

EXCHANGE CONTROL IN FIJI

[A] INTRODUCTION

Exchange Control encompasses Government's regulations with regard to the buying and selling of foreign currency and related transactions between Fiji and the rest of the world.

Statutory Requirement

The powers and functions relating to exchange control are exercised and administered under the Exchange Control Act Cap. 211 Rev. 1985 by the Reserve Bank of Fiji. These powers, except the power to make orders or to apply for a search warrant, are delegated to the Reserve Bank by the Minister of Finance under Section 48 of the Reserve Bank of Fiji Act.

Delegation of Authority

The powers delegated by the Minister of Finance, especially the authority to buy and sell foreign currencies are further delegated by the Reserve Bank of Fiji to authorised dealers. These are referred to as Delegated Authority (DA).

Processing of Applications

The delegated authority empowers authorised dealers to approve applications by customers that are within the specified delegated limits.

An Exchange Control approval from the Reserve Bank is required where applications fall outside the Delegated Authority.

Where an applicant does not satisfactorily meet all the requirements stated for a particular transaction, the authorised dealer should seek the approval of the Reserve Bank.

Licensing of Foreign Exchange Dealers

Any person that wants to set up a foreign exchange business in Fiji will require to first apply to the Reserve Bank.

Applicants must meet all the requirements stipulated by the Reserve Bank for such an operation.

The operation of authorised foreign exchange dealers is now licenced and supervised by the Reserve Bank within a regulated framework.

The following authorised dealers are licenced to deal in foreign exchange.

1. Authorised Banks

- Australia & New Zealand Banking Group Limited
- Bank of Baroda
- Colonial National Bank
- Habib Bank Limited
- Westpac Banking Corporation

2. Authorised Restricted Foreign Exchange Dealers

- City Forex (Fiji) Pty Ltd
- Exchange & Finance Pty (Fiji) Limited
- Exchange World (Fiji) Limited
- Global Transfers Ltd
- Lodhias Travel Services Limited
- Sita World Travel
- Thomas Cook Financial Services

3. Authorised Money Changers

- Argo Travel
- Deak International
- Oxbow Holdings Limited
- South Pacific Travel & Tours (Fiji) Limited

4. *Electronic Money Transfers*
– Western Union

Compared to authorised banks, the operations of Authorised Restricted Foreign Exchange Dealers, Money Changers and Western Union are restrictive in the amounts that could be transacted and the types of transactions that could be carried out.

Processing time for Exchange Control Approvals

A number of exchange control areas are not delegated to authorised dealers and still require approval from the Reserve Bank.

In such cases, customers may lodge their applications through the authorised dealers or professional institutions (law/accounting firms) or directly at the Exchange Control Unit of the Reserve Bank of Fiji. Applications submitted with the relevant documents generally take up to 3 days to process.

Exchange Control Approval

Approval on the exchange control form will appear as a permit number and two (2) 'Authorised Bank Signatories'. An approval letter will have the phrase, 'Permission under the Exchange Control Act' in the body of the text.

Exchange Control Forms

Form A	Advance Payment of Imports*
Form B	General*
Form C	Export of Currency*
Form F	Export Licence**
Form IE	Emigration*
Form T	Travel*
Form I	Offshore Borrowing***
Form R	Foreign Currency Accounts*

Form I.1 Application to issue shares to non-residents in a new company***

Form I.2 Application to transfer shares involving a non-residents***

* available at authorised dealers locations

** available at Customs offices

*** available at FTIB or accounting/law firms

[B] DETERMINATION OF RESIDENCY

For the purpose of Exchange Control,

i] A **Resident** is:

- A Fiji citizen who is permanently residing in Fiji and has not obtained any approval from the appropriate authorities to reside overseas;
- A Fiji citizen who is temporarily domiciled overseas and has no intention of obtaining permanent residence;
- A non-Fiji citizen who has resided continually in Fiji for more than three years and has decided to designate his/her bank accounts to Fiji resident status;
- A non-Fiji citizen who has obtained an approval from the Reserve Bank of Fiji to be classified resident for Exchange Control purposes;
- A non-Fiji citizen who has been granted a permit by the Immigration Department to reside in Fiji on assured income;
- A married couple of whom one of the spouses is a resident of Fiji, who have decided to designate their accounts resident;
- A business entity (partnership, company, branch operation, sole trader) that is incorporated or registered and operating under the laws of Fiji.

ii] A **Non-resident** is:

- A person or business entity that does not qualify under the above definition.

[C] GENERAL POLICY OUTLINE

Exchange Control is one of the tools used by the Reserve Bank for the implementation of monetary policy and management of our foreign reserves. Its primary objective is to ensure that Fiji has a comfortable level of foreign reserves that enhances its economic growth and socio-economic development.

The Reserve Bank regularly reviews its exchange control policy guidelines and these have been progressively relaxed over the years.

In this Brochure, exchange control policy guidelines under the following Sections are highlighted:-

1. Investment in Fiji by Non-Residents
2. Types of Accounts
3. Credit Facilities
4. Export Receipts
5. Repatriation of Capital & Income
6. Offshore Investment
7. Emigration Allowance
8. Travel Facilities
9. Advance Import Payments & Merchant Goods
10. Overseas Payments delegated to Authorised Dealers

1. INVESTMENT IN FIJI BY NON-RESIDENTS

All foreign investment in Fiji, whether new, additional and/or joint-venture arrangements, must be approved by Government through the Fiji Islands Trade and Investment Bureau (FTIB).

The Reserve Bank of Fiji has now delegated to the FTIB the authority to process applications relating to the issue and transfer of shares. Previously, this function was carried out by the Reserve Bank of Fiji, as sanctioned under the Exchange Control Act.

Applications for the issue of new or additional shares or capital should be made on Form I.1 and applications for the transfer of shares or capital are to be made on Form I.2, and submitted to the FTIB for processing.

Guarantee of Repatriation of Investment Funds

A foreign investor that brings in funds or equipment from overseas to invest in Fiji and has fulfilled all regulatory requirements is guaranteed the repatriation of his investment, including any income earned from the investment.

Foreign Investment in Listed Companies and Fixed Deposits

The South Pacific Stock Exchange and authorised banks in Fiji are allowed to approve investment by non-resident individuals and businesses in public listed companies and in fixed deposit accounts, for amounts up to F\$500,000 per investor per annum.

Purchase of Properties

A non-resident is allowed to purchase land and own residential properties in Fiji without the approval of the Reserve Bank of Fiji, provided the settlement of the sale takes place in Fiji. Settlement offshore between two non-resident parties will be subject to the consent of the Reserve Bank.

2. TYPES OF ACCOUNT

External Accounts

External accounts are accounts in Fiji currency that are held by non-residents with authorised banks.

Credits into external accounts include the following:

- Proceeds from the sale by the account holder of foreign currency sourced externally or remaining from travel funds;
- Salaries and wages from employment in Fiji;
- FNPF proceeds;
- Tax refunds;
- Proceeds from sale of assets;
- Payments from other external accounts;
- Interest payable on the account;
- Approved payments by residents either through an approval granted by the Reserve Bank of Fiji or under the delegated authority to authorised banks;
- Account holders funds up to F\$1,000 per transaction from local sources.

Exemption

Office accounts of the diplomatic corps e.g.. Embassies, Legation, Consulates and offices of United Nations Agencies may be credited with Fiji dollars without restriction.

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Foreign Currency Accounts

These are accounts maintained in foreign currencies e.g. US dollars or Australian dollars, with authorised banks. Foreign currency accounts for exporters are covered in Section 4.

Credits into foreign currency accounts include the following:

- Local payments in foreign currency either through an approval granted by the Reserve Bank of Fiji or under the delegated authority to authorised banks;

- Payments in foreign currency by non-residents;
- Funds received from external sources;
- Unutilised balance of travel funds purchased;
- Interest payable on the account.

Non-resident individuals and business entities may open Fiji dollar external accounts and/or foreign currency accounts in Fiji at the discretion of authorised banks. Such accounts may also be maintained in joint names if all the persons concerned are non-residents. If a non-resident wishes to continue holding these accounts after residing in Fiji for more than three years, banks may authorise the extension of the operation of the accounts upon advice to the Reserve Bank of Fiji.

Resident Accounts

These are Fiji dollar accounts maintained by individuals and all businesses resident in Fiji.

Authorised banks may open resident Fiji dollar accounts for new business entities that are establishing operations in Fiji. Banks may authorise this upon sighting the project approval letter of the Fiji Islands Trade and Investment Bureau.

Authorised banks may without reference to the Reserve Bank of Fiji, open resident accounts for non-residents that have been issued permits by the Immigration Department on the basis of assured income.

Non-resident individuals who have resided in Fiji for less than three years and who wish to operate resident accounts will need the prior approval of the Reserve Bank of Fiji.

Change of Residence

In cases where a non-resident marries a resident, the couple may maintain either a resident account or an external account. Authorised banks may open the account without the prior approval

of the Reserve Bank of Fiji.

At the end of three years, non-resident individuals may choose to either maintain their non-residential status (thus continuing the operation of their external accounts) or be designated residents for exchange control purposes, in which case they will no longer be entitled to operate external and/or foreign currency accounts, except with the approval of the Reserve Bank of Fiji.

Authorised banks may redesignate their customer's account from external to resident on advice to the Reserve Bank of Fiji, after which time, the customer is deemed resident for all purposes of exchange control. If the customer wishes to retain his/her external account, then the authorised bank may also approve this upon advice to the Reserve Bank of Fiji.

However, once the account of the customer is designated resident, the prior approval of the Reserve Bank will be required should the customer wish to revert to an external or foreign currency account.

3. CREDIT FACILITIES

The Exchange Control Act defines business entities that are established and operating in Fiji as resident in Fiji. In an entity where the non-resident interest(s) is more than 50%, it is deemed non-resident controlled.

In a 50/50 non-resident and resident ownership, the Reserve Bank of Fiji considers the board room and management composition of the business to determine its control.

A non-resident controlled business can borrow locally for its working capital requirements and purchase of fixed assets, provided the debt to equity ratio of the business is within the approved guidelines (see debt to equity ratio definition below).

The Reserve Bank of Fiji however exercises flexibility on this policy for projects that accrue major benefits to Fiji in terms of employment and foreign exchange earnings.

Local Borrowing

Lending institutions in Fiji have been delegated authority to lend to non-resident controlled businesses without the prior approval of the Reserve Bank of Fiji up to the following specified limits and guidelines. (This authority relates to the total borrowing of the business from local and offshore sources).

- a) *New and existing non-resident controlled business Entities:*
Up to F\$10.0 million .
- b) *Non-resident individuals:*
Up to F\$0.5 million provided the debt to equity ratio is within 3:1.
- c) *Bank Guarantees and Other Contingent Liabilities:*
Up to any amount requested.

Exemption

Reserve Bank approval is required for bank guarantees and mortgage of Fiji properties/assets for offshore transactions that may result in the outflow of funds in the event of default.

- d) *Export Finance Facility:*
The Export Credit Finance Facility (Pre/Post Shipment Finance) was introduced by the Reserve Bank of Fiji to assist exporters obtain credit at concessional rates of interest.

The scheme is provided through authorised banks and the Fiji Development Bank.

All producer-exporters qualify, except producers of traditional exports, provided they satisfy the value added rules.

e) *Forward Foreign Exchange Cover*

The facility was re-activated in 1997 to encourage authorised banks to enter into forward contracts with their customers to buy and sell foreign currency.

The contract allows the exporter or importer to fix his costs from day one and incorporate this into his pricing. It also protects him from the possibility that the foreign currency would become cheaper or expensive in future.

Authorised banks are now allowed to withhold currency at the end of the trading day instead of selling to the Reserve Bank, to build up positions up to the limits on the net open positions.

f) *Export Credit Ratio*

The Reserve Bank implemented the Export Credit Ratio with effect from August 2001 to improve exporters' access to credit and help boost the industry. Under the scheme, authorised banks are required to maintain a minimum of 5% of their average deposits and similar liabilities in outstanding loans to eligible exporters of goods and services.

All producer-exporters qualify, except producers of traditional exports, provided they satisfy the value added rules.

Local borrowing applications that fall outside the specified limits that require Reserve Bank approval will be assessed on the following information:

- i) Approval of the project by the Fiji Islands Trade and Investment Bureau;
- ii) Approval of the Fiji Islands Trade and Investment Bureau for the issue of shares to the non-residents shareholders in the business;
- iii) Debt to equity gearing ratio of the business is within approved guidelines.

Debt to Equity Ratio

Debt means the total local and offshore borrowing of a business.

Equity includes paid up capital, shareholders non-interest bearing loans, retained earnings and sub-ordinated interest bearing loans, but excludes asset revaluation reserves.

The debt to equity criteria for both local and offshore borrowing is based on the ownership of the business as follows:

- a) Non-resident ownership of 91%-100%, apply guideline of 3:1;
- b) Non-resident ownership of 71%-90%, apply guideline of 4:1;
- c) Non-resident ownership of 51%-70%, apply guideline of 5:1.

Offshore Borrowing

Authorised banks may approve foreign currency loans by resident

individuals and business entities up to F\$500,000 per annum without the approval of the Reserve Bank of Fiji.

Permission is readily given for offshore loans raised on reasonable terms to finance productive investment projects that will generate sufficient foreign exchange to service the foreign loan.

In the case of non-resident controlled businesses, the total borrowing must be within the debt to equity ratio criteria.

The following considerations need to be satisfied for major offshore borrowing:

- the lender possesses a proven credible record and international financial standing;
- borrowed funds must be invested in approved projects that will benefit the country, especially as a source of foreign exchange earnings and employment creation;
- the borrower's ability to repay the loan;
- the project to be funded has been approved by the relevant authorities;
- the terms of the borrowing are reasonable to the Reserve Bank of Fiji and the finance being sought cannot be met from local sources.

Applications should be made on Form 1 which is available from the Exchange Control Unit of the Reserve Bank of Fiji.

Repayment of Offshore Loans

For repayment of the principal sum, authorised dealers may approve scheduled payments up to F\$100,000 per amount due. Authorised dealers may also allow the full payment of interest, subject to the provision of a tax clearance certificate. For

repayment amounts that exceed the delegated limit, applications must be referred to the Reserve Bank on Form B in duplicate together with a tax clearance certificate from the Inland Revenue Department.

Sub-ordinated Loans and Advances

Foreign currency interest bearing shareholders loans or advances require the approval of the Reserve Bank of Fiji. The application is to be submitted in writing with details of the amount of the advance and the terms and conditions of the loan.

The Reserve Bank of Fiji should also be advised in writing of any non-interest bearing loans and advances that are provided by the shareholders. This information will facilitate the processing of future loan repayment applications.

Applications for repayment of shareholders' advances are to be made on Form B and submitted to the Reserve Bank of Fiji with a tax clearance certificate.

4. EXPORT RECEIPTS

An exporter is required to bring back to Fiji within 6 months from the date of the export, all foreign exchange earnings from the sale of the goods, unless approval has been granted by the Reserve Bank of Fiji for an extension of this period, or for retention of funds in a foreign currency account.

Exporters are responsible for providing the Reserve Bank with certification that foreign exchange earnings have been received in Fiji and deposited into the company's Fiji dollar resident account.

Confirmation of Receipt

The following are acceptable forms of confirmation of receipt of export proceeds for reconciliation purposes:

1. **Bank confirmation**

- original letter from the receiving bank in Fiji endorsing the amount received, date of receipt, export licence number and name of the company's resident account;
- bank stamp on the reverse side of the export licence form with the amount received and the date of receipt in Fiji.

2. **Bank statements**

- original bank statements and credit advice slips may be presented to the Reserve Bank together with the corresponding export licence numbers.

3. **Verification by Chartered Accountant**

- the receipt of export proceeds may be verified and confirmed by registered chartered accountants in public practice in Fiji.

Retained Foreign Currency Accounts for Exporters

The Reserve Bank of Fiji allows exporters to retain up to 40% of their annual export proceeds in a foreign currency account of their choice, to meet import payments and other liabilities.

Although there are no limits to the actual credits to the account, the ceiling placed is to ensure adherence to the 40% retention. Any excess on the ceiling should be cleared within 72 hours (3 days).

Authorised banks are allowed to make payments from the accounts within the delegated limits, for raw materials and/or other liabilities. Banks are also allowed to transfer surplus funds from the foreign currency account into the company's resident Fiji dollar account after the expiry of the 72 hours if the account is still holding funds in excess of the approved ceiling.

Authorised banks are also allowed to open foreign currency accounts within the limit of F\$100,000 which is inclusive of any other foreign currency accounts the company may hold with other authorised banks.

The approval to operate a retained foreign currency account for accounts that exceed the limit of F\$100,000 must first be obtained from the Reserve Bank of Fiji. The approval once granted is valid for two years and renewable upon request, if the conditions of the approval are consistently met by the company.

Applications are to be made on Form R and must be accompanied by a six-month cash flow projection.

Offset of Expenses against Foreign Exchange Earnings

Authorised banks may approve the offset of expenses incurred offshore against foreign exchange earnings due to be received in Fiji.

The exporter is required to submit to the bank, original customs SAD (Simple Administrative Document) as evidence of the receipt of goods in Fiji. For service related expenses, invoices of the amounts due and a tax clearance certificate is required for amounts over F\$10,000.

5. REPATRIATION OF CAPITAL AND INCOME

Approval is readily given to foreign investors to repatriate funds invested in Fiji and recorded with the Reserve Bank plus any income earned from their investment.

Authorised dealers may approve the repatriation by companies of operating and capital profits including the withdrawal of investments up to F\$100,000 per company per annum.

Applications that fall outside the delegated limits are to be made

on Form B and submitted to the Reserve Bank of Fiji with the following documents:

- a) the latest audited accounts of the business entity (applicable only if the consideration is above F\$500,000);
- b) tax clearance certificate;
- c) copy of the company Directors' resolution approving the dividend payment;
- d) valuation by a locally registered chartered accountant/valuer (applicable only in the case where the consideration is above F\$500,000 for share transfers or sale of Fiji assets).

6. OFFSHORE INVESTMENT

Business Entities

Locally incorporated business entities are allowed to invest offshore up to \$100,000 annually.

Written applications to the Reserve Bank must include the following information:

- a) Details of the offshore investment, including the investment prospectus where applicable;
- b) Background details and nature of the Fiji operation;
- c) The names of the principals of the Fiji operation and the ownership structure;
- d) Confirmation of all outstanding export receipts in the case of exporting companies.

Non-Bank Financial Institutions

The Reserve Bank of Fiji has allowed an annual allocation of

F\$10.0 million for the Fiji National Provident Fund and up to \$1.0 million per entity for other Non-Bank Financial Institutions.

The Guidelines on the facility is available from the Exchange Control Unit of the Reserve Bank of Fiji.

All applications are to be made in writing to the Reserve Bank of Fiji with complete details of the proposed investment.

Individuals

Authorised dealers may approve applications for offshore investment up to F\$20,000 per family/single applicant per annum.

Authorised banks may also open foreign currency investment accounts for residents under this facility up to the delegated ceiling.

7. EMIGRATION ALLOWANCE

Authorised dealers may approve applications for emigration funds up to F\$100,000 per family/single applicant per annum. Applications that fall outside the delegated limit must be referred to the Reserve Bank of Fiji for approval.

All applications must be accompanied by a tax clearance certificate and/or the original Fiji National Provident Fund cheque and valid original passports and permanent resident visas, together with the airline tickets.

8. TRAVEL FACILITIES

Travel Allowance

Authorised dealers may issue to travellers overseas, foreign exchange facilities up to F\$20,000 per applicant per trip. Requests for additional travel allowance must be made to the Reserve Bank

on Form T.

All applications must be accompanied by valid original passports, travel visas and return airline tickets to Fiji. Travellers with one-way air line tickets from Fiji are entitled to F\$5,000 under the delegated authority.

There is no limit on travel funds sourced from an individual's external or foreign currency account. However, travel funds sourced from a company's foreign currency account is restricted to the equivalent in foreign currency of F\$20,000. These transactions are also delegated to authorised banks.

Export of Cash

All travellers abroad including emigrants are only allowed to carry Fiji currency notes up to \$500 and foreign currency notes up to the equivalent of F\$5,000 (inclusive of F\$500).

Applications to carry currency notes in excess of the approved limits may be made to the Reserve Bank of Fiji but will be considered only in exceptional circumstances.

Credit Cards

Authorised banks may approve payments for the full amount payable on a credit card statement. Banks may not allow credit card holders to over pay their credit card accounts.

Debit Cards

Card holders can utilise up to F\$10,000 per month overseas including a cash drawing ceiling of F\$5,000.

9. ADVANCE IMPORT PAYMENTS AND MERCHANTED GOODS

Advance payments

Authorised dealers may allow advance payments for imports for amounts up to F\$1.0 million per invoice. Advance payment must be conditional that goods will arrive in Fiji within 90 days from the date of payment.

Payments for amounts over F\$1.0 million must be referred on Form A to the Reserve Bank of Fiji for approval and must be accompanied by a pro-forma invoice from the supplier.

Merchant Goods

Authorised dealers are allowed to make payments up to F\$1.0 million per invoice upon sighting the supplier's invoice and the original Customs SAD form (Simple Administrative Document) for exporters.

Applications for amounts over F\$1.0 million are to be referred to the Reserve Bank of Fiji for approval. Requests are to be made on Form B and submitted together with the SAD form for exporters with the supplier's invoice.

10. OVERSEAS PAYMENTS DELEGATED TO AUTHORISED DEALERS

The Table highlights the Exchange Control policy guidelines that are currently in place. It includes overseas payments that are delegated to authorised dealers and those that still require Reserve Bank approval. Payments that are not delegated to authorised dealers or fall outside the delegated authority limits must be referred to the Reserve Bank together with the relevant documentation for processing.

**Exchange Control Unit
Financial Markets Department
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