CEBA and it shall be furnished to the Director General of Income-tax (Risk Assessment) on or before the due date for furnishing the return of income as specified in sub-section (1) of section 139:

Provided that the information in Form No. 3CEBA for the reporting accounting year 2016-17 may be furnished at any time on or before the 31st day of March, 2018.

(3) Information,___

- (i) in Part A of Form No. 3CEBA shall be furnished by every person, being a constituent entity of an international group;
- (ii) in Part B of Form No. 3CEBA shall be furnished by the person referred to in sub-rule (1).
- (4) Where there are more than one constituent entities of an international group, resident in India, then the report referred to in sub-rule (2) may be furnished by that constituent entity if it has been designated by the international group to furnish the said report and the same has been notified by the international group or the designated constituent entity to the Director General of Income-tax (Risk Assessment) in Form 3CEBE.
- (5) The notification referred to in sub-rule (4) shall be made at least 30 days before the due date of filing the report as prescribed under sub-rule (2) above.
- (6) The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems), as the case may be, shall specify the procedure for electronic filing of Form No. 3CEBA and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the information furnished under this rule.
- (7) The information and documents specified in sub-rule (1) shall be kept and maintained for a period of eight years from the end of the relevant assessment year.
- (8) The terms „accounting year“, „consolidated financial statement“, „international group“ and „reporting accounting year“ shall have the same meaning as assigned in sub-section (9) of Section 286.

Furnishing of Report in respect of an International Group.

10DB. (1) For the purposes of sub-section (1) of section 286, every constituent entity resident in India, shall, if its parent entity is not resident in India, notify the Director General of Income-tax (Risk Assessment) in Form 3CEBB, the following, namely:—

- (a) whether it is the alternate reporting entity of the international group; or
- (b) the details of the parent entity or the alternate reporting entity, as the case may be, of the international group and the country or territory of which the said entities are residents.
- (2) The notification referred to in sub-rule (1) shall be made on or before sixty days prior to the due date for furnishing of report as prescribed under sub-section (2) of section 286.
- (3) Every parent entity or the alternate reporting entity, as the case may be, resident in India, shall, for every reporting accounting year, furnish the report referred to in sub-section (2) of section 286 to the Director General of Income-tax (Risk Assessment) in Form 3CEBC.
- (4) A constituent entity of an international group, resident in India, other than the entity referred to in sub-rule (3), shall furnish the report referred to in sub-rule (3) within the time specified therein if the provisions of sub-section (4) of Section 286 are applicable in its case.
- (5) If there are more than one constituent entities of an international group, resident in India, other than the entity referred to in sub-rule (3), then the report referred to in sub-rule (4) may be furnished by that entity if it has been designated by the international group to furnish the said report and the same has been notified to the Director General of Income-tax (Risk Assessment), in Form 3CEBD.
- (6) For the purposes of sub-section (7) of Section 286, the total consolidated group revenue of the international group shall be 5,500 crore rupees.
- (7) The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems), as the case may be, shall specify the procedure for electronic filing of Form No. 3CEBB, Form No. 3CEBC and Form No. 3CEBD and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the information furnished under this rule.
- (8) The terms „accounting year“, „alternate reporting entity“, „consolidated financial statement“, „international group“ and „reporting accounting year“ shall have the same meaning as assigned in sub-section (9) of Section 286.”

2.2 Forms 3CEBA to 3CEBE, as reproduced below, are proposed to be inserted in the Rules after the existing Form 3CEB:

For Forms refer link: <http://www.incometaxindia.gov.in/communications/notification/framing-rules-respect-country-by-country-reporting-furnishing-master-file-6-10-2017.pdf>

3. The comments and suggestions of stakeholders and general public on the above draft notification are invited. The comments and suggestions may be sent electronically by 16th October, 2017 at the email address dirtpl1@nic.in.

(Sanyam Joshi)
DCIT (OSD) (TPL)-I
Tel: 011-23095468
Email: ustpl1@nic.in

EXCISE UPDATES

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Notification
No. 22/2017-Central Excise

New Delhi, the 3rd October, 2017

G.S.R. (E). – In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944), the Central Government on being satisfied that it is necessary in the public interest so to do, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 11/2017-Central Excise, dated the 30th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 793(E), dated the 30th June, 2017, namely:-

In the said notification, in the Table,

- (i) in serial number 2,-
 - (a) against item (i) of column (3), for the entry in column (4), the entry “Rs. 6.48 per litre” shall be substituted;
 - (b) against item (ii) of column (3), for the entry in column (4), the entry “Rs. 7.66 per litre” shall be substituted;
- (ii) in serial number 3,-
 - (a) against item (i) of column (3), for the entry in column (4), the entry “Rs. 8.33 per litre” shall be substituted;
 - (b) against item (ii) of column (3), for the entry in column (4), the entry “Rs. 10.69 per litre” shall be substituted.

2. This notification shall come into force with effect from the 4th October, 2017.

[F.No.354/123/2014-TRU(Pt-1)]

(Ruchi Bisht)
Under Secretary to the Government of India

Note.- The principal notification No. 11/2017-Central Excise, dated the 30th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide, number G.S.R. 793(E), dated the 30th June, 2017.

Circular No.
1059/8/2017 -CX

F. No. 296/202/2017-CX-9
Government of India
Ministry of Finance
Department of Revenue
Central Board of Customs & Excise

New Delhi, the Sep 2017

To,
All Principal Chief/ Chief Commissioners of CX & GST,
Director General of Performance Management.

Sub: Writing off of arrears of Central Excise, Service Tax and Customs duty - Constitution of Committees to advise the authority for writing off of arrears-reg.

Madam/Sir,

I am directed to invite reference to the instructions contained in Board's Circular No.946/07/2011 dated 01.06.2011 issued vide F.No. 296/10/2009-CX.9, on the subject of write off of arrears of irrecoverable dues.

2. Vide the aforesaid Circular, Board had decided to constitute three - member Committees of Chief Commissioners and Commissioners, which will examine the proposals for write - off of irrecoverable arrears and recommend deserving cases to the authority competent to order such write - off in terms of the Board's Circular dated 21.9.1990.

3. In the 2nd (Rajaswa Gyan Sangam)- All India Annual Conference of Tax Administrators" 2017, in his inaugural speech the Hon'ble Prime Minister pointed out the huge amount of pending arrears and has desired that an Action Plan may be put in place to eliminate pendency. Consequent to the Hon'ble Prime Minister's directions, Commissioner (TAR) has proposed that being the only officer in TAR, it becomes impossible for him to attend meetings for write-off of arrears all over India, Similarly in the Committee of Chief Commissioners, Chief Commissioner (TAR) / DGPM is also a member in the Committees all over India, Being in charge of DGPM, he too cannot attend all the meetings in this regard which causes delay in write off of tax arrears. Commissioner (TAR) has requested that the name of both the officers Chief Commissioner (TAR) / DGPM and Commissioner (TAR), may be deleted from these two Committees.

4. The matter has been examined. It has been decided that in place of DG (DGPM) and Commissioner (TAR), other Chief Commissioner or Equivalent / Commissioners available in the zone may be included in the Committee.

Consequently, the constitution of the Committees and the powers to write off, delegated to the competent authorities are as under:-

Sl No.	Competent Authority	Constitution of the Committee	Powers delegated
1.	Chief Commissioner GST & CX	Committee of three Chief Commissioners of GST & CX or Equivalent rank officers.	(a) Full powers for abandonment of irrecoverable amounts of fines and penalties imposed under Customs Act,1962, and Central Excise Act, 1944.

			(b) To write off irrecoverable amounts of Customs/Central Excise duties upto Rs. 15 lakh subject to a report to the Board.
2.	Commissioner of GST & CX	Committee of three Commissioners GST & CX or equivalent rank officers.	(a) Full powers for abandonment of irrecoverable amounts of fines and penalties imposed under Customs Act, 1962, and Central Excise Act, 1944. (b) To write off irrecoverable amounts of Customs/Central Excise duties upto Rs. 10 lakh subject to a report to the Chief Commissioner.

5. As regards write off of interest amount, it is clarified that once duty/ tax involved is written off, the interest due thereon would get automatically written off. It is also clarified that the duty/ tax involved in the case would determine the level of authority/Committee competent to write off the amount involved.

6. The field formations are, therefore, directed to take action on the above lines. If any difficulty is faced, the same should be brought to the notice of the Board.

Yours faithfully,

(V.Ganesh kumar)
Under Secretary to the Govt. of India

CUSTOM UPDATES

GOVERNMENT OF INDIA
 MINISTRY OF FINANCE
 (DEPARTMENT OF REVENUE)
 (CENTRAL BOARD OF EXCISE AND CUSTOMS)

Notification No.94/2017 - Customs (N.T.)

New Delhi, dated the 5th October, 2017
 13 Asvina 1939 (SAKA)

In exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and in supersession of the notification of the Central Board of Excise and Customs No.90/2017-CUSTOMS (N.T.), dated 21st September, 2017, except as respects things done or omitted to be done before such supersession, the Central Board of Excise and Customs hereby determines that the rate of exchange of conversion of each of the foreign currencies specified in column (2) of each of Schedule I and Schedule II annexed hereto, into Indian currency or *vice versa*, shall, with effect from 6th October, 2017, be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods.

SCHEDULE-I

Sl.No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(a)	(b)
(1)	(2)	(3)	
		(For Imported Goods)	(For Export Goods)
1.	Australian Dollar	51.95	50.15
2.	Bahrain Dinar	178.60	166.90
3.	Canadian Dollar	53.00	51.35
4.	Chinese Yuan	9.95	9.65
5.	Danish Kroner	10.50	10.10
6.	EURO	77.85	75.20
7.	Hong Kong Dollar	8.45	8.20
8.	Kuwait Dinar	223.10	208.45
9.	New Zealand Dollar	47.50	45.80
10.	Norwegian Kroner	8.35	8.05
11.	Pound Sterling	87.75	84.85
12.	Qatari Riyal	18.40	17.40

13.	Saudi Arabian Riyal	17.95	16.80
14.	Singapore Dollar	48.50	47.00
15.	South African Rand	4.95	4.65
16.	Swedish Kroner	8.20	7.90
17.	Swiss Franc	68.00	65.60
18.	UAE Dirham	18.35	17.15
19.	US Dollar	65.95	64.30

SCHEDULE-II

Sl.No.	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
		(a)	(b)
(1)	(2)	(3)	
		(For Imported Goods)	(For Export Goods)
1.	Japanese Yen	58.75	56.80
2.	Kenya Shilling	65.30	61.00

[F.No. 468/01/2017-Cus.V]

(Dr. Sreeparvathy S.L.)
Under Secretary to the Govt. of India
TELE: 011-2309 5541

GST UPDATES

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India
Ministry of Finance
(Department of Revenue)
[Central Board of Excise and Customs]

Notification No. 37/2017 - Central Tax

New Delhi, the 4th October, 2017

G.S.R....(E).- In exercise of the powers conferred by section 54 of the Central Goods and Services Tax Act, 2017, and section 20 of the Integrated Goods and Services Tax Act, 2017, sub-rule (5) of rule 96A of the Central Goods and Services Tax Rules, 2017, and in supersession of notification No. 16/2017-Central Tax, dated the 7th July, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 848 (E), dated the 7th July, 2017 except as respects things done or omitted to be done before such supersession, the Central Board of Excise and Customs hereby specifies conditions and safeguards for furnishing a Letter of Undertaking in place of a Bond by a registered person who intends to supply goods or services for export without payment of integrated tax -

(i) all registered persons who intend to supply goods or services for export without payment of integrated tax shall be eligible to furnish a Letter of Undertaking in place of a bond except those who have been prosecuted for any offence under the Central Goods and Services Tax Act, 2017 (12 of 2017) or the Integrated Goods and Services Tax Act, 2017 (13 of 2017) or any of the existing laws in force in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees;

(ii) the Letter of Undertaking shall be furnished on the letter head of the registered person, in duplicate, for a financial year in the annexure to FORM GST RFD - 11 referred to in sub-rule (1) of rule 96A of the Central Goods and Services Tax Rules, 2017 and it shall be executed by the working partner, the Managing Director or the Company Secretary or the proprietor or by a person duly authorised by such working partner or Board of Directors of such company or proprietor;

(iii) where the registered person fails to pay the tax due along with interest, as specified under sub-rule (1) of rule 96A of Central Goods and Services Tax Rules, 2017, within the period mentioned in clause (a) or clause (b) of the said sub-rule, the facility of export without payment of integrated tax will be deemed to have been withdrawn and if the amount mentioned in the said sub-rule is paid, the facility of export without payment of integrated tax shall be restored.

2. The provisions of this notification shall *mutatis mutandis* apply in respect of zero-rated supply of goods or services or both made by a registered person (including a Special Economic Zone developer or Special Economic Zone unit) to a Special Economic Zone developer or Special Economic Zone unit without payment of integrated tax.

[F. No. 349/74/2017-GST (Pt.) Vol.-II]

(Rohan)
Under Secretary to the Government of India

Circular No. 8/8/2017-GST

F. No. 349/74/2017-GST (Pt.) Vol.-II
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
GST Policy Wing

New Delhi, Dated the 4th October, 2017

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
Commissioners of Central Tax (All)
The Principal Director Generals/Director Generals (All)

Madam/Sir,

Subject: Clarification on issues related to furnishing of Bond/Letter of Undertaking for exports

In view of the difficulties being faced by the exporters in submission of bonds/Letter of Undertaking (LUT for short) for exporting goods or services or both without payment of integrated tax, Notification No. 37/2017 – Central Tax dated 4th October, 2017 has been issued which extends the facility of LUT to all exporters under rule 96A of the Central Goods and Services Tax Rules, 2017 (hereafter referred to as “the CGST Rules”) subject to certain conditions and safeguards. This notification has been issued in supersession of Notification No. 16/2017 – Central Tax dated 7th July, 2017 except as respects things done or omitted to be done before such supersession.

2. In the light of the new notification, three circulars in this matter, namely Circular No. 2/2/2017 – GST dated 5th July, 2017, Circular No. 4/4/2017 – GST dated 7th July, 2017 and Circular No. 5/5/2017 – GST dated 11th August, 2017, which were issued for providing clarity on the procedure to be followed for export under bond/LUT, now require revision and a consolidated circular on this matter is warranted. Accordingly, to ensure uniformity in the procedure in this regard, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017 clarifies the following issues:

a) **Eligibility to export under LUT:** The facility of export under LUT has been now extended to all registered persons who intend to supply goods or services for export without payment of integrated tax except those who have been prosecuted for any offence under the CGST Act or the Integrated Goods and Services Tax Act, 2017 or any of the existing laws and the amount of tax evaded in such cases exceeds two hundred and fifty lakh rupees unlike Notification No. 16/2017-Central Tax dated 7th July, 2017 which extended the facility of export under LUT to status holder as specified in paragraph 5 of the Foreign Trade Policy 2015-2020 and to persons receiving a minimum foreign inward remittance of 10% of the export turnover in the preceding financial year which was not less than Rs. one crore.

b) **Validity of LUT:** The LUT shall be valid for the whole financial year in which it is tendered. However, in case the goods are not exported within the time specified in sub-rule (1) of rule 96A of the CGST Rules and the registered person fails to pay the amount mentioned in the said sub-rule, the facility of export under LUT will be deemed to have been withdrawn. If the amount mentioned in the said sub-rule is paid subsequently, the facility of export under LUT shall be restored. As a result, exports, during the period from when the facility to export under LUT is withdrawn till the time the same is restored, shall be either on payment of the applicable integrated tax or under bond with bank guarantee.

- c) **Form for bond/LUT:** Till the time **FORM GST RFD-11** is available on the common portal, the registered person (exporters) may download the **FORM GST RFD-11** from the website of the Central Board of Excise and Customs (www.cbec.gov.in) and furnish the duly filled form to the jurisdictional Deputy/Assistant Commissioner having jurisdiction over their principal place of business. The LUT shall be furnished on the letter head of the registered person, in duplicate, and it shall be executed by the working partner, the Managing Director or the Company Secretary or the proprietor or by a person duly authorised by such working partner or Board of Directors of such company or proprietor. The bond, wherever required, shall be furnished on non-judicial stamp paper of the value as applicable in the State in which the bond is being furnished.
- d) **Documents for LUT:** Self-declaration to the effect that the conditions of LUT have been fulfilled shall be accepted unless there is specific information otherwise. That is, self-declaration by the exporter to the effect that he has not been prosecuted should suffice for the purposes of Notification No. 37/2017- Central Tax dated 4th October, 2017. Verification, if any, may be done on post-facto basis.
- e) **Time for acceptance of LUT/Bond:** As LUT/Bond is *a priori* requirement for export, including exports to a SEZ developer or a SEZ unit, the LUT/bond should be processed on top most priority. It is clarified that LUT/bond should be accepted within a period of three working days of its receipt along with the self-declaration as stated in para 2(d) above by the exporter. If the LUT / bond is not accepted within a period of three working days from the date of submission, it shall deemed to be accepted.
- f) **Bank guarantee:** Since the facility of export under LUT has been extended to all registered persons, bond will be required to be furnished by those persons who have been prosecuted for cases involving an amount exceeding Rupees two hundred and fifty lakhs. A bond, in all cases, shall be accompanied by a bank guarantee of 15% of the bond amount.
- g) **Clarification regarding running bond:** The exporters shall furnish a running bond where the bond amount would cover the amount of self-assessed estimated tax liability on the export. The exporter shall ensure that the outstanding integrated tax liability on exports is within the bond amount. In case the bond amount is insufficient to cover the said liability in yet to be completed exports, the exporter shall furnish a fresh bond to cover such liability. The onus of maintaining the debit / credit entries of integrated tax in the running bond will lie with the exporter. The record of such entries shall be furnished to the Central tax officer as and when required.
- h) **Sealing by officers:** Till mandatory self-sealing is operationalized, sealing of containers, wherever required to be carried out under the supervision of the officer, shall be done under the supervision of the central excise officer having jurisdiction over the place of business where the sealing is required to be done. A copy of the sealing report would be forwarded to the Deputy/Assistant Commissioner having jurisdiction over the principal place of business.
- i) **Purchases from manufacturer and Form CT-1:** It is clarified that there is no provision for issuance of CT-1 form which enables merchant exporters to purchase goods from a manufacturer without payment of tax under the GST regime. The transaction between a manufacturer and a merchant exporter is in the nature of supply and the same would be subject to GST.
- j) **Transactions with EOUs:** Zero rating is not applicable to supplies to EOUs and there is no special dispensation for them under GST regime. Therefore, supplies to EOUs are taxable like any other taxable supplies. EOUs, to the extent of exports, are eligible for zero rating like any other exporter.

k) Realization of export proceeds in Indian Rupee: Attention is invited to para A (v) Part-I of RBI Master Circular No. 14/2015-16 dated 01st July, 2015 (updated as on 05th November, 2015), which states that “*there is no restriction on invoicing of export contracts in Indian Rupees in terms of the Rules, Regulations, Notifications and Directions framed under the Foreign Exchange Management Act, 1999. Further, in terms of Para 2.52 of the Foreign Trade Policy (2015-2020), all export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency. However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan*”.

Accordingly, it is clarified that the acceptance of LUT for supplies of goods to Nepal or Bhutan or SEZ developer or SEZ unit will be permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance with the applicable RBI guidelines. It may also be noted that the supply of services to SEZ developer or SEZ unit under LUT will also be permissible on the same lines. The supply of services, however, to Nepal or Bhutan will be deemed to be export of services only if the payment for such services is received by the supplier in convertible foreign exchange.

l) Jurisdictional officer: In exercise of the powers conferred by sub-section (3) of section 5 of the CGST Act, it is hereby stated that the LUT/Bond shall be accepted by the jurisdictional Deputy/Assistant Commissioner having jurisdiction over the principal place of business of the exporter. The exporter is at liberty to furnish the LUT/bond before either the Central Tax Authority or the State Tax Authority till the administrative mechanism for assigning of taxpayers to the respective authority is implemented.

3. Circular No. 2/2/2017 – GST dated 5th July, 2017, Circular No. 4/4/2017 – GST dated 7th July, 2017 and Circular No. 5/5/2017 – GST dated 11th August, 2017 are hereby rescinded except as respects things already done or omitted to be done.
4. It is requested that suitable trade notices may be issued to publicize the contents of this circular.
5. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Commissioner (GST)

DGFT UPDATES

(To be published in the Gazette of India Extraordinary Part II, Section 3, Sub Section (ii))

Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Foreign Trade
Udyog Bhawan

Notification No. - 32/2015-20
New Delhi, Dated the 4th October, 2017

Subject: Procedure for export of Spices to the European Union countries.

S.O. (E) In exercise of the powers conferred by section 3 of the Foreign Trade (Development & Regulation) Act, 1992 (No.22 of 1992), as amended, read with Para 1.02 of the Foreign Trade Policy, 2015-20, the Central Government hereby makes the following amendment, with immediate effect, in Schedule 2 of ITC (HS) Classification of Export & Import Items relating to export of spices to the European Union countries.

2. A new entry at SI. No. 54B shall be inserted in Chapter 09 of Schedule 2 of ITC (HS) Classification of Export & Import Items as follows:

CHAPTER 9

COFFEE, TEA, MATE AND SPICES

SI. No.	Tariff Item HS Code	Unit	Item Description	Export Policy	Policy Condition
54B	All Codes pertaining to the spices under Chapter 09 of Schedule 1 (Import Policy) of ITC(HS) Classification of Export and Import Items, 2017	Kg	All spices under Chapter 09 of Schedule 1 (Import Policy) of ITC (HS) Classification of Export and Import Items, 2017	Free	(a) The Spices Board India is designed as the competent authority to issue Health Certificates to European Union countries in respect of export of spices; (b) The Spices Board India shall issue such export certification within a period of 48 to 72 hours after receiving the sample from the exporter.

SUPPLEMENTARY NOTES:

- 1) "Spice" means a group of vegetable products (including seeds, etc.), rich in essential oils and aromatic principles, and which, because of their taste, are mainly used as condiments. These products may be whole or in crushed or powdered form.

- 2) The addition of other substances to spices shall not affect their inclusion in spices provided the resulting mixtures retain the essential character of spices and spices also include products commonly known as “masalas”.
 - 3) All future amendment / revision on classification of items, items description, HS Codes etc. of spices (except export policy) under Chapter 09, Schedule 1 (Import Policy) of ITC(HS) Classification of Export and Import Items, 2017 shall also apply for the purpose of export of spices.
3. **Effect of this notification:**

Conditions for export of spices to European Union (EU) countries have been notified.

(Alok Vardhan Chaturvedi)
Director General of Foreign Trade
E-mail: dgft@nic.in



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