Late Submission Fees for reporting delays

A.P. (DIR Series) Circular No. 16 dated September 30, 2022

To bring uniformity in Late Submission Fees (LSF) across functions, the revised matrix shall be as under:

Sr. No.	Type of Reporting Delays	LSF Rs.
1.	Form ODI Part II/APR, FCGPR (B), FLA Returns, Form OPI, Evidence of investment or any other return which does not capture flows or any other periodical reporting.	7,500
2.	FC-GPR, FC-TRS, Form ESOP, Form LLP(I), Form LLP(II), Form CN, Form DI, Form InVi, Form ODI Part I, Form ODI Part III, Form FC, Form ECB, Form ECB-2, Revised Form ECB or any other return	7500 + (0.025% X A X n)

Notes:

a) "n" is the number of days delay in submission rounded upwards to the nearest month and expressed up to 2 decimal points.

b) "A" is the amount involved in the delayed reporting.

c) LSF amount is per return. However for any number of Form ECB2 Returns, delayed submission for each LRN will be treated as one instance for the fixed component. Further, "A" for any ECB2 return will be the gross inflow or outflow (including interest and other charges) whichever is more.

d) Maximum amount of LSF amount will be limited to 100 percent of 'A' and will be rounded upwards to the nearest hundred.

e) Where an advice has been issued for payment of LSF and such LSF is not paid within 30 days, such advice shall be considered as null and void and any LSF received beyond this period shall not be accepted. If the applicant subsequently approaches for payment of LSF for the same delayed reporting, the date of receipt of such application shall be treated as the reference date for the purpose of calculation of "n".

f) The facility for opting for LSF shall be available up to three years from the due date of reporting/ submission. The option of LSF shall also be available for delayed reporting/submissions under the Notification No. FEMA 120/2004-RB and earlier corresponding regulations, up to three years from the date of notification of Foreign Exchange Management (Overseas Investment) Regulations, 2022.

g) In case a person responsible for any submission or filing under the provisions of FEMA, neither makes such submission/filing within the specified time nor makes such submission/filing along with LSF, such person shall be liable for penal action under the provisions of FEMA, 1999.

The above provisions shall come into effect immediately for the delayed filings made on or after the date of this circular.

1. RBI NOTIFICATION NO. RBI/2022-23/122 A.P. (DIR Series) Circular No. 16 DATED September 30, 2022

Late Submission Fee for reporting delays under Foreign Exchange Management Act, 1999 (FEMA)

- The Late Submission Fee (LSF) was introduced for reporting delays in Foreign Investment (FI), External Commercial Borrowings (ECBs) and Overseas Investment related transactions with effect from November 07, 2017, January 16, 2019 and August 22, 2022 respectively. It has now been decided to bring uniformity in imposition of LSF across functions. The following matrix shall be used henceforth for calculation of LSF, wherever applicable:

Sr. No.	Type of Reporting delays	LSF Amount (INR)
1	Form ODI Part-II/ APR, FCGPR (B), FLA Returns, Form OPI, evidence of investment or any other return which does not capture flows or any other periodical reporting	7500
2	FC-GPR, FCTRS, Form ESOP, Form LLP(I), Form LLP(II), Form CN, Form DI, Form InVi, Form ODI-Part I, Form ODI-Part III, Form FC, Form ECB, Form ECB-2, Revised Form ECB or any other return which captures flows or returns which capture reporting of non-fund transactions or any other transactional reporting	$[7500 + (0.025\% \times A \times n)]$

Notes:

a) "n" is the number of years of delay in submission rounded-upwards to the nearest month and expressed up to 2 decimal points.

b) "A" is the amount involved in the delayed reporting.

c) LSF amount is per return. However, for any number of Form ECB-2 returns, delayed submission for each LRN will be treated as one instance for the fixed component. Further, 'A' for any ECB-2 return will be the gross inflow or outflow (including interest and other charges), whichever is more.

d) Maximum LSF amount will be limited to 100 per cent of 'A' and will be rounded upwards to the nearest hundred.

e) Where an advice has been issued for payment of LSF and such LSF is not paid within 30 days, such advice shall be considered as null and void and any LSF received beyond this period shall not be accepted. If the applicant subsequently approaches for payment of LSF for the same delayed reporting, the date of receipt of such application shall be treated as the reference date for the purpose of calculation of "n".

f) The facility for opting for LSF shall be available up to three years from the due date of reporting/ submission. The option of LSF shall also be available for delayed reporting/submissions under the Notification No. FEMA 120/2004-RB and earlier corresponding regulations, up to three years from the date of notification of Foreign Exchange Management (Overseas Investment) Regulations, 2022.

g) In case a person responsible for any submission or filing under the provisions of FEMA, neither makes such submission/filing within the specified time nor makes such submission/filing along with LSF, such person shall be liable for penal action under the provisions of FEMA, 1999.

- The above provisions shall come into effect immediately for the delayed filings made on or after the date of this circular.

  All other provisions of reporting under FEMA remain unchanged. AD Category - I banks should bring the contents of this circular to the notice of their constituents and customers.

- The 'Master Direction – Reporting under Foreign Exchange Management Act, 1999' and 'Master Direction - External Commercial Borrowings, Trade Credits and Structured Obligations' are being updated to reflect the changes.

- The directions contained in this circular have been issued under section 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.

2. RBI NOTIFICATION NO. RBI/2022-2023/120 FMOD.MAOG.No.147/01.01.001/2022-23 DATED September 30, 2022

Liquidity Adjustment Facility- Change in rates

- As announced in the Monetary Policy Statement dated September 30, 2022, it has been decided by the Monetary Policy Committee (MPC) to increase the policy Repo rate under the Liquidity Adjustment Facility (LAF) by 50 basis points from 5.40 per cent to 5.90 per cent with immediate effect.

- 2. Consequently, the standing deposit facility (SDF) rate and marginal standing facility (MSF) rate stand adjusted to 5.65 per cent and 6.15 per cent respectively, with immediate effect.

- All other terms and conditions of the extant LAF Scheme will remain unchanged.

3. RBI NOTIFICATION NO. RBI/2022-23/124 CEPD.PRD.No.S806/13-01-008/2022-23 DATED October 6, 2022

Appointment of Internal Ombudsman by the Credit Information Companies

- Please refer to paragraph 2 of the Statement on Developmental and Regulatory Policies dated August 5, 2022, wherein the decision to bring Credit Information Companies (CICs) under the Internal Ombudsman (IO) Framework was announced with a view to strengthen and improve the efficiency of the internal grievance redressal mechanisms of CICs.

- Accordingly, in exercise of the powers conferred by sub section (1) of Section 11 of the Credit Information Companies (Regulation) Act, 2005 (the Act), the Reserve Bank of India, being satisfied that it is in public interest to do so, directs all Credit Information Companies holding a Certificate of Registration under sub-section (2) of Section 5 of the Act, to comply with the Reserve Bank of India (Credit Information Companies- Internal Ombudsman) Directions, 2022 annexed herewith, by April 1, 2023. (https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=12395&Mode=0)

4. RBI NOTIFICATION NO. RBI/2022-23/125 DOR.STR.REC.71/21.06.201/2022-23 DATED October 10, 2022

Review of Prudential Norms – Risk Weights for Exposures to Corporates and NBFCs

- Please refer to paragraph 6.8.1 (i) of Master Circular on Basel III capital regulations dated April 1, 2022 in terms of which banks are permitted to derive risk weights for their unrated exposures based on the ratings available for a specific rated debt subject to the conditions specified that the bank's facility ranks pari passu or senior to the specific rated debt in all respects and the maturity of the unassessed claim is not later than the maturity of the rated claim. Banks may also refer to paragraph 6.2.5 of the Master Circular ibid regarding publication of bank loan ratings by External Credit Assessment Institutions (ECAIs).
- It is observed that the Press Releases (PRs) issued by ECAIs on rating actions are often devoid of the lenders' details. Absence of such information may result in banks applying the derived risk weights for unrated exposures, without satisfying themselves regarding adherence to prescribed conditions. This may, consequentially, lead to potentially lower provision of capital as well as underpricing of risks. In order to address the above information asymmetry, the Reserve Bank had advised the ECAIs vide letter dated June 4, 2021 to disclose the name of the banks and the corresponding credit facilities rated by them in the PRs issued on rating actions by August 31, 2021, after obtaining requisite consent from the borrowers.
- However, on a review it has been observed that the above disclosures are not available in a large number of PRs issued by ECAIs owing to the absence of requisite consent by the borrowers to the ECAIs. It is, therefore, advised that a bank loan rating without the above disclosure by the ECAI shall not be eligible for being reckoned for capital computation by banks. Banks shall treat such exposures as unrated and assign applicable risk weights in terms of paragraph 5.8.1 of the Master Circular ibid read with amendments carried out from time to time.
- Illustratively, a scenario may be assumed, where a borrower has availed credit facilities from Banks A, B and C and external rating from an ECAI is obtained only in respect of the credit facility extended by Bank A. If the ECAI has disclosed the name of Bank A and the corresponding credit facility rated by it, then Bank A can reckon the said rating for risk weighting purpose. Banks B and C are permitted to derive risk weights for their respective unrated credit facilities subject to conditions stated in paragraph 6.8.1 (i) of Master Circular ibid, as permitted hitherto. In the event of ECAI not making the above disclosure, none of the banks shall reckon the said rating, and therefore shall apply risk weights of 100 percent or 150 percent as applicable in terms of extant instructions.

  The above instructions shall be effective from March 31, 2023.

5. RBI NOTIFICATION NO. RBI/2022-23/131 DOR.MRG.REC.76/00-00-007/2022-23 DATED October 11, 2022

Reserve Bank of India (Unhedged Foreign Currency Exposure) Directions, 2022

- The Reserve Bank of India has, from time to time, issued several guidelines / instructions / directives to the banks on Unhedged Foreign Currency Exposure (UFCE) of the entities which have borrowed from banks.
- We have received references from banks seeking clarification on various aspects including inter-alia clarity in the definition of 'entities' for which banks shall assess UFCE, exempted exposures / entities, alternative method for smaller entities, assessment of UFCE of entities incorporated outside India by overseas subsidiaries / branches of Indian banks etc.
- Accordingly, a comprehensive review of the extant guidelines has been undertaken and all the existing instructions on the subject including the revisions / clarifications on the issues stated above have been consolidated in the Directions enclosed herewith. An Explanatory Note providing the background for these Directions is also enclosed.
- This circular is applicable to all commercial banks (excluding Payments Banks and Regional Rural Banks).
- These instructions shall come into force from January 1, 2023. (https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=12402&Mode=0)

6. RBI NOTIFICATION NO. RBI/2022-23/130 DOR.ACC.REC.No.74/21.04.018/2022-23 DATED October 11, 2022

Reserve Bank of India (Financial Statements - Presentation and Disclosures) Directions, 2021 - Disclosure of Divergence in Asset Classification and Provisioning

- In terms of paragraph C.4(e) of Annexure III to the Reserve Bank of India (Financial Statements-Presentation and Disclosures) Directions, 2021, commercial banks (excluding Regional Rural Banks (RRBs)) are required to disclose details of divergence in asset classification and provisioning where such divergence assessed by the Reserve Bank of India (RBI) exceeds certain specified thresholds. In order to strengthen compliance with income recognition, asset classification and provisioning norms, it has now been decided to introduce similar disclosure requirements for Primary (Urban) Co-operative Banks (UCBs) and revise the specified thresholds for commercial banks.
- Accordingly, for the financial statements for the year ending March 31, 2023, banks shall make suitable disclosures in the manner specified in paragraph C.4(e) of Annex III to the afore-mentioned Directions, if either or both of the following conditions are satisfied:
  - ❖ the additional provisioning for non-performing assets (NPAs) assessed by the RBI exceeds 10 per cent of the reported profit before provisions and contingencies1 for the reference period; and
  - ❖ the additional Gross NPAs identified by the RBI exceed 10 per cent of the reported2 incremental Gross NPAs for the reference period.
- Provided further that in the case of UCBs the threshold for reported incremental Gross NPAs specified in paragraph 2(b) above shall be 15 per cent, which shall be reduced progressively in a phased manner, after review.
- The thresholds specified in paragraph (2) above shall be revised for disclosures in annual financial statements for the year ending March 31, 2024, and onwards, as under:

Ref.	Threshold linked to:	Commercial Banks (%)	UCBs (%)
2(a)	Reported profit before provisions and contingencies	5	5
2(b)	Reported incremental Gross NPA	5	15*
*May be reduced subject to review			

- These instructions are applicable to all commercial banks (excluding Regional Rural Banks) and all Primary (Urban) Co-operative Banks. These instructions shall come into effect for disclosures in the notes to the annual financial statements of the year ending March 31, 2023, and onwards.
- The Reserve Bank of India (Financial Statements - Presentation and Disclosures) Directions, 2021 are being updated to reflect these changes.

7. RBI NOTIFICATION NO. RBI/2022-23/128 DoR.SIG.FIN.REC.75/26.03.001/2022-23 DATED October 11, 2022

Review of Regulatory Framework for Asset Reconstruction Companies (ARCs)

- ARCs play a vital role in the management of distressed financial assets of banks and financial institutions. Considering their critical role, a need was felt to review their functioning and operating framework. Accordingly, as part of the Statement on Developmental and Regulatory Policies released along with the Monetary Policy

Statement on April 7, 2021, the Reserve Bank of India had set up a Committee to undertake a comprehensive review of the working of ARCs and recommend suitable measures for enabling them to function in a more transparent and efficient manner.

- Based on the Committee's recommendations and feedback from the stakeholders, the extant regulatory framework for ARCs has been amended as detailed in the Annex.
- These guidelines shall be effective immediately or as indicated otherwise in the Annex. (https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=12399&Mode=0)

8. RBI NOTIFICATION NO. RBI/2022-23/127 DOR.FIN.REC.No.73/03.10.117/2022-23 DATED October 11, 2022

Diversification of activities by SPDs – Review of permissible non-core activities – Prudential regulations and other instructions

- Please refer to the circular DOR.FIN.REC.No.72/03.10.117/2022-23 dated October 11, 2022 allowing SPDs to undertake foreign exchange activities as part of their non-core activities. In this connection, SPDs shall adhere to the prudential regulations and other instructions contained in this circular and other associated guidelines applicable to SPDs.
- The foreign exchange activities permitted to SPDs shall continue to be part of their non-core activity. SPDs desirous of undertaking this activity may approach the Reserve Bank of India, Foreign Exchange Department, Central Office, Mumbai for necessary authorization. It may be noted that in case of failure of SPDs to meet the obligations of Primary Dealership (PD) business in the Government securities market or any other violations on regulations on conducting the PD business, the Reserve Bank reserves the right to impose restrictions or withdraw permission to undertake the foreign exchange business.
- The SPDs shall adhere to the following prudential regulations:
  - ❖ As prescribed in the existing capital adequacy guidelines for SPDs, the capital charge for market risk in foreign exchange exposures shall be higher of the charges worked out by the standardised approach and the internal risk management framework-based Value at Risk (VaR) model. Further, under the standardised approach, SPDs shall maintain a market risk capital charge of 15% for net open positions (limits or actual, whichever is higher) arising out of forex business with a risk weight of 100%. The net open position for foreign exchange exposures shall be calculated as per the methodology prescribed in para 8.5 of Master Circular – Basel III Capital Regulations dated April 01, 2022 (as amended from time to time) to the extent applicable to SPDs. Capital charge for market risk shall be over & above the capital charge for credit risk of 15% as per directions prescribed in Master Directions – Standalone Primary Dealers (Reserve Bank) Directions, 2016 dated August 23, 2016 (as amended from time to time).
  - ❖ In addition to the foreign exchange exposure limits prescribed under Master Direction – Risk Management & Inter-Bank Dealings dated July 05, 2016 (as amended from time to time), the capital charge for market risk (calculated as per provisions of Master Direction – Standalone Primary Dealers (Reserve Bank) Directions, 2016) for all the permissible non-core activities, including foreign exchange activities, shall not be more than 20% of the Net Owned Fund of the SPD as per last audited balance sheet.
- SPDs shall continue to comply with the provisions of FEMA and all rules, regulations and directions issued thereunder; and also, the following directions to the extent applicable:
  - ❖ Master Direction – Risk Management and Inter-Bank Dealings dated July 05, 2016 (as amended from time to time).
  - ❖ Master Direction – Reserve Bank of India (Market-makers in OTC Derivatives) Directions, 2021 dated September 16, 2021 (as amended from time to time).

- ❖ Guidelines for Internal Control over Foreign Exchange Business - FE.CO.FMD.No.18380/02.03.137/2010-11 dated February 03, 2011 (as amended from time to time).

- Further, reference is also drawn to sub-clause (i)(a) of para 12(5) of Master Direction – Standalone Primary Dealers (Reserve Bank) Directions, 2016 in terms of which SPDs are permitted to undertake investment/ trading in equity and equity derivatives market as a part of their non-core activity. On a review, it has been decided to permit SPDs to take up trading and self-clearing membership with SEBI approved stock exchanges/ clearing corporations for undertaking proprietary transactions in equity and equity derivatives market as permitted in sub-clause (i)(a) of para 12(5) of the aforementioned Master Direction for SPDs. While doing so, SPDs shall comply with all the regulatory norms laid down by SEBI and all the eligibility criteria/ rules of stock exchanges and clearing corporations.
- The Master Direction – Standalone Primary Dealers (Reserve Bank) Directions, 2016 dated August 23, 2016 is being modified accordingly.

9. RBI NOTIFICATION NO. RBI/2022-23/126 DOR.FIN.REC.No.72/03.10.117/2022-23 DATED October 11, 2022

Diversification of activities by SPDs – Review of permissible non-core activities

- A reference is invited to circular DNBR (PD) CC.No.094/03.10.001/2018-19 dated July 27, 2018 in terms of which SPDs, as part of their non-core activities, are permitted to offer foreign exchange products, as allowed from time to time, to their Foreign Portfolio Investor (FPI) clients.
- As announced in the Statement on Developmental and Regulatory Policies (Para 3 annexed) dated August 05, 2022, it has been decided to allow SPDs to offer all foreign exchange market-making facilities to users, as currently permitted to Category-I Authorized Dealers, subject to adherence to the prudential regulations and other guidelines to be issued separately in this regard.
- Further, with effect from January 01, 2023 all financial transactions involving the Rupee undertaken globally by related entities of the SPD shall be reported to CCIL's Trade Repository before 12:00 noon of the business day following the date of transaction.
- SPDs shall comply with other regulations contained in the aforementioned circular dated July 27, 2018 and prudential regulations issued by Reserve Bank from time to time. Further, all the instructions contained in the Master Direction – Reserve Bank of India (Market-makers in OTC Derivatives) Directions, 2021 (FMRD.FMD.07/02.03.247/2021-22) dated September 16, 2021 shall also apply, mutatis-mutandis, to SPDs.
- The Master Direction – Standalone Primary Dealers (Reserve Bank) Directions, 2016, is being modified accordingly.
- Annex - Statement on Developmental and Regulatory Policies dated August 05, 2022
  - ❖ At present, Standalone Primary Dealers (SPDs) are permitted to undertake foreign currency business for limited purposes. With a view to strengthen the role of SPDs as market makers, on a par with banks operating primary dealer business, it is proposed to enable SPDs to offer all foreign exchange market-making facilities as currently permitted to Category-I Authorised Dealers, subject to prudential guidelines. This measure would give forex customers a broader spectrum of market-makers in managing their currency risk, thereby adding breadth to the forex market in India. Wider market presence would improve the ability of SPDs to provide support to the primary issuance and secondary market activities in government securities, which would continue to be the major focus of primary dealer activities. Regulations in this regard would be issued separately.

10. RBI NOTIFICATION NO. RBI/2022-23/132 DOR.RET.REC.79/12.01.001/2022-23 DATED October 13, 2022

Claims Received from the National Credit Guarantee Trustee Company Ltd (NCGTC) - Classification for the Purpose of Maintenance of Cash Reserve Ratio (CRR)/Statutory Liquidity Ratio (SLR)

- Please refer to para 9 (Liabilities not to be included for NDTL computation) of Master Direction on CRR/SLR – 2021 dated July 20, 2021, as amended on April 06, 2022.
- In this connection, it has been decided that the amounts received by a bank from the National Credit Guarantee Trustee Company Ltd towards claims in respect of guarantees invoked and held by them pending adjustment of the same towards the relative advances, need not be treated as outside liabilities for the purpose of computation of NDTL for CRR and SLR.
- Accordingly, para 9 of the Master Direction on CRR/SLR – 2021 will henceforth include "Amount received by the eligible banks from National Credit Guarantee Trustee Company Limited (NCGTC) by invoking the guarantee towards claims and pending adjustments thereof".