

Foreign Exchange Management Act, 1999 (FEMA)

Transactions in Credit Default Swap (CDS) by Foreign Portfolio Investors

[RBI/2021-22/155 - A.P. \(DIR Series\) Circular No. 23 dated 10th February 2022](#)

The term credit default swap (CDS) is a financial derivative that allows an investor to swap or offset their credit risk with that of another investor. To swap the risk of default, the lender buys a CDS from another investor who agrees to reimburse the lender in case the borrower defaults.

The RBI vide this Circular has provided a threshold limit up to which FPIs can issue CDS i.e., 5% of the outstanding stock of corporate bonds.

Permitting Banks to Deal in offshore Foreign Currency Settled Rupee Derivatives Market

[RBI/2021-22/157 dated 10th February 2022](#)

Overnight index swap (OIS) is an interest rate swap involving the overnight rate being exchanged for a fixed interest rate such as NSE MIBOR.

The RBI vide this notification states that Overnight index swaps (OIS) can be used

by Overseas entities, AD Banks and Corporates in India to undertake transactions in the offshore FCS-OIS (Foreign Currency Settled Overnight Indexed Swap) market with non-residents and other market makers¹ to hedge the interest rate risks based on the Overnight MIBOR² benchmark. Such a mechanism was coined to shift liability from fixed rate to floating rate (vice-versa).

¹*Market maker* - is an individual participant/member firm of an exchange that buys and sells securities for its own account. They provide the market with liquidity while profiting from the difference.

²*MIBOR* - Mumbai Inter Bank Overnight Rate is the overnight lending offered rate for Indian commercial banks. MIBOR is calculated based on input from a panel of 30 banks and primary dealers.

Permitting Validity of existing handbook of Procedures, 2015-20 of Foreign trade policy extended

[Public notice No. 64/2015-20](#)

As the current FDI policy 2015-20 has been continued by DGFT, as a result, the validity of handbook of procedures has been extended to

April 2022

30th Sept 2022 from 31st March 2022 along with the validity of status certificate up to 30th June 2022.

Snippets

The RBI vide notification has increased the investment limit under VRR from INR 1,50,000 crore to INR 2,50,000 crore effective from 1st April 2022.

Department of Promotion of Industry and Internal Trade (DPIIT)

Permitting foreign investment in LIC and other modifications for further clarity

Press Note 1(2022 Series) dated 14th March 2022

DPIIT in order to liberalise FDI policy in India, has come out with following major amendments in the Consolidated Foreign Direct Investment Policy, 2020:

- In order to facilitate divestment of LIC and its forthcoming IPO, DPIIT has allowed up to 20 % Foreign Investment under automatic route in said IPO, subject to overall sectoral cap of 74% applicable to Insurance sector, and sectoral conditions as notified, primary ones being
 - a) Foreign investment in LIC shall be subject to compliance provisions of the LIC Act and Insurance Act, 1938; and
 - b) Any increase in foreign investment in an Indian insurance company, shall be in accordance with the pricing guidelines specified by the RBI under extant FEMA Regulations.
- The period of convertible debenture note, has been enhanced from 5 years to 10 years.
- Similarly, they have inserted and brought about various amendments / clarifications in definitions of Capital, Foreign Investment, real estate and share-based employee benefits to bring them in line with the existing FDI Policy.

Reserve Bank of India (RBI)

Prudential norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances-Clarifications

RBI/2021-2022/158 dated 15th February 2022

With reference to Circular dated 12th November 2021, the RBI has issued the following clarifications-

- The definition of 'out of order', as clarified in the Circular, will be applicable to all loan products being offered as an overdraft facility, including those not meant for business purposes and/or which entail interest repayments as the only credits.
- The 'previous 90 days period' for determination of 'out of order' status of a CC/OD account will be inclusive of the day for which the day-end process is being run.
- In case of borrowers having more than one credit facility from a lending institution, loan accounts will be upgraded from NPA to standard asset category only upon repayment of entire arrears of interest and principal pertaining to all the credit facilities.
- The circular does not make any changes to the requirements related to reporting of information to CRILC, which will continue to be governed in terms of extant instructions for respective entities.
- The circular does not, in any way, interfere with the extant guidelines on implementation of Ind-AS by Non-Banking Financial Companies (NBFCs).

The Circular stipulates that loan accounts classified as NPAs may be upgraded as 'standard' asset only if entire arrears of interest and principal are paid by the borrower. **NBFCs will have time till 30th September 2022** to put in place the necessary systems to implement this provision.

New Definition of Micro, Small and Medium Enterprises – Clarification

RBI/2021-2022/161 dated 18th February 2022

With reference to RBI Circular dated 25th June 2021 it has been clarified that the existing

April 2022

Entrepreneurs Memorandum (EM) Part II and Udyog Aadhaar Memorandum (UAMs) of the MSMEs obtained till 30th June 2020 will remain valid till 31st March 2022 (*earlier 31st December 2021*).

Master Direction – Reserve Bank of India (Regulatory Framework for Microfinance Loans) Directions, 2022

[RBI/DOR/2021-22/89 dated 14th March 2022](#)

The RBI has put in place the directions for microfinance loans which are **applicable from 1st April 2022**. The provisions of these directions will apply to the following entities-

- All Commercial Banks (including Small Finance Banks, Local Area Banks, and Regional Rural Banks) excluding Payments Banks;
- All Primary (Urban) Co-operative Banks/ State Co-operative Banks/ District Central Co-operative Banks; and
- All NBFCs (including Microfinance Institutions and Housing Finance Companies).

Inter alia, definition of microfinance loan has been changed.

Master Direction - Classification, Valuation and Operation of Investment Portfolio of Commercial Banks (Directions), 2021 – Amendment

[RBI/2021-22/191 dated 31st March 2022](#)

With reference to [Master Direction dated 25th August 2021](#), it has been clarified that investments in special securities received from the Government of India towards bank's recapitalisation requirement from financial year (FY) 2021-22 onwards should be recognised at fair value / market value on initial recognition in Held to Maturity (HTM). The fair value / market value of these securities shall be arrived on the basis of the prices / Yield to Maturity (YTM) of similar tenor Central Government securities put out by Financial Benchmarks India Pvt. Ltd. (FBIL). Any difference between the acquisition cost and fair value arrived as above should be immediately recognised in the Profit and Loss Account.

KEY TAKE AWAY

The present amendments in the FDI Policy 2015-20 are to bring them in line with the existing extant FEMA Guidelines. To rationalize the existing provisions governing overseas investment and facilitate divestment of LICs forthcoming IPO, Department for Promotion and Internal trade has decided to allow up to 20% Foreign Investment under automatic route in said IPO. Further, the Government has also introduced CDS and OIS to align the same with the market trend



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