

# **PAYMENT MECHANISMS IN INTERNATIONAL TRANSACTIONS (INDIA)**



**KANGA & CO.** (Regd)  
ADVOCATES & SOLICITORS  
ESTABLISHED 1890

**PREETI MEHTA**  
Partner  
Kanga & Company  
Mumbai, India

# PAYMENT MECHANISMS IN INTERNATIONAL TRANSACTIONS

- Regulatory Framework
- Methods & Manner of Payment
- Instruments for Payments

# Regulatory Framework

## ➤ Authorities

- *Government of India*: Formulates policy on foreign transactions and enacts legislations governing foreign trade and foreign exchange transactions.
- *Reserve Bank of India (RBI)*: The banking regulator - regulates the foreign exchange inflow and outflow.
- *Foreign Exchange Dealers Association of India (FEDAI)*: An association of banks dealing in foreign exchange in India - a self regulatory body.

# Regulatory Framework Contd...

## ➤ Statues, Regulations & Guidelines

- *Foreign Exchange Management Act (FEMA) & Regulations thereunder*: Law relating to foreign exchange transactions.

## ➤ The Foreign Exchange Regulations:

- Foreign Exchange Management (Current Account Transactions) Rules, 2000, provide for transactions for which drawal of foreign exchange is (a) prohibited (b) approval of Central Government is required and (c) approval of RBI is necessary. For other transactions which are not specifically prohibited, remittance is permitted without any approval requirement or ceilings.

# Regulatory Framework (contd...)

- *Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2000* provides for classes of permissible Capital Account Transactions by person resident in India as well as person resident outside India.
- *Foreign Trade Policy*: Issued by the Central Government governing import and export of goods and services to and from India.
- *Internal Guidelines of banks*: Code of conduct formulated by each bank.

## Liberalised Remittance Scheme (LRS):

- Facilitates overseas investments by resident individuals.
- Remittance up to USD 200,000 per financial year for any permitted capital or current account transactions or a combination of both permitted without requiring to comply with the prescribed conditions under the relevant regulations.
- Transactions, which are otherwise not permissible under FEMA and those in the nature of remittances for margins or margin calls to overseas exchanges/ overseas counter party not permitted.

## Payments under Franchise Transactions & Technical Collaborations:

- Remittances for pure Franchise Payments such as franchise fee, royalty for use of trade marks and system, training expenses, advertisement contributions freely allowed.
- Payments for use of Brand Name (otherwise than part of franchise fee): royalties upto 1% for domestic sales and 2% on exports fall under Automatic Route.
- Payments for Technical Collaboration: Automatic Route available Automatic Route for lump sum USD 2 million, royalties of 5% on domestic sales and 8% on exports.
- Guarantees to secure these Payments require RBI approval, which is granted on case to case basis.

# Methods & Manner of Payments

## ❖ Electronic Payment through National Banking Systems:

### ➤ Internet Banking:

- Banks permitted to offer internet banking facilities based on their Board-approved internet banking policy.
- Services offered through internet banking available for local currency as well as foreign exchange.
- Operations of Vostro accounts of the overseas banks and exchange houses permitted.



## Methods & Manner of Payments Contd..

### ➤ International Credit Cards (ICCs):

- Facilitates personal payments due to foreign parties in foreign exchange and payments while travel abroad for various purposes.
- Entitlement of foreign exchange limited by (a) the credit limit fixed by the card issuing authority; and (b) transactions permitted under FEMA and its Regulations.
- Persons holding foreign currency account in India (i.e. Exchange Earners and Non-residents) or with a bank overseas can obtain ICCs of overseas banks and reputed agencies.

## Methods & Manner of Payments Contd..

### ➤ Asian Clearing Union (ACU):

- Provides a system for clearing payments among ACU member countries (Bangladesh, Iran, Myanmar, Pakistan & Sri Lanka) on a multilateral basis thereby facilitating settlement of monetary transactions.
- Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2000 require:
  - all current account transactions between member countries to be compulsorily settled through the ACU mechanism.
  - Payments for all other permitted transactions (other than current account transactions) is allowed through any of the permitted currencies.
  - Authorised Dealers (ADs) permitted to handle ACU transactions as other foreign exchange transactions.

## Methods & Manner of Payments Contd..

### ➤ Society for Worldwide Inter-bank Financial Telecommunication (SWIFT):

- System used by banks across the world for secure messaging of international fund transfers.
- Enables the exchange of financial information (payments, securities orders, reporting)
- Users of this network in India include RBI, all major banks including the private sector banks, branches of foreign banks and major financial institutions.

## Methods & Manner of Payments Contd....

### ➤ Trade Credit Mechanism

- Refers to credit extended by an overseas supplier, bank or any financial institution to the importer, with respect to imports in India.
- Governed by the provisions of the External Commercial Borrowing Guidelines (“ECB Guidelines”) issued by the Government of India. If the period of credit extended is three years or more, the same is treated as an External Commercial Borrowing (‘ECB’) and will be governed as such under the ECB Guidelines.
- AD banks in India permitted to approve trade credits upto USD 20 million per import transaction subject to certain conditions. Transactions in excess of USD 20 million require RBI approval.

# Instruments of Payment

## ➤ Letters of Credit (L/C)

### ■ Trade Control Regulations

- Importability of goods for which the LC is being issued and compliance with the relevant provisions of the Foreign Trade Policy, Import Trade Controls, Foreign Trade (Development and Regulation) Act, 1992 and Rules made thereunder need to be ascertained.

## ➤ FEMA

- Remittance of foreign exchange is allowed without any approvals for permissible imports.

## ➤ RBI's Directives & Credit Norms

- The issuing bank is to comply with RBI directives for credit norms to ascertain whether LC is to be issued for the customer.

# Instruments of Payment Contd...

## ➤ FEDAI Guidelines

- FEDAI has issued certain guidelines and directives for its member banks for dealing in foreign exchange and import LC.

## ➤ UCPDC

- UCPDC provides guidelines and norms for issuing of international LCs.

## ➤ Approvals

- Normally issue of LC is permissible without any approval requirement. However, certain categories of LCs such as Deferred Payment LC, require prior approval of RBI.

# Instruments of Payment Contd....

## ➤ Guarantees

- Foreign Exchange Management (Guarantees) Regulations, 2000: a person resident in India can give guarantee except in certain stipulated cases with prior permission of RBI.
- Guarantees to be given by Authorised Dealers:  
ADs may issue guarantees on behalf of their clients:
  - For exports;
  - For imports on deferred payment terms subject to RBI's permission.
  - For bona fide transactions if covered by counter-guarantee of a reputed international bank resident abroad;
  - As a counter-guarantee with respect to the guarantee issued by its branch or correspondent outside India, on behalf of Indian exporter to overseas buyer.

# Instruments of Payment Contd....

- Guarantees to be given by persons other than Authorised Dealers :
  - Persons other than ADs may issue the following guarantees:
    - *An Indian exporting company*: either for performance of an offshore project or for availing credit facilities, provided relevant approvals for the project have been obtained from the Approving Authority in India.
    - *An Indian exporting company*: guarantee in lieu of Bid Bond Guarantee for bidding a contract outside India. No approval required, if the amount does not exceed 5% of the contract value.
    - *An Indian company*: for promoting or setting up a joint venture of Approving Authority re company or a wholly owned subsidiary, outside India.
- Guarantees for Borrowings:
  - An Authorised Dealer Bank may permit a person resident in India to issue a guarantee in favour of an overseas lender to secure ECB.



**THANK YOU**