



RESERVE BANK OF INDIA
Financial Markets Regulation Department
Central Office
Mumbai - 400 001

RBI/2014-15/401

January 14, 2015

A.P. (DIR Series) Circular No.58

To

All Category - I Authorised Dealer Banks

Madam / Sir,

**Risk Management and Inter Bank Dealings: Hedging under Past Performance Route-
Liberalisation of Documentation Requirements in the OTC market**

Attention of Authorised Dealers Category-I (AD Category-I) banks is invited to the Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000 dated May 3, 2000 ([Notification No. FEMA/25/RB-2000 dated May 3, 2000](#)) as amended from time to time and [A.P. \(DIR Series\) circular no. 32 dated December 28, 2010](#), as amended from time to time.

2. In order to further rationalise the documentation process for exporters and importers relating to hedging of probable exposures based on past performance, the extant guidelines in this regard have been revised as follows:

- a) In terms of paragraph (2)(g)(ii) of section B contained in the annex to the above circular, importers and exporters are required to furnish a quarterly declaration, as per Appendix M, duly certified by the Statutory Auditor, to the AD Category I banks regarding amounts booked with other AD Category I banks under this facility. It has now been decided that importers and exporters shall, henceforth, be required to furnish a quarterly declaration to the same effect as per the format in Annex I to this circular signed by the Chief Financial Officer (CFO) and the Company Secretary (CS). In the absence of a CS, the Chief Executive Officer (CEO) or the Chief Operating Officer (COO) shall co-sign the undertaking along with the CFO.
- b) Further, in terms of paragraph (2)(g)(iv), aggregate outstanding contracts in excess of 50 per cent of the eligible limit may be permitted by AD Category I banks on being satisfied about the genuine requirements of their customers after examination of the following documents:

- A certificate from the Statutory Auditor of the customer that all guidelines have been adhered to while utilizing this facility; and
- A certificate of import/export turnover of the customer during the past three years duly certified by their Statutory Auditor in the format given in Appendix K.

It has now been decided that, henceforth, AD Category I banks may permit aggregate outstanding contracts in excess of 50 per cent of the eligible limit on being satisfied about the genuine requirements of their customers after examination of a document as per the format in Annex II to this circular, signed by the CFO and CS, containing the following:

- A declaration that all guidelines have been adhered to while utilizing this facility; and
- A certificate of import/export turnover of the customer during the past three years.

In the absence of a CS, the CEO or the COO shall co-sign the undertaking along with the CFO.

- c) As part of the annual audit exercise, the Statutory Auditor shall also certify the following:
- i. The amounts booked with AD Category-I banks under this facility; and
 - ii. All guidelines have been adhered to while utilizing this facility over the past financial year.

3. All other operational guidelines, terms and conditions shall remain unchanged.

4. AD Category-I banks may bring the contents of this circular to the notice of their constituents and customers.

5. The directions contained in this circular have been issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions/ approvals, if any, required under any other law.

Yours faithfully

(Dimple Bhandia)
General Manager-in-Charge

Format of Declaration of amounts booked/cancelled under Past Performance facility

[On letterhead of the Company]

Date:

To,

(Name and address of the Bank)

Dear Sir,

Sub: Declaration of amounts booked/cancelled under Past Performance facility

We refer to the facility of booking of Forward or Option Contracts involving Foreign Exchange, based on the past performance facility with Authorised Dealer Category I Banks (AD Category I Banks), more specifically in relation to the undertaking submitted by us to you, dated [] in this regard ("Undertaking").

In accordance with the said Undertaking, we hereby furnish a declaration regarding the amounts of the transactions booked by us with all AD Category I banks.

We are availing the past performance limit with the following AD Category I banks:

.....

Please find below the information regarding amounts booked / cancelled with all AD Category I Banks under the said past performance facility as permitted under the FEMA, 1999 Regulations :

(Amount in US Dollar)

Eligible limit under past performance	Aggregate amount of contracts booked with all the ADs from April till date	Amount of contracts cancelled with all ADs from April till date _____	Amount of contracts o/s with all ADs as on date	Amount utilised (by delivery of documents) as on date	Available limits under past performance as on date
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Thanking you,

Yours faithfully,

For XXXXXX

(Chief Financial Officer)

(Company Secretary)

Format for Declaration for utilisation of past performance limits in excess of 50 per cent and details of import / export turnover, overdues, etc.

[On letterhead of the Company]

Date:

To,

(Name and address of the Bank)

Dear Sir,

Sub: Declaration for utilisation of past performance limits in excess of 50 per cent and details of import / export turnover, overdues, etc.

1. The value of the outstanding forward cover availed by us under the past performance route as on [date] is [] per cent of our eligibility for our imports [exports].
2. We certify that all guidelines in respect of hedging of probable exposures under the past performance route have been complied with while utilizing this facility.
3. We declare that the information in the table below is true to the best of our knowledge and is provided in support of our application to hedge our currency risk under the past performance route using permitted foreign exchange derivative contracts in terms of Regulations and Guidelines issued under FEMA, 1999 (Act 42 of 1999).

(Amount in USD million)

Financial Year (April-March)	Turnover		Percentage of overdue bills to turnover		Existing limit for booking of forward cover based on past performance	
	Import	Export	Import	Export	Export	Import
Year 1						
Year 2						
Year 3						

Yours faithfully,

For XXXXXX

(Chief Financial Officer)

(Company Secretary)