ETERNITY:LAW APPRISE

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Reserve Bank of India

Money Transfer Service Scheme

Reserve Bank of India ("**RBI**") has provided guidelines and directions for Money Transfer Service Scheme ("**MTSS**") i.e. remittances from abroad to beneficiaries in India, vide its *Master Circular dated February 22, 2017* *("***MTSS Master Direction***")*.

MTSS is a quick and easy way of transferring personal remittances from abroad to beneficiaries in India. Only inward personal remittances into India such as remittances towards family maintenance and remittances favouring foreign tourists visiting India are permissible. No outward remittance from India is permissible under MTSS. The system envisages a tie-up between reputed money transfer companies abroad known as Overseas Principals and agents in India known as Indian Agents who would disburse funds to beneficiaries in India at ongoing exchange rates. The Indian Agents can in turn also appoint sub-agents to expand their network. The Indian Agent is not allowed to remit any amount to the Overseas Principal. Under MTSS the remitters and the beneficiaries are individuals only. This document covers the details regarding the entry norms, authorization, renewal and various operating instructions pertaining to the entities involved in this scheme.

a. No person can handle the business of cross-border money transfer to India in any capacity unless specifically permitted to do so by the Reserve Bank. The persons allowed to apply as an Indian Agent under MTSS are-

   i. an Authorised Dealer Category-I bank defined as a person authorised as an authorised dealer under sub-section (1) of section 10 of Foreign Exchange Management Act ("**FEMA**").

ii. an Authorised Dealer Category-II defined as upgraded Full Fledged Money Changers (“**FFMCs**”); select Regional Rural Banks (“**RRBs**”) ; select Urban Cooperative Banks (“**RRBs**”); and other entities.

iii. a FFMC,

iv. a Scheduled Commercial Bank or the Department of Posts.

b. The applicant should have minimum Net Owned Funds of Rs.50,00,000 (Rupees Fifty Lakhs Only) wherein net owned funds would be calculated according to the formula stated by RBI in the MTSS Master Direction.

c. Conditions Prescribed-

i. Only cross-border personal remittances, such as, remittances towards family maintenance and remittances favouring foreign tourists visiting India shall be allowed under this arrangement. Donations/ contributions to charitable institutions/t rusts, trade related remittances, remittance towards purchase of property, investments or credit to Non Resident External (“**NRE**”) Accounts shall not be made through this arrangement.

ii. A cap of USD 2500 (United States Dollars Two Thousand Five Hunderd) has been placed on individual remittance under the scheme. Amounts up to Rs.50,000/- (Rupees Fifty Thousand Only) may be paid in cash to a beneficiary in India. Any amount exceeding this limit shall be paid by means of account payee cheque or demand draft or payment order, etc., or credited directly to the beneficiary's bank account only. However, in exceptional circumstances, where the beneficiary is a foreign tourist, higher amounts can be disbursed in cash. Full details of such transactions should be kept on record for scrutiny by the auditors/ inspectors.

iii. Only thirty (30) remittances can be received by a single individual beneficiary under the scheme during a calendar year.

Guidelines for Overseas Principals Indian Agents entering into arrangements with Money Transfer Operators overseas, known as Overseas Principals (“**OPs**”) are directed by RBI in the MTSS Master Direction. Under MTSS, Indian Agents can enter into Sub Agency agreements with entities, fulfilling certain conditions, for the purpose of undertaking money transfer business. The conditions are prescribed in the MTSS Master Directions.

d. Reporting, Audit and Inspection of Agents-

The Indian Agents would be expected to put in place adequate arrangements for reporting of transactions by the Sub Agents to the Indian Agents on a regular basis in a simple format to be prescribed by them, say at monthly intervals in accordance with the conditions mention in the MTSS Master Direction by RBI. Detailed instructions on Know Your Customer ("**KYC**")/ AML/ Combating of Financing Terrorism ("**CFT**") guidelines for the Indian Agents have been given in the MTSS Master Direction by RBI.

d. Annex 1 to the MTSS Master Direction provides for Standard Operating Procedure ("**SOP**") for non-bank money changers during elections as below-

i. Physical Movement-

- All movement of Indian currency or foreign exchange should be effected by the person(s) authorised, who should carry the supporting documents while moving the cash. The movement should be on the basis of requisition made by the receiver and to the address of the destination.
- If the cash is being moved from the office/branch of the AP, it should leave the place only after it has been recorded in the books of accounts of the AP.
- Similarly, if the destination point of movement of the currency is the office/ branch of the AP, it should be recorded in the books of accounts of the AP, on the same day or on the date of receipt.
- Transfer of foreign currency between branches of the same AP should be accounted as stock transfer and not as sale so that double counting is avoided.

ii. The upper limit for movement of cash in INR would be Rs.10,00,000/- (Rupees Ten Lakhs Only) and in Foreign Currency equivalent of USD 1,00,000 (United States Dollars One Hundred Thousand) except the transactions where the imported foreign currency is being transported to the offices/ branch of the AP.

iii. As far as possible movement of Indian Currency should be made through banking channels (viz. cheque, demand draft, NEFT, RTGS, IMPS etc.) only. The transactions between authorized dealers and FFMCs should be settled by way of account payee crossed cheques / demand drafts/ and in no circumstances the settlement of Indian Currency should be made in cash. The cash (INR) collected by the AP or its franchisee should be deposited to a bank branch on the same day or next day.

SEBI

Prudential limits in sector exposure for Housing Finance Companies

Securities and Exchange Board of India ("**SEBI**") vide its *Circular dated February 22, 2017* has provided for the amendments in Prudential limits in sector exposure for Housing Finance Companies ("**HFCs**").

a. The guidelines for sectoral exposure in debt oriented mutual fund schemes put a limit of 25% at the sector level and an additional exposure not exceeding 5%, over and above the limit of 25% in financial services sector only to HFCs. In light of the role of HFCs especially in affordable housing space, it has now been decided to increase additional exposure limits provided for HFCs in financial services sector from 5% to 10%.

b. The para on sector exposure in the *Circular dated February 15, 2016* has been amended and shall now be modified as under-

   Mutual Funds/AMCs shall ensure that total exposure of debt schemes of mutual funds in a particular sector (excluding investments in Bank CDs, CBLO, G-Secs, T Bills, short term deposits of Scheduled Commercial Banks and AAA rated securities issued by Public Financial Institutions and Public Sector Banks) shall not exceed 25% of the net assets of the scheme; Provided that an additional exposure to financial services sector (over and above the limit of 25%) not exceeding 15% of the net assets of the scheme be allowed only by way of increase HFCs ; provided further that the additional exposure to such securities issued by HFCs are rated AA and above and these HFCs are registered with National Housing Bank ("**NHB**") and the total investment/ exposure in HFCs shall not exceed 25% of the net assets of the scheme. Appropriate disclosures shall be made in Scheme Information Document ("**SID**") and Key Information Memorandum ("**KIM**") of debt schemes.

Grievance Redressal Circular 2017

SEBI vide its *Circular dated February 23, 2017* ("**Grievance Redressal Circular 2017**") has provided amendments to revamp the grievance redressal mechanism at Stock Exchanges and Depositories. The amendments are explained below-

Investor Grievance Resolution Panel ("**IGRP**")/ Arbitration Mechanism. The existing IGRP/ arbitration mechanism are modified as follows:

a. Public dissemination of profiles of arbitrators

In order to enhance transparency and also to provide choice to parties, Stock Exchanges/ Depositories shall disseminate information w.r.t. brief profile, qualification, areas of experience/ expertise, number of arbitration matters handled, pre-arbitration experience, etc. of the arbitrators on their website.

b. Submission of documents in soft copies

In order to assist the arbitrators in pronouncing comprehensive and speedy awards, Stock Exchanges/ Depositories shall make necessary arrangements in terms of hardware viz., computer, scanner, printer, etc. and required software's at exchange offices/ Investor Service Centers ("**ISCs**") to facilitate the clients to type/ convert their documents into electronic format/ soft copy. Such electronic format/ soft copies shall be provided to the arbitrators along with original submissions in physical copies.

c. Review and Training of arbitrators

Investor Service Committee of the Stock Exchanges/ Depositories shall review the performance of the arbitrators annually and submit the review report to the Board of the Stock Exchange/ Depository. Training need of the arbitrators will be catered by National Institute of Securities Markets ("**NISM**"). Cost of training of arbitrators may be incurred from ISF.

d. Mechanism for implementation of award is prescribed in the Grievance Redressal Circular 2017.

e. The guidelines for empanelment of arbitrators and segregation of arbitration and appellate arbitration panel are laid out in the Grievance Redressal Circular 2017.

f. Revision in professional fee of arbitrators

The arbitrator fee shall be upwardly revised to Rs. 18,000/- (Rupees Eighteen thousand) per case. Consequent to this upward revision, the additional expenses attributable to a client over and above the fee structure specified in point J, shall be borne by the client wherever applicable and Stock Exchange/ Depository equally. The total expense attributable to the member/ depository participant has to be borne by the concerned member/ depository participant.

g. Place of arbitration/ appellate arbitration

In case award amount is more than Rs. 50 lakh (Rupees Fifty lakhs), the next level of proceedings (arbitration or appellate arbitration) may take place at the nearest metro city, if desired by any of the party involved. The additional cost for arbitration, if any, to be borne by the appealing party.

h. Arbitration/ appellate arbitration award

In order to safeguard the interest of the parties involved in arbitration and to ensure speedy implementation of the arbitration award, the rate of interest on the award passed by arbitrators shall be in compliance with Arbitration and Conciliation (Amendment) Act, 2015.

i. Speeding up grievance redressal mechanism

In order to have faster implementation of award and to discourage delayed filling of arbitrations by members, the fee structure (exclusive of statutory dues - stamp duty, service tax, etc.) for filling arbitration reference is given in the Grievance Redressal Circular 2017.

j. Utilization of IPF, ISF, interest on IPF and interest on ISF is to be done in the manner as prescribed in the Grievance Redressal Circular 2017.

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Warm Regards,

Dipali Sarvaiya Sheth

Founder

ETERNITY LEGAL
Advocates & Solicitor
Patent & Trademark Attorneys

D-226, Neelkanth Business Park,

Vidyavihar (West), Mumbai– 400086

Email: contact@eternitylegal.com Tel no.: +91 22 2515-9001

Website: www.eternitylegal.com